



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item number: 3b

Title:

Recommendation to Approve Amendments to the City of St. Charles Economic Incentive Policy # 2009-4

Presenters:

Matthew O'Rourke
Rita Tungare

Meeting: Planning & Development Committee

Date: June 11, 2018

Proposed Cost: N/A

Budgeted Amount: N/A

Not Budgeted:

Executive Summary (if not budgeted please explain):

In March 2009, the City Council approved the City of St. Charles Economic Incentive Policy #2009-4. The purpose of the Policy was to provide guidance in reviewing incentive requests in order to “maintain and encourage a strong and positive business climate in the City, but to be done in tandem with cautious review of the long-term financial implications and potential community-wide impacts” of incentivized developments.

The policy establishes a framework to review financial assistance requests in the form of Tax Increment Financing (TIF) districts and sales tax reimbursement. Staff and the City Council have used this policy since 2009 to review financial assistance requests made by applicants such as the Fox Valley Volkswagen Dealership, AJR Manufacturing, Doran Scales, Clarke Environmental, and others.

Review and Proposed Amendments:

In the years since the policy was created, the City has considered and approved types of financial assistance agreements such as property tax rebates agreements for AJR Manufacturing and Doran Scales that were not mentioned in the policy.

With this in mind, staff reviewed the policy document and applications. Pursuant to this review, staff is recommending updates to these documents that will create a more generally applicable policy to various forms of incentives. Staff has also identified amendments to specific sections of the document to reflect current practices.

To address these items, staff is recommending the following amendments:

- Removing references to TIF and sales tax revenue sharing forms of financial assistance throughout the document to create a more general policy
- Amendments to specific sections of the policy to provide increased flexibility and ensure that the document is consistent with the City’s current practices
- Modification of **Section VII Application Process and Procedure** to:
 - Add a new section that states the purpose of pre-application meetings
 - Reduce the initial application deposit amount from \$50,000 to \$7,000, this is based on staff’s experience reviewing applications
 - Separate the Part 1 & 2 application descriptions to clearly delineate the purpose and amount of information required during each part of the application/review process
 - Remove the applications as listed exhibits to the policy document so they are administered at the staff level similar to land development and building permit applications

Attachments (please list):

Staff Memo Dated 6/5/2018

Current - City of St. Charles Economic Incentive Policy #2009-4 Document

DRAFT - Amended City of St. Charles Economic Incentive Policy #2009-4 Document

Recommendation/Suggested Action (briefly explain):

Recommendation to Approve Amendments to the City of St. Charles Economic Incentive Policy # 2009-4

Community & Economic Development
Economic Development Division

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STAFF MEMO

TO: Chairman Ed Bessner
And Members of the Planning and Development Committee

FROM: Matthew O'Rourke, Economic Development Division Manager

RE: Amendments to the City of St. Charles Economic Incentive Policy #2009-4

DATE: June 5, 2018

I. GENERAL INFORMATION

Project Name: Amendments to the City of St. Charles Economic Incentive Policy # 2009-4

Applicant: City of St. Charles

Purpose: Proposed Amendments to the City of St. Charles Economic Incentive Policy #2009-4 to update and modernize the document and application process to the City's current practices.

II. BACKGROUND

In March 2009, the City Council approved the current City of St. Charles Economic Incentive Policy #2009-4. The purpose of the Policy was to provide guidance in reviewing incentives requests in order to "maintain and encourage a strong and positive business climate in the City, but to be done in tandem with cautious review of the long-term financial implications and potential community-wide impacts," of incentivized developments.

The policy establishes a framework to review financial assistance requests in the form of Tax Increment Financing (TIF) districts and sales tax reimbursement. The policy created the following general sections to guide this review:

- Eligible types of development
- Incentive criteria
- General policies for the use of financial assistance
- Structure (terms) of financial assistance agreements
- Situations involving non-profit organizations
- Application process and procedure – the application process is split into two parts:

1. Preliminary review of the proposed incentive, preliminary documentation of the financial need, and preliminary term sheet (incentives are only reviewed for comments by staff and the City Council and not approved during this part of the process)
2. Review of the formal incentive request, supporting documentation, and financial assistance agreement (the City Council is presented this information as a DRAFT financial assistance agreement for review and approval or denial of the request)

Staff and the City Council have used this policy since 2009 to review financial assistance request made by Fox Valley Volkswagen Dealership, AJR Manufacturing, Doran Scales, and Clarke Environmental, and others.

III. PURPOSE OF THE PROPOSED AMENDMENTS

The existing policy document only references TIF and sales tax revenue sharing forms of financial assistance and the applications are intended to function as a “one size fits all” for both forms of financial assistance proposals.

However, in the years since the policy was created, the City has entered into or contemplated other forms of incentives such as property tax rebates for AJR Manufacturing and Doran Scales.

With this in mind, staff reviewed the policy and applications to identify updates to these documents and ensure they are more generally applicable to an increased number of incentive requests.

During this review, staff also identified amendments to specific sections of the document that are either difficult to administer or are in need of updates to reflect more current practices. These proposed changes are not intended to alter the fundamental nature of the guidelines or criteria established by the City Council in 2009.

IV. PROPOSED AMENDMENTS

The entire policy document has been edited to remove the references to TIF and sales tax rebate incentives (except in specific locations) in-line with creating a more general policy document.

In addition to these general revisions to the document, the following outlines the more substantive modifications that are being proposed:

A. Section III, Subsection 1 (Third Bullet Point)

The current policy limits the term of sales tax rebate agreements to a 10-year maximum. Staff is proposing to remove the 10-year limit to accommodate agreements that may need to have a longer term. The term limit of each financial assistance proposal is stated in the final agreement approved by City Council.

B. Section IV, Subsection 3

The existing policy states it is the City’s responsibility to hire an appraiser to determine fair market value for TIFs. This section now states that an independent appraiser must be hired to determine fair market value, but it is not the direct responsibility of the City to hire this professional.

C. Section IV, Subsection 8

The subsection states that a project owner must retain ownership of an entire project (with exceptions for condominium units) until complete build-out of that project. Given the multiple-year construction length of large-scale developments, this requirement may prove burdensome and difficult for staff to monitor and administrate. Therefore, staff is proposing to remove this section.

D. Section V, Subsection 1

Currently, the policy states that financial assistance may be in the form of pay-as-you-go or upfront bond issues. Staff is proposing to reword this provision to state that the City's default position/preference is to provide financial assistance on a pay-as-you-go basis and may consider other forms of assistance in rare instances.

E. Section V, Subsection 3

Staff is proposing to modify the Policy's "claw-back" provisions and remove the references to the developer's internal rate of return on investment (IRRI). Staff is proposing that these provisions related to IRRI be removed as this is not part of the City's standard practice and is problematic to administer. The policy will retain recommendations regarding "claw-back" provisions, when the applicant/developer does not meet the terms of the approved financial assistance agreement such as not constructing new buildings, infrastructure, increases in sales, increases in employment, etc.

F. Section V, Subsections 4, & 5

The policy requires that developers provide lease and/or property sales agreements to the City on an ongoing basis to evaluate their IRRI. If lease and sales rates exceed the original project revenue projections submitted during the financial assistance agreement review/approval process by 125%, the developer is required to share that increased revenue with the City on a 50/50 basis.

Staff is proposing to remove these sections of the policy due to the problematic nature of reviewing and administrating these requirements. If the developer is meeting the terms of their financial assistance agreement and created a successful development, the City will still realize the expected benefits of the physical development through increased sales/property tax revenue.

G. Section VII Application Process and Procedures

Staff is proposing revisions to **Section VII Application Process and Procedures** to align the policy document with the City's current practices and to ensure that applicants have a clear understanding of the City's expectations during the different parts of the application/review process.

1. New Subsection 1 Pre-Meeting

The existing policy does not identify a process for preliminary meetings. Staff is proposing to create a new section to clarify the purpose and availability of these meetings.

2. Section VII, Subsection 2 Application Packet

The current policy requires applicants to submit a \$50,000 deposit with their first submittal to cover staff review time, legal review, etc. In working through various application requests over the past several years, staff has found that this \$50,000 minimum is higher than the amount needed to cover the costs of reviewing most applications. Therefore, staff is proposing to amend the initial deposit amount of funds that the applicant is required to deposit for their first submission to \$7,000. This new deposit amount reflects the amount of costs incurred by applicants on recent financial assistance requests.

Staff is also proposing a revision that clearly identifies that applicants are required to submit an up-front deposit of funding for any 3rd party contracts/reviews required as a part of the application submittal that exceeds the \$7,000 minimum. (For example, if a TIF consultant is needed to review the eligibility of a proposed TIF District).

3. Section VII Subsection 2

The current policy explains the Part 1 and Part 2 Application submittal requirements and purpose in combined subsections. Staff is proposing to separate the description of these two parts of the process. This will provide more clarity and detail regarding the intent and types of information required during each part of the financial assistance request review.

a. Section VII Subsection 2, a - Part 1 Application Process

The Part 1 Application is intended to function as a concept plan. The application is presented to the City Council, after staff review, to gain feedback about a potential incentive request. This review does not constitute an approval of the incentive or project. The requestor uses this information and decides if they want to proceed with filing the Part 2 Application. Staff is proposing amendments to this section that more clearly identify the purpose and level of detail required for the Part 1 Application.

The following summarizes the proposed amendments:

- Text has been added to more clearly state that the Part 1 Application is for review only and shall not be misconstrued or taken as a commitment to approve any assistance by the City
- The applicant needs to provide sufficient information to prove their business case for financial assistance and the creation of a draft term sheet to present to the City Council (Council Committee) for review and comments only
- Specifies that applicants requesting TIF or Business Improvement District (BID) financial assistance are required to hire a 3rd party consultant to create the necessary reports/eligibility studies that demonstrate a proposal will qualify for eligibility under State Statute

As part of this amendment, staff is proposing a new process where applications that meet specific criteria are able to forego the Part 1 Application process. The intent is to expedite the review process for projects that are relatively smaller in scope and

amount of funding requested. A financial assistance request must meet ALL of the following criteria to be eligible to forgo the Part 1 Application:

- The total financial assistance request is less than \$1,000,000 in total revenues reimbursed.
- The financial assistance request shall only be in the form of a pay-as-you-go incentive.
- The proposed development is limited to a single Zoning Lot.
- Requests for TIF or BID assistance are not eligible to forego the Part 1 Application process.

b. Section VII Subsection 2, b - Part 2 Application Process

Staff is proposing a new subsection that states that the purpose of the Part 2 Application is for the applicant to provide sufficient information to substantiate their need for financial assistance. The amendments also identify the process for review of this information to prepare a DRAFT financial assistance agreement to present to City Council for approval or denial.

H. Applications

Currently, the Part 1 & 2 Applications are listed as exhibits to the Economic Incentive Policy document. Staff is proposing to remove these items as exhibits from the document. This provides staff the ability to modify these documents as needed and is consistent with the City’s administration of similar applications such as land development reviews and building permits. If the proposed amendments to the policy are approved, Staff will develop revised applications and post them on the City’s website.

As part of the proposed amendments to the application, Staff also plans to develop multiple Part 2 applications. The current “one size fits all” document has caused confusion for applicants regarding what required information is relevant to their request. The creation of specific applications based on types on incentives will help alleviate this confusion. Each application will correspond with a type of financial assistance request. The following is a list of the planned application types:

- Sales tax revenue sharing
- Property tax revenue sharing
- Tax increment financing
- Business improvement district

V. LEGAL REVIEW

Staff asked the City’s Legal Counsel review the proposed amendments. Counsel did not see any legal issues with the proposed amendments to the City’s Economic Incentive Policy.

VI. RECOMMENDATION

Staff recommends approval of the proposed amendments to the City of St. Charles Economic Incentive Policy #2009-4.

VII. ATTACHMENTS

- Current - City of St. Charles Economic Incentive Policy #2009-4 Document
- DRAFT - Amended City of St. Charles Economic Incentive Policy #2009-4 Document

Title City of St. Charles Economic Incentive Policy

Policy # 2009-4

Approval Date March 2, 2009

Revision Date



Sections:

- Introduction
- Eligible Development
- TIF and Sales Tax Incentive Criteria
- General Policies for the Use of Tax Increment Financing & Sales Tax Assistance
- Tax Increment Financing & Sales Tax Assistance Structure
- Non-Profit Organizations/Tax Exempt Property
- Application Process and Procedure

Exhibits:

- TIF and Sales Tax Financial Assistance Application Packet (Part 1 of 2)
- TIF and Sales Tax Financial Assistance Application Packet (Part 2 of 2)

I. INTRODUCTION

The purpose of this document is to provide guidance for the City of St. Charles' (the "City") use of Tax Increment Financing (TIF) and sales tax assistance for development activities. These guidelines establish a framework by which TIF and sales tax incentive requests can be reviewed and evaluated in an objective fashion. For this evaluation, the City will use the criteria indicated in this policy.

It is imperative to maintain and encourage a strong and positive business climate in the City, but this must be done in tandem with cautious review of the long-term financial implications, as well as potential community-wide impacts. As a matter of policy, the City of St. Charles will consider using TIF or sales tax incentives to assist private developments only in those circumstances in which the proposed private projects show a demonstrated financial gap or where significant amounts of sales tax revenue will be realized. This policy identifies the provisions in the proposed economic incentive to be considered by the City.

It is the intention of the City of St. Charles to review requests for TIF and / or sales tax revenue sharing on a case-by-case basis. Proposed agreements to share revenue or costs of improvements must be carefully considered on an individual basis—upon the merits of each situation. It is not the intention of the City to use revenue sharing or incentives to relocate points of sale from neighboring communities or to allow such requests to induce a bidding war for City funds.

This policy shall be used as a guide in processing and reviewing applications requesting assistance. The City Council shall have the option of amending or waiving sections of this policy when determined necessary or appropriate. In the case of TIF assistance, the fundamental purpose is to encourage desirable development/redevelopment projects that would not otherwise occur “but for” the assistance provided through TIF.

It is the intent of the City to provide the minimum amount of assistance to make the project viable. The provision of financial assistance is at the sole discretion of the City. The City reserves the right to reject or approve projects on a case-by-case basis, taking into account established policies, specific project criteria, and the demand on City services in relation to the potential benefits to be received from the proposed project. Meeting policy guidelines or other criteria does not guarantee the award of assistance. Furthermore, the approval or denial of one project is not intended to set a precedent for approval or denial of another project. The City’s decision to participate in any agreement should be viewed as a contribution that will aid growth and add long-term value to the community.

II. ELIGIBLE DEVELOPMENT

TIF ELIGIBLE DEVELOPMENT

The type of development for which the City will consider Tax Increment Financing funding includes the following:

1. Business development (Attraction, Retention, or Expansion).
2. Housing (Owner Occupied or Rental).
3. Development consistent with approved TIF plans.
4. Development compatible with other redeveloped properties in terms of land use and capital improvements.

SALES TAX INCENTIVE ELIGIBLE DEVELOPMENT

1. Business development (Attraction, Retention, or Expansion), or has been previously identified by the City Council as a priority development site.
2. Underserved business segment.

III. TIF AND SALES TAX INCENTIVE CRITERIA

Two of the following criteria must be met in order for incentive requests to be considered:

1. Attracting, retaining or expanding businesses for the purpose of improving the City’s economic base.
 - Documentation of financial projections must be provided by the firm making the request and will serve as the basis for the agreement.
 - Existing sales or transfer sales from existing St. Charles businesses must be accounted for in the projections.

- Revenue sharing will be predetermined for a fixed period of time, not to exceed 10 years and will include a “cap” amount.
 - Whenever feasible, the agreement provisions should be based upon a percentage of sales taxes produced with a “cap” imposed.
 - When applicable, “claw-back” provisions will be utilized. For example, when recipients fail to meet investment, wage, or job creation commitments, they will be required to repay a pro-rated share of the incentive reflecting the level of deficiency as determined prior to the agreement.
2. Desirable business that would enhance the vitality of the City.
 3. Serve an under-served business segment.
 4. Presence of extraordinary development/redevelopment costs such as:
 - Remodeling/demolition
 - Environmental remediation
 - Capital purchases
 - Facility expansion
 - Public infrastructure
 - Governmental impositions (road impact fees, storm water retention, road improvements, etc).
 5. Proposed increase in employment.
 - Firm has long-term lease for building and/or facility in St. Charles. Long-term is defined as 10 years or more.
 - A minimum of 10 new full time employees.
 6. Enhance the streetscape and pedestrian experience and improve the vitality of the area.
 7. Improving public infrastructure.
 8. Providing a variety of quality housing choices.
 9. Quality of development and overall aesthetics are in excess of the mandated legal requirements and design standards.

IV. GENERAL POLICIES FOR THE USE OF TAX INCREMENT FINANCING & SALES TAX ASSISTANCE

1. TIF and sales tax assistance will not be provided to projects that have the financial feasibility (as determined by the City) to proceed without the benefit of the assistance. Assistance will not be provided solely to broaden a developer’s profit margin on the project. Prior to consideration of a TIF and / or sales tax assistance request, the City will undertake an independent analysis of the project costs to ensure that the request for assistance is necessary.
2. Individuals requesting TIF and / or sales tax assistance must demonstrate, to the satisfaction of the City, sufficient equity investment in the project. Equity is defined as cash or un-leveraged value in land or prepaid costs attributable to the project.
3. An independent appraiser hired by the City will determine the fair market value. The developer will be responsible for paying all costs associated with the appraisal.
4. The developer shall provide any market and financial feasibility studies, appraisals, and all information provided to private lenders for the project, as well as any other

- information or data which the City or its financial consultants may require in order to review the need for TIF or sales tax assistance.
5. TIF or sales tax assistance will not be used for projects that place extraordinary, unmet demands on City infrastructure or services.
 6. The developer shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to, letters of credit, cash escrow, and personal guarantees.
 7. The developer must be able to demonstrate to the City's satisfaction an ability to construct, operate, and maintain the proposed project based upon past experience, general reputation, and credit history.
 8. When the project is intended as a for-sale development (i.e., office, retail or residential condominiums), unless authorized by the City Council, the developer must retain ownership of the overall project until final completion; provided, however, that individual condominium units may be sold as they are completed. For all other projects, the developer must retain ownership of the project until completion, stabilization of occupancy, establishment of project management, and initiation of payment of taxes based on the increased project value.
 9. All projects are subject to the provisions of Section V (3).
 10. The level of TIF or sales tax assistance should be reduced to the lowest possible level in the least amount of time by maximizing the use of private debt and equity financing first.
 11. TIF and sales tax assistance shall not exceed 75% of the projected revenue for the project.
 12. Each TIF and sales tax incentive project must demonstrate the probability of economic success. The developer shall initiate this effort by submitting to the City preliminary sales, rental, and other projections and/or pro forma analyses concerning the subject project.
 13. Development projects receiving TIF or sales tax assistance may be required to provide a full reimbursement of the City's financial assistance and expenses in the event the Project is removed from the City's tax rolls during the period of time that the applicable incentive agreement is in existence. The developer shall sign appropriate legal documents indicating agreement with this mandate.

V. TAX INCREMENT FINANCING & SALES TAX ASSISTANCE STRUCTURE

1. TIF or sales tax assistance may be provided by the City on a "pay-as-you-go" note method or via bond proceeds. Requests for up-front financing will be considered on a case-by-case basis, if increment generation is expected to be sufficient to meet initial financing and debt service costs. The developer will be responsible to provide tax bills and any other required information to allow the City to estimate and track the increment produced by the project.
2. The amount of assistance provided to a developer will be limited to the amount necessary to provide the developer a reasonable rate of return on investment in the project and the subject site. A developer's return on equity, return on cost or internal rate of return will be based on current market conditions, as determined by the City.
3. Projects receiving assistance may be subject to a "claw-back" provision. The claw-back mandates a developer to provide the City, or its financial advisor, with evidence of its annualized cumulative internal rate of return on the investment (IRRI), other revenue, or applicable criteria at specified periods of time after project completion. In the case of IRRI,

it shall be calculated with equity, revenues, and expenses in accord with generally accepted accounting principles.

4. When the developer owns the subject property and rents space to tenants, supporting documentation shall be provided to the City, including, but not limited to, certified records of project costs and revenues including lease agreements and sales on a per square foot basis. When included as a part of the City / developer agreement, if the records indicate that the developer has received a higher return on equity, a higher return on cost, or a higher internal rate of return than originally contemplated at the time of development agreement approval, the developer and the City shall split, on a 50/50 basis, any increase at or above 125% of the original projected rates of return.
5. When the subject property is a for-sale development and the IRR cannot be calculated, the developer is to provide financial data after the project is completed. This shall include a calculation of profit on total development costs less the TIF and / or sales tax assistance. If the records indicate that the developer has received a higher return on equity, a higher return on cost, or a higher internal rate of return than originally contemplated at the time of development agreement approval, the developer and the City shall split, on a 50/50 basis, any increase at or above 125% of the original projected rates of return.

VI. NON-PROFIT ORGANIZATIONS/TAX EXEMPT PROPERTY

The City may consider financial assistance for projects of non-profit organizations that own tax-exempt property. If TIF assistance is given, the organization's project will need to meet the pertinent goals of the City's applicable TIF plan and demonstrate a positive financial impact on the TIF District.

VII. APPLICATION PROCESS AND PROCEDURE

1. Application for TIF or sales tax assistance shall be made on the TIF and Sales Tax Financial Assistance Application Packet (Part 1 / Exhibit 1 and Part 2 / Exhibit 2) provided by the City. If approved by the City Council, an initial fee of five percent (5%) or \$50,000, whichever is lower, of the requested TIF and / or sales tax assistance, shall accompany any incentive request. This fee shall be used to cover the City's legal, administrative, and planning costs. Outside consultants hired by the City shall be paid for by the applicant and will not be considered a part of the fee. In addition, if an additional amount of money is required to reimburse the City for its related costs, the applicant shall be responsible for such costs. If any portion of the fee is not utilized, the City will refund the amount to the applicant.
2. In addition, as indicated in the TIF and/or sales tax assistance application, when requested by the City, the developer shall submit a preliminary financial commitment from a financial institution; plans and/or drawings for the project; background information on the developer; a pro forma analysis; financial statements, etc.
3. When requested by the City, the developer shall submit audited financial statements for the last three (3) years. If the audited statements are comparative, only two (2) years are needed. If audited statements are not available, three (3) years of annual financial statements and summary schedules for other projects completed or started within the

three (3) year time frame covered by the financial statements must be submitted. The developer must also submit an interim financial statement for the current year. Upon the request of the applicant, the City may permit these documents to be provided directly to the City's financial advisor or legal counsel in order to protect proprietary or confidential information.

4. When requested by the City, the developer shall submit a complete listing (name and address) of all investors in the project. The listing shall also identify each individual's ownership interest.
5. The developer shall comply with all disclosure requirements of the City, under applicable law.

Footnotes

(1) **Public benefit** means that a proposed development will result in increased tax revenue, desired additional employment or have an identifiable effect of stimulating further and additional desired economic development which outweighs the proposed incentive to be provided by the City.

(2) **Public Infrastructure** means city owned and maintained water mains, hydrants and other necessary works and appurtenances for providing water service; sanitary sewers or other instrumentalities or appurtenances for providing sanitary sewer service; sidewalks, curbs, gutters, streets, off-street parking lots, culverts, bridges, or viaducts; drains, sewers and appurtenances for providing storm water drainage; traffic signs, signals, lights and lighting; poles, posts, wires, conduits, lamps and other appurtenances providing for street lighting; parks, parkways and recreational paths; and acquisition of any and all property, easements and rights of way which may be necessary to accommodate such improvements. Such term shall not include improvements serving a specific site, e.g., water and sanitary sewer service lines.

DRAFT –Amended City of St. Charles Economic Incentive Policy

Title City of St. Charles Economic Incentive Policy

Policy # 2009-4

Approval Date March 2, 2009

Revision Date



Sections:

- Introduction
- Eligible Development
- Financial Assistance Incentive Criteria
- General Policies for the Use of Financial Assistance
- Financial Assistance Structure
- Non-Profit Organizations/Tax Exempt Property
- Application Process and Procedure

I. INTRODUCTION

The purpose of this document is to provide guidance for the City of St. Charles’ (the “City”) use of financial assistance. These guidelines establish an objective framework to review and evaluate incentive requests. For this evaluation, the City will use the criteria indicated in this policy.

It is imperative to maintain and encourage a strong and positive business climate in the City, but this must be done in tandem with cautious review of the long-term financial implications, as well as potential community-wide impacts. As a matter of policy, the City of St. Charles may consider using financial incentives to assist private developments only in those circumstances in which the proposed private projects show a demonstrated financial gap or where significant amounts of sales tax revenue will be realized.

It is the intention of the City of St. Charles to review requests for financial assistance and revenue sharing on a case-by-case basis. Proposed agreements to share revenue or costs of improvements must be carefully considered on an individual basis and upon the merits of each situation. It is not the intention of the City to use revenue sharing or incentives to relocate points of sale from neighboring communities or to allow such requests to induce a bidding war for City funds.

This policy shall be used as a guide in processing and reviewing applications requesting assistance. The City Council shall have the option of amending or waiving sections of this policy when determined necessary or appropriate. In the case of TIF assistance, the fundamental purpose is to encourage desirable development/redevelopment projects that would not otherwise occur “but for” the assistance provided through TIF.

DRAFT

It is the intent of the City to provide the minimum amount of assistance to make the project viable. The provision of financial assistance is at the sole discretion of the City. The City reserves the right to reject or approve projects on a case-by-case basis, taking into account established policies, specific project criteria, and the demand on City services in relation to the potential benefits to be received from the proposed project. Meeting policy guidelines or other criteria does not guarantee the award of assistance. Furthermore, the approval or denial of one project is not intended to set a precedent for approval or denial of another project. The City's decision to participate in any agreement should be viewed as a contribution that will aid growth and add long-term value to the community.

II. ELIGIBLE DEVELOPMENT

ELIGIBLE DEVELOPMENT

The City will consider financial assistance for the following types of development:

1. Business development (Attraction, Retention, or Expansion).
2. Housing (Owner Occupied or Rental).
3. Development consistent with approved TIF plans.
4. Development compatible with other redeveloped properties in terms of land use and capital improvements. Under served business segments.

III. FINANCIAL ASSISTANCE INCENTIVE CRITERIA

Two of the following criteria must be met in order for incentive requests to be considered:

1. Attracting, retaining or expanding businesses for the purpose of improving the City's economic base.
 - Documentation of financial projections must be provided by the firm making the request and will serve as the basis for the agreement.
 - Existing sales, property, or transfer sales from existing St. Charles businesses must be accounted for in the projections.
 - Revenue sharing will be predetermined for a fixed period of time, based on a percentage of new revenues generated, and will include a "cap" amount.
 - When applicable, "claw-back" provisions will be utilized. For example, when recipients fail to meet investment, wage, or job creation commitments, they will be required to repay a pro-rated share of the incentive reflecting the level of deficiency as determined prior to the agreement.
2. Desirable businesses that would enhance the vitality of the City.
3. Serve an under-served business segment.
4. Presence of extraordinary development/redevelopment costs such as:
 - Remodeling/demolition
 - Environmental remediation

- Capital purchases
 - Facility expansion
 - Public infrastructure
 - Governmental impositions (road impact fees, storm water retention, road improvements, etc).
5. Proposed increase in employment.
 - Firm has long-term lease for building and/or facility in St. Charles. Long-term is defined as 10 years or more.
 - A minimum of 10 new full time employees.
 6. Enhance the streetscape and pedestrian experience and improve the vitality of the area.
 7. Improving public infrastructure.
 8. Providing a variety of quality housing choices.
 9. Quality of development and overall aesthetics are in excess of the mandated legal requirements and design standards.

IV. GENERAL POLICIES FOR THE USE OF FINANCIAL ASSISTANCE

1. Financial assistance will not be provided to projects that have the financial feasibility (as determined by the City) to proceed without the benefit of the assistance. Assistance will not be provided solely to broaden a developer's profit margin on the project. Prior to consideration of a financial assistance request, the City will undertake an independent analysis of the project costs to ensure that the request for assistance is necessary.
2. Individuals requesting financial assistance must demonstrate, to the satisfaction of the City, sufficient equity investment in the project. Equity is defined as cash or un-leveraged value in land or prepaid costs attributable to the project.
3. An independent appraiser will determine the fair market value. The developer will be responsible for paying all costs associated with the appraisal.
4. The developer shall provide any market and financial feasibility studies, appraisals, and all information provided to private lenders for the project, as well as any other information or data which the City or its financial consultants may require in order to review the need for financial assistance.
5. Financial assistance will not be used for projects that place extraordinary, unmet demands on City infrastructure or services.
6. The developer shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to, letters of credit, cash escrow, and personal guarantees.
7. The developer must be able to demonstrate to the City's satisfaction an ability to construct, operate, and maintain the proposed project based upon past experience, general reputation, and credit history.

8. All projects are subject to the provisions of Section V (3).
9. The level of financial assistance should be reduced to the lowest possible level in the least amount of time by maximizing the use of private debt and equity financing first.
10. Financial assistance shall not exceed 75% of the projected revenue for the project.
11. Each financial assistance project must demonstrate the probability of economic success. The developer shall initiate this effort by submitting to the City preliminary sales, rental, and other projections and/or pro forma analyses concerning the subject project.
12. Development projects receiving financial assistance may be required to provide a full reimbursement of the City's financial assistance and expenses in the event the project is removed from the City's tax rolls during the period of time that the applicable incentive agreement is in existence. The developer shall sign appropriate legal documents indicating agreement with this mandate.

V. FINANCIAL ASSISTANCE STRUCTURE

1. The City's default position is that financial assistance may be provided by the City on a "pay-as-you-go" note method. In rare instances, the City may consider other forms of assistance. Requests for financing will be considered on a case-by-case basis, if increment or revenue generation is expected to be sufficient to meet initial financing and debt service costs. The developer will be responsible to provide tax bills and any other required information to allow the City to estimate and track the increment produced by the project.
2. The amount of assistance provided to a developer will be limited to the amount necessary to provide the developer a reasonable rate of return on investment in the project and the subject site. A developer's return on equity, return on cost, or internal rate of return will be based on current market conditions, as determined by the City.
3. Projects receiving assistance may be subject to a "claw-back" provision. The claw-back shall mandate a developer to provide the City repayment of financial assistance should the developer not deliver the physical improvements, increase in revenues, increases in employment, or close/cease to operate a project prior to the agreed upon term of the financial incentive agreement.

VI. NON-PROFIT ORGANIZATIONS/TAX EXEMPT PROPERTY

The City may consider financial assistance for projects of non-profit organizations that own tax-exempt property. If TIF assistance is given, the organization's project will need to meet the pertinent goals of the City's applicable TIF plan and demonstrate a positive financial impact on the TIF District.

VII. APPLICATION PROCESS AND PROCEDURE

1. Pre-meeting - Prior to the submission of a financial assistance application, the applicant shall meet with staff to discuss (in general terms) the approval process for financial assistance, the type of anticipated financial request, and general characteristics of the proposed project. This will not include any discussion regarding specifics terms of any potential incentive agreement. Staff shall provide guidance on the next steps for the applicant to file applications.
2. Application Packet - Applications for financial assistance shall be submitted to the City using the Financial Assistance Applications. An initial fee of \$7,000.00 shall be due upon filing of any Part 1 or Part 2 Application. This fee shall be used to cover the City's legal, administrative, and review costs. In the case of projects that require 3rd party outside consultants hired by the City, the applicant will be required to submit an amount equal to the agreed contract provided by the consultant. The applicant shall be required to sign a reimbursement of fees agreement with the City (attached to the application). If an additional amount of money is required to reimburse the City for its related costs, the applicant shall be responsible for such costs. If any portion of the fee is not utilized, the City will refund the remaining amount to the applicant.
 - a. Part 1 Application Purpose: The Part 1 Application is to provide staff and the City Council an opportunity to review the request for financial assistance and preliminary term sheet. This application is for preliminary review only. Any comments, suggestions, or feedback the applicant receives from staff, committees of the whole, or any member of the City Council shall not be construed as an approval or commitment to approve the financial assistance request, and all comments shall be considered non-binding.
 - i. The applicant shall provide sufficient information to the City to prove their business case and to substantiate why the project cannot move forward without financial assistance. This application may be accompanied by, but not limited to the following: preliminary financial commitments from financial institution(s), plans and/or conceptual drawings for the project, background information on the developer, a pro forma analysis, financial statements, preliminary engineers or design professionals costs estimates for any public improvements or construction costs, preliminary estimates for any extraordinary costs such as unsuitable soils, remediation, or similar.
 - ii. Tax Increment District (TIF) and Business Improvement District (BID) Assistance Requests. In addition to the information required above, applicants requesting the use of TIF or BID districts shall be required to provide the following information during the Part 1 Application Process:
 - The applicant (at their own expense) shall work with the City to hire an outside consultant to create a preliminary TIF or BID eligibility report to determine if the properties meet the State of Illinois Statutes “but for” criteria

- Preliminary budget for all TIF or BID eligible improvements and substantiation for those line items
- iii. The applicant may be able to forego the Part 1 Application if their request meets all of the following criteria:
- The total financial assistance request is less than \$1,000,000 in total revenues reimbursed
 - The financial assistance shall only be in the form of a pay-as-you-go request
 - Must be considered a single Zoning Lot development
 - Requests for TIF or BID assistance are not eligible to forego the Part 1 Application process
- b. Part 2 Application Purpose - The Part 2 Application is to verify the need for a financial request, to review all relevant information to substantiate that request, and to present the request and final terms of a DRAFT agreement to the City Council for their review. The City Council, at their own discretion, may choose to approve or deny the request based on the terms and conditions presented.
- i. The applicant shall submit the appropriate Part 2 Application that corresponds with their financial assistance request (i.e. property tax reimbursement, sales tax reimbursement, TIF, etc.)
 - ii. The applicant shall provide sufficient information to the City to fully substantiate their request for financial assistance. The application shall be accompanied by but not limited to: financial commitments from financial institution(s), preliminary or final plans architectural elevations, background information on the developer, a pro forma analysis, financial statements, engineer's or professional costs estimates for any public improvements, extraordinary construction costs, unsuitable soils, remediation, or similar expenses. These documents shall form the basis of the amount of financial assistance requested.
3. When requested by the City, at any time in the Part 1 or Part 2 Application Process, the developer shall submit audited financial statements for the last three (3) years. If the audited statements are comparative, only two (2) years are needed. If audited statements are not available, three (3) years of annual financial statements and summary schedules for other projects completed or started within the three (3) year time frame covered by the financial statements must be submitted. The developer must also submit an interim financial statement for the current year. Upon the request of the applicant, the City may permit these documents to be provided directly to the City's financial advisor or legal counsel in order to protect proprietary or confidential information.
4. When requested by the City, at any time in the Part 1 or Part 2 Application Process, the developer shall submit a complete listing (name and address) of all investors in the project. The listing shall also identify each individual's ownership interest.
5. The developer shall comply with all disclosure requirements of the City, under applicable law.

Footnotes

(1) **Public benefit** means that a proposed development will result in increased tax revenue, desired additional employment or have an identifiable effect of stimulating further and additional desired economic development which outweighs the proposed incentive to be provided by the City.

(2) **Public Infrastructure** means city owned and maintained water mains, hydrants and other necessary works and appurtenances for providing water service; sanitary sewers or other instrumentalities or appurtenances for providing sanitary sewer service; sidewalks, curbs, gutters, streets, off-street parking lots, culverts, bridges, or viaducts; drains, sewers and appurtenances for providing storm water drainage; traffic signs, signals, lights and lighting; poles, posts, wires, conduits, lamps and other appurtenances providing for street lighting; parks, parkways and recreational paths; and acquisition of any and all property, easements and rights of way which may be necessary to accommodate such improvements. Such term shall not include improvements serving a specific site, e.g., water and sanitary sewer service lines.