

# DRAFT

CITY OF AUSTIN  
ECONOMIC DEVELOPMENT  
**CHAPTER 380 POLICY**

Public-Private Partnerships Framework &  
Program Creation Guidelines  
To Secure Equitable Prosperity, Affordability, Opportunity  
In the City of Austin  
Through Strategic Investments and Public-Private Partnerships

City of Austin Economic Development Department

2018 - 2023

# Introduction

## Why Economic Development Matters:

### Purposeful Economic Development Practices Create Thriving Communities

A successful and beneficial Economic Development approach responds to the needs of the community, illustrates agility in the face of dynamic market conditions, utilizes a proactive intervention strategy and is guided by shared community values.

In the City of Austin, we are fortunate to have such a shared vision for our values. This shared vision is captured in the [Austin Strategic Direction 2023](#), focusing in on equity, economic opportunity, diversity, creativity, sustainability, leadership and affordability at forefront of our rapidly changing community. Economic Development practices are accountable to ensuring the success of this plan by leveraging policies to implement programs that conjoin overlapping community needs and Council direction.

The Economic Development Guiding Principles document outlines the values Economic Development can bring to the Austin community. These Guiding Principles are the lens through which all Economic Development policies and programs should be created in order to achieve the goals identified by the community and council direction. Further, the Guiding Principles document outlines what the City of Austin and the private partner are expected to deliver when engaging in these agreements.

If our community desires equitable outcomes, such as those outlined in the Austin Strategic Direction 2023, City staff needs to address our economic development tools and business services that support those outcomes in an equitable fashion. This means holding a more complete and proactive investment system accountable for movement in areas of equitable prosperity, opportunity and affordability.

## How do we achieve these goals?

### By creating Policies and Programs that adhere to these Guiding Principles

Policies that are created under the direction of the overarching Guiding Principles implement programs that achieve those community goals. The policies are the “how”, or the tools we use to create programs that can produce the community outcomes we want. This policy document outlines the framework to create the requirements, process, evaluation and performance measures needed to ensure the programs under them are creating economic development value for Austin.

## City of Austin Public-Private Partnerships & Chapter 380

The City of Austin seeks transformative public-private partnerships to strengthen the local economy, sustain economic activity and build resilience against national economic downturns. Proactive programs, strategic partnerships and public investment in projects that create community value build resilience to the natural ebb and flow of market dynamics and economic conditions.

The legislative authority for the creation of Chapter 380 programs is granted by the *Local Government Code, Title 12. Planning and Development, Subtitle A. Municipal Planning and Development, Chapter 380 Miscellaneous Provisions Relating to Municipal Planning & Development, Section 380.001 Economic Development Programs*. Chapter 380 provides legislative authority for Texas municipalities to establish and provide “economic development by contract” that promote state and local goals for economic development. The City’s use of Chapter 380 was authorized as part of the creation of the City’s Economic Development Policy and Program via Council Resolution No. 030612-15.

Current or active agreements are governed by the policy in place at the time of execution. The Economic Development Department has developed the following guidelines in this new Chapter 380 Policy to govern the implementation of that enabling legislation and establish a process for Program Creation, Project Selection, Program Stewardship, and Regular Reassessment.

### Economic Development Value

Chapter 380 programs, as a part of the larger Economic Development Guiding Principles, adhere to current Economic Development Value definitions to determine priority outcomes:

**The City of Austin could contribute any of the following\* to support community outcomes through Economic Development Programs:**

- 1) Government Role: Connector, Investor, Path-Clearer
- 2) Focus on Equity: Employment Opportunities for All
- 3) Unify the Community through Collaboration
- 4) Train, Recruit and Retain Local Workforce and Talent
- 5) Support Austin’s Culture, Creative Sector and Community Identity
- 6) Incentivize, Support, Staff and Train Small Businesses
- 7) Build Affordable, Livable and Accessible Development
- 8) Impact Business Growth
- 9) Control Affordability
- 10) Promote Economic Diversity

\*Exchange values are further defined in the [Community Conversations Summary](#)

\*\*Exchange values are further defined in the [Community Leaders Session Summary](#)

**The Private Partner could contribute any of following\*\* to support community outcomes through Economic Development Programs:**

- 1) Locational Enhancements (Place-Making)
- 2) Workforce Development
- 3) Quality Jobs
- 4) Equity & Diversity
- 5) Quality Investment
- 6) Transportation
- 7) COA Revenue (Taxes & Utilities)
- 8) Equitable Hiring Practices

Provided the variety of projects City Council is seeking to interact with, delivering all of these community priority outcomes in a single agreement for a single project would be next to impossible, therefore neither the City nor the Partner be required to provide all or even most of these values in one transaction. Instead, each program created under these Guiding Principles are crafted to achieve a different set of goals, such as neighborhood development, jobs, healthy outcomes, or affordable space. At times, some of those outcomes would overlap and multiple goals would be achieved. Criteria to qualify for each of these programs will differ depending on the intended outcomes and beneficiaries, therefore requirements under each would differ as well.

## Program Creation: Criteria Selection

The City of Austin’s Economic Development Chapter 380 Policy provides a framework to create various programs in the form of grants, loans and other initiatives. Qualifying projects that will make an investment in Austin, and/or promote the pursuit of equitable prosperity, opportunity and affordability through the achievement of those values.

Each Program will be created in consideration of supporting key priorities determined by the overlap between:

- 1) Strategic Outcomes as defined by the [Austin Strategic Direction 2023](#)
- 2) Current Community Priorities
- 3) Existing Policy Resolutions and Ordinances



Each program will identify appropriate and market tolerable criteria from the below list of past policy requirements and identify values that best achieve its priority goals. This Chapter 380 Policy outlines a framework for public-private partnerships and program creation guidelines that supersede prior resolutions and ordinances governing Chapter 380 agreements. However, this new policy maintains the spirit of past resolutions that have been adjusted for current market conditions, Council’s objectives, community input and Strategic Direction to the extent feasible (*list appears on the following page*):

### Application/Evaluation Process:

- Incentive agreement grants are performance-based investments.

- Incentive proposals are considered when relocating to or expanding in Austin's Desired Development Zone.
- Programs allow for project-based incentives for mixed-use projects.
- Incentive proposals are encouraged to locate near transit developments and transportation hubs.
- Incentive agreements will be created in accordance with the Incentive Program's Evaluation Tool/Matrix/Score Card to meet approved criteria as required by that program. Program Evaluation Tool/Matrix/Score Card will assess direct and indirect costs and integrate a formal cost-benefit analysis into the city's evaluation.
- Incentive proposals that include the use and development of publicly owned property will be considered to promote community values.
- For the redevelopment of public or formerly public land, contractors and subcontractors are required to pay prevailing wage as defined in Ordinance No 20030508-031.
- Incentive agreements will adhere to Minority and Women-Owned Business Enterprise Ordinance to the extent feasible.
- Company provides health insurance benefits for all new full-time employees and extends benefits to domestic partners of employees and their dependents. The company's policy should reflect the definition of a domestic partner as an individual who lives in the same household and shares the common resources of life in a close, personal, intimate relationship with an employee if under Texas law the individual would not be prevented from marrying the employee on account of age, consanguinity or prior undissolved marriage to another. A domestic partner may be of the same, or opposite, gender as the employee.
- All economic development grant and loan programs will encourage non-discrimination policy and practice. In the event procurement of official documentation is unavailable, the City of Austin will request affidavit to adhere to non-discriminatory business practices. All economic development grant and loan programs will encourage same-sex domestic partnership benefits to the extent feasible.
- All construction workers hired for construction of the project will be provided Workers Compensation Insurance and OSHA 10 Training;
- All construction work on the project must comply with the City's established prevailing wage program that is used on City of Austin public works projects. The City of Austin's living wage will apply to any prevailing wage classification that falls below the living wage;
- The project will ensure all workers are paid at least the City of Austin's living wage, including full-time employees, contract employees, and if applicable to a project with capital expenditures in the form of construction, construction workers hired for construction work will be paid at least the City of Austin's living wage.
- Ongoing analysis will be performed by the City of Austin to determine expected annual average wage for the lowest paid 10 percent of local workers from companies negotiating firm-based economic development proposals with the City.

#### **Approval Process:**

- Programs include an exception request process whereby waivers to minimum criteria and requirements can be requested and negotiated during incentive proposal development.

- For projects that require Council approval, incentive package development will adhere to prescribed process timeline to increase time for citizen review and comment before Council takes action on an economic incentive proposal.
- Incentive agreement applicants are considered ineligible for incentives if not complying with current water quality regulations, unless otherwise negotiated. Incentive recipients agree to comply with City of Austin water quality regulations on all future developments, failure results in cancellation of incentive agreement.
- In the event of changes in City regulations or program criteria, the City will continue to honor existing and current incentive agreements.

**Compliance:**

- Compliance review for all economic development agreements will be verified by independent party and results made publicly available.
- Company may protest property tax valuation. In the event tax valuation of the property has been lowered as a result of a successful protest, the City will evaluate the impact of the new valuation on the net fiscal position of the City and may reduce the incentive amount to reflect the lowered property value;

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## Program Structure:

### Grant Types:

**Revenue-Positive Grants** are performance-based tax reimbursement payments or per-job payments to an entity that produces an economic development project that generates a positive fiscal impact for the City.

**Revenue-Neutral/Revenue-Negative Grants** are performance-based tax reimbursement payments or per-job payments that are either generate a neutral or negative fiscal impact for the City.

**Other/Operational Support Grants:** for performance-based tax reimbursement payments or per-job payments that are either neutral or negative fiscal impact for the City could benefit from City investment in the form of pre-development support, expedited permitting, dedicated ombudsman services, development fee waivers, transportation and public works resources and other city services in exchange for values that connect to the programs priority goal. These resources can be included in or in lieu of an incentive package. Qualifications for this type of “other support” varies by program and project.

### Grant Program Structure:

### Evaluation Tool:

**Cost-Benefit Tool:** At the time of program creation, a cost-benefit tool will be developed to assist staff with determining the fiscal impact of the project. In some cases, programs may require an outside or third-party cost-benefit tool depending on the complexity of the program and/or anticipated projects. In other cases where programs or projects are smaller scale, simpler transactions or otherwise where it may be more appropriate to develop a tool internally. In any case, the goal of the cost-benefit tool is to identify the city’s net position on a project that may help inform the level of appropriate investment, coupled with other program criteria measures and Score Card (see “Project Score/General Eligibility”). The cost-benefit tool and resulting value is not the sole determinant of the value of the total potential incentive package.

**Return On Investment (ROI) Including Community Benefits:** In some cases, community benefit, value and priority goal of the program may be achieved in either revenue-positive or revenue-neutral/negative projects. Therefore, Chapter 380 programs that support economic development value or priority goals of the program may invest in projects that do not produce a net positive fiscal net benefit. This is due to the economic multiplier effect, where the project itself may not create a significant tax base increase for the city, but the multiplier and downstream effects created by the project in the community are impactful, albeit difficult to quantify. “Return” in this case can be defined beyond simple fiscal terms and include community values and benefits that align with the program’s priority goal. Net-negative or neutral projects that yield community benefit may come at

the cost of the value of the priority goal for the program in some cases. Maximum investment allowance for each project is identified in the program guidelines to mitigate risk in the event that projects qualify for the program and/or are high-scoring, but may produce a negative or break-even fiscal ROI or even when the overall project benefits justify the investment. However, program guidelines also outline whether or not a net positive ROI for the City is a requirement, as is appropriate in some cases.

**Project Score/General Eligibility:** At the time of program creation, minimum requirements, qualifiers, bonus criteria and an accompanying formula for scoring will be created to generate an overall “Project Score”. A scale of Project Scores will be identified to set thresholds, such as a minimum Project Score to eliminate projects that do not carry sufficient community impact, a moderate score to indicate investment that may include only operational support, and a high score to open the possibility of additional monetary investment in the project. Enhanced scoring may be considered for alignment with community need, Target Market industries and other strategic goals of the program. Scoring methodology will be different for each program, as will the score threshold levels.

**Exceptions/Waivers:** Once the Project Score elements and formula have been generated and thresholds set, eligible Exceptions and Waivers can be identified. Exceptions can be applied to any minimum requirement, qualifier, bonus criteria and/or point weights, if those are used. Programs will contain Exception and Waiver criteria as a subset of scoring criteria. In addition, each program identifies an exception process whereby in order for a project to be eligible for an exemption for minimum requirements, a project has to score at certain threshold to receive consideration for such an exception. Specific requirement Exceptions/Waivers will be different for each program, as will the exception score threshold.

## Process:

The process for each Chapter 380 program is dependent upon the amount of incentive. If the incentive for the project is beneath the City Manager spending authority maximum, Council approval measures are not needed. Any incentive offer above the City Manager spending authority will follow a specific process outlined in each program. In addition, each program has individual process guidelines that set expectations on timing, the exchange of information with applicants, negotiating terms and other measures. Projects seeking partnership with the City of Austin follow this general process for consideration:

**Step 1: Applicants Complete the Online Application.** The Online Application is the first opportunity for a private entity to request consideration for a Chapter 380 incentive or public private partnership with the City of Austin. It is imperative the Applicant self-select for appropriate General Eligibility requirements as well as Chapter 380 Program-specific requirements, or if the Applicant does not meet those minimum criteria, make a clear case and request a consideration for an



Exception or Waiver of requirements complete with supporting documentation. This Online Application is not the Final Chapter 380 Application. It serves as the initial introduction of the project seeking alignment with the City of Austin's Chapter 380 Programs. If in the creation of the program City staff determines that the Online Application is not suitable for the applicant pool, other entry-points to begin the process can be identified for each program.

**Step 2: Project Introduction & Application Review.** Within 14 business days, the Online Application will be reviewed by City of Austin staff. If City staff so determines, the Applicant may be invited to discuss the Online Application with Economic Development staff in person or via conference call. This meeting is an opportunity for both parties to discuss the project, review the application and make any needed adjustments to the application if the intention is to submit the application for formal consideration (see Step 3.) Economic Development staff will make inter-Departmental connections within the City of Austin to help facilitate the Application in the event other Departments or programs will be involved in the project. If in the creation of the program City staff determines that the review period or method of communication suggested above is not suitable for the applicant pool, other methods can be identified for each program.

**Step 3: Submit Final Chapter 380 Application.** If adjustments are made to the original Online Application during Step 2, Applicants are requested to amend the documentation and re-submit as a "Final Chapter 380 Application" for formal consideration by City staff.

**Step 4: Project & Application Analysis.** After the Final Chapter 380 Application submission, City staff will review the Final Application and determine whether General Eligibility requirements are met and measure program qualifications, Project Score and fiscal impact, specific to that program's process. It is at this time during the analysis that if an exception to minimum requirements has been requested, justification for the exception will be included in the evaluation consideration.

**Bundling Programs:** It is possible for projects to qualify for more than one program within the Chapter 380 Policy portfolio of programs. In those cases, potential agreement terms pursuant to the project details will be determined by City staff. If City staff has not done so already by this point, inter-Departmental connections within the City of Austin will be made to help facilitate the Application in the event other Departments or programs will be involved in the project. For a project that qualifies for more than one program, a blended Project Score may be created to measure overall impact weighted against total costs. In this case, the blended score and

methodology will be determined by City staff managing the programs involved.

**City Resources:** Each program will identify a threshold of Other/Operational Support Grants to include, but not limited to, city resources such as expedited permitting, dedicated ombudsman services, development fee waivers, transportation and public works resources and other city services. These resources can be included in or in lieu of a financial or non-financial incentive package where a project fails to qualify or scores below the threshold for incentive package consideration but provides community benefit or value as defined by the program's priority goals. It is at this time that City staff would engage with the Department that manages those services to determine feasibility of support delivery for this project and ensure it aligns with the project timeline.

**Step 5: Project Status – Accepted or Declined.** Applicants will be informed of the status of their application no later than 14 business days after the Final Chapter 380 Application is submitted. If the project has been accepted and meets program criteria, City staff will communicate directly with the Applicant to inform them to expect the process going forward (Step 6).

**Step 6: Proposal Execution.** The following processes will be followed for varying levels of incentive package proposal valuations:

Tier 1 Process: For total incentive package proposals that are valued below City Manager Spending Authority, and if the company accepts the City's proposal, Applicants will be informed to expect a formal letter of "Program Acceptance" from the Program's Department including the City's Chapter 380 contract proposal and stipulated conditions upon which the company must agree. The agreement is executed by both parties and begins with the Compliance process.

Tier 2 Process: For incentive package proposals that are valued above City Manager spending authority but below a total \$5,000,000\* net benefit value for the City or a \$200,000,000\* project Capital Investment value, and if the company accepts the City's proposal, a Chapter 380 Program contract is drafted by City staff and submitted for City Council approval on the next regular Council Meeting Agenda date. If Council approves of the proposal, the agreement is executed by both parties and begins with the Compliance process.

Tier 3 Process: For incentive package proposals that are valued above a total \$5,000,000\* net benefit value for the City or a \$200,000,000\* project

Capital Investment value, and if the company accepts the City's proposal, the following process is followed:

- The Chapter 380 proposal is placed on the Council agenda as a time-certain agenda item with a staff presentation on the proposal. The public is allowed to comment on the Chapter 380 proposal at this Council meeting.
- The Chapter 380 proposal, application, evaluation documents, analysis, and proposal contract are announced in a press release and made available to the public no later than the sixth day before the Council agenda item with the staff presentation. All of this information is posted to the Economic Development Department website.
- An online comment portal is setup to collect public comments. All comments received are forwarded to the City Council prior to the second Council meeting.
- The second City Council meeting includes a public hearing and City Council action.

\*At the time of program creation, City staff may identify appropriate values to suit typical project and incentive package values to best reflect the needs of the subject area. It is recommended as a starting point, however, that there is an approval process for projects below City Manager spending authority level, a regular Council Agenda approval level and an enhanced approval process with public engagement for higher value projects.

## Stewardship

City staff is committed to the following values in the administrative implementation and stewardship of the Chapter 380 Programs:

**Efficient, Inviting and Responsive to Market Needs:** The Chapter 380 Program is a visible, accessible opportunity for private entities to discover new ways to leverage City investment for the betterment of the Austin community and put progress toward their business endeavors. This process must be efficient and expeditious to match the rapid pace of the business environment and minimize delay. Every effort will be made to build in appropriate timelines, clearly communicate expectations on those timelines and carry out an efficient process of the Chapter 380 application steps.

**Transparency:** Each Chapter 380 Program will comply with best practice transparency measures, including producing timely and accurate reporting on all Chapter 380 contracts, supporting documentation, compliance reports and ongoing payment information

available on the City’s website or other communication outlet. With each Chapter 380 program, all final public-private partnership agreements and project information will be made available to the public via online portal immediately and openly after approval.

**Compliance and Third Party Assessment:** All Chapter 380 agreements are performance-based, meaning the private partner must demonstrate its compliance annually to receive that year’s contract payment. No upfront incentives are allowed. Every year, the Economic Development Department reviews the company’s compliance with the contractual requirements, and an independent, third-party reviews the department’s annual review (unless an exception is made under the agreement terms of the project.) If both annual reviews confirm compliance, then the company is deemed to have fulfilled its annual obligations, and the contract payment is made for that year. All contract payment information will be available on the [Economic Development Department Open Portal website](#).

### Reassessment:

**Five-Year Programs:** Each Chapter 380 program, from the creation date, will run with a standard five-year term to allow for changes in Austin’s economic environment, community needs and shifting policy directives. Each program will identify high-level goals to be achieved at the end of the five-year term that connect with the current [Austin Strategic Direction](#) 2023 priorities. At the end of the five-year term, the program will be reassessed by City staff to determine if adjustments need to be made to the program evaluation method, criteria, process, administration or whether the program’s current structure achieves the intended priority goals. If not, some programs may be allowed to “sunset”, phased-out or replaced with new programs. Reassessment will include an overview of performance measured against the program’s priority goals (annual and five-year) as well as City of Austin executive leadership input and community feedback. Community stakeholders will be consulted for feedback during this reassessment process, where suggestions and identification of new needs will be solicited on a five-year basis to recalibrate program priority goals to match community needs, Council objectives and changes in Strategic Direction.

**Term of Agreements:** Agreements made within the Chapter 380 programs are not subject to the five-year maximum term. Typically 5-10 years, the term of those agreements are made to best reflect the project’s timeline, investment, and job creation schedule and the City will honor those agreements until the termination of the contract. In the event a program is allowed to sunset or program criteria is changed to reflect shifting conditions, existing agreements will be grandfathered for the remainder of the term of the project agreement.

**Market Conditions: Exceptions & Waivers / “High-Impact” Projects:**

High-impact projects, unique developments, and market competitive or other non-conforming projects will be considered on a case-by-case basis and within the context of the current market conditions at the time of program creation and/or project application. City staff will analyze those conditions and projects and determine if a recommendation for incentive proposal is achievable through current programs. If it is determined that the non-conforming project is attractive, justifiable and has the ability to provide significant community value given current market conditions, special consideration will be made to negotiate maximum incentive allowances depending on feasibility and financial bandwidth.

**Public Input:** Each Chapter 380 program is created with the intention to meet a specific community need and outline priority goals. If both the program and projects contained are not successful, underperforming and/or the community need is not being met, then a thoughtful reassessment of the program’s structure or existence is evaluated. As a part of this reassessment, public input is of tremendous importance. Community stakeholders will be consulted for feedback during this process, where suggestions and identification of new needs will be solicited on a five-year basis to recalibrate program priority goals to match community needs, Council objectives and changes in Strategic Direction.

**Annual Update & Reporting:** An annual assessment will be made for the “effectiveness” of the programs and projects in reaching the intended goals. Each program will identify Program Metrics and Project Metrics to track on an annual basis that will be shared publically. Metrics vary widely depending on the program goals, but with a focus on [Austin’s Strategic Direction 2023](#) outcomes, general performance measurements could include but are not limited to;

**Program Metrics:**

- Number of Applications Received
- Number of Applications Accepted
- Community Preservation
- Catalytic Event Affects
- Equity Measures
- Transportation Impact
- Affordability Measurements
- Workforce Impacts
- Compliance
- Other Strategic Direction Measurements

**Project Metrics:**

- Metrics by Program Criteria
- New Jobs Created
- Jobs Retained
- Job Types
- Revenue Impacts
- Community Benefits Achieved
- Capital Investment
- Other Strategic Direction Measurements

At the end of the five-year period of the program, those Annual Reports will be reviewed and used as supporting documentation to make the decision to sunset, phase-out or revise the program structure.

## Loan Program Structure

A Chapter 380 Loan Program is a public-private partnership between the City of Austin and a private entity offering low-interest loans to qualified entities that need financial support and access to capital to face rapidly changing economic conditions. Loan Program objectives and structure differ depending on intended recipients and outcomes, but all programs seek to enable existing local businesses to expand, create jobs, revitalize communities, achieve specific Austin Strategic Direction priority goals, increase the tax base of the City of Austin and enhance the overall quality of life for Austin residents through advantageous loan structures and terms.

### Loan Program Types:

**Direct Gap Financing for Qualified Projects** is available to address the financial gap experienced by an entity or business encountering roadblocks to new growth and/or development that will create value for the community. For programs that provide direct gap financing for qualified projects, those programs will identify incentive proposal value limits based on approved program criteria. These programs will take into consideration the current threshold for City Manager spending authority and approval processes will differ depending on whether the project loan value is determined to be above or below that threshold.

**Loan Guarantees** are available through programs that would require a contractual arrangement between the City of Austin and private creditors or banks. These agreements can be limited or unlimited. In the case of a limited loan guarantee program, a threshold limit for default coverage will be identified in the contract.

**Forgivable Loans:** are available through programs that create loans either direct to borrowers or through third-party lenders. These loans include “transformative conditions” that would effectively “transform” the original loan into forgivable loan if certain program criteria is met. Each loan program will stipulate this criteria which can include, but may not be limited to, a certain percentage threshold above agreed-upon job creation, investment amount or other quantitative measure that results in an increase of the net benefit to the City that covers the debt service owed on the loan or creates value for community priority goals.

**Interest-Only:** Interest-only loan programs will establish interest rates and maturity/amortization schedules that match the appropriate timeframes for project realization and asset lifespan.

### Evaluation Tool:

**Project Score/General Eligibility:** At the time of program creation, minimum requirements, qualifiers, bonus criteria and an accompanying formula for scoring will be created to generate an overall “Project Score”. A scale of Project Scores will be identified to set

thresholds, such as a minimum Project Score to eliminate projects that do not carry sufficient community impact, a moderate score to indicate investment that may include only operational support, and a high score to open the possibility of additional monetary investment in the project. Enhanced scoring may be considered for alignment with community need, Target Market industries and other strategic goals of the program. Scoring methodology will be different for each program, as will the score threshold levels.

**Grant/Loan Combinations:** A program that combines a grant and a loan may have separate criteria in addition to the existing program criteria to be combined. At the time of a grant-loan program creation, City staff will identify the blended Project Score threshold to be met by both the grant qualifiers and the loan qualifiers.

**Loan Structure & Terms:** Loan programs or programs that include a loan as a part of the incentive package will consider program criteria and Project Score in determining what type of loan structure and terms are appropriate to offer. Loan Programs will be created with interest rate ranges and maturity and amortization schedules that are market competitive and within the risk allowance for the City.

**Cost-Benefit Tool:** At the time of program creation, a cost-benefit tool will be developed to assist staff with determining the fiscal impact of the project. In some cases, programs may require an outside or third-party cost-benefit tool depending on the complexity of the program and/or anticipated projects. In other cases where programs or projects are smaller scale, simpler transactions or otherwise where it may be more appropriate to develop a tool internally. In any case, the goal of the cost-benefit tool is to identify the city's net position on a project that may help inform the level of appropriate investment, coupled with other program criteria measures and Score Card (see "Project Score/General Eligibility"). The cost-benefit tool and resulting value is not the sole determinant of the value of the total potential incentive package.

**Return On Investment (ROI) Including Community Benefits:** In some cases, community benefit, value and priority goal of the program may be achieved in either revenue-positive or revenue-neutral/negative projects. Therefore, Chapter 380 programs that support economic development value or priority goals of the program may invest in projects that do not produce a net positive fiscal net benefit. This is due to the economic multiplier effect, where the project itself may not create a significant tax base increase for the city, but the multiplier and downstream effects created by the project in the community are impactful, albeit difficult to quantify. "Return" in this case can be defined beyond simple fiscal terms and include community values and benefits that align with the program's priority goal. Net-negative or neutral projects that yield community benefit may come at the cost of the value of the priority goal for the program in some cases. Maximum investment allowance for each project is identified in the program guidelines to mitigate risk in the event that projects qualify for the program and/or are high-scoring, but may produce a negative or break-even fiscal ROI or even when the overall project benefits

justify the investment. However, program guidelines also outline whether or not a net positive ROI for the City is a requirement, as is appropriate in some cases.

**Underwriting:** Loan Programs will identify acceptable risk thresholds such as Loan-to-Value Ratio and Debt Service Ratio minimums in either primary or subordinate lien positions. Loan programs will establish an underwriting process that includes borrower credit analysis, capacity and collateral.

**Exceptions/Waivers:** Once the Project Score elements and formula have been generated and thresholds set, eligible Exceptions and Waivers can be identified. Exceptions can be applied to any minimum requirement, qualifier, bonus criteria and/or point weights, if those are used. Programs will contain Exception and Waiver criteria as a subset of scoring criteria. In addition, each program identifies an exception process whereby in order for a project to be eligible for an exemption for minimum requirements, a project has to score at certain threshold to receive consideration for such an exception. Specific requirement Exceptions/Waivers will be different for each program, as will the exception score threshold.

## Process:

The process for each Chapter 380 program is dependent upon the amount of incentive. If the incentive for the project is beneath the City Manager spending authority maximum, Council approval measures are not needed. Any incentive offer above the City Manager spending authority will follow a specific process outlined in each program. In addition, each program has individual process guidelines that set expectations on timing, the exchange of information with applicants, negotiating terms and other measures. Projects seeking partnership with the City of Austin follow this general process for consideration:

**Step 1: Complete the Online Application.** The Online Application is the first opportunity for a private entity to request consideration for a Chapter 380 incentive or public private partnership with the City of Austin. It is imperative the Applicant self-select for appropriate General Eligibility requirements as well as Chapter 380 Program-specific requirements, or if the Applicant does not meet those minimum criteria, make a clear case and request a consideration for an Exception or Waiver of requirements complete with supporting documentation. This Online Application is not the Final Chapter 380 Application. It serves as the initial introduction of the project seeking alignment with the City of Austin's Chapter 380 Programs. If in the creation of the program City staff determines that the Online Application is not suitable for the applicant pool, other entry-points to begin the process can be identified for each program.



**Step 2: Project Introduction & Application Review.** Within 14 business days, the Online Application will be reviewed by City of Austin staff. If City staff so determines, the Applicant may be invited to discuss the Online Application with Economic Development staff in person or via conference call. This meeting is an opportunity for both parties to discuss the project, review the application and make any needed adjustments to the application if the intention is to submit the application for formal consideration (see Step 3.) Economic Development staff will make inter-Departmental connections within the City of Austin to help facilitate the Application in the event other Departments or programs will be involved in the project. If in the creation of the program City staff determines that the review period or method of communication suggested above is not suitable for the applicant pool, other methods can be identified for each program.

**Step 3: Submit Final Chapter 380 Application.** If adjustments are made to the original Online Application during Step 2, Applicants are requested to amend the documentation and re-submit as a “Final Chapter 380 Application” for formal consideration by City staff.

**Step 4: Project & Application Analysis.** After the Final Chapter 380 Application submission, City staff will review the Final Application and determine whether General Eligibility requirements are met and measure program qualifications, Project Score and fiscal impact, specific to that program’s process. It is at this time during the analysis that if an exception to minimum requirements has been requested, justification for the exception will be included in the evaluation consideration.

**Bundling Programs:** It is possible for projects to qualify for more than one program within the Chapter 380 Policy portfolio of programs. In those cases, potential agreement terms pursuant to the project details will be determined by City staff. If City staff has not done so already by this point, inter-Departmental connections within the City of Austin will be made to help facilitate the Application in the event other Departments or programs will be involved in the project. For a project that qualifies for more than one program, a blended Project Score may be created to measure overall impact weighted against total costs. In this case, the blended score and methodology will be determined by City staff managing the programs involved.

**City Resources:** Each program will identify a threshold of Other/Operational Support Grants to include, but not limited to, city resources such as expedited permitting, dedicated ombudsman services, development fee waivers, transportation and public works resources and other city services. These resources can be included in or in lieu of a financial or non-financial

incentive package where a project fails to qualify or scores below the threshold for incentive package consideration but provides community benefit or value as defined by the program’s priority goals. It is at this time that City staff would engage with the Department that manages those services to determine feasibility of support delivery for this project and ensure it aligns with the project timeline.

**Step 5: Project Status – Accepted or Declined.** Applicants will be informed of the status of their application no later than 14 business days after the Final Chapter 380 Application is submitted. If the project has been accepted and meets program criteria, City staff will communicate directly with the Applicant to inform them to expect the process going forward (Step 6).

**Step 6: Proposal Execution.** The following processes will be followed for varying levels of incentive package proposal valuations:

Tier 1 Process: For total incentive package proposals that are valued below City Manager Spending Authority, and if the company accepts the City’s proposal, Applicants will be informed to expect a formal letter of “Program Acceptance” from the Program’s Department including the City’s Chapter 380 contract proposal and stipulated conditions upon which the company must agree. The agreement is executed by both parties and begins with the Compliance process.

Tier 2 Process: For incentive package proposals that are valued above City Manager spending authority but below a total \$1,000,000\* net benefit value for the City or a \$200,000,000\* project Capital Investment value, and if the company accepts the City’s proposal, a Chapter 380 Program contract is drafted by City staff and submitted for City Council approval on the next regular Council Meeting Agenda date. If Council approves of the proposal, the agreement is executed by both parties and begins with the Compliance process.

Tier 3 Process: For incentive package proposals that are valued above a total \$1,000,000\* net benefit value for the City or a \$200,000,000\* project Capital Investment value, and if the company accepts the City’s proposal, the following process is followed:

- The Chapter 380 proposal is placed on the Council agenda as a time-certain agenda item with a staff presentation on the proposal. The public is allowed to comment on the Chapter 380 proposal at this Council meeting.
- The Chapter 380 proposal, application, evaluation documents, analysis, and proposal contract are announced in a press release and made

available to the public no later than the sixth day before the Council agenda item with the staff presentation. All of this information is posted to the Economic Development Department website.

- An online comment portal is setup to collect public comments. All comments received are forwarded to the City Council prior to the second Council meeting.
- The second City Council meeting includes a public hearing and City Council action.

\*At the time of program creation, City staff may identify appropriate values to suit typical project and incentive package values to best reflect the needs of the subject area. It is recommended as a starting point, however, that there is an approval process for projects below City Manager spending authority level, a regular Council Agenda approval level and an enhanced approval process with public engagement for higher value projects.

## Stewardship:

City staff is committed to the following values in the administrative implementation and stewardship of the Chapter 380 Programs:

**Efficient, Inviting and Responsive to Market Needs:** The Chapter 380 Program is a visible, accessible opportunity for private entities to discover new ways to leverage City investment for the betterment of the Austin community and put progress toward their business endeavors. This process must be efficient and expeditious in order to match the rapid pace of the business environment and minimize delay. Every effort will be made to build in appropriate timelines, clearly communicate expectations on those timelines and carry out an efficient process of the Chapter 80 application steps.

**Transparency:** Each Chapter 380 Program will comply with best practice transparency measures, including producing timely and accurate reporting on all Chapter 380 contracts, supporting documentation, compliance reports and ongoing payment information available on the City's website or other communication outlet. With each Chapter 380 program, all final public-private partnership agreements and project information will be made available to the public via online portal immediately and openly after approval.

**Loan Repayment, Servicing & Monitoring:** Loan programs will establish repayment schedules and conditions. Each program will include status check-in timetables and points of contact for all involved parties. For ongoing project monitoring to mitigate default risk, supporting loan program documentation will be made available to all involved parties. All information will be available on the [Economic Development Department Open Portal website](#).

## Reassessment:

**Five-Year Programs:** Each Chapter 380 program, from the creation date, will run with a standard five-year term to allow for changes in Austin’s economic environment, community needs and shifting policy directives. Each program will identify high-level goals to be achieved at the end of the five-year term that connect with the current Austin Strategic Direction priorities. At the end of the five-year term, the program will be reassessed by City staff to determine if adjustments need to be made to the program evaluation method, criteria, process, administration or whether the program’s current structure achieves the intended priority goals. If not, some programs may be allowed to “sunset”, phased-out or replaced with new programs. Reassessment will include an overview of performance measured against the program’s priority goals (annual and five-year) as well as City of Austin executive leadership input and community feedback. Community stakeholders will be consulted for feedback during this process, where suggestions and identification of new needs will be solicited on a five-year basis to recalibrate program priority goals to match community needs, Council objectives and changes in Strategic Direction.

**Term of Agreements:** Agreements made underneath those Chapter 380 programs are not subject to the five-year maximum term. Typically 5-10 years, the term of those agreements are made to best reflect the project’s timeline, investment, and job creation schedule and the City will honor those agreements until the termination of the contract. In the event a program is allowed to sunset or program criteria is changed to reflect shifting conditions, existing agreements will be grandfathered for the remainder of the term of the project agreement

### **Market Conditions: Exceptions & Waivers / Non-Conforming Projects / “High-Impact” Projects:**

High-impact projects, unique developments, and market competitive or other non-conforming projects will be considered on a case-by-case basis and within the context of the current market conditions at the time of program creation and/or project application. City staff will analyze those conditions and projects and determine if a recommendation for incentive proposal is achievable through current programs. If it is determined that the non-conforming project is attractive, justifiable and has the ability to provide significant community value AND does not fit within the structure of a current program outline, special consideration will be made to create a program to support such a project depending on feasibility and financial bandwidth.

**Public Input:** Each Chapter 380 program is created with the intention to meet a specific community need and outline priority goals. If both the program and projects contained are not successful, underperforming and/or the community need is not being met, then a

thoughtful reassessment of the program’s structure or existence is evaluated. As a part of this reassessment, public input is of tremendous importance. Community stakeholders will be consulted for feedback during this process, where suggestions and identification of new needs will be solicited on a five-year basis to recalibrate program priority goals to match community needs, Council objectives and changes in Strategic Direction.

**Annual Update & Reporting:** An annual assessment will be made for the “effectiveness” of the programs and projects in reaching the intended goals. Each program will identify Program Metrics and Project Metrics to track on an annual basis that will be shared publically. Metrics vary widely depending on the program goals, but with a focus on Austin’s Strategic Direction outcomes, general performance measurements could include but are not limited to;

**Program Metrics:**

- Number of Applications Received
- Number of Applications Accepted
- Community Preservation
- Catalytic Event Affects
- Equity Measures
- Transportation Impact
- Affordability Measurements
- Workforce Impacts
- Compliance & Loan Payments
- Other Strategic Direction Measurements

**Project Metrics:**

- Metrics by Program Criteria
- New Jobs Created
- Jobs Retained
- Job Types
- Revenue Impacts
- Community Benefits Achieved
- Capital Investment
- Other Strategic Direction Measurements

At the end of the five-year period of the program, those Annual Reports will be reviewed and used as supporting documentation to make the decision to sunset, phase-out or revise the program structure.