



MEMORANDUM

TO: Mayor and City Council

FROM: Rebecca Giello, Interim Director
Economic Development Department

DATE: August 29, 2018

SUBJECT: City Council Agenda Items: 56, 57, and 58 Summary Amendment Chart

This memorandum serves to provide a summary of amendments for the Aug. 30, 2018, City Council Agenda Items 56, 57 and 58 related to the Chapter 380 statute. Attached are City Council's amendments presented from August 9, 2018, to date.

Where applicable, the Economic Development Department staff has identified recommended language for Council's consideration where staff has noted partial concurrence with City Council's proposed amendments. The attached summary amendment chart will be included in late back-up material for these agenda items.

Approval of Council Meeting Agenda Items 56, 57 and 58 that request Council adopt Guiding Principles and Chapter 380 Policy, establish the Economic Development Business Expansion Program Guidelines and establish the Economic Development Locational Enhancement Program will position the City with a revised Economic Development Policy, reflective of the community's and Council policy priorities and aligned with Austin's Strategic Direction 2023.

For additional information, contact David Colligan, Acting Assistant Director at 512-974-6381.

Attachments

xc: Spencer Cronk, City Manager
Elaine Hart, Chief Financial Officer
Greg Canally, Deputy Chief Financial Officer

Recommendations for Amended Language to Chapter 380 Policy Framework and Business Expansion Program Portfolio Guidelines

*Prepared For August 30, 2018 Council Agenda Items #56, #57, #58
EOD Staff recommendations based on Council's Proposed Amendments*

Motion	Source	Proposed Amendment	Staff Response	Proposed Revisions	Document(s) Location of Changes
1	CM Alter	Insert clarifying language into Policy and Program.	Concur	Staff would recommend the following clarifying language	Chapter 380 Policy Framework, page 6 Business Expansion Program Guidelines, page 5
2	CM Alter	Language for applicants to comply with all City Code regulations at the time of approval and the applicant is able to petition for potential vested rights under any provision of Chapter 25 of the municipal code or Chapter 245 of the Texas Local Government Code. Recipients agree to comply with City Environmental regulations on all future developments, failure results in termination of an incentive agreement.	Partially concur	"Incentive recipients will comply with all City Code requirements, including environmental requirements, in effect at the time the Chapter 380 agreement is executed. Absent a negotiated agreement with the City, an incentive recipient shall not petition for potential vested rights under any provision of Chapter 25 of the City Code, or Chapter 245 of the Texas Local Government Code, for the Chapter 380 project that is the subject of the agreement. Incentive recipients agree to comply with City environmental requirements on all future developments that is the subject of the agreement. If the recipient is cited with a City Code environmental violation for the subject of the agreed incentivized project during the term of the agreement, the City of Austin reserves the right to negotiate a cure period in which payment of the incentive will be withheld and, failure to cure the violation results in termination of the incentive agreement in accordance with the standard termination provisions in the Chapter 380 agreements."	Business Expansion Program Guidelines, page 5
3	CM Casar	Living wage paid to the Austin-based employees of the business receiving incentives, and there will be no waiver or exception process for this wage requirement.	Partially concur	Staff recommends retaining language provided for wages in Category 2 and develop a bonus for prioritizing firms that provide or exceed living wages for jobs, internships or apprenticeships created and retained through the Category 2, Opportunity for Employment program.	Business Expansion Program Guidelines, page 5
4	CM Casar	Economic incentives shall only be granted to higher-wage firms for providing community benefits other than high wage jobs.	Concur		Business Expansion Program Guidelines, page 7 Business Expansion Program Guidelines, page 16
5	CM Casar	Bonus qualifiers for categories one and three for businesses and employers in lower-wage sectors who choose to pay their employees above the City living wage.	Concur		Business Expansion Program Guidelines, page 7 Business Expansion Program Guidelines, page 16
6	CM Casar	Bonus qualifiers for categories one and three for businesses and employers that are cooperatively owned or managed, or who have democratic forms of representation for their workforce, or who build their projects using workers that have democratic forms of representation in the workplace	Concur		Business Expansion Program Guidelines, page 7 Business Expansion Program Guidelines, page 16
7	CM Casar	Replace "hard to employ" with "targeted hiring" under Category 2, Opportunity for Employment.	Concur	Staff will further define the Targeted Hiring population as provided below Targeted Hiring population may include: <ul style="list-style-type: none"> o individuals without a high school diploma or GED or transitioning from GED/high school equivalent programs; o individuals experiencing homelessness, transitioning from homelessness or residents of Permanent Supportive Housing (PSH) and publicly funded housing programs to include Housing Choice Voucher Programs; o individuals served by other local, state or federal social services contracts; o individuals with a past criminal justice system experience; o individuals transitioning from drug, alcohol or other treatment programs; o those who either lack sustained labor force experience or those returning to the labor force from a sustained absence; and o individuals with a disability that has been identified by a qualified third-party service provider engaged in workforce development and supportive services as a barrier to employment. <p>In addition, other individuals who are considered "hard-to-employ" may be included in the hiring population upon City receipt of, and agreement with, the justification for inclusion.</p>	Business Expansion Program Guidelines, page 12 Other pages in which the phrase "hard to employ" is used

8	CM Garza	Replace "healthy food options" with "grocery stores to address food access."	Concur		Guiding Principles, Page 6
9	CM Garza	Include language to strengthen support for manufacturing entities. Replace all "water quality regulations" with "water quality regulations."	Concur	Staff will develop a bonus qualifier in addition to the Target Industry Bonus Qualifier for manufacturing operations in Business Expansion Program Category 1 and Category 3.	Business Expansion Program Guidelines, Page 9 Business Expansion Program Guidelines, page 18
10	CM Pool		Concur	Staff will include the following language at the end of each referenced section: o Chapter 380 Policy Document: "Staff will provide a briefing to the City Council on the results of the 5 year reassessment. Council must approve the continuation of and/or any changes to Chapter 380 programs after the reassessment is complete. Staff will continue to operate and administer programs until Council action." o Business Expansion Program Document: "Staff will provide a briefing to the City Council on the results of the 5-year reassessment. Council must approve the continuation of and/or any changes to the program after the reassessment is complete. Staff will continue to operate and administer programs until Council action."	Business Expansion Program Guidelines, page 5
11	CM Pool	Insert language in policy and program for staff to provide briefing to Council following a five year reassessment and Council must approve continuation of any program.	Concur		Economic Development Policy, page 13 Business Expansion Program Guidelines, page 23
12	CM Pool	Reference existing termination policies in both the Chapter 380 Policy and the Business Expansion Program Guidelines.	Concur		Economic Development Policy, page 13 Business Expansion Program Guidelines, page 24
13	CM Pool	Replace language for medium financial tier project to reflect the same Council Hearing process as large financial tier projects	Partially concur	Staff recommends retaining language included in the process for medium tier projects and recommends a requirement that will precluded items from being approved on a "consent" vote by Council.	Chapter 380 Policy Framework, page 11 and 12 Business Expansion Program Guidelines, page 22
14	MPT Tovo	Insert language requiring a non-discrimination policy and practice.	Concur	Staff recommends including reference to an anti-harassment policy and recommends including the following language "Applicants to all Chapter 380 grant and loan programs shall be required to sign and comply with a City provided form specifying non-discrimination and anti-harassment policies and practices. Evidence of noncompliance may be grounds for terminating the agreement. At its discretion, the City may work with the recipient to develop a plan and timeline for becoming compliant."	Chapter 380 Policy Framework, page 5 Business Expansion Program Guidelines, page 6
15	MPT Tovo	Insert language for company adhering to all local, state and federal policies.	Concur	Staff recommends including the following language "Applicants to all Chapter 380 grant and loan programs shall be required to sign and comply with a City provided form specifying the entity is in compliance with all federal, state and local laws and authorities. Evidence of noncompliance may be grounds for terminating the agreement. At its discretion, the City may work with the recipient to develop a plan and timeline for becoming compliant."	Chapter 380 Policy Framework, page 5 Business Expansion Program Guidelines, page 7
16	MPT Tovo	Inserting language into medium and large existing local expansion projects to employ City of Austin residents.	Partially concurs	Staff recommends changing "City of Austin" to "Austin MSA."	Business Expansion Program Guidelines, page 7 and 8
17	MPT Tovo	Inserting language into local expansion projects and external relocation projects to provide a bonus qualifier for an on-site day care facility for employees, with an additional bonus for on-site day care facilities that are also open to the public.	Concur		Business Expansion Program Guidelines, page 10 Business Expansion Program Guidelines, page 19
18	Staff	Strike the following Resolutions from the Draft Resolution for the Economic Development Guiding Principles and Chapter 380 Policy: o Resolution 20071108-127 o Resolution 20100204-003 o Resolution 20120112-058 o Resolution 20130822-016	N/A	Staff recommends striking the following Resolutions for reasons stated below: o Resolution 20071108-127 is already repealed by Resolution 20120112-58 o Resolution 20100204-003 retains the Austin Energy Solar Rebate Program o Resolution 20120112-058 retains MBE/WBE requirements with waiver specified in Business Expansion Program o Resolution 20130822-016 retains Music Venue Loan Program until staff is prepared to update guidelines	Draft Resolution, Council Agenda Item 55

19	Staff	Include language to waive application of Minority-Women Owned Business Enterprises (M/WBE) Program for Categories 1 and 2 of the Business Expansion Program.	N/A	Business Expansion Program requirements detail M/WBE participation for Small, Medium and Large projects in Category 1 Existing Local Expansions. Staff recommends waiving M/WBE from requirement for Category 2 Opportunities for Employment	Draft Ordinance for the Business Expansion Program, Council Agenda Item 57, Part 3 Business Expansion Program Guidelines, Pages 7 and 8 Business Expansion Program Guidelines, Page 12
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Late Backup

August 9, 2018

Agenda Item #13

Kitchen MOTION SHEET

Amend the Business Expansion Program Guidelines, Exceptions/Waivers Section:

An exception or waiver to the requirement for health insurance benefits may only be granted after approval of City Council. The city shall first work with private entities requesting a health insurance exception or waiver to identify and facilitate access to affordable coverage options for their employees.

Withdrawn 8/28/18

Motion: To insert the language below into -

- #1
- The Chapter 380 Policy framework document, p. 6, section titled "Approval Process" replacing the third bullet item beginning with "Incentive agreement applicants are considered..."; and
 - The Business Expansion Program document, p. 5, section titled "Minimum Requirements for Business Expansion Program Portfolio Qualification," replacing the second bullet item beginning with "Project complies with current water quality regulations..."

Language:

#2

"Incentive agreement applicants will comply with all City Code regulations, including environmental regulations in effect at the time an application is approved, absent a negotiated agreement with the city, and the Applicant shall not petition for potential vested rights under any provision of Chapter 25 of the municipal code or Chapter 245 of the Texas Local Government Code. Incentive recipients agree to comply with City environmental regulations on all future developments, failure results in termination of incentive agreement;"

CASAR MOTION SHEET FOR ITEM 14 – BUSINESS ENHANCEMENT
PROGRAM REQUIREMENTS:

I move that the Minimum Requirements for Business Expansion be amended to add a non-waivable requirement that:

#3

- The City living wage must be paid to the Austin-based employees of the business receiving incentives, and there will be no waiver or exception process for this wage requirement.

#4

- For economic incentives provided to higher-wage firms, economic incentives shall only be granted to those firms for providing other community benefits other than high wage jobs. Such community benefits could include, but would not be limited to, achieving the goal of the Workforce Master Plan: bringing Austinites up from below 200% of the federal poverty line into jobs that lift them above that standard.

I further move that the Bonus Qualifiers for categories one and three, and Return on Investment (ROI) Including Community Benefits for category two in the Business Expansion Program requirements be amended to give bonus points as follows:

#5

- Incentives should be targeted, and additional incentives should be considered, for businesses and employers in lower-wage sectors who choose to pay their employees above the City living wage.

#6

- Incentives should be targeted, and extra incentives should be considered, for businesses and employers that are cooperatively owned or managed, or who have democratic forms of representation for their workforce, or who build their projects using workers that have democratic forms of representation in the workplace.

#7

I further move to replace "hard-to-employ" with "targeted hiring" under Category 2: Opportunity for Employment.

creative arts sector;

- o Retention of local small business employers struggling to survive and stay in Austin;
- Identifying and intervening to respond to specific issues (beyond those outlined above), such as:
 - o Increased access to goods and services in communities that are traditionally underinvested, including ~~healthy food options~~ grocery stores to address food access in the Eastern Crescent;
 - o Development of vibrant, mixed-use commercial corridors;
 - o Leverage of public investments to improve positive public health outcomes for Austinites.

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Strategic Alignment

Public-private partnership agreements focus on the creation of new opportunities for the economically disadvantaged population, secure jobs and investment for the community, and support a diverse business climate. Many other strategic documents within the City identify similar priorities and these Guiding Principles seek to work alongside those documents. Some of those strategic documents include the Austin Strategic Direction 2023, Priority Programs of the Imagine Austin Comprehensive Plan, Workforce Solutions Capital Area Austin Metro Area Master Community Workforce Plan, Music & Creative Ecosystem Omnibus Resolution, the Music Census, the Age-friendly Austin Action Plan, the Austin Resource Recovery Master Plan, Economic Development Target Market Assessment and other related documents such as CodeNEXT, Cultural Asset Mapping Project and the Spirit of East Austin. This Guiding Principle document is the main tool that allows the City of Austin to implement programs that produce results on those priorities by engaging in partnerships and transactions with the business community.

Portfolio Revenue Generation

For the City of Austin to achieve Economic Development Values (as defined above), the Economic Development Department will create an inclusive portfolio of outcome-focused programs for different users, areas and purposes. For example, one program may emphasize the creation of new revenue generation for the City of Austin in order to financially sustain other programs annually or as-needed in the portfolio that focus more on the delivery of community benefits and not impact revenues as significantly as the former. The purpose of this model is to include many different tools within this portfolio to achieve community outcomes and Council objectives while building in a funding model for the creation and sustainment of such programs within the Economic Development Department.

#9 from dais - Request to strengthen focus on Manufacturing

#10

1. **Environmental Regulation Conformity Requirement:** Replace all references to City of Austin "water quality" regulations conformity requirements with City of Austin "environmental" regulations in the Chapter 380 Policy document (p. 6) and in the Business Expansion Program document (p.5).

#11

2. **The 5-Year Reassessment of 380 Programs:** Insert language in the Chapter 380 Policy document (p. 13) and the Business Expansion Program document (p. 23) that staff will provide a briefing to Council following the 5-year reassessment, and that Council must approve continuation of any program.

#12

3. **Termination Clause Needed:**

For transparency and clarity, reference our existing termination policies in both the Chapter 380 Policy document and the Business Expansion Program document.

- Chapter 380 Policy document, p. 13, "Terms of Agreements" paragraph
- Business Expansion Program document, p.24, "Terms of Agreements & Grandfathering" paragraph.

#13

4. **Public Hearings for Medium Financial Tier Projects:**

- In the Chapter 380 Policy document, on p. 11, under "Step 6: Proposal Execution" in paragraph 2, the heading should read: "City Council and Public Hearing Approval" as it does in the next paragraph for large financial projects valued above \$5 million.
- In the Business Expansion Program document, on page 22 under "Step 6: Proposal Execution" in paragraph 2, the heading should read: "City Council and Public Hearing Approval" as it does in the next paragraph for large financial projects valued above \$5 million.
- The process described in the large financial packages for placing it on the Council agenda and notifying for the public hearing, should all be mirrored for the medium packages in both documents.

**Item #13 - Amendment to Chapter 380 Policy: Public-Private Partnerships Framework
& Program Creation Guidelines [Revised Exhibit B]**

Page 5: Application/Evaluation Process:

- All economic development grant and loan programs will ~~encourage~~ require compliance with a non-discrimination policy and practice.

Item #14 - Amendments to Business Expansion Program Guidelines [Revised Exhibit A]

Page 5: Minimum Requirements for Business Expansion Program Portfolio Qualification

- Company adheres to all local, state, and federal policies, such as earned sick leave and FMLA, and provides written policies to the City.

Page 7: Category 1: Existing Local Expansions - General Eligibility

Medium Projects: 25-74 Jobs Created: Projects creating 25 to 74 full-time jobs that employ City of Austin residents (defined as any individual having a permanent address within the City of Austin before starting date of employment).

Page 8: Category 1: Existing Local Expansions - General Eligibility

Large Projects: 75 and Above Jobs Created: Projects creating more than 75 full-time jobs that employ City of Austin residents (defined as any individual having a permanent address within the City of Austin before starting date of employment).

Page 10: Category 1: Existing Local Expansions - Bonus Qualifiers

The company will provide an on-site day care facility for employees ~~that may be open to the public,~~ and/or provide subsidized daycare for employees. The company will garner extra bonus qualifiers if the on-site day care facility is made open to the public.

Page 19: Category 3: External Relocations – Bonus Qualifiers

The company will provide an on-site day care facility for employees ~~that may be open to the public,~~ and/or provide subsidized daycare for employees. The company will garner extra bonus qualifiers if the on-site day care facility is made open to the public.

ITEM NO. 013
CHANGES MADE BY DEPARTMENT

RESOLUTION NO.

Late Backup

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WHEREAS, Texas Local Government Code Chapter 380 allows the City Council to establish and provide for the administration of one or more economic development programs; and

WHEREAS, beginning in 2004, the City Council has established and provided for the administration of various economic development programs for the purpose of promoting economic development and stimulating business and commercial activity in City of Austin; and

WHEREAS, the city council has passed a number of resolutions over the past 15 years that have established, modified, or removed various components of the City's economic development activities; and

WHEREAS, pursuant to Resolution No. 20170302-034, the City Council directed the City Manager to initiate a stakeholder consultation process and develop recommendations for implementing comprehensive revisions to the City's economic development incentives policies and programs; and

WHEREAS, since that time, the Economic Development Department has conducted a thorough examination of the full range of incentive agreement options and tools available to the City in order to create a comprehensive and unified set of economic development policies and promote more equitable and inclusive economic opportunities and improved, positive health outcomes for all Austinites; and

ITEM NO. 013
CHANGES MADE BY DEPARTMENT

22 WHEREAS, the Economic Development Department has developed a set of
23 Economic Development Guiding Principles that reflect the community values expressed
24 throughout the community stakeholder process; and

25 WHEREAS, the Economic Development Department has also developed a Chapter
26 380 Program Policy Framework that aligns with the Imagine Austin Comprehensive plan,
27 pursuant to which the City will develop multiple economic development programs; NOW,

28 THEREFORE:

29 BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

30 The following Resolutions are repealed to the extent they establish or otherwise
31 impact economic development policies, procedures, or programs after the date of this

32 Resolution:

- 33 • Resolution No. 20030612-015
- 34 • Resolution No. 20041028-003
- 35 • Resolution No. 20050113-052
- 36 ~~• Resolution No. 20071108-127~~
- 37 • Resolution No. 20071206-049
- 38 • Resolution No. 20080605-047
- 39 • Resolution No. 20090226-022
- 40 • Resolution No. 20090806-037
- 41 ~~• Resolution No. 20100204-003~~
- 42 • Resolution No. 20100311-036
- 43 • Resolution No. 20101118-058
- 44 ~~• Resolution No. 20120112-058~~
- 45 • Resolution No. 20120524-092
- 46 • Resolution No. 20120607-040
- 47 ~~• Resolution No. 20130822-016~~
- 48 • Resolution No. 20131024-056
- 49 • Resolution No. 20141211-221

} # 18

ITEM NO. 013
CHANGES MADE BY DEPARTMENT

50 • Resolution No. 20170302-034

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52 **BE IT FURTHER RESOLVED:**

53 The City Council adopts the Economic Development Guiding Principles attached as
54 Exhibit A.

55 **BE IT FURTHER RESOLVED:**

56 The City Council further adopts the Chapter 380 Policy attached as Exhibit B. The
57 City Manager is directed to develop any and all Chapter 380 programs in accordance with
58 the policies and principles set out in the Chapter 380 Policy.

59 **BE IT FURTHER RESOLVED:**

60 The City Manager is directed to conduct a comprehensive review of both the
61 Economic Development Guiding Principles and the Chapter 380 Policy no later than five
62 years after their adoption, and to return to City Council with any recommended updates or
63 modifications to those documents.

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68 **ADOPTED:** _____, 2018 **ATTEST:** _____

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Jannette S. Goodall
City Clerk

ORDINANCE NO.

AN ORDINANCE ENACTING A BUSINESS EXPANSION PROGRAM
PURSUANT TO TEXAS LOCAL GOVERNMENT CODE CHAPTER 380.

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

PART 1: The council finds that:

(A) Texas Local Government Code Chapter 380 allows the city council to establish and provide for the administration of one or more economic development programs.

(B) Beginning in 2004, the city council has established and provided for the administration of various economic development programs for the purpose of promoting economic development and stimulating business and commercial activity in City of Austin.

(C) Pursuant to Resolution 20170302-034, the city council directed the City Manager to initiate a stakeholder consultation process and develop recommendations for implementing comprehensive revisions to the City's economic development incentives policies and programs.

(D) Since that time, the City Manager has conducted a thorough examination of the full range of incentive agreement options and tools available to the City in order to create a comprehensive and unified set of economic development policies and promote more equitable and inclusive economic opportunities and improved, positive health outcomes for all Austinites.

(E) The City Manager has developed a Chapter 380 Program Policy Framework that aligns with the Imagine Austin Comprehensive plan, pursuant to which the City will develop multiple economic development programs.

(F) The City Manager has developed a Business Expansion Program in line with the Chapter 380 Program Policy Framework, which will provide certain economic development incentives for the expansion of existing business operations and the creation of additional jobs for Austinites.

ITEM NO. 014
CHANGES MADE BY DEPARTMENT

PART 2: The Business Expansion Program is created as an economic development program of the City. The Business Expansion Program Guidelines as Exhibit A are approved. The City Manager is authorized to promulgate rules implementing the Business Expansion Program pursuant to City Code Chapter 1-2 (*Adoption of Rules*).

PART 3. Resolution No. 20120112-058 regarding application of the Minority-Women Owned Business Enterprises (M/WBE) Program is waived solely for categories 1 and 2 described in Exhibit A. #17

PART 4. This ordinance takes effect on _____, 2018.

PASSED AND APPROVED

_____, 2018 § _____
 § _____
 § _____
 § _____
 Steve Adler
 Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk