

RESOLUTION NO. 2022-15

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROCKPORT, TEXAS
AUTHORIZING, ESTABLISHING AND APPROVING AN ECONOMIC
DEVELOPMENT POLICY; AND AUTHORIZING THE CITY MANAGER TO
PROCESS REQUESTS FOR ECONOMIC DEVELOPMENT ASSISTANCE IN
ACCORDANCE THEREWITH; AND ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the City of Rockport Texas (“City”) is a Texas Home Rule Municipality operating under the laws of the State of Texas, and is committed to the promotion of high-quality development in all parts of the city and to improving the quality of life for its citizens; and,

WHEREAS, pursuant to Local Government Code (LGC) Chapter 380, the governing body of a municipality may establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality; and,

WHEREAS, the City Council desires to establish an Economic Development Policy, including application forms, required application materials, application submittal calendars and other materials related to submitting economic development applications for programs that will be considered by the City; and,

WHEREAS, the purpose of the City of Rockport’s Economic Development Policy (the “Policy”) is to provide incentives for current and prospective property owners and leaseholders to invest in City of Rockport, encourage economic growth, and create job opportunities in the City.

WHEREAS, the programs the City Council desires to consider and establish under the Policy adopted pursuant to LGC Chapter 380 include, but are not necessarily limited to, tax abatements under Texas Tax Code Chapter 312, enterprise zones established pursuant to Texas Government Code Chapter 2303, public improvement districts pursuant to LGC Chapter 372, and tax increment financing pursuant to Texas Tax Code Chapter 311; and,

WHEREAS, the City Council desires to authorize the City Manager to maintain and amend the Economic Development Manual Policy forms from time to time as needed; and,

WHEREAS, the City Council desires the City Manager to make available the Economic Development Policy and Forms to the public upon request or by posting same on the City’s website; and

WHEREAS, the City Council finds that the establishment of an Economic Development Policy will serve a public purpose.

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

Section 1. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 2. The Economic Development Policy of the City of Rockport is hereby established as set forth in Exhibit A.

Section 3. The City Manager or his/her designee is authorized to amend the Economic Development Policy Forms as needed.

Section 4. The Economic Development Policy shall be made available to the public upon request and by posting to the City's website.

Section 5. If any provision of this Resolution shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

Section 6. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public in compliance with the advisory issued by the Office of the Governor and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given all as required by the Texas Government Code, Chapter 551, as amended.

Section 8. This Resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED and APPROVED the 12th day of April 2022.



CITY OF ROCKPORT, TEXAS


Patrick R. Rios, Mayor

ATTEST:


Teresa Valdez, City Secretary

EXHIBIT "A"

CITY OF ROCKPORT, TEXAS

ECONOMIC DEVELOPMENT POLICY

**Approved by the City of Rockport City Council on April 12, 2022
by Resolution No. 2022-15**

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Part 1: Policy Purposes, Guidelines, and Criteria for Economic Development Incentives

A. Purpose of the Economic Development Policy:

The City of Rockport (City) is committed to the promotion of high-quality development in all parts of the City and to improving the quality of life for its citizens.

The purpose of the City's Economic Development Policy (the "Policy") is to provide incentives for current and prospective property owners and leaseholders to invest in the City, encourage economic growth, and create job opportunities in the City.

B. Establishment of an Economic Development Policy.

This Policy shall constitute the City Economic Development Policy which is authorized under the laws of the State of Texas. The existence of this Policy does not create any property right, contract right, or other legal right in any party, including but not limited to an applicant, person, or business entity, for the City Council to consider, approve, or grant any economic development incentive.

C. The Role of the City Council.

1. **All Incentives to be Considered as a Package.** In the implementation and direction of this Policy, the City Council shall take into consideration incentives provided by the City or other taxing jurisdictions to ensure that the overall incentive package offered to prospective beneficiaries achieves the objectives of the Policy and is in the best interests of the citizens of City.

2. **The Discretion of the City Council.** Nothing in this Policy shall imply or suggest that City is under any legal or equitable obligation to provide any incentive whatsoever to an applicant. All applications for any economic development incentives, including tax abatements and/or rebates, shall be considered on an individual basis. The City Council will use its best business judgment to negotiate agreements, when it deems appropriate, on a case-by-case basis. The City Council has final approval or disapproval of any application or agreement and such decisions shall be made in its sole discretion.

D. Application Review Process:

1. Applications for economic development incentives will be reviewed by the City Manager, City Staff and City Attorney which will provide its recommendation for approval or disapproval to the City Council.

2. **Public Notice Required.** All economic incentive agreements must be approved by the City Council in open session following at least thirty days (30) prior notice to the public. Economic Incentive agreements shall be considered at a regularly scheduled meeting following a public hearing.

E. Definitions:

1. “Abatement” as used herein means the exemption of a specified percentage of taxation related to the increase in the value of real property and/or personal property, as authorized under Chapter 312 of the Tax Code, for a period not to exceed eight (8) years.¹

2. “Applicant” the owner, lessor, lessee of a proposed project area.

3. “Certificate of Compliance” refers to a formal certification that declares that an individual or company has met a set of conditions found in economic development incentives agreement.

4. “Chapter 380” refers to Chapter 380 of the Local Government Code which authorizes the City to offer various incentives, including grants and loans, and to participate in tax rebate agreements.

5. “Economic Life” means the number of years that a property improvement is expected to be in service.

6. “Eligible Jurisdiction” means the City and any municipality or other taxing jurisdiction eligible to offer incentives under Texas law, which levies ad valorem taxes upon and provides services to property proposed to be included in an economic development agreement.

7. “Employee” means a person who is employed on a permanent and full-time basis and who works for, and is an employee of the Owner, or an employee of a contract provider working for Owner, who works a minimum of Two Thousand (2,000) hours per year at the Owner’s property in the City, who receives industry-standard benefits, and whose employment is reflected in the Owner’s quarterly reports filed with the Texas Workforce Commissioner (“TWC”). This term does not include employees that are employed by direct contract on a seasonal, part-time, or full-time equivalent basis.

8. “Enterprise Zone” is a type of reinvestment zone created pursuant to Chapter 2303 of the Government Code. An enterprise zone may be authorized for up to seven (7) years.

9. “Expansion” means the growth of an existing business which includes new capital investment and/or new job creation providing new capacity or capability.

10. “Modernization” as used herein means the replacement or upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially

¹ Ch. 312, Tax Code, §312.208

lowers the cost of operation. Modernization may result from the construction, alteration, or installation of buildings, structures, and fixed machinery, or equipment. It shall not include reconditioning, refurbishing, or repairing.

11. "Policy" refers to this document which is entitled the "City of Rockport Economic Development Policy."

12. "PID" means a public improvement district. It is a tool that local governmental entities may use when petitioned by 100% of the property owners in a defined geographic area to be taxed at a higher rate to raise revenue for dedicated public infrastructure in the defined geographic area.

13. "Public Purpose" is an expenditure with (1) the predominant purpose being to accomplish a public purpose, not to benefit private parties; (2) the public entity retains control over the funds to ensure that the public purpose is accomplished and to protect the public investment; and (3) the expense ensures that the political subdivision receives a return benefit.

14. "Rebate" as used herein means the reimbursement of a specified percentage of ad valorem taxes of certain real property and improvements and personal property located in the City as authorized by Chapter 380, Local Government Code.

15. "Reinvestment Zone" as used herein means an area within the City that meets the criteria for municipal or City reinvestment zones and that has been formally designated a reinvestment zone following the procedures set out in Chapter 312, Tax Code. An enterprise zone is one type of reinvestment zone.

16. "Revenue Gap" describes, in a typical financing scenario, when a business does not have sufficient revenue to support the debt service for a project.

17. "Sales Tax" refers to the City's share (1%) of the revenue collected from a tax on sales or on the receipts from sales. Locally the sales tax is set at 8.25% with 6.25% going to the state of Texas.

18. "Tax Abatement Agreement" means a contractual agreement between a property owner and/or lessee (the "Owner") and an eligible jurisdiction for the purposes of tax abatement as authorized under Chapter 312 of the Tax Code.

19. "Tax Rebate Agreement" means a contractual agreement authorized by Section 380 of the Local Government Code in which a taxing entity may agree to reimburse an individual or entity a portion of taxes paid in order to stimulate business and commercial activity in the City.

20. "TIF" means tax increment financing. It is a tool that local governmental entities can use to encourage development by financing needed improvements in a defined area. TIF agreements may only be initiated by cities. Once a city has initiated TIF, the other local entities, including cities and schools, may choose to participate.

21. “TIRZ” means Tax Increment Reinvestment Zone” is the area in which improvements may be financed through tax increment financing.

22. “Wage Requirement” is a requirement that the wage or salaries offered for new jobs be equal to or greater than the City Median Wage as computed annually by the United States Bureau of Labor Statistics and that employers provide health insurance benefits to employees for which the employer pays at least fifty percent (50%).

F. Objectives of Economic Development Policy:

This Policy, and its guidelines and criteria, are established in an effort to develop and expand the local economy by promoting and encouraging development and redevelopment projects that enhance the City economic base and a higher quality of life, diversify, and expand job opportunities, or encourage projects that create additional revenue for the City without substantially increasing the demand on City services or infrastructure.

The City Council has determined that it is in the best interest of the citizens for the city to pursue certain objectives.

The City Council supports the growth and retention of businesses in the City and supports incentives that reduce business costs to encourage the creation and retention of quality jobs and capital investment. The City Council also supports efforts to increase educational opportunities to expand and improve the skills of local workers through education, training, and career development.

The ultimate goal and public purpose of this Policy is to protect and enhance the ability of the City to provide high quality City governmental services for the safety, comfort, and enjoyment of City residents.

G. Introduction to The City Economic Development Incentives:

While other types of incentives and programs may be available, the State of Texas specifically allows municipalities the ability to provide economic incentives. Each of the following types of incentives can be found in the Texas State statutes and are commonly used throughout the state. State law governs how municipalities may use each of the incentives listed below:

1. Chapter 312 Tax Abatement Agreements. The City Council has developed and administers a program for granting tax abatement and entering into a tax abatement agreement with owners or lessees of a property interest subject to ad valorem taxation. The tax abatement agreements are governed by the provisions of Sections 312.204, 312.205, and 312.211, Tax Code.

In general, a tax abatement agreement between a taxpayer and a local taxing unit involves exempting all or part of the incremental increase in taxes for a period not to exceed eight (8) years. The property involved must be located within a reinvestment zone or an enterprise zone.

Chapter 312 Tax Abatement Agreements are utilized for various reasons, some of which are (1) attracting business to locate in the City and create jobs; (2) encourage existing businesses to grow; and (3) encourage businesses to increase capital investments in the City.

Insofar as the enhancement and expansion of the local economy generally serves these objectives, the City will, on a case-by-case basis, give consideration of economic incentives to applicants in accordance with this Policy, as authorized by Chapter 312 of the Tax Code, as amended from time to time.

2. Chapter 380 Tax Rebate Agreements. Chapter 380 of the Local Government Code authorizes cities to provide reimbursements (e.g., property tax rebates, sales tax rebates) to developers for public infrastructure to promote economic development. Incentives may include, but are not necessarily limited to, tax rebates, fee reimbursements, fee waivers, and cash grants.

Insofar as the enhancement and expansion of the local economy generally serves the objectives identified in this Policy, the City will, on a case-by-case basis, give consideration of economic incentives to applicants in accordance with this Policy, as authorized by Chapter 380 of the Local Government Code, as amended from time to time.

The Chapter 380 Economic Development Program is intended as an incentive for developers and businesses to address revenue gaps in development projects, defined as having insufficient revenues to support the project's debt service under a standard financing scenario.

The program can also apply to projects that have a development margin or rate of return that is below market. Any sources of public financing are not intended to substitute conventional debt and equity financing, and a project should generally be able to deliver the terms of most of its financing.

For a project to be approved, it will undergo an analysis of the development budgets, projected revenues and expenses, and sources and uses of funds for the project. These figures will be compared to industry standard measures. The City Council will give preference to proposals that contribute public infrastructure investments and seek reimbursement through enhanced sales and property taxes generated from the project.

Each applicant granted economic incentives under Chapter 380 of the Local Government Code pursuant to this Policy must enter into an agreement with the City containing all terms required by this Policy and by Texas law to protect the public interest of receiving a public benefit in exchange for public funds, assets and services.

3. Chapter 372 Public Improvement Districts ("PIDs"), per the Texas Local Government Code Chapter 372 ("the code" or "PID Act"), provide the City an economic development tool that permits the financing of qualified public improvement costs which confer a special benefit on a definable part of the City. Proceeds from bonds issued by a PID can finance capital costs and fund supplemental services to meet the community needs which could not otherwise be constructed or provided. The bonds issued by the PID to fund the costs of eligible capital improvements and/or supplemental services are paid entirely by property owners within the Public Improvement District ("PID") who receive special benefits from the capital

improvements or services. A PID may only be used to pay for public improvements as defined in the code.

A PID is comprised of properties, whose owners have petitioned the City to form a PID. The City Council establishes a PID by adoption of a resolution after a public hearing. Written notification of the public hearing is published and mailed to all property owners in the proposed PID. By petition, the owners pledge to pay an assessment in order to receive enhanced services and/or improvements within the district. The PID must demonstrate that it confers a benefit, not only to the properties within the district, but also to the "public" which includes the City.

The purpose of this PID policy is to outline the issues to be addressed by the owner of the taxable real property liable for assessment petitioning for creation of a PID ("Petitioner") before the City Council can support the establishment of a PID. The PID policy outlines such things as petition requirements, qualified costs, financing criteria, information disclosures to property owners, and the determination of annual plans, budgets and assessments.

4. Chapter 311 Tax Increment Financing is defined as a public financing mechanism through which the growth in taxes (increment) associated with new development or redevelopment can be captured and used to pay costs associated with economic development for the public good.

H. The Effect of this Policy:

1. The adoption of the Policy does not:

i. Limit the discretion of the City Council to decide whether to enter into a specific tax abatement or rebate agreement; or

ii. Limit the discretion of the City Council to delegate its employees the authority to determine whether the governing body should consider a particular application or request for tax abatement; or

iii. Create any property, contract, or other legal right in any person or entity to have the City Council consider or grant a specific application or request for abatement or rebate.

2. Legal Compliance. Unless exemptions, variances, or waivers are granted by the City Council, facilities approved for tax abatement or tax rebates must be in compliance with all federal, state, City and municipal laws, rules and regulations, and other requirements approved by the City Council.

3. No Reduction in Current Ad Valorem Revenues. No tax abatement or rebate will be granted that will have the effect of reducing current ad valorem revenues.

4. Effective Term of Policy. This Policy and the guidelines and criteria adopted herein shall be effective for two (2) years from the date of adoption unless amended or repealed.

I. Contracts with Other Entities:

The City Council may choose to enter into agreements with other entities to assist with implementation of the Economic Development Policy. However, the Policy will be administered by City officers and employees under the direction of the City Council.

J. Certificate of Compliance

Each company or individual awarded an economic incentive by the City Council shall provide to the City an annual Certificate of Compliance that proves the company has fulfilled of all the requirements (e.g., # of jobs created, agreed upon pay roll, agreed upon investment), listed in the economic development agreement.

Appendix A: Application Instructions and Application Form

APPLICATION FOR ECONOMIC INCENTIVES

IN CITY OF ROCKPORT, TEXAS

Prior to any public expression of a decision or any commitment (legal or financial) to the proposed project by applicant, **one (1) original hard copy and an electronic copy of this application**, including supporting documentation of competitive siting and narrative impact statement shall be submitted to the Office of the City Manager at 2751 S.H. 35 Bypass, Rockport, Texas, 78382. In addition, the non-refundable application fee One Thousand Dollar (\$1,000.00) must be made out to City of Rockport and submitted to the City Manager at the same time as the application.

If the City Council chooses to proceed to negotiate an agreement with the applicant, this application will ultimately become part of the Economic Incentive Agreement (the "Agreement").

Any false representations in this application or any supporting documentation will be grounds for terminating the application process and, if an Agreement is in effect, in voiding the Agreement.

PART I – APPLICANT INFORMATION

Date of Application / /

Company Name: _____

Headquarters Address: _____

City: _____ State: _____ Zip code: _____

Local Address: _____

Local Phone Number: _____ State and Year of Formation: _____

Local Contact: _____ Title: _____

Email Address: _____ Phone: _____

Years in City: _____ Total Employees in City: _____

Total Employees in Texas: _____ Total Employees Worldwide: _____

Year Company became authorized to do business in Texas: _____

PART II – PROJECT INFORMATION

Project Name: _____

Project Location (street address): _____

City: _____ State: _____ Zip code: _____

Property Legal Description: _____

Taxing Entities for the Property:

School Districts: _____ Cities: _____

Special Districts: _____ Other: _____

Project Description: New Construction Expansion Redevelopment

PART III – ECONOMIC DEVELOPMENT

Type of Facility:

<input type="checkbox"/> Aviation-Related	<input type="checkbox"/> Corporate Offices	<input type="checkbox"/> Marine-Related
<input type="checkbox"/> Tourism/Entertainment	<input type="checkbox"/> IT/Emerging Tech	<input type="checkbox"/> Retail development
<input type="checkbox"/> Medical facilities	<input type="checkbox"/> Education facilities	
<input type="checkbox"/> Research and Development	<input type="checkbox"/> Workforce housing (50+ units) with rent below market rate	
Industries		

Describe products or services to be provided and the purpose of providing them:

PART IV – TYPE OF INCENTIVE REQUESTED

Chapter 311 Tax Increment Financing _____ Chapter 312 Tax Abatement _____

Chapter 372 Public Improvement District _____ Chapter 380 _____

Please provide additional information and financial data necessary to evaluate each of the incentives requested.

PART V – ECONOMIC INFORMATION

Construction Estimates:

Start Date: _____ Construction Cost: _____

Completion Date: _____ Peak Construction Jobs: _____

Construction Man-Years to complete project: _____

If the project involves modernization:

Estimated remaining economic life of structure/equipment: _____ years

Added economic life from modernization: _____ years

Permanent Job Creation or Job Retention:

Current employees in City: _____

Attach: Texas Workforce Commissioner "Employer's Annual Report" for the last four quarters.

Number of Jobs to be Retained: _____ Number of Jobs to be Created: _____

Estimated Appraised Value on Site	Land	Improvements	Total
Value on January 1 preceding application	\$	\$	\$
Estimated value of new investment: buildings		\$	\$
Estimated value of new abatable fixed-in-place machinery and equipment		\$	\$
Estimated value not subject to abatement (e.g. inventory)		\$	\$
Estimated value of property subject to ad valorem tax at the end of the abatement or rebate period		\$	\$

PART VI – UNDOCUMENTED WORKER CERTIFICATION

Chapter 2264, Subchapter A, Government Code requires that any public agency or economic development corporation shall require a business that submits an application to receive a public subsidy to include a statement certifying that the business does not and will not knowingly employ an undocumented worker. By signing and submitting this application, the Company certifies that its operation within the City, does not and will not knowingly employ an undocumented worker, as defined in Chapter 2264, Subchapter A, Government Code, as amended (the “Act”). Pursuant to the Act, if the Company is convicted of a violation under 8 U.S.C. Section 1324a(f), after receiving any public subsidy, the Company shall promptly give the City written notice of such violation and the Company shall repay the amount of the payment with interest, at a rate of 6.75% per annum not later than the 120th day after the date the Company notifies the City of the violation.

PART VII – AUTHORIZATION AND CERTIFICATION

By signing below, I hereby assert that I am the authorized representative for the Company for the purpose of filing this application. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code. The information contained in this application is true and correct to the best of my knowledge and belief.

I hereby certify and affirm that the Company I represent is in good standing under the laws of the state in which the Company was organized, and the State of Texas, and that no delinquent taxes are owed to the State of Texas.

Authorized Company Official:

Authorized Signature: _____

Name: _____ Title: _____

Telephone: _____ E-mail: _____

I have attached proof of my authorization to sign on behalf of the Company.

GIVEN under my hand and seal of office this _____ day of _____ 20 _____.
(Notary Seal) _____

Notary Public, State of _____

MUST ATTACH NARRATIVE

Appendix B: Annual Certificate of Compliance

Any company or individual participating in an economic development incentive agreement is required to complete and submit an Annual Certificate of Compliance in the form of an Affidavit.

STATE OF TEXAS)
COUNTY OF _____)
ss.

BEFORE ME, the undersigned Notary Public, on this day personally appeared _____, who being by me duly sworn upon his/her oath, deposed and said:

1. My name is _____ . I am of sound mind and capable of making this Affidavit, I have personal knowledge of the facts stated herein, and the contents of this Affidavit are true and correct.
2. I have been employed as _____ (job title) for _____ years and work for _____ (employer name).
3. I have personal knowledge of the *Economic Development Agreement/Tax Abatement Agreement/Tax Rebate Agreement* (the “Agreement”) between my employer and the City and am familiar with the responsibilities of the parties.
4. As of the date of this Affidavit, I certify that my employer has satisfied all of its obligations under the terms of the Agreement including the submittal of the *Annual Report*.

FURTHER AFFIANT SAYETH NOT.

Signature:

Printed Name: _____

Job Title:

SUBSCRIBED AND SWORN TO BEFORE ME on this _____ day of _____
20 , to certify which, witness my hand and official seal.

(Notary Seal)

Notary Public, State of