



**CITY OF CORPUS CHRISTI, TEXAS**  
**BUSINESS & JOB DEVELOPMENT CORPORATION**

**GUIDELINES & CRITERIA**

**FOR GRANTING BUSINESS INCENTIVES**

WHEREAS, the attraction of long-term investment and the establishment of new jobs in Corpus Christi would enhance the City's economic base; and,

WHEREAS, Corpus Christi must compete with other communities across the nation currently offering a variety of business incentives to attract new jobs and business; and,

WHEREAS, the Texas Legislature in Section 4A of Article 5190.6, Vernon's Texas Revised Civil Statutes (Development Corporation Act of 1979) has empowered local communities with the ability to adopt an optional local sales and use tax as a means of improving the economic health and prosperity of their citizens; and,

WHEREAS, on November 5, 2002, residents of the City of Corpus Christi overwhelmingly passed Proposition 2: NEW AND EXPANDED BUSINESS ENTERPRISES which authorized the adoption of a sales and use tax for the promotion and development of new and expanded business enterprises at the rate of one-eighth of one percent (1/8<sup>th</sup> cent) to be imposed for 15 years; and,

WHEREAS, under Proposition 2 and as required by Ordinance 024952, funds approved for the promotion and development of new and expanded business enterprises can only be used for the following Projects and no others:

- a) **Education/Skills Development.** These funds will be used to make grants to companies and organizations to provide training, retraining and education to insure the knowledge and skills required for the jobs of the future are in place.
- b) **Business Development/Incubation.** These funds will be used to develop programs and facilities that assist small and start-up companies that have the ability to produce jobs for the future.
- c) **Jobs.** These funds will be used to assist companies in the creation of meaningful, wealth producing jobs (jobs that bring in dollars from outside of the community) in Corpus Christi. Funds would be available to both existing and new companies.

WHEREAS, the 1/8<sup>th</sup> cent sales tax authorized by passage of Proposition 2 was subsequently enacted by the City Council and filed with the State Comptroller of Texas, effective April 1, 2003, to be administered by the City's Section 4A board of directors (Corpus Christi Business and Job Development Corporation Board); and,

WHEREAS, to assure a common, coordinated effort to promote economic development, these Guidelines and Criteria have been circulated among the City of Corpus Christi, other governmental entities, the Corpus Christi Regional Economic Development Corporation, area chambers of commerce and the Corpus Christi community in general for consideration;

NOW, THEREFORE, BE IT RESOLVED by the Corpus Christi Business and Job Development Corporation that these Guidelines and Criteria for Granting Business Incentives be adopted:

#### Section 1. **Definitions.**

- (a) "Act" means Section 4A of Article 5190.6, Vernon's Texas Revised Civil Statutes (Development Corporation Act of 1979)
- (b) "Agreement" means a contractual agreement between a property owner and/or lessee within the City of Corpus Christi City Limits and the "Corporation" for the purposes of granting business incentives.
- (c) "Basic Manufacturing or Service Facility" means buildings and structures, including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services.
- (d) "Board" means the Corpus Christi Business and Jobs Development Corporation Board (Section 4A Board) as established by "City" Resolution 024233 and pursuant to the "Act".
- (e) "Business Incubator" means a program established with the primary objective of improving the potential success of emerging primary employers, preferably through the transfer or application of technology, and in doing so, creates jobs, ensures self sufficiency and invigorates the local economy. Through such programs, small business owners typically have access to assistance which might include items such as rental space, administrative support services, on-site business consulting, workshops, enterprise facilitation, and business management seminars.
- (f) "Capital Investment" means the increase in the assessed value of an eligible property as a result of "expansion" or "modernization" of an "existing facility" or construction of a "new facility." It does not mean or include "deferred maintenance".
- (g) "City" means the City of Corpus Christi, Texas.
- (h) "Corporation" means the City of Corpus Christi Business and Job Development Corporation established by "City" Resolution 024233.
- (i) "Deferred Maintenance" means improvements necessary for continued operations which do not improve productivity or are performed to meet regulatory obligations.
- (j) "Economic Life" means the number of years a property improvement is expected to be in service in a "facility".

- (k) "Executive Director" means the chief executive officer for the "Corporation," or his/her designated representative.
- (l) "Expansion" means the addition of buildings, structures, fixed machinery or equipment for the purposes of increasing capacity.
- (m) "Facility" means property improvements completed or in the process of construction which together compromise an integral whole, as well as new fixed machinery or equipment.
- (n) "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 the operation, and extends the economic life of the "facilities". Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing, repairing or completion of "deferred maintenance".
- (o) "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with an "expansion" or "modernization".
- (p) "Owner" means the owner of a "facility" or "program" subject to business incentives. If the "facility" is constructed on a leased property, the owner shall be the party which owns the property subject to the business incentive. The other party to the lease shall join in the execution of the "agreement" but shall not be obligated to assure performance of the party receiving business incentive.
- (q) "Petrochemical Facility" means buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacture or processing of petrochemicals or fuels by physical or chemical change.
- (r) "Primary Employer" means a business in which at least 70% of its goods and/or services are sold to customers that are located more than 50 miles from the intersection of Staples Street and Leopard Street and whose goods and/or services are in one of the NAICS codes listed in Texas Revised Civil Statutes, Article 5190.6, Sec. 2 (17), as amended.
- (s) "Project Agreement" means the agreement made by and between the "City" and the "Corporation" which assigns responsibilities for jointly carrying out each "agreement" to assure that funds are used for authorized purposes. City execution of the Project Agreement shall be in the form of an adopted Resolution by the City Council of the City.
- (t) "Regional Distribution Center Facility" means buildings and structures, including fixed machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the Facility operator where a majority of the goods or services are distributed to points beyond a 50-mile radius of Nueces County.
- (u) "Regional Telecommunications/Data Processing Center Facility" means buildings and structures used or to be used primarily for the provision of telecommunication or

data processing services by the Facility operator where a majority of the services are provided to points beyond a 50-mile radius of Nueces County.

- (v) “Research and Development Facility” means buildings and structures used or to be used primarily for the purpose of product developmental engineering, testing and evaluation.
- (w) “Retention” means to retain existing primary employers so that they continue their business operation within the Corpus Christi city limits and its extraterritorial jurisdiction (ETJ).
- (x) “Small Business” means an employer that employs 49 or less full time (2,080 hours/year) permanent employees at the time of application.
- (y) “Small Business Primary Employer” means a primary employer that employs 49 or less full time (2,080 hours/year) permanent employees at the time of application and comply with the requirement(s) set forth under “Definitions” letter (r).

## Section 2. **Mission & Goals**

- (a) It shall be the mission of the Board in administration of these Guidelines and Criteria to promote, encourage and enhance the creation of jobs which expand the City tax base and economy through granting business incentives which assist in the retention, expansion and recruitment of Primary Employers.
- (b) The goals of the Board in administration of these Guidelines and Criteria are to:
  - Create jobs;
  - Expand the City tax base and economy;
  - Strengthen and diversify Primary Employers within the local economy.
- (c) The role of the Corporation in carrying out this mission and goals is to review and approve applications for business incentives, recognizing that the Corpus Christi Regional Economic Development Corporation exists for the purpose of organizing, coordinating and leading the City’s economic development efforts.

## Section 3. **Business Incentives Authorized.**

- (a) Primary Employer and Small Business Primary Employer Business Incentives Authorized. Incentives granted by Agreement under these guidelines pursuant to Section 4 below may include, but are not limited to the following:
  - land, facilities, equipment & infrastructure grants;
  - loan participation/guarantees;
  - direct low interest loans;
  - rent subsidies;
  - relocation and moving expense grants;
  - job training grants/loans; and,
  - business incubation activities.

- (b) Small Business Incentives Authorized. Incentives granted by Agreement for Small Business under these guidelines pursuant to Section 5 below may include, but are not limited to the following:
- Small Business start up grants/loans;
  - Business Incubation grants/loans; and
  - Business Incubator development.

#### Section 4. **Primary Employer Business Incentives.**

- (a) Authorized Facilities. A Capital Investment for a Facility may be eligible for incentives by Agreement if it creates jobs for a Primary Employer. Incentives may be granted for land or Capital Investment related to either New Facilities or improvements to existing Facilities for the purpose of Modernization, Expansion, or for Capital Investment necessary for the retention of an existing primary employer. The following types of property shall be ineligible for business incentives: inventories; supplies; tools; furnishings and other forms of movable personal property (not including capital production equipment); vehicles; vessels; aircraft; deferred maintenance investments; improvements to real property which have an economic life of less than 15 years; with the exception of the City of Corpus Christi, property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.
- (b) Annual Certification. The Business Incentive Agreement shall require annual certification of capital investment as required by the Agreement.
- (c) Completion of Facility Construction. The completion of Facility construction or installation of Capital Investment shall be deemed to occur upon the earliest of the following events (as determined by the Board):
- when a certificate of occupancy is issued for the project;
  - when commercial production of a product or provision of a service is achieved at the Facility;
  - when the architect or engineer supervising construction issues a certificate of substantial completion, or some similar instrument; or,
  - two (2) years after the date of the Agreement.
- (e) Wage Requirement. In order to count as a job under an Agreement, the job shall pay at least a "living wage". For purposes of this provision, living wage shall mean that annual amount determined by the U.S. Department of Health and Human Services for the Corpus Christi area as being at the poverty level for a family of three, divided by 2,080 hours per year. In determining if this requirement is met, the Board may also consider other compensation factors or employee benefits that enhance the employee's compensation package as a whole. Accordingly, the Corporation, through its Project Agreement with the City, may adjust the living wage target under these Guidelines and Criteria and insert a specific target in each Agreement to govern the incentive offered. With regard to job training, a job shall

pay at least an amount as determined by the Act in order to count as a job under an Agreement. In determining an incentive based on new jobs, the following matrix shall be considered.

New Gross Payroll	Incentive per New Job
<\$30,000 per new job	Up to \$750 per new job for training
\$30,000 to \$40,000 per new job	\$751 to \$5,000 per new job
\$40,001 to \$50,000 per new job	\$5,001 to \$10,000 per new job
>\$50,000 per new job	\$10,001+ per new job

- (f) Job Creation Qualification. In order to be eligible for business incentives, the planned Capital Investment must create and maintain the minimum number of 50 full-time (2,080 hours/year) permanent jobs within two (2) years of an effective date as set out in the Agreement. Annual validation of wage rates shall be provided as set forth in Section 10 (b) herein. With regard to job training, an exception to this requirement may be granted by the Board on a case by case basis.
- (g) Health Insurance. To qualify for incentives, a primary employer shall certify that it has offered a health insurance program for its employees during the term of the Agreement.

#### Section 5. **Small Business Incentives.**

- (a) Authorized Projects/Dedicated Allocation. For projects which may not meet the requirements of Section 4 above, business incentives may also be granted to Small Business to create jobs through Small Business start up and/or Business Incubation. On an annual basis, the Board shall budget a separate allocation for funding all small business start up and/or business incubation incentives.
- (b) Wage and Job Creation Requirements. Wage and job creation requirements for Small Business start up and Business Incubation shall be evaluated and determined by the Board on a case by case basis.

#### Section 6. **Small Business Primary Employer Incentives.**

Authorized Projects/Dedicated Allocation. For projects which may not meet the requirements of Section 4 above, business incentives may also be granted to Small Business Primary Employers to create jobs through Small Business start up and/or Business Incubation. On an annual basis, the Board may budget a separate allocation for funding all small business start up, expansion, retention, and/or business incubation incentives.

#### Section 7. **Universal Requirements.**

- (a) Project Implementation. An authorized project funded by a business incentive under this Section must be implemented within two (2) years from the date of the Agreement.

- (b) Location or Residency Requirement. Facilities or land may be eligible for business incentives only in the event that any associated Capital Investment is located within the City. Property which is covered by an executed industrial district agreement shall be considered to be within the City for purposes of determining if a project meets location requirements. With regard to job training incentives, these may be eligible outside of the City only in the event that at least 51% of the jobs created during the term of the Agreement are held by residents of the City.
- (c) "Buy Local" Provision. Each recipient of business incentives shall additionally agree to use best efforts to give preference and priority to local manufacturers, suppliers, contractors and labor, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operating efficiency. For the purposes of this provision, the term "local" as used to describe manufacturers, suppliers, contractors and labor shall include firms, businesses, and persons who reside in or maintain an office within a 50-mile radius of Nueces County.
- (d) Insurance Requirements. Each recipient of business incentives shall carry worker's compensation insurance and other appropriate insurance coverage as the Board may determine is appropriate and required in the Business Incentive Agreement.

#### Section 8. **Application.**

- (a) Written Application. Any present or potential Owner or sponsor may request business incentives by filing an authorized and signed application with the Executive Director, or his designated representative.
- (b) Contents of Application. The application shall consist of a completed application form accompanied (when applicable) by: a general description of proposed Capital Investments to the Facility; a descriptive list of the improvements or program for which business incentives are requested; a list of the kind, number and location of all proposed improvements of the property; a map and property description; and, a time schedule for undertaking and completing the proposed improvements or programs. In the case of a Modernization or Expansion project, a statement of the assessed value of the Facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The application form may require such financial and other information as the Corporation or City deems appropriate for evaluating the financial capacity and other relevant factors of the applicant.
- (c) Feasibility/Economic Impact Study. After receipt of a completed application, the Executive Director shall cause to be performed a study of feasibility and economic impact using an independent consultant selected by or agreed to by the Board. This study shall include, but not be limited to, an estimate of the economic effect of incentives, including job creation, employment enhancement and capital investment. Once completed, the study and the application will be forwarded to the Board for review and discussion before consideration of any Agreement. The costs and expenses of the feasibility/economic impact study shall be borne by the Economic Development Corporation.
- (d) No Business Incentives if Construction or Program has Commenced. No business incentive Agreement shall be approved if the application was filed after the

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commencement of any construction, alteration or installation of improvements related to the proposed Facility Modernization, Expansion or New Facility. Similarly, no business incentive Agreement shall be approved for any program if the application was filed after the program has been establishment or program activity has commenced.

- (e) Due Diligence Financial Review. The applicant shall provide to the Corporation, or the Corporation's appointed agent, the last three years financial statements—company and/or personal financial statements. The financial statements required will be at the discretion of the Corporation. After receipt of the financial statements, the Executive Director shall cause a financial review to be performed using an independent accounting firm selected by or agreed to by the Board. Upon completion, any negative findings from the financial review will be forwarded to the Board for review and discussion before consideration of an Agreement. The applicant will be allowed to address, and explain in writing, any negative findings before the Corporation takes action on an Agreement. The costs or expenses of the financial review shall be borne by the Economic Development Corporation.

#### Section 9. **Approval.**

- (a) Reservation of Rights. The Board reserves the right to determine the eligibility of a project and the terms and conditions of any loan, grant or guarantees based on the mission, goals and objectives in Section 2 above. Nothing herein shall be construed to limit the authority of the Board to examine each application for business incentives before it on a case-by-case basis and determine in its sole and absolute discretion whether or not the proposed project should be granted any business incentive and whether or not it complies with these Guidelines and Criteria, is feasible, and whether or not the proposed business incentives will be to the long-term benefit of the City.
- (b) Project Agreement Required. Each Agreement shall also include and be accompanied by a separate Project Agreement executed between the Corporation and the City.

#### Section 10. **Agreement.**

- (a) Contents of Business Incentive Agreement. The Agreement shall include (when applicable):
- the estimated value of Capital Investment;
  - the commencement date and termination date of the business incentive;
  - the proposed use of the Facility, nature of construction, time schedule, map, property description and improvements list as provided in the application as required;
  - in the case of programs, the proposed program description, targeted employment market, nature and schedule of activities, facilities and equipment used to carry out activities, and complete program budget listing all sources of funding and projected expenditures;
  - the contractual obligations in the event of default, delinquent taxes, recapture, administration and assignment as provided in these Guidelines or other provisions that may be required for uniformity or by state law; and,

- the number of permanent jobs, and wage/salary minimums for jobs created.
- (b) Time of Execution. The business incentive Agreement shall normally be considered by the Board within 60 days after the applicant has provided all necessary information and documentation.
- (c) Deadline for Execution. If the incentive proposal is approved by the Corporation Board of Directors, then the Owner will have sixty (60) days from the date the final Business Incentive Agreement is received by the Owner to execute the Agreement. Failure to execute the Business Incentive Agreement within sixty (60) days from date of receipt will result in the Agreement being null and void and of no effect.

#### Section 11. **Recapture.**

- (a) Failure to Timely Comply and Continue Operations. In the event that the Owner of a Facility or program fails to timely, fully and completely comply with any one or more of the Agreement requirements, obligations, duties, terms, conditions or warranties, such failure shall be an act of default and, if not fully and completely cured and corrected, Corporation and/or City may terminate the Agreement and pursue all legal remedies as provided by law. If the Owner is not in compliance during any compliance reviews, then the Corporation, in its sole discretion, shall determine the incentives that the Owner shall be required to refund.
- (b) Employment Verification. Owner shall annually provide documentation, in the form of quarterly Texas Workforce Commission payroll reports or other mutually acceptable employment and payroll report, to verify compliance with new job and payroll commitments. The four quarterly reports, required to be filed with the Texas Workforce Commission, shall be due not later than the fifteenth day after the deadline for filing the fourth quarter report with the Texas Workforce Commission, each year. Corporation may request Owner to provide such documentation at any time.
- (c) Delinquent Taxes. In the event that the Owner allows its ad valorem taxes to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, the Agreement shall terminate and so shall the business incentives.
- (d) Utility Payments. In the event that the Owner allows its utility billing payments to become delinquent, the Agreement shall terminate and so shall the business incentives.
- (e) Notice of Default. Should the Corporation and/or City determine that the Owner be in default according to the terms and conditions of its Agreement, it shall notify the Owner in writing at the address stated in the Agreement that if such is not cured within 60 days from the date of such notice (the "Cure Period"), then the Agreement may be terminated. In the event the Owner fails to cure said default during the Cure Period, the Agreement may be terminated. If default on new construction occurs at the fault of the Owner, then the Owner must provide a written explanation of the reason for the default to the Corporation. This written explanation, and any legitimate reasons for delay, will be taken into consideration as a possible remedy

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for the default. The Owner shall also notify the Corporation, in writing, explaining any delays in completing any required Agreement milestones as soon as the delays are realized. These Agreement milestones would include deadlines for completion of new construction, hiring new employees, or any other required Agreement milestones.

- (f) Potential Liability. After exhausting good faith attempts to address any perceived default during the Cure Period, and taking into account any extenuating circumstances that might have occurred through no fault of the Owner as determined by the Board, potential liability under an Agreement may include the immediate return of all money grants and consideration previously paid, the maximum lawful rate of interest on all money paid until fully repaid, reasonable attorney fees and costs of court to collect such money, and the termination of all further obligations made under Agreement. In addition, City and/or Corporation shall not be liable for any alleged consequential damages.

#### Section 12. **Administration.**

- (a) Access to Facility. The Agreement shall stipulate that employees and/or designated representatives of the City will have access to the Facility or program during the term of the Agreement for inspection to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after giving 24 hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility or program. Inspections will be made with one or more representatives of the Owner and in accordance with its safety standards.
- (b) Annual Reviews. Business Incentive Agreement reviews will be conducted annually to ensure that the Owner is in compliance with the provisions of the Agreement. If the Owner is not in compliance or is in default, then the appropriate provision of the Agreement, as outlined in Section 9 herein and the Agreement, will be enforced to recover incentives paid to Owner, unless the Owner remedies the default on or before the conclusion of any Cure Period.
- (c) Annual Evaluation. The City, acting on behalf of the Corporation, shall annually evaluate compliance with the Agreement and report possible violations of the Agreement. As part of this evaluation, the Owner shall provide information sufficient to ensure compliance.
- (d) Right to Modify or Cancel. Notwithstanding anything herein or in any agreement to the contrary, the Board may cancel or modify the Agreement if the Owner fails to comply with the Agreement.

#### Section 13. **Waivers/Variances**

The Corporation shall have discretion to vary, alter, and/or waive any guideline or criteria set forth herein when such variance, alteration, and/or waiver shall be in the public interest and in furtherance of the purposes and goals of the Corporation as set forth in its Articles of Incorporation, By-laws, Ordinance 024952, and Texas Revised Civil Statutes, Art. 5190.6.

Approved:

Corpus Christi Business and Job Development Board on September 10, 2007

Corpus Christi City Council on September 18, 2007.