

RESOLUTION NO. 22-R-43

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ TEXAS AUTHORIZING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT BETWEEN THE CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION AND CATERPILLAR INC; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Schertz Economic Development Corporation (“SEDC”) is a non-profit industrial development corporation duly established under the Development Corporation Act of 1979, as amended (Section 501.001 et seq. Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”);

WHEREAS, all of the powers of the corporation are vested in the SEDC Board of Directors (the “Board”) appointed by the governing body of the corporation’s authorizing unit; and

WHEREAS, the Act authorizes a development corporation to fund certain projects as defined by the Act and request development corporations enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, Caterpillar Inc. (“Company”) desires to expand its Schertz Texas operations within an existing building that is located at 6800 Doerr Ln, Schertz TX 78154; and

WHEREAS, Company’s Project is expected to create an additional 24, and maintain 145 full time employees with a minimum annual payroll of \$8,426,420 at the end of Calendar Year 2026 and throughout the life of the agreement; and

WHEREAS, Corporation intends to provide an Economic Development Grant in the form of a rebate of a percentage of the taxes paid by Company for new tangible personal property on-site at Company’s Schertz operation; and

WHEREAS, Section 501.155 authorizes expenditures for certain projects that the board of directors in the board’s discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, Section 505.159 of the Act requires that a corporation hold at least one public hearing on the proposed project before spending money to undertake the project, the public hearing was held on April 28, 2022; and

WHEREAS, Section 501.073 of the Act requires the Corporation’s authorizing unit to approve all programs and expenditures.

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

Section 1. The City of Schertz City Council hereby approves program and expenditure contemplated in the Economic Development Performance Agreement attached hereto as Exhibit A and authorizes the President of the Corporation to execute same, in substantially the same form as attached.

Section 2. 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 Board.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the board hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public 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 Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this ____ day of _____, 2022.

CITY OF SCHERTZ

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

Exhibit A

ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

[SEE ATTACHED]