

RESOLUTION NO. 22-R-110

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT BETWEEN THE CITY OF SCHERTZ, CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION AND 3009 OAC INVESTMENTS, LLC; 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, by Ordinance No. 12-T-15, the City established a City of Schertz Economic Development Incentives Policy under Chapter 380, Texas Local Government Code, as amended (“Chapter 380”), and under the Development Corporation Act, Texas Local Government Code Chapters 501 and 505, as amended (the “Development Corporation Act”), to promote economic development and to stimulate business and commercial activity in the City; and

WHEREAS, in accordance with Article III, Section 52-a of the Texas Constitution, and Section 380.001 of the Texas Local Government Code ("Section 380"), the City may establish and provide for the administration of a program for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the City; provided the program created or loan or grant made is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the City; and

WHEREAS, City and the SEDC are willing to participate in enhancing, expanding, and retaining businesses within the City that are qualified economic development prospects; and

WHEREAS, Developer owns approximately 1.3 acres of real property in the City, generally described as Lot 1, Block 1 of the Blackburn Subdivision, as depicted in the attached **Exhibit “A”** (the “Property”); and

WHEREAS, Developer intends to develop the Property primarily as a commercial/retail project consisting initially of an approximately 9,900 square foot office building (the “Project,” as more fully shown in the Project Site Plan attached as **Exhibit “B”** that will require significant investment, including the construction of public improvements and infrastructure; and

WHEREAS, the Property currently has an assessed value of \$497,173.00, currently generates less than \$2,550 in annual ad valorem property taxes for the City, and currently generates no sales tax for the City; and

WHEREAS, the Developer expects a total investment of approximately \$3 million for the development of the Project; and

WHEREAS, upon completion of the Project, the Property may potentially have an appraised value of over \$2,000,000; and

WHEREAS, Developer shall create and maintain a minimum ten (10) full-time equivalent jobs during the entire term of this Agreement; and,

WHEREAS, the Project includes significant public infrastructure improvements, such as the construction of public roads and other traffic improvements, the construction of water, sewer and other utility infrastructure, and the construction of drainage improvements; and

WHEREAS, Section 501.103 authorizes expenditures for certain infrastructure improvement projects that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises; 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 August 25, 2022; and

WHEREAS, Section 501.073 of the Act requires the SEDC’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 Council hereby approve the Economic Development Performance Agreement and the assistance approved by the City of Schertz Economic Development

Corporation hereto as Exhibit C and authorizes the City Manager 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 TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Interim City Secretary

Exhibit A

Exhibit B

Exhibit C