

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 18-2014**

**A RESOLUTION ADOPTING THE CITY OF KERRVILLE  
CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM**

**WHEREAS**, the City Council recognizes that fostering a vibrant, thriving local economy is critical to the future of this City; and

**WHEREAS**, toward that end, the City continues working on and prioritizing the nurturing of local businesses, encouraging entrepreneurship, advancing commerce, and creating jobs; and

**WHEREAS**, Texas law offers many options for local leaders seeking to generate economic development and opportunity; and

**WHEREAS**, some of those options include the Section 4B Economic Development Sales Tax and the Hotel Occupancy Tax, both of which the City has adopted to generate funding to be used for economic development activities and to increase tourism, respectively; and

**WHEREAS**, Chapter 380 of the Texas Local Government Code ("Chapter 380") provides significant legislative authority for Texas municipalities in the area of economic development; and

**WHEREAS**, Chapter 380 authorizes Texas cities to provide grants or loans of city funds or services in order to promote economic development; and

**WHEREAS**, Chapter 380 requires that in order for a city to provide a grant or a loan, it must "establish a program" to implement the incentive; and

**WHEREAS**, such a program should be outlined in a written document that includes, at a minimum, safeguards to help ensure that a public purpose is served by any incentive; and

**WHEREAS**, City staff recommends that the City adopt a Chapter 380 program to use as an economic tool and as a means promoting economic development; and

**WHEREAS**, City staff has developed the *City of Kerrville Chapter 380 Economic Development Program* and recommends its adoption by the City Council; and

**WHEREAS**, the City Council of the City of Kerrville, Texas, finds that it is in the public interest to adopt the *City of Kerrville Chapter 380 Economic Development Program*;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

The *City of Kerrville Chapter 380 Economic Development Program*, the provisions of which are set forth in **Exhibit A** attached hereto and incorporated herein by reference, is approved and adopted.

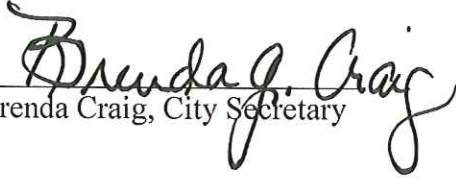
**PASSED AND APPROVED ON** this the 10<sup>th</sup> day of June, 2014, A.D.

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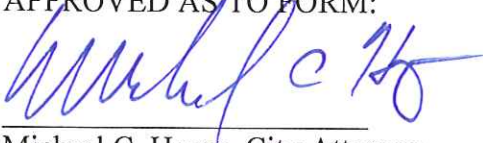
Jack Pratt, Jr., Mayor

ATTEST:



Brenda Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

## **CITY OF KERRVILLE CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM**

### **I. General Statement of Purpose and Policy.**

A. The City of Kerrville ("City") is committed to the promotion and retention of high quality development in the City and to ongoing and continuous improvements to the quality of life for its citizens. The City has previously developed an economic development policy<sup>1</sup> designed to encourage high quality business, commercial, and manufacturing concerns to remain, expand, and locate within the City. The City seeks to enhance its economic development efforts to attract and retain high quality development and jobs by establishing this, its *Chapter 380 Economic Development Program Policies and Procedures* ("Program"), in accordance with Chapter 380, Texas Local Government Code.

B. The City establishes this Program in an effort to develop and expand its local economy by promoting and encouraging development and redevelopment that enhance the City's economic base and a higher quality of life, diversifying and expanding job opportunities, or by promoting and encouraging projects that create additional revenue for the City without substantially increasing demand on City services or infrastructure. The ultimate goal and public purpose of this Program is to protect and enhance the City's fiscal ability to provide high quality municipal services for the safety, comfort, and enjoyment of City residents.

C. In furtherance of these objectives, the City will, on a case-by-case basis, consider providing economic incentives to applicants in accordance with this Program as authorized by Chapter 380 of the Texas Local Government Code.

D. Nothing in this Program is intended to imply or suggest that the City is obligated to provide economic incentives to an applicant. The City will consider each applicant on a case-by-case basis. The City's decision to approve or deny economic incentives is at the sole discretion of the City Council. Each applicant granted economic incentives pursuant to this Program must enter into an agreement with the City containing all terms required by this Program, other applicable City policies, 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 the City.

### **II. Program Requirements.**

A. To be considered for incentives under this Program, a project must meet at least one of the following minimum requirements:

1. Either the project:

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<sup>1</sup> See *Economic Development Strategy*, as adopted on or about March 18, 2011.

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- a. will result in a minimum increased taxable value for the City of \$200,000.00 in real and business personal property, excluding inventory and supplies;
  - b. will provide employment opportunities where a majority of the positions are offered at an average hourly rate that is greater than the median income for wage-earners within Kerr County, as determined by the most recent report of a state or federal agency; and/or
  - c. 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 Section I, above; and
2. In addition, the project may consist of one of the following:
- a. is a "targeted industry" according to the City's economic development policy or the targeted industry strategy as determined by the Kerrville Economic Development Corporation ("KEDC");
  - b. will make a unique or unequalled contribution to development or redevelopment efforts in the City due to its magnitude, significance to the community, or aesthetic quality; and/or
  - c. will enhance the City's fiscal ability to provide high quality municipal services for the safety, comfort, and enjoyment of City residents.

**B.** A project is not eligible for incentives under this Program if a building permit has been issued for the project prior to making application under this Program.

**C.** The City may provide incentives in accordance with this Program but only to the extent that the revenue realized by the City and attributable to a project exceeds a minimum amount established by an agreement. The public benefit or amount of revenue realized by the City and attributable to a project must be commensurate with the value of any incentives granted under this Program.

### **III. Additional Considerations.**

City Council may consider the following additional factors in determining whether to authorize an agreement for incentives for a project:

- A.** the number and types of jobs to be retained or created;
- B.** the financial capacity of the applicant to undertake and complete the proposed project;
- C.** other incentive programs for which the applicant has applied or is qualified;
- D.** the market conditions and growth potential for the business activity; and/or

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E. any other factors that the City Council finds helpful or relevant to accomplishing the City's economic objectives.

#### **IV. Application Process.**

A. An application for consideration as a project must be made on a form(s) supplied by KEDC. KEDC and/or the City may require an applicant to provide additional information to show compliance with the requirements of this Program and the terms of an agreement. If KEDC determines that an applicant has met the Program requirements, the Executive Director will prepare proposed terms of an agreement and make a presentation to the City Council.

B. The City Council may consider a proposed agreement and may take action on a proposal as it deems appropriate in its sole discretion. Nothing in this Program and nothing in the application form and process creates any property, contract, or other legal right in any person to have the City Council consider or grant incentives.

#### **V. Agreement Terms.**

An agreement for any project must include:

A. a timetable and list of the kind of improvements or development that the project will include and conditions to assure that the project meets or exceeds the City's requirements pertaining to property values and revenues, which may not be less than the minimum requirements established in II above;

B. a complete description of the location of the proposed project;

C. a timetable and list of the kind and amount of property values, revenues, incomes or other public benefits that the proposed project will provide;

D. the duration the agreement;

E. a provision identifying the method for calculating and source of funding for any grant, loan, or other incentives provided in the Agreement;

F. a provision providing a tangible means for measuring whether the applicant and other responsible parties have met their obligations under the agreement;

G. a provision providing for access to and authorizing inspection of the property and applicant's pertinent business records by a City representative in order to determine compliance with the agreement;

H. a provision for cancellation of the agreement and/or nonpayment of incentives if a Program is determined not to be in compliance with an agreement;

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**I.** 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;

**J.** 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:

1. all rights, duties, obligations and liabilities under the Agreement are assigned from the assignor to the assignee; and
2. the assignment is made subject and subordinate to the agreement and the Chapter Policies and Procedures; and
3. the assignment document is in a form and contains content acceptable to the City;

**K.** provisions relating to administration, delinquent taxes, reporting requirements, and indemnification;

**L.** a provision that the agreement may be amended by the parties by using the same procedure for approval as is required for entering into the agreement; and

**M.** such other provisions as the City Council deems appropriate.

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