

Lampasas Economic Development Corporation Incentive Guidelines & Principles

Adopted: May 16, 2018

SECTION 1. PURPOSE

1.01 Guiding Principles

The City of Lampasas (the “City”) and the Lampasas Economic Development Corporation (“LEDC”) are aggressive in their promotion of local business expansion and new business investments. Both the city and LEDC offer a variety of incentives to industries and commercial enterprises for the purpose of local economic development. The community is committed to the promotion and retention of high quality development and jobs which promote our economic development objectives. This document outlines the criteria by which public assistance is provided by the LEDC. Nothing herein shall imply or suggest that the City or LEDC is under any obligation to provide a business incentive to any applicant.

SECTION 2. PREMISES

2.01 Priority on Primary Jobs

The LEDC’s priority is to offer incentives to projects that will create new primary jobs (i.e. jobs that form the economic base of the community, created by enterprises that import new wealth into the local economy). What constitutes a primary job refers to industries that produce more goods and services than can be consumed by the local economy, and therefore export a significant portion of them. Primary employers may range in size from one employee to thousands of employees.

2.02 Community Belief System

Our community believes that a new primary job created by an existing employer is as valuable as a new primary job created by a new company. Therefore, the LEDC will consider appropriate incentives to qualifying existing businesses as well as those recruited from outside the city. In general, it is the belief of the community that Lampasas should continue to become a better place- not just a bigger place- so prudence will be taken by the LEDC Board and the City Council in evaluating each company and project requesting incentives.

2.03 Case by Case

It is the policy of the LEDC to provide economic development incentives on a case-by-case basis. This individualized design of a total incentive package is intended to allow maximum flexibility in addressing the unique aspects of each applicant and its proposed project while enabling the city and the LEDC to better respond to the changing needs of the community.

2.04 Expectations for Performance

If developers and/or companies seek financial assistance from the public sector in order to start up or expand their operations, they must be prepared to:

- a. Invest in the community through job creation and capital investment;
- b. Make a minimum (5) year commitment to the community;
- c. Treat the LEDC and local governments as they would any other contracting party; and
- d. Expect consequences for breaching their agreement.

These expectations for performance also apply to non-primary employers such as public entities, quasi-governmental and non-profit agencies which are financially supported by the LEDC on a project basis.

2.05 Guidelines with Flexibility to Respond to Individual Needs

Although nearly every economic development project has unique requirements, the LEDC has established these guidelines that can be explained to a prospect in advance. These guidelines may be modified over time as appropriate. In addition, the LEDC has flexibility to accommodate different types of economic development opportunities or special situations.

2.06 Determining Appropriate Levels of Investment

The amount or level of local incentives offered to prospective developers and/or companies should ultimately be based on the projected increases in the quality, value, and size of the local workforce (both in number of jobs and the level of wages), the value of real property, the value of personal property, and other forms of revenue that contribute to the economic well-being of Lampasas' residents and taxing entities. Incentives will be used when they will make a difference in a project's likelihood of success and/or the city's competitive advantage in securing the project, both of which include the expansion or retention of existing businesses. Incentives may also be provided to a company when the LEDC is convinced the incentives are needed to retain existing primary jobs which would otherwise be lost.

2.07 Interchangeability of Terms

For purposes of this policy and suggested guidelines, the following terms are considered related and interchangeable: development agreement, incentives agreement, performance agreement, and redevelopment agreement.

The following terms are also considered related and interchangeable: incentives, benefits, benefits package, and incentives package. Incentives can be defined but are not limited to cash grants, land grants, forgivable loans, non-forgivable loans, training grants, discounted land sales, and services in-kind.

SECTION 3. APPLICABILITY

These policies apply to new, relocating, renovated, modernized, redeveloped, and/or expanding businesses or projects. These policies also apply to historic structures and residential redevelopment as long as they directly contribute to the expansion or relocation of a primary employer.

The LEDC is a “Type B” sales-tax funded corporation and is authorized to offer economic incentives under the Development Corporation Act of 1979 (also referred to as the “Act”).

3.01 Eligible Type B Projects

The tax is primarily intended for manufacturing and industrial development, and cities may use the money raised by this sales tax to acquire or pay for land, buildings, equipment, facilities, expenditures, targeted infrastructure and improvements for purposes related to:

- a. Manufacturing and industrial facilities;
- b. Research and development facilities,
- c. Military facilities, including closed or realigned military bases;
- d. Transportation facilities, including airports, hangars, rail ports, rail switching facilities, maintenance and repair facilities, cargo facilities, related infrastructure located on or adjacent to an airport or rail port facility, marine ports, inland ports, mass commuting facilities, and parking facilities;
- e. Sewage or solid waste disposal facilities;
- f. Recycling facilities;
- g. Air or water pollution control facilities;
- h. Distribution centers;
- i. Small warehouse facilities capable of serving as decentralized storage and distribution centers;
- j. Primary job training facilities for use by institutions of higher education; and
- k. Regional or national corporate headquarters facilities.

Type B corporations may provide land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including a project to provide:

- a. Public safety facilities;
- b. Streets and roads;
- c. Drainage and related improvements;
- d. Demolition of existing structures;
- e. General municipally owned improvements; and

- f. Any improvements or facilities that are related to a project described by this subsection; and any other project that the board of directors in its discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs.

Not all Type B projects are required to create or retain primary jobs. The following Type B projects are not required to create or retain primary jobs:

- a. Job training classes;
- b. Certain targeted infrastructure projects necessary to promote or develop new or expanded business enterprises, limited to streets and roads, rail spurs, water and sewer utilities, and electric utilities, gas utilities, drainage, site improvements, and related improvements, telecommunications, and Internet improvements;
- c. Land, buildings, equipment, facilities, improvements, and expenditures required or suitable for use for a career center if the area to be benefited by the career center is not located within the taxing jurisdiction of a junior college district;
- d. Projects consisting of professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events;
- e. Affordable housing projects;
- f. Water supply facilities projects, with the requisite voter approval;
- g. Water conservation programs, with the requisite voter approval;
- h. Development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses; and
- i. Development or expansion of airport or rail port facilities, including hangars, maintenance and repair facilities, cargo facilities, and related infrastructure located on or adjacent to an airport or rail port facility, if the project is undertaken by a Type B corporation and enters into a development agreement with an entity who acquires a leasehold or other possessory interest from the Type B corporation and is authorized to sublease the entity's interest for other authorized projects; and is approved by city council resolution.

SECTION 4. TYPES OF BENEFITS

4.01 Use of Funds

The LEDC has discretion over what types of incentives may be offered or granted to a project. The LEDC board of directors has published the following preferences for types of financial assistance it will consider. Whenever possible, the LEDC board will issue grants as forgivable loans.

Land Grants- LEDC currently owns more than 165 acres of real property for development by primary employers. The first preference for LEDC is to sell property at or below market value to qualified applicants. For eligible projects, LEDC may provide a land grant with a promissory note as a requirement of the development agreement.

Infrastructure Grants- Typically reserved for water, wastewater, electric, telecommunications, roads, and gas line improvements. May also include rail improvements.

Real Property Improvement Grants- Can be used for finish out, plumbing, electrical, and other types of general building and facility improvements.

Deal Closing/Relocation Grants- For major impact projects, LEDC may provide funds for property acquisition, relocation of employees and/or equipment, or other LEDC approved uses.

4.02 Structure of Funds

Virtually all grants to primary employers are awarded by LEDC as forgivable loans. Personal guarantees on promissory notes may be required from a majority of stockholders or company owners. Additional information regarding liens and guarantees appear below.

SECTION 5. ELIGIBILITY AND EVALUATION CRITERIA

5.01 Evaluation Criteria

The LEDC will consider various factors to determine the viability, extent, and size of a potential development incentive to determine whether any public subsidy is warranted. The following criteria will be used to determine the level of economic development incentive(s) the LEDC will consider:

a. Employment Impact

- Wage levels of jobs to be created or retained, as well as benefits offered to fulltime employees; and
- Number of jobs brought to the community, as well as value and skills of positions created/retained.
- The proposed development and/or redevelopment should create and maintain jobs that pay wages, specific to the industry, equal to or larger than the average hourly wage within the Lampasas metropolitan statistical area (MSA). Wage information can be found at www.TexasWages.com.

b. Investment

- Type and value of proposed private and/or public improvements;
- Amount of any local taxes or revenues (sales & use, ad valorem, utilities, fees, etc.) to be generated directly by the Community; and
- The costs, if any, to be incurred by the Community to provide facilities, or services directly resulting from the improvements.

c. Other Factors Considered

- Likelihood of a development incentive being a determining factor in a business' decision to locate or expand its operations;
- The financial capacity of the applicant to undertake, complete and sustain the proposed project;
- Other incentive programs and matching grants relating to the project for which the applicant has applied or is qualified; and
- Other, unanticipated factors deemed relevant by the Board at its discretion.
- The company should have a profitable operating history and be well-managed
- The project must have a return on investment based on the Economic Impact Study.

d. Community Impact

- Appropriate type of activity (e.g. office, manufacturing, warehousing, retail, etc.);
- Appropriate use and zoning;
- The positive or negative impact on the opportunities of existing businesses;
- The impact on the opportunities of attracting additional business or residents to the community;
- The market conditions and growth potential for the business activity;
- The productive life of proposed improvements;
- Whether high quality architecture and site design including landscaping and public amenities beyond the minimum required by the city will be provided; and
- Whether the project is environmentally compatible with no appreciable negative impact on quality of life perceptions.

SECTION 6. FISCAL IMPACT

The LEDC may request the city to prepare a fiscal impact study in response to an application for economic development assistance. This study shall identify, over a period of no less than ten (10) years and up to twenty (20) years, the amount of gross and net benefit the community will derive from assisting the qualified applicant.

SECTION 7. APPLICATION PROCEDURE

Any person or company requesting that the LEDC provide an economic development incentive should generally comply with the following procedure. These procedures may be changed on a case-by-case basis to accommodate specific needs of a project.

Step 1- Submission of required documents by the applicant to LEDC and/or LEDC legal counsel. Information submitted by the applicant regarding the requested incentive is confidential to the extent allowed by law. See the Confidentiality and Proprietary Information section below.

The applicant shall submit a completed application for financial assistance, together with the following:

- Business Plan
- Current Financials (Balance Sheet and Income Statement, YTD)
- Past Financials (Balance Sheet and Income Statements for past 2 years)
- Financial Pro-Formas (at least 3-5 years forward-looking)
- Brochures or marketing materials about the company's products and/or services
- Federal Income Tax Returns from the company and/or owner(s) when appropriate

Step 2- Review of the application and supporting documents by the LEDC staff.

Step 3- In person request for assistance by the company to the LEDC Board. Staff makes preliminary recommendations to the LEDC Board.

Step 4- LEDC Board review and action.

The LEDC Board will determine whether it is in the best interests of the community to provide economic development incentives to the applicant. The Board will consider the approval of an economic development incentive agreement and determine what benefits to award the applicant as well as the conditions of the assistance agreement. The Board may consider criteria other than those set forth in this policy, including but not limited to, such matters as the relative degree to which the project/applicant furthers the goals and objectives of the community or meets or complements a special need identified by the LEDC Board or City Council. The LEDC and/or the City Council will call and conduct public hearings when required by law or if a particular project merits public input for the safety or environment impact of neighboring residences.

Step 5- Letter of agreement prepared and signed by applicant and authorized LEDC representative.

LEDC will work with legal counsel to detail all terms of the agreement in a formal letter of Agreement which will signed and dated by the applicant and the LEDC President or other authorized LEDC representative.

Step 6- Supporting legal documents (promissory notes, guarantees, and other required documents) will be prepared by LEDC legal counsel and executed by both the applicant and the LEDC President or other authorized LEDC representative.

Step 7- Conditions for payment are met by the applicant and documented to the LEDC staff.

Step 8- Benefits are disbursed according to the terms of the agreement.

Step 9- Annual compliance reports will be filed with the LEDC according to the terms of the agreement on or before the date specified. Supporting documentation to verify compliance will be provided as required by the assistance agreement.

Step 10- As long as all terms of the agreement are successfully being met and completed, the project will remain in good standing and will be closed favorably at the designated maturity date, whereupon a 1099, release of lien(s), release of guarantee(s) and /or any other appropriate documentation will be sent to the client at the appropriate time.

SECTION 8. CONFIDENTIALITY AND PROPRIETARY INFORMATION

Economic development corporations are made subject to the provisions of the Public Information Act under the Development Corporation Act of 1979 found in Texas Revised Civic Statutes Article 5190.6. The following information summarizes the Open Records Exceptions for Economic Development Purposes.ⁱ

Section 552.131 of the Government Code allows governmental bodies to withhold certain information related to economic development negotiations between a governmental entity and a business that the governmental body is seeking to have locate, stay or expand within or near the territory of the governmental body. Under this provision, the governmental body could withhold trade secrets of the business prospect that were related to economic development negotiations.ⁱⁱ Similarly, governmental bodies may withhold certain commercial and financial information about the business prospect that was acquired during economic development negotiations if release of the information would result in substantial competitive harm to the business prospect.ⁱⁱⁱ The test for which this information may be withheld under this section is the same as the test for trade secrets under section 552.110 of the Government Code. Additionally, until an agreement is made with the business prospect, the governmental body may withhold information about a financial or other incentive being offered to the business prospect by the governmental body or another person.^{iv} Any information about a financial or other incentive that is withheld under this provision would have to be released after an agreement is executed with the business prospect.^v

The LEDC recommends that any proprietary and confidential information regarding an applicant be sent by the applicant's attorney directly to the LEDC legal counsel for review by the LEDC and/or appropriate designees of the LEDC staff or Board.

SECTION 9. AMENDMENTS, REPEAL, RENEWAL

These guidelines are effective for two (2) years from the date adopted by the LEDC Board, but may be amended or repealed by the majority vote of four of the seven members of the LEDC Board.

ⁱ 2012 *Texas Public Information Act Made Easy* the Office of the Texas Attorney General.

ⁱⁱ TEX. GOV=T CODE ANN. ' 552.131(a)(1) (West 2004).

ⁱⁱⁱ *Id.* ' 552.131(a)(2).

^{iv} *Id.* ' 552.131(b).

^v *Id.* ' 552.131(c).