MEMORANDUM

TO: Mayor and Council
FROM: Kevin Johns, Director
        Economic Development Department
DATE: May 22, 2014
RE: Recommendation regarding EB-5 Program

On November 21, 2013, you approved Resolution No. 20131121-059 directing the City Manager to work with stakeholders to evaluate opportunities for the City to benefit from an EB-5 Program and to bring recommendations back to Council. On February 19, 2014, I reported that the Economic Development Department was working with the Legal Department and the Greenberg-Traurig law firm to review all options. At that time, I requested additional time to complete our evaluation and develop recommendations.

Both the Legal Department and Greenberg-Traurig have concluded their review of EB-5 Program options and have provided legal guidance to the department in this regard. For an overview of the Federal EB-5 program, please see the attached presentation, “The EB-5 Immigrant Investor Visa Program Overview.”

Based on the legal guidance and our own research, the department recommends the following course of action to implement a City of Austin pilot EB-5 Program:

1. Issue a Request for Information (RFI) to Regional Centers to gather information on experience, capability, capacity, and success.
2. Select a Regional Center for a preferred pilot partnership based on an analysis of the information received and interviews conducted.
3. Allow the selected Regional Center to market City-affiliated projects for the EB-5 Program. In exchange, City-affiliated projects stand to receive EB-5 Program financing. Additionally, the City will receive a fee from each EB-5 Program transaction.

The above course of action for a City EB-5 Program was reviewed and approved by the Mayor’s EB-5 working group of stakeholders.

A pilot partnership with an existing EB-5 Regional Center will allow the City to realize public benefits such as increasing foreign direct investment, job creation, and financing City-affiliated projects without undue costs.

The proposed approach has the following additional advantages:
- Limited financial and reputational risk
- Limited legal liability
- Speed of implementation
- Leverages private sector’s expertise in finance, due diligence, securities law, and immigration law
- Revenue generated from transaction fees

The department plans to begin implementation of the recommended course of action immediately with the goal of establishing a pilot partnership with a Regional Center by late Summer 2014.

xc: Marc A. Ott, City Manager
    Sue Edwards, Assistant City Manager

Attachment: EB-5 Immigrant Investor Visa Program Overview Presentation
THE EB-5 IMMIGRANT INVESTOR PROGRAM OVERVIEW

Report to Mayor and Council
Economic Development Department
May 22, 2014
An employment-based visa program through the U.S. Citizenship and Immigration Service

Allows foreign nationals investing $1 million into the United States to receive a green card if their investment creates 10 direct jobs within two years

- Indirect jobs may be counted if investing through a Regional Center
- Qualifying investment level drops to $500,000 if investing in a Targeted Employment Area

Spouses and dependent family members under age 21 are also eligible to receive green cards

Must invest in a new commercial enterprise

Investment must be at risk
Established by the Immigration and Nationality Act of 1990

Intended to stimulate the economy through job creation and capital investment by foreign investors

Not heavily used in early years of the program, has gained increasing popularity since the recession of 2008

Data source: USCIS: January 2012 Stakeholder Engagement Presentation, and May 2012 Stakeholder Engagement Statistics Page
A targeted employment area (TEA) is an area that, at the time of investment, is a rural area or an area experiencing unemployment of at least 150 percent of the national average rate.

If investing in a TEA, qualifying investment amount = $500,000 instead of $1 million.

State governments certify that the geographic or political subdivision meets the unemployment rate necessary to qualify as a TEA under EB-5 regulations.

- In most states, a statewide agency certifies TEAs.
- In Texas, the following entities have been designated to certify TEAs:
  - Local mayors
  - County judges
  - May jointly designate TEAs if the TEA is within the boundaries of contiguous jurisdictions
What is a Regional Center?
- “Any economic entity, public or private, which is involved with the promotion of economic growth, improved regional productivity, job creation and increased domestic capital investment.”

Immigrant Investor Pilot Program created in 1992:
- Provided for investments affiliated with a Regional Center which could use a more expansive concept of job creation to include indirect jobs.

The EB-5 Regional Center Program has been extended until September 30, 2015.

There are currently 480 approved Regional Centers in the U.S. as of April 1, 2014.
EB-5 Investor files I-526 to demonstrate:
- Qualifying investment into a new commercial enterprise.
- That the investor will be actively involved in the management of the enterprise.
- The enterprise will create at least 10 full-time jobs.
- If investing with an RC, that the investment was made in accordance with the RC’s business plan to be credited with the creation of jobs.

After I-526 approval, files I-485 to obtain conditional permanent resident status.

Two years after admission to U.S. as conditional permanent resident, files I-829 to remove conditions (receive green card).
- Must demonstrate that investment did occur and investment created or “will create within a reasonable time” 10 full-time jobs.
### WHO ARE EB-5 INVESTORS?

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<th>Region of Origin</th>
<th>EB-5 Preference Visas Issued</th>
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<td>North America &amp; Caribbean</td>
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<td>Oceania</td>
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### WHO ARE EB-5 INVESTORS?

<table>
<thead>
<tr>
<th>Country of Origin</th>
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<td>Hong Kong</td>
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## TYPES OF EB-5 INVESTMENT (FY13)

<table>
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<tr>
<th></th>
<th>Individual EB-5 ($1M investment)</th>
<th>Individual EB-5 In TEA ($500,000 investment)</th>
<th>Regional Center EB-5 ($1M investment)</th>
<th>Regional Center EB-5 In TEA ($500,000 investment)</th>
<th>Total EB-5</th>
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<tbody>
<tr>
<td>Preference Visas Issued</td>
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<td>69</td>
<td>4</td>
<td>7,135</td>
<td>7,312</td>
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REGIONAL CENTERS COVERING AUSTIN

- Civitas Texas Regional Center
- Great Southwest Regional Center LLC
- Gulf States Regional Center LLC
- Live in America- Texas Regional Center LLC
- Texas Urban Triangle Regional Center LLC
- US Freedom Capital – Texas LLC
CITY INVOLVEMENT IN EB-5

- Currently, the Economic Development Department (EDD) works with the City Demographer and Mayor’s Office to designate TEAs for EB-5 investment.
- EDD also maintains a website with information about investing in Austin through this program: http://austintexas.gov/eb-5
- Government involvement in a Regional Center or EB-5 project is generally viewed favorably by potential EB-5 investors.
- Resolution #20131121-059 directed the City Manager to work with stakeholders to evaluate opportunities for the City to benefit from EB-5 and to bring recommendations back to Council.
In September 2012, Mayor Leffingwell established a working group to examine opportunities for the City of Austin within the EB-5 Program.

In May 2013, the group issued the following recommendations:

- **Short-Term Recommendation:**
  - Issue RFI to gather information from existing USCIS approved EB-5 Regional Centers
  - Issue RFP to establish working agreements with existing Regional Centers that meet the City of Austin requirements for association.

- **Long-Term Recommendation:**
  - Create a non-profit to file for USCIS EB-5 Regional Center Application
  - Non-profit will issue RFP to designate EB-5 Regional Center Manager
The Economic Development Department recommends that the City pursue a partnership with an existing Regional Center. The Mayor’s Working Group unanimously approved this recommendation.

Advantages of this approach:
- Limited financial and reputational risk
- Limited legal liability
- Speed of implementation: USCIS approval for new regional center could take 9-18 months
- Leverages private sector’s expertise in finance, due diligence, securities law, and immigration law
- City can generate revenue from transaction fees
- Allows City to realize public benefits such as increasing foreign direct investment, job creation, and financing City projects without undue costs
1. Issue a Request for Information (RFI) to Regional Centers to gather information on experience, capability, capacity, and success.

2. Select a Regional Center for a preferred partnership based on an analysis of the information received and interviews conducted.

3. Allow the selected Regional Center to market City-affiliated projects for the EB-5 Program. In exchange, City-affiliated projects stand to receive EB-5 Program financing. Additionally, the City will receive a fee from each EB-5 Program transaction.
ADDITIONAL RESOURCES

- U.S. Citizenship and Immigration Services EB-5 Website
- Association to Invest in the USA (IIUSA)- EB-5 Regional Center Trade Association
- City of Austin EB-5 Webpage
THANK YOU!