AGENDA

CITY OF TAYLOR, TEXAS

CITY COUNCIL SPECIAL MEETING

CITY HALL, COUNCIL CHAMBERS, 400 PORTER STREET

JULY 2, 2015, 4:30 P.M.

CALL TO ORDER AND DECLARE A QUORUM

REGULAR AGENDA; REVIEW/DISCUSS AND CONSIDER ACTION

1. Consider approving 380 Economic Development Agreement for Summit Custom Cabinets, LLC. (Bob van Til)

ADJOURN

The Council may vote and/or act upon each of the items listed in this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, whenever it is considered necessary and legally justified under the Open Meetings Act including: Section 551.071 (Consult with attorney); Section 551.072 (Real Property); Section 551.073 (Gifts and Donations); Section 551.074 (Personnel Matters); Section 551.076 (Security Devices); and Section 551.087 (Economic Development). I certify that the notice of meeting was posted in the Taylor City Hall Lobby before 4:30 pm on June 29, 2015 and remained posted for at least 72 hours continuously before the scheduled time of said meeting. I further certify that the following news media was notified of this meeting: Taylor Press.

In compliance with the ADA the City Hall and Council Chambers is wheelchair accessible. Reasonable accommodations will be provided for persons attending city council meetings in need of special assistance. Please contact Susan Brock, City Clerk, at least 24 hours prior to the meeting for special assistance.

Posted By: Susan Brock Date 6/29/15

Susan Brock, City Clerk

City Council Meeting
July 2, 2015
Agenda Item Transmittal

Agenda Item #:	**1**
Agenda Title:	Consider approving 380 Economic Development Agreement for Summit Custom Cabinets, LLC.
Council Action to be taken:	Authorize City manager to execute
Initiating Department:	**Development Services**
Staff Contact:	**Bob van Til**

1. INTRODUCTION/PURPOSE

The purpose of this item is to consider approval of a 380 Agreement with Summit Custom Cabinets, LLC.

A special meeting was called to expedite the economic development and relocation process of this company.

The Company anticipates being open and in operation no later than June 30, 2016.

2. DESCRIPTION/ JUSTIFICATION

Summit Custom Cabinets is currently in Manor. Their business is cabinetry manufacturing. Their current facility is approximately 10,000 square feet and they currently have 23 employees.

The new facility is planned to be ~40,000 square feet and the owners anticipate bringing 65 new jobs to Taylor.

The value of the improvements is estimated to be $1,500,000.

The proposed agreement is structured as follows:
80% rebate for five years,
40% rebate for five years,
Waiver of all development related fees.

The estimated return on investment (ROI) is $0.70.

The Taylor EDC is considering a land grant of approximately seven acres on S. Edmonds in the Industrial Park, and a cash grant based on the number of employees.

3. FINANCIAL/BUDGET

The estimated benefit to the Company is over $400,000 for ten years from both the City as well as the Taylor EDC.

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Staff recommends that the Council approve the attached agreement.

6. REFERENCE FILES

1a. Summit Custom Cabinet 380 Agreement

June 29, 2015

SUMMIT CUSTOM CABINETS, LLC
AND

THE CITY OF TAYLOR, TEXAS,
CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT

This Economic Development Agreement ("Agreement") is entered into by and among and the CITY OF TAYLOR, TEXAS, a Texas home rule municipal corporation ("CITY"), and SUMMIT CUSTOM CABINETS, LLC, a Texas Limited Liability Corporation ("SUMMIT").

WHEREAS, the CITY adopted Ordinance 2010-38 on September 9, 2010, ("Ordinance"), establishing and authorizing the CITY to make economic development grants; and

WHEREAS, the CITY is granting economic benefits to SUMMIT in recognition of the positive economic benefits to the CITY through the SUMMIT (i) construction and operation of a cabinet manufacturing business ("Facility") on the real property shown in *Exhibit "A"* attached hereto and incorporated by reference herein ("Property"), and (ii) installation of machinery and equipment in the Facility for the purpose of supporting Facility operations("M&E"), all of which is described herein as the project ("Project"); and

WHEREAS, the purpose of this Agreement is to promote economic development contemplated by Chapter 380 and the Development Corporation Act, Chapter 501 of the Texas Local Government Code, whereby SUMMIT will construct, develop and operate the Project in compliance with the CITY'S development approvals for the Project, and the CITY will reimburse eighty (80%) per cent of the CITY ad valorem taxes imposed on (i) the Facility (ii) the Property, and (iii) the M&E, for a period of five (5) years and forty (40%) per cent of the CITY ad valorem taxes imposed on (i) the Facility (ii) the Property, and (iii) the M&E, for the subsequent period of five (5) years in accordance with the terms of this Agreement including without limitation Section 3 below and grant other 380 economic benefits set forth herein; and

WHEREAS, SUMMIT in consideration of this Agreement agree to develop and operate the Project in conformance and compliance with the terms and provisions of this Agreement and as required in *Exhibit "B"* attached hereto and incorporated by reference herein;

NOW, THEREFORE, in consideration of the mutual benefits and promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CITY and SUMMIT agree as follows:

1. AUTHORITY. The CITY'S execution of this Agreement is authorized by Chapters 380 and 501 of the Texas Local Government Code, and the Ordinance and constitutes a valid and binding obligation of the CITY in the event SUMMIT proceeds with the Project on the Property. The CITY acknowledges that SUMMIT is acting in reliance upon the CITY'S performance of its obligations under this Agreement in making their decision to commit substantial resources and money to construct the Project on the Property. SUMMIT'S execution and performance of this Agreement constitutes a valid and binding obligation upon and of SUMMIT in the event SUMMIT proceeds with the Project.

2. PROJECT. SUMMIT shall be obligated at all times to comply with all terms and provisions this Agreement, including without limitation, those required in *Exhibit "B"* in order to receive the economic benefits described within this Agreement. Subject to Section 7 of this Agreement, the CITY shall be entitled to withhold economic benefits granted under this Agreement if SUMMIT defaults under this Agreement in addition to all other relief provided to the CITY under law and equity.

3. CITY 380 GRANTS.

A. AD VALOREM TAX REIMBURSEMENT. The CITY shall reimburse SUMMIT as follows:

For a period of five (5) years beginning on January 1, 2017, the CITY shall annually reimburse to SUMMIT a Chapter 380 Payment equal to eighty (80%)per cent of the CITY ad valorem tax paid on (I) the Facility located on the Property (ii) the Property, and (iii) the M&E (collectively, "Assets"). For a subsequent period of five (5) years beginning on January 1, 2022, the CITY shall annually reimburse to SUMMIT a Chapter 380 Payment equal to forty (40%) per cent of the CITY ad valorem tax paid on (I) the Facility located on the Property (ii) the Property, and (iii) the M&E (collectively, "Assets").

The January 1, 2017, WCAD value of the Assets, which value shall hereinafter be referred to as the "Grant Value", for each tax year during the term in the manner and at the times set forth below.

Notwithstanding anything stated herein to the contrary, the Grant Value on January 1, 2017, must exceed one and a half million ($1,500,000.00) dollars before the City shall become obligated to make any Chapter 380 payment under this Agreement.

Further, SUMMIT must maintain a Grant Value exceeding one and half million ($1,500,000.00) dollars during the term of this Agreement as a condition precedent to the payment of Chapter 380 Payments. In the event the Grant Value becomes less than one and a half million ($1,500,000.00) dollars at any time during the term of this Agreement, the Chapter 380 Payment contemplated in this Agreement shall not apply to such tax year and this Agreement shall be in Default and all benefits and any other relief granted under the Agreement shall terminate.

With respect to each Chapter 380 Payment described above, SUMMIT shall notify the CITY in writing of any sums paid by SUMMIT to the Williamson County tax collection authority in the form of CITY ad valorem taxes on the Grant Items during the term of this Agreement on or before February 1 each year during the term of this Agreement (the "Ad Valorem Revenue Notice"). The CITY'S Chapter 380 Payments to SUMMIT with respect to the ad valorem revenue shall be based on the amount stated in the Ad Valorem Revenue Notice, which shall be verified by the CITY. Chapter 380 Payments shall be paid to SUMMIT by the CITY on an annual basis for the preceding year, on or before May 1 following the tax year for which they were paid. For example, the first Chapter 380 Payment by the CITY to SUMMIT shall be based on taxes paid for the year 2016, and shall be paid on or before May 1, 2017, and the last such payment shall be based on taxes paid for the year 2026, and shall be paid on or before May 1, 2027. The CITY shall not reimburse SUMMIT for any taxes not paid on or before February 1 of the calendar year the taxes are due. The CITY shall not reimburse SUMMITT for any late fees, interest or other costs associated with late payment of taxes.

B. DELINQUENT FEES OR TAXES. The CITY shall not make any tax reimbursement to SUMMIT as long as SUMMIT is delinquent on any fees or taxes, including but not limited to utility, drainage or water.

C. PERMIT WAIVER. The CITY shall waive one hundred (100%) per cent of all permit fees required by the CITY for construction of the Facility.

D. TAP AND IMPACT FEES. The CITY shall waive all tap and impact fees required by the CITY of construction of the Facility.

E. CERTIFICATES OF OCCUPANCY. This Agreement is subject to and contingent upon a Certificate of Occupancy issued by the City allowing occupancy and use of the Facility on or before June 30, 2016. In the event a Certificate of Occupancy is not issued on or before June 30, 2016, then in that event this Agreement shall terminate with no obligation or liability among the parties.

F. TEDC. The Taylor Economic Development Corporation ("TEDC") is granting additional economic benefits to SUMMIT. The terms and provisions of the TEDC economic grant are attached hereto as *Exhibit "B"* and incorporated by reference herein. SUMMIT'S failure to comply with the terms and provisions of the economic grant to them from the TEDC shall be deemed a default under this Agreement. A default of SUMMIT under this Agreement shall also be deemed a default under the TEDC economic grant to SUMMIT.

4. TERM. This Agreement shall become enforceable upon execution by the CITY and SUMMIT and shall be effective as of the date of this Agreement. This Agreement shall terminate no later than upon the CITY'S delivery to SUMMIT of the tenth (10th) annual Chapter 380 Payment unless terminated earlier pursuant to the terms of this Agreement.

5. SUMMIT'S OBLIGATIONS. In consideration of the CITY'S establishment of this economic development program for the Project by the CITY, pursuant to Texas Local Government Code Chapters 380 and 501 and under the Ordinance to promote local economic development and stimulate business and commercial activity within the CITY, if SUMMIT proceeds with the Project and accepts the Chapter 380 Payments from the CITY pursuant to this Agreement, SUMMIT agrees the requirements of this Agreement including *Exhibit "B"* shall be met.

6. MUTUAL ASSISTANCE. CITY and SUMMIT will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement, and to aid and assist each other in carrying out such terms and provisions in order to put each other in the same economic condition contemplated by this Agreement regardless of any changes in public policy, the law or taxes or assessments attributable to the Facility.

7. DEFAULT. If either the CITY or SUMMIT should default in the performance of any obligations of this Agreement, the other party shall provide such defaulting party written notice of the default, and a minimum period of thirty (30) days to cure such default, prior to instituting an action for breach or pursuing any other remedy for default. If the CITY or SUMMIT remains in default after notice and opportunity to cure, the non-defaulting party shall have the right to pursue any remedy at law or in equity for the breach. In addition, the CITY shall have the right to

terminate all economic benefits under this Agreement as well as all other relief provided under this Agreement.

8. ATTORNEY'S FEES. In the event any legal action or proceeding is commenced among the CITY or SUMMIT to enforce provisions of this Agreement and recover damages for breach, the prevailing party in such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action, unless prohibited by law.

9. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties. This Agreement may only be amended, altered or revoked by written instrument signed by the CITY and SUMMIT.

10. BINDING EFFECT. This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns.

11. ASSIGNMENT. SUMMIT may not assign all or any part of their rights and obligations to a third party without prior written approval of the CITY.

12. TERMINATION. In the event SUMMIT elects not to proceed with the Project as contemplated by this Agreement, SUMMIT shall notify the CITY in writing, and this Agreement and the obligations on the part of all parties shall be deemed terminated and of no further force or effect, with the exception of reimbursements, if any, that may be due to the CITY.

13. NOTICE. Any notice and or statement required and permitted to be delivered shall be deemed delivered by actual delivery, facsimile with receipt of confirmation, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addressed:

SUMMIT:	14319 Gregg Manor Road Manor, Texas, 78653
CITY:	City Manager

400 Porter Street
Taylor, Texas, 76574

14. INTERPRETATION. Each of the parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any party.

15. APPLICABLE LAW. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall be in the State courts of Williamson County, Texas.

16. SEVERABILITY. In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of the parties that the remainder of this Agreement shall not be affected. It is also the intention of the parties of this Agreement that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

17. PARAGRAPH HEADINGS. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

18. NO THIRD PARTY BENEFICIARIES. This Agreement is not intended to confer any rights, privileges or causes of action upon any third party.

19. NO JOINT VENTURE. It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The CITY, its past, present and future officers, elected officials, employees and agents do not assume any responsibilities or liabilities to any third party in connection with the Facility or the design, construction or operation of any portion of the Facility or Project.

20. EXHIBITS. The following Exhibits are attached and incorporated by reference for all purposes:

Exhibit "A": the "Property".

Exhibit "B": TEDC Agreement

Exhibit "C": the Condition of Receipt of public subsidies / Agreement Regarding Repayment of Interest

Dated this the 29th of June, 2015.

SUMMIT CUSTOM CABINETS, LLC

By: Tim Pugh
Its: Owner

By: Lenny Humphreys
Its: Owner

CITY OF TAYLOR, TEXAS

By: Isaac D. Turner
Its: City Manager

EXHIBIT "A"

Summit Cabinets

199 S. Edmonds, Taylor Texas 76574

Lot 1A-B, Block A, Mustang Creek Industrial Park Addition
7.0 Acres

EXHIBIT "B"

EXHIBIT "C"

EXHIBIT "C"

CONDITION ON RECEIPT OF PUBLIC SUBSIDIES/AGREEMENT REGARDING REPAYMENT OF INTEREST

WHEREAS, SUMMIT CUSTOM CABINETS, LLC has submitted an application to receive a public subsidy as defined in Chapter 2264, Texas Government Code (hereinafter "the Code"); and

WHEREAS, SUMMIT CUSTOM CABINETS, LLC has certified in said application that neither said business, nor a branch, division or department of said business knowingly employs or will hereafter knowingly employ an undocumented worker (as defined in the Code); and

WHEREAS the Code stated that if any business, or a branch, division, or department of the business, after receiving a public subsidy, is convicted of a violation under 8 U.S.C., Section 1324(f), the business shall be required to repay the amount of the public subsidy with interest; and

WHEREAS the Code requires that as a condition precedent to CITY OF TAYLOR, TEXAS providing such public subsidy, SUMMIT CUSTOM CABINETS, LLC must enter into a written agreement specifying the rate and terms of the payment of interest if SUMMIT CUSTOM CABINETS, LLC is required to repay the public subsidy.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS THAT THE CITY OF TAYLOR, TEXAS, and SUMMIT CUSTOM CABINETS, LLC hereby agree that if, after receiving a public subsidy from the CITY OF TAYLOR, TEXAS, SUMMIT CUSTOM CABINETS, LLC is convicted of a violation of 8 U.S.C., Section 1324(f), that SUMMIT CUSTOM CABINETS, LLC shall repay the amount of the public subsidy together with interest at the rate of twelve (12) percent per annum, such interest to begin accruing on the date of such conviction and to continue until all sums owed under this agreement are paid. Such repayment plus said interest shall be due and payable not later than the 120th day after the date that the CITY OF TAYLOR, TEXAS, notifies SUMMIT CUSTOM CABINETS, LLC of the conviction.

Interest on the public subsidy as referenced above shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law;

any interest in excess of that maximum amount shall be credited on the repayment or, if that has been paid, refunded.

All payments due under this document shall be payable in Taylor, Williamson County, Texas.

In the event that a civil action is brought by a public agency, local taxing jurisdiction, the CITY OF TAYLOR, TEXAS, or the Texas Attorney General to recover any amounts owed to the CITY OF TAYLOR, TEXAS, under the Code and this agreement, the said party shall also be entitled to recover from SUMMIT CUSTOM CABINETS, LLC, all court costs and reasonable attorney's fees incurred in such action.

CITY OF TAYLOR, TEXAS	SUMMIT CUSTOM CABINETS, LLC
______________________	______________________
By: ISAAC D. TURNER Its: CITY MANAGER	By: Tim Pugh Its: Owner
	______________________
	By: Lenny Humphreys Its: Owner