



Sunnyvale 4B Development Corporation

Business Incentive Plan

Policy Statement

Sunnyvale 4B Development Corporation is committed to the promotion and retention of high quality and unique business development in all areas of Sunnyvale, and to an ongoing improvement in the quality of life for its citizens. Insofar as the enhancement and expansion of the local economy generally serve these objectives, the 4B Corporation will, on a case-by-case basis, consider providing business incentives to stimulate economic development in Sunnyvale. The 4B Corporation will consider providing business incentives in accordance with the procedures and criteria outlined in this document and as permitted by and in accordance with state law. Incentive agreements will be considered for new businesses, for the expansion of existing businesses, and for the modernization of existing facilities and structures. Nothing herein shall imply or suggest that the 4B Corporation is obligated to provide a business incentive to any applicant. Applications for incentives shall be filed with the 4B Corporation and copies will be coordinated with the Town Manager, appropriate Town Departments, and the 4B Board of Directors. The 4B Corporation will consider applications on a case-by-case basis. This policy establishes that all business incentives and agreements shall be governed by applicable state statutes relating to economic development. All economic incentives approved under this policy shall be reviewed at least every two years for compliance with the conditions of the incentive program.

Scope

The Town and the 4B Corporation are authorized to offer economic development incentives under various state laws, including chapter 380 of the Texas Local Government Code and the Texas Development Corporation Act (the "Act"), now codified in Title 12 of the Texas Occupations Code. A variety of other economic development tools may also be available through the Town.

Chapter 380 permits Texas municipalities to create programs that promote local economic development. This legislation permits, on a case by case basis, the Town to evaluate and, where appropriate, to offer certain economic development incentives. Incentives may include loans or grants of public money, as well as other Town services, to businesses and entities that the Town determines will promote local economic development and stimulate business and commercial activity in the Town in return for specific and verifiable commitments and results from such businesses or entities to cause specific infrastructure or other public benefits or amenities to be made or invested in the Town.

The Act allows municipalities to create nonprofit development corporations, and fund them with a special sales tax. Sunnyvale 4B Development Corporation was created under the Act. These corporations promote the creation of new and expanded industry and manufacturing activity within the municipality

and its vicinity. The Town receives and distributes sales tax proceeds to the 4B Corporation, which uses the money for economic development projects as defined by the Act. Any activities of a development corporation must always be in furtherance of and attributable to a "project."

Except in certain specific instances, 4B Corporation projects involving incentives to business enterprises must result in the “creation or retention of primary jobs.” The term primary job means a job that is:

1. available at a company for which a majority of the company’s products or services are ultimately exported to regional, statewide, national or international markets infusing new dollars into the local economy; and
2. included in one of the North American Industry Classification System (NAICS) sector codes recognized by the Act. These include:

NAICS Sector	Number Description
221	Utilities
331-339	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51 (excluding 512131 and 512132)	Information (excluding movie theaters and drive-in theaters)
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416, 5417, 5419	Scientific Research and Development Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers

Eligible Section 4B Projects

The 4B Corporation will consider spending sales tax proceeds on land, buildings, equipment, facilities, expenditures, targeted infrastructure, or improvements for the creation or retention of primary jobs, which are found by the 4B Board of Directors to be required or suitable for the development, retention, or expansion of:

- manufacturing and industrial facilities
- research and development facilities
- transportation facilities (including airports, ports, mass commuting facilities and parking facilities)
- distribution centers
- sewage or solid waste disposal facilities
- recycling facilities
- air or water pollution control facilities
- facilities for furnishing water to the public
- distribution centers
- small warehouse facilities capable of serving as decentralized storage and distribution centers
- primary job training facilities for use by institutions of higher education
- regional or national corporate headquarters facilities; and
- projects which promote or develop new or expanded business enterprises including projects that provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, or generally municipally-owned improvements

Additionally, the 4B Corporation may fund the acquisition of land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including projects that provide:

- Public safety facilities
- Streets and roads
- Drainage and related improvements
- Demolition of existing substandard or inefficient structures
- General municipally-owned improvements

The 4B Corporation will consider any improvements or facilities that are related to any of those projects and any other projects that the board, in its discretion, determines will promote or develop new or expanded business enterprises or will create or retain primary jobs.

Eligible Projects Which Are Not Required to Create or Retain Primary Jobs

The 4B Corporation of the Town of Sunnyvale will consider funding projects that do not create or retain primary jobs if the project is related to:

- Job training - Certain job training required or suitable for the promotion or development and expansion of business enterprises;
- Certain targeted infrastructure improvements which promote or develop new or expanded business enterprises - limited to streets and roads, rail spurs, water and sewer utilities and electric utilities, gas utilities, drainage, site improvements and related improvements, and telecommunications and internet improvements;
- Land, buildings, equipment facilities, improvements and expenditures required or suitable for a career center, provided the area benefited is not located in the taxing jurisdiction of a junior college district;
- Professional and amateur sports and athletic facilities; entertainment, tourist, convention facilities; public parks and related open space improvements; and related store, restaurant, concession, automobile parking facilities, roads, streets, and water and sewer facilities;
- Affordable housing;
- Water supply facility or water conservation program (this use must be approved by a majority of the City's voters in an election held for that purpose);
- Development, improvement, expansion or maintenance of facilities relating to the operation of commuter rail, light rail or motor buses; and
- Certain airport facilities

Definitions

Clawback- That provision in a Performance Agreement which states how and to what extent any incentive payments from public funds must be repaid if the stated Performance Standards are not met.

Current Payroll- The company's total expenditure for all employees for the month immediately preceding this application multiplied by 12.

Employee Benefit- Incentives offered to employees and paid for by the employer such as hospitalization, vacation, etc. If an employee pays 30% of the cost, or more, it should not be considered a “benefit” for purposes of this application.

Full Time Job- The employment of a person for a minimum of 35 hours per week and offering that person all those benefits adopted by company policy for Full Time Employees. Major stockholders or immediate family members should not be included in this number when considering “New Full-Time Jobs Created.”

Hourly Wage- The gross amount paid to the employee for each hour worked not including the Employer’s portion of FICA or FWH. Benefits should not be included in this figure, but should be listed separately under the compensation per employee section of the application.

Job Classification Code- The North American Industry Classification System (NAICS) classifies all jobs in all industries. Those job classification codes which are acceptable under state law for assistance are listed under the scope section of this document.

Part-Time Job – A person working less than 35 hours per week. Major stockholders or immediate family members should not be included in this category when completing the application under New Part-Time Jobs Created.

Performance Agreement- a written document designed to protect the interest of local taxpayers by putting a businesses’ job creation or capital investment commitments in writing and by linking the payment of any financial incentive to the business fulfilling its written commitments (i.e. clawbacks).

Project- means land, building, equipment, facilities, expenditures, and improvements included in the definition of “project” under the Act.

Primary Job- A job that is (1) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets, infusing new dollars into the local economy; and (2) included in an acceptable sector of the North American Industry Classification System (NAICS).

Ineligible Types of Businesses

The 4B Corporation may determine on a case-by-case basis to exclude business activities that they do not believe benefit the health, safety, and welfare of the community or do not meet the 4B Corporation’s objectives .

Application Procedure

1. Applicant shall submit a completed application form and provide documentation required by the application. Information submitted to the 4B Corporation may be considered public information and subject to disclosure under the Public Information Act.
2. Submit 10 copies to the Town of Sunnyvale.
3. Copies will be distributed within 5 business days by the Town of Sunnyvale to the 4B Board, Town Manager, to appropriate Town of Sunnyvale department heads for review and comments.

4. The applicant will come before the 4B Board's regular meeting to present the plan and answer questions. The 4B Board will publish notice and hold a public hearing, if appropriate.
5. 4B will review the application and approve the request in whole or in part, or as modified, deny the request or request additional information.
6. 4B will make a recommendation to the Town Council.
7. Council will review application, applicant may appear before the council for a presentation and questions, council will call public hearings if required by law, and council will have final approval.
8. After council approval the applicant will be required to enter into a performance agreement between the applicant and the 4B Corporation as provided by the 4B Corporation.

Criteria for Approving Incentive Requests

In determining whether to offer an incentive using 4B Corporation funds, the project should demonstrate one or more of the following for the benefit of the town:

1. An increase in the Town's Sales Tax revenues
2. An increase in the Town's Ad Valorem Tax revenues or overall appraised valuation
3. An increase in employment in the Town of Sunnyvale.
4. An increase in the Town of Sunnyvale's overall quality of life that will promote economic development.
5. Improvements to the Town's streets, drainage, water, and/or wastewater infrastructure that will facilitate economic growth.

If a project has a direct, positive effect on those items discussed in the guidelines above, the 4B Corporation board will evaluate each project on a number of differing criteria to determine the level of investment, if any. These guidelines are not retroactive to any project. Criteria to be considered may include:

1. Total capital investment in the project including acquisitions, site improvements, building cost and equipment;
2. Number, type, quality, and wage level of jobs created;
3. Other site-specific issues which may have ancillary benefits to the Town of Sunnyvale;
4. Grants provided by other local, regional, or economic development entities;
5. The economic and financial feasibility of the project, including the financial strength and viability of the applicant;
6. Other factors deemed relevant by the 4B Corporation Board of the Town of Sunnyvale.

Key to determining the amount of the incentive is of course the anticipated economic development benefit to the Town of Sunnyvale.



Application for Economic Development Incentives

Sunnyvale 4B Corporation

General Information

Applicant's Legal Name _____

Phone # _____ Fax # _____ Email: _____

Home address: _____

Present Business address: _____

Phone # _____ Fax # _____ Email _____

Business Website _____

List names, titles, and contact information for Business Partners, Stockholders, or other Owners

List name, title, and contact information for primary contact person:

Business Information

Date Established ____ Type of Business – (circle) Corporation, LLC, Partnership, Limited Partnership, Sole Proprietor, Texas, Out of State, and Foreign

State of Formation and identifying number: _____

Description of Business _____

Own ____ Lease ____ Purchasing ____ (if purchasing check requirements)
____ no requirements ____ rezoning ____ platting ____ re-platting ____ ordinance changes

Projected sales \$ _____ Projected sales tax \$ _____

Employment Opportunities:

Number of current employees ____ Number of new jobs 1st year ____ 3rd year ____ 5th year ____

Have you filed for bankruptcy (personal or business) in the last 5 years? _____

Request

Amount of Incentive money requested \$ _____ Estimated cost for entire project \$ _____

Scope of request or improvements _____

Start date of project _____ Completion date of project _____

Are infrastructure additions or improvements required for your business? ____

Does your business require a high demand for utilities? _____

(check if applicable) ____ water ____ gas ____ electricity ____ waste

Have you previously or will you be requesting a tax abatement, or other support from Boards or Commissions in Sunnyvale, state or federal assistance on this or any other business? ____

If yes, please list date, amount, outcome _____

References

Name, address, contact, phone #, email

Bank _____

Accountant _____

Attorney _____

Financial Information

Before the application can be approved, the 4B Corporation may designate one or more representatives to meet at the applicant's location to conduct financial due diligence. The information required for this aspect of the process will be determined by the 4B Corporation and indicated on a separate form.

Other

In what ways would your business be a positive asset to the Sunnyvale community?

(Please consider the following – environment impact, property tax, sales tax, compatible with surrounding areas and/or businesses, compatible with community desires, effect on the housing market, effect on the school district)

Please provide 10 copies of:

- this application
- resumes of the Company's principals or officers
- licenses required to operate your business
- plats or plans for the business site

To the best of my knowledge the above information and any additional items provided is accurate as provided.

Applicant Signature

Date



Application for Economic Development Incentives Sunnyvale 4B Corporation

Financial Information Request

The following information indicated below may be requested for review by the 4B Corporation or its representatives at a location to be determined.

- _____ 3 years of financial statements which are to include profit/loss statement, balance sheet, and cash flow statement
- _____ most recent interim financial statements
- _____ IRS – 3 years of tax returns, both personal and business
- _____ financial projection
- _____ budget for the project
- _____ other _____

Before the application can be approved, the 4B Corporation or its representatives must conduct financial due diligence on the business/business owner(s) requesting the incentive.