

CITY OF HOBBS

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 3.10 OF THE HOBBS MUNICIPAL CODE  
AMENDING THE CITY'S ECONOMIC DEVELOPMENT STRATEGIC PLAN  
ORDINANCE

WHEREAS, on November 3, 2003, the City of Hobbs City Commission adopted Ordinance No. 915, which created the City of Hobbs Economic Development Strategic Plan Ordinance; and

WHEREAS, on March 19, 2021, the New Mexico Legislature passed Senate Bill (SB) 49 which amended the Local Economic Development Act ("LEDA") (NMSA 1978, §§ 5-10-1 through 5-10-17), to allow for the utilization of public support for cultural facilities and retail businesses as qualifying entities throughout New Mexico; and

WHEREAS, the City of Hobbs' economic development goals are to diversify the local economy by the creation of additional jobs with the attraction of new business and to work with existing businesses to improve the general business climate in order that they may be successful in retaining employees and creating new jobs through expansion ; and

WHEREAS, the City of Hobbs' amends this ordinance to provide clear and concise direction to qualifying businesses on to how to acquire and remain compliant with the Economic Development Strategic Plan Ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that Chapter 3.10, is hereby amended as more specifically described as follows:

**CITY OF HOBBS ECONOMIC DEVELOPMENT STRATEGIC PLAN**

(Note: The terms City, Hobbs and City of Hobbs referred to in this Economic Development Strategic Plan refer to the city government of that legal entity called the City of Hobbs.)

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**SECTION ONE - ECONOMIC DEVELOPMENT GOALS**

- 1.1 Having encouraged the support of the community and its leadership through public meetings and interviews, this economic development strategic plan declares the following to be desired goals:
  - A. To diversify the local economy by the creation of additional jobs with the attraction of new business.
  - B. Work with existing businesses to improve the general business climate in order that they may be successful in retaining employees and creating new jobs through expansion.
  - C. To support the development of industrial/business park(s) that will be attractive to new and expanding business.
  - D. To, when feasible and within the provisions of the New Mexico Local Economic Development Act, use public funds to assist in the development of new jobs.

- ~~E. To assist businesses that meet applicable environmental rules and regulations, both state and national.~~
- FE. To encourage cooperation between the public and private sectors as they assist in the creation of new jobs.
- ~~G. To support and encourage actions that will foster the utilization of Hobbs Industrial Air Park at current levels of employment and when possible work for the creation of additional jobs.~~
- HF. To help develop within the community's resources the best possible vocational and other skill training to prepare the local populace to enter the work force.
- G. To increase gross receipts taxes for the City of Hobbs.

## SECTION TWO - GENERAL TARGET INDUSTRY CRITERIA:

- 2.1. Types of businesses that meet the community's goals - Businesses that fit most or all of these criteria will be selected when considering giving assistance under the Local Economic Development Act. This list is not necessarily all inclusive, and should an industry fall outside this preferred list, individual consideration will be granted.

~~obbs~~ City of Hobbs considers the following types of businesses to be those that are preferred or meet the community goals:

- A. Industry that is able to take advantage of Hobbs' comparative advantages as follows:
  1. Availability of natural resources.
  2. Favorable climate.
  3. Ample, low cost-land available for development.
  4. Affordable housing.
  5. Ample availability of semi-a skilled workforce and low skilled access to substantial infrastructure of work force development within the secondary and post-secondary level. ~~workers at low costs.~~
  6. Significant secondary and post-secondary educational and healthcare institutional resources.
  7. A positive business climate within the private and public sectors.
  8. Affordable and readily available Energy Resources.
- ~~B. Industry that meets applicable local, state, and federal standards.~~

CB. Industries that pay comparative a-wages, -provide benefits to foster a positive work/life balance, and that will help improve the local per capita income (household income).

DC. Industry that will help diversify the local labor market, and lessen the reliance on oil and gas employment.

### **SECTION THREE - SPECIFICALLY IDENTIFIED TARGET INDUSTRIES:**

3.1 The following industries are specifically identified to be target industries that are desirable for potential development;

- A. The dairy industry and related businesses.
- B. Value-added agricultural production, dairy processing, or food processing and the manufacturer of food products.
- C. Service firms or institutions, especially in the educational, and health care, information technology, and professional service sectors.
- D. Relatively labor-intensive processing and assembling businesses in the manufacturing sector.
- E. The construction trade sector.
- F. A telecommunicatio Data, IT and Telecommunications sales enterprises.
- G. Nuclear Waste, Hazardous Waste, and Related Opportunities.
- H. Energy related industry.
- I. Retail related industry.
- J. Cultural facilities.
- K. Warehousing, logistics, distribution, and transportation.
- L. Retention and expansion of business and industry.

### **SECTION FOUR- POSSIBLE COMMUNITY ASSISTANCE**

4.1 Community assistance under the Local Economic Development Act may include:

- A. Direct or indirect assistance provided by the City to qualifying businesses for furthering the economic development strategic plan or implementing specific

projects. The City may also enter into one or more joint powers agreements with the County or other local governments who have adopted an economic development plan, or a non-profit entity, to plan and support regional economic development projects.

- B. The sale or lease of city-owned land or other property in return for pledges to provide new jobs of a value commensurate with discount from market value granted in any land/property sale or lease. Terms of said sale/lease may provide penalties including return of the property for failure to meet goals for the creation of jobs.
- C. Hobbs City may consider building and leasing or selling a facility in return for new jobs. The terms of such a lease/sale shall be commensurate with the number of new jobs created. This reduced lease/sale shall have provisions for adjustment of lease/sale price in the event the applicant fails to meet the previously established employment goals.
- D. The minimum benefit to the community to qualify for assistance is the creation of new jobs that pay an hourly rate at least equal to the federal/state minimum wage or other standards that may be adopted.
- E. The community may assist the applicant in obtaining vocational/educational training from local sources whenever possible. The community will also assist in obtaining matching funds if available under local, state, or federal programs.
- F. When appropriate information is presented and an application is made, the City of Hobbs may issue industrial revenue bonds to assist in the location or expansion of a qualifying business. These bonds may include tax abatement when deemed appropriate.
- G. Assistance under this Act shall not exceed the expenditures of monies exceeding ten (10%) percent of the city's general fund budgeted expenditures in any one year. Other assistance, such as the sale of already owned city land, will be considered on an individual basis, which will not count against the 10% limit.

## **SECTION FIVE - CRITERIA FOR COMMUNITY ASSISTANCE**

- 5.1 Community assistance will be considered for those industries that meet the criteria of a "qualifying entity" as defined in the Local Economic Development Act.
- 5.2 In deciding the eligibility for community assistance, the Hobbs City Commission may contract with an agent, such as the Economic Development Corporation of Lea County or another agent as needed or recommended to be the City's agent in dealing with projects and formulating recommendations to the City Commission.

5.3 For an applicant to be considered for assistance the following application may include but is not limited to the following:

A. Identification information:

- Complete name and address of entity;
- Organizational Documentation; and
- List of board of directors and principal officers, with addresses; and resumes of all directors and officers a copy of the entity's organizational chart including names and titles of all principals.

B. Evidence of financial solvency:

- Company Financial History;
- If the company has a previous business history, Audited Financial statement (income statement and balance sheets) for the past three years;
- Federal tax number, New Mexico State Taxation and Revenue number and county-City business license;
- Projected income statement for at least three years; and
- Personal financial statement of the principals. Other information deemed pertinent by the City.

C. Evidence of organizational capacity:

- Brief history of the entity; and
- Organizational chart of the entity.

D. Economic Development Project Plan:

- Preliminary description of proposed Project;
- Preliminary proposal of Assistance Requested;
- The number of jobs to be created;
- The types of business and jobs including a business plan;
- Job training and career development plan for employees;
- Compatibility with Hobbs's-City's economic development goals including, but not limited to gross receipts generation and/or job creation;
- List of other funding resources researched by the applicant;
- Financial and marketing projections; and
- Other information deemed pertinent to-by the City.

E. Cost Benefit Analysis:

All applications for economic development projects requesting economic assistance from the City shall submit a cost benefit analysis. Preparing a cost benefit analysis shall be the responsibility of the applicant. The City retains the right to specify a format and methodology for the cost-benefit analysis.

The Economic Development Corporation of Lea County, or other such agent designated by the City, shall review and approve the methodology used. The source and rationale for any multiplier effects shall be identified. The cost-benefit analysis shall show that the City will recoup the value of its ~~donation-contribution~~ within a period of ten ~~years~~ or fewer years. The analysis shall address the following:

- The number and type of jobs to be created, both temporary construction jobs and permanent jobs (by New Mexico Department of Labor job category);
- Pay scale of jobs;
- Determination of which jobs are expected to be filled locally and which will be filled by transfers from other facilities or recruited from outside the Hobbs area;
- Total payroll expected at start-up and after one year;
- Anticipated impact on local tax base;
- Anticipated impact on local school systems; and
- Anticipated impact on Infrastructure.

F. Analysis of other Benefits to the Community:

All applicants for economic development projects requesting economic assistance from the City shall clearly demonstrate the benefits, which will accrue to the community as a result of the ~~donation-contribution~~ of public resources.

The City has considerable flexibility in determining what is considered as adequate benefits. Benefits such providing components or production capabilities, which enhance a targeted industry cluster, or addressing critical deficiencies in regional economy, may be recognized.

The benefits claimed of any proposal will receive careful scrutiny. However, it is the intent of this ordinance to be flexible in the evaluation of these benefits, and to recognize the qualitative as well as quantitative impact of a proposal.

G. Analysis of Substantive Contribution to the Community:

All applicants for economic development projects requesting assistance from the City shall clearly demonstrate how the qualifying entity is making a substantive contribution.

The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax base, property or other thing or service of value for the expansion or improvement of the economy. The city retains flexibility in defining the "substantive contributions".

The benefits identified in the previous paragraphs may be accepted as adequate contributions on their own, or cash donations may be required. Assistance in providing affordable housing to its employees or the community at large may also qualify. Determination of what constitutes an acceptable contribution for a given project shall be at the discretion of the governing body.

**SECTION SIX- REVIEW CRITERIA FOR APPLICATIONS**

- 6.1 The City of Hobbs, and/or its agent, will use due diligence to verify all facts about the applicant seeking assistance including but not limited to:
  - A. Requiring financial statements and appropriate tax records made available by the business to be reviewed in detail. This review shall be consistent with the review required of Industrial Revenue Bond applications.
  - B. Investigation to determine the validity of any claims to patent rights, trade secrets, etc.
  - C. Verification of financial data including requesting data from banks and other financial institutions that may have had previous dealings with the business seeking assistance or its principals.
  - D. Review of information pertaining to any other borrowing by the business or its principals that might affect the business's ability to repay debt or fulfill other obligations, if any, owed to the City of Hobbs.
  - E. Review of the business's plans and marketing plans proposed by the applicant including, if deemed necessary, outside professional review of technical data.
  - F. Review of the environmental and community impacts of the proposed project. Give special attention to the job training and career advancement programs and policies. Specially review level of commitment of business to provide career opportunities for Hobbs area residents.

6.2 Applicant shall at all times cooperate fully with City in City’s due diligence verification efforts. An applicant’s failure to cooperate with City’s verification efforts may have their application summarily denied at the discretion of the City.

## **SECTION SEVEN - PROJECT PARTICIPATION AGREEMENT**

- 7.1 Any qualifying entity seeking assistance shall work with the City to prepare a project participation agreement. This agreement is the formal document, which states the contribution and obligation of all parties in the economic development project. The agreement must state the following items:
- A. The economic development goals of the project;
  - B. The contribution of the city and the qualifying entity;
  - C. The specific measurable objectives upon which the performance review will be read;
  - D. A schedule for project development and goal attainment;
  - E. The security being offered for the city's investment;
  - F. The procedures by which a project may be terminated and the city's investment recovered; and,
  - G. The time period for which the city shall retain an interest in the project. Each project agreement shall have a "sunset" clause after which the city shall relinquish interest in and oversight of the project.
- 7.2 The project participation agreement and any other pertinent information will be reviewed for formal approval by the City Commission at a public meeting.
- 7.3 The applicant shall commit to operate in accordance with its project participation agreement for a period of time specified in the project participation agreement.

## **SECTION EIGHT - INVESTMENT PROTECTION**

- 8.1 The City of Hobbs will provide adequate safeguards to ensure that its rights and financial commitments listed in the project participation agreement are adequately protected and recoverable in the event of default.
- 8.2 All investment will be made in compliance with the Local Economic Development Act. Protection may include but is not limited to:
- A. Security provided for the City of Hobbs may be in the form of a lien, mortgage, or other indenture and the pledge of the qualifying business's financial and material

participation and personal cooperation to guarantee the applicant's performance pursuant to the project's goals.

- B. Any investment in streets, utilities or other public works will be made in accordance with city policy that provides security for any City investment made pursuant to the attraction of a business under the Local Economic Development Act.
- C. Provision for performance review will be established to ensure that the business is operating in accordance with its agreements with the City of Hobbs. This may include milestones, measurable goals and time limits on project development and completion. Provisions for performance review may include penalties for unsatisfactory performance.
- D. The contribution made by each party and its participation in the project will be clearly stated in the project participation agreement.
- E. There will be separate accounts for all financial dealings.
- F. An annual independent audit of the fund/account shall be required.
- G. Should a qualifying entity move, sell, lease or transfer a majority interest in the economic development project before the expiration of the project participation agreement, the City retains the right to deny any and all assignments, sales, leases or transfers of any interests in the economic development project until adequate assurances are made that the transferee, assignee or lessee is a qualifying entity and that the terms of the agreement will be satisfied by the transferee, assignee or lessee. At its discretion, the City may choose to deny said assignment, lease or transfer or may negotiate a new agreement with the new operator, or the City may reclaim its investment and enter into an agreement with the new qualifying entity.

## **SECTION NINE - PROJECT TERMINATION**

- 9.1 The City of Hobbs may by ordinance terminate or revise this Economic Development Strategic Plan. It may also terminate projects developed under this plan provided the terms of any existing project participation agreements are satisfied. Any remaining monies left in the account or funds for a terminated project shall be transferred to the general fund.

PASSED, ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_,  
2022.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

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JAN FLETCHER, City Clerk