

**Ordinance of the City Council of**

**The City of Hamilton, Alabama**

ORDINANCE NO. 2018-2

AN ORDINANCE TO ESTABLISH A POLICY FOR ECONOMIC DEVELOPMENT ASSISTANCE TO SIBLEY OIL COMPANY, INC.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF Hamilton, ALABAMA as follows:

**SECTION 1. Definitions.**

The following terms shall have the meanings respectively ascribed to them unless the context indicates otherwise:

*City Sales Tax* for any Month Period shall mean collectively privilege license and excise taxes levied by the city (commonly called sales and use taxes) during such Month Period which consists of (i) a privilege or license (commonly called sales) tax on person engaged in the business of selling at retail any tangible personal property within the city (subject to exemption of certain property as described by law) or in the business of conducting places of amusement or entertainment within the City, generally measured by the gross sales or receipts of such businesses and (ii) an excise (commonly called use) tax on the storage, use or other consumption of tangible personal property (subject to exemptions of certain property as provided by law) within the City, generally measured by the sales price of such property.

*Calendar Quarter* shall mean a period of three consecutive months.

*City Sales Tax Rebate* shall mean an amount equal to the percentage of the City Sales Tax Proceeds actually received by the City from businesses in a Project Area during the immediately preceding Month Period within the Project Area, net of all out-of-pocket costs incurred by the City to collect the City Sales Tax Proceeds, less the percentage to be paid for public school purposes or public election purposes.

*Developer* shall mean a legal entity that has made application for assistance pursuant to this policy, and/or one that has been determined to be "qualified" in accordance with this policy and/or one that has entered into negotiations for or executed a Development Agreement with the City.

*Developer Improvement Cost* shall mean the total amount expended by the Developer for development Improvements, including that for design, testing, inspection, construction, installation and all other costs associated with the Development Improvements as described in this policy, which also may include all costs, fees, charges and interest associated with the issuance by the City of any debt to fund the improvements plus the amount of City or public infrastructure improvement assistance and/or EDL assistance provided by the City to the Developer.

*Development Plan* shall mean that certain plan for the Development as depicted upon the plat and maps as permitted and approved by the City Engineer.

*Main Building* shall mean the specified square foot building in the Project Area.

*Month Period* shall mean each calendar month during the Term in which City Sales Tax Proceeds are collected in the Project Area, commencing on the Commencement Date.

*New Business* shall mean a business that has never purchased a business license.

*Payment Date* shall mean the 20<sup>th</sup> day of each month during the Term beginning on the 20<sup>th</sup> day of the first month which immediately follows the Commencement Date.

*Project* shall mean a specified square foot building (the "Main Building") and any accessory buildings located in the Project Area.

*Project Area* shall mean the land and buildings located at the specific site and address identified in the project agreement.

*Total Developer Commitment* shall mean placing two gas stations and convenience stores within the City Limits of the City of Hamilton, including a location on Military

Street and one on Exit 7 at the intersection of State Highway 94 and State Highway 19.

**SECTION 2. General Criteria for Economic Development Assistance from the City.**

The primary effect of any assistance by the City to private Development must be to serve the general public in the areas of public safety, public infrastructure, planning and technical assistance, research and information, fair and equitable tax structure and the creation of a community that fosters and supports economic development through commercial activities. Although any assistance provided pursuant to this policy may incidentally benefit the private Development, this should not be its primary purpose or effect of such assistance. As a consequence, in evaluating any application for economic assistance from the City, the following principles will be applied:

- (a) *Public Purpose.* The activity or expenditure requested of the City in regard to the Development must not violate Ala. Const. Art. IV Section 94 or 94.01 in that there must be a demonstrable "Public Purpose." In addition, a Public Purpose also includes promoting the economic and industrial development of the City pursuant to Ala. Const. Art IV Section 94.01.
- (b) *Beneficial and needed by the community.* The Development must be one that is beneficial and needed by the City as a community or by a particular area of the City. The Development must not adversely impact the City or any community of the City to a degree that exceeds the Development's overall benefit.
- (c) *Taxes.* There must be no adverse effect on existing City tax base or revenues.
- (d) *Type of Development.* The Development itself must be of such magnitude in size, scope, features, location, and/or creation of a significant number of new jobs and retailers as to distinguish it from existing Developments. A Development should also offer the City an opportunity to attract and locate a significant and/or distinctive retail or

commercial operation which creates a meaningful prospect for the City to promote and realize significant economic development. The Development shall be limited to gas service stations and convenience stores that are in line with the typical offerings of said enterprises.

- (e) *An experienced, qualified Developer.* The Developer must provide references and proof of experience with prior, similar Developments that demonstrate knowledge and expertise concerning the type of Development under consideration.
- (f) *Proper zoning and other land use restrictions.* Prior to acceptance by the City of any application pursuant to this policy, the site of the Development must be properly zoned in accordance with the Zoning Ordinance of the City of Hamilton, Alabama, for the intended use. The use of the site, further, must not be prohibited by any prohibitive private land use restrictions nor any prohibitive restrictions imposed by any state, federal or local laws or ordinances.
- (g) *Annexation.* The Development must be annexed into the corporate limits of the City of Hamilton.

### **SECTION 3. City Assistance Available:**

Assistance available from the City to qualifying Developments and Developers will be in the following form and subject to the terms and conditions stated herein and elsewhere in this policy:

- (a) **City Sales Tax Rebate (New Business)** - A rebate of sales tax will be available to the developer for development projects that are completed within 18 months. A rebate of sales tax will be available to the Developer for development projects that are complete and operational on Military Street South AND Exit 7 with 18 months from July 2, 2018. This rebate will be made by way of refund of sales and fuel tax revenues generated and paid to the City from Business which are located in the Project Area. The rebate shall be calculated and paid only on the Sales Tax Revenue received from the Business. Commencing on the grand opening date of the

Development Property, the City will rebate to the Developer fifty percent (50%) of the Sales and Fuel Tax Revenue generated by the for a period of three years for the Military Street Project and five (5) years for the Exit 7 project.

**SECITON 4. Monitoring of Development for Compliance with Requirements.**

Following the entry into a Development Agreement between the City and a Developer, and the location of a Project within the City, the City shall, by way of annual reports from the City Clerk and/or Revenue Department, continuously monitor the Development to ensure that the same complies with the Development Agreement and with the requirements of this Ordinance. The City's obligations under either this Ordinance or any Development Agreement entered into with any Developer shall be contingent upon the Development's compliance with such requirements. Developers shall provide to the City any and all information required to monitor such compliance, but this requirement should not be construed to require a Developer to provide any confidential information which is not necessary for monitoring such compliance.

ADOPTED AND APPROVED this the \_\_\_\_ day of July, 2018.

CITY COUNCIL OF THE CITY  
OF HAMILTON, ALABAMA

By: \_\_\_\_\_

ATTEST

APPROVED/VETO

By: \_\_\_\_\_

By: \_\_\_\_\_