



Travis County Commissioners Court Agenda Request

Meeting Date: 10/11/2012, 1:30 PM, Work Session

Prepared By/Phone Number: Planning and Budget Office

Elected/Appointed Official/Dept. Head: Leslie Browder, County Executive
Planning and Budget

A handwritten signature in black ink, appearing to be "LB", located to the right of the text for the Elected/Appointed Official/Dept. Head.

Commissioners Court Sponsor: Judge Samuel T. Biscoe

AGENDA LANGUAGE:

Review and discuss the draft Travis County Economic Development Policy.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

Prior Court Action On April 24 2012, the Planning and Budget Office (PBO) was directed to bring the most recent draft Economic Development Policy back to the Economic Development Subcommittee for review and acceptance, prior to consideration by the entire Commissioners Court. The Court further directed that PBO next bring the draft policy back to the entire Commissioners Court for discussion on May 15, 2012. On May 8, 2012, the Commissioners Court approved a revised schedule that afforded an opportunity to hold a substantive discussion on the key elements of a future economic development policy with the entire Court at its work session on May 17, 2012. At the work session, staff presented a summary of the key elements of the draft economic development policy prior to discussion and deliberation by the Court. A public hearing was held in June to receive comments from the public.

Additional information is attached as back-up. In addition, staff will be prepared to make a presentation at the work session summarizing the outstanding policy issues for consideration by the Commissioners Court.

STAFF RECOMMENDATIONS:

PBO seeks feedback from the Commissioners Court regarding the draft Travis County Economic Development Policy. Suggested revisions will be incorporated in an updated document and submitted to the Commissioners Court as part of the back-up materials when the draft policy is considered for revision/adoption at a future Commissioners Court.

ISSUES AND OPPORTUNITIES:

N/A

FISCAL IMPACT AND SOURCE OF FUNDING:

N/A

REQUIRED AUTHORIZATIONS:

Planning and Budget Office
County Judge's Office

Jessica Rio
Cheryl Aker



[Handwritten signature]

Meeting time: 10:00 AM to 11:00 AM
Proposed by: [Name]
Reviewed by: [Name]
Approved by: [Name]

REQUIRED AUTHORIZATIONS:

Planning and Budget Office
County Judge's Office

REQUIRED AUTHORIZATIONS:

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Approved by: [Name]

REQUIRED AUTHORIZATIONS:

REQUIRED AUTHORIZATIONS:

[Name]

Leslie Browder

From: Leslie Browder
Sent: Friday, August 24, 2012 4:10 PM
To: Commissioners-Court
Cc: Mary Etta Gerhardt; Jessica Rio; Diana Ramirez; Katherine Petersen
Subject: Draft County Economic Development Incentives Policy
Attachments: Memo to CC on potential revisions to draft economic incentives policy.pdf; Public Comment on Draft Economic Development Incentives Policy.pdf; Reorganized draft Travis County Economic Development Policy.pdf

Judge Biscoe and Commissioners Court,

After the public hearing on the draft Travis County Economic Development Incentives Policy, we promised to summarize the public comment for your review, as well as do some work to reorganize the draft policy. Our goal was to eliminate duplication in the draft policy, correct some of the minor errors discovered during review by the Commissioners, and to highlight any substantive issues that still remain. These remaining issues have been highlighted in yellow and expressed as a question for your future consideration. In addition, any substantive changes to the draft policy, exclusive of reorganization and formatting, have been highlighted in blue.

As next steps, we would like to suggest one more discussion in a work session format sometime in the future. This would provide the opportunity to consider the outstanding issues where they can be discussed as much as needed prior to consideration in a voting session.

In the meantime, if you have any questions or feedback after reviewing these materials, please let me know.

In researching another matter, Mary Etta came across a statutory requirement (Texas Government Code 2264) as to certification by a company in its application that the company does not employ undocumented immigrants. She believes we need to include that in the policy and will provide some language prior to placing the policy on a future agenda for consideration.

Thanks, Leslie

PLANNING AND BUDGET OFFICE
TRAVIS COUNTY, TEXAS



700 Lavaca, Suite 1560
P.O. Box 1748
Austin, Texas 78767

MEMORANDUM

To: Commissioners Court

Date: August 24, 2012

From: Leslie Browder, County Executive, Planning and Budget



Re: Summary of Public Comments on Draft Economic Development Incentives Policy

We have attempted to summarize and compile a representative sample of the public comments received on June 26, 2012, regarding Travis County's Draft Economic Development Incentives Policy. Comments are listed in *italics*, and the current status in the draft policy is described after each comment. It was our intent to capture most of the points made during the public hearing, so if we omitted anything that you consider to be significant, please let me know.

"We agree that agreements creating job opportunities must be targeted and judicious. The draft policy recognizes and incorporates the Opportunity Austin 2.0 targeted industries (both established and emerging). Agreements must be performance-based: companies must meet and maintain job creation and capital investment goals. Agreements must be cash positive: net revenue to the County that otherwise would not have occurred without this project."

The policy focuses on companies in certain targeted industries that Austin and Travis County seek in order to foster a healthy and diversified economy.

The policy includes recapture and termination provisions if the company that sought incentives does not meet the obligations in their agreement.

The draft policy requires that each potential incentive agreement be evaluated using an economic development software tool. WebLOCI is currently being used, but another tool could be chosen in the future if determined to be more appropriate. WebLOCI forecasts the benefits and costs to the County that might result from potential incentive deals, including the payments to the applicant and the cost of County services, as well as revenues generated by the project. This evaluation must have a cash-positive result to the County over the term of the potential incentive agreement.

"I strongly encourage you to ask County staff to work with the Austin-Travis County Health and Human Services Department, Workforce Solutions and UT's Ray Marshall center to craft policies and mechanisms to ensure that our investments are carefully aligned with well researched need. This should include identifying

specific problems or issues the County intends to address with economic incentives and establishing clear benchmarks or other outcomes by which that success will be measured."

Policies and agreements should be transparent and open to others for study and research. The Commissioners Court has discussed the future possibility of working with an outside research entity to evaluate the effectiveness of current incentive agreements by attempting to examine outcomes in addition to the compliance monitoring that is performed by County staff annually.

"Assuming employment is a primary goal, and I certainly hope it is, identify target occupations that provide living wages and good health benefits and then create a plan to provide training or education required for these jobs involving other community partners as needed....create a mechanism to periodically reevaluate and adjust economic development policies as they will change over time and workforce training investments to ensure continued achievement of our goals and outcomes."

The following industries and projects are preferred under the policy: convergence technology, creative media, green industries, corporate/professional headquarters, healthcare and life sciences, regional live entertainment or fine arts, research and development, a business that will provide substantial opportunities for employment for economically disadvantaged individuals, and businesses located in a reinvestment zone. A general category has been added to the draft policy for consideration by the Commissioners Court to help address changing needs. The language reads: Other businesses approved by the Commissioners Court that will provide substantial opportunities to enhance or diversify the County's economy. A key goal of the policy is to promote better paying jobs and greater multiplier effects to help lower unemployment and encourage economic growth for the benefit of all residents. The draft policy also requires a company to provide health care benefits and pay a "living wage" to its employees.

"Require all incentive agreements to include monitoring of specified outcomes with the provision to terminate if not met and I don't think you can overstate that one."

The policy includes recapture and termination provisions if the company that sought incentives does not meet the obligations in their agreement. As indicated above, the Commissioners Court has discussed the future possibility of working with an outside research entity to evaluate the effectiveness of current incentive agreements by attempting to examine outcomes in addition to the compliance monitoring that is performed by County staff annually.

"As we heard June 12, the County's existing major employers already exceed the 50% mark for Travis County resident employment and I think it's entirely reasonable to ask any business in line for taxpayer subsidy to be required to exceed what is our baseline threshold for people not getting handouts and you may want to consider a narrowly drafted waiver to place industry in distressed area near the

County border based on Tarrant and Bexar county divisions and it should not move the baseline."

"We have concerns with the local hiring requirement: The current draft requires 50%, but across the nation most policies have no such provision. Other policies in the state require only 25% of new hires from within the county. We would hope to keep this local hiring requirement out of the new policy; however, we could support a requirement not to exceed 25% as bonus consideration only and not part of the base incentive."

The baseline in the draft policy specifies that 50% of new jobs must go to Travis County residents, which has been increased from an earlier draft setting a baseline requirement of 25%. The policy was drafted to recognize that Travis County is part of a larger metropolitan area and that many people who work in Travis County do not necessarily live in Travis County.

This provision can be waived or reduced if a Company locates near the County's border, or if any other compelling circumstances exist that the Commissioners Court may need to consider. In the current draft policy, waivers can be approved by the Court on a "simple majority" basis. Whether to require a "super majority" (4 out of 5) of the Commissioners Court to waive any provision of the policy after it is adopted is an issue that has been highlighted for discussion by the Court as part of their policy deliberations. Other votes associated with the draft policy, such as adoption of the policy itself and any agreement that may be formed under the policy, require a simple majority only. Should Court member(s) be absent on any given meeting day, consideration of a waiver would not need to be postponed. For tax abatement purposes, the only step that requires a $\frac{3}{4}$ vote of the Commissioners Court is amending the policy.

"You should use incentives to incentivize [companies] to hire local folks who need a hand and provide benefits they normally wouldn't or to hire citizens from targeted areas."

"Priorities for bonus consideration should include higher job creation, which leads to greater return to the company; location in identified desired development zone areas; green building practices; and providing educational and/or employment opportunities for entering and graduating participants in recognized workforce development programs."

The base incentive (up to 45%) is tied to capital investment, and up to 15% can be awarded as an additional incentive for job creation. The policy also contains a provision for an additional 5% incentive if located in a desired development or activity zone, and an additional 10% incentive to hire or train certain economically disadvantaged individuals or donate funds to a County-approved workforce development program. An additional Incentive of up to five percent (5%) may be given for Leadership in Energy and Environmental Design (LEED) certification.

"The more stipulations you put into an agreement, the more complicated it becomes and the less competitive we become. It is a free market system around this country

and around the globe, and so we can do what we want to here in Travis County, but we can't change the reality of what others might do as well. We've got to base our economic development policy on primary outcome goals: jobs and investments."

"The base incentive should be tied to capital investment. This is consistent with the property tax as a primary source of county funds."

The base incentive (up to 45%) is tied to capital investment, and up to 15% can be awarded as an additional incentive for job creation.

"Many of our general manufacturing companies that have come to town are leasing space. They can come and lease space and put millions of dollars of equipment, I mean, take a data center as an example. They can lease the space and then put several hundreds of millions of dollars into that space and equipment, and for us not to be able to have the ability to -- to consider that in a regular way but to put a higher threshold on them seems to be fool hardy to me."

"We have concerns with the discouragement of leased space: The vast majority of general manufacturing prospects that have evaluated Travis County only seek leased space. Many of these companies invest tremendously high amounts in equipment that will be added to the tax rolls. There is no logical reason to require a supermajority vote to approve an incentive to a company considering lease space."

If a company plans to locate in leased space, and improve their leasehold to add at least \$25 million in new construction value either in leasehold improvements or business personal property, the policy allows a waiver, subject to approval by the Commissioners Court, which would allow a company to become eligible for an incentive agreement.

Whether to require a "super majority" (4 out of 5) of the Commissioners Court to waive any provision of the policy after it is adopted is an issue that has been highlighted for discussion by the Court as part of their policy deliberations. Other votes associated with the draft policy, such as adoption of the policy itself and any agreement that may be formed under the policy, require a simple majority only. Should Court member(s) be absent on any given meeting day, consideration of a waiver would not need to be postponed. For tax abatement purposes, the only step that requires a $\frac{3}{4}$ vote of the Commissioners Court is amending the policy.

"Again, we're concerned about including a living wage into the policy, as we believe that could have a chilling effect on certain companies that would consider Travis County to locate, and we think it could have a chilling effect particularly on those companies who would provide jobs for people in our community who don't have college or post- -- advanced degrees. Take U.S. Farathane. Most of their employees don't have high school diplomas so if you run a living wage concept up to a point where it is way above market, then you're going to have a chilling effect on those companies who would come and provide something that's in a lower pay range."

"We have concerns about the wage requirement: We believe the inclusion of the wage requirement would cause Travis County to be less competitive so we oppose this concept. If the County is determined to include a wage requirement, then any such requirement should be consistent with the county's wage policy of \$11.00 (which is 50% higher than the federal minimum wage). We believe that raising the floor to a higher level will preclude many companies from considering a move to Travis County. Unfortunately, companies who provide jobs for those with less educational attainment will be the ones most affected. We want to attract companies who can provide good jobs and benefits for every segment for our community, not just those with college or advanced degrees."

Both the City of Austin and Travis County currently have in place a "living wage" policy for their employees. The living wage for both organizations is a minimum of \$11.00 per hour. In researching the history of this policy, it appears that the original goal was to set the minimum wage such that an employee would be able to pay for basic needs without having to hold more than one job to do so and not spend more than 30% of his or her income on housing. The City of Austin reviews this wage level periodically, using the Universal Living Wage formula. Based on discussion with their human resources staff, their most recent review indicated that the City would likely remain at \$11 per hour in fiscal year 2013. Future analysis may indicate a need to increase the hourly "living wage" based on inflationary pressures. The published "living wage" index for the Austin/Round Rock/San Marcos metropolitan statistical area is currently estimated at close to \$13 per hour. Employees who earn a "living wage" are often able to acquire housing and other basic needs without additional government assistance, and reflect the values of the Commissioners Court and the community.

"With no preamble in your proposed new policy, we are left to wonder why this policy exists, when it would be applied and what problem it seeks to fix."

A purpose statement has been added to the draft policy for consideration by the Commissioners Court prior to adopting the final policy, which includes the following goals:

- To encourage economic stimulation and prosperity by attracting new business to the County
- To enhance the County tax base by attracting new businesses that will make significant investments in new construction
- To assist with workforce development in the County by attracting companies that offer significant numbers of new jobs and/or training to current residents who are unemployed or under-employed
- To encourage diversity of the County's economy by attracting businesses that will contribute to the economy by broadening the scope of business and industry within the County
- To attract significant new businesses that also help promote the growth of other new businesses that provide supporting services or supplies, particularly small companies

"And worse, by giving tax breaks to new competitors, particularly by lowering the job threshold from a minimum of 500 jobs that must be provided within one year of

the completion of construction, like under your old policy, to just 50 jobs spread out over time, you'll risk harming locally owned small companies who have grown their own business here over the years without any tax breaks. You'll use their taxes against them, making them subsidize their new competitor. And that's just wrong."

The policy requires that a Company be "competitively sited" so that an incentive will not be granted to a company seeking to simply transfer jobs from one part of the County to another. Retail developments are not preferred projects. The purpose of the policy is to attract new development and new jobs that otherwise would not be located here. Discussions about the minimum jobs requirement by the Commissioners Court Subcommittee on Economic Development focused on a goal of encouraging smaller business relocations and expansions under this revised policy, while still setting a relatively high bar for incentives from a capital investment perspective. The base incentive (up to 45%) is tied to capital investment, and up to 15% can be awarded as an additional incentive for job creation beyond the minimum requirement of 50 new jobs.

"Because growth doesn't pay for itself to begin with, these corporate tax breaks are subsidizing growth -- are adding to the increased cost of living for residents, shifting taxes to them. A mathematical fact. Shifting taxes to them that would have been paid by the new corporation."

A tax rebate agreement does not shift the burden to other taxpayers if the new value generated by the project would not have occurred without the incentive being granted. This can be difficult to ascertain in every case, but the policy requires that a company be "competitively sited" so that an incentive will not be granted to a company seeking to simply transfer jobs from one part of the County to another. The application process requires an official of the applicant company to make an affirmative statement in writing as to whether incentives are being sought elsewhere and to disclose where the incentives are being sought.

"A predictable timeline is important. The draft policy allows for 30 day/60 day/90 day timeline goals for county staff evaluation, Court consideration, and contract negotiation."

The draft policy initially included specific targeted timelines, and we received feedback that we might be creating unrealistic timelines for ourselves. The current draft simply reflects a commitment by the County to make its best effort to respond to each application in a timely manner and that will remain our intention whenever we receive an application that requires our analysis.

PLANNING AND BUDGET OFFICE
TRAVIS COUNTY, TEXAS



700 Lavaca, Suite 1560
P.O. Box 1748
Austin, Texas 78767

MEMORANDUM

To: Commissioners Court

From: Leslie Browder, County Executive, Planning & Budget

Handwritten signature of Leslie Browder in black ink.

Date: August 24, 2012

Re: Potential Revisions to Draft Economic Development Incentive Policy

The County Attorney's Office has reviewed and reorganized the draft Economic Development Incentive Policy to improve readability. A "purpose statement" has also been added to more clearly define the mission of this policy for the Commissioners Court and Travis County citizens. This was suggested by a number of speakers at the public hearing regarding the draft policy that was held on June 26, 2012. The following list outlines the outstanding issues that the Commissioners Court plans to consider in the future before adopting the final policy.

a.) Whether to require a "super majority" (4 out of 5) of the Commissioners Court to waive any provision of the policy after it is adopted

Waivers can be approved on a "simple majority" basis. Other votes associated with the Economic Development Incentive Policy, such as adoption of the policy itself and any agreement that may be formed under the policy, require a simple majority only. Should member(s) be absent on any given meeting day, consideration of a waiver would not need to be postponed. For tax abatement purposes, the only step that requires a $\frac{3}{4}$ vote of the Commissioners Court is amending the policy. The current draft policy does not reflect a super majority requirement, but raises the issue in the reorganized draft for further discussion.

b.) Whether to require a \$1,000 application fee from any applicant seeking incentives

Charging a fee would help offset the costs of a WebLOCI analysis, if performed by CAPCOG. The City of Austin has offered to perform the WebLOCI analysis free of charge for potential projects in which both entities are considering an incentive agreement with the same applicant. Regardless of the WebLOCI process, the

handling and analysis of these applications typically involve a significant amount of time by staff and management. Other entities, including the State of Texas, require a fee. The State of Texas completes an initial cursory review of the project as a courtesy to potential applicants to help identify projects that are likely not to meet established criteria at “first glance”. The County could extend this same courtesy to potential applicants on a test basis during the initial implementation period.

c.) Whether to require an applicant to achieve LEED certification on new construction as part of the base incentive or whether to offer up to an additional 5% incentive above base

The draft policy offers up to a 5% additional incentive if the applicant achieves LEED certification on the new facility. The County’s Director of the Transportation and Natural Resources Department advocated at a May work session to make this a base requirement. The LEED process can be lengthy and difficult, depending on the industry being housed in the proposed facility. By offering an additional incentive, Travis County will still encourage and promote green building practices.

d.) Whether to require a Company to fill at least 50% of its new jobs with Travis County residents

There was discussion at a May work session to possibly redefine this provision as an additional incentive or to lower the requirement. Bexar and Harris Counties require at least 25% of new jobs be filled by residents within their respective counties. A provision could be added to the policy that allows an exception when a project that would significantly contribute to the regional economy is located near the border of another Central Texas county.

e.) Whether to require an applicant to pay their employees (including contract employees) a “living wage”

Employees who earn a “living wage” are often able to acquire housing and other basic needs without additional government assistance, and requiring a “living wage” reflects the values of the Commissioners Court and the community.

f.) Whether to require an applicant to contribute to healthcare coverage or to make such coverage accessible to its employees

Private sector pay and benefits do not always mirror current public sector models. Salaries and bonus programs in the private sector may exceed compensation offered in the public sector, while healthcare and pension benefits in the public sector often exceed programs offered in the private sector. Regardless of these differences, an applicant should be required to make health coverage accessible to all employees and their families, including domestic partners.

The draft policy goes beyond accessibility and requires the company to offer group coverage or contribution to health benefits a dollar amount that provides meaningful opportunity for all workers to purchase coverage for all employees, and employee family members ("all" employees and employee family members defined to include same sex/domestic partners). The company will be considered to have met this requirement if the company's corporate policy allows exclusion of employee's spouse/partner if that spouse is eligible for similar benefits from the spouse's employer and exclusion of employee's children if the children are eligible for benefits under another policy such as the Children's Health Insurance Program (CHIP).

Applicants that offer group coverage through health coverage programs for small businesses under Health and Safety Code, Chapter 75 (THCP or TexHealth) and Texas Insurance Code, Chapter 1508 (Healthy Texas) are deemed to meet the requirements. There has been discussion by the Court's Economic Development Subcommittee as to whether to apply the requirements for small businesses under these laws to all companies that apply for incentives.

cc: Mary Etta Gerhardt, County Attorney's Office
Jessica Rio, Planning and Budget Office
Diana Ramirez, Planning and Budget Office
Katie Petersen Gipson, Planning and Budget Office

CHAPTER 28
TRAVIS COUNTY ECONOMIC DEVELOPMENT INCENTIVES POLICY,
GUIDELINES AND CRITERIA

28.001 AUTHORIZATION

(a) **General.** The Travis County Commissioners Court is authorized to develop and administer a program to stimulate business and commercial activity in Travis County pursuant to LOCAL GOVERNMENT CODE, Chapter 381 [specifically, Sections 381.004(b) and 391.004(g)], and other applicable statutes.

(b) **Tax Abatement Resolution.** Travis County has adopted a Resolution stating that Travis County elects to become eligible to participate in tax abatement under TEXAS LOCAL GOVERNMENT CODE, Section 381.004(g), and applicable portions of TEXAS TAX CODE, Chapter 312. Travis County has also adopted a resolution stating that Travis County elects to become eligible to participate in tax abatement under TEXAS TAX CODE, Chapter 312. Tax abatement agreements that are entered into under TEXAS LOCAL GOVERNMENT CODE, Section 381.004(g) shall be subject to the requirements of that statute (which includes by reference limited provisions of TEXAS TAX CODE, Chapter 312); and tax abatement agreements that are entered into under TEXAS TAX CODE, Chapter 312 shall be subject to the requirements of that statute whether or not specifically set forth in this Policy.

(c) **Purpose.** The purpose of this Policy includes the following:

(i) To encourage economic stimulation and prosperity by attracting new business to the County;

(ii) To enhance the County tax base by attracting new businesses that will make significant investments in new construction;

(iii) To assist with workforce development in the County by attracting companies that offer significant numbers of new jobs and/or training to current residents who are unemployed or under-employed;

(iv) To encourage diversity of the County's economy by attracting businesses that will contribute to the economy by broadening the scope of business and industry within the County; and

(v) To attract significant new businesses that also help promote the growth of other new businesses that provide supporting services or supplies, particularly small companies.

??? Does the Court want to include the "Purpose" added above that was drafted by staff or determine different goals for the Policy?

28.002 DEFINITIONS

(a) "Abatement" means partial exemption from ad valorem taxes of eligible property in a reinvestment zone designated for economic development purposes pursuant to TEXAS TAX CODE, Chapter 312; TEXAS LOCAL GOVERNMENT CODE, Chapter 381; Travis County Code, Chapter 28, "Travis County Economic Development Incentives Policy Guidelines and Criteria;" and other applicable laws, rules, regulations and policies.

(b) "Agreement," or "Incentive Agreement" means a contractual agreement between a property owner and /or lessee (and lessor) and an eligible jurisdiction granting or pertaining to an Incentive under this Policy, including any contract entered into under this Policy (rebate or abatement).

(c) "Applicant" means an authorized representative of a legal business entity who requests in writing the consideration of a proposal for Incentives under this Policy.

(d) "Commissioners Court" means the Travis County Commissioners Court.

(e) "Competitively-Sited Project" means a project where the Applicant has completed a written evaluation for assistance by a governmental entity in another location in which expansion, relocation or new operations (the project being proposed for Travis County Incentives) are actively being considered by the Applicant.

(f) "Economically Disadvantaged" means a Travis County resident who meets one of the following requirements:

(i) has a verified income of 200% or less of the current Federal Poverty Guidelines;
or

(ii) meets two or more of the criteria under the definition of "economically disadvantaged" under TEXAS GOVERNMENT CODE, Section 2303.402(2)(c)(1) – (9) (with documented evidence of such eligibility).

(g) "Eligible Project" means a proposed development which qualifies for Incentives under this Policy by meeting the requirements set forth in Section 28.003(a).

(h) "Eligible Property" means all property (real and business personal) subject to assessment by the Travis Central Appraisal District (TCAD) for the determination of ad valorem taxes that is the subject of any Agreement under this Policy. Eligible Property will be limited to:

(i) real property on which the facility is located (entire approved site as set forth in the Agreement);

(ii) the new construction improvements on the site; and

(iii) new business personal property placed within a facility within the same year the new facility is counted as new construction by TCAD or as agreed to in a specific phasing provision in the Agreement.

In no event shall the Incentive granted in any one year exceed the total ad valorem tax revenue received/due Travis County from the company's cumulative new construction as certified by TCAD. To be eligible and subject to rebate or abatement, property, both real and business personal, must also be owned by the Applicant seeking the tax incentive over the entire term of the Agreement; and taxes on that property must be paid by the Applicant seeking the tax incentive.

??? Does the Court want to require the company to own and pay the taxes on the property subject to incentives?

(i) "Employee" means a person:

(i) whose employment is permanent, full-time and non-seasonal; and

(ii) who is employed by the Applicant for Incentive for a minimum of 1,750 hours per year; and

(iii) whose employment is reflected in the Applicant's report filed with the Texas Workforce Commission (TWC) on December 31 of each year, or other acceptable company generated and certified payroll report or other documentation of employment deemed adequate by County.

It is understood that, in order to receive Incentives based on employment numbers, Applicant must also provide documentation that required health insurance benefits [see Section 28.003(b)(iii)] are provided.

(j) "Incentive(s)" means the benefit granted under an Agreement entered into pursuant to this Policy and applicable statutes, including tax abatement and tax rebate.

(k) "Investment" means the capital investment made by the Applicant in new construction and new taxable business personal property as indicated in documentation rendered to TCAD annually. Rendition to TCAD is required by County in order to receive Incentives under this Policy. Applicant will provide a copy of that rendition to County with its reporting information. The Investment total will not include payroll, cost of goods sold, etc.

(l) "PBO" means Travis County Planning and Budget Office.

(m) "Rebate" means the grant funds paid by County as a result of performance of obligations under an Agreement, the amount of which is based on a percentage of specified ad valorem taxes paid on certain Eligible Property pursuant to that Agreement entered into under this Policy as authorized by TEXAS LOCAL GOVERNMENT CODE, Chapter 381, and other applicable laws, rules, regulations and policies.

(n) "Supermajority Vote" means a vote of 4 out of 5 members of the Commissioners Court. ??? Should the definition of "Supermajority Vote" require that all 5 members be present, or just that there be 4 votes in the affirmative?

(o) "Taxable Value of Eligible Property" means the certified appraised value of Eligible Property, as finally determined by TCAD.

(p) "TCAD" means Travis Central Appraisal District.

(q) "TCEQ" means the Texas Commission on Environmental Quality.

(r) "TWC" means the Texas Workforce Commission.

28.003 AUTHORIZED FACILITIES

(a) **Preferred Facilities**. In considering an application for Incentives under this Policy, preference will be given to an Applicant if it seeks to locate any of the following within Travis County:

(i) Convergence Technology Facility, defined as a company engaged in research and development activities, computer and other electronic systems and hardware design or testing, software development, testing, or publishing, wireless telecommunications, or related product manufacturing.

(ii) Creative Media Facility, defined as a company engaged in the creation, development, production and distribution of musical works, motion pictures, television and other forms of video programming and content, video games, advertising and informational content.

(iii) Green Industries, defined as companies engaged in clean energy and resource conservation. "Clean energy" includes research and development, headquarters or manufacturing projects that involve any type of energy efficiency, energy storage, energy resource conservation,

renewable energy or alternative fuel technology. "Resource conservation" includes companies involved in the research, development and manufacturing of products focused on improved efficiency and availability of natural resources including clean air and water.

(iv) Corporate/Professional Headquarters, defined as the main office from which a regional, national or international organization is managed. Typical functions that occur in these types of offices include executive decision-making and strategy, sales and marketing, human resources, financial operations, advanced information technology operations, consulting and training. The chief executive officer for the region for which this location serves as a headquarters must be based at the location.

(v) Healthcare and Life Sciences Facility, defined as companies in the fields of healthcare, biotechnology, pharmaceuticals, biomedical technologies, life systems technologies, environmental, biomedical devices, and organizations and institutions that devote the majority of their efforts in the various stages of research, development, testing, technology transfer, commercialization or manufacturing.

(vi) Regional Live Entertainment or Fine Arts Facility, defined as buildings and structures, including fixed machinery and equipment, used as a venue for live entertainment or the display of fine arts through the admission of the general public where a substantial percentage of users reside at least 100 miles from any part of the County.

(vii) Research and Development Facility, defined as buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials, the production processes of such, or current technology in biomedicine, electronics or pre-commercial emerging industries.

(viii) A business that will provide substantial opportunities for employment for Economically Disadvantaged individuals.

(ix) A business located in a Reinvestment Zone (required for tax abatement).

(x) Other businesses approved by the Commissioners Court that will provide substantial opportunities to enhance or diversify the County's economy.

(b) **Retail Developments.** Developments that are primarily for retail may be reviewed on a case-by-case basis to determine eligibility for Incentive, but will not be considered as preferred development proposals.

(c) **Leased Facilities.** Existing leased facilities will only be eligible for Incentives under this Policy if:

(i) A waiver is granted under Section 28.009(b)(3) to allow the use of leased facilities; and

??? Does the Court want to require a waiver for leased property that would require 4 votes?

(ii) The minimum investment requirement [Section 28.004(a)] is met for new construction by the renovation or building of facilities or addition of business personal property which are certified by TCAD as new construction; and

(iii) The company shows proof of payment by the company of the rebated/abated property taxes related to such new construction; and

(iv) The amount of the Incentive is based only on business personal property or real property improvements certified as new construction by TCAD.

If the above conditions are met and leased property will be utilized for new construction that is granted a tax Incentive, the Agreement will be executed with both the lessor (owner) and lessee of the land on which the facility is located. The Commissioners Court must be provided a copy of the lease showing that the lease agreement is for a term that is at least as long as the proposed agreement term.

28.004 **BASE INCENTIVE**

(a) **Eligible Project.** To be eligible for consideration for the base Incentive a project must meet the following criteria:

(i) include additions of investment in new construction of Eligible Property, as certified by TCAD, which totals at least twenty-five million dollars (as shown by the Applicant's annual tax rendition, a copy of which will be provided to County) by January 1 of the tax year that will commence immediately following the year in which the construction period defined in the Agreement is completed or the year in which the Incentive begins;

??? Does the Court want to maintain the \$25 million minimum investment or return to a higher minimum? See also 28.004(b).

(ii) not solely or primarily have the effect of transferring employment from one part of the County to another;

(iii) provide additional full-time, non-seasonal jobs for at least 50 Employees within the time period or periods set forth in the Agreement, with additional Incentive available for more than 50 new jobs [(see Section 28.005(b));

??? Does the Court want to maintain the 50 new jobs minimum requirement or return to a higher minimum? See also 28.005(b)(i). Does the Court want to include a provision that the new jobs be provided within the first year of the agreement (or other term(s) forcing the jobs requirement to be met early in the term)?

(iv) be competitively-sited;

(v) have a human resources benefits policy:

(A) meeting all applicable federal requirements

(B) including the Applicant's offering group coverage or contribution to health benefits a dollar amount that provides meaningful opportunity for all workers to purchase coverage for all Employees, and Employee family members ("all" Employees and Employee family members defined to include same sex/domestic partners). The company will be considered to have met this requirement if the Company's corporate policy allows exclusion of Employee's spouse/partner if that spouse is eligible for similar benefits from the spouse's employer and exclusion of Employee's children if the children are eligible for benefits under another policy such as the Children's Health Insurance Program (CHIP).

(C) Applicants that offer group coverage through health coverage programs for small businesses under Health and Safety Code, Chapter 75 (THCP or TexHealth) and

Texas Insurance Code, Chapter 1508 (Healthy Texas) are deemed to meet the requirements of this Section.

??? Does the Court want to include a definition of acceptable levels of health insurance? Above changes were suggested by Ann Kitchen, and do not include her suggested language regarding coverage of part-time employees. If so, does the Court want to refer to certain statutes (for example, Chapter 75, Health and Safety Code (Employees of Small Employers) and/or Chapter 1508, Insurance Code (Healthy Texas Program), or simply include specific minimum requirements taken from those statutes?

(vi) fill at least fifty percent (50%) of its new positions for the project with Travis County residents. Documentation may be required to indicate the portion of Travis County residents who have been in Travis County at least one (1) year prior to employment as evidence that Applicant is hiring individuals already living in Travis County.

??? Does the Court want to use the 50% residency requirement or specify a lower percentage, such as 25%?

(vii) provide County with a copy of the Applicant's equal employment opportunity policy. If the Applicant does not have a written equal employment policy at the time of application, Applicant may provide County with a written plan for adoption of such policy, to be completed and provided to the County prior to any Agreement being executed. NO Agreement will be entered into until the copy of the policy is provided to County.

(viii) have been evaluated using an economic development software program (currently WebLOCI but subject to change at County's discretion) that calculates the benefits and costs to the County from Incentive deals, including the payments and the cost of County services, with such evaluation having a cash-positive result.

(ix) provide salaries to all Employees, including contract Employees, at an hourly wage that equals or exceeds the County's established minimum wage.

??? Does the Court want to include a minimum wage requirement using the County's minimum wage?

A proposal that meets the above criteria will be considered an Eligible Project. This establishes initial eligibility but does not ensure the granting of Incentives by Travis County.

(b) **Base Incentive Amount.** An Eligible Project may receive a base Incentive (rebate or abatement) of up to forty-five percent (45%) of ad valorem taxes on new value of Eligible Property if the Applicant shows a minimum investment as set forth in Section 28.004(a), with the percentage determined as follows:

\$25 million to \$100 million	up to 25%
\$101 million to \$200 million	up to 33.5%
More than \$200 million	up to 45%

??? Does the Court want to maintain the \$25 million minimum investment or return to a higher minimum?

28.005 **ABOVE BASE INCENTIVE.**

(a) **Maximum Incentive.** No Incentive will be granted that exceeds eighty percent (80%), regardless of the total above-base requirements that an Applicant may fulfill. Additional Incentives above the base may be considered as set forth in this **Section 28.005.**

(b) **Jobs.**

(i) **Additional Incentive.** An additional Incentive of up to fifteen percent (15%) may be granted based on Employee jobs created as follows:

51 – 100 jobs	6%
101 – 200 jobs	10%
More than 200 jobs	15%

??? Does the Court want to maintain the 50 new jobs minimum requirement or return to a higher minimum?

(ii) **Advertising.** To qualify for additional Incentive for jobs created, Applicant must advertise jobs and provide documentation of such on public job boards (i.e., Workforce Solutions) and other resources as identified by County.

(c) **Leadership in Energy and Environmental Design Certification.**

(i) **Additional Incentive.** An additional Incentive of up to five percent (5%) may be given for Leadership in Energy and Environmental Design (LEED) certification.

??? Does the Court want to require basic LEED certification with additional incentives for above basic, or have all LEED certification as an add-on incentive amount?

(ii) **Level of Certification.** If the owner or lessee of a new commercial facility or an existing facility to be adapted or renovated has registered with the U. S. Green Building Council (USGBC) seeking LEED Certification, then PBO may recommend approval of an additional Incentive based upon the level of certification obtained after completion of construction as follows:

Up to 2%	Basic "Certified" Level
Up to 3%	Silver Level
Up to 4%	Gold Level
Up to 5%	Platinum Level

(iii) **Registration.** Applicant must be registered with USGBC seeking LEED Certification prior to submitting its application for additional LEED Incentive to the County. The additional Incentive for LEED shall not commence until construction of the project is completed and LEED Certification is obtained by the Applicant and acceptable documentation provided to County of that certification.

(d) **Location.**

(i) **Additional Incentive.** If an Eligible Project is located in certain areas identified or designated by County as set forth in this Section 28.005(d)(ii), an additional Incentive of up to five percent (5%) may be granted.

(ii) **Location Incentive.** Additional Incentive may be granted for locating an Eligible Project in a Travis County Regional Activity Center located in an area identified in a comprehensive plan (a plan adopted, or to be adopted, by the Commissioners Court for the long-range development of the unincorporated area of the County that is used to coordinate and guide the establishment of development policies and regulations and to guide capital improvement programs), a Conservation Development that conforms to the provisions of the County

Conservation Development Order (Travis County Code, Chapter 82, Subchapter A), the City of Austin's Desired Development Zone or in another targeted area specifically identified by Travis County for economic development preference at the time this Policy is approved or at any time this Policy is in effect. A specific Regional Activity Center or Conservation Development must be identified in the Agreement approved by the Commissioners Court and cannot be added to the Agreement at a later date.

??? Does the Court wish to revisit any of the updated desired location language in the draft policy?

(e) **Economically Disadvantaged Hiring/Training.** An additional Incentive of up to ten percent (10%) for training and/or hiring of Economically Disadvantaged residents may be granted as follows:

(i) **Option A – Needs Based Scholarships.**

(A) **Scholarship.** Applicant may pursue additional Incentive under this subsection 28.005(e) by providing needs based scholarships covering at least 50% of the full tuition cost of a degree or certification (with "tuition" being defined to include all required fees, books and actual tuition costs) to Economically Disadvantaged individuals, ~~provided the amount invested in scholarships meets or exceeds the Incentive amount to be received by the company.~~

~~(B) **Number.** Scholarships under this subsection must be provided to a number of Economically Disadvantaged individuals equal to at least ten percent (10%) of the Eligible Project's total employment. For example, if Applicant will have 200 full time Employees, Applicant would have to fund 20 scholarships.~~

(C) **Administration.** The administration of the needs based scholarship must be provided through an institute of higher education, an independent school district, or a workforce training program approved by Travis County. Verification of the funding for and the distribution of the needs based scholarship shall be provided by the educational or workforce training program administering the program.

(ii) **Option B – Full Time Employment.**

(A) **Employment.** Applicant may pursue additional Incentive under this subsection 28.005(e) by providing full time employment to Employees who have been participants in any needs based scholarship program or workforce training program approved by Travis County.

~~(B) **Number.** Employment under this subsection must be provided to a number of Economically Disadvantaged individuals equal to at least ten percent (10%) of the Eligible Project's total employment. For example, if Applicant will have 200 full time Employees, Applicant would have to hire 20 Economically Disadvantaged individuals to qualify for the additional incentive.~~

(C) **Administration.** Verification of the employment of Economically Disadvantaged Travis County residents shall be met through documentation by the Applicant that:

- the full time Employee has been a recipient of any qualifying based scholarship (as approved by County) within the last four years; or

- the full time Employee has completed a workforce training program approved by Travis County within the last four years.

(iii) Option C – Monetary Donations.

(A) Donation. Applicant may pursue additional Incentive under this subsection 28.005(e) by providing a specified monetary donation (the amount to be included in the Agreement) to a workforce training program approved by Travis County or to an established Travis County workforce training fund, if such a fund is established, ~~provided the amount donated meets or exceeds the Incentive amount to be received by the company.~~

(B) Administration. Verification of the donation to the workforce training program must be provided by that program; verification of the donation to a Travis County funds will be provided by County.

(iv) Other Requirements. If Applicant pursues additional Incentive under Option A or Option B above:

(A) Pre-Approval. Travis County, through Travis County Health, Human Services and Veterans Services, must pre-approve any proposal by the Applicant under this subsection 28.005(e) as to the educational institution, program or needs based scholarship program.

(B) Addition to Agreement. At the request of the Applicant, and at the discretion of the Commissioners Court, a training and hiring Incentive provision [as set out in this subsection 28.005(e)] may be added as an amendment to a prior Incentive Agreement approved by Commissioners Court. Additional Incentive for such added provision will only be granted effective as of the date of the fully executed amendment.

28.006 PROCESS

(a) General.

(i) Initial Proposal. A company will make written application for Incentives pursuant to the applicable provisions of this Policy. PBO will review the initial application and make recommendation to the Commissioners Court regarding the proposal. The Commissioners Court will, at its sole discretion, determine whether to grant the Incentive, the level of the Incentive to be granted and the terms of the Agreement.

(ii) No Limitation. Nothing in this Policy is meant to or will be construed to limit the discretion of the Commissioners Court to decide whether to enter into a specific Agreement; or limit the discretion of the Commissioners Court to delegate to its employees the authority to determine whether the Commissioners Court should consider a particular application or request for Incentive; or create any property, contract or other legal right in any person to have the Commissioners Court consider or grant a specific application or request for Incentives.

(b) Application Package. Components of a complete application package establishing minimum qualifications for a base Incentive will include:

(i) a completed Travis County Application form (Exhibit 1 of this Policy);

and (ii) a non-refundable check in the amount of \$1,000.00 payable to Travis County;

(iii) a completed narrative prepared in accordance with the template provide in the County application including, but not limited :

(A) an investment budget detailing components and costs of the Eligible Property for which Incentive is requested, including type, number, economic life and eligibility for a tax exemption granted by TCEQ, if known.

(B) a map and legal description of the property/properties, if a location or alternate locations have been identified, with the understanding that this information will be provided prior to the execution of the Agreement if not available at the time of application.

(C) a time schedule for undertaking and completing the proposed improvements.

(D) a ten-year environmental and worker safety compliance history for all facilities located within the State of Texas and owned in whole or in part by the Applicant, as defined in "Environmental and Worker Safety Qualification;"

(E) If Applicant is applying as a Competitively-Sited Project, Applicant will provide an affidavit affirming that the application is a Competitively-Sited Project and acknowledging that documentation confirming the competitive process will be provided to County if an Incentive is granted by Travis County prior to the execution of the final Agreement; failure to provide the acceptable documentation of being a Competitively-Sited Project will result in the termination of Agreement negotiations.

(F) Information pertaining to the reasons that the requested Incentive is necessary to ensure that the proposed project is built in the County (i.e., documentation supporting the assertion that "but for" an Incentive, the stated project could not be constructed in the County).

(G) Copies of the report filed with the TWC for December 31 of the last complete year prior to the filing of the application documenting the current number of full time non-seasonal Employees, and full-time contract Employees , if any, at the time the application is submitted. Applicant may substitute an other company-generated and certified payroll report or other documentation of employment for the previous year deemed adequate by County to provide the above information.

(H) financial and other information as the County deems appropriate for evaluating the financial capacity and other factors of the Applicant's proposal; and

(I) certification prepared by the Travis County Tax Assessor-Collector stating that all tax accounts within the County are paid on a current basis.

Additional information required for Incentives, particularly above base Incentives, may be included if the Applicant desires those proposal to be considered or will be requested on a case by case basis.

(c) **Additional Information – Leased Facility.** The Applicant will provide County, as a part of the application package, the name and address of the lessor and a copy of the proposed lease agreement, or option contract (with a final copy of the executed lease to be provided to County prior to execution of the Agreement). In the event a lease or option contract has already been executed with the owner of the site, the document should include a provision whereby Incentive Applicant may terminate such contract or lease in the event that the County does not grant an Incentive. Leased property will only be considered for Incentives as to the Eligible Property being proposed. The lease term must extend for at least as long as the requested Incentive Agreement term.

(d) **Initial County Review.** Any current or potential owner or lessee of taxable property in the County may request an Incentive by filing a completed application (an application which includes all information set forth in this Policy and deemed necessary by County to make a full assessment of the proposal) with the County Judge, with a copy to PBO prior to any public expression of a site selection decision. The County Judge's office will notify the Commissioners Court of receipt of an application for Incentive and PBO will begin the assessment pursuant to this Policy. PBO may request additional information and clarification from the Applicant as necessary to complete the application. PBO, in consultation with the County Judge, will create an assessment of the proposal and make a best effort to respond to a completed application in a timely manner upon receiving the completed application and completing the financial analysis. The response will include notification by PBO which either:

(i) Notifies the Applicant in writing that the Travis County Commissioners Court will not take up the application for consideration; or

(ii) Notifies the Applicant in writing that consideration of the application will be set for consideration by the Travis County Commissioners Court.

(e) **County Assessment of Application.** Upon receipt of a completed application and completion of the necessary financial analysis, PBO shall determine whether a project meets the minimum threshold for consideration by the Travis County Commissioners Court for a base Incentive and any additional Incentive under this Policy. If PBO determines that the threshold has been met, PBO shall offer the application for consideration by the Travis County Commissioners Court at a regularly scheduled voting session. County will make every effort to offer the application for consideration by the Commissioners Court in a timely manner after receipt of the completed application and completion of the financial analysis. If the request is for an Incentive in the form of tax abatement, the Court shall consider negotiation of the tax abatement agreement in accordance with the TEXAS TAX CODE, Chapter 312.

(f) **Public Hearing – Reinvestment Zone.** The Commissioners Court may not adopt a resolution designating a reinvestment zone for the purposes of considering approval of a tax abatement agreement until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the proposed action. Notice of the hearing shall be clearly identified on the Commissioners Court agenda at least 13 days prior to the public hearing, and the public hearing will be held in accordance with applicable law.

(g) **Consideration.** The Commissioners Court will consider the proposed application for any Incentive in a regularly scheduled voting session with opportunity for public comment.

28.007 LIMITATIONS

(a) **County Indebtedness.** No Incentive shall be approved or allowed if the Applicant is indebted to the County for past due ad valorem taxes or other obligations.

(b) **Incentive on New Value.** Incentives may only be granted for the increase in taxable value of Eligible Property on or after the effective date of the Agreement granting the Incentive if the Eligible Property is listed by kind or type in the Agreement between the County and Applicant, subject to such limitations as the Commissioners Court and the TEXAS TAX CODE (and other applicable statutes) may require.

(c) **Duration.** An Incentive Agreement between Travis County and an Applicant (and, if applicable, the Applicant's lessor or lessee) shall remain in effect for up to but not more than ten (10) years.

??? Does the Court want to extend the allowed term for rebate agreements beyond 10 years?

(d) **Tax Abatement.** An application for Incentive in the form of tax abatement must be accompanied by a statement by the Applicant of financial need or other explanation as to why the tax abatement Agreement is requested rather than a tax rebate Agreement. The Commissioners Court will make the final determination as to which type of Agreement will be used, with the initial preference given to rebate agreements.

??? Does the Court want to allow abatement with this requirement or limit incentives to rebates?

(e) **Failure to Meet Requirements.** No Incentive shall be given for any year in which the Eligible Project fails to meet the contractually-defined minimum new investment requirements as set forth in the Agreement.

??? Does the Court want to maintain the above, or also include meeting the jobs requirements in this provision?

(f) **Prior Construction or Improvements.** The County will not establish a Reinvestment Zone or enter into an Incentive Agreement if it finds that an application was received after a project commenced construction or installation of improvements which are proposed to be considered for Incentive.

(g) **Non-Compete Agreements.** An Incentive will not be granted for projects whose competitive siting consists only of taxing jurisdictions that have agreed with County to forego the use of tax incentives in competing with the County for such projects.

28.008 AGREEMENT TERMS

(a) **Negotiation.** After the approval of the general concept of the initial proposal by the Commissioners Court, the County may negotiate and execute an Agreement with the owner of the facility (and/or lessee/lessor, where applicable) as required by this Policy and applicable law. Travis County will make all reasonable efforts to execute an Agreement in a timely manner upon the Court's approval to commence negotiations.

(b) **Terms.** The terms of the Agreement will include:

(i) a requirement that the Applicant annually submit (or provide acceptable access for monitoring purposes) notarized written certification to PBO of compliance with the Agreement terms, including the following:

(A) a January Employee count for the Eligible Project which is the subject of the Agreement which corresponds to Employee counts reported in the facility Employer's Quarterly Report to TWC (or other acceptable company-generated and certified payroll

report or other documentation of employment deemed adequate by County) for the quarter most recently ended at calendar year-end; and

(B) a description of employment, including: the number of jobs created as a direct result of the improvements which are the subject of the Incentive Agreement; the number of Employees in other facilities located within Travis County; and the compliance with the environmental and worker safety requirements in the Agreement for the preceding calendar year, as of January 1, as required by the Agreement; and

(C) a copy of the tax bill for the year for which Incentives are claimed and proof of payment (for tax rebate only).

(D) other reporting data and documentation necessary to confirm compliance with all terms and conditions of the Agreement and to evaluate long-term effects of the performance of the Agreement terms.

Submission of all required reporting information shall be used to determine Incentive eligibility and shall be subject to audit if requested by the Commissioners Court. Failure to submit will result in the ineligibility to receive an Incentive.

(ii) a provision requiring the Applicant to allow the County or other authorized representatives (including third-party consultant/auditor) to have access and the ability to review and evaluate all Applicant information and data related to the performance of the Agreement on-site or as provided to County to confirm compliance and to perform other evaluation of long-term results of the Agreement.

(iii) a requirement that the owner or lessee will:

(A) obtain and maintain all required permits and other authorization from the United States Environmental Protection Agency and the TCEQ for the construction and operation of its facility and for the storage, transport and disposal of solid waste; and

(B) seek a permit from the TCEQ for all grandfathered units on the site of the facility by filing with the TCEQ, within three years of receiving the Incentive, a technically complete application for such a permit.

(iv) a requirement that the Applicant provide to PBO within one month of executing the Agreement documentation confirming the Eligible Project was in fact part of a competitively-sited process where applicable. Documentation may include, but will not be limited to:

(A) documentation (correspondence or financial information) presented to the Applicant by other taxing jurisdictions; and

(B) results of a competitive site survey conducted by Applicant (or consultant for the Applicant).

Failure to provide this documentation confirming a competitively-sited process will make any Incentive Agreement null and void or subject to a reduction in Incentive, as determined by the Commissioners Court.

(v) a requirement for recapture of the Incentive received by Applicant for the last five (5) years of the Agreement if the Applicant fails by the termination date to fulfill the requirement for the total Investment amount and the total number of new jobs to be created.

(vi) other terms and conditions as required by applicable law.

28.009 OTHER PROVISIONS

(a) **Assignment.** An Incentive Agreement may be assigned to a new owner or lessee of a facility with the prior written consent of the Commissioners Court, which consent will not be unreasonably withheld. Any assignment shall provide that the assignee will irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the Agreement. Any assignment will be to an owner that continues the same improvements or repairs to the property (except to the extent such improvements or repairs have been completed), and continues the same use of the facility as stated in the original Agreement with the initial Applicant. No assignment will be approved if the assignor or the assignee is indebted to the County for past due ad valorem taxes or other obligations.

(b) **Amendments and Waivers.**

(i) **Policy Changes.** During the two-year period that this Policy is in effect, this Policy may only be amended by a Super Majority vote of the Commissioners Court.

??? NOTE: The statute governing tax abatement requires a $\frac{3}{4}$ vote of the members of the Court to change the policy, so this requirement is needed if the Policy is to include tax abatement.

(ii) **Agreement Changes.** Amendment of any Agreement entered into under this Policy can only be made by written instrument signed by all parties, and only so long as the terms and conditions of the amendment reflect provisions which could have been included in the original Agreement under this Policy and which meet all applicable statutory requirements. Submissions for amendments to an Agreement will be made in writing to PBO.

(iii) **Waivers of Policy Requirements.** The Commissioners Court reserves the right to waive any provision of this Policy that is not required by law upon determination that the waiver requested does not violate the purpose of the Policy and is in the best interests of the County. Granting of any such waiver will require a Super Majority vote of the Commissioners Court.

(c) **Application of Policy.** Application of this Policy will be implemented as of the effective date set forth in Section 28.010; however, the Commissioners Court may consider the terms of this Policy as guidelines in evaluating proposals for Incentives submitted prior to the adoption of this Policy as desired by the Commissioners Court.

28.010 **SUNSET PROVISION.** The guidelines and criteria set forth in this Policy are effective _____, 2012, and will remain in full force and effect for a two year period beginning on that effective date and continuing through _____, 2012.

POSSIBLE ADDITIONAL PROVISIONS:

1. **Findings.** An agreement cannot be entered into unless the Commissioners Court finds: that the terms of the Agreement and the Property subject to the Agreement meet the applicable guidelines and criteria set forth in this Policy; and that the development of the Project will result in substantial immediate and long-term financial benefit to Travis County and significant financial benefit to other taxing entities within Travis County. [from old policy]

2. **Commissioners Court Ownership.** Property that is owned or leased by a person who is a member of the Commissioners Court (or staff of such member) is excluded from abatement/rebate under this Policy, and the Applicant will warrant that none of the Property subject to the Agreement is owned or leased by such persons. [from old policy]

