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Creating Innovation-Friendly Environments for
Entrepreneurs and Startups

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I. INTRODUCTION

City leaders who aspire to establish centers of innovation and enhance opportunities for businesses and entrepreneurs must leverage their city's position as a nexus of vertical and horizontal networks. While government leadership is made up of officials who represent the public on the federal, state, and local levels, city elected officials and decision makers are strategically positioned to quickly identify and creatively respond to community needs.¹ From a horizontal standpoint, city leaders can connect with academic and philanthropic institutions, and private and public sectors, to establish networks of policymakers and community resources. After all, “[g]overnment is the principal inclusive vehicle for organizing economic, social and civic life.”²

Cities are incentivized to help the private sector, and small businesses in particular, because small businesses add to local economies and the private workforce, create financial opportunities, contribute to economic development, and drive technological development and infrastructure.³ Cities can also look to entrepreneurs and startups as partners in meeting the challenges of improving municipal effectiveness, providing municipal services, initiating and sustaining economic growth, and expanding civic engagement. In an increasing number of cities, city leaders have recognized the importance of developing small businesses and are taking steps to support small businesses and startups.⁴

According to the City Initiatives for Technology, Innovation and Entrepreneurship (“CITIE”) framework, there are a number of approaches that cities can take to develop opportunities for entrepreneurs and small businesses.⁵ The CITIE framework, made up of nine different policy roles, allows city leaders and policymakers to evaluate whether a city effectively supports innovation and entrepreneurship via nine different roles. These nine roles are: Regulator, Advocate, Customer, Host, Investor, Connector, Strategist, Digital Governor, and Datavore; the roles and a brief description of the corresponding method of analysis are set out in Table 1 below.

¹ BRUCE KATZ AND JEREMY NOWAK, *THE NEW LOCALISM: HOW CITIES CAN THRIVE IN THE AGE OF POPULISM* (2018).

² Maryann P. Feldman, *et. al.*, *The Logic of Economic Development: A Definition and Model for Investment*, 34 ENV'T AND PLAN. C: GOV'T AND POL'Y 5 (2016).

³ Deborah Talbot, *Small Business is the Engine of the City*, FORBES, June 5, 2018, <https://www.forbes.com/sites/deborahthalbot/2018/06/05/small-business-is-the-engine-of-the-city/#1ceb5a781eda>.

⁴ Emily Robbins, *Economic Development Roundup: National Small Business Week Edition*, NAT'L LEAGUE OF CITIES, May 5, 2016, <https://www.nlc.org/article/economic-development-roundup-national-small-business-week-edition>.

⁵ John Gibson, Matthew Robinson, and Scott Cain, *City Initiatives for Technology, Innovation and Entrepreneurship: A Resource for City Leadership* (2015). CITIE is a project of Accenture, Nesta, and the Future Cities Catapult, and a resource for cities to meet the challenge of providing government services and increasing economic growth.

Table 1: Policy Roles and Analysis For Innovation

Policy Role	Method of Analysis
Regulator	Whether a city regulates businesses and disruptors in a way that facilitates business entry.
Advocate	Whether a city promotes itself and new businesses as an innovative hub.
Customer	Whether a city seeks innovation and makes procurement accessible to small businesses.
Host	Whether a city creates opportunities for new businesses.
Investor	Whether a city invests in the skills and businesses necessary for innovation.
Connector	Whether a city facilitates physical and digital connectivity.
Strategist	Whether a city builds the capacity to support innovation.
Digital Governor	Whether a city utilizes digital channels to allow for improved citizen engagement.
Datavore	Whether a city uses data to optimize its services and permit innovation.

Source: Gibson, *et. al.*, CITIE Initiative (June 2015).

In exploring methods to create conditions that facilitate starting and growing small businesses, this paper focuses on three of the nine CITIE approaches – a city’s role as a Regulator, Customer, and Digital Governor. The author’s decision to focus on these roles is not intended to discount the importance of a city’s roles as Advocate, Host, Investor, Connector, Strategist, or Datavore. City leaders are most likely to seek legal advice from a city attorney or outside counsel (“city attorney”) in connection with municipal regulations, procurement, and citizen engagement. City attorneys who familiarize themselves with the policy roles of Regulator, Customer, and Data Governor will gain a new perspective as they work with city elected officials and decision makers (“city leaders”) to: (1) regulate innovative business models; (2) draft and implement procurement policies and procedures; and (3) foster citizen engagement. In addition, this paper aims to better equip city attorneys to work with city leaders who aim to create opportunities for entrepreneurs and businesses. Lastly, this paper seeks to encourage city attorneys to work with city leaders and incorporate an innovative approach in providing municipal services.

With these goals in mind, this paper is organized as follows - Part II defines “small business” and provides the reader with data on small business owners and the businesses they run; Part III provides the reader with examples of how small businesses positively impact cities; and Part IV defines the three CITIE roles through which city attorneys can work with city leaders to enhance opportunities for small businesses and entrepreneurs - Regulator, Customer, and Digital Governor.

II. SMALL BUSINESS SNAPSHOT

Before delving into how city leaders can help small businesses, it may be useful for the reader to review a small business snapshot, which covers: (i) what a small business is, (ii) new, old and mature small businesses, (iii) who small business owners are, and (iv) in which industries small businesses operate. When developing policies that impact small businesses, it is essential for city leaders and city attorneys to work from a common definition of what constitutes a small business because federal and state agencies, non-profits, community groups, and corporate partners define the phrase differently.

A. Small Business Defined

The U.S. Small Business Administration (the “SBA”) estimates that, as of 2015, there are over 30 million small businesses in the United States.⁶ The SBA, a federal agency that supports small businesses, defines a small business as: (i) a for-profit business of any legal structure (ii) that is physically located and operates in the United States or its territories, (iii) which is independently owned and operated and (iv) does not exert national dominance in its field.⁷ The size standards established for federal contracting purposes depend on the industry in which the business operates.⁸ A business is generally considered a “small business” if it has less than 500 employees and does not exceed annual receipts thresholds. For instance, the threshold is \$36.5 million for construction firms, \$11 million for law firms, and \$750,000 for soybean farms.⁹

⁶ U.S. Small Business Administration, Office of Advocacy, *Small Business Profile: United States 1* (2018).

⁷ U.S. Small Business Administration, Office of Advocacy, *Contracting Guide* (2018); *see also*, 13 CFR §§ 121.101, 121.102 (outlining the SBA size standards and how they are established).

⁸ A size standard is the greatest amount of average annual receipts or the average number of employees a business can have and still qualify as a small business for federal government programs.

⁹ 13 CFR § 121.101; *see also* U.S. Small Business Administration, *Table of Small Business Size Standards Matched to North American Industry Classification System Code*.

By comparison, a business is considered a “microbusiness” if it employs less than 10 individuals and has less than \$100,000 in annual receipts.¹⁰ As of 2016, there were 3.8 million microbusiness employers in the United States. Microbusinesses can be categorized as follows: (i) Full-time owner with greater than \$50,000 in annual receipts; (ii) Full-time owner with less than \$50,000 in annual receipts; (iii) Part-time owner with another source of non-primary income; (iv) Part-time owner with another primary source of income; and (v) New owner with no previous ownership experience whose business has been operating for less than four years.¹¹

A nonemployer business is a small business with no paid employees, \$1,000 or more in annual receipts - \$1.00 or greater in the construction industries - and is subject to federal income taxes. Similar to a microbusiness owner, the owner of a nonemployer business may operate an unincorporated business as a source of supplemental income.¹² As of 2015, there were 24.3 million small nonemployer businesses in the United States, making up 80% of all small businesses. Approximately 60% of these nonemployer businesses are home-based.¹³ The total receipts for all nonemployer businesses exceed one trillion dollars, yet, each nonemployer business averages approximately \$47,000 in annual receipts.¹⁴

B. Small Business Stages

Another key descriptor of a small business is how long it has been in operation or how “old” it is. Knowing the age of a small business is useful because its age can indicate its net job creation, payroll volatility and community impact.¹⁵ A small business, whether it is an employer or nonemployer business, can be described as “new,” “young” or “mature.” A new small business has operated for no more than two years; a young small business is defined as a business that has operated for more than two years but no more than ten years; while a mature

¹⁰ Some studies define microbusiness (also called microenterprise or small business enterprise) as a small business with fewer than 5 employees while others define microbusiness as a small business with fewer than 10 employees. The SBA recently rejected a proposal to officially recognize microbusinesses and provide a consistent definition. Despite the inconsistent definitions, the term is useful in distinguishing from other small businesses with a greater number of employees and annual receipts. See Steven Koprince, *SBA Rejects Major Changes in Size Standard Methodology*, SMALLGOVCON, April 30, 2018, <http://smallgovcon.com/statutes-and-regulations/sba-rejects-major-changes-in-size-standard-methodology/>.

¹¹ Association for Enterprise Opportunity, *Bigger Than You Think: The Economic Impact of Microbusiness in the United States* 5, 9-10 (2013) (defining microbusiness as a small business with less than five employees).

¹² Lawrence Mishel and Julia Wolfe, *Nonemployer Establishment Grew in 2016 but Their Real Revenues Were Stable*, ECON. POL’Y INST., June 21, 2018, <https://www.epi.org/blog/nonemployer-establishments-grew-in-2016-but-their-real-revenues-were-stable-confirming-other-data-on-self-employment-showing-more-activity-but-little-economic-impact/>.

¹³ U.S. Small Business Administration, Office of Advocacy, *Frequently Asked Questions About Small Business* (2016).

¹⁴ US Census Bureau, US Department of Commerce, *Survey of Small Business Owners and Self-Employed Persons* (2012).

¹⁵ Diana Ferrell, et. al., *Mapping Segments in the Small Business Sector* 4 JPMORGAN CHASE & CO. INST. (2017).

small business is one that has operated for over ten years. Thirty-two percent of all small businesses are new businesses, young small businesses make up 40% of all small businesses, while mature businesses make up 28% of all small businesses.

C. Small Business Owners

Of the 30.2 million small businesses in the United States, just over a quarter are minority-owned. Specifically, there are 8 million minority-owned small businesses in the United States, with 1.1 million of these located in Texas. Of the 8 million minority-owned businesses, 3.3 million small business owners are Hispanic, while nearly 2.6 million are Black- or African-American, and 1.9 million are Asian. Nearly one in three small business owners is a woman, while less than 10% of small business owners is a veteran.¹⁶ In Texas, of the 1.1 million minority-owned businesses, approximately 687,500 small business owners are Hispanic, 217,300 are Black- or African-American, and 155,700 are Asian.¹⁷ Nearly 867,000 small business owners in Texas is a woman, while 213,400 small business owners in Texas is a veteran.¹⁸ The figures for small business owner demographics across the United States are set forth in Table 2 below.

Table 2: U.S. Small Business Owner Demographics

Owner Demographic	Small Businesses (Number)	Small Businesses (Percentage)
All Small Businesses (Classifiable)	27,179,380	100.0
Minority	7,952,386	29.3
American Indian and Alaska Native	272,919	1.0
Asian	1,917,902	7.1
Black or African American	2,584,403	12.2
Hispanic	3,305,873	12.2
Native Hawaiian and Other Pacific Islander	54,749	.2
Female	8,878,397	36.3
Equally Male/Female	2,456,386	9.0
Veteran	2,521,682	9.3

Source: U.S. Census Bureau, Survey of Business Owners (2012)

¹⁶ US Census Bureau, *supra* note 14.

¹⁷ U.S. Small Business Administration, Office of Advocacy, *Small Business Profile: Texas* 178 (2017).

¹⁸ *Id.*

As for microbusiness owners, 61% of full-time owners with greater than \$50,000 in annual receipts are male, compared to 18% female owners, and 21% male and female co-owners.¹⁹ Eighty-six percent of microbusiness owners with greater than \$50,000 in annual receipts are non-Hispanic white, while 21% are African American, 5.9% are Asian, 5.7% are Hispanic, 0.3% are American Indian or Alaska Native, and 0.04% are Native Hawaiian or other Pacific Islander.

D. Where Small Businesses Operate

Small businesses operate in all industries. However, the industry in which a small business operates can indicate whether the business will have employees, as well as how many employees it will have. The owner of a business that provides arts, entertainment and recreation services, for instance, is more likely to be self-employed.²⁰ The same is true for a small business owner that operates in the agricultural, forestry, fishing and hunting; real estate, rental, and leasing; transportation and warehousing; and educational services industries. A microbusiness (with less than ten employees) is more likely to provide finance, insurance or real estate services.²¹ Small employer businesses with twenty or less employees are more likely to provide accommodation and food services, wholesale and trade, and manufacturing services.²² Small business owners that employ over twenty but less than 500 employees are also more likely to provide accommodation and food services, wholesale and trade, and manufacturing services.

III. SMALL BUSINESSES MAKE BIG COMMUNITY IMPACT

Small businesses make a significant contribution to the private workforce. In addition to creating jobs, small businesses ignite innovation, provide financial opportunities, contribute to the economic development, and drive the development of technology and infrastructure.²³ Due to the impact that small businesses have on local economies, it is not enough for city leaders to assess whether they are supporting small businesses and identify how they are supporting small

¹⁹ Association for Enterprise Opportunity, *supra* note 11, at 11.

²⁰ US Census Bureau, *supra* note 14.

²¹ Brian Headd, *Small Business Facts: The Role of Microbusiness Employers in the Economy*, U.S. SMALL BUS. ADMIN., OFF. OF ADVOC. (2017).

²² US Census Bureau, *supra* note 14.

²³ Feldman, *supra* note 2, at 5.

businesses - city leaders must also adopt a vision of innovation and develop a strategy to foster an environment where innovative small businesses and entrepreneurs can thrive.²⁴

A. Small Businesses Push Economic Development

“Economic development” may be one of those terms that is difficult to define, but easier to identify. The term is likely difficult to define because the term is used to conceptualize and connect a number of theories, actors, and outcomes.²⁵ While some economists promote a definition that emphasizes the impact on individual human potential, other economists support a definition that highlights the role of innovation in increasing productivity.²⁶ The following definition of “economic development” is useful for city leaders because it incorporates benefits to individuals, business, and the community, as well as acknowledges the essential role of public and private institutions:

Economic development is defined as the expansion of capacities that contribute to the advancement of society through the realization of individuals’, firms’ and communities’ potential. Economic Development is a sustained increase in prosperity and quality of life realized through innovation, lowered transaction costs, and the utilization of capabilities towards the responsible production and diffusion of goods and services. Economic development requires effective institutions grounded in norms of openness, tolerance for risk, appreciation for diversity, and confidence in the realization of mutual gain for the public and the private sector. Economic development is essential to creating the conditions for economic growth and ensuring our economic future.²⁷

To summarize this definition, small businesses spur economic development by helping individuals and communities to realize their potential, create conditions for economic growth, and ensure the economic future of communities through innovation. One way that small businesses support local communities is through taxes. For instance, in 2011, microbusinesses contributed nearly \$94 billion in direct taxes and fees to federal, state, and local governments.²⁸ This figure constituted 13.1% of all taxes and fees paid by businesses. Small businesses also

²⁴ Quint Studer, *Small Businesses Can Save Your Community*, STRONG TOWNS, July 31, 2018; *see also* Quint Studer, *10 Things Small Businesses Need to Thrive*, STRONG TOWNS, October 12, 2017 [hereinafter Studer, *10 Things to Thrive*].

²⁵ Feldman, *supra* note 2, at 4-9.

²⁶ *Id.* at 5-6 (analyzing various definitions of “economic development” to both create a refined definition of the term and present a means to measure the impact of economic development).

²⁷ *Id.* at 9.

²⁸ Association for Enterprise Opportunity, *supra* note 11, at 7.

spur economic development by contributing to the private workforce, providing financial opportunity to both individuals and local communities, and driving innovation.

B. Small Businesses Impact the Private Workforce

Small businesses are important to the United States economy. American small businesses have nearly 59 million employees or 47.5% of the private workforce.²⁹ That is, small business owners employ nearly half of the private American workforce. Even microbusinesses make a significant impact on the private workforce. In 2016, microbusiness employers made up 74.8% of all private-sector employers and provided 10.3% of all private sector jobs.³⁰ The SBA estimates that there are over 2.6 million small businesses in Texas, which make up 99.8% of all private firms operating in the Texas private sector.³¹ These 2.6 million small businesses employ approximately 4.7 million employees, which is 45.6% of the private workforce in Texas.

A study conducted by the Initiative for a Competitive Inner City (“ICIC”) focused on the impact of small businesses on job creation within the private sector for five urban cities – Chicago, Dallas, Detroit, Los Angeles and Washington, D.C.³² The findings support findings regarding the extent of job creation on state and federal levels. The ICIC study found that small businesses create over half of the private sector jobs in four (Chicago, Detroit, Los Angeles and Washington, D.C.) of these five cities. In Dallas, the contribution of private sector employment by small businesses remains significant at 48% of the workforce. It is important to note that while the ICIC study compares job creation by microbusinesses to other small businesses, this study does not adopt the SBA definition of a small business. Instead, a small business is defined as having less than 249 employees.³³ Table 3 breaks down job creation by small businesses in Chicago, Dallas, Detroit, Los Angeles and Washington, D.C.

Table 3: Jobs Created by Small Businesses in Five U.S. Cities

City	Small Business		Large Business
	1 to 4 Employees	5 to 249 Employees	250 or More Employees
Chicago			
Jobs Created (Number)	135,881	438,953	419,360
Jobs Created (%)	14%	44%	42%

²⁹ U.S. Small Business Administration, *supra* note 6, at 1.

³⁰ Brian Headd, *supra* note 21.

³¹ U.S. Small Business Administration, *supra* note 17, at 178.

³² Initiative for a Competitive Inner City, *The Big Impact of Small Businesses on Urban Job Creation: Evidence from Five Cities* (2016).

³³ *Id.* at 1.

Dallas

Jobs Created (Number)	122,681	303,412	453,119
Jobs Created (%)	14%	35%	52%

Detroit

Jobs Created (Number)	28,261	80,204	96,413
Jobs Created (%)	14%	39%	47%

Los Angeles

Jobs Created (Number)	171,793	366,678	193,410
Jobs Created (%)	23%	50%	26%

Washington, D.C.

Jobs Created (Number)	52,053	168,372	138,107
Jobs Created (%)	15%	47%	38%

Source: ICIC, The Big Impact of Small Businesses on Urban Job Creation (October 2016)

C. Small Businesses Provide Financial Opportunity

Small businesses provide communities with financial opportunities by multiplying the impact of local dollars. Multiple comparative studies conducted by Civic Economics demonstrate that locally owned retailers and restaurants return a greater portion of their revenue to the local economy when compared to their national chain counterparts. In comparison to dollars spent at a franchise or chain businesses, consumer dollars spent at a locally owned independent small business not only stay within the community as an initial expenditure, but are more likely to be spent again within the community.³⁴ For instance, these consumer dollars are locally spent by small businesses on utilities, equipment, replenishing inventory, and payroll.³⁵ These “direct impact” expenditures are more likely to be spent at other local small businesses.³⁶ Local small business receipts also have an indirect impact on the local economy as small businesses spend their receipts at other area businesses. The income earned by consumers and business owners or “induced impact” dollars also have a local economic impact. For instance, a study conducted by Civic Economics in Albuquerque found that 13.6% of consumer dollars spent at national retail chains were recirculated in the local economy while 39% of consumer dollars spent at local independently owned retailers were spent locally.³⁷

D. Small Businesses Drive Innovation

Small businesses ignite innovation and technological change. A method of measuring the innovation of small business is patent production.³⁸ Under U.S. patent law, an invention is patentable if it meets statutory subject matter requirements; it is new; it is useful; and is non-obvious.³⁹ Thus, attaining a patent necessarily involves innovation. A study commissioned by the SBA concludes that small businesses obtain more patents per employee than do large businesses.⁴⁰ Beyond numbers, the patents obtained by small businesses tend to outperform the patents obtained by large businesses based on a number of metrics used to measure patent impact.

³⁴ Matt Cunningham and Dan Houston, *The Civic Economics of Retail: Ten Years of Studies*. CIVIC ECON. (2012).

³⁵ American Independent Business Alliance, *The Multiplier Effect of Local Independent Businesses*, www.amiba.net/resources/multiplier-effect/ (last accessed on Sept. 18, 2018).

³⁶ Association for Enterprise Opportunity, *supra* note 11, at 7.

³⁷ Civic Economics, *Indie Impact Study Series: Albuquerque 2-4* (2013) (reviewing 10K annual reports and surveying independently owned retail businesses located in Albuquerque).

³⁸ C J Isom and David R. Jarczyk, *Innovation in Small Businesses: Drivers of Change and Value Use*, U.S. SMALL BUS. ADMIN. OFF. OF ADVOC. (2009).

³⁹ 35 U.S.C. 102-103.

⁴⁰ Anthony Breitzman and Diana Hicks, *An Analysis of Small Business Patents by Industry and Firms Size*, U.S. SMALL BUS. ADMIN. OFF. OF ADVOC. iii, 7-9 (2008).

Specifically, patents obtained by small businesses tend to outperform those obtained by large businesses based on growth, which is based on a comparison of patents obtained during one five-year to another, and the frequency that a patent is cited in subsequent patents. The latter measure is important because it is an indicator of the importance of a patent's technological ideas.⁴¹ In addition, patents obtained by small businesses score better based on patent generality, which is measured by whether the patent citations come from a range of U.S. Patent Trademark Office classifications. This measure indicates whether a particular patent will have a wide range of influence. Another metric where small business patents tend to outperform large business patents is patent originality. Patent originality is measured by whether the patents cite a range of technologies. This measurement is based on the principle that a patent that cites a variety of technologies is more likely to contain original ideas.⁴²

IV. CREATING INNOVATION-FRIENDLY ENVIRONMENTS

Due, in part, to the benefits that small businesses bring to cities, city leaders should take steps to create innovation-friendly environments.⁴³ City leaders should also work towards creating innovation-friendly environments because small businesses employ a significant percentage of the private workforce. According to the CITIE framework, there are nine policy roles that a city can undertake as it supports small businesses and entrepreneurs. The CITIE framework was developed by a global non-profit (Nesta), a non-profit that partners with private suppliers, public buyers and universities to meet challenges faced by cities (Future Cities Catapult), and a consulting and professional services company (Accenture). The developers of the framework posit that cities can create innovation-friendly environments through nine different policy roles that make up the CITIE framework. The framework is meant to function as both a method to evaluate whether a city effectively supports innovation and entrepreneurship and a resource for city leaders who aspire to enhance opportunities for small businesses. This part of the paper focuses on three of these nine roles – a city's role as a Regulator, as a Customer, and as a Digital Governor – to examine how city leaders and legal advisors can contribute to making their city an innovation-friendly environment.

A. City as Regulator

In the author's experience, city leaders take a variety of approaches in its role as Regulator. When it comes to code enforcement, for example, some cities take a reactive approach and issue citations that are either complaint-driven or a product of systematic neighborhood enforcement. In some cities, city leaders have implemented a regulatory structure

⁴¹ *Id.* at 7-8.

⁴² *Id.* at 8.

⁴³ Studer, *10 Things to Thrive*, *supra* note 24.

that prohibits residents or businesses from obtaining permits or licenses if they have any unpaid citations. Other cities take a preventative approach and provide residents and businesses with compliance education, community outreach, clean-up days, or technical assistance.⁴⁴ Of course, some cities take a combination of both, a reactive and preventative approach.

As a city fulfills its role as a regulator, the CITIE framework recommends that city leaders to regulate businesses and disruptors in a way that facilitates business entry. In addition to considering whether to take a proactive or reactive approach when regulating novel business models, therefore, city attorneys can work with city leaders to regulate businesses to ensure that regulations are not a barrier for small businesses and startups to enter the market. Specifically, city attorneys can review regulations and determine if they are: (i) streamlined, transparent, and modernized; and (ii) account for novel market entrants. City attorneys can also work with city leaders to gather information about disruptive or innovative products or services.⁴⁵

1. *Review Existing Regulations*

Regulations “establish a clear set of standards for how business is to be conducted in the city... ensure consistency, a minimum threshold of verified safety, and proper functionality.”⁴⁶ If left unchecked, city regulations can become difficult to decipher, stifle innovation, and even defy common sense. For these reasons, city attorneys should periodically review existing regulations to evaluate whether they are streamlined, transparent, and modernized.⁴⁷ City attorneys can work with city leaders to systematically review existing regulations, especially those that regulate businesses and business owners. City leaders and their legal advisors can follow the regulatory reform framework created by the Harvard Kennedy School, which suggests principles for cities to adopt as they reform regulations and permitting and licensing requirements.⁴⁸

For instance, Indianapolis adopted principles to guide its efforts to streamline municipal regulations in the 1990s.⁴⁹ The City’s reform efforts eliminated 40% of its regulations and municipal fees. While there was a loss of fees to the City, the cost to the City to manage these permits and licenses exceeded the fees collected by the City. During the reform process, city

⁴⁴ See Rural Planning Group, *Code Enforcement Recommendations for Small Towns* 9 (2016), http://www.ruralplanning.org/assets/code_enforcement-web.pdf.

⁴⁵ Gibson, *supra* note 5, at 17.

⁴⁶ Stephen Goldsmith, *Regulatory Reform with Data and Technology*, THE PRESIDENT AND FELLOWS OF HARV. C., Sept. 8, 2014.

⁴⁷ Gibson, *supra* note 5, at 15-16; Emily Robbins, *Three Approaches for Untangling the Knots of Local Business Regulations*, NAT’L LEAGUE OF CITIES (March 27, 2015); Emily Robbins, *Big Ideas for Small Business Report*, NAT’L LEAGUE OF CITIES CTR FOR CITY SOLUTIONS AND APPLIED RESEARCH 26 (2014).

⁴⁸ Regulatory Reform Team, *Origination of a Regulation: Regulatory Reform for the 21st Century City*, THE PRESIDENT AND FELLOWS OF HARV. C. (2017).

⁴⁹ Goldsmith, *supra* note 46.

attorneys and city leaders can include the voices of consumers, incumbent businesses, and new market entrants to develop unbiased regulations.

City attorneys can also work with city leaders to assess whether municipal regulations are transparent. While city attorneys should work with decision makers to ensure that regulations protect consumers and maintain public safety, regulations that are contradictory or confusing do not serve the public interest. City attorneys can work with city leaders to develop outreach materials that help small business owners to understand permit, license, code enforcement, zoning and other regulatory requirements.⁵⁰ City attorneys can also work with city leaders to coordinate communication among city departments, provide a streamlined permit or license application and approval process, and appoint business diplomats to assist small business owners to navigate municipal regulatory requirements.⁵¹ Some cities have embraced its role as a nexus of local networks by coordinating disparate small business resources and serving as a centralized resource.⁵²

2. *Account for Novel Market Entrants*

It is important for city attorneys to gather information about new products or services. Doing so can help city leaders to identify regulations that serve as a barrier to market entry or stifle innovation. At the same time, small businesses and entrepreneurs should work with cities to develop a strategy to introduce novel products or services. Working with city leaders - as true civic partners - will help businesses to create good will with cities, protect their investors' capital, and better serve consumers. Small businesses can request information from city partners to help tailor the service for the community, such as where to offer products or provide services, as well as the amount of product that the city can sustain.

Businesses should not introduce their products overnight and leave it up to cities to respond; doing so forces city leaders and city attorneys into the unfavorable position of having to act quickly with imperfect information.⁵³ Failing to work with cities is also an indicator that businesses cannot be "trusted to regulate themselves."⁵⁴ If innovative businesses do not work with cities, city regulators must quickly determine whether (i) existing regulations apply to innovative business, (ii) existing regulations exempt innovative businesses, or (iii) existing

⁵⁰ Kailey Sherrick, *5 Ways to Support Entrepreneurs and Small Businesses In Your Town*, STRONG TOWNS, June 29, 2018; see also Janis Bowdler and Kim Zeuli, *What Cities Should Be Doing for Small Business*, GOVERNING, Nov. 8, 2016.

⁵¹ Emily Robbins, *Three Approaches for Untangling the Knots of Local Business Regulations*, NAT'L LEAGUE OF CITIES, March 27, 2015.

⁵² Initiative for a Competitive Inner City, *supra* note 31, at 12.

⁵³ See, Tracey Lindeman, *How Cities are Trying to Rein in the Scooter and Bike Share Craze*, MOTHERBOARD, May 22, 2018.

⁵⁴ *Id.*

regulations do not contemplate innovative businesses.⁵⁵ City attorneys can work with city leaders to establish a “rapid response” team that consists of staff from the legal department, code enforcement, business services, and the city manager’s office. When disruptive products or services are introduced quickly the rapid response team can work quickly to review existing regulations and assess how to respond in a quick and efficient manner.

3. *Gather Information About Novel Businesses*

Regulations that prevent market entry due to poor planning or incomplete information are a disservice to the regulated entities, the public, and the city. Regulatory schemes can delay small business entry, deter businesses from locating in particular cities, and may even prevent small businesses and entrepreneurs from entering the market altogether. City leaders and city attorneys face a number of challenges – among these challenges, are: (i) identifying novel products or services that are likely to be introduced in the city; determining whether existing regulations apply to a novel product or service; and deciding whether updates to regulations are advisable to protect the public.

To stay up to date on innovative approaches, city leaders should tap into existing business networks for entrepreneurs. One such network is 1 Million Cups - a resource developed by the Kauffman Center for Entrepreneurship, where entrepreneurs pitch their small business and ideas to the community.⁵⁶ There are over one hundred eighty 1 Million Cups communities in over 40 states. These communities also provide an entrepreneurial network and connect entrepreneurs to local communities.⁵⁷ In addition to tapping into the 1 Million Cups community, city leaders can host workshops, hold listening tours, establish workgroups, and sponsor business plan competitions.⁵⁸ City leaders can also establish informal networks with micro lenders and business incubators to learn about innovative approaches to providing products and services. Once identified, city attorneys and city leaders can take a proactive approach and partner with small businesses and startups to develop an approach to introduce the product or service to the local market.

B. City as Customer

⁵⁵ See, Eric Biber, *et. al.*, *Regulating Business Innovation as Policy Disruption: From the Model T to Airbnb*, 70 VAND. L. REV. 1561, 1584 (2017).

⁵⁶ Moira Vetter, *1 Million Cups is Like Toastmasters for the Investor Pitch*, FORBES, Feb. 28, 2017.

⁵⁷ 1 Million Cups website, *Organize*, <https://www.1millioncups.com/organize> (last accessed on Sept. 22, 2018).

⁵⁸ Emily Robbins, *Big Ideas for Small Business Report*, NAT’L LEAGUE OF CITIES CTR FOR CITY SOLUTIONS AND APPLIED RESEARCH 26 (2014); Quint Studer, *How to Ignite A Small Business Revolution In Your Community*, FORBES, Nov. 6, 2017.

In the U.S., cities spend over \$1.6 trillion on procurement each year.⁵⁹ As cities fulfill their role as a customer, city leaders can use their purchasing power to make procurement accessible to small businesses and startups.⁶⁰ City leaders can also use their buying power to access innovative ideas as they provide municipal services to the public.⁶¹ An initial step that city leaders can take to open up the process to small businesses is to ensure that procurement opportunities and the procurement process are transparent and accessible. Similar to approaches to make regulations transparent and accessible, cities can make sure that procurement opportunities and processes are transparent by hosting orientation sessions and providing technical assistance on complying with municipal procurement policies and procedures.

City leaders can also work with procurement personnel to determine whether local small businesses have the capacity to fulfill municipal contracts for goods and services.⁶² If city leaders determine that local small businesses cannot meet this need, city leaders and city attorneys can work with procurement staff to determine whether small and new businesses can meet qualifying requirements. If these requirements cannot be met, city leaders can work with city attorneys and procurement personnel to determine if any of these requirements can be modified to increase the number of potential bidders that are small businesses. City leaders can also consider revising selection procedures to increase preferences or scoring criteria to increase the number of points given to small business primary contractors or businesses that use small businesses as subcontractors. A program offered by Los Angeles County provides certification opportunities for local small business enterprises. Certified businesses are qualified to receive a 15% bid price reduction to make them more competitive, as well as receiving prompt payment, or payment within a shorter timeframe, than other businesses.⁶³

In working with procurement staff, if city leaders learn that small businesses face a capacity gap to securing procurement opportunities with the city, city leaders can work with small businesses to improve their capacity as potential bidders. For instance, San Diego took a proactive approach to improving the readiness of small businesses to bid on city contracts by providing information on how to contract with the city and small business certification, technical assistance on municipal procurement policies and procedures, and networking events where potential bidders could meet procurement staff.⁶⁴ Some cities facilitate mentoring between established larger businesses and newer small businesses to facilitate subcontracting opportunities for small businesses.

⁵⁹ Joseph Stukowi, *Four Innovative Procurement Tactics Cities are Using to Increase Equity*, LIVING CITIES, Sept. 19, 2017.

⁶⁰ Gibson, *supra* note 5, at 17; *see also* Bowdler, *supra* note 49.

⁶¹ Gibson, *supra* note 5, at 17.

⁶² Robbins, *supra* note 57, at 26.

⁶³ Initiative for a Competitive Inner City, *supra* note 32, at 10.

⁶⁴ *Id.* at 25.

C. City as Digital Governor

Citizens expect local governments to be transparent, accountable, and responsive to input. Citizens also expect local governments to provide quality services. According to the CITE framework, cities should use digital channels to foster high-quality, low-friction citizen engagement.⁶⁵ And cities are heeding this call to action, and increasingly seeking out technological solutions to the challenges of providing city services and improving citizens' quality of life.⁶⁶ For instance, cities are relying on "digital citizen engagement" or "the use of new media/digital information and communication technologies to create or enhance the communication channels that facilitate the interaction between citizens and governments or the private sector."⁶⁷ According to one estimate, cities will invest about \$41 trillion over the next 20 years to upgrade their infrastructure. Cities are upgrading to incorporate the Internet of Things to become a "Smart City," which is when a city uses devices connected to the Internet to collect and analyze data, and the collected data is used to improve city infrastructure and services.⁶⁸ It is expected that the number of smart cities across the globe will quadruple by 2025.⁶⁹ Small businesses and entrepreneurs can help cities to be more transparent, reach citizens digitally, and become a Smart City by developing technological solutions to providing city services.⁷⁰

One method for city leaders to improve transparency and accessibility is through the use of artificial intelligence. For instance, El Paso has created a chatbot called "Ask Laura," which is available on the City's website.⁷¹ The chatbot is a virtual information officer that helps users to navigate the City's procurement process.⁷² A user can type in a question or select a resource based on the information that the user has entered. The City documents the questions that "Laura" cannot answer, which are reviewed by staff during monthly updates to the chatbot. City officials plan to expand the chatbot to the tax department, planning and inspections and the airport department.

Increasing digital citizen engagement is another method for cities to provide transparency and accessibility, while expanding a city's capacity to realize its potential. There are both

⁶⁵ Gibson, *supra* note 5, at 38.

⁶⁶ Aneri Pattani, *Spending on Smart Cities Around the World Could Reach \$41 Trillion*, CNCBC, Oct. 25, 2016.

⁶⁷ Digital Engagement Evaluation Team, *Evaluating Digital Citizen Engagement: A Practical Guide*, THE WORLD BANK (Feb. 2016).

⁶⁸ Andrew Meola, *How Smart Cities & IoT will Change our Communities*, BUS. INSIDER, Dec. 20, 2016.

⁶⁹ Ed Sappin, *What Small Businesses Should Know as Smart Cities Develop*, MEDIUM, Nov. 10, 2017.

⁷⁰ Gibson, *supra* note 5, at 38.

⁷¹ Adam Stone, *2018 Best of Texas Awards Highlight Range of Creative IT Implementations*, GOV'T TECHNOLOGY, May 31, 2018.

⁷² Elizabeth Zima, *Meet El Paso's Chatbot, Ask Laura. She's a Real 'Game Changer'*, GOV'T TECHNOLOGY, Dec. 20, 2017.

benefits and challenges to digital citizen engagement.⁷³ Among the benefits of digital citizen engagement are that it: (i) creates more modes for citizens to interact with city leaders; (ii) reduces costs of, and barriers to, citizen interaction; and (iii) creates data that can be accessed and analyzed by city leaders and other stakeholders. The challenges posed to city leaders by digital citizen engagement include: (i) identifying and enforcing acceptable behavior within digital spaces; (ii) ensuring that quality data is collected; (iii) ensuring that cities have the capacity or capability to collect, handle and analyze data; (iv) conveying the results of data analysis in a manner that informs the policymaking process; (v) increased privacy and security risks; and (vi) ensuring that collected data is used for legitimate public purposes. City leaders can work with small businesses by co-hosting and developing methods to foster citizen participation, such as online contests, competitions, mobile applications, e-petitions, innovation jams, open-source databases, participatory design workshops, and online communities.⁷⁴

City leaders can also work with entrepreneurs and start ups to develop and test technological solutions to challenges that cities face in improving municipal services and citizens' quality of life. One city that has created a formalized program to work with businesses to provide opportunities to build capacity for civic innovation is Durham, North Carolina.⁷⁵ Durham city and county leaders have established a program through which the local governments partner with startup companies over twelve weeks on projects that strive to: (i) improve the quality and efficiency of local government services and operations; (ii) support existing local innovators; (iii) build capacity for innovation in local government; and (iv) advance the strategic plans of local government. Similar programs are in place in Kansas City, Pittsburgh, and San Francisco. The City does not provide monetary compensation, however, participants can access municipal data, facilities, and staff, and are asked to sign a memorandum of understanding. To clarify the city's role, the memorandum of understanding should identify the resources that both the business and the city can provide, create measurable goals, establish performance metrics, document quarterly progress towards goals, and address matters like interoperability of digital platforms, ownership of civic data, accessibility of civic data, and privacy and security standards.⁷⁶

V. CONCLUSION

⁷³ Digital Engagement Evaluation Team, *supra* note 67, at 22-23.

⁷⁴ Daniel J. Chenook, *et. al.*, *Seven Drivers Transforming Government*, IBM CENTER FOR THE BUS. OF GOV'T 33 (2017).

⁷⁵ City of Durham, NC, *Innovate Durham: An Innovation Partnership Program*, <http://durhamnc.gov/3165/Innovate-Durham> (last accessed on Sept. 28, 2018).

⁷⁶ Center for the Development and Application of Internet of Things Technologies, *Driving New Modes of IoT-Facilitated Citizen/User Engagement*, GEORGIA INST. OF TECH. 17 (2018).

Small business owners make a significant and positive impact on local communities. Small business owners not only contribute to the private workforce through job creation, they also drive innovation, provide financial opportunities, and develop local economies. Due to the impact that small businesses have on local economies, city leaders must adopt a vision of innovation and create an environment where innovative small businesses and entrepreneurs can thrive. The CITIE framework provides one approach for cities to take as they develop a strategy to facilitate small business growth.

City attorneys are best equipped to support city leaders to facilitate small business growth through a city's role as a Regulator, Customer, or Digital Governor. City attorneys can work with city leaders to review municipal regulations and determine if they are streamlined, transparent, and modernized; and account for novel market entrants. City attorneys can also work with city leaders to gather information about disruptive or innovative products or services and determine whether existing regulations apply to such products or services. As cities fulfill their role as regulator, a rapid response to the market place introduction of disruptive products or services is essential.

Under the category of city as Customer, city attorneys can work with city leaders to open up procurement opportunities to small businesses by creating a transparent and accessible process and work with procurement staff to determine whether small and new businesses can meet qualifying requirements. If these requirements cannot be met, city attorneys can work with city leaders and procurement personnel to determine if any of these requirements can be modified to increase the number of potential bidders that are small businesses. City leaders can also consider revising selection procedures to increase preferences or scoring criteria to increase the number of points given to small business primary contractors or businesses that use small businesses as subcontractors. City leaders can also consider working with small businesses to improve their capacity as potential bidders.

As cities fulfill their function as Data Governor, city attorneys can work with city leaders to improve transparency and accessibility through the use of technology, such as artificial intelligence and the Internet of Things. City leaders can work with entrepreneurs and start ups to develop and test technological solutions that improve municipal services by hosting online contests, competitions, innovation jams, or participatory design workshops; through mobile applications, e-petitions, and online communities; and by providing access to city data. City attorneys must work with city leaders and municipal staff to address ownership, data privacy and security, accessibility to civic data, and interoperability issues.

Small businesses contribute significantly to local economies through job creation, taxes, and technological development. City leaders recognize these contributions and are increasingly

developing a strategic approach to help small businesses thrive. City leaders are uniquely positioned to identify and respond to the needs of small business owners and connect them with resources available in the public, private, and non-profit sectors, as well as within academic institutions. City leaders can also work with state and federal policymakers to offset the transaction costs of regulating innovative business models, preparing small businesses for procurement opportunities, and fostering digital citizen engagement, because, while cities are well-positioned to partner with small businesses as they spur economic development and help individuals and communities to realize their potential - all levels of government benefit from innovative economic development and growth.