



City of Austin

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Late Backup

The Domain 380 Agreement Fact Sheet

What is the background on the Domain 380 agreement?

State law allows cities to offer financial incentives for economic development. These agreements are known as “380 agreements,” a reference to the chapter of state law that authorizes them. In May 2003, Council directed the City Manager to negotiate a 380 agreement with Endeavor Real Estate Group.¹ The city entered into an agreement a month later,² which it subsequently amended in April 2004.³ This agreement covered “Phase I” of the Domain, which mainly included retail development.

Several years later, some residents engaged in an initiative effort to amend the City Charter to prohibit the city from offering or paying out financial incentives to retail projects. This effort organized under the name “Stop Domain Subsidies,” though the amendment itself was broader and would have applied to any development project with a retail use.⁴ Austin voters ultimately rejected this proposed Charter amendment. The following year, Council passed an ordinance eliminating large retail projects from consideration for 380 incentives.⁵

What did the Domain owner commit to in the 380 agreement?

The agreement lists several key items to which the owner agreed:⁶

- **Development.** To begin construction within 4 years.
- **Support for Small Local Businesses.** To establish a Domain Fund with \$1 million for attracting and supporting small, local businesses. All Domain Fund resources have been distributed.⁷
- **S.M.A.R.T. Housing.** To provide at least 10 percent of units affordable at 80 percent Median Family Income (MFI); Travis County participation lowers this to 65 percent MFI. The owner currently maintains 42 affordable units.⁷
- **Affordable Housing Payments.** To pay 2 percent of their sales tax for affordable housing (See Table 1).
- **Job Creation.** To create at least 1,100 jobs.

Table 1. Domain Affordable Housing Payments (FY14 to FY17)⁶

Fiscal Year	Housing Payments
2014	\$31,651
2015	\$49,047
2016	\$54,210
2017	\$61,080

Can the city decline to appropriate money to fund future incentive payments?

Yes. The original 380 agreement was amended in 2004 to clarify that it “shall not be construed as a commitment, issue or obligation of any specific taxes or tax revenues for payment” and that all incentive payments in the agreement “are subject to City’s appropriation of funds.” If the City does not appropriate the funds, the owner has the option to end the agreement,³ and the owner is not entitled to recover damages or seek return from money paid from the Domain Fund or any other money paid for the project.⁸

Has the Domain owner protested their property appraisals?

Travis Central Appraisal District (TCAD) records indicate the Domain’s owner has protested their appraised values and received lower valuations as a result.

¹ Resolution #030515-04.

² City of Austin/Endeavor Real Estate Group Chapter 380 Economic Development Agreement (13 June 2003).

³ First Amendment to City of Austin/Endeavor Real Estate Group Chapter 380 Economic Development Agreement (2 April 2004).

⁴ Ordinance #20080821-004

⁵ Ordinance #20090312-005

⁶ Neighborhood Housing & Community Development Department Staff

⁷ Domain Mixed-Use Development Compliance Report: Year 9 of 20 for Chapter 380 Performance-Based Agreement (April 2017).

⁸ Brian Rodgers v. City of Austin and EGP Management, L.L.C. Settlement Agreement (Effective 31 May 2004).

What are the details of the Domain's property tax incentive payments from the city?

The Domain is roughly halfway through the duration of its incentive payments from the city. It receives a property tax rebate of 25 percent and a sales tax rebate that began at 80 percent but has decreased to 50 percent. Each year, the city transfers the funds associated with its economic incentives payments into the Economic Incentive Reserve Fund (EIRF) to be paid out to the following year after the company demonstrates compliance with the agreement.¹⁰ (See Tables 2 & 3)

Table 2. Property & Sales Tax Rebate Payments^{9,10}

Category	Payment
Total Est. Incentive Payments Due	\$37,545,000
Total Payments Issued to Date	\$14,764,648
Domain FY 2018 Rebate Payments	\$1,997,644
Sales Tax Rebate Payments	\$1,531,440
Property Tax Rebate Payments	\$466,204
Domain Transfer to EIRF in FY18	\$2,149,950
Transfer for Sales Tax Rebate	\$1,684,583
Transfer for Property Tax Rebate	\$465,367

Table 3. Tax Rebate Calculation²

Years	Tax Rebate
Sales Tax Rebate	Varies
Years 1-5	80%
Years 6-20	50%
Property Tax Rebate	25%

⁹ "Economic Development Compliance: Chapter 380 Agreement Basic Information," Austin Open Data Portal.

¹⁰ Budget Question #75, Economic Development Department (15 August 2017).