

**SEABROOK ECONOMIC DEVELOPMENT CORPORATION  
RESOLUTION 2023-01/EDC**

**SEDC INCENTIVES POLICY**

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WHEREAS, on January 18, 1992, the voters of the City of Seabrook authorized the City of Seabrook to adopt a one-half cent sales and use tax to pay for the costs of projects authorized by Chapters 501, 502, and 505 of the Texas Local Government Code, and to pay for the principal and interest of bonds or other obligations issued to pay the costs of such projects; and

WHEREAS, the Seabrook Economic Development Corporation (“EDC”), a type B corporation, was established to oversee the expenditures of these tax monies and bylaws were established for the operation of the EDC; and

WHEREAS, EDC has analyzed potential incentive programs available under state law to assist it in attracting businesses, creating jobs, and assisting in other statutorily authorized economic development programs; and

WHEREAS, EDC has evaluated incentive program funding for its current Fiscal Year budget; and

WHEREAS, EDC has allocated funding and memorialized incentive program funding options by resolution since Fiscal Year 2008-09, the first year it adopted such measures;

**NOW THEREFORE, BE IT RESOLVED BY THE SEABROOK ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS:**

**Section 1.** That EDC will undertake to establish one or more economic development incentive programs and expenditures in accordance with the City of Seabrook’s and the EDC’s economic development goals and adoption of relevant policies for each program, state law, including but not limited to Chapters 501, 502, and 505 Texas Local Government Code (the Development Corporation Act) and to the extent EDC is authorized to expend funds in such a program, as established by the Texas Local Government Code Chapter 380 and Seabrook City Council, as appropriate.

**Section 2.** That the following incentives are approved by the Board of Directors, and are designed to provide guidance to the EDC Director in his negotiations with potential economic development clients. All requests for incentives shall come back to the Board for consideration, and shall be in an amount or amounts which will not

exceed the total approved appropriation for Economic Development Incentive Programs, Budget Line Item 707-5620, in the amount as shown in the final budget following adoption by the Board of Directors and City Council for the then-current fiscal year, including amendments.

The incentives identified and approved by the Board of Directors are outlined in Appendix A, attached to this Resolution.

**Section 3.** That this Resolution be reviewed annually and attached as written or as it may be revised to subsequent EDC Budget, forwarded to the Seabrook City Council. The Board finds that the above list has been published as required for public comment by Section 505.160(a) Texas Local Government Code and constitutes a continuing project to the extent it is funded in any particular fiscal year.

**Section 4.** That following approval of the budget by the Board of Directors, the Seabrook City Council, and publication of the statutory notice identifying projects, that expenditures for those projects identified in Section 1 be thereafter approved and allocated subject to the budget line item cap by the Board of Directors, without further budget amendment or approval by the Board of Directors and City Council.

**PASSED, APPROVED AND ADOPTED THIS \_\_\_\_\_ DAY OF MARCH, 2023.**

SEABROOK ECONOMIC DEVELOPMENT  
CORPORATION

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Paul Dunphey,  
Chairman

ATTEST:

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Ann Wacker,  
Secretary

## **APPENDIX A**

### **Article I - General Provisions**

Seabrook, Texas is a community southeast of the City of Houston. The community was incorporated in 1961 and is currently 13 square miles in size. The Seabrook Economic Development Corporation was established in 1992 as a Texas 4B corporation (501c6) to serve as the economic development agent for the City.

The provisions of this resolution shall apply in the city limits of the City of Seabrook, Texas.

#### **Purpose**

The Seabrook Economic Development Corporation (SEDC) is committed to promoting economic growth, redevelopment and community improvement through the use of local planning tools, such as economic incentives. In order to create a guiding framework for decisions regarding the use of public resources to stimulate economic activity, the SEDC has established this policy to orient the consideration and use of economic incentives in a manner that is consistent with the City's strategic priorities and objectives, providing a return on investment to the community.

#### **Obligation**

While this policy will be proactively used in the process of granting incentives, nothing in this document implies that the City of Seabrook and the SEDC are under any obligation to provide an incentive. Further, while these guiding criteria provide a framework for evaluation, every prospect will be considered on a case by case basis by the SEDC and ultimately, the City Council. All incentives are subject to availability of funding.

#### **Authority**

This policy is adopted under the authority of the Constitution and Laws of the State of Texas, and the City Charter of the City of Seabrook, Texas.

#### **Applicability**

Any Project requesting incentives in Seabrook will be given consideration under the provisions of this policy. As a rule, Projects are evaluated with regard to their economic efficiency; and return on investment to the citizens of the City of Seabrook. This may mean addition of quality jobs, ad valorem tax value, sales tax or any other significant public benefit.

#### **Public Accountability & Performance Measures**

Every incentive agreement that the SEDC enters into is considered an investment for the public benefit. Each incentive application is considered with regard to its merit to the community at large, and its potential to create a multiplying economic effect for the citizens of Seabrook. Performance measures will be established based on the economic impact and overall assessment by the SEDC. Should an applicant be unsure of projected

performance indicators, utilizing conservative estimates with contingency options are encouraged to prevent default.

#### Compliance

Each year of the active incentive agreement, compliance reporting must be completed by incentive recipients. Projects that are not in compliance with performance measures are subject to recapture of a portion or all of the incentive value.

#### Recapture

Should an incentive recipient fail to meet compliance measures and to perform under the prescribed cures, incentives are subject to repayment to the SEDC.

#### Development Quality

Generally, any Project receiving an incentive under the provisions of this policy shall exceed the minimum requirements of development quality prescribed in the Seabrook Code of Ordinances as determined by a staff evaluation of proposed facility designs. Such designs will be included as compliance measures in an incentive agreement.

## **Article II - Definitions**

**As used herein for the business incentive application, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage.**

*Agreement.* A contract between an Incentive recipient and the SEDC clarifying the terms, performance measures and obligations of the parties.

*Assessed Value.* The appraised value of a property after any exemptions have been applied

*Base Year Value.* The Assessed Value of all property subject to a Tax Rebate in the year preceding execution of an Agreement

*Business Personal Property.* Any property associated with a Project other than Real Property and excluding inventory

*City.* The City of Seabrook, Texas, and all its governing and operating bodies

*Construction / Build-Out Costs.* Costs which may be associated and extended to mean the improved value of buildings, structures, fixed-in-place machinery and equipment, site improvements, and related personal equipment necessary to the primary operation of the facility.

*Compliance Measures.* Economic performance indicators for a Project established by Agreement and reported to the City annually or as otherwise prescribed by Agreement

*Council.* The City Council of the City of Seabrook, Texas

*Default.* An event in which a party to an Agreement has failed to meet Compliance Measures and to perform under prescribed cures

*Expansion.* An investment in fixed assets that will result in an increase in occupied building area, increased employment or higher Assessed Value of Real Property by a firm already located in the City

*Facility.* Combined Real and Business Personal Property Improvements that house an economically purposeful activity

*Green Space Improvements.* Improvements to the Project site that increases beyond required green space and detention requirements by the City that will utilize natural vegetation and landscaping to improve the site aesthetics.

*Improvement.* A building, structure or fixture erected on or affixed to land with a life expectancy of 15 years or more.

*Incentive.* Any inducement for economic activity given by a governmental entity (in this case the SEDC) such as a rebate, participation in infrastructure costs, waiver of fees or development requirements only as allowed by law, or any other incentives not prohibited by state or federal law.

*Ineligible Property.* The following types of property shall be fully taxable and ineligible for Incentives: land; inventories; supplies; tools; furnishings, and other forms of movable personal property; vehicles; vessels; 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; or any other property for which Incentives is not allowed by state law.

*Infrastructure* may include water, wastewater, roads, drainage, and the extension of franchise utilities. Infrastructure items must show a benefit to a region or area of the city and not solely benefit one business.

*Job.* A permanent, full-time employment position that has provided or will result in employment of at least 1,820 hours per position in a year; Part-time positions may be aggregated to create a full-time position for consideration in this policy.

*Modernization.* The replacement and upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially lowers the unit cost of operation, and extends the economic life of the facility. 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.

*Project.* The combination of proposed investment, improvements and economic activity that is submitted in an application for an economic incentive as provided by law, see Texas Local Government Code Sections 501 and 505.

*Personal Property.* Assets on a site that can be moved. Personal property is movable and not fixed permanently to one location, such as land or buildings.

*Real Property.* Land or an improvement affixed thereto. Examples of real property are buildings, canals, crops, fences, land, landscaping, machinery, minerals, ponds, railroad tracks, and roads.

*SEDC.* Seabrook Economic Development Corporation and its staff.

### **Article III - The Application Process**

#### **Application Required**

In order to ensure accountability, fairness and compliance with all applicable regulations, every incentive request must proceed through a uniform application process.

Incentive applications are evaluated on a case-by-case basis. As such, an application does not guarantee an incentive grant.

#### **Information & Confidentiality**

In order to perform an adequate cost-benefit analysis of each incentive request, the SEDC requests thorough information regarding the economic attributes of each Project. This information is used in the strictest sense to evaluate the potential incentive investment being considered by the SEDC and will be treated as confidential.

Please note that while government documents are subject to the provisions of the Texas Open Records Act and other regulations pertaining to transparency in government, certain exceptions apply to information used in Economic Development negotiations. Information that is provided to the City and the SEDC in connection with an application or request for economic incentives in accordance with the above criteria and guidelines and which describes the specific process or business activities to be conducted or equipment or other property to be located on the property for which the economic incentives are sought is subject to confidentiality and subject to exception for public disclosure until the economic incentives agreement is executed, or as otherwise determined by the Texas Attorney General as provided by the Act. The information in the custody of the City of Seabrook after the agreement is executed is not confidential and would be required to be released under the Texas Open Records Act.

## Article IV – PROGRAM DEFINITIONS

**IMPORTANT: Do not start construction before applying for incentives. If construction has started prior to an incentive application, it is assumed that the Applicant does not need assistance and the application may be denied.**

The Seabrook EDC has approved the use of the following programs to incentivize development within the City of Seabrook:

- A. Small Business Development
- B. Commercial Façade Incentive
- C. New Construction & Development Incentive
- D. Retail Redevelopment Incentive
- E. Sales Tax Rebate

While some projects may not fit into the categories listed above, the Seabrook EDC retains the right to review any application and enter into an incentive agreement under Texas local government code 505.158.

All incentives are paid via reimbursement. Qualifications for reimbursement include a signed certification of occupancy by the City of Seabrook and signed permits by related county and State agencies for the operation of the business. Documentation of costs related to reimbursement must accompany reimbursement requests. If documentation is not provided, reimbursement will not be paid. It is important to note that **all incentive programs have a maximum duration limitation of 10 years.**

## **A. Small Business Development**

Defined as having less than five (5) full time (or FTE) employees and/or under \$2,000,000 in annual sales. Businesses that pursue an incentive in this category will be required to attend at least one meeting with an SBA / SCORE representative regarding the business' projected growth plan.

The Small Business Development Incentive is designed to provide funding for **growth** of the business. Incentive funds are not awarded for normal operating expenses such as payroll, building maintenance, utilities, et al.

If awarded, the project will be required to show proof of use of funds for the expansion of employment, expansion of services, or new construction. Small Business Development Incentives have a maximum value of \$50,000 per application.

## **B. Commercial Façade Incentive**

The Façade Improvement Program involves real property improvements to the exterior of commercial, retail buildings in the City of Seabrook.

### Eligibility

Projects include those making alterations to building exteriors which enhance its appearance and character in a manner that is harmonious with the design principles of the zoning ordinance of the district.

Examples of eligible improvements are as follows:

- Brick repair
- Awning replacement
- Sign removal or replacement
- Window replacement or restoration
- Replacement or restoration of cornices
- Removal architecturally inappropriate alterations
- Other aesthetic/architectural improvements as approved

Commercial Façade Incentives have a maximum value of \$40,000 total per location along active, connected streets. Thus - not facing alleys, back of building, side facing another building, etc.

Incentives are paid **after** a final inspection has been received from the Seabrook Building Official.

## C. New Construction & Development Incentive

### Eligibility

Projects involving warehouse, light industrial facilities, as well as commercial and office developments. Infrastructure, site development, and greenspace enhancements are eligible project costs for this program.

Projects seeking incentives for new construction and site improvements will be subject to the following qualifications:

- The EDC intends to be selective regarding the kinds of businesses that are recruited and incentivized. To that end, non-retail businesses will take precedence over retail businesses, unless the retail establishment has regional draw and serves residents from Seabrook and beyond. In general, the primary objective of the City's economic development efforts is to target new and expanding businesses that offer living wage jobs with benefits that equal or exceed the median wages for similar positions in the State of Texas or that make significant capital investment in the City. The creation and retention of competitive wage jobs shall be a key determinant in granting any incentive.
- The EDC encourages the development of regional retail opportunities within its jurisdiction in order to provide services to its constituency and the visiting public from Seabrook and beyond. The EDC will consider incentives for retail businesses and developers that precipitate the expansion of the sales tax base and other revenues, further the effort to develop Seabrook as a regional hub for retail goods and services, and expand the property tax base. The EDC wants such developers who add quality, or up-scale features, to the architectural designs and landscaping. This is particularly the case with non-industrial developments where unique architecture, landscaping or other features would enhance the quality of development to attract customers and other businesses.
- The EDC desires to retain existing businesses/industries that are contemplating relocating to another city, or state. The EDC may consider offering financial incentives that would offset the cost differentials that make other locations viable. To be eligible under this premise, the applicant or business must provide a declaration that states it is actively pursuing relocation and, absent EDC incentives, would carry out its intent. Furthermore, the applicant or business must make a minimum incremental capital investment, which can be for site modernization, new equipment, technology, or other long-lived depreciable assets that increase the assessed valuation.
- Generally, incentives will not be considered if an applicant, whether a new or existing business, has begun on construction on the site. Before granting any incentive, the City shall determine that without the incentive, the applicant would not locate or expand within the City's jurisdictional boundaries.

Projects requesting an incentive in this Program will be subject to the following minimum qualification:

PROJECT INDICATOR	MINIMUM QUALIFICATIONS
New Jobs Created (full time)	10
Real Property	\$3,000,000
Personal Property	\$1,000,000

These minimum value metrics are required for the duration of the incentive contract.

Construction and Development Incentives do not have a maximum limit.

#### **D. Retail Redevelopment Incentive**

The Retail Redevelopment Incentive program is a performance-based incentive intended to stimulate conversion and redevelopment of outmoded commercial properties in the City. Retail Redevelopment Incentives do not have a maximum limit.

##### Eligibility

Retail centers in the City of Seabrook seeking to renovate existing sites whether through acquisition or as part of the site’s capital improvement. Site must be at least 15 years of age at the time of the application and property must be in compliance for zoning.

##### Eligible Improvements

A proposed Retail Redevelopment Incentive Project must:

- Exceed all applicable development standards
- Incorporate at minimum one of the following improvement:
  - Façade Renovations (*see Commercial Façade Incentive definition*)
  - Landscape Improvements
  - Parking lot improvements
  - Signage Renovations

In addition to any one or more of the following:

- Incorporation of common areas / pedestrian plazas
- Public art installation
- Connectivity to existing walkways / trails

NOTE: Improvements made prior to approval of an incentive agreement are not eligible for reimbursement under this program.

**E. Seabrook Economic Development Corporation (SEDC) Sales Tax Rebate**

An applicant may choose to request a portion of their SEDC sales tax paid (minus alcoholic beverages sales tax) to be reimbursed. If utilized, Sales Tax Rebates are subject to either a maximum term of 10 years or to terms agreed upon by the SEDC and the Applicant. Applicant is required to create at minimum three (3) full time equivalent (FTE) jobs during the term of the incentive agreement.

Sales Tax Reimbursements are based on a portion paid to the Economic Development Corporation and not the City’s total sales tax payment received.

Below is an example worksheet of sales tax reimbursement on a project that has gross annual sales of \$1,000,000.

Annual Sales ( <u>excluding</u> alcoholic beverages)		\$1,000,000
City of Seabrook General Fund Sales Tax Revenue (sales x 0.015)	1.5%	\$15,000
<b>SEDC Sales Tax Revenue (sales x 0.0025)</b>	<b>0.25%</b>	<b>\$2,500</b>
Seabrook Crime District (sales x 0.0025)	0.25%	\$2,500
City Sales	2.00%	\$20,000
Texas Sales Tax	6.25%	
Total Sales Tax	8.25%	

As per the example shown, the maximum amount the business could receive per year of the incentive agreement based on \$1,000,000 of annual sales is \$2,500.

Applications for this reimbursement will be required to provide a copy of the past 24 months sales tax payments to the Texas Comptroller. If project is a new business, a detailed 10-year projected sales tax forecast will be required as part of the application documentation.

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