

**ORDINANCE No.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TX., AMENDING THE LEON VALLEY ECONOMIC AND COMMUNITY DEVELOPMENT POLICIES AND PROCEDURES FOR FUNDING REFERENCED IN CHAPTER 1, ARTICLE 1.06, SEC. 1.06.009 (e) ECONOMIC AND COMMUNITY DEVELOPMENT ADVISORY COMMITTEE (ECDAC) OF THE CITY OF LEON VALLEY CODE OF ORDINANCES; PROVIDING REPEALER; SEVERABILITY; SAVINGS; OPEN MEETING CLAUSE AND AN EFFECTIVE DATE.**

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**WHEREAS**, adding policy and guidelines to vet, approve and/or decline projects by City Staff for specific economic and community development project(s) prior to be being placed before the City Council; and

**WHEREAS**, City Council now desires to amend The Leon Valley Economic and Community Development Policies and Procedures for funding referenced in Article 1.06, Sec. 1.06.009 (e) Economic and Community Development Advisory Committee (ECDAC) of the City of Leon Valley Code of Ordinances (exhibit A) as recommended by staff.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS:**

**SECTION 1.** The Leon Valley Economic and Community Development Policies and Procedures for Funding referenced in Chapter 1, Article 1.06, Sec. 1.06.009(e) of the Leon Valley Code of Ordinances is amended as attached in Exhibit A.

**SECTION 2. REPEALER CLAUSE.** The provisions of the Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent by any other ordinance.

**SECTION 3. SEVERABILITY CLAUSE.** If any provision, section, sentence, clause, or phrase of this ordinance or application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting, and the Mayor in approving this Ordinance, that no portion thereof or provisions or regulation contained herein shall become inoperative or fall by reason of any unconstitutionally or invalidity of any portion, provision, or regulation.

**SECTION 4. SAVINGS CLAUSE.** The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the

City under any section or provisions of any ordinances at the time of passage of this ordinance.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall become effective on and after its passage, approval and the meeting of all publication requirements as provided by law.

**SECTION 6. NOTICE OF MEETING CLAUSE.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**PASSED, ADOPTED AND APPROVED** by the City Council of the City of Leon Valley this the 4<sup>th</sup> day of April 2023.

**APPROVED**

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**CHRIS RILEY**  
MAYOR

Attest:

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**SAUNDRA PASSAILAIGUE, TRMC**  
City Secretary

Approved as to Form:

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**NICOLE WARREN**  
City Attorney

## Exhibit A

**STATEMENT:** The City of Leon Valley (the City) will consider providing funds in accordance with the policies, procedures, and criteria outlined in these guidelines. The City will consider funding agreements for new facilities, expansion of existing facilities, modernization of existing facilities, and community projects.

**NOTHING IN THESE POLICIES AND GUIDELINES OR THE PROJECT APPLICATION SHALL EVER BE CONSTRUED TO IMPLY OR SUGGEST THAT THE CITY IS UNDER ANY OBLIGATION TO PROVIDE ANY FUNDING TO ANY APPLICANT.**

**PRIOR TO ANY PUBLIC EXPRESSION OF A DECISION OR ANY COMMITMENT (LEGAL OR FINANCIAL) TO THE PROPOSAL BY THE APPLICANT, A COMPLETED ORIGINAL OF THIS APPLICATION, INCLUDING ALL SUPPORTING DOCUMENTATION OF COMPETITIVE SITING, AND NARRATIVE IMPACT STATEMENT MUST BE SUBMITTED TO THE CITY OF LEON VALLEY ECONOMIC DEVELOPMENT DEPARTMENT, 6400 EL VERDE ROAD, LEON VALLEY, TEXAS 78238.**

*Applications submitted for funding consideration will be determined on a case-by-case basis. All copies of applications submitted shall become the property of the City and may be subject to public disclosure under Texas Public Information laws and applicable exceptions under Sec.552.101, Sec 552.109, 552.110, 552.111 will apply and requests will be made to the Attorney General prior to release.*

**APPLICABILITY:** The Policies and Guidelines establish that State statutes and adopted City policies relating to economic development shall govern all funding options, programs, and agreements.

**PROCESS:** The Economic Development Director, City Manager, or their designee, as needed depending on the project, (Staff) must first review and evaluate any request for economic and community development funds. Staff will look at different factors when approving or denying an application, including but not limited to:

- a) sales tax generation by recipient, be direct or indirect;
- b) number of potential new jobs generated;
- c) type of new job generated;
- d) increase in ad valorem value in proportionate to the size of the award;
- e) decrease the vacancy rate within the city limits;
- f) capital improvements to the property;
- g) Business financials documents provided in the application;
- h) appropriate business for the location;
- i) is within zoning requirements;
- j) increases the quality of life in the community.

Staff will have 14 business days to review and approve or deny the application. If an application is NOT approved by Staff, Staff must provide written notice as to why. The business can resubmit the application with updates within 30 days of written notice. If the business resubmits an updated application, Staff will still provide a final written approval or denial notice to the applicant.

Staff will place approved applications on the agenda for the next available council meeting. The council will review and discuss approving or denying the application for funding.

Staff will provide final written denial notices and report of application within 14 days to the council.

In the event that the applicant does not resubmit an updated application after the first denial, Staff will submit the denial notice and report of the application within 14 days after the 30-day resubmission period.

The council has the ability to request that a denied application be heard and voted on by the body if two (2) members elect to place it on the agenda. In the event of the council exercising their right to hear a denied application, Staff will present the application before the council at the next available council meeting.

The application process is as follows:

1. Completed application submitted to the Economic Development Director;
2. Review the completed application by the Staff. Staff will provide approval of the application or denial with written notice to the applicant. Denial of application by the Economic Development Director will end the request and the application will not proceed.
  - a. The business can resubmit the application with updates within 30 days of written notice.
  - b. Staff will provide final written denial notices and report of application within 14 days to the council.
  - c. The council has the ability to request that a denied application be heard and voted on by the body, if two (2) members elect to place it on the agenda. In the event of the council exercising their right to hear a denied application, Staff will present the application before council at the next available council meeting.
3. Approval/Disapproval by City Council;
4. If approved for funding; completion of the project;
5. Business presents supporting documents for final review by Economic Development Director;
6. Economic Development Director submits a request for funding from the finance department.

**ELIGIBILITY:**

1. Any new business planning to locate within Leon Valley, or any business currently located within the city limits, shall be eligible for this program, provided the improvements to the property will promote new or expanded business development, ad valorem, sales tax revenue, provide new jobs, and/or have other significant economic impacts to the community.
2. All buildings and facilities located within the city limits at the time of application shall be eligible for this program.
3. Funding proposals for routine maintenance or to remedy ordinance violations will not be accepted.
4. Funding for marketing campaigns will not be accepted. Large, individual, and/or removable, business-specific advertisement items like a monument, pylon, post channel letter, dimensional letter, wayfinding, electronic message and/or blade signage for an individual business will not be accepted. Large, general, interchangeable, signage for multi-tenant properties will be considered.
5. "Business" - defined as an occupation, profession, or trade-in the purchase and sale of goods or services. Businesses must be in good financial health and business must not be insolvent.

**GUIDELINES:**

1. Proof of the applicant's ownership of the subject facility or facilities, or proof that the owner of such facility has approved the submission of the application for economic and community development funding, is required.
2. The owner of an operated business within a leased facility must provide a letter or statement from the property owner, or representative, attesting to the owner's knowledge of the business's application for economic and community development funding. Copies of the lease agreement of the leased facility shall be required.
3. A letter from a commercial bank, savings and loan institution, credit union, mortgage company, insurance company, or pension fund attesting to the business's eligibility to secure a loan from their institution shall be required.
4. Business financials must be included with the application. Business financial documents must include the following:
  - a. Profit and loss statement for the previous 12 months.
  - b. Balance sheet for the previous end of the year or end of the quarter.
  - c. A copy of the previous year's tax return for the business, if applicable.
  - d. New businesses, without any financial documents, must provide their business plan as part of the application.
  - e. New businesses should demonstrate how they plan to be successful in the area.
  - f. New businesses must provide lease contract or property ownership documents with their application.
5. Unless otherwise specified or agreed to, the funding available to any one application, business establishment, or property owner at one physical location (address) shall be no more frequent than a one (1) year period. The application time period is determined by the project completion date.
6. Unless otherwise specified or agreed to, funding disbursements approved by the City Council shall be provided on a reimbursement basis. Upon completion of improvements and provision of paid receipt, funds are dispersed to the applicant, and are not to exceed the limits set forth in the funding agreement. In-kind contributions are not acceptable as any part of the applicant's match. Only cash matches of the applicant's expenditures may be used. Copies of the inspection reports are required for reimbursement. Photographs of the completed work may be required for reimbursement.
7. The applicant must submit, at minimum, two (2) bids for construction work, if possible. The bid amount must be competitive and/or reasonable for the type of work being completed. Staff has the right to request additional bids if prices are non-competitive and/or unreasonable. Failure to provide a competitive and reasonable bid can result in the denial of the application.
8. The applicant shall be obligated to make the improvements in accordance with the application submitted to and approved by the City Council. Thereafter, any modifications must first receive the written approval of the City Council. Failure to obtain such written approval prior to making any such modifications shall render the applicant ineligible to receive funding.
9. The applicant shall be responsible for obtaining all applicable permits related to the improvement project, and failure to do so will render the applicant ineligible to receive funding.
10. All application improvements presented must be completed in their entirety. Failure to do so shall render the applicant ineligible to receive funding.
11. The applicant shall not begin any improvements submitted for funding prior to receiving written approval of funding from the City Council. Applications for started or completed projects will not be accepted, nor will they be eligible to retroactively receive any funds.

12. The applicant must agree to complete the improvement project within six (6) months of receiving written approval of funding from the City Council. Failure to complete the improvements within the required time period shall result in the loss of funds allocated for the project. If extenuating circumstances are present, the applicant may apply for an extension prior to the end of the six-month period. A copy of the Certificate of Occupancy (CO) issued by the City of Leon Valley must be submitted to the Economic Development Director.
13. The applicant must agree to remain in business and not sell or assign such business to another person or entity for a period of twelve (12) months from the date of approval of his/her application.
14. In accordance with the requirements of the funding agreement, the applicant is in default of its obligations under the funding and is required to reimburse the City funds received if the business (applicant) fails to remain open, or the business or property is sold or transferred, within twelve (12) months after the provision of economic and community development funds.
15. Applicant must agree that in the event of default on its obligations, the City has the right to reimbursement for all economic and community development funding received, and any attorney's fees or costs incurred while seeking reimbursement.
16. The applicant must certify that the applicant does not employ, nor will it employ any undocumented workers (an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States).
17. A Leon Valley Economic & Community Development Grant sign must be displayed at the subject property for a minimum of three (3) months to publicly recognize the grant program.
18. If the owner has a grand re-opening, the owner must invite city officials to the official ribbon cutting.

#### **APPLICATION:**

1. Application forms are available at Leon Valley City Hall and online at the City of Leon Valley website: <https://www.leonvalleytexas.gov/economicdevelopment/page/leon-valley-ecd-funds> Applications submitted must be on the form provided by the City.
2. Businesses applying for funds must submit one original application with attached supporting application documents.
3. Only complete applications will be considered for funding. Please review the application carefully Before completion prior to submittal. The Economic Development Director and/or staff will review for completion within 14 days of submission. Incomplete items, if any, will be identified, and the applicant will be given an opportunity to complete and re-submit. Only completed applications will be given a written notice of approval or denial.
4. All applications, attachments, and copies submitted shall become the property of the City.
5. Applications submitted for funding consideration will be determined on a case-by-case basis.
6. Applicants must agree that in the event of default on its obligations, the City has the right to reimbursement for all economic and community development funding received, and any attorney's fees or costs incurred while seeking reimbursement.

#### **APPROVAL:**

1. The Economic Development Director must approve the application. Denial of application will be given with written notice to applicant. Denial of application by Economic Development Director will end the request process for the applicant.
  - a. Staff will provide final written denial notices and report of application within 14 days to the council.

- b. The council has the ability to request that a denied application be heard and voted on by the body, if two (2) members elect to place it on the agenda. In the event of the council exercising their right to hear a denied application, Staff will present the application before council on the next available council meeting.
2. The City Council may award funds to an applicant with certain provisions, conditions, or other requirements the City deems necessary or appropriate.
3. If the Staff or the council does not approve an application, re-application by the business may not take place for a period of six (6) months from the date of the written notice informing the applicant.

**PERFORMANCE AGREEMENT:**

Projects exceeding \$10,000; The City of Leon Valley and awarded business enterprise that it funds directly or makes expenditures that benefit an eligible project must enter into a written performance agreement. At a minimum, the performance agreement will contain:

1. A schedule of additional payroll or jobs to be created or retained;
2. The capital investment to be made by the business enterprise; and
3. The terms for repayment of the economic and community development funds investment if the business fails to meet the performance requirements specified in the agreement.

**FUNDING:**

1. Upon notification of project completion by the applicant to the economic development director, an inspection is required by a City staff representative or representatives to confirm that such project has been completed in accordance with the application, or any approved modifications thereto. Such notification shall include, but not be limited to, documentation of paid receipts for materials, labor, permits, inspection reports, and/or any other item that the City may reasonably deem necessary for determining the project's completion.
  - a. Inspection - Compliance with Proposed Project
    - i. Within thirty (30) days following the inspection required (paragraph 1), and confirmation of completion of the project in accordance with the application, or any approved modifications, the City shall issue a letter of approval. The applicant will receive a copy of such letter. Funding shall take place following the date of the approval letter.
  - b. Inspection– Non-Compliance with Agreement
    - i. The economic development director will issue a letter to the applicant indicating all areas of non-compliance within fourteen (14) days following the inspection, presentation of receipts as provided, and after a determination is made that the project has not been completed in accordance with the application, or any approved modifications. The applicant shall then have sixty (60) days from the date of such letter to make the modifications necessary to bring the project into compliance. Failure to complete such modifications within said sixty (60) day period shall be deemed a default of applicant's obligations under the economic and community development funding agreement.
2. The City Council retains discretion to accept or reject applications received.

**FAILURE TO MEET PERFORMANCE AGREEMENT REQUIREMENTS:**

1. If the subject business is closed, abandoned, sold, or transferred within a six (6) month period after the funding amount is paid to the recipient or the opening of the business, whichever is later, the applicant shall be required to reimburse the City for 50% of the funding amount received. Thereafter, until the twelve (12) month anniversary date of such approval, the applicant shall be required to reimburse the City for 25% of the fund amount received.
2. Payments due pursuant to paragraph one (1) hereof, must be made in full to the City within thirty (30) days after the date of written notification by the City that the applicant/owner is in default of any of the funding requirements set forth herein. The form of such payment shall be a cashier's check or money order, payable to the City of Leon Valley – Economic and Community Development Fund.

**NOTICE:**

1. The Economic Development Director shall deliver a copy of these guidelines to any applicant for his/her review. Delivery hereof does not constitute an offer of a grant or loan to the applicant.
2. The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this funding program. If any provision of this program is invalid or unenforceable, the validity and enforceability of the remaining provisions are not affected.
3. Applications submitted shall become the property of the City and may be subject to public disclosure under Texas Public Information laws and applicable exceptions under Sec.552.101, Sec 552.109, 552.110, 552.111 will apply and requests will be made to the Attorney General prior to release.



**CITY OF LEON VALLEY ECONOMIC AND COMMUNITY DEVELOPMENT  
POLICIES AND GUIDELINES FOR FUNDING**

**ACKNOWLEDGEMENT OF RECEIPT**

APPLICANT:  
BUSINESS NAME:  
ADDRESS:  
PHONE NUMBER:

Signature: \_\_\_\_\_

CO-APPLICANT:  
BUSINESS NAME:  
ADDRESS:  
PHONE NUMBER:

Signature: \_\_\_\_\_

PROPERTY OWNER/LANDLORD:  
ADDRESS:  
PHONE NUMBER:

Signature: \_\_\_\_\_

Sign, date, and return this acknowledgment page to the City of Leon Valley. Please retain the guidelines and criteria for your records