

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE:

March 12, 2024

CONTACT PERSON(S) NAME AND PH. NUMBER:

Alejandra Fuentes, (915) 212-1618
Karina Brasgalla, (915) 212-0094

DISTRICT(S) AFFECTED: 7

STRATEGIC GOAL: Goal 1: Create an environment conducive to strong sustainable economic development

SUBGOAL: Goal 1.1 Stabilize and expand El Paso's tax base

SUBJECT:

A Resolution authorizing the City Manager to execute a First Amendment of the Chapter 380 Grant Agreement dated June 7, 2022 by and between the City of El Paso Texas, a home-rule municipality and Champlain Cable Texas Corporation, a Wyoming Corporation ("CCTC"); Champlain Cable Texas Lease Corporation, a Wyoming Corporation ("CCTLC"); and Champlain Cable Corporation, a Delaware Corporation ("CCC"), to revise the Qualified Expenditures definition, in exchange for applicant foregoing the Construction Materials Sales Tax Rebate.

BACKGROUND / DISCUSSION:

On June 7, 2022, City Council approved a Chapter 380 Economic Development Program Grant Agreement between the City of El Paso and Champlain Cable Texas Corporation for the expansion of their current manufacturing operations. The Applicant is required to invest a minimum of \$5.6M in Capital Improvements, create 29 additional full-time employees and retain 70 full-time employees. The City would provide incentives not to exceed \$285,279 in the form of a Real and Personal Property Tax Rebate, a Development Fee Rebate, and a Construction Materials Sales Tax Rebate.

The proposed Amendment will revise the agreement definitions to allow the Company to include equipment purchases made for the Pan American expansion, but completed prior to execution of the agreement. With this amendment, Champlain Cable would exceed the minimum contractual investment, with an estimated \$7M in capital expenditures. This expansion has added 124,000 square feet to their existing facility. In addition, Champlain Cable is exceeding their contractual job creation/retention and wage requirements.

Contribution and Disclosure Form was provided to Company in accordance with Ordinance No. 019581, adopted December 12, 2023

PRIOR COUNCIL ACTION:

On June 7, 2022, City Council approved the original Chapter 380 Incentive Agreement.

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Economic & International Development

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to execute a First Amendment of the Chapter 380 Grant Agreement dated June 7, 2022 by and between the **CITY OF EL PASO, TEXAS**, a home-rule municipality and **CHAMPLAIN CABLE TEXAS CORPORATION**, a Wyoming Corporation (“CCTC”); **CHAMPLAIN CABLE TEXAS LEASE CORPORATION**, a Wyoming Corporation (“CCTLCLC”); and **CHAMPLAIN CABLE CORPORATION**, a Delaware Corporation (“CCC”), to revise the Qualified Expenditures definition, in exchange for applicant foregoing the Construction Materials Sales Tax Rebate.

PASSED AND APPROVED this ____ day of _____ 20__.


CITY OF EL PASO:

ATTEST:

Oscar Leaser
Mayor


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Oscar Gomez
Assistant City Attorney

APPROVED AS TO CONTENT:



Karina Brasgalla, Interim Director
Economic and International Development

STATE OF TEXAS)
)
COUNTY OF EL PASO) **FIRST AMENDMENT TO
CHAPTER 380 ECONOMIC DEVELOPMENT
PROGRAM AGREEMENT**

This **First Amendment to the Economic Development Program Agreement** (“First Amendment”) is made and entered into this ____ day of _____, 2024 by the **CITY OF EL PASO, TEXAS** (“City”), a Texas home rule municipal corporation and **CHAMPLAIN CABLE TEXAS CORPORATION, a Wyoming Corporation (“CCTC”); CHAMPLAIN CABLE TEXAS LEASE COPORATION, a Wyoming Corporation (“CCTLC”); and CHAMPLAIN CABLE CORPORATION, a Delaware Corporation (“CCC”);** and jointly as (“Applicant” or “Champlain”) duly acting herein by and through its general partner. The parties mutually agree to an amendment as follows:

WHEREAS, on June 7, 2022, City and Champlain entered into an Economic Development Program Agreement (the “Agreement”), a copy of which is attached and labeled as Exhibit “A-1” for the purposes of promoting local economic development and stimulating business and commercial activity; and

WHEREAS, Champlain requested the performance based economic development grant for the expansion of a development located at 9600 Pan American Boulevard and 9560 Plaza Circle, El Paso, Texas to encourage increased economic development in the City, increased property tax revenues, and the City’s improved ability to provide for the health, safety and welfare of the citizens of El Paso; and

WHEREAS, the City and Champlain now desire to amend the Agreement to revise the Qualified Expenditures definition, in exchange for applicant foregoing the Construction Materials Sales Tax Rebate; and

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Subsection 1.D. **Base Year Value** is revised to read as follows:

“**Base Year Value**” means valuation of the real and personal property by the El Paso Central Appraisal District on the rolls as of January 1st of the year of the Effective Date of this Agreement. The Base Year Value shall not be interpreted to be equivalent or determinative for appraisal purposes or used in any way to determine market value. For the purposes of this Agreement, the Base Year Value is **\$4,392,275**.

2. Subsection 1.L. **Grant** is revised to read as follows:

“**Grant**” means each rebate payment made by the City to the Applicant pursuant to the terms of this agreement. The aggregate amount that the City will provide in Grants shall not exceed **\$281,529**. This aggregate amount reflects the sum total of all applicable rebates.

3. Subsection 1.O. **Minimum Appraisal Value** is revised to read as follows:

“**Minimum Appraisal Value**” means the valuation of the Real Property appraised by El Paso Central Appraisal district during and after the construction or renovation of the Development. For the purposed of this Agreement, the Minimum Appraisal Value is **\$5,886,000**. Under no circumstance shall the Minimum Appraisal Value be interpreted to be equivalent of or determinative for appraisal purposes or to be used in any way to determine market value.

4. Insert **Personal Property** as Subsection 1.Q. to read as follows:

“**Personal Property**” means the value of the non-inventory, personal property on the El Paso Central Appraisal District rolls as of January 1 of the year in which this Agreement is executed with respect to the Development. However, under no circumstances shall the Personal Property Base Year Value be interpreted to be equivalent or determinative for appraisal purposes or to be utilized in any way to determine market value. For the purposes of this Agreement, this amount is **\$4,392,275**.

5. Subsection 1.Q. **Property Tax Rebate** replace as Subsection 1.R. and revise to read as follows:

“Property Tax Rebate” means a rebate, according to the Incremental Property Tax Rebate Table found in Exhibit D of this Agreement, of the City’s portion of the incremental ad valorem property tax revenue generated by the subject personal property above the Base Year Value for the Grant Period (as defined herein). For the purposes of this Agreement, the total Personal Property Tax Rebate amount shall not exceed \$260,529.00.

6. Subsection 1.R. **Qualified Expenditures** replace as Subsection 1.S. and revise to read as follows:

“**Qualified Expenditures**” means any monetary expenditures made for material used in constructing or renovating the Development; labor required for the construction or renovation of the Development; and furniture, fixtures, machinery, and equipment paid that (i) is subject to ad valorem taxation and is rendered for that purpose to the appraisal district having jurisdiction over the Land; (ii) is located on the Land (or within improvements on the Land); and (iii) was not located in the City of El Paso tax rolls prior to the Effective Date; or (iv) were incurred during the 12 months preceding the Effective Date

7. Subsection 1.S. replace as Subsection 1.T.

8. Exhibit “C” of the Agreement is deleted in its entirety and replaced by Exhibit “C-1,” attached hereto. Any reference to “Exhibit C” in the Agreement is replaced with reference to “Exhibit ‘C-1.’”
9. Except as amended herein, the Agreement between the City and Champlain shall remain in full force and effect.


(Signatures begin on the following page.)

IN WITNESS WHEREOF, the parties have executed this First Amendment to be effective as of the _____ day of _____, 2024.

CITY OF EL PASO, TEXAS:

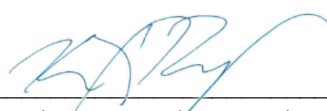
Cary Westin
Interim City Manager

APPROVED AS TO FORM:



Oscar Gomez
Assistant City Attorney

APPROVED AS TO CONTENT:



Karina Brasgalla, Interim Director
Economic & International Development

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the _____ day of _____, 2024, by Cary Westin, as Interim City Manager of the **City of El Paso, Texas**.

Notary Public, State of Texas

My Commission Expires:

(Signatures continue on the following page.)

APPLICANT:
CHAMPLAIN CABLE TEXAS
CORPORATION, a Wyoming Corporation
("CCTC")

Signature: Timothy A. Lzate

Name: TIMOTHY A LZATE

Title: CFO

ACKNOWLEDGMENT

STATE OF TEXAS §

§

COUNTY OF EL PASO §

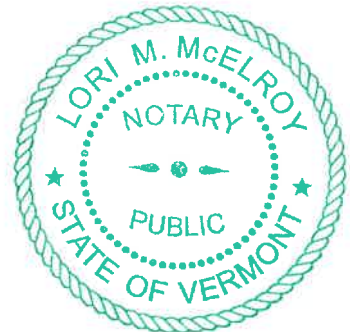
This instrument was acknowledged before me on the 26th day of December, 2023 by Timothy Lzate as CFO of CHAMPLAIN CABLE TEXAS CORPORATION.

Lori M. McElroy
Notary Public, State of ~~Texas~~ Vermont

My Commission Expires:

11/31/2025

(Signatures continue on the following page.)



APPLICANT:
CHAMPLAIN CABLE TEXAS LEASE
CORPORATION, a Wyoming Corporation
("CCTLC")

Signature: [Signature]

Name: TIMOTHY A LIZOTTE

Title: CFO

ACKNOWLEDGMENT

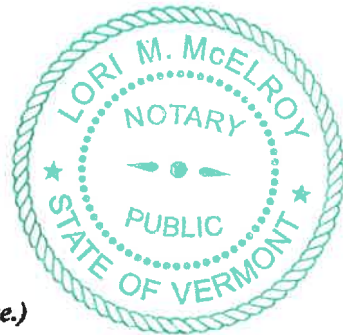
STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on the 26th day of December
2023 by Timothy Lizotte as CFO of CHAMPLAIN CABLE
TEXAS LEASE CORPORATION.

[Signature]
Notary Public, State of ~~Texas~~ Vermont

My Commission Expires:

11/31/2025



(Signatures continue on the following page.)

APPLICANT:
CHAMPLAIN CABLE CORPORATION,
a Delaware Corporation
("CCC")

Signature: [Signature]

Name: TIMOTHY A LIZOTTE

Title: CFO

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on the 26th day of December, 2023 by Timothy Lizotte as CFO of CHAMPLAIN CABLE CORPORATION.

[Signature]
Notary Public, State of Texas Vermont

My Commission Expires:

11/30/2025

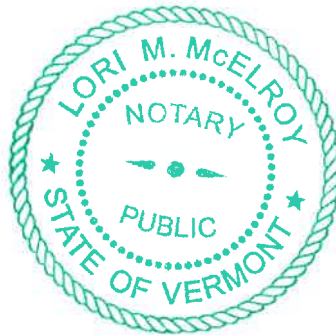


EXHIBIT A-1

[Economic Development Agreement dated June 7, 2022]

EXHIBIT C-1

[Grant Submittal Package Form]

CHAMPLAIN (APPLICANT) believes that it has substantially met its obligations under the Chapter 380 Agreement dated the ____ day of _____, 20____ and signed by _____ of **CHAMPLAIN** (APPLICANT) pursuant to the Agreement, **CHAMPLAIN** (APPLICANT) submits this Grant Submittal Package Form in compliance with the Agreement and in anticipation of receiving the Grant payments referenced in the Agreement in consideration for its obligations met therein.

As required by the Agreement, the following information is submitted:

1. Electronically to Email: EDCompliance@elpasotexas.gov;
2. Completed Grant Submittal Package Form
3. **[INITIAL GRANT SUBMITTAL ONLY]** Copy of Development Permits;
4. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation to evidence the amount of development fees paid as a result of the Development (receipts, invoices, bank and/or credit card statements, checks);
5. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation to evidence minimum expenditures to date and not previously verified (receipts, invoices, bank and/or credit card statements, checks)
6. **[INITIAL GRANT SUBMITTAL ONLY]** Certificate of Occupancy or Lease
7. **[INITIAL GRANT SUBMITTAL ONLY]** 1295 Form
8. Property tax payment receipt showing proof of payment for calendar tax year being requested
9. Job Certification Report Spreadsheet with the following breakdown:

a. Employee Roster:

Last Name	First Name	Job Title	Hire Date	Termination Date	Job Category (New/retained)	Total Hours Worked in the Year	Weeks Worked in the Year	Hourly Wage	Gross Annual Salary	Employment Status (FT/PT)	Percentage employee pays for medical premium	Percentage company pays for medical premium

- b. Insurance Benefits Packet
- c. Employee Benefits Packet (pto, vacation, sick leave, etc.)
- d. 941 IRS Reports

It is understood by **CHAMPLAIN** (APPLICANT) that the City of El Paso has up to ninety (90) days to process this request and reserves the right to deny the Grant claim if the terms of the Agreement have not been complied with.

CHAMPLAIN (APPLICANT)

By: _____
Name: _____
Title: _____

EXHIBIT D

Property Tax Rebate Table

Incremental Property Tax Rebate Schedule	
Years 1 - 5	Years 6 - 10
75%	50%

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with Title 2, Chapter 2.92, Section 2.92.080

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name

Business Name

Champlain Cable

Agenda Item Type

Amendment to Chapter 380 Program Agreement

Relevant Department

Economic and International Development

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.



I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.


OR



I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.

Signature:  Date: 2/23/24
TIMOTHY A UZOTTE CFO