

Economic Development Policy & Guidelines Tax Abatement & Chapter 380 Agreements

City of Lamesa

RESOLUTION DATE: _____

November 19, 2019



Lamesa Economic Development

Logistics. Location. Livability.

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MEMO

The following report is Lamesa Economic Development's recommendations regarding the City's economic development policy and guidelines. This report is based on the following: Lamesa's 2016 Economic Development Strategic Plan, review and analysis of economic development practices by other regional communities closely comparable to that of Lamesa, Texas Local Government Code, Texas Government Code, Texas Property Tax Code, 2015 State of Texas Economic Development Handbook, and review and analysis of economic development guidelines.

- 1) The finalized report will need to be approved/adopted by the City Council.
- 2) The recommendations for economic development incentive guidelines in this report is that it must be adhered to by the City Manager, the City Council, and the City's Economic Development Corporation (LEDC Type A/ and/or LEAP Type B Board).

GENERAL GUIDELINES

I. Criteria for Economic Development Incentives

- A. Must be reasonably expected to increase the appraised value of the property in the amount specified in the agreement after the period of abatement has expired.
- B. Project does not have any negative environmental impacts on the community (e.g.; significant pollution, excessive water usage or hazardous waste).
- C. The degree to which the specified project meets the purposes and objectives of the City, the relative impact of the project will be used to determine the total value and duration of the incentives, tax abatement or tax grant provided to any applicant. In compliance with state law no abatement will be for more than a maximum of 10 years in duration.

II. Objective Criteria

In order for the Chapter 380 Assistance Application to be considered, the following must be addressed in written format by the applicant using "Chapter 380 Assistance Application" attached to this policy:

III. Subjective Criteria

In addition to the objective criteria for which specific values can be assigned, several additional considerations must be evaluated. Using "Chapter 380 Assistance Application" attached to this policy as Exhibit B, the applicant must respond to the following in written narrative format, with backup documentation:

- A. Explain the types and values of public improvements, if any, which will be made by the applicant.
- B. Explain to what extent the project will complement existing businesses.
- C. If the project poses any negative operational, visual/image, style impacts or additional noise, etc., provide details.
- D. Provide information including at least three years financial and operating history of the company, three years of financial information of all principal owners, majority members, stockholders, partners and officers, and an up-to-date business plan.
- E. The applicant must commit to a definite construction/completion schedule for the project and to define exactly what will be built (i.e.; what will be on the tax roll and when).
- F. State in the application whether the project is a franchise, expansion, or relocation/consolidation from elsewhere.

ECONOMIC DEVELOPMENT GOALS AND POLICIES

Increase property and sales tax revenue to provide a higher quality of life and services for Lamesa's residents and businesses.

As the City wants to attract higher quality residential developments and ancillary service providers, it is recommended that the City combine its efforts to include a larger variety of projects as allowed by the State Law

Encourage development of retail and commercial type developments along areas that complement the diverse industries located within the city of Lamesa and surrounding region.

It is recommended that retail and commercial projects/developments locating in the downtown area and along the Highway 87/137/180 corridors (within the city limits) should be the only projects/developments considered eligible for Chapter 380 economic development incentives in the City of Lamesa. This will incentivize developments and begin creating a critical mass of investment in the areas identified by the City for desirable growth and will encourage property owners in close proximity of the Highway 87/137/180 corridors to request voluntary annexation.

Increase quality residential developments in the City and its ETJ to fulfill the lack of housing availability to accommodate the current and future growth due to the increase in renewable energy sectors and other industrial and logistic businesses in surrounding cities.

It is recommended that the City create a residential incentive program to encourage a higher quality residential product in the City that can potentially draw from its surrounding areas.

RECOMMENDED ELIGIBILITY CRITERIA

RETAIL/COMMERCIAL PROJECTS/DEVELOPMENTS

Retail/commercial projects/developments that invest \$750,000 or more shall be eligible for economic development incentives from the City of Lamesa. Investments of \$750,000 - \$999,000 cannot include the cost of land acquisition. Investments of \$1,000,000 or greater can include cost of land acquisition.

The City shall consider an incentive package for a project/development on a case-by-case basis. In determining whether to offer an incentive, the project should demonstrate three or more of the following benefits for the City:

- Amount of increase in the City's sales tax revenue.
- Amount of increase in the City's Ad Valorem tax revenue or overall appraised valuation.
- An increase in employment in the City of Lamesa.
- An increase in the City of Lamesa overall quality of life that will promote economic development.
- Improvements to the City's streets, drainage, water, and/or wastewater infrastructure that will facilitate economic growth in the City.

If the project/development has a direct, positive effect on the items discussed in the guidelines above, the Economic Development Board(s) and/or the City Council shall evaluate each project/development on the following criteria, to determine the level of City investment, if any:

- Total capital investment in the project including acquisitions, site improvements, building cost, and equipment;
- Number, type, quality, and wage level of jobs created;
- Other site-specific issues which may have ancillary benefits to the City of Lamesa;
- Grants/loans provided by other local, regional, or economic development entities;
- The economic and financial feasibility of the project/development, including the financial strength and viability of the applicant;
- Other factors deemed relevant by the Economic Development Board(s) and/or the City Council of Lamesa.

The key to determining the amount of the incentive is the anticipated economic development benefit to the City of Lamesa.

RESIDENTIAL PROJECTS/DEVELOPMENTS

Residential Projects/developments that are mixed use in nature (residential and retail/commercial/office uses), or that have a minimum 300 single family homes with at least 1/3rd of those homes to be constructed within 18 months of the City approving incentives shall be eligible for economic development incentives from the City of Lamesa.

The City shall consider an incentive package for a project/development on a case-by-case basis. In determining whether to offer an incentive, the project should demonstrate one or more from each of the following benefits (or any other benefit deemed similar by the Boards and/or City Council) for the City:

The development as a neighborhood: Projects/developments that have a higher quality for amenities such as gateway entrances, perimeter landscaping, masonry subdivision wall, community swimming pool, community center, open space/parks, and trails etc. that are privately owned, developed, and maintained for/by the project; and

The development as single/multi-family homes: Higher quality of construction and building materials (such as higher energy efficiency materials and mechanicals, metal roofs, designer profile shingles, fences that are topped and lapped, walkways partially or totally mortared with brick and/or stone, and water conserving appliances and landscaping etc.) than may be required in the City's development regulations.

RECOMMENDED INCENTIVES

TAX ABATEMENTS

SECTION 1 DEFINITIONS

1.01 **"Abatement"** means the full or partial exemption from City ad valorem taxation of the increased values of eligible properties in a Reinvestment Zone designated by the City for economic development purposes pursuant to the Act.

1.02 **"Agreement"** means a contractual agreement between a property owner and/or lessee and the City for the purposes of tax abatement.

1.03 **"Base Year Value"** means the assessed value of either the applicant's subject real property and improvements on January 1st of the year of the execution of the agreement plus the agreed upon value of any property improvements made after January 1st, but before execution of the agreement, and/or the assessed value of any tangible personal property located on the owner's real property at any time prior to the abatement period covered by the agreement

1.04 **"Economic Life"** means the number of the years a property improvement is expected to be in service in a facility; provided, however, in no event shall the number of years exceed the depreciation allowance specified in the Federal Internal Revenue Service Code.

1.05 **"Enterprise Zone"** means an area designated pursuant to the Texas Enterprise Zone Act Chapter 2303, Government Code.

1.06 **"Expansion"** means the addition of buildings, structures, fixed machinery, or equipment for the purpose of increasing production capacity.

1.07 **"Facility"** means property improvements completed or in the process of construction which together comprise an integral whole.

1.08 **"Lease"** means a relationship whereby the business applying for a tax abatement has a contract for exclusive possession of either the real property on which improvements are to be made and/or movable personal property to be used for the operation of the business for a defined period of time.

1.09 **"Modernization"** means the replacement and upgrading of existing facilities which increase the productive input or output, updates the technology, or substantially lowers the unit cost of operation, and extends the economic life of the facility. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, or equipment. It *will* not be for the purpose of reconditioning, refurbishing, repairing, or completion of deferred maintenance.

1.10 **"New Facility"** means a property previously undeveloped which is placed into service by means other than expansion or modernization.

1.11 **"Personal Property"** means equipment and/or tools used, or bought or leased for use, in the operation of the business applying for tax abatement, other than that which was located on the real property at any time before the period covered by the tax abatement agreement, and other than inventory, supplies and/or office equipment

1.12 **"Real Property"** means the area of land defined by legal description as being owned or leased by the business applying for a tax abatement, including any improvements thereto, which is to be improved and valued for property tax purposes, and which is to be included in the Tax Abatement

1.13 **"Reinvestment Zone"** is an area within the boundaries of the City that has found to meet the requirements of §§ 312.201 through 312.202, Texas Property Tax Code and designated as such.

SECTION 2 DESIGNATION

2.01 A Reinvestment Zone may only be designated in accordance with § 312.201 of the Texas Property Tax Code, as amended.

A Reinvestment Zone may only be designated by the City Council in an area *within the boundaries* of the City and that does not include an area outside the taxing jurisdiction of the City.

2.03 An area may be designated as a Reinvestment Zone if the City Council, after a public hearing on the proposed designation, finds that the designation would contribute to the retention or expansion of primary employment within the City or would attract major investment into the Zone that would be a benefit to the property to be included in the Zone and would contribute to the economic development of the City.

2.04 The public hearing on the proposed Reinvestment Zone designation must be held prior to the findings and action of the City Council on the proposed designation. At this hearing, all interested persons are entitled to speak and present evidence for or against the designation. NOT LATER THAN THE SEVENTH (7TH) DAY BEFORE THE DATE OF THE HEARING, NOTICE OF THE HEARING MUST BE: (1.) PUBLISHED IN A NEWSPAPER HAVING GENERAL CIRCULATION IN THE CITY; AND (2.) DELIVERED IN WRITING TO THE PRESIDING OFFICER OF THE GOVERNING BODY OF EACH TAXING UNIT THAT INCLUDES IN ITS BOUNDARIES REAL PROPERTY THAT IS TO BE INCLUDED IN THE PROPOSED REINVESTMENT ZONE. A notice made under (2.) above is presumed to be delivered when placed in the mail, postage paid, and property addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee: THE PUBLIC HEARING MUST ALSO BE POSTED AS AN AGENDA ITEM IN ACCORDANCE WITH

CHAPTER 551 OF THE GOVERNMENT CODE (THE TEXAS OPEN MEETINGS ACT).

2.05 If the City Council finds that designation of the area as a Reinvestment Zone is proper, such proposed designation shall be put to a vote of the City Council, and will pass if a majority of the members of the City Council in attendance vote to approve the designation.

2.06 The order of the City Council designating the area as a Reinvestment Zone shall contain a sufficient description of the boundaries of the Zone.

2.07 The designation of a Reinvestment Zone may be for a period of up to five (5) years. No designation shall exceed five (5) years, and a designation shall automatically expire five (5) years after the date of the designation unless renewed by the City Council for subsequent periods not to exceed five (5) years each. This provision does not affect the guidelines for length of abatements called out in Table 1.

2.08 Designation of an area as an Enterprise Zone under the Texas Enterprise Zone Act Chapter 2303, Government Code, constitutes designation of the area as a Reinvestment Zone without further hearing or other procedural requirements other than those set out in the Texas Enterprise Zone Act.

2.09 Section 312.204(b) of the Code requires that tax abatement agreements made with the owners of property in a Reinvestment Zone must contain identical terms for the portion of the value of the property that is to be exempt and the duration of the exemption.

SECTION 3
ABATEMENT AUTHORIZED

3.01 Tax Abatements are authorized, subject to approval of the City Council and execution of a lawful tax abatement agreement, for properties located within a Reinvestment Zone designated by the City Council or an Enterprise Zone established pursuant to the Texas Enterprise Zone Act.

3.02 Authorized Facilities: A tax abatement may be granted for new facilities, lease facilities and for expansion or modernization of existing facilities. The economic life of a facility or improvements must exceed the life of the abatement agreement.

3.03 Eligible Property: Tax abatement may be granted for improvements to real or lease property, and personal property to the extent allowed by State law.

3.04 Value of Abatement: Authorized facilities may be granted abatement on all or a portion of the increased taxable value of eligible property over the base year for a period not to exceed four (4) years. This abatement, if granted as to real property, is not with regard to the entire value of the property, but only as to the extent that the value of the real property exceeds the value for the year in which the abatement is granted i.e. Base Year). Taxes on tangible personal property may be abated to the extent of additions, but cannot be abated as to personal property

located on the real property at any time before the period covered by the tax abatement agreement, and cannot be abated for inventory and supplies.

SECTION 4
IMPACT DATA

4.01 Introduction

The information required in this Section will be used by the City Council to determine whether or not it is in the best interest of the City to offer tax abatement to a particular applicant. The applicant should endeavor to provide the most accurate information and estimates possible based upon available information. The applicant may be requested by the City to describe the methodologies utilized to respond to the questions and to supply supporting documentation.

4.02 Employment Impact

The applicant must provide detailed information providing answers to the following inquiries:

- a) How many new, temporary and/or part-time jobs will be created in the City of Lamesa? How many temporary and/or part-time jobs will be retained in the City of Lamesa?
- b) What is the estimated number of permanent, full-time new jobs that will be created in the City of Lamesa? What is the estimated number of permanent, full-time jobs that will be retained in the City of Lamesa?
- c) What percentage of new employees will (a) come from within the City and (b) from outside the City?
- d) What types of Jobs will be created? What will be the average pay scale for each category of jobs created?
- e) What will be the total projected annual payroll of the newly created jobs? What will be the total projected annual payroll of the retained jobs?
- f) What type of specialized training will be required? How will such training be provided?
- g) What is the estimated multiplier effect on the City of Lamesa's economy?

4.03 Proposed Improvements

The applicant must provide detailed information providing answers to the following inquiries:

- a) Identify and describe the kind, number and location of all proposed real property improvements and/or personal property and discuss the development schedule of the proposed improvements and/or additions.
- b) To what extent, if any, will additional public improvements be needed? Detail the plans, if any, in existence for the provision of such improvements?
- c) What governmental approvals or permits will be required for the improvements?

d) Is the financial capital required to complete this project already available (i.e. financing commitments, reserved funds, etc.?) Explain in detail.

4.04 Fiscal Impact

The applicant must provide detailed information providing answers to the following inquiries:

- a) What is the estimated cost of the proposed real property improvements and/or personal property additions?
- b) How much real or personal property value will be added to the tax roll by the end of the abatement period?
- c) How much direct sales tax will be generated?
- d) What is the proposed depreciation schedule for real or personal property to be abated?

4.05 Community Impact

The applicant must provide detailed information providing answers to the following inquiries:

- a) What effect (approximately) will the proposed project have on the local housing market?
- b) What environmental impact, if any, will be created by the project?
- c) What support services or products, if any, will the applicant be procuring from the local community in the construction of improvements or additions of personal property?
- d) What support services or products, if any, will the applicant be procuring from the local community with regard to its operations?

4.06 A legal description of any subject real property must be supplied to the City by the applicant.

4.07 Pursuant to § 312.003 of the Property Tax Code, information submitted in the application process is confidential, and not subject to public disclosure until the tax abatement agreement is executed.

SECTION 5
GUIDELINES FOR LENGTH AND LEVEL OF ABATEMENT

5.01 It is recommended that the City consider a tiered tax abatement system. This means depending upon the project/development investment and appraised value - the City would adjust the abatement amount and years.

5.02 Recommended tax abatement schedule:

TABLE 1

Appraised Taxable Value	Maximum Value Which May Be Abated	Years of Abatement
\$750,000 - \$999,999	40% - 0%	Not to Exceed 2 Years
\$1,000,000 - \$3,999,000	60% - 0%	Not to Exceed 3 Years
\$4,000,000 - \$6,999,000	80% - 0%	Not to Exceed 4 Years
\$7,000,000 and Above	100% - 0%	Not to Exceed 5 Years

5.03 If the appraised value of eligible improvements declines below the lower limit for eligibility for a certain percentage abatement, then the abatement percentage to be applied shall be adjusted in accordance with Table 1 above. For example, if the appraised value of eligible improvements declines from \$7,000,000 to \$ 4,000,000, the abatement percentage shall decline from 100% to 80%. In no event shall an abatement percentage exceed the percentage agreed in the abatement agreement approved by the City of Lamesa.

5.04 Pursuant to Chapter 312 of the Property Tax Code, City of Lamesa, Texas (hereinafter "City") is authorized to designate Reinvestment Zones in areas of the City, to enter into tax abatement agreements with regard to properties located in Reinvestment Zones, and to enter into tax abatement agreements with regard to properties for which a municipality has given tax abatement incentives by agreement.

5.05 These guidelines and criteria, and the procedures established herein, do not:

- a) limit the discretion of the City Council to decide whether to enter into a specific tax abatement agreement,
- b) limit the discretion of the City Council to delegate to its employees the authority to determine whether the City Council should consider a particular application or request for tax abatement, or
- c) create any property, contract or other legal right in any person to have the City Council consider or grant a specific application or request for tax abatement.

SECTION 6
GUIDELINES FOR LENGTH AND LEVEL OF ABATEMENT

6.01 When a determination has been made to offer a tax abatement, the guidelines in Table

1 will be used to determine the length and level of that abatement. These guidelines reflect maximum percentages and years, and apply to both new facilities and expansion or modernization of existing facilities. The Lamesa City Council will determine eligibility as well as the percentage and length of abatement on a case-by case basis.

6.02 The Lamesa City Council may consider a 100% abatement for a period during which construction of new facilities is in progress. This period, if applicable, will begin on the date of the abatement agreement and end when those facilities are first utilized for their intended purpose or two years from the date of the abatement agreement, whichever is sooner. The schedule in 5.02 above would begin the next January 1st immediately following such a period, if any. The provisions of this paragraph applies only to new or additional facilities to be constructed with a capital cost of \$7,000,000 or greater.

SECTION 7
PROCEDURAL GUIDELINE

7.01 Any person or entity desiring that the City of Lamesa consider real, lease or personal property abatement must comply with the following procedural guidelines. Nothing herein shall imply or suggest that the City is under any obligation to provide tax abatement, or provide any length and/or level and/or value of tax abatement to any applicant.

7.02 Application Process

The applicant shall submit a letter of application for tax abatement to the Executive Director of Lamesa Economic Development who will then submit the letter of application to the City Secretary for submission to the City Council. The application must:

- a) provide a detailed explanation of the proposed project (improvements to real property, creation/addition/retention of jobs, and/or addition of leased or personal property);
- b) address all criteria questions and information outlined in Section 4 above;
- c) provide an attached current survey of the real property and the precise location of all proposed improvements/additions, along with a legal description of the real property where all improvements/additions will be located;
- d) provide the sworn statement required by Section 4.02 (b.) above if the abatement sought is in whole or in part for job retention;
- e) identify the name, address, telephone number, and email address(es) (and, if available, fax number) of the Applicant's contact person for purposes of the application;
- f) identify the business organization of the applicant (i.e. sole proprietorship, partnership, corporation, etc.) and any assumed or trade names under which applicant operates;
- g) provide documentation of the feasibility of the project (financing, etc.);
and

h) identify how the project will comply with or fit within the criteria and guidelines set forth in the preceding sections.

7.03 All applications will be reviewed by the City Council's designee or designees for accuracy and completeness, and the applicant must provide verification of all information provided or additional information requested by the City Council or its designee. The application will then be placed on the agenda for a meeting of the City Council for consideration.

7.04 The application shall be considered at a meeting of the City Council held in compliance with the Texas Open Meetings Act. If the abatement would involve the creation or expansion of a Reinvestment Zone, a public hearing must first be held in accordance with the procedures and notice required in Chapter 312 of the Property Tax Code. No applicant has a legal right or expectation to a favorable determination by the City Council.

7.05 The abatement, if granted, must be made pursuant to a tax abatement agreement which meets all of the requirements of law and is acceptable to the City Council. A tax abatement agreement must be approved by the City Council for execution by the Mayor before it can be effective. Any abatement is for City taxes only, and does not provide abatement from taxation by other entities in whose taxing jurisdiction the property may be located unless otherwise provided by state law.

7.06 The tax abatement agreement must contain all the requirements of § 312.204 and § 312.205 of the Property Tax Code, as amended.

7.07 Property owned or leased by a member of the City Council or Type A/ Type B Economic Development Board is not eligible for tax abatement.

SECTION 8

CERTIFICATION BY APPLICANT, COMPLIANCE AUDITS, REVIEWS AND INSPECTIONS

8.01 Beginning on or before December 31st of the year which establishes "Base Year Value" for the agreement, and throughout the term of such agreement, the Owner will submit a statement annually certifying, on or before December 31st of each year the names and addresses of employees, number of jobs, dollar amount of payroll, type of equipment (if applicable) and the square footage of the qualified facilities subject of the abatement and all other information necessary to show compliance with the tax abatement agreement and the requirements of these Guidelines. The City shall have the right if it deems necessary to examine the Owner's appropriate records. The City may cancel or modify the agreement if the property owner fails to comply with the tax abatement agreement

8.02 The City shall have the right to conduct reviews, audits and inspections to evaluate the applicant's performance and compliance with the terms of the tax abatement agreement after the abatement is granted. The City shall also have the right to conduct reviews, audits and inspections during the application process to verify information in the application and to assess the project's feasibility and benefit. The applicant must agree to provide to the City requested information within thirty (30) days of request and agree to give the City the right to inspect the applicant's operations at reasonable times.

8.03 Violations of the terms of the tax abatement agreement by the tax abatement recipient may result in the full or partial loss of the abatement and give rise to a right of the City to recoup taxes abated, provide for a delinquency date and assess penalties and interest. City Council may cancel the entire agreement, or modify agreement, if the owner fails to comply with the terms set forth.

SECTION 9
REPORTING REINVESTMENT ZONES AND TAX ABATEMENT AGREEMENTS
NOTIFYING OTHER GOVERNMENTAL ENTITIES OF TAX ABATEMENT
AGREEMENT. AND MISCELLANEOUS PROVISIONS

9.01 Pursuant to § 312.005 of the Property Tax Code, as amended, the City is required to deliver to the Texas Department of Commerce and to the State Comptroller, before April 1 of the year following which a Reinvestment Zone is designated, or a tax abatement agreement is executed a report providing all of the information required by § 312.005. The Mayor or his designee is established as the City liaison with the State for this purpose.

9.02 Pursuant to § 312.2041 of the Property Tax Code, as amended, the City is required to, not later than the seventh (7th) day before the date on which it enters into a tax abatement agreement, deliver to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the agreement is located a written notice that the City intends to enter into the agreement. The notice must include a copy of the proposed agreement

9.03 Passage of these Tax Abatement Guidelines and Procedures shall amend and supersede all prior guidelines of the City, if any, governing this subject, but shall not affect the validity of tax abatement agreement of the City existing as of the date of the passage of these Tax Abatement Guidelines, Criteria and Procedures by the City Council.

Adopted on the _____ day of _____, 2019.

380 AGREEMENTS

It is recommended that these agreements be entered for development incentives such as loans or grants, commitments for infrastructure, or payments of portions of the sales tax generated by the project.

It is recommended that the City adopt a policy to use these agreements only in the downtown and Highway 87/137/180 corridor areas. This will encourage developments in the priority areas identified for economic development by the City. Targeting economic development funding in focused areas will yield higher results rather than spreading the funding in different parts of the City.

It is recommended that loans & grants be structured such that they are spread over multiple years and be subject to performance standards such as: project construction starting within 12 months and completion within 36 months of the agreement being approved; project construction and design quality, etc.

It is recommended that maximum sales tax refund/rebate should not exceed 50% of the sales tax generated by the project.

The City shall consider an incentive package for a project/development on a case-by-case basis.

RECOMMENDED PROCESS



Applicant to submit application & supporting documents to Economic Development staff. Economic Development staff to accept only complete applications for eligible projects per City's policy.



Economic Development staff analyzes the request and sends a summary memo to Type A/ Type B Board (s) and/or City Council within 45 days from submission and schedules discussion on the 1st available meeting agenda for the appropriate Board for discussion.



Economic Development staff meets with the applicant to resolve all pertinent items per the direction of Type A/Type B Board(s) and/or City Council.



Economic Development staff schedules the request on Type A/Type B Board(s) agenda for action. Respective board must approve/deny request for incentives. Economic Development staff works with City Attorney to draft required documents.



Staff schedules the request on City Council agenda for action. City Council ratifies Type A/Type B Board(s) action in accordance with the Local Government Code.



Applicant submits annual reports to Economic Development staff to prove compliance. Economic Development staff gives Type A/Type B Board(s) and/or City Council annual reports.

LIST OF APPENDICES

RELEVANT TEXAS LOCAL GOVERNMENT CODE SECTIONS

- Local Government Code 380 – Miscellaneous Provisions Related to Municipal Planning and Development
- Local Government Code 311 – Tax Increment Financing Act
- Local Government Code 312 – Property Tax and Tax Abatement Act

RELEVANT TEXAS GOVERNMENT CODE SECTIONS

- Government Code 551 – Open Meetings
- Government Code 2303 – Enterprise Zones

RELEVANT TEXAS PROPERTY TAX CODE SECTIONS

- Property Tax Code 312.003 – Confidentiality of Proprietary Information
- Property Tax Code 312.005 – State Administration
- Property Tax Code 312.201 – Designation of Reinvestment Zone
- Property Tax Code 312.202 – Criteria for Reinvestment Zone
- Property Tax Code 312.204 – Municipal Tax Abatement Agreement
- Property Tax Code 312.2041 – Notice of Tax Abatement Agreement to Other Taxing Units
- Property Tax Code 312.205 – Specific Terms of Tax Abatement Agreement

SAMPLE ASSISTANCE APPLICATION



Project:

Company Name: _____

Company NAICS Code: _____

Company Structure: _____ *(LLC, S-Corp, Corporation, etc.)*

Construction Project:

Yes ___

No ___

_____ **Chapter 380 Assistance Application (signed)**

_____ **Signed Confidentiality Agreement**

_____ **Business Plan**

_____ **Letter of Intent**

_____ **Resume(s) for all principal owners, majority members, stockholders, partners and officers. *Please provide a list of all principal owners, majority members, stockholders, partners and officers.***

_____ **Certificate of Formation from Secretary of State**

_____ **Three Year Projections – 1st Year Detailed, 2nd and 3rd Year Summary**

_____ **Personal Income and Financial Statements for all principal owners, majority members, stockholders, partners and officers.**

_____ **Credit and Background Report Release Signed**

_____ **Existing Company Profit and Loss Statement Past Three Calendar Years (Full)**

_____ **Past (3) Three Years of Personal Financial Statements (IRS Tax Forms) for all principal owners, majority members, stockholders, partners and officers.**



_____ Documentation of Need for Financial Assistance

_____ Documentation of All Other Financial Sources, including personal assets, other lending institutions, grants, etc.

_____ Renderings for Construction and Engineering

ASSISTANCE APPLICATION

The following is basic information used by the City of Lamesa to evaluate potential economic assistance from the community of Lamesa, Texas for economic development assistance pursuant to the City’s Economic Development Program under Chapter 380 of the Local Government Code. Any calculations that result from the use of information on this form should not be construed as an offer or obligation of the City of Lamesa or any of its component units. Additional information may be requested upon review. Projects within the city limits shall be submitted to the Executive Director of Lamesa Economic Development and shall be reviewed by the respective board of Lamesa Economic Development. The Lamesa City Council shall have final authority on all economic development agreements pursuant to economic development programs under Chapter 380 of the Local Government Code.

CONTACT INFORMATION

Contact	
Company	Web Address
Phone Number	Fax Number
Mobile Number	E-mail

PROJECT SUMMARY *Attach additional sheet(s) as needed*

Purpose Description
Timeline
Facilities
Project Address

PROJECTED CAPITAL INVESTMENTS

Land	\$ _____	Working Capital	\$ _____
Building(s)	\$ _____	<i>Do not include working capital in calculation to the left</i>	
Machinery & Equipment	\$ _____		
Total	\$ _____		

Please do not include the value of real or personal property already on the tax rolls in Lamesa, Texas

PROJECTED EMPLOYMENT



Current Jobs

Relocated Jobs and Timeline to Relocate

New Jobs and Timeline to Create

Estimate Annual Payroll (\$) at Lamesa Site

PROJECTED SALES & USE TAXES

Estimated Company Revenues \$ _____

Estimated Taxable Sales (\$) at Lamesa site \$ _____

(For Sales and Use Tax Calculations)

Printed Name of Primary Contact:

Signature of Primary Contact:

Date:



NORMAL PROVISIONS OF ECONOMIC DEVELOPMENT ASSISTANCE

The company can agree to maintaining its existing employment of _____ and can agree to relocating and/or creating new jobs over a period of _____ years (new jobs per year) at the average hourly rate of \$ _____. The company can further agree to the construction of real property improvements in the amount of at least \$ _____, and the placing of personal property improvements (machinery and equipment) in the amount of at least \$ _____.

Lamesa Economic Development will require that the company provide proof of all real and personal improvements that will be agreed to in the Economic Development Performance Agreement. Lamesa Economic Development will also require that the company provide proof of jobs created and/or maintained in the city for each year of the Economic Development Performance Agreement.

Applicant and/or company is required to obtain all applicable City and other permits and approvals related to the improvement and/or construction project. All improvements and/or construction must comply with all state and local building codes and zoning requirements. Additionally, Lamesa Economic Development will require a Personal Guaranty by the applicant’s majority members (51% or greater), stockholders, partners, and officers.

Lamesa Economic Development Requires, at the anniversary of the Economic Development Performance Agreement, as well as any other agreements with the LEDC in place, the following documentation for jobs created, retained and maintained:

- 1) Texas Employment Commission’s Employer’s Quarterly Reports and IRS Form 941;
- 2) A roster of its own employees (with total hours worked, position(s) held, and hourly wages; and
- 3) Copies of paid tax receipts.

On location audits can be arranged in special circumstances at the sole discretion of the Lamesa Economic Development Board of Directors.

Full-Time employees must work a minimum of 1,820 hours per Economic Development Performance Agreement year (minimum 35 hours/week x 52 weeks).

The company’s authorized representative that is approved to enter into a legally binding agreement with Lamesa Economic Development is:

Printed Name

Title

Signature



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Contact person for annual documentation:

Printed Name

Title

Mail annual reminders to:

Printed Name

Title

Street Number and Name

City

State

Zip Code

If more than one operation exists within the City of Lamesa, please list separately below. Use additional pages as necessary.



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CONSENT AND AUTHORIZATION
CORPORATION

The undersigned, a corporation organized under the State of _____, an applicant for a loan from the Lamesa Economic Alliance Project, hereby authorizes the Lamesa Economic Alliance Project, its agents and employees and anyone acting on behalf, to institute, conduct and complete, **any and all** credit checks, background checks, and/or any other investigations LEAP deems necessary and appropriate to any and all records, histories, and data bases kept or maintained by the State of Texas, the United States of America, any political subdivision, reporting agencies, and entities and/or bureaus, related to any possible criminal conduct or history, allegations of fraud, wrongdoing or malfeasance of any kind on the part of the Applicant and/or any of the Applicant’s agents, employees, officers, owners, shareholders, directors, managers, investors, partners and stockholders and to obtain such information, records, and copies as it deems proper in connection with such investigation or investigations. A photocopy of facsimile of this Consent and Authorization shall be deemed, for purposes, as an original of this Consent and Authorization and shall constitute both consent and direction to all persons, agencies, entities, and/or bureaus, to furnish the Lamesa Economic Alliance Project, upon its request and without further authority from the undersigned, such information, records and copies it requests in connection with its investigation(s).

_____ Printed Name

_____ Date

_____ Signature

STATE OF _____

COUNTY OF _____

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME on this the ____ day of _____, 20____, by

_____ of _____, a



Lamesa Economic Development

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_____ corporation, on behalf of said corporation.

(SEAL)

Notary Public State of _____



CONSENT AND AUTHORIZATION
INDIVIDUAL

The undersigned, whose date of birth is _____/_____/_____, driver's license and/or state issued identification number is _____(state)_____ DL / ID (circle one), and social

security number is _____ and who is a principal owner, majority member (51% or greater), stockholder, partner, officer, or investor of _____, an applicant for a loan from the Lamesa Economic Alliance Project, its agents and employees and anyone acting on behalf, to institute, conduct and complete, **any and all** credit checks, background checks, and/or any other investigations it LEAP deems necessary and appropriate to any and all records, histories, and data bases kept or maintained by reporting agencies, entities and/or bureaus, and to obtain such information, records, and copies as it deems proper in connection with such investigation or investigations. A photocopy of facsimile of this Consent and Authorization shall be deemed, for purposes, as an original of this Consent and Authorization and shall constitute both consent and direction to all persons, agencies, entities, and/or bureaus, to furnish the Lamesa Economic Alliance Project, upon its request and without further authority from the undersigned, such information, records and copies it requests in connection with its investigation(s).

Printed Name

Date

Signature

STATE OF _____

COUNTY OF _____

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME on this the _____ day of _____,



Lamesa Economic Development

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20____, by _____

(SEAL)

Notary Public State of _____

****Please Attach A Copy of Your Driver's License or Government Issued Photo Identification to this Page**



PERFORMANCE AGREEMENT

Texas legislation requires both Type A and Type B Economic Development Corporations to enter into a written performance agreement with a business enterprise when the corporation provides funding or makes expenditures on behalf of the business enterprise in furtherance of a permissible Type A or B project.

This performance agreement between the corporation and the business enterprise at a minimum must contain the following:

- (1) a schedule of additional payroll or jobs to be created or retained;
- (2) the capital investment to be made by the business enterprise; and
- (3) the terms under which repayment must be made by the business enterprise to the Type A or B corporation should the business fail to meet the performance requirements specified in the agreement.

The language contained within the Performance Agreement must specify that the business does not and will not knowingly employ an undocumented worker (which statement must also be any application for the subsidy). The language also must require repayment of the subsidy with specified rate and terms of interest if the business is convicted of federal immigration violations as defined in Chapter 2264 of Subtitle F, Title 10 of the Government Code (80(R) HB 1196), not later than the 120th day after receiving notice of the violation from the public entity or economic development corporation.

Signature

Date



Lamesa Economic Development

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Please Deliver, Fax, or Email to:

Lamesa Economic Development

Attn: Sean Overeynder

123 Main Ave.

Lamesa, TX 79331

Fax: (806) 872-5700

eMail: Sean.Overeynder@LamesaDevelopment.org

If you have questions, please call (806) 872-2207 or email Sean.Overeynder@LamesaDevelopment.org

**RESOLUTION BY THE CITY OF LAMESA, TEXAS
ESTABLISHING AND PROVIDING FOR THE
ADMINISTRATION OF ECONOMIC
DEVELOPMENT PROGRAMS PURSUANT TO
CHAPTER 380, TEXAS LOCAL GOVERNMENT
CODE**

WHEREAS, the City of Lamesa (“City”) by and through the City Council, intends to implement the provisions of Chapter 380, Texas Local Government Code (TLGC) for the purposes of promoting State and local economic development and to stimulate business and commercial activity in the City; and,

WHEREAS, consistent with the provisions of Chapter 380, TLGC, the City will consider, on a case by case basis, giving economic incentives to business applicants based upon economic impact of the business applicant and subject to such terms and agreements negotiated and reduced to writing by the City or its designee and the business applicant; and,

WHEREAS, the City shall be under no obligation to extend or provide economic incentives to any business applicant, the decision to extend or provide economic incentives being within the sole discretion of the City Council of the City to be determined on the basis of the merit of each applicant and its proposal; and,

WHEREAS, in the event the City Council should elect to extend incentives to a business applicant, the terms and conditions thereof shall be reduced to writing in the form of an economic incentive contract to be signed by an authorized agent of the City and the duly authorized officer of the business applicant.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAMESA, TEXAS, THAT:

SECTION 1: Program Requirements.

Incentives may be granted for new facilities; expansion or modernization of existing facilities that add new taxable values to the ad valorem tax rolls; and to businesses renovating or occupying existing facilities within the city limits. Incentives established under this Program shall 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 value of any incentives granted under this Program. To be considered for incentives as a Chapter 380 Economic Development Program, a project must at least meet the following minimum requirements below.

Any project requesting incentives under this program shall provide justification for incentives based upon the following general criteria:

1. Type and number of jobs to be created or retained.
2. Additional revenues created for the City from sales tax and tax collected on Business Personal Property and inventory.
3. Additional revenues created for the City from property tax.
4. Market Conditions and growth potential for the business activity; or,
5. any combination of the above criteria.

Projects meeting the requirements of these guidelines and meeting the criteria outlined below will be considered eligible under the 380 Program:

1. **New Capital Investment:** A new business project resulting in a minimum increased ad valorem taxable value of \$1,000,000 in the City of Lamesa.
2. **Renovation and Improvement of Existing Facilities:** A project that meets the following criteria:
 - a. A business renovation and improvement project with a value of at least \$750,000; or
 - b. A business renovation and improvement project for a business or business location/building in the C-1, I-1 or I-2 Business District.

The following types of projects may be eligible for consideration:

3. **New Capital Investment Incentive:** A project may be considered under the following criteria:
 - a. Construct a minimum of 7,000 square feet of new retail business or businesses.
 - b. Result in a minimum increased taxable value in real and business personal property for the City of \$1,000,000 for a new business.
 - c. Result in a minimum increased taxable value for the City of \$1,000,000 of Real and Business Personal Property for an existing business established and operating within the City Limits.
4. **Renovation and Improvement of Existing Facilities Incentive:** A project may be considered under the following criteria:
 - a. Be a business undertaking a new lease or purchase of 10,000 square

feet of existing space from an unrelated third party or parties.

- b. Be a business or business location/building in the C-1, I-1 or I-2 Business District.
5. **New Retail:** A retail business project may be considered if:
- a. The type of business is a retail business.
 - b. The business will result in new Real Property and Business Personal Property, excluding inventory, of at least \$750,000.
6. **Other Projects:** Any other project may be considered if it is specifically determined by Lamesa Economic Development and the City Council to bring extraordinary benefit to the City consistent with this policy.

SECTION 2: Types of Economic Incentives

Grant Incentives offered under a Chapter 380 Economic Incentive Agreement may be utilized for:

1. Land and/or building acquisition costs.
2. Building improvements or renovations.
3. Extension of public roads.
4. Drainage improvements.
5. Property tax abatement.
6. Any other purpose approved by City Council; or,
7. sales tax rebate.

Depending upon the number of employees, wage levels, capital improvements, inventory, and type of business, other types of incentives allowed by Chapter 380, Texas Local Government Code, as amended from time to time, may be considered.

Denial of Incentives:

1. All eligible applications for incentives shall be considered on a case-by-case basis as set forth herein, and the decision to approve or deny any

incentive shall be made at the discretion of the City Council.

2. A project shall not be eligible for incentives if a building permit has been requested for the project prior to making application in accordance with this program.

Application Process: In order for the City to evaluate a request for economic incentive and to determine the level at which an applicant qualifies for incentives, the applicant shall complete a Project Impact Worksheet which will be used to perform an economic impact analysis for the proposed project. Additional information may be included to further describe the project and may be required to provide a comprehensive evaluation. Businesses are encouraged to include any information regarding ancillary benefits associated with the project such as the ability of the project to attract other projects to the city.

1. Completed application should be submitted to the Executive Director of Lamesa Economic Development.
2. Upon receipt of completed application, the Board of Directors of Lamesa Economic Development will review the application and make a recommendation for approval/denial to City Council.

Approval of Incentives: Upon approval of any incentives authorized by City Council, before the City of Lamesa's incentive grant will be made to the applicant, the applicant shall complete and fulfill:

1. the basis upon which the incentives were considered, i.e. by creating new capital investment, renovating/improving an existing building, etc.; and,
2. shall comply with all other terms of the Agreement.

SECTION 3: Forms for Economic Incentive Agreements

The forms for Economic Development Agreements shall be developed by the City Attorney in conjunction with the Executive Director of Lamesa Economic Development. The Application for the economic incentive program and priority lists shall be developed by the Executive Director of Lamesa Economic Development in conjunction with the Board(s) of Lamesa Economic Development.

PASSED, APPROVED, AND ADOPTED, on this the ____ day of _____, 2019, at a regular meeting of the City Council of the City of Lamesa, Texas which meeting was held in compliance with the Open Meetings Act, Tex Gov't Code, §551.001, et.seq. at which meeting a quorum was present and voting.

Josh Stevens,
Mayor

ATTEST:

Betty Conde, City Secretary