

COUNCIL ACTION FORM

**SUBJECT: WORKIVA ECONOMIC DEVELOPMENT PROPERTY TAX EXEMPTION
INCENTIVE AGREEMENT**

BACKGROUND:

Workiva (formerly WebFilings) is a company that has developed an internet-based service to provide support for preparing and submitting documents required by the Securities and Exchange Commission (SEC), as well as other reporting products. Workiva has software development, sales and marketing support operations located in the ISU Research Park. Workiva has received economic development assistance for a project that included an additional 60,000 square foot building at the ISU Research Park, the addition of 700 new full-time positions, and designation of the Ames complex as the company's corporate headquarters.

To incentivize Workiva's jobs creation, the Iowa Economic Development Authority (IEDA) has agreed to provide \$5,500,000 in incentives to the company (\$500,000 in sales tax rebates, \$2,500,000 in the form of a no interest loan, and a \$2,500,000 grant). A condition of this financial package is that the City of Ames provides a tax abatement incentive totaling \$2,740,000 as a local match to the State funding. At the October 29, 2013 meeting, the City Council approved general terms of an agreement to provide a local match and directed City Staff to develop a contract that met the following terms:

- Provide a 100% tax abatement on the incremental value of the improvement of the new building for up to \$2,740,000 or ten years, whichever comes first.
- Require a minimum assessment agreement at a taxable value that will assure the required abatement incentive is provided in at least ten years. The assessed value could be higher or increase over the term of the agreement, but could not go lower.
- Include a provision that the property owner can not apply for or be eligible for other abatement programs during the term of the agreement for property included in the agreement.
- Include a commitment that employment in Ames will be increased by 700 full-time employees meeting the pay and benefits qualifications and time requirement (5 years to meet target) in the IEDA agreement.
- Make a commitment that Ames is designated as the Workiva headquarters.
- Include a provision that any abatement or reduction in property tax due to the provisions of the State of Iowa Property Tax Reform Bill of 2013 will be counted towards the maximum abatement amount.
- Include penalty provisions that will discontinue the property tax abatement if terms of the agreement (for example: job creation, continuation of operations

within Ames, and designation of Ames as the company headquarters) are not met.

- Require the payment of pro rata penalties to the City if job creation numbers are not met. (\$3,915 per job not created)

The agreement will also include other provisions typical of this type of incentive agreement.

City staff has worked out an agreement with Workiva that meets all of the basic terms set by the City Council. Council can now proceed with action to approve the local match requirements for the IEDA economic development assistance for business expansion in Ames.

ALTERNATIVES:

1. Approve an economic development property tax exemption agreement with Workiva in an amount not to exceed \$2,740,000 as a local match to IEDA economic development assistance.
2. Do not approve the agreement and refer this item back to staff.

MANAGER'S RECOMMENDED ACTION:

Workiva is a rapidly growing software company in Ames that is making a significant investment of capital to expand high paying jobs. In keeping with the Council's goal to promote economic development, this project will significantly expand the number of quality jobs within our City.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1 as described above.

**CITY OF AMES
ECONOMIC DEVELOPMENT
TAX EXEMPTION INCENTIVE
AGREEMENT
Workiva LLC**

ARTICLE 1.0 – GENERAL

1.1 Identification of Parties. This Agreement is entered into by and between the City of Ames, Iowa (hereinafter referred to as “City”) and Workiva LLC (hereinafter referred to as “Workiva”).

1.2 Statement of Purpose.

WHEREAS, as part of their policy to foster economic development, the City has adopted a program of financial assistance to selected business enterprises by means of property tax abatement made in accordance with the Code of Iowa § 15.332 Value-Added Property Tax Exemption; and

WHEREAS, Workiva has made application to the City for this property tax exemption; and

WHEREAS, Workiva has qualified and been approved for such property tax exemption and has agreed to the conditions of the receipt of such property tax exemption.

NOW, THEREFORE, the parties hereto, in consideration of the premises, do agree as follows.

1.3 Property Tax Abatement. The City agrees, upon the terms and conditions hereinafter set forth, to make abatement of property taxes to Workiva for improvement to property located at 2900 University Boulevard, Ames, Iowa for a period of ten years, or a total amount not to exceed \$2,740,000, whichever comes first, in order to assist in the financing of the project described in Article 2.2 of this agreement.

1.4 Reports. Workiva shall submit reports to provide verification of employment requirements for this agreement in the same manner as reporting to the Iowa Department of Economic Development related to employment levels at the Ames location.

ARTICLE 2.0 – WORKIVA’S PROJECT

2.1 Statement of Work and Services. Workiva shall perform in a satisfactory and proper manner, as determined by the City, the activities described in the approved application, Attachment “A” to this agreement. This attachment is hereby made a part of this agreement by reference.

2.2 Project Description. As more specifically described in Workiva's approved application to the City, the Project shall be:

To expand the software development and sales and customer support activities in Ames, Iowa, for newly developed Securities and Exchange Commission reporting products. This project will increase fulltime employment at the Ames, Iowa, site by 700 employees and designate the Ames site as the corporate headquarters.

2.3 Conveyance or Disposition of Project. Workiva shall not sell, transfer, convey, lease or otherwise dispose of the Project, or any part thereof, during the term of this agreement without the consent of the City.

ARTICLE 3.0 – TERMS OF THE PROPERTY TAX ABATEMENT

3.1 Maximum Amount of Abatement. It is expressly understood and agreed that the maximum amount of the property tax abatement to Workiva by the City shall be \$2,740,000.

3.2 Abatement Term. The City and Workiva agree that the term of the property tax abatement shall be the earlier of ten years or when the maximum amount of abatement is attained.

3.3 Determination of Abatement Amount. The records of the City Assessor and Story County Auditor will be used to determine the amount of the abatement under this agreement. The abatement under this agreement will be calculated on the base valuation for Workiva's property located at 2900 University Boulevard, specifically the 60,266 square foot addition generally referenced in the Property Record file of the Ames City Assessor as Phase II of the Workiva development. Any abatement or rollback in valuation for the property under the provisions of the State of Iowa Property Tax Reform passed by the Iowa Legislature in 2013 that is not reimbursed by the State of Iowa will be calculated against the maximum amount of abatement under this agreement.

3.4 Minimum Assessment Agreement. Workiva agrees that it shall execute a Minimum Assessment on the date of execution of this agreement in form and content to be mutually agreed, but substantially as set forth in Attachment B, which attachment is hereby made a part of this agreement by reference (the "Assessment Agreement"). The Assessment Agreement shall set forth the minimum value of the land and completed improvements on the land until the termination date specified therein. The agreement shall provide that the land and any improvements constructed by the Developer shall have an agreed taxable valuation of not less than \$13,036,647 by January 1, 2015, subject to the terms and conditions therein.

3.5 Application for Other Tax Abatement. During the term of this agreement, Workiva will not apply for and will not be eligible for any other property tax abatement programs for the property under this agreement. Workiva agrees to terminate the industrial abatement for the portion of the property described in this agreement.

3.6 Penalties. If, at the time of employment measurement by the Iowa Economic Development Authority approximately five years after the date of this agreement, Workiva has not met the employment requirement of 700 new fulltime employees, the abatement of property taxes will cease. If, at the end of the term of the agreement, a total of 700 fulltime equivalent positions of employment have not been created, a penalty of total abatement provided divided by 700, then times each promised job not created, will be imposed. If, during the term of this agreement, Workiva ceases operations in Ames or designates another location as the company headquarters, a penalty equal to the total amount of abated property taxes will be imposed.

ARTICLE 4.0 – ADMINISTRATIVE REQUIREMENTS

4.1 Accounts and Records. Workiva shall maintain books, records, documents and other evidence pertaining to all provisions of this agreement.

4.2 Inspection of Records. Any time during normal business hours, upon 24 hours notice by the City, and as frequently as is deemed necessary, Workiva shall make available to the City, for its examination, all of its records, contracts, payrolls, personnel records, conditions of employment and all other matters not covered by this agreement. The City's access to Workiva' records will be for the sole purpose and granted only to the extent necessary to verify compliance with this agreement.

4.3 Monitoring by City. The City shall have the right to make scheduled and unscheduled visits to Workiva in order to monitor project performance and compliance with this agreement. The City's access to Workiva' records will be for the sole purpose and granted only to the extent necessary to verify compliance with this agreement.

ARTICLE 5.0 – OTHER CONDITIONS

5.1 This agreement and other documents and agreements required by this agreement, when delivered hereunder or pursuant hereto, shall be legal, valid and binding obligations of Workiva and enforceable against Workiva in accordance with their respective terms.

5.2 Neither the execution, delivery or performance of this agreement, nor the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this agreement, conflict with or result in a breach of any of the terms, conditions or provisions of any restriction in any organizational document or any agreement or instrument to which Workiva is now a party or by which Workiva is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Workiva under the terms of any instrument or agreement, other than as provided in this loan agreement.

5.3 There is no litigation or proceeding pending, or to the knowledge of Workiva threatened, against Workiva affecting in any manner whatsoever the right of Workiva to execute this agreement or the other agreements required to be executed by Workiva under this agreement, or the ability of Workiva to pay the payments required hereunder or to otherwise comply with Workiva' obligations contained herein or therein.

5.4 Workiva will comply in all material respects with all applicable laws, rules, ordinances, regulations and orders, such compliance to include, without limitation, paying before the same become delinquent all taxes, assessments and governmental charges imposed upon Workiva or upon Workiva's property, except to the extent contested in good faith.

5.5 Workiva agrees that the City shall have no responsibility nor incur any expense for maintenance or preservation of the Project or for the payment of any taxes, assessments or other governmental charges assessed or levied with respect to the Project.

ARTICLE 6.0 – MISCELLANEOUS

6.1 Agreement Coverage.

- a. This instrument, and any referenced attachments hereto or documents referred to herein, contains the entire agreement between the parties and any statements, inducements or promises not contained herein shall not be binding upon said parties. This agreement shall be binding upon the successor in interest of the respective parties.
- b. If any of the provisions herein shall be in conflict with the laws of the State of Iowa, or shall be declared to be invalid by any court of record of this state, such invalidity shall be construed to affect only such portions as are declared invalid or in conflict with the law, and such remaining portion or portions of the agreement shall remain in effect and shall be construed as if such invalid or conflicting portion of such agreement were not contained herein.

6.2 Term of the Agreement. This agreement shall be in full force and effect from the date hereof and shall continue in effect so long as tax abatement is being provided.

6.3 Maintenance of the Project and Insurance. Workiva covenants that, so long as the loan is outstanding and unpaid, shall keep, or cause to be kept, the property in as good repair and condition, as same may be, or may be hereafter placed upon completion, ordinary wear and tear only excepted; and shall not suffer or commit waste or damage upon the property. In addition, Workiva may be required to keep in force insurance, premiums therefore to be prepaid without notice or demand, against loss by fire, tornado and other hazards, casualties and contingencies as the City may reasonably require on the property. Workiva may be required to deposit such policies with proper riders with the City.

6.4 Amendment of this Agreement. The City or Workiva may, during the duration of this agreement, deem it necessary to make alterations to the provisions of this agreement. Any changes to this agreement, which are approved by the City, shall be incorporated into this agreement. The provisions of the amendment shall be in effect as of the date of the amendment unless otherwise specified within the amendment. A waiver of any condition of this agreement must be in writing from the duly authorized official of the City.

6.5 Indemnity, Fees and Expenses.

- a. Except for any action involving negligence, willful misconduct or a breach of this agreement by the City, its officers, or employees, Workiva will indemnify and save harmless the City, its officers and employees from and against any and all losses, by it or them while it or they are acting in good faith to carry out the transactions contemplated by this agreement or to safeguard its or their interests or ascertain, determine or carry out its or their obligations under this agreement or any law or contract applicable to said transaction.
- b. Workiva shall, upon demand, pay to the City the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, which the City may incur in connection with the exercise or enforcement of any of the rights of the City hereunder, the failure by Workiva to perform or observe any of the provisions hereof, the collection of payments due under this agreement and any other reasonable expenses of the City related to the Project or this financing (including reasonable attorney's fees) which are not otherwise expressly required to be paid by Workiva under the terms of this agreement.
- c. Workiva agrees to pay all appraisal fees, survey fees, recording fees, license and permit fees and insurance premiums related to Workiva's Project.
- d. It is the intention of the parties that the City shall not incur pecuniary liability by reason of the terms of this agreement and Workiva shall indemnify and hold harmless the City (including any person at any time serving as an officer or employee of the City) against claims arising from the terms of this agreement, by or on behalf of any person, firm or corporation arising out of the same, and all costs and expenses incurred in connection with such claim; provided however, such claims do not arise out of the negligence, willful misconduct, or a breach of this agreement by the City, its officers or its employees. .

The obligations of the parties under this section shall survive the termination of this agreement.

6.6 Binding Effect; Governing Law. This agreement shall be binding upon and inure to the benefit of Workiva and the City, and their respective successors and assigns, except that Workiva shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the City. This agreement shall also inure to the benefit of the City. This agreement shall be governed by, and construed in accordance with, the laws of the State of Iowa.

6.7 Obligations of Workiva Hereunder Unconditional. The obligations of Workiva to make the payments required in Attachment “A” and other articles hereof, and to perform and observe the other agreements contained herein, shall be absolute and unconditional and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by the City of any obligation to Workiva, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to Workiva by the City and until such time as the principal shall have been fully paid or provision for the payment thereof shall have been made in accordance with the agreement. Workiva (i) will not suspend or discontinue any payments provided for in Attachment “A” hereof; (ii) will perform and observe all other agreements contained in this agreement; and (iii) shall not terminate this agreement for any cause, it being the intention of the parties that the payments required hereunder will be paid in full when due without any delay or diminution whatsoever.

6.8 Waivers. No waiver by the City of any default hereunder shall operate as a waiver of any other default or of the same default on a future occasion. No delay on the part of the City in exercising any right or remedy hereunder shall operate as a waiver thereof. No single or partial exercise of any right or remedy by the City shall preclude future exercise thereof or the exercise of any other right or remedy.

6.9 Additional Provisions. The following items or requirements are also agreed to:

- a. Workiva represents that it will take actions necessary, on a commercially reasonable efforts basis, to secure the accomplishment of the following benefits to the City:

To create 700 permanent jobs, after the contract date, in the city of Ames, Iowa, in addition to the current employee total.

6.10 Suspension and Termination of this Agreement.

- a. Suspension. If Workiva fails to comply with the conditions of this agreement, the City may, after notice to Workiva, suspend the agreement and withhold further payments or prohibit Workiva from incurring additional obligations of funds, pending corrective action by Workiva or a decision to terminate. The City may determine to allow such necessary and proper costs which Workiva could not reasonably avoid during the period of suspension.
- b. Termination for Cause. The City may terminate this agreement, in whole or in part, at any time before the date of completion whenever it is determined that Workiva has failed to comply with the conditions of the agreement. The City shall promptly notify Workiva in writing of the determination and the reasons for the termination, together with the effective date. Payments made to Workiva or recoveries by the City under agreements terminated for cause shall be in accord with the legal rights and liabilities of the parties. Payments and recoveries may include, but are

not limited to the following: payments may be allowed for costs determined to be in compliance with this agreement up to the date of termination, based on accepted audits.

6.11 Litigation. Workiva agrees to pay the costs of any litigation arising from the failure of Workiva to comply with this agreement. Furthermore, Workiva shall indemnify and save harmless the City from suits, actions or claim of any character brought for or on account of any injuries or damages received by any person or property resulting from operations of Workiva, or any persons working under it, carrying out the terms of this agreement.

6.12 Resolution of Disagreement. In the event of any disagreement between and the City relating to the requirements of this agreement, the decision of the City shall prevail. However, the City will consider reasonable proposals for alternative performance or payment deemed by the City to be of equal or greater value compared to the requirements of this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year last specified below.

WORKIVA LLC

CITY OF AMES, IOWA

By _____

By _____
Ann Campbell, Mayor

By _____

Attest _____
Diane R. Voss, City Clerk

Date _____

Date _____

CHAMBER OF COMMERCE

Approved as to Form:

By _____

Judy K. Parks, Ames City Attorney

Attest _____

Date _____

DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER

Prepared by: Judy K. Parks, Ames City Attorney, 515 Clark Ave., Ames, IA 50010; (515) 239-5146
Return recorded document to: Ames City Clerk, 515 Clark Ave., P.O. Box 811, Ames, IA 50010

WORKIVA LLC MINIMUM ASSESSMENT AGREEMENT

This Minimum Assessment Agreement is entered into this ____ day of _____, 2014, by and between the City of Ames, Iowa (hereinafter "City"), Workiva LLC, an Iowa corporation (hereinafter "Developer"), and the City Assessor for the City of Ames, Iowa (hereinafter "Assessor").

WITNESSETH:

WHEREAS, on or about _____, City and Developer have entered into a Economic Development Agreement with Tax Abatement Incentives and Project Development Requirements (the "Development Agreement") regarding certain real property located in City; and

WHEREAS, it is contemplated that pursuant to said Agreement, Developer will undertake the additional improvements of developed property within City within the Iowa State University Research Park (hereinafter referred to as "Property") which is described as follows:

Phase II of the Workiva (f/k/a Webfilings) development, and specifically, the 60,266 square foot building addition located generally at 2900 University Boulevard, Ames, Story County, Iowa

and

WHEREAS, pursuant to section 403.6 of the Code of Iowa, as amended, City and Developer desire to establish a minimum actual value for the improvements to be constructed or placed upon the Property by Developer pursuant to the Agreement, which shall be effective upon substantial completion of such improvements and from then until this Agreement is terminated pursuant to the terms herein and which is intended to reflect the minimum actual value of such improvements, exclusive of the value of the unimproved land; and

WHEREAS, City and the Assessor have reviewed the preliminary plans and specifications including the Developer's agreement applicable to the improvements contemplated to be erected.

NOW, THEREFORE, the parties to this Minimum Assessment Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. Upon substantial completion of construction of the improvements described in the Development Agreement for the Property, the Assessor shall establish a minimum actual taxable value for assessment purposes on the land and buildings that are constructed on said Property of at least **\$13,036,647.00**. This minimum assessment amount shall commence and be in effect by January 1, 2015, and shall remain in effect until January 1, 2025, or until the amount of property tax abatement that the property has received equals \$2,740,000, whichever occurs first.
2. Nothing herein shall be deemed to waive Developer's rights under Iowa Code section 403.6(19), as amended, to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Value established herein. In no event, however, shall Developer seek to reduce the actual value assigned below the Minimum Actual Value established during the term of this Agreement.
3. In the event that any portion of the Property is taken through the exercise of the power of eminent domain, the Minimum Actual Value shall be reduced by the same proportion as the value of the portion of such Property so taken bears to the value of such Property in its entirety immediately prior to such taking.
4. This Minimum Assessment Agreement shall be promptly recorded by Developer with the Recorder of Story County, Iowa. Developer shall pay all costs of recording.
5. Neither the preambles nor provisions of this Minimum Assessment Agreement are intended to, or shall be construed as, modifying the terms of the Development Agreement between City and Developer.
6. This Minimum Assessment Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their authorized representatives as of the date first above written.

CITY OF AMES, IOWA

WORKIVA LLC

By _____
Ann H. Campbell, Mayor

By _____

Attest _____
Diane R. Voss, City Clerk

By _____

STATE OF IOWA, STORY COUNTY ss:

STATE OF IOWA, COUNTY OF STORY, ss:

On this _____ day of _____, 2014, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell and Diane R. Voss, to me personally known, and, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Resolution No. _____ adopted by the City Council on the _____ day of _____, 2014, and that Ann H. Campbell and Diane R. Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

This instrument was acknowledged before me on _____, 2014, by _____ and _____, as _____ and _____, respectively, of Workiva LLC.

Notary Public in and for the State of Iowa

Notary Public in and for the State of Iowa

CERTIFICATE OF ASSESSOR

The undersigned, having reviewed the plans and specifications for the improvements to be constructed upon the land described in the Development Agreement, and the market value assigned to such improvements, and being of the opinion that the minimum market value contained in the foregoing Minimum Assessment Agreement appears reasonable, hereby certifies as follows: The undersigned Assessor, being legally responsible for the assessment of the Property as described above, upon completion of improvements to be made on it and in accordance with the Minimum Assessment Agreement, certifies that the actual value assigned to land, building, equipment and other improvements shall be thirteen million thirty six thousand six hundred forty-seven dollars (\$13,036,647.00), until termination of this Minimum Assessment Agreement pursuant to the terms hereof.

Date: _____, 2014

Gregory P. Lynch, Ames City Assessor

STATE OF IOWA, COUNTY OF STORY, ss:

On this _____ day of _____, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Gregory P. Lynch, Ames City Assessor, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

Notary Public in and for the State of Iowa