

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, SEPTEMBER 29, 2010

4:00 p.m.

-Convene

-Consider approval of minutes for September 1, September 8 and September 15, 2010.

CONSENT AGENDA

(1) (a) Consider approval of Commission Orders;

(d) Consider approval of Kansas Department of Corrections Quarterly and Year End Outcome Report
(Ron Stegall)

REGULAR AGENDA

(2) Consider recommendation to purchase a hydraulic excavator for Public Works. (Jackie Waggoner)

(3) Consider options for disposition of current excavator. (Jackie Waggoner)

(4) Consider waiving bidding process for medical contracts at the Douglas County Jail. (Jackie Waggoner)

(5) Consider acquisition to print and mail tax statements. (Jackie Waggoner)

(6) Staff memo requesting direction on the processing of agreements associated with Certificates of Survey and Plats. (Mary Miller is the Planner)

(7) Land use policy actions to endorse the recommendations in the Preliminary Alignment Study for the extension of 31st Street from O'Connell Road (E 1600 Rd) to Route 1057. Initiate and/or adopt the Preliminary Alignment Study into the Comprehensive Planning documents - T2030 and H2020 - as well as amending the SE Area Study. (Linda Finger)

(8) Recycling project update (Eileen Horn)-No back up

RECESS UNTIL 6:35 P.M.

-Reconvene at 6:35 p.m.

(9) Discussion of possible amendment to Noise Resolution (Jim Flory)-No back up

(10) Discussion on County Tax Abatement and IRB Policy Options (Craig Weinaug/Roger Zalneraitis/Diane Stoddard)

(11) Other Business

(a) Consider approval of Accounts Payable (if necessary)

(b) Appointments

(c) Miscellaneous

(d) Public Comment

(12) Adjourn

WEDNESDAY, OCTOBER 6, 2010

4:00 – 6:00 p.m.

-Overview of National Incident Management System for elected officials (Teri Smith)-Commission Chamber

6:35 p.m.

- Consider approval of a proclamation declaring October 2010 as “Disability Employment Awareness Month” (Peggy Wallert/Sharon Spratt)
- Consider approval of solar photovoltaic system for Douglas County Extension Office at 2110 Harper (Eileen Horn)

WEDNESDAY, OCTOBER 13, 2010

- Discussion on SmartStar program from Westar Energy (Eileen Horn)

WEDNESDAY, OCTOBER 20, 2010

FRIDAY, OCTOBER 22, 2010

- Dedication ceremony for KU School of Pharmacy (one or more Commissioners may attend)
8:30-10:30 a.m. continental breakfast; 9:30-10:30 a.m. tour; 11:00 a.m. dedication ceremony

WEDNESDAY, OCTOBER 27, 2010

WEDNESDAY, NOVEMBER 3, 2010

- No Commission Meeting

MONDAY, NOVEMBER 8, 2010

- 9:00 a.m. Canvass for Election

WEDNESDAY, NOVEMBER 10, 2010

- Consider rezoning and adoption of resolution approving rezoning for property in the unincorporated area for Berry Plastics project

***Note:** The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.*

MEMO

September 23, 2010

To: Craig Weinaug for the County Commissioners
From: Ron Stegall, Community Corrections

RE: CC Quarterly and Year End Outcome Report

Community Corrections is required by the Department of Corrections (DOC) to produce a quarterly outcome report which summarizes how the agency has been doing in regards to its stated goals and objectives. The fourth quarter report is combined with a year end report that requires the signature of both the CC Advisory Board and the County Commissioners. This memo is a brief summary of this 14 page year end report.

The first section is implementation goals and has to do primarily with training in evidence based practices that is required of all CC officers. We have almost achieved our goal of having everyone trained in these required courses.

The second section is outcome goals. The first part of this section has to do with reducing the rate of offender revocation as compared to the revocation rate of 2006. As you can see, this year we have seen offender revocation rates go up. This could be explained by the increased number of high risk offenders we seem to be getting each year. As you can see from the chart on page 6 the greatest number of offenders revoked are from the high risk (risk reduction) category.

The last two parts of this section have to do with specific areas we are targeting to try to help offenders become more successful and to reduce the revocation rates. One goal is to establish a mentoring program which we are in the process of doing. The other goal attempts to focus on specific areas of concern for offenders including how they spend leisure time, family and marital influences and situations, and the influence of peers or companions.

This outcome report does not give an overall view of the agency but does give a snapshot of specific areas and goals the agency is working on.

**Kansas Department of Corrections
Community Corrections Comprehensive Plan
Quarterly and Year End Outcome Report Format**

Community Corrections Agency: Douglas County Community Corrections

***Fiscal Year 2010
Report Period***

<u>X</u> 1 st Quarter	July 1 st - September 30 th
<u>X</u> 2 nd Quarter	October 1 st - December 31 st
<u>X</u> 3 rd Quarter	January 1 st - March 31 st
<u>X</u> Year End	July 1 st - June 30 th

Implementation Goals

Goal #1: Train all staff to assist in overall offender success.

Objective #1: Train all staff (except RRI ISOs certified to facilitate) to utilize cognitive-behavioral techniques, as offered and available by Kansas Department of Corrections (KDOC).

Target Date: December 30, 2009; Modified to June 30, 2010

Progress: All ISOs, including the Community Service Work Coordinator (CSWC), have attended and completed Cognitive-Behavioral Techniques training. Three of the ISOs are certified to facilitate cognitive skills groups. All ISOs are utilizing cognitive-behavioral techniques in their daily supervision of offenders.

Discussion /Current Activities: In completing our 2010 Comprehensive Plan, we believed other staff within our agency could benefit from cognitive-behavioral techniques. Therefore, since our surveillance officers are in daily contact with offenders they were also required to attend the training. They were scheduled to attend Introduction to Cognitive-Behavioral Tools training January 26 – 27, 2010 in Topeka, Kansas. However, due to lack of participants the training was rescheduled. They attended and successfully completed the training April 27 – 28, 2010 in Lansing, Kansas. In addition, the two Risk Reduction Initiative (RRI) Officers and an Adult ISP Officer attended the Thinking for a Change (T4C) Facilitator training offered by KDOC in Lansing, Kansas in June 2010.

Challenges: There are no challenges at this time as this objective has been met.

Modifications: There are no modifications at this time as this objective has been met.

Objective #2: Train all staff in Advanced Communication Motivational Strategies (ACMS)/motivational interviewing techniques, as offered and available by KDOC.

Target Date: December 30, 2009; Modified to December 30, 2010

Progress: All ISOs to include the CSWC have attended ACMS training and utilize the skills learned in their daily interaction with offenders.

Discussion / Current Activities: All staff is encouraged to attend the ACMS Refresher training offered by KDOC when it becomes available and geared toward Community Corrections staff.

Challenges: There are no challenges at this time as the overall objective has been met.

Modifications: There are no modifications at this time since all staff has attended ACMS training. We were hoping that all staff would be able to attend ACMS Refresher training by December 30, 2009. However, this date has been modified to December 30, 2010 as the last ACMS refresher training for FY 2010 was January 21, 2010.

Objective #3: Train all ISOs in Case Management, as offered and available by KDOC.

Target Date: December 30, 2009; Modified to June 30, 2010; Modified to December 30, 2010

Progress: We have made considerable progress toward this goal since the third quarter of FY 2010. Six out of the seven ISOs have attended the two day Case Management (Principles/Practices) training. The last ISO was tentatively scheduled to attend April 6 – 7, 2010 at the Hutchinson Correctional Facility but due to scheduling conflicts this was not possible. The next available training will be offered in FY 2011 and the last ISO will be expected to attend.

Discussion / Current Activities: Staff that has attended Case Management training is utilizing the skills learned in their daily contact with offenders. The remaining ISO is still utilizing case management skills, however, he is expected to enroll, attend and successfully complete the training prior to December 30, 2010, if available by KDOC.

Challenges: The challenge was the availability of Case Management training as it applies specifically to community corrections agencies. In addition, it has been difficult for the remaining ISO to attend training due to his schedule as he is not only one of the RRI ISO's but he also oversees our SCRAM program.

Modifications: Since the next training will be offered in FY 2011, our target date was modified and incorporated in our FY 2011 Comprehensive Plan. The new target date is December 30, 2010.

Outcome Goals

Goal #1: Increase the percentage of probationers successfully completing Community Corrections supervision.

Objective #1: Reduce the rate of offender revocation by 30%.

Target Date: June 30, 2010

Progress: For the first, second, third and fourth quarters of FY 2010, our agency obtained the following data from the Admitted, Discharged, & Transfer (AD&T) report in the KDOC database, July 1 – September 30, 2009; October 1 – December 31, 2009; January 1 – March 31, 2010 and; April 1 – June 30, 2010:

Dates	Total # of Offenders Discharged	Offenders Successfully Discharged	Offenders Discharge to Court Services	Offenders Revoked Condition	Offenders Revoked New Felony	Offenders Revoked Misd	Death
1 st Quarter 07/01/09 – 09/30/09	28	21	0	5	0	1	1
2 nd Quarter 10/01/09 – 12/31/09	18	10	0	2	3	2	1
3 rd Quarter 01/01/10 – 03/31/10	31	23	0	2	3	3	0
4 th Quarter 04/01/10 – 06/30/10	36	25	0	4	5	2	0
YEAR END TOTAL 07/01/09 – 06/30/10	113	79	0	13	11	8	2

TOADS ADT Report (7/1/09 – 6/30/10)

The above reflects an altered table than was previously distributed in the first, second and third Quarterly Reports. When you compare the above data to the FY 2010 previously submitted Quarterly Reports, the changes in the data are the outcome of additional discharges that were found on the year end discharge AD&T Report from the KDOC database. These additional discharges are the product of offenders being discharged on the border line of quarter time periods. Although once an offender is terminated from probation the ISO is to close the offender in the KDOC database as soon as possible, this has not been occurring, which skewed the data in previous FY 2010 Quarterly Reports. The above table is comprehensive of all FY 2010 discharge statistics including those that were not available previously.

According to the above table, during FY 2010 that ended June 30, 2010, our agency had 32 revocations; 13 Revoked Conditional Violator, 11 Revoked New Felony, and eight Revoked New Misdemeanor. Although 32 revocations is too high, when the above data is reviewed, the numbers in the Offenders Revoked Conditional Violator, Offenders Revoked New Felony and Offenders Revoked Misdemeanor did not fluctuate much from quarter to quarter but our agency still did not meet our goal of 30% nor the KDOC state goal of 20% reduction in revocation rate.

Currently our agency has three Adult ISP Officers and two Risk Reduction Adult ISP Officers. The Chief Executive Probation Officer and the Deputy Director both supervise offenders that are on Adult ISP but the caseloads are extremely low due to other administrative work that needs to be completed. Although our ADP did not fluctuate considerably during FY 2010, the RRI caseloads continued to increase at a rapid rate. In reviewing offender referrals, our agency received high risk referrals (via Court/courtesy transfers in) in addition some offenders that were already established with the Risk Reduction caseloads were returning to active supervision from being in jail or AWOL. This resulted in the RRI caseloads becoming unmanageable.

In the table below, out of the 32 revocations 20 were revoked from the Risk Reduction caseloads and 10 were revoked from Adult ISP caseloads. Our revocation rate for FY 2010 was 28%.

QUARTERS	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
RISK REDUCTION	4	4	4	8
ADULT ISP	2	3	4	3
TOTAL REVOCATIONS	6	7	8	11

TOADS ADT Report per ISO (7/1/09 – 6/30/10)

As previously indicated in the agency's FY 2010 third Quarterly Report, there is a need for our agency to evaluate and adjust the RRI caseloads so that they are more manageable. In July 2010, we made a decision to utilize one Adult ISP Officer as a back-up officer for the RRI caseloads. Although the ISO will mainly supervise low risk offenders the ISO will also have several offenders that are high risk. We will be monitoring the ISO's caseload closely to ensure caseload numbers do not raise at a rapid rate.

Since the RRI caseloads are rising, it creates additional work for the RRI ISOs. Therefore, adequate and thorough supervision is not being spread among all offenders. Should the caseload numbers continue to increase; our agency will also consider having each ISO have two separate caseloads. Each ISO would have one caseload for high risk offenders (RRI) and one caseload for low risk offenders (Adult ISP). All caseloads would need to be monitored closely. Also, this will allow for the offender to keep the same ISO should a LSI-R re-assessment be completed and the supervision level changes to place the offender on a different caseload. For example, if one ISO is supervising a low risk offender but completes an LSI-R re-assessment and the offender scores as high risk, that offender will be supervised as high risk but still continue with the same ISO.

Our goal is to reduce the number of revocations by 30%, setting the goal higher than the state goal of 20%. Between FY 2006 and FY 2009, our agency was making progress based on data received from the KDOC Statistical Summary for FY 2009 Community Corrections Offender Populations along with the TOADS ADT report. Although it is discouraging to see our total revocations rise during FY 2010, our agency is working on alternatives to reduce the number of revocations during FY 2011. The chart below provides information regarding the total revocations between FY 2006 and FY 2010.

YEAR	Total Discharge	Total Revocations
FY 2006	164	46 (28%)
FY 2007	117	26 (22%)
FY 2008	157	34 (21%)
FY 2009	114	23 (20%)
FY 2010	113	32 (28%)

Discussion / Current Activities: As previously mentioned, in order to help reduce our revocation rate, we implemented a rollover ISO for RRI caseloads in July 2010. By lowering the caseload of the RRI ISOs we believe that this will provide more time for individualized attention to high risk offenders. Our agency volunteer is also accepting low risk offenders to help the Adult ISP caseloads stay manageable. The volunteer currently has one high risk offender to gain overall experience, but will not be given any other high risk offenders. Another effort to lower RRI caseloads is that offenders that are on the border between high and low risk, such as those between level two and three, have been assigned to Adult ISP and not the RRI caseloads. Our agency has facilitated the cognitive skills groups utilizing the Cross Roads curriculum but is working on redeveloping the program and possibly changing to the Thinking for a Change (T4C) curriculum. The reason is that Cross Roads requires facilitators to have a higher number of offenders for the classes to be productive. Although the agency's class that completed in March 2009 was successful since that time we have had difficulties having an adequate number of offenders to begin the sessions. The three Cross Roads facilitators attended the Thinking for a Change Facilitator training in June 2010. Due to summer schedules, vacations, and training attendance, our agency has not had an opportunity to thoroughly discuss the curriculums and when the next class will begin. However, we anticipate beginning the next class at least by December 30, 2010.

Our previous volunteer/intern was assisting our agency with developing components of our RRI program but on an inconsistent basis due to helping with staff coverage. She developed and facilitated a weekly employment class that began in September 2009 but again, on an inconsistent basis. In addition, she was working on developing our incentives/rewards program. The volunteer had also established a clothing bank for offenders and their families in need. Our agency had hoped that all services would improve as time went on, but the volunteer/intern obtained her degree along with full-time permanent employment and therefore her position ended in July 2010. However, this has not affected the agency negatively as a new volunteer began in June 2010 and after her orientation/training, she is resuming the responsibilities of the previous volunteer/intern. The volunteer will also be working on finishing the mentoring program.

We also have the SCRAM program and only had alcohol monitoring units but since the third Quarterly Report, we are beginning to receive the new units that have not only alcohol monitoring but also house arrest.

On-going training in evidence based practices will still be an integral part of our program. Lastly, per policy and procedures, all recommended revocations will require staffing prior to recommending revocation. This again has been reiterated to staff. Our agency will continue to measure progress through quarterly reports.

Challenges: The challenges continue to be limited staff and the time involved in developing and implementing the programs. Also, the RRI caseloads have increased over the last several months.

Modifications: Our target date for improving our revocation rate is June 30, 2011.

Goal #2: Increase positive associations for offenders assigned to the RRI medium and high risk caseload.

Objective #1: Identify one (1) positive mentor (familial or peer) for 80% of offenders assigned to the RRI medium and high risk caseload.

Target Date: December 31, 2009; Modified to June 30, 2010; Modified to December 31, 2010

Progress: As part of our RRI program, although in the process of developing, we have not implemented a *structured process* of identifying a positive mentor at this time due to time constraints.

Discussion / Current Activities: Currently the RRI officers have identified positive mentors throughout interviews/contacts with the offender but not on a consistent or formal basis. The Deputy Director, Secretary II, and previous volunteer/intern, began developing our mentoring program and made considerable progress. We had conversations with the Douglas County Jail Re-Entry Director, a local Pastor, and the NPR Volunteer Developer/Trainer at KDOC. The previous volunteer/intern developed a training manual and the policy/procedure before her resignation. With the new volunteer in place and our agency being close to completing the mentoring program, we hope to begin recruiting mentors by the end of this fiscal year.

Challenges: Our agency has several components to our initiative and we are gradually prioritizing and implementing each component. Our main challenge has been the time and effort involved in developing a structured mentoring program. We also spoke to other agencies that have mentoring programs in place to have a foundation. We spent a considerable amount of time implementing the cognitive skills classes, which began in January, 2009 but now are looking at re-evaluating the program, which will take time. Lastly, our volunteer/intern that spent many hours on the mentoring program is no longer with our agency. Therefore, the new volunteer will resume completing the program but at a much slower rate due to having to review all of the information.

Modifications: We have modified our target date several times with our last target date being June 30, 2010. Although we have made considerable progress since our FY 2010 third Quarterly Report, we have again modified our target date to December 31, 2010, which is mentioned in our FY 2011 Comprehensive Plan.

Prior to discussing Goal #3, we believe it is important to explain the LSI-R assessment tool so that the Advisory Board Sub-Committee and others that review our Quarterly Report have a better understanding of the numbers and percentages in the charts.

The LSI-R is a broad based actuarial risk/need assessment instrument used to classify offenders according to their risk for criminal conduct and need for treatment. The instrument consists of 54 items, separated into 10 domains that contain both static or historical (non-changing, i.e. criminal history) and dynamic, or changeable (i.e. employment) factors. Although the static risk factors generally cannot be changed, they are still predictive of re-offending. The dynamic risk factors are changeable and provide direction for focusing on interventions or change process. The LSI-R is completed in a way of a semi-structured interview with the offender and review of relevant file information such as official records or collateral contacts. Items on the LSI-R are scored using a Yes/No format (Yes indicates the risk factor is present and No indicates the risk factor is absent). A rating system is also used for some of the items. Items on the LSI-R are summed to yield a Total Score with greater scores reflective of a higher risk to re-offend and need for treatment.

Although there are 10 domains, our targeted domains in the next section are leisure/recreation; family/marital; and, companions. We believe that all three domains are similar in many ways.

Goal #3: Improve the dosage of targeted interventions.

Objective #1: Reduce the leisure/recreation LSI-R domain.

Target Date: June 30, 2010; Modified to June 30, 2011

Progress: According to fourth quarter data, our agency did not perform as well as the third quarter. This reflects the number of revocations, 32, our agency had in FY 2010. As previously indicated, we currently have specialized caseloads. The RRI officers have reduced caseloads supervising medium and high (Level I/II) risk offenders that require additional attention and time. The RRI officers have targeted and prioritized interventions via interviews with the offender, obtaining information from the LSI-R, and developing thorough Supervision Plans. One of the goals with the RRI officers is to work with the offender in prioritizing their interventions and administering the right dosage to meet the offender's needs. The offender's time is structured enough so that it leaves very little time for negative activity.

The following data was obtained from the LSI-R Performance report:

Fiscal Year 2010 (1st Quarter July 1 – September 30, 2009)

Leisure/Recreation Domain

Total of 20 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	4 (20%)	3 (15%)	13 (65%)
Not Revoked	4 (25%)	3 (19%)	9 (56%)
Revoked	0 (0%)	0 (0%)	4 (100%)

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Fiscal Year 2010 (2nd Quarter October 1 – December 31, 2009)

Leisure/Recreation Domain

Total of 14 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	2 (14%)	5 (36%)	7 (50%)
Not Revoked	2 (18%)	4 (36%)	5 (45%)
Revoked	0 (0%)	1 (33%)	2 (67%)

Fiscal Year 2010 (3rd Quarter January 1 – March 31, 2010)

Leisure/Recreation Domain

Total of 22 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	7 (32%)	3 (14%)	12 (55%)
Not Revoked	7 (39%)	1 (6%)	10 (56%)
Revoked	0 (0%)	2 (50%)	2 (50%)

Fiscal Year 2010 (4th Quarter April 1 – June 30, 2010)

Leisure/Recreation Domain

Total of 24 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	7 (29%)	5 (21%)	12 (50%)
Not Revoked	6 (35%)	1 (6%)	10 (59%)
Revoked	1 (14%)	4 (57%)	2 (29%)

In regard to the above data, it is not surprising to see that the number of revoked offenders percentages increase from the first quarter through the fourth quarter due to the number of revocations our agency had in FY 2010. Our goal is to see higher percentages in the decreased column and lower percentages in the increased column. We would like to see offenders not increase their scores because the higher the score the greater the risk/need in that particular domain. We must keep in mind that there are some offenders on Level IV supervision (reduced supervision) that may not have many changes to their scores because they are in total compliance. This is reflected in the unchanged column. Nonetheless, our agency did not do well in the leisure/recreation domain in the fourth quarter. Hopefully, since the mentoring program is close to being completed this will help with offenders structuring their time in a positive manner.

Discussion / Current Activities: We believe that helping an offender structure their idle time is important because the more idle time an offender has, the more they are subjecting themselves to negative activity. Currently, offenders are involved with developing a structured Supervision Plan (goals/objectives) which they use as a map to help them stay focused and on track with their activities. ISOs also encourage offenders to be involved in positive activities within the community. Surveillance has been helpful during the evening hours, monitoring the offender's activities and companions. We believe that once all programs are in place they will only help our agency in the future.

Challenges: The challenge continues to be finding time to work on developing and implementing all aspects of our RRI program. Finding positive ways to reduce the RRI caseloads has also been a challenge in the last couple months. We also hope that the high risk referrals will decrease over time. Lastly, limited staff to meet the needs of the offenders continues to be an issue.

Modifications: Our target date remains the same but we are in the stages of re-organizing caseloads so that they are more manageable which will allow more time with the offenders. Once the cognitive skills program resumes, we also believe this will help offenders with their cognitive thinking and resort to positive activities rather than negative environments.

Objective #2: Reduce the family/marital LSI-R domain.

Target Date: June 30, 2010; Modified to June 30, 2011

Progress: Based on data, we believe we could make considerable amount of progress in this area once we develop and implement the mentoring part of our program. Currently, ISOs are targeting positive family influences through contacts with the offender, LSI-R interviews, and developing thorough Supervision Plans. However, considering that our program is not fully developed, we do believe that progress is being made.

The following data was obtained from the LSI-R Performance report:

Fiscal Year 2010 (1st Quarter July 1 – September 30, 2009)

Family/Marital Domain

Total of 20 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	3 (15%)	3 (15%)	14 (70%)
Not Revoked	3 (19%)	2 (12%)	11 (69%)
Revoked	0 (0%)	1 (25%)	3 (75%)

Fiscal Year 2010 (2nd Quarter October 1 – December 31, 2009)

Family/Marital

Total of 14 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	4 (29%)	4 (29%)	6 (43%)
Not Revoked	4 (36%)	2 (18%)	5 (45%)
Revoked	0 (0%)	2 (67%)	1 (33%)

Fiscal Year 2010 (3rd Quarter January 1 – March 31, 2010)

Family/Marital

Total of 22 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	6 (27%)	5 (23%)	11 (50%)
Not Revoked	5 (28%)	5 (28%)	8 (44%)
Revoked	1 (25%)	0 (0%)	3 (75%)

Fiscal Year 2010 (4th Quarter April 1 – June 30, 2010)

Family/Marital

Total of 24 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	3 (12%)	5 (21%)	16 (67%)
Not Revoked	2 (12%)	2 (12%)	13 (76%)
Revoked	1 (14%)	3 (43%)	3 (43%)

In reviewing the fourth quarter data it is clear that our agency needs to focus on reducing our revocation rate. According to the revoked increase column 43% increased their scores. According to the decreased column and comparing the data to the third quarter data, the percentages went down when we are striving to increase the percentages. We would also like to see lower percentages in the increased and unchanged column. We must keep in mind that there are some offenders on Level IV supervision (reduced supervision) that may not have many changes to their scores because they are in total compliance.

Discussion / Current Activities: We believe that in addition to an offender participating in structured intervention programs, having positive family and/or marital support is imperative to an offender's success. Should an offender not have family and/or marital

support, this would be a great opportunity to have the mentoring program in place. We are in the process of developing our mentoring program and close to being completed. We will continue to attend training to learn more about evidence based practices and what opportunities or resources that may exist to help our agency with improving our LSI-R targeted domains. KDOC has also been helpful in sending articles regarding evidence based practices.

Challenges: Although some offenders have positive family/marital support, many offenders do not. Therefore, it is important that we implement the mentoring program as soon as possible. Although close to being completed, the challenge is continuing to find time to work on a structured mentoring program.

Modifications: Our target date remains the same and we are close to completing the mentoring program.

Objective #3: Reduce the companions LSI-R domain.

Target Date: June 30, 2010; Modified to June 30, 2011

Progress: Based on data, we believe we could make considerable amount of progress in this area once the mentoring program and cognitive skills program are in place. Currently, ISOs are targeting positive companions, outside of family, through contacts with the offender, LSI-R interviews, developing thorough Supervision Plans, and through collateral contacts. Utilizing surveillance to monitor offenders during the evening hours and on weekends has been vital in seeing who offenders are associating with.

Our agency obtained the following data from the LSI-R Performance report:

Fiscal Year 2010 (1st Quarter July 1 – September 30, 2009)

Companions Domain

Total of 20 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	7 (35%)	5 (25%)	8 (40%)
Not Revoked	7 (44%)	3 (19%)	6 (38%)
Revoked	0 (0%)	2 (50%)	2 (50%)

Fiscal Year 2010 (2nd Quarter October 1 – December 31, 2009)

Companions Domain

Total of 14 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	4 (29%)	4 (29%)	6 (43%)
Not Revoked	4 (36%)	3 (27%)	4 (36%)
Revoked	0 (0%)	1 (33%)	2 (67%)

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Fiscal Year 2010 (3rd Quarter January 1 – March 31, 2010)

Companions Domain

Total of 22 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	8 (36%)	7 (32%)	7 (32%)
Not Revoked	7 (39%)	5 (28%)	6 (33%)
Revoked	1 (25%)	2 (50%)	1 (25%)

Fiscal Year 2010 (4th Quarter April 1 – June 30, 2010)

Companions Domain

Total of 24 Offenders that had two or more LSI-R assessments completed

Offenders	Decreased	Increased	Unchanged
Total Offenders (Not Revoked/Revoked)	10 (42%)	5 (21%)	9 (38%)
Not Revoked	9 (53%)	5 (21%)	9 (38%)
Revoked	1 (14%)	3 (43%)	3 (43%)

Discussion / Current Activities: The companion domain is similar to the other targeted domains previously mentioned. Many offenders have no positive influences (family, friends, mentors, etc.) in their lives which result in offenders seeking and associating with negative and/or crime ridden individuals and consequently not utilizing their time in a productive manner. It is difficult for offenders to change their associations when negative influences and a negative living environment have been a part of their life on a consistent basis. We believe that involving offenders in positive extra-curricular activities and interventions where they can meet positive individuals is vital to their success. This continues to be reinforced to the offender. Surveillance has been helpful during the evening hours, monitoring the offender's activities and companions. We are seeing more and more offenders not employed and therefore, it is extremely important that they structure their time productively. We are still attempting to develop and implement the mentoring piece of our program, revamping our Cognitive Skills program, and resuming our employment classes.

Challenges: Although some offenders have positive companions in their lives, many offenders do not. Also, offenders lack cognitive skills. Therefore, it is important that we implement the mentoring program and restructure the cognitive skills program, which are priorities for our agency. Time continues to be a challenge.

Modifications: There are no modifications at this time. We will continue to focus on lowering our revocation rates, beginning the mentoring program, resuming the cognitive skills classes and employment classes.

MEMO TO: The Board of County Commissioners
 Craig Weinaug, County Administrator

FROM: Jackie Waggoner, Purchasing Director
 Division of Purchasing

SUBJECT: Consider Recommendation to Purchase Hydraulic Excavator

DATE: September 23, 2010

Back in August we had prepared a memo comparing Coffey County and HGAC (Houston-Galveston Area Council) contracts to purchase a hydraulic excavator for Public Works.

The equipment attachments for Coffey County's bid were sole sourced to one manufacturer. After reviewing this further we elected to pull our recommendation from the agenda and solicit formal bids. We believed that a different approach could offer considerable cost savings. The table summarizes the bids received:

	Murphy Tractor	Foley Equipment	Berry Tractor & Equipment	Victor L. Phillips	G.W. Van Keppel
Make, Model, and Year	2010/11 John Deere 240DLC	2010 Caterpillar 324DL	2011 Komatsu PC-220LC-8	2011 Case CX240B	2010 Volvo ECZ40C
Basic Bid Price	\$342,954	\$211,900	\$215,400	\$218,845	\$269,410
Less Gov. Discount	\$139,654	NA	NA	Included	\$ 41,000
Delivered Cost with Warranty (full machine 6 years/6,000 hours)	\$203,300	\$211,900	\$215,400	\$218,845 no warranty	\$228,410
5 Year/5,000 Hrs. Buy Back	\$105,000	\$100,000	\$ 90,000	NA	\$108,425
Exception to Specifications	None	No auto reversing fan	None	10 exceptions	None
Exceeds Specifications	Hydraulic Breaker Ready	Quick Evac	None	None	None
Five Year Cost of Ownership	\$98,300	\$111,900	\$125,400	NA	\$119,985

Comparing the low bid to the original option of using Coffey County's contract demonstrates a total cost savings of \$51,814.

Please see the separate memo that outlines options for the Board to consider for the disposition of the existing excavator. Mike Perkins and I will be at the meeting to answer questions you may have.

RECOMMENDATION: The Board of County Commissioners accepts the low bid of \$203,300 from Murphy Tractor for a hydraulic excavator.

MEMO TO: The Board of County Commissioners
Craig Weinaug, County Administrator

FROM: Jackie Waggoner, Purchasing Director
Division of Purchasing

SUBJECT: Consider Options for Disposition of Excavator

DATE: September 23, 2010

The excavator we are purchasing is replacing Public Works existing 1987 John Deere 690D excavator with approximately 10,393 hours. Its current value is \$6,000 - \$10,000 which was determined by one supplier providing us a trade-in allowance and estimating the auction cost. The equipment is currently not operational and would cost approximately \$10,000 to restore.

Below are options to consider for the disposition of the excavator:

- Townships have expressed a need for this type of equipment. The County would have to invest the cost to restore the equipment and maintain it. A rental fee could be established to offset some of the County's expenses.
- Sell the equipment as is in an auction for \$6,000 - \$10,000.
- Ask the dealer who offered the trade-in allowance if they want to purchase the equipment for the price (\$6,000) offered. This dealer was not the low bidder.

Mike Perkins and I will be available to discuss these options.

MEMO TO: The Board of County Commissioners
 Craig Weinaug, County Administrator

FROM: Jackie Waggoner, Purchasing Director
 Division of Purchasing

SUBJECT: Consider Waiving Bidding Process for Medical Contracts at the Douglas County Jail

DATE: September 23, 2010

The Jail currently has four medical contracts (Visiting Nurses Association, Dr. Sale, Bert Nash Community Mental Health Center, and Dr. Pattison) that expire December 31, 2010. Our combined cost last year was \$430,802.

In the past, all contracts were developed by waiving our bidding process and receiving commission approval. It is the Sheriff's preference to contract with agencies affiliated with Douglas County. The terms of the contracts are one year with the option to renew annually up to four additional years. The table below summarizes the services provided along with compensation for each service (based on 2010 renewal):

MEDICAL PROVIDER	DESCRIPTION OF SERVICES	COMPENSATION FOR SERVICES
Dr. Sale	Provide comprehensive health care services to inmates monitor and evaluate patient care, provide policy & procedure for health services, assume medical judgment of all medical and dental matters, provide on-call physician 24/7.	\$58,800 Annually Includes 2 weeks paid vacation; Lawrence Emergency Medicine is our substitute provider
Bert Nash Community Mental Health Center	On-site evaluation and treatment services provided by master level therapist at 15 hours per week, and a bachelor level case manager at 12 hours per week.	\$54,395 Annually Phone consultation, 24/7 on-site emergency evaluation services, and court testimony are based on flat rate as needed.
Visiting Nurses Association	Provide comprehensive nursing services to inmates to include health assessments, perform TB screening, perform routine health physical, provide 24/7 on-call service, perform certain medical treatments, and distribute medication.	\$287,123 Annually Physical & occupational therapy is based on a fixed hourly rate as needed.
Dr. Pattison	Psychiatric Services	\$29,750 Annually

Approving this request would require the Board to waive the bidding process. Final contracts will be brought back to you for approval, or you could authorize the County Administrator to approve these contracts. Kenny Massey and I will be available at the meeting to answer any questions you may have.

SUGGESTED MOTION: The Board of County Commissioners waives the formal bidding process and authorizes staff to develop medical contracts for the Douglas County Jail.

MEMO TO: The Board of County Commissioners
Craig Weinaug, County Administrator

FROM: Jackie Waggoner, Purchasing Director
Division of Purchasing

SUBJECT: Consider Acquisition to Print and Mail Tax Statements

DATE: September 23, 2010

Each year the Douglas County Treasurer's Office distributes approximately 90,000 tax statements and tax information sheets. The process requires a company who can print and merge data to the statements. Not all printing companies have this capability.

For the past two years we used a company, Mail Services, which provides online statement preview and editing functionalities. This ability has proven to be time saving for staff, and creates efficiencies for the Treasurer's Office. I have contacted other companies that can print and merge data, but none offer this online option.

As you are aware, the County has been implementing the Manatron system which is scheduled to go live in the next few weeks. Mail Services has assured us that they could work with the XML file produced by Manatron to print the tax statements. The reconciliation of data from the old system with the new system proved more difficult than anticipated, and it is the Treasurer's preference to retain the same supplier to ensure we don't have any issue with the tax statements during this transition.

Mail Services has submitted a quote for printing of statements (including information sheet) and envelopes, folding and inserting, online preview and editing, and postage. Their cost of \$.543 each equates to \$48,870 based on an estimated volume of 90,000. If postal rates increase in 2011, our pricing will reflect the new rate. We are recommending that the Board provide the County Administrator with the authority to approve change orders up to 10% (\$4,887) of the total cost to accommodate this eventuality.

It is staff's preference to extend our contract with Mail Services for the 2011 tax statements. This action would require the Board to waive our formal bidding process. Paula Gilchrist and I will be available at the commission meeting to answer any questions you may have.

SUGGESTED MOTION: The Board of County Commissioners waives the formal bidding process, authorizes a contract with Mail Services in an estimated amount of \$48,870, and authorizes the County Administrator to approve change orders up to 10% of that amount.

Memorandum

City of Lawrence

Planning & Development Services

TO: Board of County Commissioners

FROM: Mary Miller, Planner

CC: Craig Weinaug, County Administrator

Date: For Sept 29, 2010 meeting

RE: Signatures on agreements required with Certificates of Survey and Final Plats

The Temporary Set Aside Agreement and Cross Access Easement for The Dwyer Certificate of Survey were placed on the Commission's June 4, 2008 agenda for signatures. During the consideration of these agreements, the Commission directed Staff to develop a process permitting the County Administrator to sign Temporary Set Aside Agreements and Cross Access Easements administratively on the Commission's behalf. A copy of the minutes from that meeting is attached with this memo.

The Commission signed two agreements associated with the PINES Final Plat at their September 22, 2010 meeting and several agreements associated with Certificates of Survey within the UGA will be ready shortly. These agreements are listed below:

1. Temporary Set Aside Agreement (a Certificates of Survey and the Final Plat)
2. Cross-Access Easement (both Certificates of Survey)
3. Water Connection Agreement (Final Plat)

Action requested:

- Staff is requesting guidance as to the processing of these agreements. Should a process be set into place to allow these agreements to be signed by the County Administrator, or would the Commission prefer that these agreements continue to be placed on their consent agenda?

PLANNING 06-04-08

The Board considered the approval of a Temporary Set Aside Agreement and a Cross Access Easement, for Cluster Development. A Certificate of Survey has been approved for the Cluster Development located in the south half of the northeast quarter of Section 33, Township 13 South, Range 19 East, for Gerald Dwyer, property owner of record. The Subdivision Regulations require that certain agreements and easements be dedicated and recorded for Cluster Developments. Mary Miller, Lawrence and Douglas County Metropolitan Planning Department, was present for the discussion.

It was the consensus of the Board that the first 5 or 6 set aside agreements will come before the Board for review and then the rest can be done administratively by the County Administrator.

Rob Phillips, property owner, commented on the lengthy process needed to get to the approval stage to build and also the cost involved in acquiring a Certificate of Survey and a ghost plat.

Jones asked that before this Commission term ends, Miller initiates a discussion on the cost efficiency of acquiring a Certificate of Survey and ghost plat.

Jones moved to approve the Temporary Set Aside Agreement, and for staff to make the adjustment to have the documents signed off administratively. The County Administrator can choose to bring the first few before the Board for review. Motion was seconded by McElhaney and carried unanimously.

Jones moved to approve the Cross Access Easement, and for staff to make the adjustment to have the documents signed off administratively. The County Administrator can choose to bring the first few before the Board for review. Motion was seconded by McElhaney and carried unanimously.



Memorandum to County Commission

Linda M. Finger
Planning Resource Coordinator

RE: Possible Actions for Incorporating Recommendations in 31st Study into Land Use Planning & Transportation Planning Reviews and Decisions

DATE: September 29, 2010

At last week's Commission meeting, the Commission received a presentation from staff and Wilson & Co. on the Preliminary Alignment Study for extension of 31st Street from O'Connell Road (E 1600 Rd) to Route 1057. The question asked at that meeting was how the recommendations in this study could become integrated into the land use and transportation planning process. There are several actions the Commission may wish to consider. One or more of these actions may be taken by the Commission.

Initiation of an Amendment to the Southeast Area Plan.

- The Southeast Area Plan was originally adopted by the County Commission on 01-28-08 and has been amended twice, most recently on 12-01-08.
- Three areas of the plan should be reviewed and amended in response to the future alignment proposed for 31st Street: the "umbrella" documents in 1.3 Policy Framework; the Land Use Recommendations and Land Use Map in Section 3; and, the Transportation Facilities and Corridor Policy in Section 3.2
- Amending the Southeast Area Plan requires public hearing by the Planning Commission and adoption of the amendment by both Lawrence and Douglas County Commissions.
 - Proposed Action: Intiate an amendment to the Southeast Area Plan

Initiation of an Amendment to the Chapter 14, HORIZON 2020.

- The Southeast Area Plan is incorporated by reference into the Comprehensive Land Use Planning document (HORIZON 2020).
- Chapter 14 states: "A Comprehensive Plan Amendment will be required to remove a specific plan from Chapter 14 or to update a specific plan".
- Simultaneous with the amendment review procedure, a comprehensive plan amendment can be processed through the public hearing and adoption process.
 - Proposed Action: Intiate a Comprehensive Plan Amendment to Chapter 14 of HORIZON 2020, to incorporate an amended Southeast Area Plan into the Comprehensive Land Use Plan.

Adopt Policy Resolution to Provide Staff Direction on Integration into Transportation and Land Use Planning Processes

- The area's Metropolitan Transportation Plan, Transportation 2030-Lawrence/Douglas County-Long Range Transportation Plan, is a fiscally constrained document. Only portions of the preliminary alignment study for 31st Street are now included in the MPO's fiscally constrained recommendations for improvements to the County's transportation system.ⁱ
- The T2030 document also includes a set of illustrative projectsⁱⁱ that would be recommended transportation system improvements **if** funding could be secured.
- The professional opinion of the L-DC MPO Senior Transportation Planner, Todd Girdler, is that the improvements presented to the County Commission by Wilson and Company in the Preliminary Alignment Study are consistent with the vision for this road corridor now included in the T2030 transportation plan. As this 31st Street project enters final design, and funding is secured, it may be

necessary to make changes to the T2030 document. [T2030 Plan will be updated over the next two years and any changes needed related to the extension of 31st Street can be incorporated into this scheduled update.]

- MPO staff shares the Commission's concern that the preliminary alignment for the 31st Street extension be recognized by local land use planners and others in making land use decisions in this area because of the need to preserve (or leave unencumbered) the area for right-of-way for the proposed alignment.
 - Proposed Action: Adopt a Policy Resolution directing MPO staff and the Planning & Development Services staff to consider the study's preliminary alignment for the 31st Street extension in their review of all land use proposals in the area. The Policy Resolution should also direct MPO staff to monitor the progress on this 31st Street extension project and to incorporate the study's preliminary alignment into the next update of the Metropolitan Transportation Plan (T2030) and other MPO documents.

ⁱ Specifically, on page 197 of this document a two-lane urban extension of this road from O'Connel to Noria is recommended.

ⁱⁱ At the time of T 2030 approval this set of projects were beyond the reasonable fiscal projections used to create the list on page 197. The illustrative projects list found on page 201 includes an upgrade and extension of 31st to a four-lane road all the way from Louisiana to County Route 1057/E 1900 Road.

Memorandum

City of Lawrence

City Manager's Office

TO: Craig Weinaug, County Administrator
CC: David L. Corliss, City Manager
Diane Stoddard, Assistant City Manager
FROM: Roger Zalneraitis, Economic Development Coordinator/Planner
DATE: September 22, 2010
RE: County Tax Abatement and IRB Policy Options

There has been discussion recently whether Douglas County should adopt policies for tax abatements and Industrial Revenue Bonds (IRBs). The County faces one of four choices with regard these policies: it may choose not to adopt a policy; it may "imitate" an existing City policy; it may adopt an existing City policy; or it may adopt its own new policy. This memo addresses the advantages and disadvantages of each approach.

No New Policy

Under this approach, Douglas County would not in any way create, adopt or emulate an economic policy related to tax abatements or IRBs. The County has no policy right now and has avoided developing one in order to discourage industrial growth in the unincorporated area. In addition, by not having a policy, state law prohibits Douglas County from issuing constitutional tax abatements. Thus, without an adopted policy, Douglas County can only directly issue a tax abatement outside of a City in conjunction with the issuance of industrial revenue bonds.

Establishing a policy related to economic development could send a signal that the County is encouraging economic growth outside of cities. Without a policy, there is an implied preference for industrial growth to occur within the incorporated areas. This is consistent with the practices in some other counties. For example, Johnson County does not have a tax abatement or IRB policy for the same reason that Douglas County does not: they wish to encourage growth in the incorporated area. Johnson County does, however, evaluate projects in the unincorporated area from time to time.

The challenge when lacking a policy is that there are no guidelines or criteria for evaluating whether to extend economic incentives, should a firm choose to locate in the unincorporated area. The County will also have to meet certain state law requirements to issue an IRB. Without a policy, this could result in more time for staff in ensuring that any approval meets state requirements.

"Imitate" a City Policy

Under an "imitation" approach, the County would evaluate any economic development request by using the tax abatement and/or IRB policy in the city nearest the applicants'

potential site. The County would still not adopt its own policies, and therefore would still be unable to offer constitutional tax abatements.

One advantage to this approach is that it would offer the County criteria and guidelines for evaluating an economic incentive for a firm. Also, like “doing nothing”, it allows the County to not adopt a policy and therefore maintain an implicit preference for industrial growth to occur within incorporated areas within the County.

However, City policies may contain criteria that are irrelevant in the County. For example, in Lawrence the economic development policy requires tax abatements to go before the Public Incentive Review Committee (“PIRC”). With the exception of one seat for a County Commissioner, almost all of the seats on PIRC are reserved for representatives of the Lawrence community and the Lawrence School District, USD 497. They may not effectively represent taxing jurisdictions that would be affected by an abatement in the unincorporated area or within another school district or taxing jurisdiction, and are therefore not necessarily the best people to evaluate a prospective proposal in that location. Alternatively, a City policy may lack criteria that the County wishes to use in evaluating a business in the unincorporated area.

Adopt a City Policy as the County Policy

Under this approach, the County would simply adopt one of the IRB and tax abatement policies that are currently in place in one of the cities in Douglas County. Right now, Lawrence, Baldwin, and Eudora all have tax abatement policies, and Lawrence has an IRB policy.

This would be the quickest approach for adopting a new tax abatement and IRB policy for the County. The Board of County Commissioners would simply review the existing policies and adopt the one that they prefer. This would also allow the County to issue constitutional tax abatements instead of issuing abatements through IRBs. It would also provide a set of formal criteria for evaluating projects. Applicants for tax incentives tend to prefer to have written criteria and procedures so that they can understand what is expected and how the process for reviewing an incentive request will work.

As noted under the “imitation” approach, however, each city may have policy elements the County does not wish to adopt in their entirety. If the County wished to modify an existing City policy, this could slow down the process of adopting a new ordinance. Furthermore, adopting a policy may send a signal that the County is willing to consider industrial development in the unincorporated area.

Adopt a Unique Policy

Under this approach, Douglas County would create its own tax abatement and IRB policy. This would allow the County to have a policy that best reflects its own interests and values. It would provide a set of written criteria for the County to evaluate projects, as well as a process for a firm to apply and receive an abatement or IRBs.

Developing a unique policy would likely be the most time consuming approach of all four. And, as in the case of adopting an existing city policy, it could send an “open for business” signal to industrial users regarding the unincorporated areas of the County.

Summary

In summary, the trade-offs between not having a formal tax abatement and IRB policy at the County level and having one are primarily between time, criteria, and signaling. Lacking a policy, the County has little formal criteria or guidelines; however, there is little to no time needed for creating or adopting a policy, and there are no signals sent to the marketplace that could be interpreted by industrial firms that the County welcomes growth in the unincorporated area. Conversely, as you move toward a more formal policy, the County has better formal criteria and procedures for evaluating projects, but may also run the risk of encouraging growth outside of existing cities.



City of Lawrence

DATE APPROVED:

March 24th, 2009

Updated May 18th, 2010

**City of Lawrence
Economic Development
Goals, Process and
Procedures**

1-2101 INTRODUCTION

The purpose of this document is to establish the official policy and procedures of the City for the granting of economic development incentives, including cash incentives and exclusive infrastructure assistance associated with projects within the City of Lawrence.

1-2102 GENERAL OBJECTIVE

In Horizons 2020, the City identifies three goals for economic development: job growth in excess of population growth; increasing the share of the tax base coming from non-residential growth; and increasing career opportunities by attracting high-skilled jobs in expanding industries.

Various economic incentives are available under Kansas law to help municipalities achieve their public objectives. This ordinance establishes the policy, procedures and requirements to govern the fair, effective and judicious use of these incentives by the City in order to help meet its economic development goals.

Because of Lawrence's assets and the desire of area residents to plan for the future and retain a community that is different from other growing suburban areas, economic incentives may not be offered to every firm that is eligible under state statutes. Instead, incentives will be targeted toward businesses meeting the objectives defined below.

1-2103 ECONOMIC DEVELOPMENT OBJECTIVES

The City works in cooperation with Douglas County and the Lawrence Chamber of Commerce to achieve the general objectives outlined in the section above. This partnership enables the community to maximize its resources and to develop a consensus regarding the kind of economic development that best advances the interests of the entire community.

All of the partners in this effort share a commitment to:

- encourage existing industry to expand,
- assist new business start-ups,
- recruit new companies from out-of-state and internationally,
- encourage high technology and research based-businesses,
- encourage training and development of Lawrence area employees, and
- encourage the location and retention of businesses which are good "corporate citizens" that will add to the quality of life in Lawrence through their leadership and support of local civic and philanthropic organizations.

While it is the new companies from out-of-state that typically generate the most publicity, it is the policy of the City, County, and the Chamber to place a high priority on the retention and expansion of existing businesses.

The City's role in this economic development partnership involves:

- providing the land, zoning and infrastructure that are required to create new jobs and new investment,
- providing policies, processes and procedures for clear standards and timely reviews of applications, and
- providing the personal assistance and in some cases the incentives necessary to achieve the objectives set forth in this document.

All partners believe that Lawrence and Douglas County should be selective as to the kinds of businesses that are recruited and assisted. Horizons 2020 specifies that businesses within the following industries should particularly be a focus of economic development efforts:

- Life Sciences/Research,
- Information Technology,
- Aviation and Aerospace,
- Value-added Agriculture, and
- Light Manufacturing and Distribution.

1-2104 ECONOMIC DEVELOPMENT INCENTIVES

When appropriate, the City may utilize incentives in order to achieve its economic development goals. One or more incentives may be utilized, depending on the application. These include, but are not necessarily limited to, the following:

- **Loans/Grants:** Provide capital to existing and new businesses for projects related to new growth and expansion, providing job training, assisting with business relocation expenses, and other types of assistance which further the community's economic development goals.
- **Infrastructure:** Provide infrastructure improvements related to needs of businesses or to assist in making property useable and available for businesses or other designated economic development activities (i.e. infrastructure for industrial property, etc.)
- **Property Tax Abatement:** The City may utilize property tax abatements to spur investments.
- **Tax Increment Financing:** The City may judiciously utilize Tax Increment Financing (TIF) for the purpose of encouraging projects with an emphasis on redevelopment activities. The City has a separate policy regarding tax increment financing.
- **Transportation Development Districts:** The City may utilize transportation development districts to encourage quality transportation-related infrastructure. The City has a separate policy regarding transportation development districts.

1-2105 APPLICATION PROCEDURES

1. Applicant picks up a blank Application form at City Hall (City Manager's Office) or the Application is downloaded from the Internet. Applicant's business/project must be located in the City of Lawrence or near the City of Lawrence such that there will be direct economic benefit to the City.
2. An Application must include a project plan that:
 - (A) summarizes the project,
 - (B) demonstrates the financial and professional capability to complete the project,
 - (C) proposes a timeline for project completion, and
 - (D) provides a summary of project benefits to and assistance requested from the City.
3. When the Application (with an attached Project Plan) is completed, it will be submitted to City Hall (City Manager's Office) along with any application fees that may be required for the particular incentive sought. Applicant may seek technical assistance in ensuring the application is complete from City Staff, the Chamber of Commerce, the Small Business Development Center, or others.
4. City Staff will facilitate the review of all applications before they are considered by the City Commission. In preparing such review, City Staff will utilize the City's resources or other professional assistance as deemed appropriate by the City Manager.

In cases in which sensitive financial information needs to be shared to evaluate an application, the City will utilize a third party to review such information and write a report that summarizes any major concerns with the ability of the applicant to complete the project. The third party will also make recommendations regarding appropriate provisions the City may consider to secure its investment.

The application review will be summarized in writing and presented no later than the time the application is presented to the City Commission. This review may include but not be limited to the following:

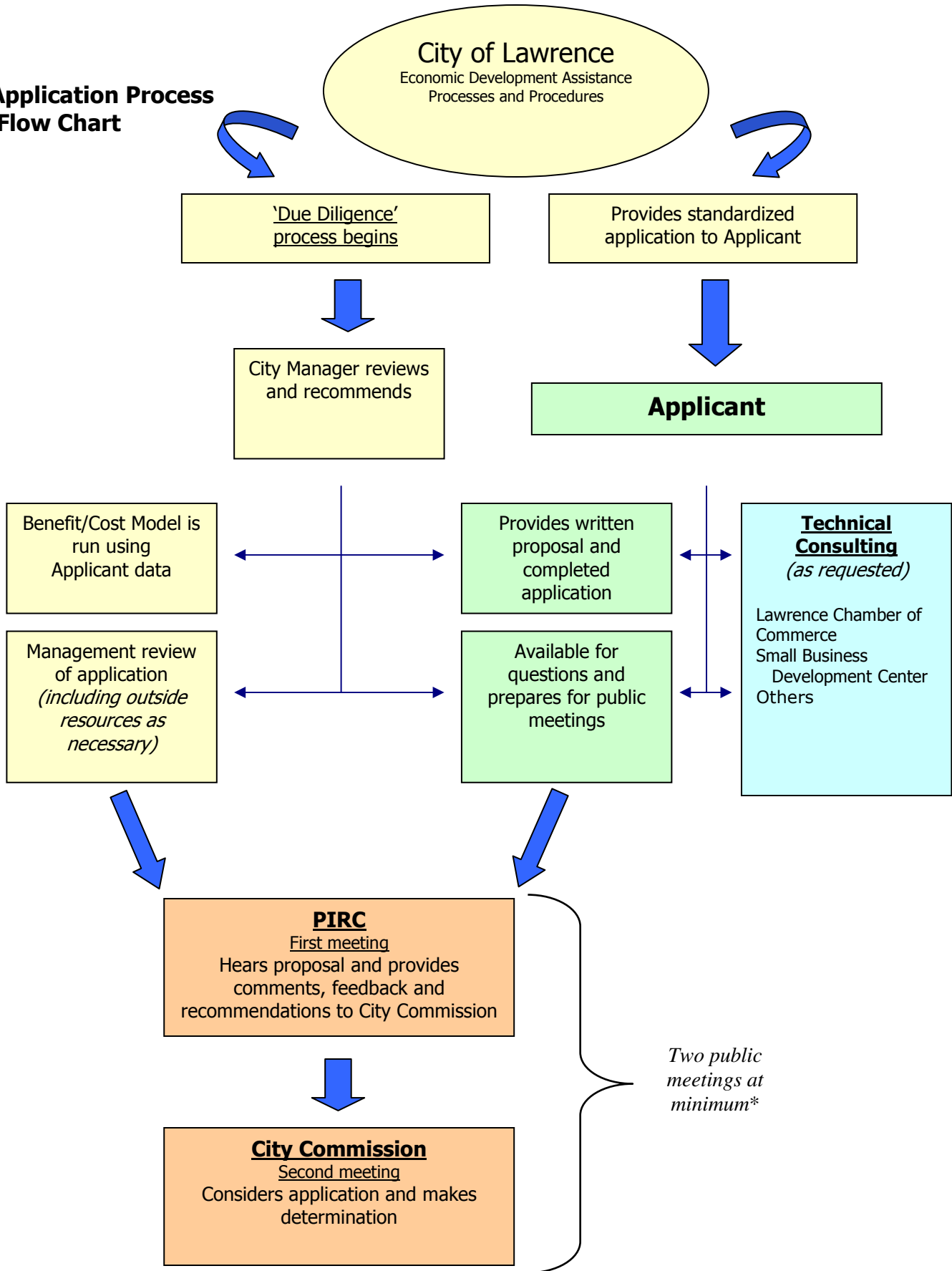
- (A) Verification that the applicant is eligible for the incentive sought under the Kansas Constitution, City or County ordinances or any other applicable laws,
- (B) Phone calls to listed references for banking, other financing, major suppliers, and major customers,
- (C) Oral verification of major indebtedness with lender/mortgage holders,
- (D) Review of financial documents for reasonableness,

- (E) Cursory reconciliation of future year cash flow projections with current cash status, requested monies, etc.,
- (F) Correlation with other requests from the City (subsidized land costs, property tax abatements, City industrial revenue bonds, utility improvements),
- (G) Adequacy of performance provisions,
- (H) Any significant positive or negative aspects of the application, and
- (I) Benefit/cost analysis (as prepared by City staff).

Results of this review will be shared with the applicant as soon as possible to ensure accuracy of the application before its official presentation to the City Commission. This review will not be construed as a "screening" procedure. Each applicant has the privilege to present its application intact and unchanged to the City Commission.

5. The City Manager will provide the information concerning the Application to the members of the City Commission for study. Copies will also be provided to professional staff.
6. The City Manager will determine when the Application will be considered for public hearings with a Review Committee (as established in Section 1-2108, below) and the City Commission.
7. Upon completion of management review, the Review Committee shall conduct a public meeting to hear the proposal from the applicant, receive comments from the public, and seek additional information as necessary. Comments, recommendations, and additional information from the applicant shall be forwarded to the City Commission for consideration along with the original application.
8. The City Commission will then consider the application during a public meeting. At this meeting, the Commission may consider the application and make a determination. Additional City Commission meetings may be necessary. The City Commission retains the prerogative of rejecting any Application.
9. If the City Commission has approved an Application, it is then turned over to the City Manager for implementation and administration.

Application Process Flow Chart



* Additional City Commission meetings may be necessary

1-2106 BENEFIT/COST MODEL

The City, in determining whether certain incentives should be granted; shall conduct a benefit/cost analysis which will consider various factors including, but not limited to, the following:

- the increase in appraised valuation of the property,
- the sales and income tax revenue which may result,
- the number of new jobs, the earnings and the benefits that will be provided;
- additional jobs created through secondary or "multiplier" effects, as well as the associated tax revenues from these jobs and residents,
- the capital expenditures that local government will need to make to expand public services, for example parks and police stations, to both the company and new residents,
- the operating expenditures that local government will need to make on a regular basis for public services, for example fire protection and street maintenance, to both the company and new residents,
- the expenditures by the local school district to provide the facilities and to educate the students of the new residents associated with the company,
- any expenditures by the State of Kansas, such as per-student funding in local school systems, created by the firm and new residents, and
- other public expenditures associated with attracting the new company.

In addition to the results of the cost-benefit analysis, the following factors may also be considered:

- the degree to which the business improves the diversification of the economy,
- the kinds of jobs created in relation to the types of skills available from the local labor market,
- the degree to which the ultimate market for the business products and services is outside the community, recognizing that outside markets bring "new money" to the local economy,
- the potential of the business for future expansion and additional job creation,
- the beneficial impacts the business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing and creation of niche businesses, such as those in the bioscience area,
- the benefits and impacts the firm has on environmental quality both to the region or, through its products, nationally, as well as any efforts the firm makes to promote sustainability or mitigate environmental harm, and

- the beneficial economic impact the business will have on a particular area of the City, including designated enterprise zones and areas of needed revitalization or redevelopment, and
- the compatibility of the location of the business with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services.

1-2107 PERFORMANCE PROVISIONS

Each company that receives an incentive from the City will be held accountable to certain performance provisions. These provisions will be included in a performance agreement between the company receiving the incentive and the City. Each performance agreement shall contain annual targets for capital investment, job creation and wage structure. The average of these three targets will be used to create an overall annual percentage of compliance for that year. These annual targets will then determine the amount of annual incentives that the company will receive for that year. Substantial compliance and incentives received will be determined by the following chart:

% compliance with annual target	Amount of incentive to be received
90-100%	100%
80-89%	85%
70-79%	75%
Below 70%	No incentive

Depending upon the funding mechanism utilized and the application, additional performance criteria may be utilized and included in the compliance calculation.

Substantial compliance will be evaluated annually. Failure to fully meet compliance requirements in any one year will result in a reduction in incentives only for the following year. In addition, any firm that does not provide the information required in its annual report may be subject to incentive reductions for the current year.

City Staff shall notify the firm of any adverse finding prior to an incentive reduction being taken. The firm shall have the privilege of appealing an adverse finding to the City Commission as set forth in Section 1-2109 below. The City Commission may override an incentive reduction determination for that year with a majority vote.

Regardless of the funding mechanism used, the City should be mindful to secure its assets and ensure satisfactory performance by the Applicant. A number of tools can be utilized by the City, and be included in the performance agreement, in order to accomplish this.

1-2108 PUBLIC INCENTIVES REVIEW COMMITTEE

The Public Incentives Review Committee (PIRC) has been established to review and comment about City incentives under this policy. Additionally, the committee is charged with annual review and monitoring of compliance for all cashlike incentives issued under this ordinance. The purpose of the Public Incentives Review Committee is to:

- Ensure that the public, the County, and the School District have an opportunity to participate in the application and review procedures for public incentives,
- Receive and review requests for all incentives requested by applicants,
- Gather and review such additional information as may be deemed necessary to determine if the company meets the target objectives set forth in this policy,
- Make recommendations on the application for consideration by the City Commission, especially as related to the factors listed in Section 1-2106 that are in addition to the benefit-cost model,
- Review the City's yearly incentive report and compliance with performance agreements, and
- Review other economic development related matters upon the request of the City Commission.

The Public Incentives Review Committee shall be composed of:

1. the Mayor, or the Mayor's designee, who shall serve as chair,
2. another member of the City Commission appointed by the Mayor with the consent of the City Commission,
3. a member of the Douglas County Commission, as appointed by the County Commission,
4. a member of the Lawrence Public Schools U.S.D. 497 School Board or a School Board representative, appointed by the School Board,
5. a professional financial analyst appointed by the Mayor and City Commission for a three year term,
6. the Chair of the Lawrence/Douglas County Economic Development Board,
7. a resident of Lawrence appointed for a three year term by the Mayor and the City Commission, from a list of not less than three people chosen by the Sustainability Advisory Board (SAB), and
8. a resident of Lawrence appointed for a three year term by the Mayor and the City Commission.

City, County, and School District staff shall provide technical and policy advice to the Committee. The Committee shall meet on call of the Mayor.

Public Incentives Review Committee records, including applications for tax exemptions, may be withheld from public disclosure under the Kansas Open Records Act as provided for under subsections (20) and (31) and other subsections of K.S.A. 45-221, but shall be

available for public inspection when otherwise required by law. The Committee is authorized to issue administrative letters of finding which shall not be binding on the City Commission, and may be superseded by any action by the City Commission.

1-2109 ACCOUNTABILITY

Annually, City Staff will be responsible for reviewing the performance of each recipient of funds for the previous year. The purpose of this review is to check for compliance with the performance agreement and to gather information regarding cumulative job creation, wage structure, and other such information necessary to gauge the performance of the company. The accountability review may include a site visit.

The fund recipient will be required to certify, to the City, compliance with the performance agreement's wage, capital, and job requirements for the preceding year. For the purposes of a property tax abatement, this compliance report shall include information showing how the wage floor, average wages, and health insurance requirements as set forth in Section 1-2112 (2.), (3.), and (4.) have been met. Such certification will be signed and returned to the City by March 1 of the current year. The accountability period will last only as long as required to meet the performance obligations outlined in the performance agreement.

Utilizing the information gathered, City staff will compile an incentives report, showing statistics and other information relative to each recipient of funds, as well as the overall performance of each fund. The report will be provided to the Public Incentives Review Committee by April 1. If either City staff or the Public Incentive Review Committee finds that substantial compliance has not been met by a firm, as calculated in the respective performance agreements, the firm shall be notified of such finding before presenting the incentives report to the City Commission.

The incentives report along with comments and recommendations from the Public Incentives Review Committee shall be submitted by City staff to the City Commission no later than May 1. This submission shall note any firms that wish to appeal a finding of non-compliance. Firms must provide a written request for appeal of such findings to the City no later than May 15 to ensure that any appeals for the current year are addressed in a timely manner. Written requests to appeal a finding must:

1. address the specific targets the firm is not meeting,
2. include reasons for non-compliance with these particular performance targets, and
3. discuss whether the firm believes that substantial compliance can be met in the following year.

INDUSTRIAL REVENUE BONDS

1-2110 PURPOSE

Industrial Revenue Bonds (IRBs) are an incentive established by the State of Kansas to enhance economic development and improve the quality of life. The City may from time to time grant IRBs when the project under consideration helps further the economic and community development objectives as set forth in this Ordinance and Horizon 2020.

1-2111 CRITERIA

The City favors issuing Industrial Revenue Bonds to projects that bring in new revenues from outside the community or enhance the local quality of life over projects that will primarily compete against other local firms. Additionally, a project must meet the following criteria in order to qualify for IRBs:

1. Only those projects which qualify under Kansas law will be eligible for IRB financing. The City shall look more favorably upon projects that support the targeted industries listed in Section 1-2103, above.
2. The proposed project shall achieve one or more of the following public benefits:
 - (A) meet the economic development goals of the City as set forth in this policy and the Comprehensive Plan of Lawrence and Douglas County;
 - (B) enhance Downtown Lawrence;
 - (C) promote infill through the development of vacant lots, the rehabilitation of deteriorated properties or the adaptive reuse of historic properties;
 - (D) incorporate environmentally sustainable elements into the design and operation of the facility; or
 - (E) provide other public benefits to the community, particularly as set forth in the Comprehensive Plan of Lawrence and Douglas County.
3. The prospective tenant shall show the financial capacity to complete the proposed project and successfully market the bonds.

1-2112 SPECIAL CONSIDERATION FOR HOUSING AND RETAIL PROJECTS

Except as indicated below, Industrial Revenue Bonds shall not be granted for projects that are principally for retail or residential use.

1. Projects requesting IRBs that are primarily retail in nature shall only be considered if the applicant demonstrates that the project is exceptional and unique, and is likely to add to the retail base by attracting new retail sales or capturing sales that are leaking to other markets.

2. Projects requesting IRBs that are primarily residential in nature shall only be considered if the project is a multi-family or senior living project and fits the criteria herein described. Infill development or redevelopment is preferred. Mixed-use projects are more desirable, as are projects in the Downtown area. Multi-family or senior living projects that contain no non-residential uses and are requesting IRBs must have at least 35% of all housing units set aside for households making 80% of the Area Median Income or less. Infill housing projects shall be looked upon more favorably if they are mixed use, located in Downtown, or both.

1-2113 PROCEDURES

1. **Formal Application.** An applicant may pick up a formal application either at City Hall in the City Manager's Office, or online. The applicant shall complete the application and file it with the City Manager. A fee of \$1,000 is due upon filing in order to help defray the City's cost in processing the application. Such fee shall be collected regardless of the City Commission's action on the application or if the bond issue closes.
2. **Preliminary Review.** City staff will provide an initial review of the application to ensure that it meets the requirements in City policy.
3. **Coordination with Bond Counsel:** City staff will coordinate with the applicant and bond counsel a schedule for the issuance of the bonds which meets the needs of all parties involved. During the process, bond counsel will assist with the preparation of other documents needed for filing through the State of Kansas.

Applicants are encouraged to utilize the City's bond counsel. In the event that the applicant selects other bond counsel, the City may require its bond counsel to be involved in the transaction in a review capacity, depending upon the amount of the transaction and the project involved.

4. **Public Notification:** At least seven (7) days prior to consideration, the City shall prepare a Notice of Public Hearing to be published in the official City newspaper, giving notice of hearing on the IRB request, and indicating the purpose, time and place thereof.
5. **Resolution of Intent and Ordinance Provisions:** The City Commission shall conduct a public hearing and consider a Resolution of Intent followed by two readings of an ordinance authorizing the issuance of the bonds.
6. **Documents:** All documents related to Industrial Revenue Bonds will be kept on file with the City Clerk.

1-2114 SALES TAX EXEMPTIONS

Labor and materials used in construction as well as equipment purchased with IRB proceeds are generally exempted from State and local sales tax. Payments-in-lieu of sales tax may be made as negotiated between the City and the Applicant.

1-2115 INDUSTRIAL REVENUE BONDS AND TAX ABATEMENTS

Applicants that request tax abatements in conjunction with IRBs must follow the policies and procedures set forth in the City's Tax Abatement Policy in addition to the procedures for IRBs as provided above.

1-2116 ADDITIONAL FEES

Each applicant who receives an issuance of Industrial Revenue Bonds shall pay all fees associated with the issuance of the Industrial Revenue Bonds.

1-2117 AUTHORITY TO ISSUE INDUSTRIAL REVENUE BONDS

The authority to approve the issuances of IRBs shall be the responsibility of the City Commission. The Commission's decision for approval or disapproval will be based on the analysis made by the City staff and the recommendations the staff provides to the City Commission from its review of all pertinent data relating to a particular request for bonds.

1-2118 REPEAL OF PREVIOUS RESOLUTION

Resolution 5239, approved May 4th, 1989 to govern the issuance and use of Industrial Revenue Bonds by the City, is hereby repealed.

PROPERTY TAX ABATEMENTS

1-2119 PURPOSE FOR PROPERTY TAX ABATEMENTS

In order to help meet its economic development objectives, the City may from time to time grant tax abatements to firms that meet State Constitutional requirements or have received an Industrial Revenue Bond, and are within the City's targeted industries. It shall be the policy of the City to grant up to a 50% "Baseline" abatement for firms that meet the investment and employment criteria outlined in Sections 1-2112, 1-2113 and 1-2114. Firms may receive an additional abatement if they meet the additional criteria outlined in these same sections.

1-2120 DEFINITIONS

For the purpose of the Property Tax Abatement section of the Ordinance, in application to the City of Lawrence, the words or phrases as used shall have the following meaning:

1. "Applicant" shall mean and include the business, property owner or owners, and their officers, employees and agents.
2. "Associated therewith" as used with respect to tangible personal property shall mean being located within, upon, or adjacent to buildings or added improvements to buildings.
3. "Commenced operations" shall mean the start of the business activity housed in the building for which a tax exemption is requested.
4. "Economic development purposes" shall mean the expansion or the establishment of a new business enterprise which:
 - (A) is or proposes to be located or principally based in Kansas; and
 - (B) can provide demonstrable evidence that:
 - i) it is or will be primarily engaged in any one or more of the Kansas basic industries,
 - ii) it is or will be primarily engaged in the development or production of goods or the provision of services for out-of-state sale, or
 - iii) it is or will be primarily engaged in the production of raw materials, ingredients or components for other enterprises which export the majority of their products,
 - iv) it is a national or regional enterprise which is primarily engaged in interstate commerce,
 - v) it is or will be primarily engaged in the production of goods or the provision of services which will supplant goods or services which would be imported into the city, or
 - vi) it is the corporate or regional headquarters of a multistate enterprise which is primarily engaged in out-of-state industrial activities that take place outside of Lawrence.
5. "Kansas basic industry" shall mean:
 - (A) agriculture,
 - (B) mining,
 - (C) manufacturing,
 - (D) interstate transportation,

- (E) wholesale trade which is primarily engaged in multistate activity or which has a major import supplanting effect within the state,
 - (F) financial services which are primarily engaged in providing such services for interstate or international transactions,
 - (G) business services which are primarily engaged in providing such services to out-of-town markets,
 - (H) research and development of new products, processes or technologies, or
 - (I) tourism activities which are primarily engaged in for the purpose of attracting out-of-state tourists.
6. As used in these subsections, "primarily engaged" means engagement in an activity by an enterprise to the extent that not less than fifty-one percent (51%) of the gross income of the enterprise is derived from such engagement.
 7. "Expansion" shall mean the enlargement of a building or buildings, construction of a new building, the addition of tangible personal property, or any combination thereof, which is new to the tax rolls and increases the employment capacity of a business eligible for a tax exemption.
 8. "Tangible personal property" shall mean machinery and equipment which is new to the tax rolls and used during the term of the tax exemption which may be granted.

1-2121 REQUIREMENTS FOR CONSIDERATION OF A TAX ABATEMENT

The City shall only grant a tax abatement to a business which meets the legal requirements for a tax abatement and which indicates in their application that they will fully comply with the following requirements:

1. the business is environmentally sound.
2. the business pays all employees in the abated project an average wage per employment category that meets or exceeds the average in the community as determined annually by the Kansas Department of Human Resources Wage Survey.
3. the business pays all covered employees a wage, at or above, an amount which is equal to one hundred thirty percent (130%) of the federal poverty threshold for a family of three (3), as established by the United States Department of Health and Human Services, as further set forth in Section 1-2113 of this ordinance.

4. the business provides one of the following:
 - (A) the availability of covered employees to obtain an employer-sponsored health insurance policy, pursuant to employer guidelines, in which case the employer provides a minimum of seventy percent (70%) of the cost of such policy, or
 - (B) as an alternative to offering an employer-sponsored health insurance policy, the employer shall pay the covered employee a wage which is at least \$1.50 per hour above the amount required in (3.) above.
5. the proposed project and tax abatement results in a combined positive cost:benefit ratio of 1:1.25 or greater over a 15 year period as determined by the City adopted benefit-cost model.

1-2122 WAGE FLOOR AND HEALTH INSURANCE REQUIREMENTS

The requirements of Section 1-2112, subsections (3.) and (4.), may be referred to as the wage floor and health insurance requirements of this policy. The wage floor requirements shall be annually adjusted pursuant to the release of statistical information from the federal government, and the City shall notify in writing the businesses receiving a tax abatement, which are affected by the wage floor requirements. For 2009, the wage floor is \$11.43 per hour. These requirements shall apply to all employees of a business receiving a tax abatement at the specific real estate receiving the tax abatement, with the exception of a business that has Lawrence operations prior to the granting of a tax abatement in which case the wage floor and health insurance requirements shall apply to all employees in the abated project.

The wage floor and health insurance requirements for tax abatements shall not apply to the following employees:

1. employees employed in a bona fide or certified job training program for no more than 60 calendar days (once per employee),
2. temporary employees working fewer than 100 hours per calendar year, or
3. employees with the status of student seasonal workers hired for not to exceed ninety calendar days, or
4. employees of not-for-profit organizations.

Covered employees would not include subcontractors whose work is only incidental to plant operations. Suppliers, raw goods/material suppliers, landscape companies, construction contractors, delivery employees shall not be covered employees.

The wage floor and health insurance requirements shall not apply to employees covered by a collective bargaining agreement that provides a wage higher than the requirements of this ordinance.

In order to ensure compliances with the health and wage floor requirements, firms shall maintain payroll records for covered employees and shall preserve them for a period of two (2) years. The records shall contain:

1. the name and address of each covered employee,
2. the job title and classification,
3. the number of hours worked each day,
4. the gross wages earned and deductions made,
5. records of health insurance payments made by the employee and employer, and
6. additional information necessary to establish that an employee is exempt from the wage floor and health insurance requirements established in this section.

A copy of these records shall be provided to a third-party auditor to review and determine compliance with the requirements of this ordinance. Members of the Public Incentive Review Committee, City staff selected by the City Manager, or the City Commission may review these records in the custody of the third-party auditor but may not do anything to remove or destroy their confidential nature.

1-2123 AMOUNT OF TAX EXEMPTION

It shall be the policy of the City to approve a tax abatement for the real property portion of a project if the project meets the requirements set forth in Sections 1-2112, 1-2113 and 1-2114 of this ordinance. In determining the actual amount of tax abatement to be granted to Kansas basic industries that meet the Economic Development Objectives of Section 1-2102 of this Ordinance, the City shall use as a guideline the following basic schedule:

1. up to fifty percent (50%) property tax abatement for ten years on investments greater than \$7 million in adjusted 2009 dollars and a minimum of 30 new jobs that meet the wage requirements as outlined in Section 1-2112 (3. to 5.), or
2. if the firm has been on the Douglas County property tax rolls for more than 3 years, up to fifty percent (50%) property tax abatement for ten years on investments greater than \$5 million in adjusted 2008 dollars and a minimum of 20 new jobs that meet the requirements outlined in Section 1-2112 (3. to 5.),
3. investments that meet one or more of the following criteria, may receive a property tax abatement that exceeds fifty percent (50%):

- (A) a company that has been on the Douglas County property tax rolls for at least three (3) years may receive up to an additional ten percent (10%) tax abatement,
- (B) capital investments that exceed \$10 million dollars in adjusted 2009 dollars may receive up to an additional five percent (5%) abatement,
- (C) projects constructed in compliance with Leadership in Energy and Environmental Design (LEED) criteria may receive up to an additional five percent (5%) abatement for "Certified" or "Silver" certification, and ten percent (10%) for "Gold" or "Platinum" certification,
- (D) unique site constraints or construction requirements that make development more difficult and costly may receive up to an additional five percent (5%) abatement,
- (E) a project that is seen as a catalyst for future projects in an economic development area of focus for the community, such as the biosciences, may receive up to an additional five percent (5%) abatement,
- (F) a project that is located in a targeted development location as defined by the City Commission, or a site that already has infrastructure in place such as an existing business park, may receive up to an additional five percent (5%) abatement, or
- (G) a project that is seen as providing exceptional wages given current market conditions, industry norms in Douglas County and other relevant business factors, may receive up to an additional ten percent (10%) abatement.

These criteria are additive. For example, a local firm that invested \$15 million in real property and received LEED gold certification on the new facility, may qualify for a property tax abatement of up to 75%. This abatement would include the 50% "Baseline" abatement, plus a 10% adjustment for being a local firm, plus a 5% adjustment for a capital investment exceeding \$10 million, plus a 10% adjustment for a LEED gold certification.

4. the governing body may vary the amount, maximum, and duration of the abatement provided the net abatement to a business shall not reduce the net tax revenues as would be received pursuant to the above schedules to the local taxing units over ten (10) years.

The abatement term for projects considered under authority of Section 13 of Article 11 of the Kansas Constitution shall begin in the calendar year after the calendar year in which the business commences its operations. The abatement term for Industrial Revenue Bond (IRB) projects considered under authority of K.S.A. 12-1740 et seq. and K.S.A. 79-201a shall begin in the calendar year after the calendar year in which the bonds are issued.

1-2124 APPLICATION AND RENEWAL FEES

Any business requesting a tax abatement pursuant to this ordinance shall pay to the City an application fee of \$500.00 which shall be submitted at the same time the application form required in Section 1-2105 is submitted. In addition, any business which has been granted a tax abatement shall pay an annual renewal fee in the amount of \$200.00. In addition to the application and renewal fees, the business seeking a tax abatement shall be responsible for any City costs associated with the retention of bond counsel, attorney costs, or auditing costs associated with abatement approval and review, auditing or industrial revenue bond issuance.

1-2125 LETTERS OF INTENT

For IRBs, the City Commission may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax abatement and any conditions thereto. Such letters of intent shall be issued only as an expression of good faith intent and shall not in any way bind the City Commission to the granting of an abatement. Such letters of intent shall expire six months after issuance, but may be renewed. A public hearing shall not be required prior to the issuance of letters of intent. No elected or appointed officer, employee or committee of the City, Chamber employee, or other public or private body or individual, shall be authorized to speak for and commit the City Commission to the granting of a tax abatement. Letters of intent issued by the City Commission shall supersede any letters issued by the Public Incentives Review Committee.

1-2126 MINIMUM PAYMENT IN LIEU OF TAXES

Any applicant receiving a tax abatement pursuant to this ordinance shall be required to make a minimum payment in lieu of taxes. The minimum payment shall equal the amount of property tax paid or was payable for the most recent year prior to the acquisition of the property by the new business or the construction of new buildings or added improvements to buildings. The purpose of requiring a minimum payment in lieu of taxes is to provide the City, the County, the School District and any other taxing jurisdictions affected by the abatement with as much tax revenue from the exempted property as was received prior to the abatement.

1-2127 LEGAL AUTHORITY

The governing bodies of Kansas counties and cities may exempt certain property used by Kansas basic industry for economic development purposes from taxes for a maximum of ten (10) years, in accordance with the provisions of Section 13 of Article 11 of the Kansas Constitution and the provisions of K.S.A 12-1740 et seq. and K.S.A 79-201a, subject to such limitations or prohibitions as may be enacted by the legislature. This authority is discretionary with the City, and the City may provide for tax abatements in an amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule and statutory powers, the City may:

- require the owners of any property for which an abatement is requested to provide certain information,

- condition the granting of an abatement to an agreement providing for the payment of in lieu charges or taxes, and
- require the payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

1-2128 JURISDICTION

The City shall grant tax abatements only as to property located within the City. The City will advise Douglas County and appropriate school districts on all applications. The City encourages the Board of County Commissioners to advise the City as to applications outside the City and within the three-mile area.

1-2129 NOMINAL TAX DETERMINATION

All tangible property of a business receiving a tax abatement under this ordinance shall be annually assessed by the County Appraiser in the same manner as if it were not exempt, but the amount exempted shall not be placed on the assessment rolls. The amount of the property taxes which would be payable shall also be determined annually by the County Clerk and Treasurer, in the same manner as if the property were not exempt. Separate assessment and tax calculations shall be made for the land and the improvements thereon.

The County Clerk and Treasurer are requested to provide the City with this information as early as possible, but not later than November 15 of each year.

1-2130 SPECIAL ASSESSMENTS

Any tax abatement granted for real property under this ordinance shall not affect the liability of such property for any special assessments levied or to be levied against such property.

1-2131 PIRATING

It is the intent of the City, the County and the Chamber to avoid participation in "bidding wars" between Kansas cities or areas competing for the relocation of an existing Kansas business through attempts to offer the largest tax incentive or other public inducement, which is detrimental to the state's economy and the public interest. It is the policy of the City to discourage applications for tax abatements, or to grant tax abatements which deliberately encourage and cause the pirating of business from another Kansas community to this community. This policy does not preclude the providing of information to companies that inquire about Lawrence or are seeking an expansion rather than a relocation. It also does not preclude the granting of a tax abatement in those situations-where:

- the company has already made a decision to relocate or expand, or
- the company is seriously considering moving out of state.

1-2132 NO UNFAIR ADVANTAGE

A tax abatement will not be granted if the abatement would create, in the judgment of the City Commission, an unfair advantage for one business over another Lawrence business that competes for the same consumer market within the city.

1-2133 TRANSFER OF OWNERSHIP OR USE

No abatement or tax incentive granted by the City shall be transferred as a result of a change in the majority ownership of the business. Any new majority owner shall file a new application for a tax abatement. Further, the City shall be notified by the business of any substantive change in the use of a tax exempt property.

1-2134 DISTRIBUTION OF REVENUE

The granting of tax abatement by the City Commission is hereby declared to be a contract under the provisions of K.S.A. 12-147. The in lieu of taxes payment which may be required of a business granted a tax abatement under this ordinance shall be paid to the County Treasurer, with notice of the amount and date paid provided to the City. The County Treasurer is directed to apportion the payment to the general fund of all taxing subdivisions, excluding the state, which levies taxes on property where the business is situated. The apportionment shall be based on the relative amount of taxes levied, for any and all purposes, by each of the applicable taxing subdivisions.

1-2135 EXEMPTION ORDINANCE

The City Clerk shall provide a copy of the ordinance, as published in the official city newspaper, granting an abatement from taxation to the applicant for use in filing an initial request for tax exemption as required by K.S.A. 79-213, and by K.S.A. 79-210 for subsequent years.

1-2136 EXEMPTION FORMS

A copy of the exemption application required by K.S.A. 79-213 and 79-210, and the statement required by K.S.A. 79-214 for the cessation of an exempt use of property, shall be filed with the City Clerk by the property owner.

1-2137 NO RETROACTIVE APPLICATION

This ordinance shall only apply to tax abatements approved after the adoption of the ordinance, and shall not apply retroactively to previously approved abatements and projects. Tax abatements granted pursuant to earlier City policies and procedures shall be governed by the City policy and procedures in effect upon the initial granting of the abatement.

RESOLUTION NO. 03-04-09

A RESOLUTION ESTABLISHING THE POLICY AND PROCEDURES FOR TAX EXEMPTIONS AND INCENTIVES FOR ECONOMIC DEVELOPMENT FOR THE CITY OF BALDWIN CITY, KANSAS

BE IT RESOLVED by the Governing Body of the City of Baldwin City, Kansas:

Section

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|--------------------------------------|--------------------------------------|
| 1. Purpose | 16. Initial Review Procedure |
| 2. General Objective | 17. Administrative Review Committee |
| 3. Economic Development Objectives | 18. Initial Governing Body Action |
| 4. Legal Authority | 19. Letters of Intent |
| 5. General Procedure | 20. Notice and Hearing |
| 6. Jurisdiction | 21. Annual Review |
| 7. Nominal Tax Determination | 22. Transfer of Ownership or Use |
| 8. Minimum Payment in Lieu of Taxes | 23. Distribution of Revenue |
| 9. Special Assessments | 24. Exemption Ordinance |
| 10. Pirating | 25. Exemption Forms |
| 11. "Public Good" Requirement | 26. Waiver of Statement Requirements |
| 12. Standards for Costs and Benefits | 27. Definitions. |
| 13. Amount of Tax Exemption | 28. Force and Effect. |
| 14. Application Required | 29. Conflict. |
| 15. Application and Renewal Fees | |

Section 1. Purpose. The purpose of this statement is to establish the official policy and procedures of the City of Baldwin City, Kansas (hereinafter, "the City") for the granting of property tax exemptions for real and personal property being added to the tax rolls by "Kansas basic industry", in accordance with the provisions of Section 13 of Article 11 of the Constitution of the State of Kansas and the provisions of K.S.A. 12-1740 et seq. and K.S.A. 79-201a.

Section 2. General Objective.

- A. The securing of private economic investment to broaden the tax base is an important current and long term objective of the City. A broadened tax base provides local government with the financial resources to maintain and enhance the services available to all residents. The creation of job opportunities for Douglas County residents, graduates and students of Baker University and their spouses is also an important current and long term objective of the City. The quality of life for all area residents is enhanced when good job opportunities are available.
- B. The granting of property tax exemptions on new real and personal property is one of the incentives available under Kansas law to help achieve these public objectives. This statement is intended to establish the policy and procedures

to govern the fair, effective and judicious use of the power to grant such exemptions.

- C. Because of Baldwin City's assets and the desire of area residents to plan for the future and retain a community that is different from other growing suburban areas, a property tax exemption may not be offered to every firm that is eligible under state statutes. Instead, property tax exemptions will be targeted toward the kind of businesses defined in Section 3.

Section 3. Economic Development Objectives. The City of Baldwin City works in cooperation with Douglas County, Baker University, the Baldwin City Chamber of Commerce and the Economic Development Marketing Program administered by the Lawrence/Douglas County Chamber of Commerce to achieve the general objectives outlined in Section 2. This partnership enables the community to maximize its resources and to develop a consensus regarding the kind of economic development that best advances the interests of the entire community.

- A. All of the partners in this effort share a commitment to:
 - 1) encourage existing industry to expand.
 - 2) assist new business start-ups.
 - 3) recruit new companies from out-of-state and internationally.
- B. While it is the new companies from out of state that typically generate the most publicity, it is the policy of the partnership to place a high priority on the retention and expansion of existing businesses.
- C. The City's role in this economic development partnership involves:
 - 1) providing the necessary zoning and infrastructure improvements that are required to create new jobs and new investment; and
 - 2) providing the personal assistance and in some cases the incentives including a property tax exemption, that are required to compete for new start-up businesses, expansions of existing businesses and relocations from out-of-state.
- D. All five partners believe that Baldwin City should be selective as to the kinds of businesses that are recruited and assisted. As a result, the City has targeted its efforts toward specific types of businesses. In general, the characteristics the City is looking for in new and expanding businesses are:
 - 1) environmentally sound...to maintain the enviable environment that exists in Baldwin City today.

- 2) small and medium size...to avoid a situation where the City becomes dependent on one industry, and to maintain the character of the community.
 - 3) an investment in taxable property and a payroll that will have a positive cost/benefit impact on local government units...to keep the overall property tax rate as low as possible for everyone.
- E. It is the City's goal to attract a wide variety of jobs that utilize the full range of skills and educational levels possessed by Baldwin City and Douglas County residents. To accomplish this goal, the Governing Body may determine that it is in the public interest to grant a property tax exemption to a business whose wages are less than average in the community if the business offers good benefits to their employees and/or complements and builds on the human resources and the capabilities of local high school or college graduates and also of Baker University.

Section 4. Legal Authority. The governing bodies of Kansas counties and cities may exempt certain property used by Kansas basic industry for economic development purposes from taxes for a maximum of ten (10) years, in accordance with the provisions of Section 13 of Article 11 of the Kansas Constitution and the provisions of K.S.A. 12-1740 et seq. and K.S.A. 79-201a, subject to such limitations or prohibitions as may be enacted by the legislature. This authority is discretionary with the City, and the City may provide for tax exemptions in an amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule and statutory powers, the City may:

- A. require the owners of any property for which an exemption is requested to provide certain information,
- B. condition the granting of an exemption to an agreement providing for the payment of in lieu charges or taxes, and
- C. require the payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

Section 5. General Procedure. The following basic procedure shall govern the issuance of tax exemptions within this City:

- A. The applicant business shall apply for a tax exemption by filing a written application as provided in Section 14. Only new real and personal property that is not already on the Douglas County tax rolls shall be eligible except as provided for in the case of vacant buildings as outlined in Section 8.

- B. The Governing Body shall then determine whether the requested tax exemption (a) may be lawfully granted, and (b) should be granted, with the amount thereof to be determined later.
- C. The amount of the tax exemption will be determined in accordance with Section 13 of this Statement of Policies and Procedures.
- D. Notice of the City's intent to issue a tax exemption will be submitted to the State Board of Tax Appeals for final approval. If such approval is denied, the exemption cannot legally be awarded.
- E. If the business fails to pay the in lieu tax payments, as may be required as a condition of the granting of an exemption, or fails to provide the reports or other information requested by the City, the City may revoke or modify the exemption.

Section 6. Jurisdiction. The City shall grant tax exemptions only as to property located within the corporate boundaries of the City. The City will advise Douglas County and USD 348 on all applications. The City encourages the Board of County Commissioners to advise the City as to applications outside the City, but within three miles of any City boundary.

Section 7. Nominal Tax Determination. All tangible property of a business receiving a tax exemption under this Statement shall be annually assessed by the County Appraiser in the same manner as if it were not exempt, but the amount exempted shall not be placed on the assessment rolls. The amount of the property taxes which would be payable shall also be determined annually by the County Clerk and Treasurer, in the same manner as if the property were not exempt. Separate assessment and tax calculations shall be made for (1) the land; (2) the improvements thereon, and (3) for any tangible personal property associated with the business. The County Clerk and Treasurer are requested to provide the City with this information as early as possible, but not later than November 15 of each year.

Section 8. Minimum Payment in Lieu of Taxes. Any applicant receiving a tax exemption pursuant to this statement of Policy and Procedures shall be required to make a minimum payment in lieu of taxes. The minimum payment shall equal the amount of property tax paid or was payable for the most recent year prior to the acquisition of the property by the new business or the construction of new buildings or added improvements to buildings. The purpose of requiring a minimum payment in lieu of taxes is to provide City, County, School District and any other taxing jurisdictions affected by the exemption with as much tax revenue from the exempted property as was received prior to the exemption. However, when vacant buildings are purchased or leased by a new or expanding business, or when the market value of the property decreases, or for other good cause accepted

by the Governing Body, this requirement may be waived in part or in whole by the Governing Body.

- Section 9. Special Assessments. Any tax exemption granted for real property under this Statement of Policy and Procedures shall not affect the liability of such property for any special assessments levied or to be levied against such property.
- Section 10. Pirating. It is the intent of the City to avoid participation in “bidding wars” between Kansas cities or areas competing for the relocation of an existing Kansas business through attempts to offer the largest tax incentive or other public inducement, which is detrimental to the state’s economy and the public interest. It is the policy of the City to discourage applications for tax exemptions, or to grant tax exemptions which deliberately encourage and cause the pirating of business from another Kansas community to this community. This policy does not preclude the providing of information to companies that inquire about Baldwin City or are seeking an expansion rather than a relocation. It also does not preclude the granting of a tax exemption in those situations where: a) the company has already made a decision to relocate or expand or, b) the company is seriously considering moving out of state.
- Section 11. “Public Good” Requirement. The basic principle from which the City operates is that private business should not be subsidized with public funds, the indirect consequences of tax exemptions, unless the public good expressed in Section 2 of this statement of policy and procedures is served.
- Section 12. Standards for Costs and Benefits. The City, in determining whether a tax exemption should be granted, shall direct the Policy and Research Institute at the University of Kansas (or similar organization at a different institution) to conduct, at the sole expense of the applicant, a cost/benefit analysis as required by applicable law and considering various factors including, but not limited to, the following:
- A. The increase in appraised valuation of the property;
 - B. The sales and income tax revenue which may result;
 - C. The number of new jobs, including earnings and benefits to be provided;
 - D. The expenditures that local government will need to make to provide streets, utilities, police & fire protection, and other services to the company itself;
 - E. The expenditures for police & fire protection, recreation, street maintenance, social programs, etc. for the new residents associated with the company;
 - F. The expenditures for capital investments (library, streets, wastewater plants, etc.) for the new residents associated with the company;
 - G. The expenditures by the local school district to provide the facilities and to educate the students of the new residents associated with the company;

- H. The degree to which the business improves the diversification of the economy;
- I. The degree to which the ultimate market for the business' products and services is outside the community, recognizing that outside markets bring "new money" to the local economy;
- J. The potential of the business for future expansion and additional job creation; and
- K. The beneficial impacts the business may have, by creating other new jobs and businesses, including the utilization of local products or other materials.

Section 13. Amount of Tax Exemption The Governing Body may consider property tax exemptions determined on a case by case basis based on the consideration of all elements of the proposed project. In determining the actual amount of tax exemption to be granted to Kansas basic industries that meet the objectives of this policy statement, the City shall evaluate each applicant in terms of the amount of investment and whether the financial and social benefits to the community outweigh the costs of such exemption.

Section 14. Application Required. The City will not consider the granting of any tax exemption unless the business submits a full and complete application, and provides such additional information as may be requested by the Governing Body. The City Administrator is hereby authorized and empowered to prepare a standard application form which, upon completion, will provide the Governing Body with adequate and sufficient information to determine whether a tax exemption should be granted and the amount thereof. The accuracy of the information provided in the application shall be verified by the applicant. Any misstatement of, or error, in fact may render the application null and void and may be cause for the repeal of any ordinance adopted in reliance of said information.

Section 15. Application and Renewal Fees. Any business requesting a tax exemption pursuant to this Statement of Policy and Procedures shall pay to the City an application fee of \$250 which shall be submitted at the same time the application form required in Section 14 is submitted. In addition, applicants shall reimburse the City for costs incurred (a minimum of \$1,000) in the completion of a cost-benefit analysis as well as any related attorney's fees. In addition, any business which has been granted a tax exemption shall pay an annual renewal fee in the amount of \$100.

Section 16. Initial Review Procedure. Upon receipt of the completed application form and the required fee, the City Administrator shall determine (1) whether the application is complete and sufficient for review, and (2) whether the applicant's business is eligible for an exemption under the Kansas Constitution, this statement or any other applicable laws. If the application is incomplete, the City Administrator shall immediately notify the applicant, noting the need for such changes or additions as are necessary. If questions arise as to whether the business is legally

eligible for an exemption, the matter shall be referred to the City Attorney, who shall consult with the applicant business. If the application is found complete and is for a purpose which appears to be authorized by law, the City Administrator shall so notify the Administrative Review Committee.

Section 17. Administrative Review Committee. There is hereby created an Administrative Review Committee, which shall be composed of the Mayor or other member of the Governing Body designated by the Mayor, who shall serve as Chair, the City Administrator, the County Administrator, and Representatives of USD 348. The County Appraiser shall serve as ex-officio member of the committee, which shall meet on call of the Chair.

A. The purpose of the Administrative Review Committee shall be to:

- 1) receive and review requests and applications for tax exemptions;
- 2) to gather and review such additional information as may be deemed necessary to determine if the company meets the target objectives of Section 3;
- 3) to conduct preliminary negotiations with the applicant business; and
- 4) to make such recommendations to the Governing Body.

B. Administrative Review Committee records, including applications for tax exemptions, may be withheld from public disclosure under the Kansas Open Records Act as provided for under subsections (20) and (31) and other subsections of K.S.A. 45-221, but shall be available for public inspection when otherwise required by law. The committee is authorized to issue administrative letters of finding which shall not be binding on the Governing Body, and may be superseded by any action of the Governing Body.

Section 18. Initial Governing Body Action. Upon receiving the recommendations of the Administrative Review Committee, the Governing Body shall first determine whether to reject the requested exemption or to further consider the request. Upon a favorable vote for further consideration, the Governing Body may issue a letter of intent as provided by Section 19 and schedule a public hearing thereon.

Section 19. Letters of Intent. Upon receiving the recommendations of the Administrative Review Committee, the Governing Body may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax exemption and any conditions thereto. Such letters of intent shall be issued only as an expression of good faith intent and shall not in any way bind the Governing Body to the granting of an exemption. Such letters of intent shall expire six months after issuance, but may be renewed. A public hearing shall not be required prior to the issuance of letters of intent. No elected or appointed officer, employee or committee of the City, or other public or private body or individual, shall be authorized to speak for and commit the Governing Body to the granting of a tax

exemption. Letters of intent issued by the Governing Body shall supersede any letters issued by the Administrative Review Committee.

Section 20. Notice and Hearing. No tax exemption shall be granted by the City prior to a public hearing thereon. Notice of the public hearing shall be published at least seven days prior to the hearing in the official City newspaper, giving the time and place, and the hearing may be held at a regular or special meeting of the Governing Body. The City Clerk shall thereupon notify the Board of Douglas County Commissioners, the Superintendent of USD 348 and the clerk of any other taxing jurisdiction, excluding the state, which derives or could derive property taxes from the affected business, advising them of the scheduled public hearing and inviting their review and comment. Upon request, the City Clerk shall provide any such public agency with a copy of the application which shall remain confidential unless released by the Governing Body or the Administrative Review Committee. The applicant business shall be invited, but not required, to attend the public hearing.

Section 21. Annual Review. Any tax exemption granted shall be subject to an annual review by the Governing Body to insure that the ownership and use of property and other qualifying criteria continue to be adequately satisfied. If these criteria are not adequately satisfied, the Governing Body may remove or modify the exemption.

A. Each business receiving a tax exemption shall be required to complete an annual report by March 1. The information in the report will cover the time period of January 1 through December 31 of the previous year. The annual report will be reviewed by the Governing Body by May 1.

B. The report shall include a listing of all of the property tax exemptions that remain in effect at that time. The annual report shall include information regarding when the exemption was granted, when the exemption expires, current property taxes paid for the property, in lieu of payments, amount of any industrial revenue bonds issued, the assessed value of the property, number of employees, salary and payroll of employees and any additional information concerning the operation of the business receiving the exemption, and other information as requested by the Governing Body.

Section 22. Transfer of Ownership or Use. No exemption or tax incentive granted by the City shall be transferred as a result of a change in the majority ownership of the business. Any new majority owner may file a new application for a tax exemption. Further, the City shall be notified by the business of any substantive change in the use of a tax exempt property.

Section 23. Distribution of Revenue. The granting of tax exemptions by the Governing Body is hereby declared to be a contract under the provisions of K.S.A. 12-147. The in lieu of taxes payment which may be required of a business granted a tax exemption under this Statement shall be paid to the County Treasurer, with notice

of the amount and date paid provided to the City. The County Treasurer is directed to apportion the payment to all taxing subdivisions, excluding the state, which levy taxes on property where the business is situated. The apportionment shall be based on the relative amount of taxes levied, for any and all purposes, by each of the applicable taxing subdivisions.

Section 24. Exemption Ordinance. The City Clerk shall provide a copy of the ordinance, as published in the official city newspaper, granting an exemption from taxation to the applicant for use in filing an initial request for tax exemption as required by K.S.A. 79-213, and by K.S.A. 79-210 for subsequent years.

Section 25. Exemption Forms. A copy of the exemption application required by K.S.A. 79-213 and 79-210, and the statement required by K.S.A. 79-214 for the cessation of an exempt use of property, shall be filed with the City Clerk by the property owner.

Section 26. Waiver of Statement Requirements. The Governing Body reserves the right to grant or not to grant a tax exemption under circumstances beyond the scope of this Statement, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest. In addition, no exemption can be provided without the approval of the State Board of Tax Appeals.

Section 27. Definitions. For the purpose of this Statement, in application to the City of Baldwin City, Kansas, the words or phrases as used in this Statement shall have the following meaning:

- A. “Applicant” shall mean and include the business, property owner or owners, and their officers, employees, and agents.
- B. “Associated therewith” as used with respect to tangible personal property shall mean being located within, upon or adjacent to buildings or added improvements to buildings.
- C. “Commenced operations” shall mean the start of the business activity housed in the building for which a tax exemption is requested.
- D. “Economic development purposes” shall mean the expansion or the establishment of a new business enterprise which:
 - 1) Is or proposes to be located principally in Kansas; and
 - 2) can provide demonstrable evidence that:

- (A) It is or will be primarily engaged in any one or more of the Kansas basic industries; or
- (B) It is or will be primarily engaged in the development or production of goods or the provision of services for out-of-state sale; or
- (C) It is or will be primarily engaged in the production of raw materials, ingredients or components for other enterprises which export the majority of their products; or
- (D) It is a national or regional enterprise which is primarily engaged in interstate commerce; or
- (E) It is or will be primarily engaged in the production of goods or the provision of services which will supplant goods or services which would be imported into the city; or
- (F) It is the corporate or regional headquarters of a multistate enterprise which is primarily engaged in out-of-state industrial activities that take place outside of Baldwin City.

E. “Kansas Basic Industry” shall mean:

- 1) Agriculture;
- 2) mining;
- 3) manufacturing;
- 4) interstate transportation;
- 5) wholesale trade which is primarily engaged in multistate activity or which has a major import supplanting effect within the state;
- 6) financial services which are primarily engaged in providing such services for interstate or international transactions;
- 7) business services which are primarily engaged in providing such services to out-of-town markets;
- 8) research and development of new products, processes or technologies; or

9) tourism activities which are primarily engaged in for the purpose of attracting out-of-state tourists.

F. As used in these subsections, “primarily engaged” means engagement in an activity by an enterprise to the extent that not less than 51% of the gross income of the enterprise is derived from such engagement.

G. “Expansion” shall mean the enlargement of a building or buildings, construction of a new building, the addition of tangible personal property, or any combination thereof, which is new to the tax rolls and increases the employment capacity of a business eligible for a tax exemption.

H. “Tangible Personal Property” shall mean machinery and equipment which is new to the tax rolls and used during the term of the tax exemption which may be granted.

Section 28. Force and Effect. This resolution shall be in full force and effect from an after its passage by the City Council, and its approval by the Mayor of the City of Baldwin City, Kansas.

Section 29. Conflict. Any resolution in conflict with the provisions herein is hereby repealed.

PASSED AND APPROVED by the City Council of the City of Baldwin City, Kansas this 19th day of April, 2004.

APPROVED:

Kenneth Hayes, Mayor

ATTEST:

Peggy Nichols, City Clerk

STATEMENT OF POLICY AND PROCEDURES
TAX EXEMPTIONS AND INCENTIVES FOR ECONOMIC DEVELOPMENT
CITY OF EUDORA, KANSAS

<u>Section</u>	<u>Section</u>
1. Purpose	15. Application Required
2. General Objective	16. Application and Renewal Fees
3. Legal Authority	17. Initial Review Procedures
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5. "Tax Incentive" Defined	19. Initial Governing Body Action
6. Jurisdiction	20. Notice and Hearing
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13. No Exemptions	27. Waiver of Statement Requirements
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Section 1. Purpose. The purpose of this statement is to establish the official policy and procedures of the City of Eudora, Kansas for the granting of property tax exemptions and tax incentives for real and personal property used for economic development purposes, in accordance with the provisions of Section 13 of Article 11 of the Constitution of the State of Kansas.

Section 2. General Objective. The securing of private economic growth and development and the addition of new jobs within the community are important current and long-term objectives of this City. The granting of property tax exemptions and tax incentives is one of the tools available under Kansas law to help secure these public objectives. This Statement is intended to establish the procedure and policy standards to govern the fair, effective and judicious use of the power to grant such exemptions and tax incentives in this City.

Section 3. Legal Authority. The governing bodies of Kansas counties and cities may exempt certain property used for economic development purposes from taxes for a maximum of ten years, in accordance with the provisions of Section 13 of Article 11 of the Kansas Constitution, subject to such limitations or prohibitions as may be enacted by the legislature that are uniformly applicable to all cities and counties. This authority is discretionary with the City, and the City may provide for tax exemptions-incentives in an amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule powers, the City may (1) require the owners of any property for which an exemption is requested to provide certain information, (2) condition the granting of an exemption to an agreement providing for the payment of in lieu charges or taxes under the provisions of K.S.A. 12-147 and 12-148, and (3) require the payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

Section 4. General Procedure. The following basic procedure shall govern the issuance of tax exemptions-incentives within this City: (1) The applicant business shall apply for a tax exemption-incentive by filing a written application as provided in Section 15. (2) The City shall then determine whether the requested tax exemption-incentive (a) may be lawfully granted, and (b) should be granted, with the amount thereof later determined. (3) If it is determined that some tax exemption-incentive should be granted, a 100 percent exemption of that property of the business legally eligible for exemption shall be provided, but subject to an agreement of the business to make an in lieu tax payment as may be required by the City. (4) The amount of the tax incentive, which will be an amount less than the taxes otherwise payable if the property were not exempt, will then be determined in accordance with this Statement. (5) Upon the failure of the business to fully and timely pay the in lieu tax payments,

as may be required as a condition of the granting of an exemption, or to provide reports or other information requested by the City and reasonably necessary for the implementation of this policy, the City may either deny, revoke, or not renew, the authorization of such an exemption. All requests for a tax exemption-incentive for economic development purposes shall be considered and acted upon in accordance with this Statement.

Section 5. "Tax Incentive" Defined. Various words and terms used in this Statement are defined in Section 28. The terms "tax incentive" or "tax exemption-incentive" shall mean the difference between the amount of ad valorem property taxes the affected business would pay if there were no city-granted exemption and the amount required to be paid as in lieu taxes or charges. For example, if the taxes required with no exemption were \$5,000, and the required in lieu payments were \$3,000, the "tax incentive" would be \$2,000.

Section 6. Jurisdiction. The City shall grant tax exemptions-incentives only as to property located within the City. The City encourages the Board of County Commissioners to consult with the City as to applications outside the City and within the three-mile area.

Section 7. Nominal Tax Determination. All tangible property of a business receiving a tax exemption-incentive under this Statement shall be annually assessed by the county appraiser in the same manner as if it were not exempt, but the amount thereof shall not be placed on the assessment rolls. The amount of the property taxes which would be payable shall also be determined annually by the county clerk and treasurer, in the same manner as if the property were not exempt, but such amount shall not be placed on the tax rolls. Separate

assessment and tax calculations shall be made for the land, for the improvements thereon, and for any tangible personal property associated therewith, of the exempt business. The appropriate county officers are requested to provide the City with this information as early as possible, but not later than November 15 of each year.

Section 8. Minimum Payment In Lieu of Taxes. Any applicant receiving a tax exemption-incentive pursuant to this Statement shall be required to make a minimum payment in lieu of taxes which equals the amount of property tax which was paid or was payable for the most recent year on the appraised valuation of the real estate, including either buildings together with land or land only, prior to the construction of new buildings or added improvements to buildings on such property or prior to the acquisition of the property by the new business. The purpose of requiring this minimum in lieu tax payment is to insure that the city, county, school district and any other taxing jurisdictions affected by the exemption will not receive less tax revenue from the exempted property than was received prior to the exemption. For extraordinary reasons, such as when vacant buildings are acquired for a new business, or when the market value of the property decreases, this requirement may be waived in part or in whole by the governing body, as provided in Section 28.

Section 9. Special Assessments. Any tax exemption granted for real property under this Statement shall not affect the liability of such property for any special assessments levied or to be levied against such property.

Section 10. Pirating. It shall be the policy of the City to discourage applications for tax exemptions-incentives, or to grant such tax incentives, which deliberately encourage and cause the pirating of business from another Kansas community to this community, or from this community to another Kansas

community. It is the intent of the City to avoid participation in "bidding wars" between cities or areas competing for the location of new businesses or expansion of existing businesses, through attempts to offer the largest tax incentive or other public inducement, which is detrimental to the state's economy and the public interest.

Section 11. Application of "But-For" Principle. Any tax exemption-incentive granted by the City shall be subject to the "but-for" principle, i.e., the tax incentive must make such a difference in determining the establishment or expansion of the business that the business would not otherwise be established or expanded in the City "but-for" the availability of the tax incentive. It is the policy of the Governing Body that private businesses should not be subsidized with public funds, the indirect consequences of tax exemptions-incentives, unless some public good results and the public subsidization can reasonably be expected to make a significant difference in achieving economic growth and development and the creation of new jobs within the City.

Section 12. Standards for Determining Benefits. The City will consider granting tax exemptions-incentives only upon a clear and factual showing of direct economic benefit to the City through advancement of its economic development goals, including the creation of additional jobs and the stimulation of additional private investment. The Governing Body, in determining the amount and term of a tax exemption-incentive to be granted, shall consider various factors including, but not limited to, the following:

- (a) The appraised valuation of the property in relation to the economic benefit to the City of increased employment.
- (b) The gain in tax revenue which may result from the new or expanded business, including the increase in the property tax base upon the expiration of the exemption.

- (c) The contribution that the new or expanded business will make towards increased employment and earnings within the community.
- (d) The number of new jobs created directly by the business in relation to the amount of tax incentives granted.
- (e) The kinds of jobs created in relation to the type of skills available from the local labor market.
- (f) The utilization by the business of labor skills and abilities of unemployed persons in the community.
- (g) The degree to which the business improves the diversification of the economy of the City and its environs.
- (h) The degree to which the ultimate market for the manufactured products is outside the community, recognizing that outside markets bring in "new money" to the local economy.
- (i) The potential of the business for future expansion and additional job creation.
- (j) The beneficial impacts the business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing.
- (k) The beneficial economic impact the business will have on a particular area of the City, including designated enterprise zones and areas of needed revitalization or redevelopment.
- (l) The compatibility of the location of the business with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services.
- (m) The extent to which additional direct or indirect public costs to the City and to other local units would be necessary, such as the cost of the extension of public facilities.

(n) The extent to which the economic and employment benefits of the tax incentive accrue to the residents and taxpayers of those taxing subdivisions which indirectly "subsidize" the business as a result of the forgone tax revenue.

Section 13. No Exemptions. (1) No tax exemption shall be granted if the exemption would create, in the judgment of the Governing Body, an unfair advantage for one business over another competing business within the City. (2) No tax exemption shall be granted to any business which commenced operations prior to August 5, 1986, nor for the expansion of a business unless such expansion created new employment.

Section 14. Amount of Tax Incentives. The two primary objectives of the City in granting tax exemptions for economic development are to (1) provide needed jobs, and (2) expand the economic and tax base of the City. The City recognizes that a simple system of determining the amount of tax incentives to be granted to reach these objectives may not always be equitable if applied uniformly to different kinds of businesses. As a result, in determining the actual amount of tax incentive granted, the City shall consider the factors and criteria set forth in Section 12 of this Statement. In addition, the City shall consider the following standards:

(a) The maximum exemption will not exceed 50% of taxes due during the period of exemption.

(b) The maximum period over which an exemption may be granted shall not exceed ten years.

Section 15. Application Required. The City will not consider the granting of any tax exemption-incentive unless the business submits a full and complete

application, and provides such additional information as may be requested by the Governing Body. The city clerk is hereby authorized and empowered to prepare a standard application form which, upon completion, will provide the Governing Body with adequate and sufficient information to determine whether a tax incentive should be granted and the amount thereof. The accuracy of the information provided in the application shall be verified by the applicant. Any misstatement of or error in fact may render the application null and void and may be cause for the repeal of any ordinance adopted in reliance on said information.

Section 16. Application and Renewal Fees. Any business requesting a tax exemption pursuant to this Statement shall pay to the City an application fee of \$250, which shall be submitted at the same time the application form required by Section 15 is submitted. In addition, any business which has been granted a tax exemption shall pay an annual renewal fee in the amount of \$100.

Section 17. Initial Review Procedure. On receipt of the completed application form and the required fee, the city clerk shall determine (a) whether the application is complete and sufficient for review, and (b) whether the applicant business is eligible for an exemption under the Kansas Constitution, this State-ment and any other applicable laws. If the application is incomplete, the city clerk shall immediately notify the applicant, noting the need for such changes or additions as deemed necessary. If questions arise as to whether the business is legally eligible for an exemption, the matter shall be referred to the city attorney, who shall consult with the applicant business. If the application is found complete, and is for a purpose which appears to be authorized by law, the city clerk shall so notify the Administrative Review Committee.

Section 18. Administrative Review Committee. There is hereby created an Administrative Review Committee, which shall be composed of the mayor or other

member of the Governing Body designated by the mayor, who shall serve as chairman, the city clerk and the city chairman of the City Planning Commission, which shall meet on call of the chairman. The purpose of the Administrative Review Committee shall be to receive and review requests and applications for tax exemptions-incentives, to gather and review such additional information as may be deemed necessary, to conduct preliminary negotiations with the applicant business, and to make such recommendations as deemed advisable to the Governing Body. Administrative Review Committee records, including applications for tax exemptions, may be withheld from public disclosure under the Kansas Open Records Act as provided for under subsections (20) and (31) and other subsections of K.S.A. Supp. 45-221, but shall be available for public inspection when otherwise required by law. The committee is authorized to issue administrative letters of intent when requested by the applicant upon a finding that the public interest requires confidentiality in order to successfully negotiate the location of the prospective business within the city or the expansion of an existing business. Such administrative letters of intent shall not be binding on the Governing Body, and shall be superseded by any final action by the Governing Body or by any letter of intent issued by the Governing Body under Section 21.

Section 19. Initial Governing Body Action. Upon receiving the recommendations of the Administrative Review Committee, the Governing Body shall first determine whether to reject the requested exemption or to further consider the request. Upon a favorable vote for further consideration, the Governing Body shall either (1) issue a letter of intent as provided by Section 21, or (2) schedule a public hearing thereon.

Section 20. Notice and Hearing. No tax exemption shall be granted by the City prior to a public hearing thereon, except by waiver of this requirement under Section 27. Notice of the public hearing shall be published at least

seven days prior to the hearing in the official city newspaper, giving the time and place, and the hearing may be held at a regular or special meeting of the Governing Body. The city clerk shall thereupon notify the board of county commissioners, the superintendent of the appropriate school district, and the clerk of any other taxing jurisdiction, excluding the state, which derives or could derive property taxes from the affected business, advising them of the scheduled public hearing and inviting their review and comment. Upon request, the city clerk shall provide any such public agency with a copy of the application. The applicant business shall be invited, but not required, to attend the public hearing.

Section 21. Letters of Intent. Upon receiving the recommendations of the Administrative Review Committee, the Governing Body may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax exemption-incentive and any conditions thereto. Such letters of intent shall be issued only with the approval of the Governing Body, and as an expression of good faith intent, but shall not in any way bind the City to the granting of an exemption-incentive. Such letters of intent shall expire six months after issuance, but may be renewed. A public hearing shall not be required prior to the issuance of letters of intent. No elected or appointed officer, employee or committee of the City, and no chamber, board, development council or other public or private body or individual, shall be authorized to speak for and commit the Governing Body to the granting of a tax exemption-incentive. Letters of intent issued by the Governing Body shall supersede any letters issued by the Administrative Review Committee.

Section 22. Annual Renewal. The extent and term of any tax exemption-incentive granted shall be subject to annual review and determination by the

Governing Body to insure that the ownership and use of the property and any other qualifying criteria of the business for the tax exemption-incentive continue to exist. The review shall be completed by not later than May 1 of each year. The City shall require an annual renewal application to be filed or other information necessary to assure the continued qualification of the exempt business.

Section 23. Transfer of Ownership or Use. No exemption or tax incentives granted by the City shall be transferred as a result of a change in the majority ownership of the business. Any new owner shall file a new application for a tax exemption-incentive. Further, the City shall be notified by the business of any substantive change in the use of a tax exempt property (see Section 25.)

Section 24. Distribution of Revenue. The granting of tax exemptions-incentives by the City is hereby declared to be a contract under the provisions of K.S.A. 12-147. The in lieu of taxes payment which may be required of a business granted a tax exemption under this Statement shall be paid to the county treasurer, with notice of the amount and date paid provided to the City. The provisions of subsection (3) of K.S.A. 12-148, to the general fund of the City of Eudora and U.S.D. #491. The apportionment shall be based on the relative amount of taxes levied, for the General Fund of each of the applicable taxing subdivisions.

Section 25. Exemption Ordinance. The city clerk shall provide a copy of the ordinance, as published in the official city newspaper, granting an exemption form taxation to the applicant for use in filing an initial request for tax exemption as required by K.S.A. 79-213, and by K.S.A. 79-210 for subsequent years.

Section 26. Exemption Forms. A copy of the exemption applications required by K.S.A. 79-213 and 79-210, and the statement required by K.S.A. 79-214 for the cessation of an exempt use of property, shall be filed with the city clerk by the property owner.

Section 27. Waiver of Statement Requirements. The Governing Body reserves the right to grant or not to grant a tax exemption-incentive under circumstances beyond the scope of this Statement, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest.

Section 28. Definitions. For the purpose of this Statement, in application to this City, the words or phrases as used in either the Constitution or this Statement shall have meaning or be construed as follows:

- (a) "Applicant" shall mean and include the business, property owner or owners, and their officers, employees and agents.
- (b) "Associated therewith" as used with respect to tangible personal property shall mean being located within, upon or adjacent to buildings or added improvements to buildings.
- (c) "Commenced operations" shall mean the start of the business activity housed in the building for which a tax exemption-incentive is requested.
- (d) "Economic development purposes" shall mean the establishment of a new business or the expansion of an existing business, engaged in manufacturing articles of commerce, conducting research and development, or storing goods or commodities which are sold or traded in interstate commerce, which results in additional employment.
- (e) "Expansion" shall mean the enlargement of a building or buildings, construction of a new building, the addition of tangible personal property,

or any combination thereof, which increases the employment capacity of a business eligible for a tax exemption-incentive and which results in the creation of new employment.

(f) "Manufacturing articles of commerce" shall mean a business engaged in the mechanical or chemical transformation of materials or substances into new products, as defined in the "Standard Industrial Classification Manual."

(g) "Research and development" shall mean the application of science or technology to the improvement of either the process of manufacturing or manufactured products or both.

(h) "Storing goods or commodities which are sold or traded in interstate commerce" shall refer to the business of storing property which may be exempt from ad valorem taxation under the provisions of K.S.A. 79-201(f).

(i) "Tangible personal property" shall mean machinery and equipment used during the term of the tax exemption which may be granted.

(j) "Tax incentive" or "tax exemption-incentive" shall both mean the difference between the amount of ad valorem property taxes that the affected business would pay if there were no city-granted exemption and the amount required to be paid as in lieu taxes or charges. For example, if the taxes required with no exemption were \$5,000 and the required in lieu payments were \$3,000, the "tax incentive" or "tax exemption-incentive" would be \$2,000.