

ORDINANCE NO. 20070322-004

AN ORDINANCE CREATING AN ECONOMIC DEVELOPMENT PROGRAM AND AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT WITH NBC UNIVERSAL, INC., FOR THE TELEVISION PROGRAM "FRIDAY NIGHT LIGHTS".

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The city council finds that:

- (A) The City seeks to promote itself as a location for commercial film and television production, and to foster economic development and job creation in the film and television segment of the City's economy.
- (B) The "Friday Night Lights" television program is an NBC television network dramatic series set in the context of the high school football environment, which is filmed in the Austin area, and the City desires that the program continue to be filmed in Austin.
- (C) The filming of Friday Night Lights in the Austin vicinity helps to promote the City as a location for commercial television and film production.
- (D) The Friday Night Lights production employs many Austin area residents, and NBC and its employees purchase goods and services in the Austin area.
- (E) City support for the production of the Friday Night Lights program is an element of the economic development programs of the City.
- (F) The grant of public funds provided in the Economic Development Agreement attached as Exhibit A, serves the City's goals of promoting economic development, stimulating local business and commercial activity, and elimination of unemployment and underemployment in the local television and film industry, all of which are public purposes of the City.

PART 2. An economic development program for the Friday Night Lights television program is created under Texas Local Government Code Chapter 380 (*Miscellaneous Provisions Relating to Municipal Planning and Development*).

PART 3. As part of the City's economic development program, the City Manager is directed and authorized to execute an Economic Development Agreement in substantially the form attached as Exhibit A.

PART 4. This ordinance takes effect on April 2, 2007.

PASSED AND APPROVED

_____, March 22, 2007

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§ _____
Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk

EXHIBIT A

City of Austin and Friday Night Lights Economic Development Agreement

STATE OF TEXAS §
COUNTY OF TRAVIS §

This Economic Development Agreement ("Agreement") is entered into between the City of Austin, a Texas home-rule municipality ("Austin" or "City"), and NBC Universal, Inc., a Delaware corporation, ("NBC") acting on behalf of itself and its subsidiary, Northern Entertainment Inc. ("FNL"), pursuant to the authority granted in Chapter 380, *Texas Local Government Code*.

WHEREAS, the City seeks to foster economic development and job creation in the film and television segment of the City's economy; and

WHEREAS, the "Friday Night Lights" program (the "program" or "programs") is an NBC television network dramatic series set in the context of the high school football environment, which is filmed in and around Austin; and

WHEREAS, the filming of Friday Night Lights in the Austin vicinity helps to promote the City as a location for commercial television and film production; and

WHEREAS, NBC, FNL and their employees purchase goods and services in the Austin area; and

WHEREAS, NBC and FNL desire to work with the City to attain the City's economic development job creation goals in the film and television segment of the local economy, and

WHEREAS, City support for the production of the Friday Night Lights program as provided in this Agreement is an element of the economic development programs of the City, and is intended to assist in the development of the City and State as a film and television production center; and

WHEREAS, the grant of public funds provided herein serves the City's goals of promoting local economic development, stimulating local business and commercial activity, and elimination of unemployment and underemployment in the television and film industry;

NOW THEREFORE, the City and NBC, acting on behalf of itself and FNL, hereby agree to the following terms and conditions:

1. Findings. The above recitals are adopted as findings.
2. Payment and Scope of Work. If the program is "picked up" or "renewed" for a second season by the NBC network, the City agrees to pay an economic

development grant of \$40,000 to FNL; provided however, that this payment is conditioned on the requirement that the second season must be filmed and completed in the Austin area.

After filming and completing a second season in the Austin area in accordance with the requirements of this Agreement, the City agrees to pay to FNL an additional economic development grant of \$40,000.

Payments shall be made within 30 days after the City has reviewed the reports described in Section 6 below, and has confirmed compliance with the requirements of this Agreement. Payments are subject to annual appropriation in the City budget.

For purposes of this Agreement, a "season" means twenty-one (21) or more separate episodes intended to be broadcast on the NBC television network.

For each subsequent season of the Program filmed in the Austin area in accordance with the requirements of this Agreement, the City agrees to pay to FNL an additional economic development grant calculated according to the following formula:

Fifty percent (50%) of the sum of A) City sales and use taxes paid; B) City fees paid; and C) \$95 per employee. In calculating the number of employees for this purpose, employees shall include residents and nonresidents of the Austin Metropolitan Statistical Area ("AMSA"), and shall be based on the average weekly number of total employees.

3. Employees. Over the course of filming a season, the FNL series will vary in staffing from one episode to the next and from one day to the next. Staffing for cast, crew and extras are dictated by script requirements. NBC will hire, or cause its contractors to hire, a minimum of seventy-five percent of its cast, crew and extras from residents of the Austin Metropolitan Statistical Area ("AMSA"), per episode. The AMSA is depicted on the map attached as Exhibit A. Staffing levels will vary between two hundred and seven hundred individuals per episode. NBC shall keep at least seventy-five percent of all such positions filled with residents of the AMSA during the time required to complete filming of each season. For purposes of this section, employee requirements do not include or apply to ancillary support services or contractors over which NBC does not exercise personnel hiring authority, including but not limited to dry cleaning, catering and equipment rental services.
4. Credits. NBC agrees to place the credits of each program episode of the second season the following message: "Filmed on location in Austin, Texas, U.S.A.", or a similar statement, placement to be at the producer's discretion.

5. Local Purchases. NBC agrees to continue to use commercially reasonable efforts to purchase or acquire goods and services related to program production in the Austin area.
6. Report. An annual report, verified by an NBC official, is due on or before sixty (60) days following the end of production filming. The report shall be on a form provided by the City, and shall verify that: (a) filming of a season has been completed, (b) the required number of Austin area employees were hired and maintained throughout the season, (c) NBC purchased goods and services locally, and (d) the statement required by Section 4 is or will appear in the program credits.

Compliance with the employment and local purchases of goods and services requirements may be established by submission of a redacted copy of NBC's final expenditure budget showing the number of employees, payroll information, and local goods and services expenditures. The City may audit records of NBC solely for the purpose of confirming compliance with these requirements.

7. Insurance. NBC Universal, Inc. maintains insurance covering "Friday Night Lights" under the following policies: Comprehensive General Liability, Automobile Liability, Workers Compensation, Errors and Omissions and All Risk Property. For the General Liability policy, the City of Austin shall be included as additional insured per ISO Endorsement CG2010, in the amount of \$5,000,000, Combined Single Limit.
8. Term. The term of this Agreement shall be from March 22, 2007 through the cancellation of the series, unless otherwise terminated by mutual agreement of the parties.
9. Communication. All communications with the City initially shall be directed to Sue Edwards, Economic Growth and Redevelopment Services Office, City of Austin, P.O. Box 1088 Austin, Texas 78767.

All communication with NBC initially shall be directed to Andrew Fossett, Counsel, NBC Universal, Inc., 30 Rockefeller Plaza, New York NY 10112.

Either party may designate a different address at any time upon written notice to the other party.

10. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the parties, and may be amended only by an agreement in writing signed by the parties hereto. All prior or contemporaneous understandings and agreements related to the subject matter hereof are merged herein.
11. No Assignment. This Agreement is not assignable.

12. Default. If either the City or NBC should default in the performance of any obligations of the Agreement, the other party shall provide such defaulting party written notice of the default, and a minimum period of thirty (30) days to cure such default, prior to instituting an action for breach or pursuing any other remedy for default.
13. Termination. In the event that NBC does not proceed to complete filming of a season (as defined in Section 2 above) in the Austin area during the term of this Agreement, NBC shall notify the City in writing, and this Agreement shall be deemed terminated, and neither party shall have any further obligations hereunder, save and except for the continuation of NBC's obligation under Section 16 below to indemnify and defend the City against claims that may arise prior to termination.
14. Applicable Law. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in the State courts of Travis County, Texas.
15. No Third Party Beneficiaries; No Joint Venture. It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties; and further that the Agreement does not confer any rights, privileges or causes of action upon any third party. The City, its past, present and future officers, elected officials, employees, and agents do not assume any responsibilities or liabilities to any third party in connection with the operations and activities of NBC, Northern Entertainment, Inc., or their affiliates, subsidiaries, employees, officers, agents and contractors.
16. Indemnification. NBC agrees to indemnify, defend and hold harmless the City of Austin, its past, present and future officers, officials, employees and agents, from and against any and all claims or causes of action arising in part or entirely from the actions, errors or omissions of NBC, or any of their affiliates, subsidiaries, employees, officers, agents or contractors, related to the program.

IN WITNESS WHEREOF, the following duly authorized representatives of the parties have executed this Agreement to be effective from March 22, 2007.

For: CITY OF AUSTIN, TEXAS

By: _____ Date: _____
Laura Huffman,
Assistant City Manager

For: NBC Universal, Inc., and Northern Entertainment, Inc.

By: _____ Date: _____

Printed Name: _____

Title: _____

Exhibit A

Austin, TX MSA Census 2000



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