

# **De Leon Economic Development, Inc.**

## **Overview of a 4A Corporation**

### **Difference between 4A and 4B**

**City- 4A-** types of projects permitted is more restrictive- manufacturing and industrial activity.

**4B-** can also fund community development initiatives: sports facilities, parks, entertainment and tourist facilities; events; affordable housing.

### **Oversight**

- The City governing body and the Board of the IDC oversee the 4A Corporation.
- The IDC Board; is made up of five (5) members with no statutory criteria for selection.
- It is required to have the approval from the City governing body for all projects
- Subject to public notice and hearing requirements

### **Local Implementation**

- 4A sales and use tax of ¼ % approved by voters on May 3, 2003.
- Adopted by Council on May 8, 2003.
- Resolution was passed on April 8, 2003 providing the creation of the IDC board, approved the Articles of Incorporation and named the initial Board.
- Board's first meeting and election of officers was April 8, 2003.
- Board meets once a month on the 4<sup>th</sup> Thursday of the month

### **Powers and Duties**

- Generally, has all powers and duties of a non-profit corp. except to extent are limited by or inconsistent with the Develpt. Corp. Act

### **Projects/Expenditures**

- Receive 4A funds and funds under Chapter 380.002(b) & (c) of Local Govt. Code.
- Acquire, construct, improve, maintain, equip and furnish projects
- Sell, lease, make secured and unsecured loans
  - when selling, not subject to bidding reqs. of Local Got. Code, but must receive fair market value.
- Grant lessee option to purchase
- Donate, exchange, convey, sell, or lease real or personal property to an institution of higher education
- Issue bonds to defray all or part of cost of project; specific requirements
- Mortgage or pledge any or all of its projects
- Sue or be sued in corporate name
- Have corporate seal
- Make and alter bylaws consistent with law and articles of incorporation
- Cease activity and terminate existence by voluntary dissolution
- Expend proceeds of the economic devlpt. tax for purpose authorized by Statute
  - Costs for which expenditures can be made include the following:
    1. Land and facility improvements: cost of acquisition, construction, improvement, and expansion of land and buildings.
    2. Machinery and supplies: the cost of machinery, equipment, inventory, raw materials and supplies.
    3. Financial transaction costs: cost of financing charges, interest prior to and during construction, and necessary reserve funds
    4. Planning costs: cost of research and development, legal services, development of plans and specifications, surveys, and cost estimates; and other expenses necessary or incident to determining
    5. Cleanup costs: the cost of cleaning up contaminated property  
ONLY IF approved by voters; statutory wording for ballot.
- All such expenditures must be part of an approved project
- Project is defined as follows:
  - Manufacturing and industrial facilities

- Can expend funds for administrative expenses necessary to put a project into operation.
- Can expend funds for administration of the EDI- staff and EDI operational overhead
- Can expend funds for required training for economic development officials
- Can contract with other entities for provision of services or to carry out projects
- Can obtain health insurance, liability coverage, workers comp coverage, property insurance coverage for directors and employees through City; City must probably be reimbursed
- Can obtain retirement benefits for EDI staff through City Secretary
- Can undertake projects outside of the City Secretary
- May use reverse auction procedure for purchasing
- Enforce agreements or mortgages

**Cannot:**

- Expend funds except as authorized by statute; must be associated w/project
- Expend funds for maintenance and operating expenses of an ongoing project
- Own or operate any project as a business except as lessor, seller or lender (is an exception related to closed military facilities)
- Receive anything of value from City other than designated funds w/o reimbursing City
- Exercise power of eminent domain except via action of City Board of Commission.

**Accounting and auditing**

- Non-Profit Corporation Act accounting and fiscal responsibility provisions apply
- Corp. Bylaws requires keeping records of account and for an annual financial audit

**Reporting**

Statute requires:

- Annual report to State Comptroller's office by Feb.1 each year; form and content specified in statute
- Regular reporting to City (Sections 21 and 23)

Bylaws:

- Annual report to City Council

**Training**

-2001 addition to the Statute requires that beginning Jan. 2002, all economic development directors, city managers and/or city attorneys complete state-approved training once every two years; failure to do so could result in \$1000.00 fine.

**Oversight by City Council**

**1. Appointment powers**

- Discussed above, "...serve at the pleasure of the governing body."

**2. Approval of projects**

-Section 21 of DCA requires that the City governing body

-Approve all programs and expenditures of the EDI

-review financial statements of the corporation annually

-Section 23(a)(12) states that the powers of the corporation are subject to control of the governing body of the City at all times

**3. Access to books and records**

-Section 21 of DCA requires that the City shall annually review financial statements of the corp. and will have access to the books and records of the EDI at all times.