

ORDINANCE NO. 1466

**A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, ESTABLISHING A PROGRAM UNDER TEXAS LOCAL GOVERNMENT CHAPTER 380 TO PROVIDE ECONOMIC INCENTIVES TO ENCOURAGE NEW HOME CONSTRUCTION; AND AUTHORIZING THE MAYOR TO ENTER INTO CONTRACTS TO PROVIDE INCENTIVES TO QUALIFIED NEW HOME BUILDERS**

**RECITALS**

**WHEREAS**, Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code authorizes a local government to establish and provide for the administration of one or more programs, for making loans and grants and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality;

**WHEREAS**, under Chapter 380 of the Texas Local Government Code, City has adopted an economic development program to promote local economic development and stimulate business and commercial activity within the City limits;

**WHEREAS**, the City Council hereby adopts this Program to encourage the construction of new homes in the City of Bay City;

**WHEREAS**, such construction will create employment opportunities for carpenters, roofers, electricians, and related trades;

**WHEREAS**, the development of the New Homes, as defined in Section I, will contribute to the economic development of the City by: providing housing for individuals and families wishing to relocate in Bay City and create business startups or find employment in the area; increasing real property value and tax revenue for City, and have both direct and indirect positive impact on, and provide an overall improvement/stimulus to, the local and state economy;

**WHEREAS**, City desires to promote the beneficial impact anticipated by New Home construction;

**WHEREAS**, City desires to offer incentives to New Home Builders to enable New Home Builders to construct New Homes pursuant to the terms of this Agreement and in a manner that is consistent with City's economic development plan;

**WHEREAS**, this instrument incorporates the terms under which the City and New Home Builders may execute and enter into an agreement to set forth certain terms and obligations of City and New Home Builders with respect to such matters, including any grant payment, rebate or other incentives made to New Home Builders of certain City funds for New Home Builders investment, and construction of New Homes;

**WHEREAS**, all agreements under this Program are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof;

**WHEREAS**, all conditions precedent for this Program to become effective, including all requirements pursuant to the Texas Open Meetings Act and all public notices and hearings; if any, have been conducted in accordance with Texas law;

**WHEREAS**, City's Council of Government hereby adopts these recitals by Ordinance and authorizes the Mayor to execute an agreement to make certain economic development grants and incentives to New Home Builders in recognition of the positive economic benefits which will accrue to City through New Home Builders' efforts to develop the Property described in this Agreement;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF BAY CITY, TEXAS, THAT:

## **SECTION I NEW HOME CONSTRUCTION PROGRAM ESTABLISHED**

Pursuant to Texas Local Government Code Chapter 380, City Council hereby establishes a program to encourage new home construction as follows:

### **A. DEFINITIONS**

***"Baseline Taxes"** means the Real Property Taxes for the Property, or a platted lot that is included as part of the Property, before New Home Construction has occurred for calendar year 2013.*

***"Development Regulations"** means provisions of City's Code of Ordinances and Unified Codes, including but not limited to International Building Codes adopted by City, relevant to new home construction.*

***"Force Majeure"** means an event beyond the reasonable control of a Party obligated to perform an act or take some action under this Agreement including, but not limited to, acts of God, earthquake, fire, explosion, war, civil insurrection, acts of the public enemy, act of civil or military authority, sabotage, terrorism, floods, lightning, hurricanes, tornadoes, severe snow storms or utility disruption, strikes, and lockouts.*

***"Grant Payments"** means City's rebate payments to New Home Builders in the amount of the annual percentage of the Increased Taxes for New Home Construction on a Platted Lot.*

***"Increased Taxes"** means the Real Property Taxes on a Property increased by the Construction of a New Home, for any calendar year during the Term of this Agreement, less the Baseline Taxes.*

***"Platted Lot"** means a lot shown on Exhibit "A" that has been platted in accordance with the City of Bay City's Subdivision Regulations.*

*"MCAD" means the Matagorda County Appraisal District.*

*"New Home Construction" means the construction of a new home, on a vacant platted lot, when such construction is initiated on the Speculation by New Home Builder that the new home will be sold.*

*"Property" means one or more platted lots that are described in Exhibit "A"*

*"Real Property Improvements" means improvements to real property for which MCAD assesses a value.*

*"Real Property Taxes Subject to Grant" means City's share of the ad valorem taxes assessed by the MCAD on the Value of Property after the completion of New Home Construction has occurred less the Baseline Taxes amount, for any calendar year during the Term of this Agreement.*

*"Site Built Home" means a home that is constructed or assembled on site with exterior walls made out of brick, brick veneer, wood, HardyBoard, vinyl or similar materials. The term does not include HUD approved manufactured housing or Modular Housing.*

*"Speculation" means with a contract or other commitment that the new home will be purchased upon completion.*

*"Value" means the assessed value of Real Property above Baseline Value, for New Home Construction on a platted lot, as determined by the MCAD. Value shall not include Incomplete Construction.*

**B. PROJECT REQUIREMENTS**

*1 Description of the Property. Properties eligible for Grant Payments under this Program must be platted and of such configuration to allow new home construction in accordance with development regulations.*

*2. Development and Construction of New Homes. New Home Construction shall be Site Build Construction.*

**C. GRANT PAYMENT**

*1, Grant Payments. New Home Builders in full compliance with the requirements of this Program may be eligible for Grant Payments as follows:*

- a) Grant Payments shall be made from the Increase Taxes incurred because of the construction of a New Home.*
- b) Subject to Grant collected by City provided for each Property on which the construction of a New Home has been completed as evidenced by (issuance of a certificate of occupancy/connection to water and sewer service).*

*2. Maximum Grant Period. The maximum period of time that the New Home Builders may receive a Grant Payment for the completion of New Home Construction on a property is three (3) years.*

*3. Special Fund. City will provide for the payment of Grant Payments to be made pursuant to a separate agreement with an approved Home Builder. The City shall establish a separate fund at City, or a subaccount of any existing fund or account in City treasury, into which the Real Taxes Subject to Grant received by City from a New Home Builder be deposited during the Term of the Agreement with the Homebuilder (the "Special Fund").*

*4. Amounts payable under this Program constitute economic development funds under Art. III, Sec. 52-a, Texas Constitution, are 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 City, and therefore are not considered to be a constitutional debt of City.*

**SECTION II  
GRANT APPLICATION AND APPLICATION FEE.**

The New Home Builders Grant Application, attached hereto as **Exhibit "A"**, and Grant Application fee of \$ 0 are hereby approved.

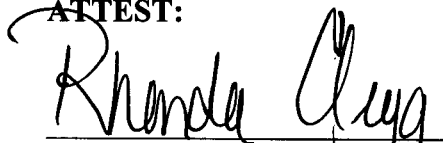
**SECTION III  
GRANT APPROVAL PROCESS.**

An Applicant shall submit a completed application and fee to the City Secretary. The Application shall be reviewed by the City Attorney, and upon the City Attorney's acknowledgement that the application meets the requirements of this Program, the Mayor may execute an Agreement, in substantially the same form as **Exhibit "B"** with the Home Builder without further action by this Council to be necessary.

**PASSED AND APPROVED AT BAY CITY TEXAS THIS** 25<sup>th</sup> **DAY OF** July, 2013

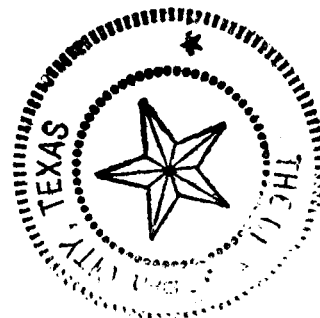
  
\_\_\_\_\_  
Mark Brieker, Mayor  
City of Bay City

**ATTEST:**

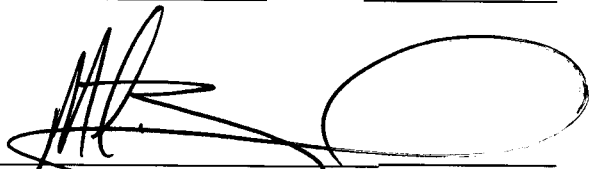
  
\_\_\_\_\_  
Rhonda Clegg, City Secretary

**APPROVED AS TO FORM:**

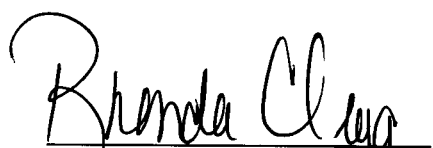
  
\_\_\_\_\_  
George Hyde, City Attorney



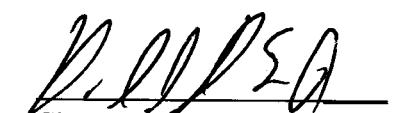
<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Julie L. Estlinbaum	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cornman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chrystal Folse	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Steven Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carolyn Thames, Mayor Pro Tem	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

  
 Mark A. Brieker, Mayor, City of Bay City

ATTEST:

  
 Rhonda Clegg, City Secretary

APPROVED AS TO FORM:

  
 City Attorney