

Application for Loan/Grant of 4B Sales Tax Funds from the
Gonzales Economic Development Corporation

GONZALES ECONOMIC DEVELOPMENT CORPORATION

GENERAL INFORMATION FOR APPLICANTS

MISSION STATEMENT

The Gonzales Economic Development Corporation will strive to enhance Gonzales' economy by expanding the tax base, promoting tourism, and providing for a better quality of life for the citizens of our community. Our mission is to further the economic growth and development of Gonzales while preserving the integrity of our rich heritage.

HISTORICAL PERSPECTIVE

The Development Corporation Act of 1979 (the Act) is the law that sets the ground rules for the use of the economic development sales tax. The Act is found in Article 5190.6 of Vernon's Civil Statutes. Sections 4A, 4B, and 4C of the Act relate to the economic development sales tax.

Economic Development Corporations are the legal entities with the statutory authority to spend economic development sales tax dollars. The corporations are city-chartered and governed by a city-appointed board of directors. Corporations are typically referred to either as "4A" or "4B" depending on the type of economic development sales tax uses approved by local voters.

The first major change to the tax was passed just two years after the original 4A tax was enacted. In 1991, Texas lawmakers authorized cities in four Texas counties (Bexar, Dallas, Harris, Tarrant) to ask voters to enact a more flexible version of the original 4A tax, commonly called the "4B" tax (SB 376). Revenue generated by this new tax could be used to finance not only manufacturing and industrial projects, but also quality of life improvement such as parks, sports stadiums, tourism facilities, and certain types of transportation infrastructure.

As the economic development sales tax grew more popular, lawmakers were increasingly pressured to expand the number of cities eligible to adopt the tax and to loosen the restrictions on how the tax dollars could be spent. In 1993, the law was changed to allow any city that met the population and tax-rate criteria for collecting the 4A tax to collect the 4B tax instead, with voter approval.

A few years later in 1997, lawmakers authorized cities that collect the 4A tax to seek voter approval to undertake projects authorized under 4B of the Development Corporation Act (HB 1525). **As Gonzales had not maxed its local sales tax rate, and was located in a county of less than 500,000 population, it qualified. A Section 4B tax was voted in by residents in 1997. The revenue generated by the 4B tax is controlled and administered by the City of Gonzales' Economic Development Corporation ("GEDC"). The GEDC is a non-profit corporation which is run by its Board. The members of the Board are appointed by City Council and each member serves a 2 year term. The registered office of the corporation is located at 820 St. Joseph, Gonzales, Texas 78629.**

In 1999, Texas legislators expanded allowable uses of the economic development sales tax to include job training, targeted infrastructure, and educational facilities (HB 3029).

In 2001, lawmakers amended Section 4B to allow communities to spend economic development sales tax dollars on water supply facilities and water conservation programs and incentives with specific voter approval (HB 2379). Also in 2001, lawmakers passed HB 3178 requiring designated persons to attend a mandatory training seminar on the administration of the economic development sales tax every two years.

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During the 2003 regular legislative session, lawmakers enacted some major changes to the Development Corporation Act with the passage of HB 2912. Following is a summary of the most significant changes made by HB 2912 and what they mean to the community of Gonzales:

DEFINITION OF "PROJECT" & PRIMARY JOBS

The heart and soul of the Development Corporation Act is the term "project". Over the years, lawmakers have broadened the definition of project to accommodate the needs of their constituents. HB 2912, in an effort to refocus the tax back on economic development, retools the definition of project by focusing the use of the economic development sales tax – with some exceptions – to projects that create or retain "primary jobs". A primary job is described as 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 a sector of the North American Industry Classification System (NAICS).

CHART OF NAICS CODES	
111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211-213	Mining
221	Utilities
311-339	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51	Information, excluding movie theaters (51213) and drive-in theaters (512132)
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers, Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416	Scientific Research and Development Services
5417, and 5419 551	Management of Companies and Enterprises
922140	Correctional Institutions

Other significant changes relate to the term "project" and include:

- Clarifying that 4A and 4B corporations may undertake "expenditures" on behalf of a business (i.e. provide financial incentives such as loans or Loan/Grants).
- Clarifying that 4A and 4B corporations may provide financial assistance to "regional or national corporate headquarters".
- Restricting the use of economic development sales tax revenues to "primary job training facilities" for use by institutions of higher education, rather than general education facilities.
- Prohibiting the use of 4B revenues to build learning centers (e.g. libraries) and municipal buildings (e.g. city halls).
- Prohibiting the use of 4A revenues to build sewage and water furnishing facilities for the general public.

HB 2912 restricts the extent to which 4A and 4B dollars may be used to fund retail or commercial developments, but does not prohibit corporations from supporting these types of projects.

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Corporations may continue to provide retailers with infrastructure assistance in the form of streets and roads, rail spurs, water, gas, and electric utilities, drainage and related improvements, telecommunications and internet improvements. Corporations may no longer provide direct financial incentives to retailers or provide retailers with free land, buildings, equipment, or Loan/Grants for relocation costs. This dramatically changes the types of Loan/Grants historically applied for and approved in Gonzales.

Corporations also may provide job training assistance to retail and commercial projects so long as the employer meets the wage requirements specified in the Act. Under the new law, 4A or 4B tax revenues may be used for job training if the benefiting business commits in writing to either: (1) pay at least equal to the prevailing wage for the applicable occupation in the local labor market or (2) increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market.

Additionally, HB 2912 added new language to the Development Corporation Act requiring 4A and 4B corporations to enact “performance agreements” before providing direct incentives or making expenditures on behalf of a business. A performance agreement is 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).

HB 2912 requires that the performance agreement contain a schedule of planned payroll, job creation and capital investment, and include clawback language. HB 2912 also requires the board of directors of a 4A or 4B development corporation to execute a written agreement in connection to the payment of a commission, fee, or other compensation to an agent, broker, or other third party involved in a business recruitment or development transaction.

Recently, HB 2928 changed the “scope” of support that some 4B development corporations can offer. The following is an excerpt from HB 2928 that specifically addresses projects that can be undertaken by cities such as Gonzales:

SECTION 3. Section 4B(a), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (3) and (4) to read as follows: ***(3) For a corporation created by an eligible city with a population of 20,000 or less, "project" shall also include the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the board of directors to promote new or expanded business development. A corporation may not undertake a project authorized by this subdivision that requires an expenditure of more than \$10,000 until the governing body of the eligible city creating the corporation adopts a resolution authorizing the project after giving the resolution at least two separate readings.***

Most recently, HB 1196 added wording regarding Loan/Grant recipients employing undocumented workers. House Bill 1196 amends the Government Code to require a business that submits an application for a grant, loan, or other public subsidy from a public agency, state or local taxing jurisdiction, or economic development corporation to **include in the application a statement certifying that the business does not and will not knowingly employ an undocumented worker.** The statement must declare that if the business is convicted of engaging in a pattern or practice of violations of federal law governing the unlawful employment of aliens, the business is required to repay the amount of the public subsidy with interest, at a specified rate and term, within 120 days of receiving notice of the violation. The bill provides for enforcement of these provisions by civil action and specifies that a business is not liable for a violation by a subsidiary, affiliate, or franchisee or by a person with whom the business contracts

The Gonzales Economic Development Corporation has prepared this application in such a way to provide a better understanding of how we are allowed by law to utilize the economic development sales tax to benefit our city. Loan/Grants for projects approved in the past are no longer allowable. **Legislation is now in place to enter into written contracts with applicants for sales tax funds and to recoup those funds if specific provisions are not met.**

Although small cities such as Gonzales are restricted by the limited definitions of “project” and “primary job”, we can still utilize the development sales tax funds to benefit the community we serve.

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SUMMARY

Here is what we **CAN** do:

Land, buildings, equipment, facilities, improvements, and expenditures related to:

- Manufacturing, industrial, research & development, recycling, small warehouse and corporate headquarter facilities.
- Distribution centers.
- Closed or realigned military bases.
- Job training for primary jobs and commercial/retail.
- Business airport facilities.
- Port-related facilities to support waterborne commerce.
- Clean up of contaminated project sites (with a special election and specific ballot language).
- Infrastructure assistance to commercial projects.
- Everything authorized under 4A of the Development Corporation Act, including commercial projects with the same restrictions.
- Water supply facilities (with a special election and specific ballot language).
- Projects that improve a community's quality of life, including parks, professional and amateur sport and athletic facilities, tourism and entertainment facilities, affordable housing, and other improvements or expenditures that promote new or expanded business activity that create or retain primary jobs.
- The land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the board of directors to promote new or expanded business development.

Here is what we **CANNOT** do:

Facilities with the following primary purposes:

- Transportation
- Solid waste disposal and sewage
- Furnishing of water and sewage services to the general public
- Air or water pollution control
- Learning centers (e.g. libraries)
- Municipal buildings (e.g. city halls)
- K-12 educational facilities

If you believe your project meets the criteria specified by law for use of 4B economic development sales tax funds, please indicate by signing below and returning this form with your application.

Name of Applicant

Name of Applicant

Date

Date

Information on the Texas Economic Development Sales Tax excerpted from "The New & Improved Economic Development Sales Tax: A Primer for Local Practitioners" prepared by the Texas Economic Development Council, 1301 Nueces, Suite 101, Austin, TX 78701

**Application for Loan/Grant of 4B Sales Tax Funds from the
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I (We), hereinafter referred to as "APPLICANT", on behalf of the identified entity, submit to the Gonzales Economic Development Corporation, hereinafter referred to as "GEDC", this application for consideration of a Loan/Grant under the provisions of the GEDC's 4B Sales Tax funded Loan/Grant program.

As part of this application, APPLICANT represents to GEDC the following:

1. APPLICANT has received a copy of the GEDC Guidelines and Criteria for the GEDC Loan/Grant Program. APPLICANT acknowledges to GEDC that in making this application, APPLICANT understands the terms and provisions thereof, and all questions relating to any needed interpretation thereof have been answered by authorized representatives of GEDC prior to the submission of this application.
2. APPLICANT has secured such legal, accounting, and/or other advice that may be necessary for APPLICANT to determine the desirability of making this application and/or accurately and correctly answering any questions as hereinafter set out. APPLICANT acknowledges that it has completely relied on the advice and counsel of experts and/or appropriate persons retained, employed, or compensated by APPLICANT, and that it has not relied upon, nor is APPLICANT now attempting to rely upon, the advice and counsel of GEDC, its appointed board of directors, employees, agents, and/or elected officials.
3. By signing this document, "Application for Loan/Grant of 4B Sales Tax Funds from the Gonzales Economic Development Corporation" either in an individual capacity, jointly, or in a representative capacity, APPLICANT acknowledges and verifies that all of the facts, information, and allegations as herein set out are true, correct and accurate, and that GEDC may rely thereon as if the same had been signed by APPLICANT or APPLICANT'S agent before a Notary Public or other authorized officer permitted by law to administer oaths and to take acknowledgements. APPLICANT further acknowledges and understands that any materially false or misleading statements of fact may be considered a violation of the criminal laws of the State of Texas.
4. If APPLICANT is a corporate entity, APPLICANT swears and affirms that all applicable franchise taxes, sales tax, or other taxes paid for the privilege of conducting business have been fully paid, and that the APPLICANT is fully authorized to transact business in the State of Texas, and in the state of incorporation if different from the State of Texas. In addition, APPLICANT, whether a corporate entity, partnership, or other legal type of business entity, or an individual, acknowledges and verifies that APPLICANT is current on all current tax obligations, assessments, or other governmental levies and assessments, and that the same have paid when due and payable, and that no delinquencies exist at this time.
5. By signing this document, "Application for Loan/Grant of 4B Sales Tax Funds from the Gonzales Economic Development Corporation" either in an individual capacity, jointly, or in a representative capacity, APPLICANT acknowledges and gives express permission for GEDC, its appointed board of directors, employees, and/or agents to conduct background and credit checks, employment verification, and criminal history on APPLICANT.
6. By signing this document, "Application for Loan/Grant of 4B Sales Tax Funds from the Gonzales Economic Development Corporation" either in an individual capacity, jointly, or in a representative capacity, APPLICANT certifies that the business does not and will not knowingly employ an undocumented worker. If the APPLICANT is convicted of engaging in a pattern or practice of violations of federal law governing the unlawful employment of aliens, APPLICANT will be required to repay the total amount of funds received from the GEDC, at a rate and term, to be specified in the written agreement, within 120 days of receiving notice of the violation.

_____ Name of Applicant	_____ Date
_____ Social Security Number	_____ Birth Date
_____ Drivers License Number	_____ State
_____ Address, City, State and Zip code	
_____ Employer	
_____ Signature	

_____ Name of Co-Applicant	_____ Date
_____ Social Security Number	_____ Birth Date
_____ Drivers License Number	_____ State
_____ Address, City, State and Zip code	
_____ Employer	
_____ Signature	

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LOAN/GRANT APPLICATION

Please include the following information on letter-sized paper:

I. Cover Page

Your cover should be a one-page summary which includes the following information:

- A. Name of Applicant/Organization
- B. Project Contact, Phone Number, Physical Address, Mailing Address
- C. Project Summary
 - 1. Experience and Background in industry/business
 - 2. Supply any Market Surveys and or Feasibility Studies
 - 3. Provide Proforma Information and or Business Plan and Business Model
 - 4. Is business being located in an area that meets current City property zoning requirements
- D. Project Goals and Objectives
- E. Funding Amount Requested
- F. Projected Beginning Date
- G. Projected Ending Date
- H. Name & Title (of Authorizing Official)
- I. Signature and Date

II. The Application

Your application should include a project description, budget, motivation, addenda and may include attachments to support your request for funds. Please letter all addenda and/or attachments and refer to that letter in the Loan/Grant application, i.e. "see attachment D", or "see addendum G".

- A. Project Description

Your project description should include:

 - 1. A project title
 - 2. A time schedule that lists dates of tasks and events associated with the project
 - 3. An estimated beginning date
 - 4. An estimated ending date
 - 5. Amount of funding to be requested of the GEDC and for what use
 - 6. Amount of funding to be provided by you or others
- B. Project Budget

Your project budget should include:

 - 1. Personnel – list all personnel, salaries, fringe benefits, and travel expenses that will be charged to the project
 - 2. Supplies, Equipment & Contractual Costs – list all supplies, equipment and contractual purchases
 - 3. Local Contractors & Purchases – specify if local contractors will be used and what materials purchases will be made locally
 - 4. Other funding – Will there be other participating sources of funding on this project? Have you explored other sources of funding or grants? Please list all other sources and amounts of funding and/or any inquiries or applications made for same.
- C. Project Motivation

A description of your motivation for the project should include:

 - 1. How the proposed project is consistent with the goals of the Economic Development Corporation Act and subsequent amendments as described on pages 1 through 4.

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2. How the project's funds are to be used for economic and/or community development.
3. What is the public benefit of the project? Who benefits and how?
4. If the project is to be located on private land, the project must have broad and lasting public benefits. Broad and lasting public benefits may be demonstrated by the following and other means:
 - i. providing public access to the project
 - ii. including an easement or other means to protect the project or area for the public benefit, or
 - iii. making the information or research results from the project broadly available to the public
5. If available, provide a local impact statement for the proposed use of funds.

D. Project Addenda and/or Attachments

The following is information that is required of all applicants:

1. Please describe any positive or negative impacts or any aspects of the project or any component which may have an environmental impact. Please include copies of any environmental impact studies on the property.
2. Please attach a separate document providing a legal description of the property upon which the contemplated improvements will be located as "Exhibit A".
3. Please attach a city map identifying the location of the project.
4. Please provide a copy of the State sales tax reporting forms for the most current 12 month period.
5. Please provide copies of State and Federal Tax Returns, both corporate and personal, for the last three years.
6. Please provide copies of Bank Statements, both corporate and personal, for the most current 12 month period.
7. Please provide copies of personal and/or corporate Financial Statements. Corporate Financial Statements are required for all applications, and personal Financial Statements may be required for privately held corporations.
8. Please provide documentation for establishment of business name and/or Certificate of Incorporation issued by the state of origination.
9. Please provide a copy of the Public Notice submitted to the Gonzales Inquirer. The Public Notice should be approved by the Director of the GEDC prior to insertion.
10. All proposed construction projects, remodeling projects, or purchases of real property within the City of Gonzales must meet and/or exceed all current city, state and federal regulations and licensing requirements. Satisfactory evidence of compliance must be provided, including standard plans, sketches and surveys as would be required in any type of funding for such projects. Site plans, sketches and drawings are acceptable in early proposal stages. However, all applicants must comply with standard requirements for all construction, remodeling and purchase-related projects. The same standards must be met for projects GEDC may fund outside of the Gonzales City Limits.

III. Business Plan

Please provide the following information:

- A. Executive Summary
 1. Objectives
 2. Mission
- B. Company Summary
 1. Startup Summary
 2. Company Locations and Facilities
- C. Products
 1. Competitive Comparison
 2. Future Products
- D. Market Segmentation

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1. Market Needs
2. Main Competitors
- E. Strategy and Implementation Summary
 1. Marketing Strategy
 2. Promotion Strategy
 3. Sales Forecast
- F. Organizational Structure
 1. Number of Primary Jobs
 2. New Job Creation and or Number of Existing Primary Jobs being Retained
- G. Financial Plan
 1. Breakeven Analysis
 2. 3-Year Projected Profit and Loss
 3. Projected Balance Sheet

IV. Procedure for Submitting Application

Applications may be picked up at Gonzales City Hall or downloaded from the city's website at www.cityofgonzales.org. The Applicant shall deliver **ten (10) copies** of the completed application and supporting documentation to the Director of GEDC, in person or by proxy, **10 days before** the regularly scheduled meetings. **Meetings are held on the second Monday of each month at 6:00 p.m. in the City Council chambers.** A three-minute summary of the project may be presented at this meeting, but such summary shall be considered optional.

- A. The GEDC shall deposit one copy with the Gonzales Public Library and one copy at City Hall for public inspection.
- B. Submitted applications must be available for public review for a minimum of 60 days, and a Public Hearing must be conducted by GEDC prior to action being taken on the application. **The 60 day period begins with publication of notice in the local newspaper. The Loan/Grant applicant shall be responsible for placing this "Public Notice" in the Gonzales Inquirer and for the cost of this publication.**

A "sample notice" is available by request, for your convenience.
- C. Anyone from the community may ask to speak for or against an application at a regularly scheduled GEDC meeting, during the "Public Comment" portion of the agenda, after completing a sign in sheet and presenting to the Director before Call to Order.
- D. The GEDC reserves the right to request additional information from any applicant.
- E. The vote on the application may be held during the regularly scheduled monthly GEDC meetings, no sooner than the 61st day following publication of the receipt of an application, and at the discretion of the GEDC directors, following their review.
- F. If the Loan/Grant request is over \$10,000.00, 2 separate readings of a resolution on the Loan/Grant at City Council meetings prior to the final approval are required by statute.
- G. After approval and amount determination by the GEDC, the final approval of the expenditure of funds is the responsibility of the City Council.

For further information please contact:

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PO Drawer 547
Gonzales, Texas 78629
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Email: cgibson@cityofgonzales.org

Fax: 830-672-2813
Website: www.cityofgonzales.org

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