

ORDINANCE NO. 2013-02-11 (6B)

AN ORDINANCE OF THE CITY OF ROCKDALE, TEXAS ADOPTING AND ESTABLISHING GUIDELINES, CRITERIA AND PROCEDURES GOVERNING TAX ABATEMENT AGREEMENTS PURSUANT TO CHAPTER 312, TEXAS TAX CODE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING PROPER NOTICE AND MEETING.

WHEREAS, enhancement of the local economy is in the best interest of the citizens of the City of Rockdale, Texas (“City”); and

WHEREAS, the establishment of economic development incentives such as tax abatement may encourage enhancement of the local economy; and

WHEREAS, the City Council of the City desires to be eligible to participate in tax abatement and to adopt criteria and guidelines governing tax abatement agreements;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKDALE, TEXAS:

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copies in their entirety.

SECTION 2. The City of Rockdale, Texas, elects to participate in tax abatement as authorized by the Property Redevelopment and Tax Abatement Act of Texas Tax Code, Chapter. 312, and has reviewed guidelines for participation in tax abatements under said Act.

SECTION 3. That the “CITY OF ROCKDALE, TEXAS GUIDELINES FOR TAX ABATEMENT, CRITERIA AND APPLICATION PROCEDURE” attached hereto as Exhibit “A”, be, and the same are hereby, adopted as the guidelines and criteria governing tax abatement agreements for the City and shall govern all tax abatement matters considered by the City from and after the effective date described below. The City Council shall not enter into a Tax

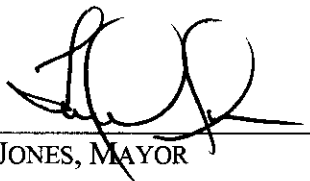
Abatement Agreement unless it finds that the terms of and the property the subject of the agreement meet the applicable guidelines and criteria herein adopted, or that specific guidelines or criteria are waived.

SECTION 4. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*, and shall remain effective for two (2) years from such date of adoption.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551 Tex. Gov't. Code*.

PASSED AND APPROVED ON FIRST READING ON THIS THE 14TH DAY OF JANUARY, 2013.

PASSED AND APPROVED ON SECOND READING ON THIS THE 11TH DAY OF FEBRUARY, 2013.


LARRY DON JONES, MAYOR

ATTEST:


TERRY BLANCHARD, CITY SECRETARY

Exhibit A

City of Rockdale, Texas Tax Abatement Guidelines, Criteria and Application Procedure

Purpose and Objective

The City of Rockdale is committed to the promotion of economic development and to an ongoing improvement in the quality of life for its residents. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City of Rockdale will, on a case-by-case basis, give consideration to providing tax abatement incentives as a stimulant for economic development. It is the policy of the City of Rockdale that said consideration would be provided in accordance with the criteria outlined in this document and as required by State law. However, nothing herein shall imply or suggest that the City of Rockdale is under any obligation to provide any incentive to any applicant. All applicants shall be considered on a case-by-case basis.

Criteria for Tax Abatement Incentives

The following criteria shall be used to determine whether any tax abatement incentives shall be granted to any proposed project, development and/or redevelopment ("Project"):

1. The Project does not include property that is owned or leased by a member of the City Council or Planning and Zoning Commission; provided, however, that if the property owner's property is subject to a tax abatement agreement when the owner becomes a member of the City Council or Planning and Zoning Commission, the property owner would not lose the benefit of the tax abatement agreement due to the person's new membership on the City Council or Planning and Zoning Commission.
2. The Project conforms to all the requirements of the City Ordinances and regulations.
3. The Project is within a reinvestment zone.

Additional criteria to be considered for any Project:

1. The Project involves a minimum increase in property value of \$50,000.00.
2. The Project makes a substantial contribution to redevelopment efforts or special area plans by enhancing either functional or visual characteristics, i.e., parking, circulation, facades, materials, signs, historic structures, etc.
3. The Project has high visibility, image impact, or is of a significantly higher level of development quality.
4. The Project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.
5. The Project can serve as a prototype and catalyst for other development of a higher standard.
6. The Project stimulates concentrations of employment and/or commercial activity.
7. The Project generates greater employment than would otherwise be achieved, i.e. commercial/industrial vs. residential or manufacturing vs. warehouse.

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Tax Abatement Guidelines

The following guidelines shall be used when considering tax abatement:

| Category I | Dollar Value of Improvement | Points |
|----------------------------|------------------------------------|---------------|
| <i>Objective Criterion</i> | \$50,000-\$100,000 | 3 |
| | \$101,000-\$250,000 | 6 |
| | \$251,000-1,000,000 | 9 |
| | >\$1,000,000 | 12 |

| Category II | Number of Jobs Created or Retained (that would not otherwise be created or retained) | Points |
|----------------------------|---|---------------|
| <i>Objective Criterion</i> | 1-5 | 3 |
| | 6-15 | 6 |
| | 16-30 | 9 |
| | >31 | 12 |

| Category III | Positive Impact on the Community | Points |
|-----------------------------|---|---------------|
| <i>Subjective Criterion</i> | No significant Positive Impact | 0 |
| | Desirable Positive Impact | 6 |
| | Exceptional Positive Impact | 12 |

Total Points Awarded _____

| Schedule Sum of Points | Years of Abatement | % Abatement |
|-------------------------------|---------------------------|--------------------|
| <6 | None | None |
| 6-9 | 2 | 40% |
| 12-15 | 2 | 50% |
| 18-21 | 2 | 60% |
| 24-27 | 3 | 80% |
| 30 | 4 | 80% |
| 36 | 5 | 80% |

Application Procedures

Any person, business or corporation desiring that the City of Rockdale provide tax abatement incentives to encourage their location or expansion of operations within the City of Rockdale shall be required to comply with the following application procedures. However, nothing within these guidelines shall imply or suggest that the City is under any obligation to provide an incentive to any applicant. All applications shall be on an application form approved by the city manager. The application shall be accompanied by a plat showing the location of the Project, a complete legal description of the property where the Project will be located, a brief description of the Project including the estimated cost, type of business operation proposed and type of jobs that may be created, expected source of labor, and either a current financial statement (if currently in business) or a proposed financial statement (if a start-up), together with any additional information that may be requested by the City Manager.

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Once the application has been received, the information submitted will be reviewed by the City staff and the Rockdale Municipal Development District (MDD) staff for completeness and accuracy. Additional information may be requested from City staff or the MDD, as needed. Following this review, copies of the complete application package and all departmental and MDD staff comments will be provided to the City Council and the MDD Board of Directors and to other taxing entities that may be willing to participate in offering tax abatement incentives. The Rockdale Municipal Development District Board of Directors may make a recommendation on awarding or denying the tax abatement request.

At a City Council meeting, the application for any tax abatement incentives may be considered. The City will comply with certain public notice and hearings that are required as mandated by state law prior to the execution of a tax abatement agreement.

Should the City Council determine that it is in the best interest of the City of Rockdale to provide tax abatement incentives to a particular applicant, a resolution shall be adopted declaring that under the guidelines and criteria established herein, the applicant is eligible for tax abatement and that the Mayor and/or City Manager are authorized to negotiate and execute a contract with the applicant enumerating the type of incentives and governing any conditions applicable to it. Any agreement so adopted must include at least the following specific items:

1. Description of the type of tax abatement to be provided and its duration.
2. Legal description of the property to be designated as a reinvestment zone.
3. Detailed information regarding the type, number, location, costs and timetable of the Project.
4. A statement granting the access to and inspection of the property and proposed improvements by City inspectors and officials to ensure that the improvements or repairs are made according to specifications and conditions of the agreements.
5. A statement limiting the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect:
6. Any specific terms and conditions to be met by applicant; and
7. A statement providing for the recapturing of property tax revenue lost as a result of the agreement if the owner of the property failed to make the improvements or repairs as provided by the agreement. As a general rule, the company must be in continuous operation for the period of the abatement and an additional term thereafter equal to the term of the abatement.

It is the intention of the City to establish a tax abatement policy and negotiate agreements which are legally subject to being adopted under the laws of the State of Texas. Should any provision of this plan or any agreements made hereunder be determined to be in conflict with statutes and laws of this State, such State laws shall be controlling.

No promise, condition, representation or warranty, express or implied, not set forth in the agreement shall be binding. None of the terms and conditions of the agreement may be changed, modified, waived or cancelled except by a writing signed by all of the parties who signed the original agreement.

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The applicant/owner of the Project subject to tax incentives shall certify annually to the City Council that the applicant/owner is in full compliance with each applicable term of the agreement. At a minimum, the certification shall include a statement that the improvements have been completed and the initial value of the Project meets the requirements of the agreement. The City and its agents shall have the right of entry to verify the annual certification. The applicant/owner shall provide access to the records, files and other information for such an inspection during normal business hours.

Recapture

A recapture of abated taxes will occur if a condition of default occurs at any time prior to the end of the term of the agreement.

A default under the agreement occurs when any obligation of the applicant/owner to the agreement is not fulfilled in strict accordance with the terms thereof, including (by way of example and not limitation) failure to employ the requisite number of jobs within the time allowed by the agreement.

A default under the agreement occurs if it is determined by the City or any other abating entity that such tax abatement was obtained through fraud.

A default also occurs if the applicant/owner is in default in the payment of unabated taxes to any taxing jurisdiction within the reinvestment zone, regardless of whether that entity is an abating entity.

A default also occurs if any portion of the property involved with the Project is disposed of by any means or in any manner without replacement of equivalent value. The term disposition includes, as example and not limitation, sale, theft, abandonment, obsolescence due to lack of repair (but not functional obsolescence), destruction by casualty without replacement, or any other cessation of use.

No default shall be actionable until the applicant/owner has received written notice from the City or other abating entity of the alleged default and the same has not been cured within thirty (30) days following such written notice.

Termination of the agreement and the resulting recapture shall be retroactive to the effective date of the agreement.

Termination of the agreement shall be effected by resolution, after notice and public hearing. Written notice of a final resolution terminating the agreement shall be given to the business/applicant/owner. There is no administrative appeal from such determination.

On termination, the business/applicant/owner shall then become liable for the payment of all taxes that would otherwise have become due, but for the tax abatement agreement for all the years during which the agreement was in effect. Said taxes shall be paid to each entity abating such taxes within sixty (60) days following such notice of termination. If the taxes are not paid as required or if it is determined that the tax

Exhibit A

abatement was obtained through fraud, then all such taxes due shall include any statutory penalty and interest from the date they would have otherwise become delinquent but for the agreement, until the date they are actually paid.

A partial recapture of taxes may take place if the business/owner/applicant does not fulfill all of the terms of the Agreement but does accomplish the agreement to an extent that would have qualified it for a lesser abatement.

Term and Amendments to these Guidelines and Criteria

The guidelines and criteria adopted herein shall be effective for two years from the date of adoption and shall not be amended or repealed except by three-fourths (3/4th) vote of the City Council.