ST. CHARLES SINCE 1834	**AGENDA ITEM EXECUTIVE SUMMARY**	
	Title:	Presentation of Sales Tax Reimbursement Criteria
	Presenter:	Michael Mertes

Please check appropriate box:

	Government Operations		Government Services
X	Planning & Development (10/10/11)		City Council
	Public Hearing		

Estimated Cost:	N/A	Budgeted:	YES		NO	

If NO, please explain how item will be funded:

Executive Summary:

In early 2009, City Council approved an Economic Incentive Policy in order to have a formal process to grant potential retail tenants an incentive to locate their business in our community. In April of this year, Staff presented a number of different prospective criteria to be utilized when considering requests for sales tax reimbursement. At that time, the Committee directed Staff to return at a later date with additional information on this matter.

The Economic Development Department has recently conducted research on what criteria other communities in the Chicago area use to determine who is eligible to receive a sales tax rebate. The reason for this is to determine best practices for not only incentivizing businesses interested in locating within St. Charles, but also providing a tool to allow the City to recruit potential retailers.

The presentation will highlight ten types of criteria used as the basis for granting an economic incentive, and other useful provisions in regulating a sales tax incentive.

Attachments: *(please list)*

Existing City of St. Charles Economic Incentive Policy

Recommendation / Suggested Action *(briefly explain)*:

Staff recommends that the Council review the presented criteria and best practices, and determine if the present incentive policy should be modified. Also, Staff recommends that Council inform the Economic Development Department as to how it would prefer the department to best utilize the formal incentive policy.

For office use only:	*Agenda Item Number: 2b*

Title	City of St. Charles Economic Incentive Policy
Policy #	2009-4
Approval Date	March 2, 2009
Revision Date	

ST. CHARLES
SINCE 1834

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 IRRI 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.