

City of Houston, Texas Ordinance No. 99-674

**AN ORDINANCE ESTABLISHING AN ECONOMIC DEVELOPMENT PROGRAM PURSUANT TO CHAPTER 380 OF THE LOCAL GOVERNMENT CODE, TO BE ADMINISTERED BY THE PLANNING & DEVELOPMENT DEPARTMENT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**WHEREAS**, Article 3, Section 52-a of the Texas Constitution authorized the legislature to provide for the creation of programs and the making of loans and grants of public money for certain specified public purposes; and

**WHEREAS**, pursuant to such authorization, the legislature passed Chapter 380 of the Texas Local Government Code ("Local Government Code"), which contains certain statutes authorizing municipalities to establish certain economic development programs (hereinafter referred to as a "Chapter 380 Program"); and

**WHEREAS**, Section 380.001 of the Local Government Code permits a municipality to establish and provide for the administration of one or more Chapter 380 Programs to promote state or local economic development and to stimulate business and commercial activity in the municipality, including programs for making loans and grants of public money and providing personnel and services of the municipality; and

**WHEREAS**, under Section 380.001 of the Local Government Code, the governing body of a municipality may administer a Chapter 380 Program by the use of municipal personnel, and may accept contributions, gifts, or other resources to develop and administer the Chapter 380 Program; and

**WHEREAS**, pursuant to Section 380.002 of the Local Government Code, a home-rule municipality with a population of more than 100,000 may create Chapter 380 Programs for the grant of public money to any organization exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 (the "Code"), as an organization described in Section 501(c)(3) of the Code (a "Tax Exempt Organization"), for the following public purposes:

- (i) development and diversification of the economy of the state;
- (ii) elimination of unemployment or underemployment in the state; and
- (iii) development or expansion of commerce in the state;

(collectively, the "Public Purposes"); and

**WHEREAS**, any grant under Section 380.002 of the Local Government Code must be in furtherance of the Public Purposes, and shall be used by the recipient as determined by the recipient's governing board for programs found by the municipality to be in furtherance of Section 380.002 of the Local Government Code, and under conditions prescribed by the municipality; and

**WHEREAS**, the funds granted by the municipality under Section 380.002 shall be derived from any source lawfully available to the municipality under its charter or other law, other than from the proceeds of bonds or other obligations of the municipality payable from ad valorem taxes; and

**WHEREAS**, under Section 380.003 of the Local Government Code, a municipality may, as an agent of the State, provide matching funds for a federal program that requires local matching funds from a state agency, to the extent state agencies that are eligible decline to participate or do not fully participate in the program; and

**WHEREAS**, the Director of the Planning & Development Department has recommended that the City of Houston establish a Chapter 380 Program which will permit the City to provide loans, grants, and/or matching funds under any or all sections of Chapter 380 of the local Government Code to qualified applicants upon approval by City Council on a case-by-case basis; and

**WHEREAS**, in order to establish guidelines for Chapter 380 assistance eligibility, the Director of the Planning and Development Department has recommended that City Council adopt the "Criteria for Chapter 380 Assistance" set forth in Exhibit "A" to this Ordinance; and

**WHEREAS**, a Chapter 380 Program will benefit the City by stimulating business and commercial activity within Houston; **NOW, THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** The City Council adopts the findings set out in the preamble hereof and hereby establishes the City of Houston Chapter 380 Program under the provisions of Chapter 380 of the Local Government Code. The purposes of the Chapter 380 Program shall be:

(i) to make loans and/or grants of public money and to provide personnel and/or services of the City of Houston for the purpose of promoting state or local economic development and to stimulate business and commercial activity in the City of Houston, pursuant to Section 380.001 of the Local Government Code;

(ii) to accept contributions, gifts or other resources pursuant to Section 380.001 of the local Government Code, for the purpose of developing and administering the program;

(iii) to make grants of public money under Section 380.002 of the Local Government Code, to one or more Tax Exempt Organizations, provided that each such grant is in furtherance of the Public Purposes, and is used by the recipient pursuant to written agreement with the City; and

(iv) to provide matching funds under Section 380.003 of the Local Government Code for a federal program that requires local matching funds from a state agency to the extent state agencies that are eligible decline to participate or do not fully participate in the program.

**Section 2.** The Program shall be administered by the Director of the Planning & Development Department or such Director's designee (the "Director"). Qualified applicants for Chapter 380 assistance shall generally meet the "Criteria for Chapter 380 Assistance" guidelines attached hereto as Exhibit "A"; provided, however, that the Director may propose an application for assistance which does not meet all the criteria if, in the opinion of the Director, the application is otherwise meritorious. Proposals for grants, loans or matching funds to qualified applicants which are recommended by the Director may be presented to the appropriate Council committee. Proposals which are recommended shall be presented to City Council for consideration and approval, and for appropriation of any necessary funds. Funding for the Program's loans, grants and matching funds shall be provided on a case by case basis, based upon the recommendations of the Director, as approved by City Council. City Council approval and appropriation of Chapter 380 assistance for an applicant shall constitute an offer of assistance which shall terminate if the transaction is not closed within 180 days after the effective date of the authorizing ordinance.

**Section 3.** There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Charter of the City of Houston, Texas.

PASSED AND ADOPTED on this the 30<sup>th</sup> day of June, 1999.

APPROVED on this the \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, of the Charter of the City of Houston, Texas, the effective date of the foregoing Ordinance is JUL 06 1999.

  
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City Secretary

Prepared by Legal Dept.  
LD # 34-98384-01

  
Tamea A. Dula  
Senior Assistant City Attorney

(Requested by Robert Litke, Director,  
Planning & Development Department)

AYE	NO	
✓		MAYOR BROWN
••••	••••	COUNCIL MEMBERS
✓		TATRO
✓		YARBROUGH
✓		WONG
✓		BONEY
✓		TODD
✓		DRISCOLL
✓		KELLEY
✓		FRAGA
✓		CASTILLO
✓		PARKER
✓		ROACH
✓		SANCHEZ
✓		BELL
✓		ROBINSON
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT  
REVIEW  
DATE: JUL 06 1999

Exhibit "A"

**CRITERIA FOR CHAPTER 380 ASSISTANCE**

The City of Houston's Chapter 380 Program provides financial assistance in the form of loans and/or performance-based grants to qualified businesses for eligible projects located within the Houston city limits. Eligible projects must demonstrably stimulate business and commercial activity in Houston.

All applications for assistance are reviewed by the Director of the Department of Planning and Development ("Director") and staff on a case-by-case basis. Eligible projects which are recommended by the Director will be submitted to City Council for consideration of the proposed assistance package. All assistance is subject to City Council approval of the proposed project and the assistance package, and is further subject to City Council's concurrent appropriation of funding for the specific project.

Eligible projects may include (but are not limited to) manufacturing, research and development, historical preservation, residential, commercial, industrial and regional service facilities. An eligible project must include:

- a. construction of substantial new real property improvements of at least \$2,500,000 in value, or extensive renovation of existing improvements, on land owned or to be acquired by the applicant; and
- b. documented equity investment of at least \$500,000 (loans to the project and guarantees of third party financing do not qualify);

and either:

- c. documented creation of at least 25 new full time jobs (40-hours per week), and retention of such jobs for a period of no less than five years; or
- d. creation of affordable housing or transitional housing, to be established by deed restrictions recorded in the Official Public Records of Real Property of the county in which the property is located.

Assistance packages shall have a maximum term of ten years. Chapter 380 Program loans shall be recourse lending secured by deed of trust or appropriate collateral or non-recourse lending secured by deed of trust or appropriate collateral. Chapter 380

Program grants shall be structured as performance-based grants which require repayment if required performance levels are not met.

Applicants for assistance shall initiate consideration by submitting the following items:

1. Letter from applicant describing the proposed project, its impact upon the community and its fiscal effect upon the City, and outlining requested financial assistance.
2. Business Plan including, but not limited to, executive summary, company history, historical and proforma financial information and resumes of the company principal(s).
3. Phase I Environmental Survey of the real property to be developed.
4. Survey of the real property to be developed.
5. Preliminary plans for the proposed real property improvements or renovations.
6. Two preceding years' Financial Statements for applicant entity.
7. Nonrefundable application fee of \$500.00 to partially defray the cost of staff time to process and review the application. The Director may waive this fee for applicants which are non-profit entities.

Applications for assistance will be reviewed for qualification and feasibility by City staff. Recommended applications for assistance will be considered at committee meetings and City Council meetings conducted pursuant to the Texas Open Meetings Act. Additional information concerning a proposed project may be requested by the Director, City staff, Committee members, or City Council.

**REQUEST FOR COUNCIL ACTION**

**TO: Mayor via City Secretary**

**RCA #**

**SUBJECT:** An ordinance authorizing the creation of a loan/grant program pursuant to Chapter 380 of the Texas Local Government Code.

**Category #**

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**Agenda Item#**

43

**FROM: (Department or other point of origin):**

**Origination Date**

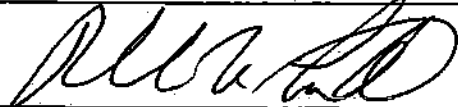
**Agenda Date**

Planning and Development Department

6-24-99

JUN 30 1999

**DIRECTOR'S SIGNATURE:**



**Council Districts affected:**  
District "I" CM Castillo

**For additional information contact:**

Robert M. Litke                      837-7708  
Bill Calderon                         837-7787

**Date and identification of prior authorizing Council Action:**

99-674

**RECOMMENDATION: (Summary)** Approve an ordinance creating a loan/grant program pursuant to Chapter 380 of the Texas Local Government Code to enable the City to make grants and loans to certain entities.

**Amount of Funding:**

**P&D Budget:**

**SOURCE OF FUNDING:**     General Fund     Grant Fund     Enterprise Fund  
 Other (Specify)

**SPECIFIC EXPLANATION:**

In 1987, an amendment to the State Constitution was approved by voters which authorized the State legislature to adopt legislation creating a mechanism which would enable the use of local tax revenue (public money) for economic development purposes. In 1989, the State legislature adopted Chapter 380.001 of the local government code, creating a mechanism that could be used by municipalities for granting or loaning local tax revenue providing such loans and grants were made for economic development purposes.

In 1991, the State legislature adopted Chapter 380.002 which provides that municipalities may create programs for the grant of public money to tax exempt organizations for the public purpose of development and diversification of the economy of the state, elimination of unemployment or underemployment, and development or expansion of commerce. Funds for the program may be derived by any lawful source under the City Charter, other than from the proceeds of bonds or other obligations of the City payable from ad valorem taxes. In the 1995, the legislature provided that these funds could also be used as matching funds for federally funded programs.

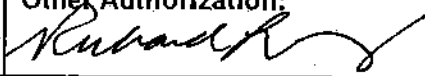
Creation of a Chapter 380 loan/grant program is being proposed to provide the City an additional tool for use in economic development and redevelopment projects that might not otherwise be financially viable, but are of clear benefit to the City. The proposed eligibility criteria will require applicants to invest a minimum of \$500,000, create and maintain at least 25 full-time jobs for a minimum of five years. Eligible facilities will include manufacturing, research and development, historic preservation, residential, commercial, industrial, and regional service facilities. An application fee of \$500 is proposed.

**REQUIRED AUTHORIZATION**

**F&A Director:**

**Other Authorization:**

**Other Authorization:**



<b>Date:</b>	<b>Subject: Chapter 380 Grant / Loan Program</b>	<b>Originator's Initials</b>	<b>Page 2 of 2</b>
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Creation of this program will enable the City to consider loaning \$4.6 million from the convention and entertainment facilities fund to Historic Restoration Inc. as assistance in the redevelopment of the former Humble Oil Building. The proposed project would convert the building into a mixed use facility consisting of a 191 room Marriott Courtyard, a 171 room Marriott Residence Inn, and 82 market rate apartments together with parking for the entire development. The property, acquired by the company last year, will require extensive restoration. The total estimated investment is \$64.8 million.

It is envisioned that this program might be utilized for other vacant and/or lien encumbered properties which have redevelopment potential and are not financially feasible but for a grant or loan under this program. It is believed that a portion of the excess general fund balance would be an appropriate funding source for future loans/grants on a limited basis.

A motion recommending City Council adoption of this ordinance and the creation of a Chapter 380 program was approved by the City Council Committee on Economic and Community Development.

cc: Agenda Director  
City Secretary  
City Attorney