

Austin City Council

Proposed Charter Amendment on
Retail Financial Incentives

Our Purpose Today

- Describe the process to amend the Charter by petition
- Describe the proposed Charter Amendment
- Provide analysis of intended and unintended consequences of the Amendment

Requirements to Amend Charter by Petition

- 5% of registered voters must sign petition
- City validates signatures
- Majority vote at May 2008 Election
- If passed, amendment takes effect immediately

Proposed Charter Amendment

- Advocates for the proposed charter amendment indicate that their purpose is twofold:
 - To prohibit the City from paying incentives on the current agreement with The Domain.
 - To prevent the City from entering into future agreements like The Domain.

Other Consequences

- The Amendment also negatively impacts the City's ability to redevelop publicly owned land and put it back on the tax rolls for the benefit of tax payers.

Charter Amendment Text

§ 13. Prohibition on Special Benefits for Retail Projects

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(b) **Restriction.** The city shall neither provide nor enter into an agreement to provide any Financial Incentive in connection with the development or redevelopment of any real property that includes one or more Retail Uses.

Charter Amendment Text

(d) **Definitions.** . . . the following terms shall have the following meanings:

(i) “Financial Incentive” means (i) any payment or rebate of any general or special sales tax or ad valorem tax . . . on such property . . .

or (v) a grant of funds.

Charter Amendment Text

(c) **Applicability.** . . . the restriction shall apply to any pending agreement for the payment of a Financial Incentive by the city in connection with any Retail Use if such agreement provides that the obligation . . . is contingent on or subject to the city's appropriation of funds

Charter Amendment Text

(Exception: Certain City Funded Infrastructure)

. . . the following shall not constitute a Financial Incentive:

- (i) cost participation by the city in constructing street or utility improvements (as, for example, oversizing of utility improvements to accommodate future development) consistent with generally applicable city policies and practices, provided that the developer's or owner's share of such costs fairly and reasonably approximate the cost of construction of such improvements suitable to serve . . . a Retail Use benefited thereby;

Charter Amendment Text

(Exception: TIF Zones
and Urban Renewal)

. . . (iii) an expenditure of funds (other than a tax abatement) pursuant to the Tax Increment Financing Act, Tex. Tax Code Chapter 311 or tax increment financing effected pursuant to Tex. Loc. Gov't Code Chapter 374

Summary as to Applicability

Charter Amendment Would Prohibit COA from Funding

- “Pending” or Future;
“Financial Incentives;”
Paid from City Taxes or Grants;
In Connection with Any Retail Use; If
- The Obligation to Pay is “Subject to City Appropriations;”
The Property is not in a TIF Zone; and
COA Funds More than Usual Pro Rata Share of Infrastructure

Impact on Contractual Relationships

- The Amendment would prohibit the City from honoring its current agreement with Domain.
- The Amendment would prohibit the City from entering into future agreements for projects like the Domain (mixed use developments with a retail component).

Impact on Redevelopment Projects

- Would the Amendment Affect the City's Current or Future Redevelopment Projects?
 - Mueller Redevelopment
 - Seaholm Redevelopment
 - Others (Burnet/North Gateway Redevelopment)

Impact on Mueller Redevelopment

- There is a potential negative impact on Mueller because:
 - There is a retail component to the redevelopment
 - The bonds are backed by sales taxes (Non-TIF) and “incremental” property taxes (TIF)
 - Incentives are “Subject to Annual Appropriations by the City” (Section 5.2(a)(i) and (ii), MDA)
 - City is funding infrastructure costs normally borne by developer

Impact on Seaholm Redevelopment

- The Seaholm MDA clearly is “Pending”
- Draft MDA provides “Financial Incentives” for retail uses:
 - Reinvestment of Land Sale Proceeds
 - City Funding of Project Infrastructure
 - Not TIF-Financed
- City funding is “Subject to Annual Appropriations by the City” (Section 3.3, 11/16 Draft MDA)

Impact on Other Redevelopment Projects

- Would require the City to participate in public/private partnerships only through tax increment financing (TIFs)
- Would disallow City utilities from participating in public/private partnerships

Summary of Consequences

- May require City to default on current agreement and end longstanding commitment to executed agreements.
- Defaulting on Domain may have bond rating implications.
- Current redevelopment projects could be compromised because they have retail components but rely on revenue besides property tax increment.
- Future redevelopment projects may be bound to tax increment financing versus other sources.
- The City's ability to introduce development tools would be limited to property tax funding even if the City wanted to incent by providing infrastructure like roads, water, wastewater or drainage.

What Does the Proposed Resolution Accomplish?

- CM Leffingwell's resolution:
 - Eliminates the portion of the City's Economic Development Program that provides incentives for projects like The Domain.
 - Confirms the City's commitment to current agreements.
 - Protects the City's ability to continue to find innovative ways to promote quality development through public/private partnerships.

Questions?