

RESOLUTION NO. R-32-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GLENN HEIGHTS, TEXAS, APPROVING THE CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM POLICY, ATTACHED AS EXHIBIT "A"; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Glenn Heights is committed to the promotion of quality development and expansion of its existing business base, and desires to provide economic development incentives and to establish various programs to ensure the City remains competitive in the marketplace, encourages the increase and retention of quality jobs, encourages revenue streams from commercial, industrial, and manufacturing businesses that maintain or increase the taxable values of their business personal property, including inventories, and acquire and install new machinery and equipment in the City; and

WHEREAS, the City of Glenn Heights will, on a case-by-case basis, give consideration to providing economic development incentives to individuals and businesses meeting the guidelines and criteria set forth in the Chapter 380 Economic Development Program Policy attached as Exhibit "A";

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLENN HEIGHTS, TEXAS:

Section 1. That the City Council hereby approves and adopts the Chapter 380 Economic Development Program Policy set forth in Exhibit "A" incorporated herein for all purposes.

Section 2. That this Resolution shall take effect immediately from and after its passage, and it is, accordingly, so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Glenn Heights,

Texas, this the 4th day of December, 2018.

CITY OF GLENN HEIGHTS, TEXAS



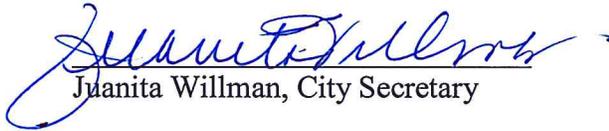
Tony Bradley, Mayor Pro Tem

APPROVED AS TO FORM:

ATTEST:



Victoria W. Thomas, City Attorney
(TM 104571 112718)



Juanita Willman, City Secretary

EXHIBIT "A"

CITY OF GLENN HEIGHTS

CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM POLICY

1. Purpose

The Chapter 380 Economic Development Program was established pursuant to Resolution No. R-32-18, adopted by the City Council on December 4, 2018, and is administered by the Economic Development Department.

These Policies and Procedures are established in an effort to develop and expand the local economy by promoting and encouraging private sector investments that enhance the City's economic base and diversify and expand job opportunities. This shall be accomplished by identifying and recommending projects that create additional revenue for the city without substantially increasing the demand on City services or infrastructure.

This incentive is intended for use as a gap financing tool of last resort. The use of this incentive is for projects facing extraordinary impediments to development and offering significant positive impact to the community and surrounding neighborhood where the project is located. Limitations on how this incentive is used are predicated on the source and nature of the funds and terms and conditions of the award to the project.

2. General Criteria.

Under the Chapter 380 Economic Development Program, the City Council will, on a case-by-case basis, consider, but is not required to offer, economic incentive packages that may include (1) tax rebates, (2) small business development grants, (3) interest rate buy-down grants, and/or (4) fee waivers to businesses and entities that the City Council determines will promote state or local economic development and stimulate business and commercial activity in the City.

A business or entity shall be eligible to participate in the Chapter 380 Economic Development Program on terms and conditions established by the City Council on a case-by-case basis if:

(a) the business or entity enters into a binding contract with the City under which (i) the business or entity is required to make specific and verifiable employment and other commitments that serve the public purposes overseen by the City's Economic Development Department and that the City Council deems appropriate under the circumstances and (ii) the City is able to cease and/or recapture payment of Chapter 380 incentives or to terminate the contract in the event that the public purposes specified in the contract are not met; or

(b) the business or entity enters into a binding contract with the City under which (i) the business or entity commits to conduct or sponsor, in whole or in part, an event to which the general public has access, including, but not limited to, sporting events; events that focus on the history of the City and the region; and events that promote instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, and graphic and craft arts, and (ii) as part of such event and as specified in the contract, the business or entity is required to promote and publicize

the City and attractions within the City in a manner that is likely to attract visitors from locations outside the City.

3. General Policies and Requirements

Notwithstanding anything expressed or implied to the contrary herein, the following general terms and conditions shall govern this Policy:

3.1. A Chapter 380 agreement shall not be granted for any new development project in which a building permit application has already been filed with the City's Planning and Development Department or for which a building permit has already been issued.

3.2. To be eligible for program incentives, a development must meet all of the following requirements:

- a. Commit to provide full-time employment to a set number and/or a percentage of full-time jobs offered on the real property where the Development is located, which Commitment will be agreed upon and set forth in the Agreement; and
- b. Commit to provide full-time employment to a set number and/or a percentage of full-time jobs offered on the real property where the Development is located, to Dallas County and Ellis County Residents, which Commitment will be agreed upon and set forth in the Agreement

3.3 An applicant for Chapter 380 incentives shall provide wage rates, employee benefit information for all positions of employment to be located at any facility covered by the Application.

3.4. As part of the consideration under all Chapter 380 Agreements, the City shall have, without limitation, the right to (i) review and verify the applicant's financial statements and records related to the development project and (ii) conduct an on-site inspection of the development project in each year during the term of the Chapter 380 to verify compliance with the terms and conditions of the agreement.

3.5. The recipient of a Chapter 380 incentive may not sell, assign, transfer or otherwise convey its rights under a Chapter 380 Agreement unless otherwise specified in the Chapter 380 Agreement without formal consent by the City. A sale, assignment, lease, transfer or conveyance of the real property that is subject to the agreement and which is not permitted by the Chapter 380 Agreement shall constitute a breach of the Chapter 380 Agreement and may result in termination of the Agreement.

3.6 For additional information about this Chapter 380 Policy, contact the City of Glenn Heights Economic Development using the information below:

City of Glenn Heights
Economic Development
2118 S. Uhl Road
Glenn Heights, Texas 75154
(972) 223-1690 ext. 455

4. Retail Sales Tax Rebate or Grant

The City will consider providing incentives pursuant to Chapter 380 of the Texas Local Government Code equivalent to a certain portion of sales tax receipts from the City attributable to property improvements or upgraded tenant mix. The rebate can be made either to the site developer as a reimbursement for site improvement expenses or to the retail tenants of the improved center to assist in relocation or expansion related costs of the tenants. The percent of the City’s sales tax rebate and length of time will be negotiable based on the following guidelines:

<u>Sales Tax Revenue</u>	<u>Jobs Created or Retained</u>	<u>Term</u>	<u>Percentage Rebate</u>
\$5000-\$10000	Minimum 5 Jobs	1-3 years	Up to 50%
\$10000-\$20000	Minimum 5 Jobs	3 to 5 years	Up to 60%
\$20001 or more	Minimum 10	5 to 7 years	Up to 70%

This incentive is only available for a commercial retail project identified as a targeted industry. The City sales tax to be rebated excludes the 1% dedicated sales tax for the Dallas Area Rapid Transit

5. Property Tax Rebate or Grant in lieu of Tax Rebate.

The City may consider an economic development incentive pursuant to Chapter 380 to provide grants equal to a percentage of the property taxes generated by a specific project in addition to, or in lieu of, tax abatement pursuant to Chapter 312 of the Tax Code, in accordance with the criteria set forth below:

<u>Capital Investment</u>	<u>Jobs Created or Retained</u>	<u>Term</u>	<u>Percentage Rebate</u>
\$250,000	Minimum 2 Jobs	1-3 years	Year 1 - 25% Year 2 - 40% Year 3 - 50%
\$500,000	Minimum 5 Jobs	3 to 5 years	Up to 60%
\$1 million	Minimum 10 Jobs	3 to 5 years	Up to 75%
\$3 million	Minimum 15 Jobs	Up to 7 years	Up to 90%

6. Small Business Development Grant

The City may consider an economic development incentive pursuant to Chapter 380 to provide grants for the purchase of loan origination points to small businesses looking to make capital investment and add jobs in accordance with the criteria set forth below:

<u>Project</u>	<u>Minimum Private</u>	<u>Job</u>	<u>Maximum</u>
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Type	Investment	Creation	Grant Award
New Construction	\$25,000	5 or more	\$5,000
Rehab/Tenant Finish Out	\$25,000	3 or more	\$5,000
Equipment Purchases	\$25,000	2 or more`	\$5,000

Only “brick and mortar” establishments having an actual physical place of business within the City of Glenn Heights shall be eligible to apply for a small business development grant. Eligible costs are operating equipment, furnishings and fixtures.

7. Interest Rate Buy-Down Grant

City of Glenn Heights may provide an interest rate buy-down grant to assist for-profit small businesses and entrepreneurs in obtaining business loans with competitive interest rates by reducing the perceived risk to lenders. The City will offer a 3% interest rate reduction for loans of \$100,000 or less that meet the eligible criteria of the program through partnering with non-profit micro lending institutions to provide capital financing and technical assistance to small businesses looking to locate and expand their operations in Glenn Heights, TX. The maximum grant award under this provision is \$5,000.

The minimum private investment required for eligibility is \$25,000 and the minimum job creation required for eligibility is two.

7.1 A new business contemplating a move to Glenn Heights or an existing local business contemplating expansion must meet the following criteria to be eligible for consideration for the Interest Rate Buy-Down Program:

- a. A new business must have or propose to create at least (3) jobs.
- b. An existing business that is expanding must add a minimum of (2) full-time employees.
- c. An existing business that is renovating or improving a freestanding building or office space, or purchasing equipment, must have at least three full-time employees.

7.2 Eligible Costs - Loans for the following business activities will be eligible for consideration for incentives under this program:

- a. ***Moving*** – cost to move from current facility to the new Glenn Heights location
- b. ***Build Out*** – cost to finish out the space to the needs of the new business
- c. ***Expansion*** – cost of the expansion of the tenant space or building
- d. ***Façade or Site Improvement*** – cost to improve an existing free-standing building or commercial center
- e. ***Capitalized Equipment*** – capital asset defined as an item with an acquisition cost of \$3,500 or more

7.3 Additional program requirements:

- a. Equity Injection

- Equity requirements will be subject to loan underwriting guidelines established by partner lending institutions.
- Purchase of equipment will require a refundable cash reserve equal to 10% of the purchase price (reserve refunded when loan is paid in full)

b. Collateral

- Business and personal collateral requirements subject to loan underwriting by lending institution.

c. Credit Scores

- Credit score requirements and debt standing subject to loan underwriting threshold established by partner lending institution.

7.5 The following are applicants and/or industries ineligible for the incentives offered under this section: applicants in open/active bankruptcy, owing past due child support, having reported delinquent credit accounts, having active tax liens or judgments, under active criminal or civil indictment, registered sex offenders, convicted felons (subject to category and degree of felony), ex-offenders if the crime was one of fraud or crime involving a child., and industries involving any of the following:

- X-rated products or entertainment
- Gaming or Gambling Activities
- Nightclubs or lounges
- Establishments who serve or sell alcoholic beverages must have $\geq 50\%$ of gross sales from food or groceries
- Tobacco, supplies and paraphernalia
- Ammunition or Weapons Manufacturing; wholesale and retail
- Bail Bonds
- Check Cashing – Payroll Lending
- Pawn shops
- Home Based Businesses without a separate commercially zoned facility
- Speculative activities (Investment Real Estate <50% owner-occupied)
- Churches, shelters, schools
- Political campaigns, candidates, or committees
- Public administration (e.g., city, county, state, and federal governmental agencies)

7.6 At no time may grants made by the interest rate buy-down program exceed the total amount allocated for the program by the Glenn Heights City Council.

8. Fee Waiver

The City may consider providing economic development incentives pursuant to Chapter 380 Texas Local Government Code to provide a waiver or rebate of impact fees, water and sewer fees, building permit and inspection fees or reduction in the cost of such services for a qualified business. On a case-by-case basis, City will evaluate the cost/benefits under which the City would offer a fee waiver or rebate.

9. Economic Development Program Implementation

The term of an incentive agreement shall be negotiated on a case-by-case basis and specified in the Chapter 380 Agreement. For Tax Rebates, The City will audit and determine the recipient's compliance with the terms and conditions of the Agreement for a full calendar year prior to the first year in which the incentive is available (the "**First Compliance Auditing Year**"). The first incentive benefit or payment will be available to the recipient for the tax year following the Compliance Auditing Year. In other words, the degree to which the recipient meets the Commitments set forth in the Chapter 380 Agreement will determine the percentage of taxes repaid in the form of a grant for the following tax year. The City will continue to audit and determine the recipient's compliance with the terms and conditions of the Chapter 380 Agreement for each subsequent calendar year, which findings shall govern the percentage of taxes repaid in the form of a grant for the following tax year, until expiration of the Chapter 380 Agreement.

10. Chapter 380 Application Procedures

Each Chapter 380 agreement application shall be processed in accordance with the following standards and procedures:

10.1. Submission of Application.

Applicants must complete and submit a City of Glenn Heights Incentives Application (with required attachments) (the "**Application**"). An Application can be obtained from and should be submitted to the City's Economic Development Department. Applications must also include documentation showing no delinquent property taxes are due for the property on which the development project is to occur.

10.2. Application Fee.

Upon submission of the Application, an applicant must also pay an application fee. This application fee shall be \$250.00 ("**Application Fee**") which will be credited to any permit, impact, inspection or other fee paid by the applicant and required by the City directly in connection with the proposed project, as long as substantive construction on the project, as determined by the City in its sole and reasonable discretion, has been undertaken on the property specified in the Application within one (1) year following the date of its submission.

If any Application Fee funds are remaining after the development project covered in the Application has received a final Certificate of Occupancy (CO) from the City, the applicant must submit a letter to the City's Economic Development Department requesting a refund of the remaining funds. *The request must be made within three (3) months from the date of the final CO.* Application fees remaining after the development project covered in the Application has received a final CO will become the property of the City and will not be eligible for refund, even if a final CO was issued, if the applicant does not submit the

written request for refund as required by this Section. The Application Fee is non-refundable and will be utilized for City staff expenses associated with processing the Application and fees associated with legal notice requirements.

10.3. Application Review and Evaluation.

The Economic Development Department will review an application for accuracy and completeness. Once complete, the department will evaluate an application based on the perceived merit and value of the project, including, without limitation, the following criteria:

- Types and number of new jobs created, including respective wage rates, and employee benefits packages such as health insurance, day care provisions, retirement packages, transportation assistance, employer-sponsored training and education, any other benefits and whether all benefits are offered on an equal and non-discriminatory basis to all employees;
- Financial viability of the project;
- The project's reasonably projected increase in the value of the tax base;
- Costs to the City (such as infrastructure participation, tax rebates, fee waivers, etc.);
- Remediation of an existing environmental problem on the real property;
- Whether the project will be able to obtain General Leadership in Energy and Environmental Design (LEED) certification, International Organization for Standardization (ISO) Standard 14001 certification, American Institute of Architects (AIA) or ASTM International sustainability standards, or will otherwise comply with similar sustainable building and management processes acceptable to the City; and
- For residential projects, the scope of the development program must be mixed use; meaning residential is combined with commercial retail or office land uses. The number or percentage of units reserved as affordable housing for persons with incomes at or below eighty percent (80%) of median family income based on family size (as established and defined by the United States Department of Housing and Urban Development) must not be more than a 50:50 ratio of affordable units to market rate units as a rule of thumb.
- Other items that the City may determine to be relevant with respect to the project.

Based upon the outcome of the evaluation, the Economic Development Department will present the Application to the City Council for consideration.

10.4. Consideration by the City Council.

A Chapter 380 Agreement will only be considered by the City Council if the applicant has first executed the Chapter 380 Agreement. The City Council retains sole authority to approve or deny any Chapter 380 Agreement and is under no obligation to approve any Application or Chapter 380 Agreement.