



**City of Sealy, Texas**  
**Chapter 380 Economic Development Incentive Policy**

**Approved by City Council: August 30, 2016**

# **City of Sealy, Texas**

## **Chapter 380 Economic Development Incentive Policy**

### **I. Purpose & Policy**

The City of Sealy 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. The City of Sealy desires to encourage business, commercial, and manufacturing facilities to locate, remain, and expand in the City of Sealy. Nestled at the crossroads of Interstate 10 and Highway 36, and main lines of the BNSF Railroad and the Union Pacific Railroad, Sealy is the economic hub of Austin County and the largest city in Austin County. Our prime location allows quick access to major metropolitan areas and key transportation corridors while providing a relaxing, semi-rural atmosphere for individuals and families.

This policy is established in an effort to develop and expand the local economy by:

- (a) promoting and encouraging development and redevelopment projects that enhance the City's economic base; or
- (b) diversify and expand job opportunities; or
- (c) by promoting and encouraging projects that create additional revenue for the city without substantially increasing the demand on City services or infrastructure.

The primary purpose of Economic Development Incentives is to make funds available for offering financial incentives in the form of economic development grants and/or loans in accordance with Chapter 380 of the Local Government Code to companies seeking to create or retain jobs and invest in Sealy. In furtherance of these purposes, the City of Sealy will, on a case-by-case basis, give consideration to providing economic incentives to applicants in accordance with this policy.

Nothing in this document is intended to imply or suggest that the City of Sealy is under any obligation to provide economic incentives to any applicant. All applicants shall be considered on a case-by-case basis. 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 Project under this policy must enter into an agreement with the City of Sealy containing all terms required by the policy and by state law to protect the public interest of receiving a public benefit in exchange for public funds, assets, and services invested to stimulate economic development in Sealy, Texas.

The City of Sealy may amend this document and any attachments from time to time. Any project submitted must receive approval by the Sealy City Council prior to incentive award. A project shall be ineligible for incentives if a building permit has been issued for the project prior to making application.

## **II. Program Requirements**

When considering an application for incentives as a Chapter 380 Economic Development program, the City Manager or his/her designated person may use the following key considerations as criteria for decision making including the following:

- Does the project create and/or retain jobs.
- Does the project promote or create new or expanded industry and manufacturing activity.
- What is the capital investment to be made by the business enterprise.
- What is the reputation of the applicant and applicant's goods or services.
- Are there competing sites.
- Does the business capture dollars from outside the community.
- Does the project contribute to the place-making and character of Sealy.
- How does the project impact the City's infrastructure and the costs associated with the project.
- What are the public improvements associated with the project.
- Does the project generate sufficient property and sales taxes to contribute to the overall economy of the City.
- Does the project require real and/or personal property acquisition and site development.
- Does the project entail restoration or adaptive reuse of existing structures associated with retaining and/or creating jobs.
- What are the facility construction and/or real property improvements associated with the project.
- Does the project require ongoing operation and maintenance resources from the City of Sealy.
- Any additional criteria determined appropriate for meeting objectives of economic development.

## **III. Application Process**

An application for consideration shall be made on forms supplied by the City. An applicant may be required to provide additional information. The City Manager or his/her designee shall present a proposed Agreement with the applicant to the City Council.

The City Council may consider the proposed Agreement and may take action on the proposal as it deems appropriate. Nothing in this policy or in the application form and process shall create any property, contract, or other legal right for any person to have the City Council consider or grant incentives.

#### **IV. Target Developments and Industry**

The City of Sealy seeks to attract and retain quality, sustainable businesses and amenities that maintain and enhance Sealy's charm and qualities. Strong consideration will be given to projects that:

- Bring new capital investment and sales tax revenue into the City;
- Improve the city's infrastructure and contribute to the place making and character of Sealy;
- Target developments and industries including industrial, manufacturing, retail, hospitality, and office.

#### **V. Performance Criteria**

Performance measures will be customized to the incentive. Depending on the incentive, qualifying companies may be required to enter into a mutually accepted performance agreement based on capital investment and/or local annual sales tax generation and maintain a physical location and conduct business in the City of Sealy for a specified period of time.

#### **VI. Recapture Provisions**

All Economic Incentive Agreements will include a provision for recapture of all City financial incentives, grants and loans, in the event Agreement terms and requirements are not met. These recapture provisions will survive any subsequent assignment, if any, of the Agreement.

#### **VII. Confidentiality**

In order to perform an adequate cost-benefit analysis of each incentive request, the City of Sealy requests thorough information regarding the economic attributes of each Project. This information is used in the strictest sense to evaluate the potential incentive investment being considered by the City and will be treated as confidential.

While government documents are subject to the provisions of the Texas Open Records Act and other regulations pertaining to transparency in government, certain exceptions may apply to information used in Economic Development negotiations. Information that is provided to the City of Sealy in connection with an application or request for economic incentives in accordance with the above criteria and guidelines and which describes the specific process or business activities to be conducted or equipment or other property to be located on the property for which the economic incentives are sought may be deemed confidential and not subject to public disclosure until the economic incentives agreement is executed. The information in the custody of the City of Sealy after the agreement is executed is not ordinarily deemed confidential and would be required to be released under the Texas Open Records Act, absent exception determined by the Attorney General.

Notwithstanding the foregoing, it must be understood that any requests by the public for such records/information will require address to the Attorney General for its required determination of whether documents/information may be withheld from production or disclosure unless there is an applicable Attorney General Order on the subject.

### **VIII. Employment of Undocumented Workers**

All Agreements shall contain notifications required by Texas Govt. Code Section 2264, such as the following: During the term of this Agreement, the Company agrees not to knowingly employ any undocumented workers as defined in Tex. Govt. Code Sec. 2264.001. If convicted of a violation under 8 U.S.C. § 1324a(f), the Company shall repay the amount of the Grants and any other funds received by the Company from the City as of the date of such violation not later than 120 days after the date the Company is notified by the City of a violation of this section, plus interest from the date the Grant was paid to the Company, at the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the City) as its prime or base commercial lending rate. The payment of interest shall be as if it had been accruing from the date the Grants were paid to the Company until the date the Grants are repaid to the City.

**City of Sealy, Texas**  
**Chapter 380 Economic Development Program**  
**Application for Economic Incentives**

This application for a City of Sealy development incentive under the 380 Economic Development Program will be considered on a case-by-case basis. The City Manager or his/her designee may request additional information or documentation.

**Applicant Information:**

Business Legal Name (Applicant): \_\_\_\_\_

Federal Tax ID No.: \_\_\_\_\_

Authorized Agent Name & Title: \_\_\_\_\_

Business Mailing Address: \_\_\_\_\_

Business City/State/Zip: \_\_\_\_\_

Business Phone Number: \_\_\_\_\_

Alternate Phone Number: \_\_\_\_\_

Agent Email address: \_\_\_\_\_

Proposed Commercial Development (Project) Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Project Location: \_\_\_\_\_

Anticipated Project Start Date: \_\_\_\_\_

Will Applicant own or lease Project Location? \_\_\_\_\_

Years Business has been in Operation: \_\_\_\_\_

Has a building permit been issued for this project? \_\_\_\_\_

New Jobs created: \_\_\_\_\_ Full-time \_\_\_\_\_ Part-Time

Investment for land, buildings and/or renovation and equipment: \_\_\_\_\_

Estimated value of personal property (furniture, fixtures, equipment): \_\_\_\_\_

Estimated value of taxable inventory: \_\_\_\_\_

Amount of sales tax that will be generated for the City: \_\_\_\_\_

Will additional city infrastructure be required for this project? \_\_\_\_\_

Will the project require ongoing maintenance and operations by the City? \_\_\_\_\_

**Application Attachments**

The following information may be required to support this application and to fully evaluate the request for assistance.

1. Provide information regarding the company's description, including corporate structure, annual financial statement and organizational chart identifying affiliates and subsidiaries, if any.
2. Indicate the property legal description and attach field notes and a map showing the location of the proposed and/or existing improvements.

**CERTIFICATION**

I certify that I am authorized to sign this application and that the information provided in this application is true and correct. I understand that the information provided will become a part of the Chapter 380 Agreement with the City of Sealy. In addition, it is acknowledged that the City of Sealy may or may not grant a Chapter 380 Agreement upon application or request hereunder purely as a matter of discretion, and that there is no legal right to rely on previous actions taken in same or similar applications.

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

<p><u>For City use only:</u></p> <p>Date Received: _____</p> <p>Received by: _____</p>
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