

ORDINANCE NO. 18-01-04-03

AN ORDINANCE OF THE CITY OF LAGO VISTA, TEXAS, ESTABLISHING A COMPREHENSIVE ECONOMIC DEVELOPMENT POLICY AND PROGRAM FOR ECONOMIC DEVELOPMENT ACTIVITIES FOR THE CITY AS AUTHORIZED BY SECTION 380.001, TEXAS LOCAL GOVERNMENT CODE; PROVIDING FOR AN EFFECTIVE DATE; PROPER NOTICE AND MEETING; SEVERABILITY AND REPEALER.

WHEREAS, the City Council of the City of Lago Vista (“Council”) seeks to adopt a comprehensive set of policies and procedures to enhance its economic development efforts pursuant to Chapter 380, Texas Government Code; and

WHEREAS, the City of Lago Vista (“City”) is committed to promoting high quality development within the City boundaries and in the extraterritorial jurisdiction (“ETJ”) of the City; and

WHEREAS, the City is committed to improving the quality of life of its citizens and community as generally described in the City Comprehensive Plan, as it may be amended from time to time; and

WHEREAS, the City has previously developed economic development programs and incentives designed to encourage high quality business and commercial interests to locate, remain and expand in the City; and

WHEREAS, the City seeks to enhance its economic development efforts to attract and retain high quality development and jobs by establishing these Chapter 380 Economic Development Program Policies and Procedures; and

WHEREAS, any agreement between the City and an applicant pursuant to these policies and procedures shall insure that the public interest is protected and that a public benefit is received in exchange for any public funds, assets or services invested by the City to stimulate economic development in the City;

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

A. Purpose and General Information

These policies and procedures are established in an effort to develop and expand the local economy by promoting and encouraging development and redevelopment projects that enhance the City’s economic base and economic diversity, and expand job opportunities. The goal and public purpose of a program established pursuant to these policies and procedures is to promote state or local economic development and to stimulate commercial activity in the municipality.

In furtherance of these objectives, the City will, on a case-by-case basis, give consideration upon request to providing economic incentives to applicants in accordance with these policies and procedures, as authorized by Chapter 380 of the Texas Government Code, as may be amended from time to time. These policies and procedures are not intended to obligate the City to provide economic incentives to any applicant. The decision whether to approve or deny economic incentives for any applicant shall be at the discretion of the Council; no program or agreement is effective unless and until it is approved by the Council.

Nothing in these policies and procedures, the application process, or the negotiation process creates any property, contract or other legal right in any person to have the Council consider or grant incentives. Nothing in these policies and procedures, the application process or the negotiation process creates any vested right in any person.

A failure on the part of the City to strictly comply with these policies and procedures shall not be the basis for invalidating a program or agreement approved by the Council. These policies and procedures are intended as guidelines for negotiation purposes.

Chapter 380 of the Texas Local Government Code does not define the term “program.” The City defines the term “program” to include any project that receives incentives, singularly or in some combination, pursuant to Chapter 380 of the Texas Local Government Code, as embodied in an agreement between the City and applicant. The term “program” includes these policies and procedures.

B. Minimum Program Requirements

To be considered for incentives as a Chapter 380 Economic Development Program under these policies and procedures, a project must meet the following minimum requirements:

- (1) Either the project
 - (a) will result in an increased taxable value for the City in real property taxes and/or increased sales and use tax (excluding inventory and supplies);
 - (b) is determined by the City Council to bring benefit to the City in that it will make a unique contribution to the development efforts in the City, due to its magnitude, significance to the community or aesthetic quality; or
 - (c) will result in increased jobs in the City.
- (2) Incentives established under a program will be provided only to the extent that the public benefit or amount of revenue realized by the City and attributable to a program is commensurate with the value of any incentives granted in the agreement.

C. Additional Considerations

Additional factors to be considered by the City Council in determining whether to approve an agreement for incentives for a Chapter 380 Economic Development Program may include:

- (1) the amount of sales and use tax generated;
- (2) the number and types of jobs to be created or retained;
- (3) enhancement of public roads and/or other public infrastructure desired by the City;
- (4) substantial compliance with current ordinances when otherwise possibly exempt;
- (5) voluntary agreement to annex the project or substantial portions thereof;
- (6) applicant waives any rights it may have to develop under prior development agreement or grandfathered ordinances;
- (7) the financial capacity of the applicant to undertake and complete the proposed program;
- (8) other incentive programs for which the applicant has applied, qualified for or received;
- (9) the market conditions and growth potential for the business activity; and
- (10) any other factors the Council finds helpful and relevant to accomplishing the City's economic development objectives as stated herein or as stated in other City resolutions, policies, rules, regulations or ordinances.

D. Application Process

- (1) A written application for consideration as a program shall be submitted to the City Manager. An applicant shall be required to provide additional information, beyond what is provided in the application, to show compliance with minimum program requirements. If the City Manager determines the application meets the minimum program requirements, the application shall be presented to the City Council.
- (2) The Council may appoint a negotiation team consisting of the City Manager and two members of the City Council to negotiate a proposed agreement with the applicant. During the course of negotiation, the City Manager shall keep the Council informed as to the progress of negotiations.

- (3) The Council may consider the proposed agreement and may take action on the proposal as it deems appropriate. The Council is in no way bound by the terms negotiated by the team and included in the proposed agreement. No item negotiated by the team may bind the City.
- (4) Any agreement negotiated by the City Manager and the two Council members shall not be effective unless it is approved by the City Council.

E. Agreement Terms and Conditions

An agreement established for a program may include any or all of the following:

- (1) a list of the kind of improvements or development that the program will include and a related timetable;
- (2) conditions to assure the program meets or exceeds the City's requirements pertaining to property values and revenues, which in no event shall be less than the minimum program requirements established herein;
- (3) a complete description of the location of the proposed program;
- (4) a description of the kind and amount of property values, sales and use taxes, revenues, incomes or other public benefits the program will provide and a related timetable;
- (5) a provision establishing the term or duration of the agreement;
- (6) a provision identifying the method for calculating and the source of funding for any incentives provided by the City in the agreement, as well as the legal authorization for the expenditure or action;
- (7) a provision establishing a method for measuring whether the applicant and any related parties have met their obligations under the agreement;
- (8) a provision providing for access to and inspection of applicant's property, business or financial records by City employees or agents in order to determine compliance with the agreement;
- (9) a provision for cancellation of the agreement and/or nonpayment of incentives if the program is determined to be in noncompliance with the agreement;
- (10) a provision for early payment of the agreement once complete compliance has been established;
- (11) a provision for recapturing City incentives including, but not limited to, grants, rebates and loans, if the applicant does not comply with the terms of the agreement;
- (12) a provision that applicant will comply with all ordinances in effect at the time of the agreement, unless otherwise provided in the agreement, as allowed by law and/or City ordinance;
- (13) a provision that the program will substantially adhere to the goals and objectives of the City's Comprehensive Plan;
- (14) any other provision the Council deems appropriate; and
- (15) annexation, if the program is outside the corporate limits of the City.

F. Miscellaneous Requirements

- (1) Before any incentive, in the form of a grant or loan, is provided to an applicant, the Council shall provide for the same in the original City budget or pursue a budget amendment. Such budget action does not have to occur prior to executing an agreement but must occur before an incentive is actually provided to an applicant.
- (2) Before any incentive is offered at a reduced or no-cost basis, the City shall review any bond documents, debt instruments, grant agreements or similar instruments that may have been executed with regard to those incentives to analyze whether such incentive is permitted.
- (3) Incentives, in the form of a grant or loan, may be withheld until the first anniversary of the date of the opening of the business or development or in lieu thereof, a bond may be required to guarantee completion of any public improvements.
- (4) The City may require the applicant to provide copies of financial records upon which any incentive is based and/or allow the City to audit such financial records.

G. Recitals

The Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the Council hereby incorporates such recitals as part of this Ordinance.

H. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

I. Proper Notice and Meeting

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code and as required by Chapter 52 of the Texas Local Government Code.

J. Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional

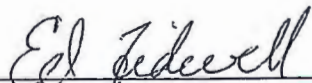
by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

K. Repealer

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.


PASSED AND APPROVED by the City Council of the City of Lago Vista, Texas this 4th day of January, 2018.





Ed Tidwell, Mayor
City of Lago Vista, Texas

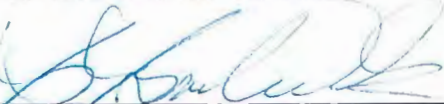
ATTEST:



Sandra Barton, City Secretary
City of Lago Vista, Texas

(SEAL)

APPROVED AS TO FORM:



Barbara Boulware-Wells, City Attorney
City of Lago Vista, Texas