

RESOLUTION CSO#5257-10-2023

A RESOLUTION REVISING AND ADOPTING THE GUIDELINES AND CRITERIA FOR THE ECONOMIC DEVELOPMENT INCENTIVES PROGRAM.

WHEREAS, the City of Burleson, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Burleson, on May 27, 1993, initially adopted the Guidelines and Criteria for the Economic Development Incentives Program by Resolution 583; and

WHEREAS, the City of Burleson desires to continue the Burleson Economic Development Incentives Program which includes provisions for granting tax abatements according to Chapter 312 of the Texas Tax Code, and other incentives according to Chapter 380 of the Texas Local Government Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, THAT:

Section 1


The City Council hereby adopts *The City of Burleson Guidelines and Criteria for the Economic Development Incentives Program* attached as Exhibit "A", attached hereto and incorporated herein by reference for all purposes, for granting a tax abatement in reinvestment zones or any other economic development incentives within the City of Burleson, Texas and the Guidelines and Criteria hereby adopted are effective for two years from the date adopted and may be amended or repealed by a vote of three-fourths of the members of the City Council.

Section 2

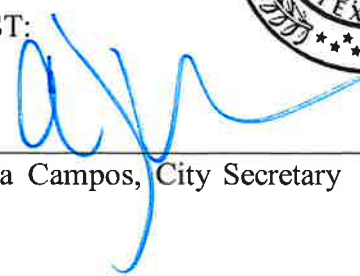
This Resolution shall become effective from and after its date of passage in accordance with law.

PASSED AND APPROVED this the 2nd day of October, 2023




Chris Fletcher, Mayor City of Burleson, Texas

ATTEST:


Amanda Campos, City Secretary

APPROVED AS TO FORM & LEGALITY:


Matt Ribitzki, Senior Deputy City Attorney

Exhibit "A"
CSO#5257-10-2023

*The City of Burleson Guidelines and Criteria
for the Economic Development Incentives Program*

**THE CITY OF BURLESON
GUIDELINES AND CRITERIA FOR THE
ECONOMIC DEVELOPMENT INCENTIVES PROGRAM
CSO#5257-10-2023**

**SECTION I
PURPOSE**

The City of Burleson is committed to the promotion and retention of high quality development within the City of Burleson and to better the quality of life for its citizens. These objectives can often be attained by the enhancement and expansion of the local economy. To meet these objectives, the City of Burleson will, on a case-by-case basis, consider providing tax abatements or other economic development incentives to aid in the stimulation of economic development in Burleson. The City of Burleson will give said consideration in accordance with this Guidelines and Criteria document. Nothing herein shall imply or suggest that the City of Burleson is under any obligation to provide tax abatements or incentives to any applicant. All applicants shall be considered on a case-by-case basis. Tax abatements and other economic incentives will be measured against the same criteria.

Participation in an abatement or incentive agreement does not remove any obligation to satisfy all codes and ordinances issued by the City or any other affected taxing jurisdiction that may be in effect and applicable at the time the project is implemented.

**SECTION II
DEFINITIONS**

1. "Abatement" means the full or partial exemption from ad valorem taxes of certain eligible property in a Reinvestment Zone designated for economic development purposes pursuant to Chapter 312 of the Texas Tax Code.
2. "Agreement" means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatements.
3. "Capital Investment" means and shall include all costs incurred relating to the acquisition of the Property and construction of the public and private improvement including the actual construction costs, and other costs of all buildings, structures, improvements, infrastructure, fixed machinery and equipment and tangible personal property.
4. "City" means the City of Burleson, Texas.
5. "Deferred Maintenance" means improvements necessary for continued operations which do not improve the productivity or alter the process technology.
6. "Distribution Center Facility" means buildings and structures, including machinery and equipment, used primarily to receive, store, service, or distribute goods or materials owned by the facility operator where a majority of the goods or services are distributed to points outside the city limits of Burleson.

**The CITY OF BURLESON
GUIDELINES AND CRITERIA FOR THE
ECONOMIC DEVELOPMENT INCENTIVES PROGRAM**

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5. "Deferred Maintenance" means improvements necessary for continued operations which do not improve the productivity or alter the process technology.
6. "Distribution Center Facility" means buildings and structures, including machinery and equipment, used primarily to receive, store, service, or distribute goods or materials owned by the facility operator where a majority of the goods or services are distributed to points outside the city limits of Burleson.

7. "Eligible Property" means property that may be extended an abatement. Eligible property includes buildings, structures, fixed machinery and equipment, site improvements plus office space and related fixed improvements necessary to the operation and administration of the facility.
8. "Expansion" means the addition or enlargement of buildings, structures, fixed machinery, or equipment for purposes of increasing production capacity and creating new full-time permanent jobs.
9. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
10. "Manufacturing Facility" means buildings and structures including machinery and equipment, the primary purpose of which is, or will be, the manufacture of tangible goods or material or the processing of such goods or materials by physical or chemical change, including the assembly of goods and materials from multiple sources, in order to create a finished or semi-finished product.
11. "Modernization" means the replacement and upgrading of existing facilities which increases the productivity input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing except as may be integral to, or in direct connection with, an existing expansion.
12. "New Facility" means a property previously undeveloped which is placed into service by means other than, or in conjunction with, expansion or modernization.
13. "Project" means any property improvement including expansions, modernization, and new facilities; but excluding any deferred maintenance.
14. "Reinvestment Zone" means any area of the City which has been designated a reinvestment zone for tax abatement purposes and which is located within the taxing jurisdiction of the City. It is the intent of the City to designate reinvestment zones on a case-by-case basis to maximize the potential incentives for eligible enterprises to locate or expand within the City.
15. "Regional Entertainment Facility" means buildings and structures, including machinery and equipment, used, or to be used, to provide entertainment through the admission of the general public where a significant portion of the users reside outside of the city limits of Burleson.
16. "Regional Retail Facility" means buildings and structures, including fixed machinery and equipment, used, or to be used, to provide retail services from which a majority of revenues generated by activity at the facility are derived from outside of Burleson.

17. "Regional Service Facility" means buildings and structures, including machinery and equipment, used, or to be used, to provide services where a majority of the individuals serviced are outside of the city limits of Burleson.
18. "Research Facility" means buildings and structures, including machinery and equipment, used, or to be used, primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
19. "Targeted Enterprise" includes, but is not limited, to the following facilities: distribution center facility, manufacturing facility, regional entertainment facility, research facility, regional retail facility, regional service facility.
20. "Targeted Industry Cluster" a concentration of businesses and industries in a geographic region that are interconnected by the markets they serve, the products they produce, their suppliers, the trade associations to which their employees belong, and the educational institutions from which their employees or prospective employees receive training. The Texas Industry Cluster is defined by Texas Workforce Commission and included on the incentive application for the Texas Enterprise Fund.
21. "Employment on a full-time permanent basis" means employment of at least 35 hours per week with full benefits, including at a minimum, health and disability insurance and retirement plan options. This does not include seasonal employment.

SECTION III ELIGIBLE FACILITIES

The City Council may enter into tax abatement or incentive agreements with landowners with projects demonstrating an increased investment in buildings and fixed assets, increased employment, or an increase in the City's sales tax.

The value of the abatement shall not exceed 50 percent of investment by the business in eligible property as defined in Section II. The City Council, or its designated representative, shall work with the applicant prior to the execution of an abatement agreement to determine the abatement schedule. For qualifying facilities, the City Council may approve abatement agreements lasting no longer than ten years. However, the length of the abatement agreement shall not exceed one-half of the estimated economic life of the facility, as determined by the City Council.

SECTION IV CRITERIA

The following are the guidelines and criteria to be considered in determining eligibility for economic development incentives, except for Burleson Home Improvement Rebate Program. The City Council retains the right to, on a case-by-case basis, consider an abatement or incentive which may not specifically comply with these guidelines and criteria.

- A. General Criteria - All applications should meet the following general criteria before being considered for a tax abatement or incentive.
1. The project expands the local tax base.
 2. The project creates permanent full time employment opportunities:
 - With 25% of employees paid above the Johnson County median wage as calculated by the U.S. Bureau of Labor Statistics, and:
 - all employees above the greater of:
 - average living wage (2 Adults/2 Children) for Johnson County, Texas as calculated by the following link:
<http://livingwage.mit.edu/counties/48251> ;
 - Or 65% of the Johnson County median wage as calculated by the U.S. Bureau of Labor Statistics.
 3. The project in all likelihood would not otherwise be developed.
 4. The project makes a contribution to enhancing further economic development.
 5. The project will not result in any unreasonable aesthetic and/or environmental concerns.
 6. The project has not been started and no construction has commenced at the time the application is approved.
 7. Projects seeking to qualify for a tax abatement or incentive on the basis of job retention shall document that without the abatement or incentive the company will either reduce or cease operations.
 8. The project should not have any of the following objections:
 - a. There would be substantial adverse effect on the provision of government service or tax base.
 - b. The applicant has insufficient financial capacity.
 - c. Planned or potential use of the property would constitute a hazard to public safety.
 - d. Planned or potential use of the property would give adverse impacts to adjacent properties; or
 - e. Any violation of laws of the United States, State of Texas, or ordinances of the City of Burleson would occur.
 - f. Give unfair competitive advantages for one business over another local business.

B. Specific Criteria - If the project in the application meets the general criteria, then abatement or incentive will be considered. Factors to be considered in determining the portion of the increased value to be abated and the duration of the abatement agreement or the type of incentive given include, but are not limited to:

1. Employment Impact
 - a. How many permanent full-time positions will be brought to Burleson?
 - b. What types of employment will be created?
 - c. What percentage of the jobs are above the Johnson County median wage?
 - d. What will the total annual payroll be?

2. Fiscal Impact
 - a. How much real and personal property value will be added to the tax rolls?
 - b. What Is the Capital Investment (**\$10,000,000 minimum**)?
 - c. How much direct sales tax will be generated?
 - d. How will this project affect existing businesses and/or facilities?
 - e. What infrastructure construction will be required?
 - f. What is the total annual operating budget of this facility projected to be?

3. Community Impact
 - a. What impact will the project have on the local housing market?
 - b. What environmental impact, if any, will be created by the project?
 - c. How compatible is the project with the City's comprehensive plan and Zoning Ordinance?

SECTION V PROJECT TYPES

Except for Burleson Home Improvement Rebate Program, the following are projects that may be considered:

A. INDUSTRIAL PROJECT

- A. A New Facility seeking abatement on Eligible Property should qualify at a minimum level of investment and a minimum number of new jobs not currently in the market, both of which must be generated within two years of construction.
 - a. The level of abatement should be determined by the lesser category of jobs added or new investment.
 - b. The abatement should be granted from real property tax.
 - c. An investment of not less than \$10,000,000 and at least 25 new jobs is considered for an abatement.

- B. A New Facility that is the primary location of a Targeted Enterprise may be eligible for a cash grant to be applied to an assigned area of the Project, namely:
- a. Development challenges related to site work, infrastructure or other material changes to the property,
 - b. Relocation of those with employment on a full-time basis,
 - c. Relocation or existing equipment or the purchase of new equipment for the New Facility.

B. RETAIL AND COMMERCIAL PROJECT

1. Only retail projects (retail stores, restaurants, shopping centers, or redevelopment) that offer unique goods, services, or a brand that is not currently offered in the Burleson city limits may be considered for incentives. This consideration is to help address unmet demand and minimize retail leakage from the City into the surrounding trade area. A minimum of **\$5 million** in annual taxable sales generated is required in order to be eligible for consideration of a rebate of sales taxes. The City may rebate a portion of the sales taxes generated **not to exceed 50%** of the City's sales tax receipts.

SECTION VI PROCEDURAL GUIDELINES

Except for the Burleson Home Improvement Rebate Program projects, any person, organization or corporation desiring a tax abatement or incentive to encourage location or expansion of operations within the city limits of Burleson shall be required to comply with the following procedural guidelines. Nothing within these guidelines shall imply or suggest that Burleson is under any obligation to provide tax abatement or incentive in any amount or value to any applicant.

Requests for tax abatement or incentive shall be reviewed by the City Council. The Burleson 4A Development Board serves as the recommending body to the City Council. The City Council as a whole, shall vote on the approval of the abatement or incentive.

A. Preliminary Application Steps

1. Complete the attached "Application for Tax Abatement or Economic Development Incentive".
2. An exhibit showing the precise location of the property, all roadways within 500 feet of the site and all existing zoning and land uses within 500 feet of the site, (a complete legal description shall be provided if the property is described by metes and bounds).

3. A complete estimated cost of the project by "line item" approach.
4. A description of the methods of financing all estimated costs and the time when related costs or monetary obligations are to be incurred.
5. A detailed time scheduled for undertaking and completing the project.
6. Complete all forms and information detailed in items 1 through 5 above and submit them to:

Office of Economic Development
141 West Renfro
Burleson, Texas 76028

B. Application Review Steps

1. All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be requested as needed.
2. The application may be distributed to the appropriate City departments for internal review and comments. Additional information may be requested as needed.
3. Copies of the complete application package and staff comments will be forwarded to the City Council, or, when requested by the City Council, to the Burleson 4A Development Board.

C. Consideration of the Application

1. When requested by the City Council, the Burleson 4A Development Board will consider the application at a regular or called meeting(s). Additional information may be requested as needed. The Board will then inform the applicant of their recommendation to the City Council.
2. The City Council by ordinance must designate an area as a reinvestment zone to be eligible for a tax abatement. Prior to adopting such an ordinance, the City Council must conduct a public hearing on the designation that entitles all interested persons to speak and present evidence for or against the designation.
3. The City Council has sole and exclusive authority to choose whether or not to grant any tax abatement.
4. The governing bodies of Johnson County and/or Tarrant County may consider a tax abatement agreement with the applicant.
5. Information provided to the Burleson 4A Development Board or the City Council in connection with an application or request for tax abatement or incentive is confidential and not subject to public disclosure until the tax abatement or incentive agreement is executed.

D. Tax Abatement Agreement – Once authorized by the City Council, the City Manager may execute a tax abatement agreement with the applicant on behalf of the City. At least

seven days before entering into the agreement, the City will deliver written notice of its intent to each taxing unit that is included in the reinvestment zone. The tax abatement agreement will include specific terms and conditions of the abatement, including, but not limited to, the amount and duration of the tax abatement. The tax abatement agreement shall not commence until the development has received a certificate of occupancy from the City.

E. Economic Development Incentives - The City by resolution may enter into an economic development incentive agreement. An incentive may include but is not limited to:

1. Loans and grants - The City may provide subsidized loans or grants upon approval of the City Council.
2. Infrastructure - Extension, construction or reconstruction of infrastructure necessary for the development of a targeted enterprise may be made upon approval of the City Council.
3. Utility rates - The City Council may consider additional utility rate classes for targeted enterprises that require larger amounts of municipal utilities. Any classification established will be available to all utility users meeting the minimum usage requirements for that group. Consideration will be given to capital improvements required to provide utility service.
4. Any agreement will include, but not be limited to, the following specific items:
 - a. All appropriate stipulations included in the application as outlined by the document for an economic development incentive agreement.
 - b. The amount and type of incentive.
 - c. A method for determining the qualifications of meeting the criteria and applicant's promise to meet and maintain these qualifications over the term of the agreement. This may require the submission of an annual report to the City Manager demonstrating that the terms and conditions required to receive a tax incentive have been met, and the City will be allowed, upon written request and reasonable notice, to inspect and audit such records of the applicant as are necessary to substantiate that the applicant is meeting criteria agreed upon during the term of the incentive.
 - d. A provision that, in the event the agreement is not kept, the incentive will be determined null and void and all actual and planned City expenditures and/or cost of labor will be paid immediately to the City.

**APPLICATION FOR TAX ABATEMENT
OR ECONOMIC DEVELOPMENT INCENTIVE**

INSTRUCTIONS

This form is intended for internal economic development analysis and efforts will be made to restrict circulation of the information included on the form to appropriate representatives of the City of Burleson. However, please note that the Texas Open Records Act provides that information collected, assembled, or maintained by the city under a law or ordinance or in connection with the transaction of official business is generally considered to be public information. However, the Texas Public Information Act does provide that information relating to economic development negotiations with a business prospect is withheld from disclosure unless and until an agreement is reached. If an agreement has been reached and is ready for City of Burleson consideration, this document may be posted to the City's website for public disclosure.

Questions or Comments

Please contact:

Alex Philips
Economic Development Manager
817-426-9613
bphilips@burlesontx.com
141 West Renfro
Burleson, Texas 76028

CERTIFICATION OF APPLICATION – BUSINESS

Authorized Business Representative (Applicant)

First Name _____ Last Name _____

Title _____ Organization _____

Street Address _____

Mailing Address _____

Phone Number _____ Email _____

Consultant/Site Selector Information

Consultant Name _____ Company _____

Phone Number _____ Email _____

Site Information

Property Owner Name _____

Phone Number _____ Email _____

Property Address _____

Mailing Address _____

Property Legal Description _____

(Provide attachment if by metes and bounds)

Property Located within:

- | | |
|---|---------------------------------------|
| <input type="checkbox"/> City of Burleson | <input type="checkbox"/> Burleson ISD |
| <input type="checkbox"/> Johnson County | <input type="checkbox"/> Alvarado ISD |
| <input type="checkbox"/> Tarrant County | <input type="checkbox"/> Joshua ISD |

To the best of my knowledge and belief, the information contained in this City of Burleson Application is true and correct, as evidenced by my signature below. I further certify that the business entity is in good standing under the laws of the state in which the entity was organized and that no delinquent taxes are owed to any taxing entity within Johnson/Tarrant County, TX.

Signature _____ Date _____

BUSINESS APPLICATION INFORMATION

Legal name of entity applying to the City of Burleson for incentive:

Industry Cluster:

If applicable, identify the targeted industry cluster within which this project falls:

- Advanced Technologies and Manufacturing, including four sub-clusters:
Nanotechnology and Materials; Microelectromechanical Systems; Semiconductor Manufacturing; Automotive Manufacturing
- Aerospace, Aviation and Defense
- Biotechnology and Life Sciences, not including medical services
- Information and Computer Technology, including three sub-clusters:
Communications Equipment; Computing Equipment and Semiconductors;
Information Technology
- Petroleum Refining and Chemical Products
- Energy, including three sub-clusters: Oil and Gas Production; Power Generation and Transmission; Manufactured Energy Systems
- Other, (Describe)

Description of Project:

Is this company considering other:

Texas locations: Yes No

U.S. locations: Yes No

Global locations: Yes No

Project Timeline

Expected Construction Start Date _____

Expected Construction Completion Date _____

Project Capital Investment

Total acres: _____

Estimated site construction costs: _____

Building square footage: _____

Sales Tax

Projected annual sales tax (if applicable): _____

Job Categories and Wage Distribution

Job Category	Number of Jobs	Average Annual Wage	Percentage to be hired locally
Executive			
Manager			
Supervisor			
Staff			
Entry/Minimum Salary			

SERVICE REQUIREMENTS:

Electric

Peak Monthly Demand in Kilowatts (KW): _____

Average Monthly Usage in Kilowatt Hours (kWh): _____

Average Monthly Load: _____

Current Rate - cents _____ per Kilowatt Hour (kWh)

Water

Average Monthly Usage: _____

Meter size: _____

Sewer

Average Monthly Discharge: _____

Gas

Average Monthly Usage: _____

Meter size: _____

Additional information for consideration of incentives:

SECTION VII
Burleson Home Improvement Rebate Program

The provisions of this Section VII shall only apply to the Burleson Home Improvement Rebate Program described herein.

- A. **Eligibility Requirements.** To be considered for a Burleson Home Improvement Rebate Program Chapter 380 Economic Development Program incentive under this this Guidelines and Criteria document, a project must at least meet the following minimum requirements:
1. Must a single family home, duplex, townhome, or condominium (the "Home") within the Burleson city limits.
 2. The Home must be 25 years or older.
 3. At the time of application the Home must be owner-occupied.
 4. At the time of application all state, federal, and local taxes related to the Home must be current.
 5. The County Appraisal District (CAD) appraised total value of the Home must be less than or equal to 70% of the FHA single-family mortgage limit the county for the current year the application is made.
- B. **Application Requirements and Process.** The application process shall include:
1. Application for the incentive described by this Section must be made to the City through the Neighborhood Services Department prior to any work commencing on the project.
 2. If the application is approved, the applicant shall sign an incentive contract in substantially the same form as Exhibit "B", which is attached hereto and incorporated herein by reference for all purposes.
 3. Applicant shall allow the City to inspect the project as required to ensure project eligibility and improvement completion in accordance with the terms of the incentive agreement.
 4. After the execution of the incentives contract, the applicant will annually pay all taxes owed on the Home for the term of the contract.
 5. If the applicant has met all conditions of the program, the City will calculate the incentive and pay the applicant the incentive in accordance with the terms of the incentive contract.
- C. **Incentive Calculation.** The incentive shall be calculated as follows:

1. The maximum incentive for any application will be \$5,000.
2. Total expenditures on improvements to the Home must total 10% or more of the CAD value of the Home.
3. Applicant shall be eligible for a rebate equal to 25% on actual costs on exterior improvements, and a rebate equal to 10% on actual costs on interior improvements.
4. Applicant shall refund any incentive paid if the applicant fails to meet the requirements and stipulations of this Section or otherwise fails to abide by the terms of the incentive contract.

D. Additional Provisions.

1. Improvements may start only after the City issues a Notice to Proceed, and such improvements must be completed within six months after the notice is issued.
2. Improvements must result in a livable, residential unit.
3. The following repairs are not eligible for the rebate program set forth in this Section:
 - i. New pools, hot tubs, and other water features;
 - ii. Landscaping (except for City-approved trees in authorized tree replacements);
 - iii. Repair or replacement of sprinkler systems;
 - iv. Detached accessory structures;
 - v. Garage enclosures and carports; and
 - vi. Exterior improvements or items covered by a property owners association in condominiums.
4. The City Council shall authorize through the City Manager the implementation of the program described in this Section.
5. The number of incentive applications at any one time shall not exceed the amount of funds actually budgeted.
6. Applicant shall comply with all City ordinances, state and federal laws in performing its obligations under the incentives agreement, including obtaining any and all necessary governmental approvals, permits, and inspections for the project.