



MEMORANDUM

TO: Mayor and Council

FROM: Veronica Briseño, Director
Economic Development Department

DATE: October 29, 2020

SUBJECT: Response to Resolution No. 20200917-062: Chapter 380 Policy and Program

Background

On October 1, 2020, the Austin City Council approved Ordinance No. 20201001-052, which authorized the development of three grant programs – collectively referred to as Save Austin’s Vital Economic Sectors (SAVES) – to provide immediate relief for live music venues, art venues, restaurants and bars, and childcare facilities.

In Resolution No. 20200917-062 passed on September 17, 2020, City Council also instructed staff to “explore and identify additional ways that the city can provide support to these sectors and businesses within these sectors in addition to the funding and financing options addressed above. These may include, but not be limited to, revising the Chapter 380 program to expand its application...”. Chapter 380 refers to the state statute that allows cities to create programs for making loans and grants of public money and provide personnel and services of the municipality to promote state or local economic development and to stimulate business and commercial activity in the municipality. The City of Austin adopted a new Chapter 380 Policy and a corresponding incentive program, the Business Expansion Incentive Program, on August 30, 2018 through Resolution No. 20180830-056 and Ordinance No. 20180830-057.

Proposed Chapter 380 Policy and Program Considerations

In response to the Council’s direction, staff recommends the revisions to the Application/Evaluation Process and Compliance sections within the existing Chapter 380 Policy enclosed as Exhibit A. Staff identified five key programmatic elements in the current framework that, if modified, would allow for the development of a toolkit of recovery programs that would be responsive to the impact of COVID-19:

- Fiscal Impact
- Property Tax Appeals
- Living Wage
- Employer Benefits
- MBE/WBE & Prevailing Wage

Adoption of staff’s recommendations, which are summarized in Exhibit B, would reduce the barriers to eligibility and provide deeper benefits for local businesses.

Proposed COVID-19 Economic Recovery Programs

As a primary example of a COVID-19 recovery program that utilizes the Chapter 380 framework, staff drafted program guidelines for the Recovery Lease Incentive Program (RLI) (Exhibit C). The RLI offers commercial property tax reimbursements to property owners in exchange for renegotiating leases with small businesses in the target sectors to address arrears and long-term affordability in order to recover from the COVID-19 crisis.

Additionally, staff developed guidelines for the Restaurant Relief Program (RRP) (Exhibit D), which offers forgivable loans to Austin-based restaurants (excluding franchises), including full-service, limited service, delicatessens, cafes, cocktail lounges, brewpubs and breweries, and specialized grocers with food preparation and sale. This program would offer loans with deferred repayments to eligible businesses, and loan forgiveness for companies meeting higher standards of employee and community benefits.

In order to implement the RLI and RRP programs, revisions to the Chapter 380 Policy would be required. Exhibits A and B delineate the required revisions.

Funding Process and Requirements for RLI and RRP Programs and Staff Recommendation

There is currently no funding for neither the RLI nor RRP programs. Because incentive payments through the Chapter 380 Policy and Program are performance-based and are predicated on property tax reimbursements, the funding for the program lags one fiscal year. Neither programs were contemplated nor funded in the Fiscal Year 2020/21 Adopted Budget. Please see the illustration in Exhibit E which describes the timing and funding of Chapter 380 performance-based payments.

Without an explicit and unencumbered funding source, the RLI and RRP programs cannot be executed. Staff does not recommend allocating existing local funds toward either program this fiscal year. If additional existing local funds do become available this fiscal year, staff recommends those funds be allocated to existing relief grant programs.

Staff recommends the following for consideration:

1. Utilize the RLI and RRP programs to promote stabilization and viability for long-term purposes.
2. Adopting the Chapter 380 Policy amendments and the RLI Guidelines and/or the RRP Guidelines this calendar year but implement the programs beginning in Fiscal Year 2021/22. This time lag allows the staff to estimate program costs and to develop a proposed budget for consideration during the budgeting process.
3. If additional federal funding becomes available this fiscal year and if such funding is allocated toward the RLI and RLP programs, implement the programs immediately utilizing the federal funding.

Application/Evaluation Process:

- → Applicants for each project provides 'But-For' statement with credible evidence that the incentive either fills a gap that creates desirable outcomes, or that the project addresses a competitive position around a relocation or expansion project that is considering viable alternative sites outside of Austin;
- → 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;
- → Applicants to all Chapter 380 grant and loan programs shall provide written policies to support anti-harassment and anti-discrimination practices for business operations and work environment in the City. 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;
- → 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;
- → Programs allow for project-based incentives for mixed-use projects and incentive proposals that include the use and development of publicly-owned property will promote community values;
- → For the redevelopment of public, or formerly public land, contractors and subcontractors are required to pay wages as required by Council;
- → Incentive proposals are encouraged to locate near transit developments and transportation hubs.
- → All construction work on the project, even if not on public land or formerly public land, must comply with the City's established prevailing wage program that is used on City public works projects;
- → All construction workers hired for construction for the project will be provided Workers Compensation Insurance and OSHA 10 Training;
- → Allow a Council-approved deviation for incentive agreements will from the Minority and Women-Owned Business Enterprise Program & Prevailing Wage policy on a program-by-program basis and make Minority and Women-Owned Business Enterprise Program requirements & Prevailing Wage an encouraged standard in industries that do not currently meet this threshold through tiered incentives. adhere to Minority and Women-Owned Business Enterprise Program requirements;
- → The project will make best faith efforts to ensure all employees are paid no less than the City's living wage and as it may be adjusted annually, including full-time employees and 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's living wage; Council may make living wage an encouraged standard in industries that do not currently meet this threshold through tiered incentives;
- → Company shall make best faith efforts to provide 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. Council may make health insurance benefits an encouraged standard in industries that do not currently meet this threshold through tiered incentives;

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Compliance:¶

- → Incentive agreement grants are performance-based investments;¶
- → Compliance review for all economic development agreements will be verified by an independent party and results made publicly available and posted on the City's website;¶
- → 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 development 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.¶
- → 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 the City may unilaterally reduce the incentive amount to reflect the lowered property value; however, the City should take note that during economic downturns resulting from circumstances such as COVID-19, current assessments may not accurately represent a reduction in value from loss of sales and property tax appeals may be a warranted action.¶

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Exhibit B: Summary of Proposed Amendments to Chapter 380 Policy

Item	Existing Policy	Proposed Policy	Justification
Fiscal Impact	“The City must get a benefit that is roughly equivalent to what it is spending”	A) Maintain the current policy but develop a relatively more flexible cost-benefit tool that measures the marginal benefit (or cost) of providing incentives to industries impacted by COVID-19.	The standard WebLOCI tool is predicated on the job-chain theory, which is not applicable to this exercise. Industry retention through the pandemic and recovery period should be prioritized
Property Tax Appeals	“...if the business successfully protests and lowers its property tax valuation, the reimbursement from the City may be reduced proportionately.”	A) Allow a council approved deviation from the policy on a program by program basis.	The lessee of a commercial space is the intended beneficiary of these programs; a lessee should not be penalized for a landlord’s decision to appeal their property taxes. Additionally, the current economy has affected valuations, and current assessments may not accurately represent a reduction in value from loss of sales.
Living Wage	“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. This requirement applies in addition to and not as a substitute for the requirement for firms to provide wages above the industry median wage.”	A) Allow a council approved deviation from the policy on a program by program basis. B) Make Living Wage an encouraged standard in industries that do not currently meet this threshold through tiered incentives.	Current Living Wage requirements preclude a significant share of local companies from participating in the program, which includes social service organizations, non-profits, restaurants, bars, music venues, childcare facilities, and arts venues.
Employer Benefits	Company provides health insurance benefits for all new full-time employees and extends benefits to domestic partners of employees and their dependents.	A) Allow a council approved deviation from the policy on a program by program basis. B) Make health insurance benefits an encouraged standard in industries that do not currently meet this threshold through tiered incentives.	These provisions may not be tenable for intended stakeholders, especially in music venue, restaurant, and bar sectors; and, a triparty agreement complicates compliance
MBE/WBE & Prevailing Wage	Incentive agreements will adhere to Minority and Women-Owned Business Enterprise Ordinance to the extent feasible	A) Allow a council approved deviation from the policy on a program by program basis B) Make MBE/WBE & Prevailing Wage an encouraged standard in industries that do not currently meet this threshold through tiered incentives	These provisions may not be tenable for the intended stakeholders, especially in music venue, restaurant, and bar sectors; and, a triparty agreement complicates compliance

Exhibit C

Chapter 380: Recovery Lease Incentive Program DRAFT

City of Austin – Economic Development Department

Background

On October 1, 2020, the Austin City Council approved Ordinance No. 20201001-052, which authorized the development of three grant programs – collectively referred to as Save Austin’s Vital Economic Sectors (SAVES) – to provide immediate relief for live music venues, art venues, restaurants and bars, and childcare facilities.

In Resolution No. 20200917-062 passed on September 17, 2020, City Council also instructed staff to “explore and identify additional ways that the city can provide support to these sectors and businesses within these sectors in addition to the funding and financing options addressed above. These may include, but not be limited to, revising the Chapter 380 program to expand its application...” Chapter 380 refers to the state statute that allows cities to create programs for making loans and grants of public money and provide personnel and services of the municipality to promote state or local economic development and to stimulate business and commercial activity in the municipality. The City of Austin adopted a new Chapter 380 Policy and a corresponding incentive program, the Business Expansion Incentive Program, on August 30, 2018 through Resolution No. 20180830-056 and Ordinance No. 20180830-057.

The Chapter 380 Policy, which promotes job creation, business expansion, and corporate relocations, does not adequately address the needs of the business community impacted by the COVID-19 pandemic. Accordingly, Council has directed staff to temporarily revise the existing Chapter 380 Policy to create programs that support restaurants, live music venues, art venues, and childcare facilities to help them stabilize and recover over the next year.

Council also provided guidance on 380 Program revision on October 15th, directing staff to “include provision of legal and financial expertise for businesses who are seeking relief through the programs to assist in such matters as extension of rental relief and other relief that enables the businesses to survive long-term.” The framework for providing for legal and financial consultation across programs is under development, but revised 380 processes will include this component.

Council has also directed recipients of SAVES program funding to demonstrate a “good faith effort to work with their property owner to negotiate a more favorable agreement.” It may be appropriate for this program to coordinate with other SAVES programs to incentivize these lease reductions.

Chapter 380 Recovery Lease Incentives (RLI) Program Guidelines DRAFT

The Recovery Lease Incentive (RLI) offers commercial property tax reimbursements to property owners in exchange for renegotiating leases with small business to address arrears and long-term affordability in order to recover from the COVID-19 crisis.

Benefits

A participating property owner will be entitled to a City of Austin property tax reimbursement for the portion of property associated with the participating commercial lease. This reimbursement will be given following successful completion of contract terms, with lease documentation and verification by the tenant. Reimbursements will be available for one (1) year, with potential for annual renewal.

TENTATIVE Benefit Schedule		
% Reduction in Rent	Property Tax Reimbursement	Reimbursement Period (Amortized if necessary)
50%	100%	14 months
60%	100%	16 months
70%	100%	18 months
80%	100%	20 months
90%	100%	22 months
100%	100%	24 months

*Subject to change

This reimbursement will be given following successful completion of contract terms, with lease documentation and verification by the tenant. Reimbursements will be available for one (1) year, with potential for annual renewal.

While this program is focused on reimbursing real property taxes associated with commercial leases, property taxes associated with business personal property of the commercial tenant may also be reimbursed. Tenants seeking business personal property tax reimbursements in addition to rent relief shall satisfy the requirements expressed herein. Property taxes associated with non-business assets will not be eligible for reimbursement. Additional criteria may apply.

Eligible Applicants

Commercial property owners **and** commercial businesses that lease a facility may apply to the RLI program.

Eligible commercial business tenant applicants must meet the following conditions:

- Demonstrate year-over-year revenue loss of 25% or more
- Be headquartered in a City of Austin Council District
- Operates from a publicly-facing, physical building
- Employ 75 full time equivalent (FTE) employees or fewer as of October 1, 2020
- May be organized as partnerships, sole proprietorships, LLCs, cooperatives, or other business structures
- Provide one (1) year of federal income tax returns
- Be a target sector of the SAVES resolution: restaurants/bars, live music venues, art venues) or an adjacent sector (including small retail in a restaurant and tourism-oriented district)

Eligible Criteria

Commercial property owners **and** the respective commercial business must renegotiate an existing lease that helps to mitigate the financial impact of COVID-19 and supports long term affordability.

A renegotiated lease shall:

- Extend for at least 12 months from date of execution;
- Be mutually agreed upon by the tenant and landlord; and,
- Provide a reduction in current terms, rather than a deferment of current rent.

The form of rent reduction may take, but not be limited to, the following forms:

- Addition of a 12-month amendment to current lease terms for a percentage reduction in rent, with an option to renew;
- Addition of a 12-month amendment to current lease terms making rent equivalent to a portion of sales rather than a base rate, with an option to renew; or,
- Address deferred commercial rent incurred between March 1, 2020, and the agreement start date.*

*If the property owner has deferred rent, the property owner and tenant may agree to use deferred months' rents toward the total 12 months of the first renegotiated lease.

Activity that **does not** qualify for a property tax reimbursement:

- Rent incurred prior to March 1, 2020
- Commercial rent without proof of reduced lease terms for at least twelve (12) months, verified by the commercial tenant
- Retroactive repayment of already paid or forgiven commercial rent

Obligations and Required Documentation

The following documents are required at time of application:

- Signed inducement statement from the commercial tenant asserting that but for this incentive program, their business would close, resulting in job loss for all employees
- Lease with specific terms (a final, legally binding lease signed by both parties must be provided to the City of Austin to ensure compliance and obtain reimbursement)
- Affidavit certifying that the commercial business has suffered a gross revenue loss of at least 25% as March 1, 2020 to date of application
- Payroll record of commercial tenant (to document number of employees)
- Registration with the Secretary of State or County Clerk for property owner and commercial tenant
- RLI application

Upon performance and at the end of the term, commercial property owners and the respective tenant shall sign off that the terms of the renegotiated lease were complied to by both parties, regardless of a transfer of property ownership during that term.

In the event that a commercial tenant closes during the term of the agreement, the property owner would be eligible for prorated property tax reimbursement based on the number of months of the term fulfilled, assuming all other conditions of the lease had been fulfilled. Verification of contract compliance by the commercial tenant would still be required in this

case. Following this verification, the next commercial tenant for the space may be an eligible business for the purposes of this program.

Fiscal Impact

The City will assume the following inducement argument holds true for all transactions executed under the RLI:

“But for the financial assistance provided to the commercial tenant by incentivizing rent relief, the business in question would cease to exist, as would the jobs that relate to that enterprise.”

The inducement argument can also be represented by the following equation:

$$\begin{array}{r} \text{Property tax and sales tax generated by the business} \\ + \text{ Indirect impact of establishment} \\ + \text{ Property tax and sales tax induced by employee spending} \\ (-) \text{ Property tax reimbursement/abatement} \\ \hline \text{Positive Fiscal Impact} \end{array}$$

Depending on the preferred reimbursement period and timing of the incentive payment, there are two distinct implications on the City’s budget:

- If an incentive payment is made **at time of contract execution**, the commercial landlord would receive a reimbursement amount equal to **CY 2020’s** real property tax (and/or business personal property tax). This would require an allocation of funds from **this** fiscal year’s budget.
- If an incentive payment is **differed to the end of the term of the agreement**, the commercial landlord would receive a reimbursement amount equal to **CY 2021’s** real property tax (and/or business personal property tax). This would require an allocation of funds from **next** fiscal year’s budget. These costs may also be covered by additional federal aid for recovery if that is made available.

Exhibit D

Chapter 380: Restaurant Relief Program DRAFT

City of Austin – Economic Development Department

Background

On October 1, 2020, the Austin City Council approved Ordinance No. 20201001-052, which authorized the development of three grant programs – collectively referred to as Save Austin’s Vital Economic Sectors (SAVES) – to provide immediate relief for live music venues, art venues, restaurants and bars, and childcare facilities.

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The Chapter 380 Policy, which promotes job creation, business expansion, and corporate relocations, does not adequately address the needs of the business community impacted by the COVID-19 pandemic. Accordingly, Council has directed staff to temporarily revise the existing Chapter 380 Policy to create programs that support restaurants, live music venues, art venues, and childcare facilities to help them stabilize and recover over the next year.

Council also provided guidance on 380 Program revision on October 15th, directing staff to “include provision of legal and financial expertise for businesses who are seeking relief through the programs to assist in such matters as extension of rental relief and other relief that enables the businesses to survive long-term.” The framework for providing for legal and financial consultation across programs is under development, but revised 380 processes will include this component as well as other criteria from Council.

Restaurant Relief Program

The Restaurant Relief Program (RRP) offers forgivable loans to Austin-based restaurants (excluding franchises), including full-service, limited service, delicatessens, cafes, cocktail lounges, brewpubs and breweries, and specialized grocers with food preparation and sale. Eligible businesses must be generating sales in some capacity at the time of loan, or use the loan to facilitate restoration of sales and revenues.

This program would require a source of relief funding. While it is loan-based, it includes the possibility of loan forgiveness for meeting performance criteria. Loans should also be considered higher risk given depressed revenues in the restaurant industry.

Benefits

A participating business will be eligible for a low- or zero- interest loan of up to \$100,000 that can be used toward the following purposes, and other purposes as may be determined:

1. Commercial rent and mortgage payments
2. Payment toward the purchase of the commercial real estate associated with the business
3. Operational costs

4. Vendor bills and invoices
5. Providing free or discounted meals for area nonprofits or food insecure individuals and families, determined in a manner consistent with existing City of Austin programs and standards
6. Payroll costs including, but not limited to, the following:
 - Normal payroll
 - “Hazard pay” set at the greater of \$5 per hour in additional to base wage, or meeting \$15 per hour standards
 - Contractors
 - Benefits
 - Maintaining insurance, pay, or other benefits for retention of furloughed employees

Maximum loan size would be tied to the restaurant’s sales in the quarter preceding City of Austin Stay at Home orders (2019 Q4), or three times the average monthly sales for 2019 (whichever is greater). Loan size could not exceed this value, and would be capped at \$100,000.

Loan repayment term would be 5 years, with an option to amortize payments from the 13th through 60th month. If repayment begins immediately, each monthly payment would be approximately \$1,000 for a full \$50,000 loan with a low-interest rate. If repayment is deferred for the first twelve (12) months, monthly payments for years 2, 3, 4, and 5 would be approximately \$1,300.

Eligible Applicants

Eligible commercial business tenant applicants must meet the following conditions:

- Business is a restaurant or bar, including the following specific types: full-service restaurants, limited service restaurants, delicatessens, cafes, cocktail lounges, brewpubs and breweries, and specialized grocers with food preparation and sale.
- Headquartered in an Austin City Council District
- Operating from a publicly-facing, physical building
- Demonstrable year-over-year sales loss of 25% or more since March 1, 2020
- Seventy-five (75) or fewer FTE employees per establishment as of October 1, 2020
- Established and operating at least one (1) year (this may include period between March 1, 2020 – October 2020, even if business was forced to remain closed for some or all of these period)
- No more than five (5) establishments per restaurant, with restaurants eligible for loans for each establishment

Eligibility Criteria and Loan Forgiveness Criteria

This program recognizes the emergency conditions faced by many businesses during the pandemic and the need for flexibility in program requirements. The restaurant sector in general cannot meet several of the requirements mandated in current Chapter 380 policy. These will not be required for loan recipients.

However, to incentivize better practices in the restaurant sector, this program makes loans forgivable based on meeting high performance standards for public health and employee health, safety, and equity. Eligible businesses may apply for loan forgiveness for one establishment per owner. Loan forgiveness would be dependent upon meeting certain major expectations, including the following:

- Minimum Standards for Loan Forgiveness
 1. Complying with industry guidance from the State of Texas, which can be found at open.texas.gov, on safe operations for employees and customers (required for loan forgiveness)

2. Not receiving complaints related to COVID safety compliance, or making satisfactory remedy of any complaints in an expedient fashion (required for loan forgiveness)
 3. Offering paid leave or expanded family and medical leave for employees who test positive for COVID-19 consistent with the Families First Coronavirus Response Act.
 4. Offering paid sick leave with a minimum of one hour of sick time for every 30 hours worked for all employees. (required for loan forgiveness)
- **Loan Forgiveness Options**
 1. Meeting City of Austin living wage standards (FY2020) for all employees, or \$15 per hour. Forgiveness eligibility would begin after this standard is met. If a restaurant already pays a base wage for all employees of \$15 per hour at the time of the loan, all payments may be eligible for forgiveness. If a restaurant “ramps up” to paying a \$15 base wage by the end of year 3, payments in year 4 and 5 may be eligible for forgiveness.
 2. Submitting a signed statement affirming the completion of a labor peace agreement with a labor organization that seeks to represent employees working in the business, before any loan forgiveness begins, or a signed affidavit affirming commitment to completing a labor peace agreement if the business is approached by a labor organization.
 3. Local Purchasing. Forgiveness eligibility may be tied to the portion of food products sold that come from local sources, defined as a 150 mile radius of the city of Austin.

Up to 25% of the loan may be forgiven following successful completion of the Minimum Standards. Additional loan forgiveness will require meeting one or more of the Loan Forgiveness Options.

Obligations and Required Documentation

The following documents are required at time of application:

- Application
- Current Balance Sheet & Profit & Loss Statement of business, or other documentation that sales reduction eligibility criteria have been met
- Verification of 2019 sales
- Payroll record of business (to document number of employees)
- Registration with the Secretary of State or County Clerk for business

Prior to loan delivery, additional financial documents will be required for review. For loan forgiveness, documentation will be required to prove forgiveness requirements were met for the forgivable period of the loan. This may include payroll statements, signed statements and affidavits, vendor schedules, and other material.

Fiscal Impact

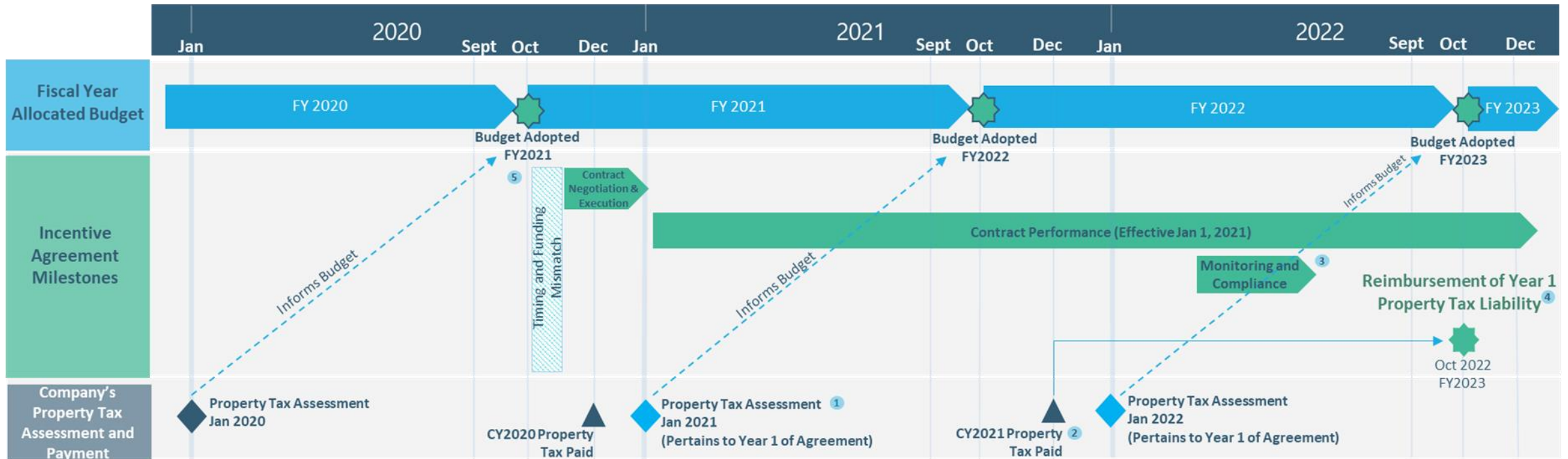
The Restaurant Relief Program requires payment up front to allow for loan delivery. While it provides loans, many of these loans will be forgivable, and most of these loans will be higher risk given pandemic business conditions. The RRP would require a dedicated fund in advance of deployment, from City resources or additional federal or state funding for small business recovery support.

A dedicated fund of \$10 million would be able to support 100-200 loans. Non-forgiven portions of these loans may be used to support additional loan deployment during the pandemic recovery period, i.e., as a revolving loan fund.

Exhibit E: Standard Chapter 380 Budgeting and Payment Timeline

Standard Chapter 380 Budgeting and Payment Timeline

Assumes a 2-year agreement executed after 10/1/2020



Chapter 380 Payment: Process and Timing

- Year 1 tax is assessed.
 - The City adopts a budget for its fiscal year, which includes anticipated expenses related to incentive agreements, based on the sum of assessed property tax liabilities
- Year 1 tax is paid by the company and the City collects the revenue into the General Fund coffers
 - Within the same calendar year that COA receives the revenue, COA transfers the amount EDD will reimburse the company into the Economic Incentive Reserve Fund
- All Chapter 380 agreements are performance-based, which requires annual contract monitoring and compliance before the City may remit payment
- Year 1 reimbursement are paid to the company out of the Economic Incentive Reserve Fund
- If a contract is executed after COA's budgeting process, a timing and funding mismatch exists between *appropriated funds* and *incurred expenses* as a result of the transaction; accordingly, the business must wait two calendar years before receiving an incentive payment