

RESOLUTION NO. 03-15-2022

A RESOLUTION ESTABLISHING POLICIES AND PROCEDURES FOR GRANTING CHAPTER 380 ECONOMIC DEVELOPMENT INCENTIVES IN THE CITY OF GAINESVILLE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS FINDING.

WHEREAS, the creation and retention of job opportunities that bring new wealth is the highest civic priority; and

WHEREAS, the City of Gainesville chooses to provide Chapter 380 Economic Development Incentives to encourage economic development in our community; and

WHEREAS, new jobs and investment will benefit the area economy, provide needed opportunities, strengthen the real estate market and generate tax revenue to support local services; and

WHEREAS, the City of Gainesville must compete with other localities across the nation currently offering tax inducements to attract new industry and industry modernization projects; and

WHEREAS, any incentives offered in the City of Gainesville would reduce needed tax revenue unless strictly limited in application to those new and existing developments that bring new wealth to the community; and

WHEREAS, Chapter 380 Economic Development Incentives, when offered to attract primary jobs in industries which bring dollars from outside the community instead of merely recirculating dollars within a community, has shown to be an effective method of enhancing and diversifying an area's economy; and

WHEREAS, Chapter 380 Economic Development Incentives can encourage businesses to invest in public infrastructure that will allow the City to continue to grow.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GAINESVILLE, MEETING IN REGULAR SESSION:

Section 1. Findings of Facts.

A. Recitals are incorporated into the resolution and are findings are fact.

Section 2. Approval of Guidelines and Criteria for Granting Chapter 380 Economic Development Incentives.

The City Council of the City of Gainesville hereby approves the Chapter 380 Economic Development Program Policies and Procedures, attached as "Exhibit A".

Section 3. Election to Become Eligible to Participate in Chapter 380 Economic Development Incentives

The City Council of the City of Gainesville hereby elects to become eligible to participate in Chapter 380 Economic Development Incentives.

Section 4. Severability.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this resolution are severable, and, if any phrase, clause, sentence, paragraph or section of this resolution 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 and sections of this resolution, since the same would have been enacted by the City Council without the incorporation in this Resolution of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. Effective Date.

This resolution shall be in full force and effect after its approval.

Section 6. Open Meeting Finding.

That it is hereby officially found and determined that the meeting at which this Resolution is passed and open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

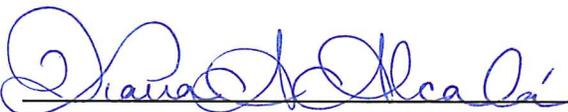
PASSED AND APPROVED THIS 15th DAY OF MARCH 2022 BY THE FOLLOWING VOTES:

 4 AYES, 0 NAYS, 3 ABSENT, 0 ABSTENTIONS



KEN KEELER, MAYOR PRO TEM

ATTEST:



DIANA ALCALA, CITY SECRETARY



Exhibit A
Chapter 380 Economic Development Program
Policies and Procedures

I. General Statement of Purpose and Policy

The City of Gainesville is committed to the promotion of high quality development in all parts of the City and to an ongoing improvement in the quality of life for its citizens. 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 a higher quality of life, diversify and expand job opportunities, create developable property by the removal of blight or increasing the capacity of city infrastructure, increase occupation buildings that have not had an occupant in several years, or encourage projects that create additional revenue for the city. The ultimate goal and public purpose of programs established hereunder is to protect and enhance the City's fiscal ability to provide high quality municipal services for the safety, comfort and enjoyment of Gainesville residents. Insofar as the enhancement and expansion of the local economy generally serve these objectives, the City of Gainesville will, on a case-by-case basis, give consideration of economic incentives to applicants in accordance with these Policies and Procedures as authorized by Chapter 380 of the Texas Local Government Code, as amended from time to time.

Nothing in this document is intended to imply or suggest that the City of Gainesville is under any obligation to provide economic incentives to any applicant. The decision to approve or deny economic incentives shall be at the discretion of the City Council. Each applicant granted economic incentives as a Chapter 380 Economic Development Program (also referred to as "Program") under these Policies and Procedures must enter into an agreement with the City of Gainesville containing all terms required by these Policies and Procedures and by state law to protect the public interest of receiving a public benefit in exchange for public funds, assets, and services.

II. Program Requirements

To be considered for incentives as a Chapter 380 Economic Development Program under these Policies and Procedures, a project must at least fulfill one of the following minimum requirements:

1. The project will:
 - a. Result in a minimum increased taxable value for the City of Ten Million Dollars (\$10,000,000) in real and/or business personal property; or
 - b. Result in a minimum increased taxable value to the City of \$400,000 in real and business personal property (excluding inventory and supplies) in the Central Area Commercial District as defined in the City's Zoning Code; or

- c. Generate an amount of municipal sales tax with a single location that, on an annual basis, ranks the facility in the top 10 sales tax generators in the City as determined by the most recently available sales tax report; or
 - d. Provide employment opportunities for City residents where a majority of the available positions are offered at an average hourly wage that is at least \$40,000 per year; or
 - e. Is specifically determined by resolution of the City Council to bring benefit to the City consistent with the General Statement of Purpose and Policy as stated in Paragraph I above.
2. In addition, the City Council shall determine in the Resolution adopting the Agreement that the project:
 - a. Will make a unique or unequaled contribution to development or redevelopment efforts in the City of Gainesville, due to its magnitude, significance to the community, or aesthetic quality; or
 - b. Makes a significant contribution to the City of Gainesville's Goals that are adopted on an annual basis; or
 - c. Will enhance the City's fiscal ability to provide high quality municipal services for the safety, comfort, and enjoyment of Gainesville residents.
 3. A Project shall not be eligible for incentives under these Policies and Procedures if a building permit has been issued for the project prior to making application in accordance with these Policies and Procedures.
 4. Incentives provided in accordance with these Policies and Procedures will be provided only to the extent that the revenue realized by the City and attributable to a project exceeds a minimum amount established by the Agreement. The public benefit or amount of revenue realized by the City and attributable to the project must be commensurate with the value of any incentives granted under this program.

III. Additional Considerations

Additional factors that can be considered by the City Council in determining whether to authorize an Agreement for incentives as a Chapter 380 Economic Development Program are:

1. The number and types of jobs to be created or retained;
2. The financial capacity of the applicant to undertake and complete the proposed project;
3. The extent to which the project constructs public infrastructure;
4. The funding is based on a reimbursement from increased sales and/or property taxes.
5. Other incentives programs for which the applicant has applied or is qualified;
6. The market conditions and growth potential for the business activity;
7. The project's contribution of a service of good that will decrease the likelihood that citizens will travel to other communities to purchase that service or good;
8. The Project's contribution to the diversification of the Gainesville economy;
9. Whether the project makes a financial contribution beyond minimally established requirements that fulfills a strategic priority as determined by the City Council;

10. Any other factors that City Council finds helpful or relevant to accomplishing the City's economic development objects.

IV. Application Process

1. An application for consideration as a Program shall be made on forms supplied by the City. An applicant may be required to provide additional information to show compliance with minimum Program requirements. If City staff determines minimum Program requirements have been met, City staff may prepare and present a proposed Agreement with the application to the City Council.
2. The City Council may consider the proposed Agreement and may take action on the proposal as it deems appropriate. Nothing in these Policies and Procedures and nothing in the application form and process shall create any property, contract, or other legal right in any person to have the City Council consider or grant incentives.

V. Agreement Terms

An Agreement established for a program must include:

1. A timetable and list of the kind of improvements or development that the Program will include and conditions to assure that 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 in Paragraph II above;
2. A complete description of the location of the proposed Program or projects included in the Program;
3. A timetable and list of the kind and amount of property values, revenues, incomes, or other public benefits that the proposed Program will provide;
4. A provision establishing the duration of the Agreement;
5. A provision detailing a limit on the value of any rebates and/or grants of funds for the duration of the Agreement;
6. A provision identifying the method for calculating and sourcing the funding for any grant, loan, or other incentives provided in the Agreement;
7. A provision providing a tangible means for measuring whether the applicant and other responsible parties have met their obligations under the Agreement;
8. A provision providing for access to and authorizing inspection of the property and applicant's pertinent business records by municipal employees in order to determine compliance with the Agreement;
9. A provision detailing monitoring and reporting requirements of the Owner;
10. A provision for cancellation of the Agreement and/or nonpayment of incentives if the Program is determined to not be in compliance with the Agreement;
11. A provision for recapturing City funds granted or loaned, or for recapturing the value of other public assets granted or loaned, if the applicant does not meet its duties and obligations under the terms of the Agreement;

12. A provision that allows assignment of the Agreement with prior written approval of the City Council, or without the prior written approval of the City Council provided that:
 - a. All rights, duties, obligations and liability's under the Agreement are assigned from the assignor to the assignee; and
 - b. The assignment is made subject and subordinate to the Agreement and the Chapter 380 Economic Development Program Policies and Procedures; and
 - c. The assignment document is in a form and contain content acceptable to the City Attorney's Office.
13. Provisions relating to administration, delinquent taxes, and indemnification; and
14. A provision that the Agreement may be amended by the parties to the Agreement by using the same procedure for approval as is required for entering into the Agreement; and
15. Such other provisions as the City Council shall deem appropriate.