

**TOWN OF ADDISON, TEXAS**

**RESOLUTION NO. R11-011**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING POLICIES AND PROCEDURES FOR AN ECONOMIC DEVELOPMENT PROGRAM PURSUANT TO AND IN CONNECTION WITH POTENTIAL ECONOMIC DEVELOPMENT INCENTIVES UNDER CHAPTER 380, TEXAS LOCAL GOVERNMENT CODE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Addison, Texas ("City") is a home rule municipality possessing the full powers of local self government pursuant to Article 11, Section 5 of the Texas Constitution and its Home Rule Charter; and

**WHEREAS**, Chapter 380 of the Texas Local Government Code ("Chapter 380"), in accordance with Article 3, Section 52-a of the Texas Constitution, authorizes municipalities to establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

**WHEREAS**, the City Council of the City desires to establish a program by which the City might, in its sole discretion, provide incentives to promote economic development and to stimulate business and commercial activity within the City as authorized by Chapter 380, including guidelines for the making of grants and loans by the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

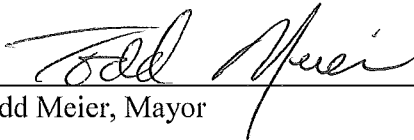
Section 1. Incorporation of Recitals. The above and foregoing recitals are true and correct and are incorporated herein and made a part of this Resolution for all purposes.

Section 2. Chapter 380 Program Policies. The "Chapter 380 Economic Development Program Policies and Procedures," attached hereto as Exhibit A (the "Chapter 380 Policies"), is hereby approved and adopted. The Chapter 380 Policies are subject to applicable provisions of the Texas Constitution, State law, and the City Charter. The Town of Addison, Texas ("City") is not obligated, and nothing in the Chapter 380 Policies shall imply or suggest, that the City is under any obligation to provide any incentive to any person, entity, or applicant. The purpose of the Chapter 380 Policies is to establish guidelines for providing economic development incentives; notwithstanding, however, the City Council retains the right to take any action allowed by law without the necessity of amending the Policies. The Chapter 380 Policies shall superseded any general policies regarding Chapter 380 incentives previously adopted by the City Council.


Section 3. Documents. The City Staff is authorized to create and develop such applications, forms, and other documents and information as may be needed to implement the Chapter 380 Policies.

Section 4. Effective Date. This Resolution shall take effect upon its passage and approval.

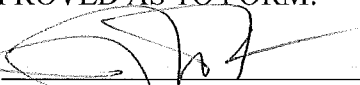
**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this the 9th day of August, 2011.

  
\_\_\_\_\_  
Todd Meier, Mayor

ATTEST:

By:   
\_\_\_\_\_  
Chris Terry, City Secretary

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
John Hill, City Attorney

## EXHIBIT A TO RESOLUTION NO. R11-011

### Town of Addison, Texas Chapter 380 Economic Development Program Policies and Procedures

#### General Overview

Chapter 380 of the Texas Local Government Code (“Chapter 380”) authorizes the Town of Addison, Texas (“City”) to establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the City. These Chapter 380 Economic Development Program Policies and Procedures (“Policies”) are established in accordance with Chapter 380.

The City desires to promote and retain high quality development and to improve the quality of life for its citizens. These Policies are established in an effort to develop and expand the local economy by promoting and encouraging development and redevelopment projects, including promoting employment opportunities, that enhance the City’s economic base and have a positive impact on the strategic economic development of the community. 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 the City’s residents.

In connection with these objectives, the City may, on a case-by-case basis, give consideration to providing incentives, including grants and loans of monies and lending of personnel and services, to promote economic development in the City in accordance with the procedures and criteria outlined herein. Incentives will be evaluated based on the type of industry, job creation, wages and benefits to be provided to new employees, capital investment, potential for growth, and strength of the applicant. Nothing herein shall imply or suggest that the City is under any obligation to provide any incentive to any applicant, and the City has full and absolute discretion whether or not to provide a loan, grant or other incentive under these Policies. All applicants pursuant to these Policies shall be considered on a case-by-case basis. These Policies shall serve as a guide for Chapter 380 incentives that may be considered by the City.

Each applicant granted an economic incentive pursuant to these Policies must enter into an agreement with the City containing all terms required by these Policies, by state law, and by such other terms as the City may require, to protect the public interest of receiving a public benefit in exchange for public funds, assets and services invested to stimulate economic development in the City.

#### Incentive Criteria

- A. *Minimum Criteria for Business Relocation, Retention, and Expansion Projects.*

1. In addition to other provisions of these Policies, a proposed project under these Policies that involves the relocation, retention, or expansion of a business must meet the following minimum criteria:

- Create a minimum of 20 new full-time jobs within the first year of operation.
- If the business will lease premises in connection with a project, the lease must be of a minimum of 10,000 square feet of class A or class B space.
- The business must make a minimum \$1,000,000 capital investment in real property or in business personal property (or combination of real property and business personal property).
- Average wages paid to all employees whose employment is at the site of the project must be greater than the average wage for Dallas County for all industries during the term of an agreement hereunder.
- The business must provide a competitive employee benefits program.
- The business must be within one of these targeted areas:
  - Headquarters for small and/or medium size enterprises
  - Creative Services (marketing, media production, architectural firms, etc.)
  - Information Technology
  - Back office for administrative and professional services
  - Aviation-related industries
  - Healthcare
  - Small, fast-growing firms (entrepreneurship across sectors)
- The business must demonstrate strength (years in business, growth sector, Fortune magazine rankings), and promote positive business ethics.

2. In addition to the criteria listed above, the City will give consideration to projects where the business will commit to utilize the Addison Airport by establishing the business's flight department (if any) at the Airport or commit to utilize services provided by tenants of the Airport.

3. Business Retention and Expansion Projects will be evaluated on a case by case basis taking into account the investment a business has made in the community, strength of the company, and categorical determination of targeted industry sector.

4. Businesses seeking to tap into incentives for expansion, must demonstrate that the actual incentive is a catalyst for their expansion and/or that the incentive will help maintain their presence in Addison.

5. Expansion projects will only be considered if such expansion is within the business's existing location or additional space is acquired elsewhere in the community in addition to the existing space, unless (i) in instances where the business leases its existing location, the landlord cannot accommodate the planned space expansion with space that is reasonably adjacent to the existing location, or (ii) in instances where the business owns fee simple title to its existing location, the expansion cannot be reasonably accommodated within the existing location. If a relocation is necessary as a result, the business must lease or otherwise acquire space that is larger and of the same or of higher quality than its existing space.

B. *Minimum Criteria for Redevelopment Projects*

1. In connection with and as part of a proposed project under these Policies that involves the relocation, retention, or expansion of a business, the City will consider support to such businesses where the business's investment focuses on the redevelopment of aged buildings or structures or land sites with existing buildings or structures. The intent is to increase the value of the property, the overall aesthetics, and to optimize land-use.

A redevelopment project under these Policies will focus on the potential impact as described in part A of this Incentive Criteria above in addition to the total capital investment proposed by the project to address financing gaps. The City, through the City Manager and the Director of Economic Development, may negotiate (subject to City Council approval) reimbursement to a business of up to 50% of a business's capital costs of such redevelopment if a project meets a majority of the following criteria:

- The project will result in an increase of a minimum 10% of real property taxes annually.
- The project addresses a public nuisance.
- The project will help attract higher quality tenants.
- The project developer agrees to pass savings to future tenants through competitive market lease rates.
- The project enhances overall aesthetics of the immediately surrounding area.
- The project results in major transformation which results in abiding to current building codes.
- The project results in Leadership in Energy and Environmental Design (LEED) (or LEED equivalent) certification.

C. *Other Criteria*

In addition to the criteria set forth above and other provisions of these Policies, the following are applicable to a proposed project and will be considered by the City in connection therewith:

1. Company History. The City strongly believes in fostering a local business community that upholds a strong business ethical culture. Business looking at securing financial support from the City must demonstrate that they are in good standing with the Texas Secretary of State, the Texas Comptroller of Public Accounts, and are current on payment of business property and real property taxes. A company must also demonstrate a positive historical trend in these areas over the last five years.

2. Job Creation. To be considered for an incentive from the City under these Policies, a business must create a minimum of 20 new full-time equivalent jobs in the City. Redevelopment projects must indicate and establish how the project will lead to such increased jobs.

3. Average Wages. The City desires the creation of quality jobs in the community. For this reason, in evaluating a proposed project, the City will consider whether or not the project will create good-paying jobs with competitive benefit packages. In addition to creating a minimum of 20 new full-time jobs, a business's average wage for such new jobs must be above

the average Dallas County wage for all industries. For headquarter locations, the wage of the company's principal (e.g., chief executive officer) will not be taken into consideration in calculating the average wage unless the principal maintains full-time residence in Addison.

4. Capital Investment. To be considered for an incentive hereunder, a project must include an investment of a minimum of \$1,000,000 in business personal property or real property within the City (or a combination of business personal property or real property). If a project includes a capital investment of over \$5,000,000 in business personal property or real property (or a combination of business personal property and real property), the City may consider waiving some of the other criteria requirements listed above.

5. Discretionary Evaluation: At the City Council's discretion, the City may waive some of the criteria described in parts A and B of this Incentive Criteria above if a project not only generates a positive economic impact in the community but also has a credible impact on the quality of life of the citizens.

### **Incentive Calculation**

An incentive pursuant to these Policies may only be made in one or more of the following categories:

- Relocation assistance: assistance for every 1,000 square feet of leased with a minimum of 10,000 square feet.
- Job creation assistance: incentive only for full-time equivalent jobs with higher than average wages above the Dallas County wages for all industries.
- Capital investment assistance: a minimum of \$1,000,000 investment in real property or business personal property (or a combination of real property and business personal property) must be made.

An agreement entered into pursuant to these Policies will include a full reimbursement or "claw-back" clause in the agreement for the first three years of the agreement. The reimbursement or claw-back may cease following the first three years of operation or may be extended depending on the level of award, proposed corporate investment, and job creation schedule.

### **Process; Miscellaneous**

A. In order to be considered for an incentive pursuant to these Policies, a business must submit a completed Incentive Request Form (to be prepared by City Staff). The City may require such information in connection with such Form as the City may deem appropriate or necessary.

B. An initial offer or offers to provide an incentive to a business will be for discussion and negotiation purposes only. The same is and will be only an offer and an agreement to negotiate, and is expressly conditioned upon and subject to the City and a business entering into a definitive written agreement regarding the incentive and related matters. All such agreements must be approved by the City Manager and City Council upon a recommendation by the Director of Economic Development.

C. The City Council may consider a proposed agreement pursuant to these Policies and may take action on the proposal as it deems appropriate in its sole and absolute discretion. Nothing in these Policies and nothing in the application form and process shall create any property, contract, or other legal right in any person or entity to have the City Council consider or grant any incentive.

D. A project is not eligible for an incentive under these Policies if a building permit has been issued for the project prior to making application in accordance with these Policies.

E. The City may include and require in any agreement with a business pursuant to these Policies such other conditions, terms and provisions as the City may determine are appropriate or necessary.