Economic Development Policy
City of Independence, Missouri

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City of Independence, Missouri

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Section I: Introduction and General Guidelines

A. Purpose and Scope:

The purpose of this Economic Development Policy (the "Policy") is to provide guidance to property owners and developers on the use of public economic incentive tools. This Policy is also designed to provide direction and an understanding of the City's expectations regarding the process, and set forth standards and policies that will be applied by the City to the use of economic development tools.

B. Objectives:

The City is committed to high quality and balanced growth and development in the community, to preserving the City's character and atmosphere, and to revitalizing and redeveloping areas of the City. The City recognizes the importance of continued economic development to meet the needs of its residents. The City also recognizes its obligation to balance the demand for economic development with the judicious use of economic incentives, reserving the use of these incentives for projects that demonstrate significant public benefit, and which would not be feasible without public participation. Accordingly, the City has established goals and practices regarding the use of incentive tools to:

1. Promote, stimulate and develop the general and economic welfare of the City.

2. Build and maintain an attractive community that creates a positive public image and encourages individuals, families and businesses to locate and invest in the community.

3. Provide, limit, and manage public economic incentives in those locations and situations that provide maximum public benefit. Specific standards detailed herein will govern the use of incentives.

The wise and strategic use of incentives can lead to substantial public benefits, including the construction of public improvements, the creation of new jobs, the retention of existing quality jobs, the elimination of blight or conditions that could lead to blight, increased property values, increased tax revenues, increased revenues for City-owned utilities, and the promotion of economic stability throughout the City.

It is the policy of the City that any decision regarding the use of public economic incentives will be made in accordance with the guidelines, criteria, and procedures set forth in this Policy. Nothing in this Policy shall imply or suggest that the City is under any obligation to approve or support the use of a particular public economic incentive tool for any Applicant. The City reserves the right to modify or waive, on a case-by-case basis, any of the procedures set forth in this Policy, provided applicable state statutory requirements are satisfied.

C. Relationship to the 2017-2022 "Independence For All" Strategic Plan:

One of the specific strategies outlined in the 2017-2022 "Independence For All" Strategic Plan is as follows: "Update the Economic Development Policy to guide decision-making and ensure a progressive and effective approach to public incentives". This Policy was developed to meet that objective, and to help achieve other goals set forth in the Strategic Plan, including:

- Increase economic prosperity
- Attract & retain quality employers
- Increase the number of good-paying jobs
- Increase household income
- Grow retail & commercial businesses
- Support industrial & office development
- Identify economic development needs & goals
- Assist the Independence EDC to recruit/retain businesses
- Increase per capita sales tax collection and "pull" factor
- Grow and diversify revenues
- Support development along key corridors
- Attract and retain visitors to the community
- Improve partnerships and coordination with local School Districts
- Communicate more effectively both internally & externally
- Improve financial analysis and reporting on development incentives

These goals, objectives and strategies were included in the Strategic Plan to help Independence attain the Vision for the community described in the Plan as follows:

Our Vision:
"Our quality neighborhoods, 21st century jobs, growing economy, safe, family-friendly community, and cultural diversity makes Independence, Missouri a nationally recognized city with a unique history and sense of place".

This vision and many of the objectives listed above are reflected in the evaluation criteria set forth in this document for the use of incentives. This Policy, then, is intended to serve as a tool to advance the vision, and achieve the goals, outlined in the 2017-2022 "Independence For All" Strategic Plan through a thoughtful approach to economic development in our community.

Section II: Definitions

Words and terms not defined elsewhere in this Policy shall have the following meanings:

"Applicable Law" means any statute, rule, regulation, ordinance or code applicable within the jurisdictional limits of the City.

"**Applicant"** means an individual or entity, or the authorized representative of such individual or entity, submitting an Application for economic development incentives or tools described in this Policy.

"**Application"** means an initial request for economic development assistance. Applicants are encouraged to use the Financial Incentives Application & Worksheet form attached to this Policy or a substantially similar document to initiate the process of applying for any of the economic development tools described in this Policy.

"Blighted Area" means, generally, an area with unsanitary or unsafe conditions, inadequate infrastructure, deteriorated site conditions, poorly maintained facilities, and other factors which retard the development/redevelopment of the area, and which pose an economic liability for the community and/or pose a danger to public health, safety, and welfare, but is specifically defined with respect to Chapter 353 Tax Abatement, CID and TIF.

"Chapter 100 Tax Abatement" means tax abatement on real and/or personal property granted by the City pursuant to RSMO Chapter 100 to incentivize private projects. Assumption of title to the property by the City renders it tax exempt, while a portion of the abated taxes may be required to be reimbursed to the taxing jurisdictions through payments in lieu of taxes (PILOTS) paid by the property owner. Eligible projects may also take advantage of an exemption on sales tax for construction materials and if approved by the State of Missouri, sales tax exemption on certain types of personal property.

"Chapter 353 Tax Abatement" means tax abatement granted by the City pursuant to RSMO Chapter 353 to encourage redevelopment of "blighted" areas. An Urban Redevelopment Corporation is created to assume title to properties to be improved, which renders partial exemption from real property taxation. Payments in lieu of taxes (PILOTS) may be required to reduce the tax abatement below the statutorily available maximum pursuant to agreement between the City and the Applicant.

"**City Council"** means the governing body of the City.

"Community Improvement District (CID)" means a special funding district organized as either a political subdivision with the power to impose a sales tax, special assessments or real property tax, or a nonprofit corporation with the power to impose special assessments. It is created by the City following submission of a petition signed by a majority of the property owners in the proposed district who also represent a majority of the assessed valuation. A separate election is required in the District to impose a sales tax or real property tax.

"Credit Support" means pledge of the City's annual appropriation or other form of support to bonds or other forms of debt obligations issued to incentivize a project.

"EATs" means Economic Activity Taxes (incremental sales taxes)

"Most Favored Designation" refers to the extent to which projects meet specified goals and objectives pertaining to incentive tools. Project applications earning a "Most Favored Designation" will be identified as such when presented to the City Council, which may take this designation into account when evaluating the merits of a project application.

"Neighborhood Improvement District (NID)" means a special funding district with the power to impose special assessments to finance public improvements. It is most commonly created by a petition signed by 2/3 of the property owners in the District. A NID is not a separate political subdivision of the state.

"PILOT" means payment in lieu of taxes, which may be applicable to TIF or Tax Abatement tools.

"Special Funding District" means a CID, NID, or TIF.

"Tax Abatement" means tax abatement programs under RSMO Chapter 353, and RSMO Chapter 100.

"Tax Increment Financing (TIF)" means a special funding district created to encourage the redevelopment of "blighted" areas through the reallocation of incremental sales and property tax revenue growth which would not be possible "but for" the improvements financed through the TIF. The incremental revenue growth from 50% of incremental property taxes (which is one-half of the maximum allowed by statute per this Policy) and 50% of incremental sales taxes is deposited in a special allocation fund to finance improvements within the district.

Section III: Summary of Economic Development Tools & Eligible Projects

Type of Development	**TIF**	**NID**	**CID**	**353**	**Chap. 100**
Residential		●	●	●	
Commercial	●	●	●	●	●
Industrial	●	●	●	●	●
Redevelopment & Infill	●	●	●	●	●
Greenfield	●	●	●		●
Blighted Area	●	●	●	●	●

Type of Improvements

Transportation Facilities & Parking	●	●	●		●
Industrial Facility Construction & Site Development	●			●	●
Sewer	●	●	●		
Water	●	●	●		
Storm Water & Drainage	●	●	●		
Other Public Improvements	●	●	●		
Building Rehabilitation or Infill for Blight Clearance	●		●	●	●

Funding Sources

Tax Abatement				●	●
Tax Increment Redirection	●				
Special Assessments		●	●		
Real Property Tax			●		
Bonds issued by City	●	●			
Bonds issued by Special Funding District			●		
New Sales Tax			●		

Section IV: Use of Economic Development Tools, Application Process, Minimum Requirements, and Criteria for Obtaining "Most Favored" Designation for a Development Project

A. Tax Abatement

1. Chapter 100 Tax Abatement.

A. Use of Chapter 100 Tax Abatement: Tax Abatement may be granted by the City pursuant to RSMO Chapter 100 to incentivize private projects. Assumption of title to improvements by the City renders property tax exempt, while a portion of the abated taxes may be recovered for the taxing districts through payments in lieu of taxes (PILOTS) paid by the property owner. Eligible projects may also take advantage of an exemption on sales tax for construction materials and, if approved by the State of Missouri, sales tax exemption on certain types of personal property.

Property owned by the City pursuant to a Chapter 100 project will be exempt from an agreed-upon amount of real property taxes and/or personal property taxes in appropriate situations. The City may require that PILOT payments be made to all impacted taxing districts. The City may elect to use the table below as a general guideline to determine the amount and duration of tax abatement.

Investment (in Millions)	**Jobs Created**							
	5-9	10-14	15-25	25-49	50-99	100-249	250-300	300+
$5-$6	55%	57%	60%	65%	70%	75%	80%	75%/11
$6-10	57%	60%	65%	70%	75%	80%	75%/11	75%/12
$10-$25	60%	65%	70%	75%	80%	75%/11	75%/12	75%/13
$25-$50	65%	70%	75%	80%	75%/11	75%/12	75%/13	85%/12
$50-$60	70%	75%	80%	75%/11	75%/12	75%/13	85%/12	85%/15
$60-$75	75%	80%	75%/11	75%/12	75%/13	85%/12	85%/15	85%/17
$75+	80%	75%/11	75%/12	75%/13	85%/12	85%/15	85%/17	TBD

Abatement percentages shown are for 10 years except where a longer period is indicated.

B. Minimum Requirements for Use of Chapter 100 Tax Abatement

- Public participation will only be considered if the Applicant can demonstrate that alternative financing methods have been explored.
- Project benefits to the community must justify the impact the abatement will have on taxing jurisdictions.
- The Applicant must provide evidence of the ability to secure funding for the initial project costs.
- The proposed project must conform to the City's Comprehensive Plan.
- Projects providing or retaining jobs with wages meeting the Independence average wage.

- Projects must recognize the importance of, and make provisions for, sustainable practices, including energy efficiency.

- Public participation shall not exceed 20% of the total project costs, including all public and private costs. This limitation is cumulative of all incentive tools used. The Council may also elect to waive or exceed this limitation if the project is deemed particularly beneficial to the community.

- Projects must recognize the importance of, and make provisions for, litter & trash cleanup, walkability, and security strategies.

- Projects must recognize the importance of public art, and include provisions for supporting public art consistent with the goals & objectives outlined in the City's One Percent for the Arts Program. This may include contributions in an amount equal to 1% of the abated City tax on real property (to a maximum contribution of $10,000) to the public art program and/or the installation of public art on public property on site if practicable.

- Public economic incentives should be limited to the shortest duration while still providing for the desired level of public financial assistance.

- In no event shall the City consider project incentives which will require the City to lend its Credit Support to project bonds or other obligations of the Applicant. The City will accept no credit risk when issuing bonds for a Chapter 100 project. Bonds are a necessary component of the Chapter 100 structure, but the Applicant will be required to purchase the bonds.

C. Requirements for "Most Favored" Designation for a Chapter 100 Project

- Projects that bring new businesses and industries to the City, or retains businesses that would otherwise leave the City.

- Projects which include public improvements that serve the community as well as the proposed development, particularly improvements already envisioned in City development plans.

- Projects where the Applicant either owns the project property or has an option to purchase such property, and condemnation will not be available as a tool for accomplishing the project.

- Projects that will finance desirable public improvements, strengthening the employment and economic base of the City, increasing property values, reducing poverty, creating economic stability, upgrading older neighborhoods, and/or facilitating economic self-sufficiency.

- Projects providing or retaining jobs with wages exceeding 120% of the Jackson County average wage.

- Projects with PILOT's greater than or equal to those described in Section IV. A. 1. A.

D. Application Process:

(1) Application: Applicants that propose the use of any economic development incentive described in this policy shall submit a Financial Incentives Application & Worksheet provided in this Policy, or a substantially similar document.

(2) Review of Application: Initial review of an Application and other required submittals will be conducted by City staff, including input from appropriate City departments including the City Manager's Office, Finance & Administration, Community Development, Law and other departments as required (as well as the City's outside economic development consultants). The scope of the initial review is intended to determine whether the Application substantially meets the requirements of this Policy and Missouri law, generally is an appropriate request for economic development assistance, and the extent to which it earns "Most Favored" designation as detailed in this Policy.

In the event an Application does not substantially meet the requirements of this Policy or Missouri law, or is not otherwise an appropriate request for economic development assistance as determined by City staff, the Application will be returned to the Applicant together with the reasons the Application was deficient. Returned Applications may be resubmitted upon cure of the reasons for rejection.

Submission of an Application that meets the requirements of this Policy (even with a "Most Favored" designation) does not guarantee that any economic development incentives will be recommended by City staff or granted by the City, as all incentives are granted on a discretionary basis by the City.

(3) Review of Application by Economic Development and Incentives Commission: An Application, which in the view of City staff and consultants substantially meets the requirements of this Policy, will be presented for review by the Independence Economic Development and Incentives Commission, which shall make a recommendation within 30 days to the City Council regarding the advisability of granting the Application.

(4) Term Sheet: After review of the Application, and with approval of the City Manager, a Term Sheet may be prepared by City staff and provided to the Applicant to set forth specific incentives the City may offer. If the City Manager (and/or designated staff) and Applicant concur on the provisions contained in the Term Sheet.

(5) Development Agreement: City staff will work with Applicant and the City's consultants to develop a Development Agreement for final approval by Applicant and City Council. Prior to consideration of the Development Agreement by the City Council, a tax impact statement will be prepared and sent to impacted taxing jurisdictions.

2. Chapter 353 Tax Abatement:

A. Use of Chapter 353 Tax Abatement: Tax abatement may be granted by the City pursuant to RSMO Chapter 353 to encourage redevelopment of "blighted" areas. An Urban Redevelopment Corporation ("Redevelopment Corporation") is established to assume title to properties to be improved.

In the absence of extraordinary qualifications, 353 plans shall structure tax abatement at a maximum of 75% during the first ten-year period and 37.5% during subsequent years up to an additional fifteen-year period if such a period of time is warranted.

For commercial projects where new jobs will be created, the City may elect to use the table below as a general guideline for establishing the amount of public participation for a project expressed as a percentage of total project cost:

Investment (in Millions)	**Jobs Created**							
	5-9	10-14	15-25	25-49	50-99	100-249	250-300	300+
Under $6	15%	15%	15%	15%	16%	16%	17%	18%
$6-10	15%	15%	15%	15%	16%	16%	17%	18%
$10-$25	15%	15%	15%	15%	16%	17%	18%	19%
$25-$50	15%	15%	15%	16%	17%	18%	19%	20%
$50-$60	16%	16%	16%	17%	18%	19%	20%	20%
$60-$75	16%	16%	17%	18%	19%	20%	20%	20%
$75+	17%	17%	18%	19%	20%	20%	20%	TBD

B. Minimum Requirements for Use of 353 Tax Abatement

- Public participation will only be considered if the Applicant can demonstrate that alternative financing methods have been explored and project is not feasible without such public participation.
- In the absence of extraordinary qualifications, 353 plans shall structure tax abatement at 75% during the first ten-year period and 37.5% during subsequent years up to an additional fifteen-year period if such a period of time is warranted.
- Project benefits to the community must justify the impact the abatement will have on taxing jurisdictions.
- The Applicant must provide evidence of the ability to secure funding for the initial project costs.
- In no event shall the City consider project incentives which will require the City to lend its credit support to project bonds or other obligations of the Applicant.
- Projects providing or retaining jobs with wages meeting the Independence average wage.

- The proposed project must conform to the City's Comprehensive Plan.
- Public participation shall not exceed 20% of the total project costs, including all public and private costs. This limitation is cumulative of all incentive tools used. The Council may also elect to waive or exceed this limitation if the project is deemed particularly beneficial to the community.
- Projects must recognize the importance of, and make provisions for, litter & trash cleanup, walkability, and security strategies.
- Public economic incentives should be limited to the shortest duration while still providing for the desired level of public financial assistance.

C. Requirements for "Most Favored" Designation for Chapter 353 Projects

- Projects that bring new businesses and industries to the City, or retains businesses that would otherwise leave the City.
- Projects which include public improvements that serve the community as well as the proposed development, particularly improvements already envisioned in City development plans.
- Most favorable consideration will be given to those projects where the Applicant either owns the project property or has an option to purchase such property, and condemnation will not be available as a tool for accomplishing the project.
- Projects that will finance desirable public improvements, strengthening the employment and economic base of the City, increasing property values, reducing poverty, creating economic stability, upgrading older neighborhoods, and/or facilitating economic self-sufficiency.
- Projects providing or retaining jobs with wages exceeding 120% of the Jackson County average wage.
- Projects with PILOT's greater than or equal to those described in Section IV. A. 2. A.
- Projects which recognize the importance of public art, and include provisions for supporting public art consistent with the goals & objectives outlined in the City's One Percent for the Arts Program. This may include contributions to the public art program (up to an amount equal to 1% of abated City property tax) and/or the installation of public art on site if practicable.
- Projects which recognize the importance of, and make provisions for, sustainable practices, including energy efficiency.
- Projects which recognize the importance of, and make provisions for, litter & trash cleanup, walkability, and security strategies.

D. Application Process:

(1) Application: An Applicant that proposes abatement through Chapter 353 shall submit a Financial Incentives Application & Worksheet provided in this Policy, or a substantially similar document.

(2) Review of Application: Initial review of an Application and other required submittals will be conducted by City staff, including input from appropriate City departments including the City Manager's Office, Finance & Administration, Community Development, Law, and other departments as required (as well as the City's outside economic development consultants). The scope of the initial review is intended to determine whether the Application substantially meets the requirements of this Policy and Missouri law, generally is an appropriate request for economic development assistance, and the extent to which it earns "Most Favored" designation as detailed in this Policy.

In the event an Application does not substantially meet the requirements of this Policy or Missouri law or is not otherwise an appropriate request for economic development assistance as determined by City staff, the Application will be returned to the Applicant together with the reasons the Application was deficient. Returned Applications may be resubmitted upon cure of the reasons for rejection.

Submission of an Application that meets the requirements of this Policy (even with a "Most Favored" designation) does not guarantee that any economic development incentives will be recommended by City staff or granted by the City, as all incentives are granted on a discretionary basis by the City.

(3) Preliminary Funding Agreement: The City does not have a source of funds to finance costs incurred for additional legal, financial and other consultants or for direct out-of-pocket expenses and other costs resulting from services rendered to the City to review, evaluate, process and consider Applications. An Applicant who desires assistance from the City through the use of economic incentive tools shall demonstrate the financial ability to allow for the full and fair evaluation by the City of all development proposals and requests for economic incentives from the City. In order for the City to fully consider and evaluate an Application, the Applicant may be required to deposit funds with the City pursuant to a Preliminary Funding Agreement between the City and the Applicant, to be used by the City to pay for fees and expenses necessary to perform a full evaluation of the Application and engage consultants as needed for such evaluation.

(4) Review of Application by Economic Development and Incentives Commission: An Application, which in the view of City staff and consultants substantially meets the requirements of this Policy, will be presented for review by the Independence Economic Development and Incentives Commission, which shall make a recommendation within 30 days to the City Council regarding the advisability of granting the Application.

(5) Term Sheet: After review of the Application, and with approval of the City Manager, an informal Term Sheet may be prepared by City staff and provided to the Applicant to set forth specific incentives the City may offer.

(6) Redevelopment Contract: After review of the Application and Redevelopment Plan, and meetings with Applicant, a Redevelopment Contract may be developed for further consideration. In addition to a review by City staff and consultants, the Contract will also be reviewed by the Independence Economic Development and Incentive Commission. Recommendations will be communicated to the Independence City Council prior to final consideration of the Contract. A tax impact statement shall be prepared and distributed to impacted jurisdictions prior to submission of the Contract to the Council.

The Redevelopment Contract shall provide for the implementation of the Redevelopment Plan and the payment of PILOTs, if applicable, in accordance with the tax impact statement. The redevelopment contract shall be binding upon successors to the Redevelopment Corporation and the Applicant in the real property for which tax abatement is provided. The City may pre-approve a transfer of property from the Redevelopment Corporation to the primary developer, but transfer to any other person or entity shall be subject to prior approval by the City.

B. Special Funding Districts

1. TIF (Tax Increment Financing):

A. Use of Tax Increment Financing (TIF): TIF may be used to encourage the redevelopment of "blighted" areas through the reallocation of incremental revenue growth which would not be possible "but for" the improvements financed through the TIF. 50% (one-half of the maximum allowed by statute, per this Policy) of the incremental revenue growth from increased property taxes and 50% of increased sales taxes is deposited in a special allocation fund to finance public improvements or other authorized project costs within the district.

Public participation shall generally not exceed 20% of the total project costs, including all public and private costs. The City Council may elect to exceed this limitation if the project is deemed particularly beneficial to the community.

The City may elect to use the table below as a general guideline for establishing the amount of public participation for a project expressed as a percentage of total project cost:

Investment (in Millions)	**Jobs Created**							
	5-9	10-14	15-25	25-49	50-99	100-249	250-300	300+
$5-$6	15%	15%	15%	15%	16%	16%	17%	18%
$6-10	15%	15%	15%	15%	16%	16%	17%	18%
$10-$25	15%	15%	15%	15%	16%	17%	18%	19%
$25-$50	15%	15%	15%	16%	17%	18%	19%	20%
$50-$60	16%	16%	16%	17%	18%	19%	20%	20%
$60-$75	16%	16%	17%	18%	19%	20%	20%	20%
$75+	17%	17%	18%	19%	20%	20%	20%	TBD

B. Minimum Requirements for Use of TIF

- Public participation will only be considered if the Applicant can demonstrate that alternative financing methods have been explored and project is not feasible without such public participation.
- A minimum investment of at least $5,000,000 in real property improvements is required for consideration of TIF incentives.
- Public participation shall not exceed 20% of the total project costs, including all public and private costs. This limitation is cumulative of all incentive tools used. The City Council may also elect to exceed this limitation if the project is deemed particularly beneficial to the community.
- The Applicant must provide evidence of the ability to secure funding for the project costs.
- The proposed project must conform to the City's Comprehensive Plan.
- Projects providing or retaining jobs with wages meeting the Independence average wage.

- Public economic incentives should be limited to the shortest duration while still providing for the desired level of public financial assistance.

- Projects must recognize the importance of, and make provisions for, sustainable practices, including energy efficiency.

- Projects must recognize the importance of, and make provisions for, litter & trash cleanup, walkability, and security strategies.

- Projects must recognize the importance of public art, and include provisions for supporting public art consistent with the goals & objectives outlined in the City's One Percent for the Arts Program. This may include contributions in an amount equal to 1% of the redirected incremental City tax on real property (to a maximum contribution of $10,000) to the public art program and/or the installation of public art on site if practicable.

- In no event shall the City consider project incentives which will require the City to lend its Credit Support to project bonds or other obligations of the developer.

- 50% of EATS from sales shall be used for reimbursement of improvement costs, and the other 50% distributed to taxing jurisdictions.

- The TIF plan shall provide for a mandatory declaration of surplus PILOTs to the applicable taxing districts that impose real property taxes within the redevelopment area in the amount of 50% of all captured PILOTs. The declaration of mandatory surplus PILOTs shall be disbursed from the special allocation fund in accordance with the TIF Act.

C. Requirements for "Most Favored" Designation for a TIF Project

- Projects that provide for reimbursement on a pay-as-you-go basis entirely or otherwise minimize the need for bonds to be issued by the City.

- Projects that request a percentage of public participation which is lower than described in Section IV.B.1.A.

- TIF plans that propose the redevelopment of areas with existing blighted structures.

- The Applicant should contribute not less than 15% of the total project costs from cash equity of the Applicant. Land costs or land value shall not be included in the calculation of developer's equity contribution unless the land will be purchased after the TIF plan is submitted to the City, or was purchased within one year prior to submitting the TIF plan to the City. Private loans obtained by Applicant will not be included in the calculation of developer's equity. Project costs that are funded by third parties (subsequent purchasers or tenants) will not be included in the calculation of Applicant's equity. Public subsidy cannot be counted as equity.

- TIF plans that propose retail development should encourage the inflow of customers from

outside the City and should not divert sales from or cannibalize existing retail in the City. If the TIF plan will cause or result in the relocation of one or more businesses already within the City, the Applicant must demonstrate that the business would leave or cease operations in the City without such relocation, and the base year of the business (for the purpose of calculating economic activity taxes) shall be the 12-month period prior to closing at its prior location. The TIF contract shall implement these requirements for relocated businesses.

- Applications that propose the use of another Special Funding District to reduce the need for tax increment financing, shorten the duration of tax increment financing, and reduce the need for the City to issue or incur obligations to finance project costs.

- The Applicants demonstrate that they have no interest in an existing development that has delinquent special assessments or property taxes.

- Projects that bring new businesses and industries to the City, or retains businesses that would otherwise leave the City.

- Projects which include public improvements that serve the community as well as the proposed development, particularly improvements already envisioned in City development plans.

- Projects where the Applicant either owns the project property or has an option to purchase such property. Projects shall not include condemnation.

- Projects that will finance desirable public improvements, strengthening the employment and economic base of the City, increasing property values, reducing poverty, creating economic stability, upgrading older neighborhoods, and/or facilitating economic self-sufficiency.

- Projects providing or retaining jobs with wages exceeding 120% of the Jackson County average wage.

The City will give separate and favorable consideration to TIF plans that benefit multiple small business owners that individually would not have the resources to pursue TIF incentives. These projects will typically involve the renovation and improvement of existing buildings. Such projects will not be subject to the minimum investment or job creation considerations described above and the level of incentives will we evaluated on a case-by-case basis.

D. Application Process: The City will use substantially the following process for initial evaluation and consideration of any proposed TIF plan:

1. Application: An Applicant for TIF must submit a Financial Incentives Application & Worksheet provided in this Policy, or a substantially similar document, and meet with City staff.

2. Preliminary Funding Agreement: Negotiation and execution of a Preliminary Funding Agreement to cover City costs.

3. Term Sheet: After review of the Application, and with approval of the City Manager, an informal Term Sheet may be prepared by City staff and provided to the Applicant to set forth specific incentives the City may offer.

4. Submission of a draft TIF Plan: The TIF plan will be reviewed by City staff to determine compliance with the applicable provisions of RSMO Chapter 99 (the "TIF Act") and raise any legal or policy issues. The City will provide a written response to the draft TIF plan. If required, a revised TIF Plan will be submitted for City review. Independent studies may be obtained by the City through or at the request of City staff, the TIF Commission, or the City Council. Such studies may include a blight study, a financial feasibility study, a market analysis, a traffic study, or any other type of professional evaluation of the TIF plan or any element of the TIF plan. The costs of any study shall be paid by the Applicant in accordance with the terms of the Preliminary Funding Agreement.

5. Impact Statement: After review of the plan or revised plan, and a determination that it is complete, the City staff or consultant will produce a tax impact statement to show the effects of the TIF plan on impacted taxing districts.

6. TIF Commission Review: The TIF plan will be submitted to the TIF Commission. At the public hearing, the Applicant will present the proposed plan, followed by comments and recommendations from City staff. The Commission will take public testimony, and the Applicant will be allowed time for a response. All questions from the Commission to an Applicant, City staff or the public shall be held during the public hearing.

   The TIF Commission recommendation may include any recommended additional changes, conditions or requirements that the Commission believes should be satisfied prior to approval of the TIF plan or prior to implementation of the TIF plan or a particular project or phase of the TIF plan.

   If the TIF Commission considers and votes on a resolution to recommend approval of the TIF plan but such resolution fails to receive a vote of approval, such action shall be deemed by the City Council to be a recommendation against the TIF plan.

7. City Council Review: The TIF Plan will be submitted to the City Council as a regular agenda item. Council will give such notice and hold such public hearings regarding the TIF plan as are required by law, and may allow additional opportunities for public comment regarding the TIF plan. The City Council may hold one or more special meetings to consider the TIF plan.

   Evaluation of a plan will include a consideration of the extent to which it meets Minimum Requirements set forth above as well as the extent to which it earns "Most Favored" designation as detailed in this Policy.

   If it so wishes, the City Council may approve the TIF plan by ordinance, and require that a TIF contract be executed by the selected developer within a designated time period, upon terms and conditions that are acceptable to the City.

8. Approval of TIF Contract by the City Council: A TIF Contract will be developed and submitted to the City Council. An ordinance to approve a TIF contract will not be placed on a City Council agenda until all outstanding contractual issues have been resolved to the satisfaction of City staff.

   The contract may contain a list of pre-approved or prohibited land uses or tenants, will provide that prevailing wages must be paid by the developer where required by law, and provide for an order of priority in which reimbursable project costs and other eligible costs shall be paid from the special allocation fund, on an as-collected basis or to repay bonds that have been issued pursuant to the TIF plan, which order of priority will be subject to revision by the documents executed in connection with any bond issuance.

   The TIF contract will provide for a City administrative fee to be funded by a portion of the TIF revenues, which will pay for costs incurred by the City, including financial, legal, traffic and other consultants and advisors to the City, to administer the TIF plan and enforce the contractual obligations of the developer and the developer's authorized successors, assignees and transferees in the redevelopment area. In addition to any other costs that are authorized to be funded from the administrative fund, the contract will authorize the City to withdraw 2% of the funds deposited in the special allocation fund through the first full calendar year, and 1% annually thereafter, to reimburse the City for costs incurred to manage the special allocation fund and provide for the collection and disbursement of TIF revenues. The TIF contract will also provide for reimbursement to the City from the special allocation fund for costs incurred by the City to conduct a 'component unit' audit of any Special Funding District that is established in furtherance of the TIF plan. Funding of the City administrative costs will be a higher priority than reimbursement of developer reimbursable project costs.

2. NID (Neighborhood Improvement Districts):

A. Use of Neighborhood Improvement District (NID): A NID with the power to impose special assessments may be used to finance public improvements. It is commonly created by a petition signed by 2/3 of the property owners in the proposed district. A NID is not a separate political subdivision of the state. Per State statutes, the City may provide funding for the project, and may issue bonds to do so. The City may elect to require the Applicant to provide interim construction financing.

B. Minimum Requirements for NID Projects
• Project sponsors must demonstrate the need for the establishment of the NID. • Improvements to be funded with NID proceeds must be public in nature, but may be related to a private project. • The proposed project must conform to the City's Comprehensive Plan. • The term of the assessments imposed shall not exceed 120% of the useful life of the improvements. • The petition establishing the formation of the NID shall conform in all respects to requirements set forth in state statutes.

C. Requirements for "Most Favored" Designation for an NID Project
• The NID improvements benefit an entire subdivision or other large area in which many properties benefit from and are subject to the special assessments. • All Applicants are obligated to dedicate all rights-of-way and easements that are necessary to complete the NID project without cost to the City. • The Applicants demonstrate the financial capacity to complete the development (if new development is proposed), and the financial capacity to provide interim construction financing either personally or through a lending commitment. Ideally this would include, a letter of credit equal to one year of assessments which is reduced as the project is constructed and sold/tenanted. • The Applicants demonstrate that they have no interest in an existing development that has delinquent special assessments or property taxes. • Applicants for public improvements relating to commercial facilities shall pay for all costs associated with preparation of the petition and specifications for the improvements to be funded with the NID. • The Applicants will indemnify the City, or provide another form of security that is acceptable to City staff, for the non-payment of the special assessments which may be used prior to sale of the property through the lien.

- The NID is being used to pay for improvements that have already been identified for construction by the City.

- The City may covenant to use the City's Credit Support to finance long-term bonds if and when the conditions on the use of such support as set forth herein are satisfied.

- Projects which recognize the importance of public art, and include provisions for supporting public art consistent with the goals & objectives outlined in the City's One Percent for the Arts Program. This may include contributions to the public art program (not necessarily at the 1% level) and/or the installation of public art on site if practicable.

- Projects which recognize the importance of, and make provisions for, sustainable practices, including energy efficiency.

- Projects which recognize the importance of, and make provisions for, litter & trash cleanup, walkability, and security strategies.

D. Application Process:

1. Application: Applicants should submit a Financial Incentives Application & Worksheet to the City along with a draft NID petition before formally filing the NID petition with the City Clerk. Doing so will provide the City with an opportunity to review and comment on such petition, identify concerns and issues, and determine whether the petition complies with State statutes. Following this process will also avoid delay when the NID petition is formally filed with the City Clerk.

2. Petition: A petition signed by 2/3 of the property owners by area in the District must be submitted to the City Clerk.

3. Review: The Application and Petition will be reviewed by City staff and within 30 days the Independence Economic Development and Incentives Commission before submission through the City Manager to the City Council for consideration.

4. Council approval: Per state statutes, NID petitions must be approved by the City Council, which will also determine the extent of City participation in the project, including the possible issuance of bonds. In evaluating the merits of a proposed NID, the City will consider the extent to which it meets criteria and earns "Most Favored" designation as detailed in this Policy.

3. CID (Community Improvement Districts):

A. Use of Community Improvement Districts: A Community Improvement District (CID) is a Special Funding District organized as either a political subdivision with the power to impose a sales tax, special assessments and/or real property tax, or a nonprofit corporation with the power to impose special assessments. It is created by the City Council following submission of a petition signed by a majority of the property owners in the District who also represent a majority of the assessed valuation. A separate election is required in the District to impose a sales tax or property tax.

B. Minimum Requirements for CID Projects

- Project is not feasible without the establishment of the CID.
- The petition establishing the formation of the CID shall conform in all respects to requirements set forth in state statutes.
- The proposed project must conform to the City's Comprehensive Plan.
- Public economic incentives should be limited to the shortest duration while still providing for the desired level of public financial assistance.
- Any debt financing shall be issued by the CID, and shall not be an obligation of the City.
- Projects must recognize the importance of, and make provisions for, sustainable practices, including energy efficiency.
- Projects must recognize the importance of, and make provisions for, litter & trash cleanup, walkability, and security strategies.

C. Requirements for "Most Favored" Designation for a CID Project

- CIDs for commercial projects that are comprised of at least 40,000 square feet of new development or redevelopment.
- Applications seeking the establishment of a political subdivision CID rather than a nonprofit corporation CID. CIDs that will indemnify the City from all claims, and any resulting costs, damages and legal or other professional fees associated with the formation and operation of the CID and imposition of funding vehicles.
- Applications which propose to grant to the CID only those limited powers that are necessary for the CID to carry out the goals and purposes set forth in the application.
- Applications that demonstrate the Applicant is requesting the least amount of assistance from Special Funding Districts in order to make the project financially feasible for the Applicant.
- The City may consider the cost of public improvements that serve the proposed development, and whether the Applicant is providing services that are already planned to be constructed by the City to serve existing deficiencies or new development, or whether such public

improvements primarily serve the Applicant's proposed development.

- The value of the improved real property will be at least ten times the value of any annual special assessment.

- As part of the preliminary draft submission of the CID petition to the City, the Applicant should discuss with City staff the extent to which the City desires control over the CID by appointing CID directors or otherwise.

- Projects which recognize the importance of public art, and include provisions for supporting public art consistent with the goals & objectives outlined in the City's One Percent for the Arts Program. This may include contributions to the public art program (not necessarily at the 1% level) and/or the installation of public art on site if practicable.

- For those projects that are entirely or primarily residential development and that propose to use a CID in place of a homeowners' association, most favorable consideration will be given to Applications that meet the following guidelines:

    - The developer will turn over full control of the CID to the residents when 80% of the lots in the CID have been sold to residents that will reside within the CID.
    - The CID operates autonomously from the City, and the City is not required to manage or oversee CID operations.
    - The CID provides contractual indemnification to the City for the acts and omissions of the CID.
    - The CID is formed as a political subdivision of the state, rather than as a non-profit corporation.
    - The CID provides for the perpetual maintenance and upkeep of all common property within the CID, and assumes obligations by contract to ensure that the City will not be required to undertake ownership or maintenance of common properties and open areas.
    - The CID is used to pay for public improvements and services that serve the entire residential development.

D. <u>Application Process</u>:

1. Application: Applicants should submit a Financial Incentives Application & Worksheet to the City along with a draft CID petition before formally filing the CID petition with the City Clerk. Doing so will provide the City with an opportunity to review and comment on such petition, identify concerns and issues, and determine whether the petition complies with State statutes. Following this process will also avoid delay when the CID petition is formally filed with the City Clerk.

2. Preliminary Funding Agreement: Negotiation and execution of a Preliminary Funding Agreement to cover City costs.

3. Petition: A petition signed by a majority of the property owners in the District, including a majority both per capita and by assessed valuation, must be submitted to the City Clerk.

4. Review: The Application and Petition will be reviewed by City staff and within 30 days the Independence Economic Development and Incentives Commission before submission through the City Manager to the City Council for consideration.

5. Council approval: Per state statutes, CID petitions must be approved by the City Council. In evaluating the merits of a proposed CID, the City will consider the extent to which it earns "Most Favored" designation as detailed in this Policy.

6. Election: If the proposed CID will establish a sales or property tax within the District, a separate election of registered voters living within the District will also be required.

C. Other Programs & Incentives

1. **Eminent Domain**: The City does not encourage the use of eminent domain in conjunction with the use of public financing incentives. In extraordinary circumstances the City may approve the use of eminent domain in accordance with applicable laws and only to the extent deemed necessary to make the approved project viable. In any case where eminent domain is proposed, the Applicant must prove and the City Council must find that the Applicant has attempted, in good faith, to acquire the property privately. Although in some cases the expenses associated with the use of eminent domain qualifies as an eligible project cost under state law, the Applicant may be required to pay the costs associated with the condemnation proceedings, including court and litigation costs, attorney's fees and the final condemnation awards. Approval of the use of eminent domain will be at the City's discretion. Eminent Domain will not be considered for Chapter 100 or Chapter 353 projects.

2. **Infrastructure Agreement**: An infrastructure agreement, also commonly known as sales tax rebate or reimbursement agreement, provides for the payment of certain City sales tax revenues generated by a new development to a developer as reimbursement for the construction of public improvements. The City may enter into an infrastructure agreement when the Applicant proposes a development that requires the construction of public improvements that are planned to be constructed by the City or that have a significant benefit to the general public, and the developer demonstrates substantial need for the reimbursement to make the project financially feasible. The City will not pursue reimbursement from other taxing jurisdictions in the consideration and negotiation of an infrastructure agreement, but the developer may pursue all available options with other funding districts, provided that no costs incurred by the developer are paid more than once. Generally, projects taking advantage of tax abatement or Special District programs detailed herein are not eligible for this incentive.

3. **Waiver of Certain Fees**: Based on specific circumstances, the City may elect to waive certain development fees to facilitate a project which is considered particularly beneficial to the community. Generally, projects taking advantage of tax abatement or Special District programs detailed herein are not eligible for this incentive. Fees eligible for waiver are: Business License Surcharge, Building Permit Fee (but not inspection fees for electrical, mechanical and plumbing), and 50% of Public Works fees for plan review and right-of-way. Projects must be minimum $5,000,000 to qualify for this incentive.

4. **Favorable Utility Rates for Economic Development**: Qualified projects may be eligible for reduced utility rates for economic development activity from City-owned utilities.

5. **Waiver of City Property Tax on Personal Property**: Irrespective of any other incentives detailed in this Policy, and pursuant to the direction of the City Council, the City of Independence has elected to waive the City's portion of property tax on personal property, meaning that the City does not currently impose any of its ad valorem property tax levies on personal property within its boundaries. Other taxing jurisdictions do levy against personal property.

6. **Opportunity Zone**: Federal Opportunity Zones have been established in western Independence (census tracts 29095011600, 29095011800, 29095011000, 29095011700). Investments made through Opportunity Zone Funds for projects located in or adjacent to designated Opportunity Zones may take advantage of tax abatement on reinvested capital gains. The law excludes from taxable income capital gains on Opportunity Zone investments held for at least 10 years. If investors hold their Opportunity Zone investments for 5 years the basis of their original investment is increase by 10 % and they will only owe taxes on 90 % of the rolled-over capital gains. If held for 7 years, the basis increases by an additional 5%. Applicants should consult their tax advisors as to the benefit of investing in Opportunity Zones as the City will not provide legal or financial advisory advice.

7. **State of Missouri Incentive Programs**: In addition to the incentives available through the City of Independence, the State of Missouri offers a range of incentive programs, including the Missouri Works, Historic Preservation Tax Credits, and Sales Tax Exemption for Manufacturers. Program details can be viewed at the Missouri Department of Economic Development website at www.ded.mo.gov.

8. **Other Special Districts**:
   State statutes set for requirements for the creation of other Special Districts which can be formed and governed without City Council approval. Due to the relative lack of City oversight, these incentive tools may not be the City's preference compared to other incentive strategies described herein, but they may have their place in certain circumstances. These include: Land Clearance For Redevelopment Authority (LCRA) per RSMO Chapter 99; Planned Industrial Expansion Authority (PIEA) per RSMO Chapter 100.300; and Transportation Development District (TDD) per RSMO Chapter 238.

Initiating City assistance in exploring the use of any of the above incentive tools begins with completion and submission of a Financial Incentives Application & Worksheet, a draft copy of which is provided in the following Section of this Policy.

Section V: Forms (See Attached)

A. Financial Incentive Application & Worksheet

B. Sample Term Sheet

C. Preliminary Funding Agreement

The forms provided below shall be updated and amended from time to time by City staff in order to provide for the effective implementation of this Policy. Upon any such update or amendment, City staff shall attach revised versions of such forms to this Policy.

FINANCIAL INCENTIVES APPLICATION & WORKSHEET

(THIS APPLICATION FORM MAY BE REVISED FROM TIME TO TIME BY CITY STAFF IN ORDER TO ALIGN ITS CONTENT WITH INFORMATION NECESSARY FOR REVIEW AND CONSIDERATION OF APPLICATIONS BY THE CITY)

Date:_____

Company Information

1. Name of company:_____

   Address: _____ City:_____ State:_____ Zip: _____

   Contact name:_____ Phone:_____ Email:_____

   Type of entity:_____

2. State of organization:_____

3. General description of company operations:_____

   _____

   _____

Site and Project Data

1. Address of the project site:_____

   _____

2. Attach map and legal description of property.

3. Current property owner: _____

4. If not current owner, will applicant be purchasing the property? ☐ Yes ☐ No

5. Total acres_____ Building Sq. Ft. _____

6. Description of the project:_____

   _____

   _____

   _____

7. Project name: _____

8. Project type (check all that apply and fill in the SIC/NAICS code, if known):

☐ Industrial, Manufacturing, Technology SIC/NAICS Code: _____
- ☐ New building, no existing Missouri operations
- ☐ New building, other Missouri operations already in existence
- ☐ Expanding existing facility
- ☐ Retaining existing facility

☐ Retail/Restaurant/Hotel SIC/NAICS Code: _____
- ☐ New freestanding building
- ☐ New multi-use tenant building
- ☐ Remodel, addition or expansion of existing building

☐ Office
- ☐ New freestanding building
- ☐ New multi-use tenant building
- ☐ Remodel, addition or expansion of existing building

☐ Residential
- ☐ New freestanding residential units
- ☐ New residential units in a multi-use building
- ☐ Remodel, addition or expansion of existing building

☐ Downtown
- ☐ Remodel, addition or expansion of existing building
- ☐ Exterior façade improvement
- ☐ Construction of new building

☐ Other _____

9. Calendar year in which applicant plans to begin construction: _____

10. Approximate opening date: _____

Project Investment Information

1. Amount of total new investment in real property and improvements to real property as follows:

	Current	**Year 1**	**Year 2**	**Year 3**
Acquisition of land:				
Closing, Title & Survey Fee				
Architectural & Engineering				
Environmental				
Permits & Fees				
Special Inspections				
Infrastructure (Streets)				

Electric/Water/Sewer Extensions				
Construction Hard Costs				
Financing & Interest				
Taxes & Insurance				
Legal				
Contingency				
Lease Up				
Other (list)				
Total				

2. Amount of total investment in project personal property (excluding installation and delivery):
$_____

3. Year(s) in which investments in real property improvements and personal property will occur, and if in more than one year, the amount to be invested in each year, indicating the depreciation recovery period category applicable to the personal property (add more columns if necessary):

Personal Property	**Current**	**Year 1**	**Year 2**	**Year 3**	**TOTAL**
3-year					
5-year					
7-year					
10-year					
15-year					
20-year					
Total Personal Property					

Real Property					

Total Investment					

4. Most recent equalized assessed valuation of the real property included in the project:

_____

5. Attach most recent real and personal property tax bills for the project site.

Wage and Benefit Data (add years until full implementation is reached)

	Job Category (executive, professional, clerical, general labor, etc.)	# new full-time employees	# new part-time employees	Average hourly wage (excluding benefits)/employee
Current Year				
Year 1				
Year 2				
Year 3				

Incentives Request

- Attach description of amount and type of all incentives requested.
- Description of economic need for the economic development assistance including: (i) the cause of the need for economic development assistance, including the "gap" in project funding; (ii) the amount and type of assistance desired; and (iii) for incentives other than Chapter 100 tax abatement, a pro forma demonstration detailing through the calculation of the internal rate of return with and without assistance that "but for" the use of requested assistance, the proposed Project would not be feasible.
- Evidence that the Applicant:(i) has the financial ability to complete and operate the proposed Project; (ii) is capable of providing adequate assurance (e.g. evidence of sufficient financing (which may include a commitment letter, company financial information and a letter of interest from a lender, or similar), letter of credit, personal guaranty, performance bond, etc.) to the City of Project completion, and (iii) has thoroughly explored alternative financing methods.
- Evidence that all requirements of applicable Missouri statutes regarding a requested incentive are met.
- Attach description of how project meets basic requirements for incentives requested and meets "Most Favored" requirements if such designation is applicable.
- If TIF assistance is requested, attach information regarding current sales tax generation within proposed redevelopment area and anticipated sales tax generation in the project area after redevelopment.
- Include any additional information that would be helpful to assist the City in consideration of the particular incentives requested.
- Applications and supplemental information should be submitted to:

City Manager's Office
City of Independence, Missouri
111 E. Maple Ave.
Independence, MO 64050

SAMPLE TERM SHEET

(City staff may, but is not required to use, this sample term sheet as the basis for any term sheet in accordance with this Policy)

Project _____

Last Updated _____, 20__

The purpose of this Term Sheet is to set forth the specific public incentives which the City may extend to the Applicant to facilitate the project. Use of incentives is contingent upon the Applicant demonstrating that the incentives are necessary to close an estimated "gap" in project funding, and that but for these incentives the project would not be feasible. If the City and the Applicant reach an accord on the offer of incentives, such incentives will be detailed more fully in a subsequent agreement.

- **Summary of Financial Incentives**:

  A. The City will consider approval of (describe specific incentive program, i.e. Chapter 100, TIF, etc.).

  _____
  _____
  _____
  _____

  B. Terms (details specific terms and duration of incentive, such as "50% abatement of real property taxes for 10 years).

  _____
  _____
  _____
  _____

- **Summary of Other City Contributions to Project (other than Financial Incentives above)**:

  _____
  _____
  _____
  _____

- **Additional Terms & Conditions (if any)**:

  _____
  _____
  _____
  _____

PRELIMINARY FUNDING AGREEMENT

This PRELIMINARY FUNDING AGREEMENT ("Agreement") is entered into this _____ day of ____, 20__, among the CITY OF INDEPENDENCE, MISSOURI (the "City"), and _____, a Missouri _____ (the "Developer") (collectively the "Parties").

RECITALS

WHEREAS, the City is a charter city incorporated and exercising governmental functions and powers pursuant to the Constitution and the Revised Statutes of the State of Missouri, with its legislative power residing in the City Council; and

WHEREAS, the Developer is the owner or has the right to purchase approximately ___ acres of real property generally located _____, and proposes to develop this property for _____ (the "**Development**"); and

WHEREAS, the Developer is a (describe corporate structure) _____ formed under the laws of the State of _____and is authorized to conduct business in the State of Missouri; and

WHEREAS, Developer is working with the City to develop a plan to provide for the funding of **[describe improvements]** to serve the Development, in accordance with Missouri law and applicable City Code requirements; and

WHEREAS, Developer proposes to use **[describe funding mechanism]** to pay for improvements that will serve the Development (the Developer's request(s) are collectively referenced herein as the "**Application**"); and

WHEREAS, in order for the City to fully consider and evaluate the Application and the proposed Development, the City will need to engage consultants to review, evaluate, process and consider the sources of public funding for the proposed Development; and

WHEREAS, the City does not have a source of funds to pay for costs incurred for additional legal, financial and other consultants or for direct out-of-pocket expenses and other costs resulting from services to review, evaluate, process and consider the Application; and

WHEREAS, it is the City's policy that landowners and developers who desire assistance from the City in a public-private partnership or through the use of economic incentive tools shall demonstrate the financial ability to allow for the full and fair evaluation by the City of all development proposals and requests for economic incentives from the City

WHEREAS, in order for the City to fully consider and evaluate the Application, the Developer seeks to deposit funds with the City to be used by the City to pay for the City's expenses necessary to perform a full evaluation of the Application.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Services to be Performed by the City. The City shall:

A. Prepare or consult with the Developer on the preparation and consideration of an application in accordance with applicable State law for the requested public funding methods, give all notices, make all publications and hold hearings as required by State law and other applicable laws;

B. Provide necessary staff, legal, financial, and planning assistance to evaluate, process and consider the public funding sources for the Development;

C. Provide the necessary staff and legal, financial and planning assistance to prepare and negotiate an agreement between the Developer and the City for implementation of the proposed public funding sources;

D. If a development Agreement is entered into, provide the necessary staff, legal, financial and planning assistance to implement and administer such agreement; and

E. Engage appropriate outside consultants and attorneys to carry out the tasks described above.

2. Initial Deposit. The City acknowledges receipt of _____ (the "**Deposit**") from the Developer upon the execution of this Agreement. The City shall disburse the Deposit as set forth in **Section 4** and shall bill the Developer pursuant to **Section 3** to re-establish the Deposit so that there is always a minimum cash balance of _____ available, from which additional disbursements may be made as required.

3. Additional Funding.

A. The City shall submit an itemized statement for actual expenses incurred to perform its obligations hereunder or for any additional obligations or expenditures incurred by the City in accordance with this Agreement. Such statements shall be submitted on a regular periodic basis, but no more often than monthly. Developer shall pay the City the amounts set forth on such statements (the "**Additional Funds**") within thirty (30) days of receipt thereof. If such funds are not so received, the unpaid balance shall be subject to a penalty of two percent (2%) per month until paid, but in no event shall such penalty exceed twenty-four percent (24%) per annum, and City shall be relieved of any and all obligations hereunder until paid or may terminate this Agreement pursuant to **Section 5**. Developer shall supply the Additional Funds in a timely manner so that City activities may continue without interruption.

B. Developer shall reimburse the City for its administrative expenses and actual out-of-pocket expenses necessary to perform the City's obligations hereunder, using Gilmore & Bell, P.C., for special legal counsel, and other consultants as approved according to this paragraph. The City shall advise Developer in writing if it intends to utilize the services of any other consultant to perform its obligations under the terms of this Agreement. Such written notice shall include the name of the consultant, the service to be performed and an estimate of the cost expected. If Developer, in writing, within five (5) business days from receipt of the City's notice, objects to either the consultant named or the service to be performed, the City and Developer shall negotiate in good faith to resolve Developer's objections. If the Parties cannot agree on the consultant to be used or the service to be performed, the City shall have no obligation to perform that service under the terms of this Agreement and Developer shall have no obligation to pay for such service under the terms of this Agreement.

C. The parties agree that the funds advanced to the City under this Agreement shall be reimbursed to Developer, to the extent allowed by law, through any public funding sources that may result for the Development.

D. Before a vote by the City Council for approval or disapproval of the Application or any other measure associated the Application, the Developer shall deposit with the City, upon notice from the City, sufficient Additional Funds to pay all outstanding expenses incurred hereunder and replenish the amount on deposit with the City as provided in **Section 2**.

4. Disbursement of Funds. The City shall disburse the Deposit and Additional Funds for reimbursement of costs to the City on or before the thirtieth (30th) day of each month, and for consulting fees and the payment of all out-of-pocket expenses incurred by the City in connection with the performance of its obligations under this Agreement as payment for such expenses become due. Upon reasonable notice, the City shall make its records available for inspection by Developer for such disbursements.

5. Project Administration. In addition to the services set forth in **Section 1**, the City may be required to provide services from time to time for the continuing administration of the funding mechanisms that are approved as part of the Application, and any contracts entered into in furtherance of the Application. Upon appropriate itemization, the City shall be reimbursed by the Developer for actual meeting expenses and other expenses that are reasonable or incidental to the general operations of the City and its consultants with respect to administration of such funding mechanisms, and any contracts entered into in furtherance of the Application. The provisions of this section shall apply until such time as the City and the Developer execute an agreement which provides for the termination of this Funding Agreement and the terms and conditions under which the City's ongoing services shall be funded. It is anticipated that, if approved, any such Agreement will include provisions necessary for reimbursement of such funds to the Developer.

6. Termination of this Funding Agreement.

A. Termination by the City. In the event the Developer fails to perform any of its obligations herein, the City may terminate this Funding Agreement, and any other agreement between the parties, at its sole discretion if the Developer fails to cure the default within ten (10) days after written notice to the Developer of the default. Termination by the City shall also terminate any duties and obligations of the City with respect to this Funding Agreement, including, but not limited to, the City's processing of the Application. Upon such termination, the Deposit and any Additional Funds shall be disbursed as set forth in paragraph C of this Section.

B. Termination by the Developer. The parties hereto acknowledge that the Developer may determine to abandon the Application. Upon written notice of abandonment by the Developer, this Funding Agreement shall terminate and the City may terminate any other agreement between the parties. Upon such termination, the Deposit and any Additional Funds shall be disbursed as set forth in paragraph C of this Section.

C. Wrap-up after early termination. Upon termination pursuant to paragraphs A or B of this Section, the City shall retain the Deposit and Additional Funds, if any, necessary to reimburse the City for all actual expenses incurred under this Funding Agreement to the date of termination and any monies due and owing to the City pursuant to any other agreement with the Developer. Upon such termination, in the event the Deposit and Additional Funds are insufficient to reimburse the City for the outstanding expenses of the City payable hereunder, the Developer shall reimburse the City as set forth in **Section 3**. After termination of this Funding Agreement pursuant to paragraphs A or B of this Section, any amounts remaining from the Deposit and the Additional Funds after all amounts have either been paid as directed by the City, or reimbursed to the City, shall be returned to the Developer.

D. Termination by Consolidation into TIF Agreement or other development agreement. Unless otherwise terminated as provided in paragraphs A or B of this **Section 6**, this Funding Agreement shall stay in full force and effect until it is specifically terminated as set forth in an agreement between the City and Developer, and thereafter the terms and conditions of the agreement shall provide for the continued funding arrangements by Developer with respect to the Application.

7. Notice. Any notice, approval, request or consent required by or asked to be given under this Agreement shall be deemed to be given if in writing and mailed by United States mail, postage prepaid, or delivered by hand, and addressed as follows:

To the City:
City Manager's Office
City of Independence, Missouri
111 E. Maple Ave.
Independence, MO 64050

With a copy to:

Gilmore & Bell, P.C., Suite 1100
2405 Grand Blvd.
Kansas City, Missouri 64108

To Developer:
[ADD]

With a copy to:
[ADD attorney]

Each party may specify that notice be addressed to any other person or address by giving to the other party ten (10) days prior written notice thereof.

8. City Requirements and Prior Approval. Developer agrees to comply with all applicable laws and City ordinances, including, but not limited to, the City's zoning ordinances, subdivision regulations and all planning or infrastructure requirements related to the development of any property. Developer agrees that execution of this Agreement in no way constitutes a waiver of any requirements of applicable City ordinances or policies with which Developer must comply and does not in any way constitute prior approval of any future proposal for development. Developer acknowledges that the City may not lawfully contract away its police powers and that approval of any zoning, subdivision and similar development applications cannot be contractually guaranteed. This Agreement does not alter or diminish the City's ability to exercise its legislative discretion to consider any application in accordance with all applicable laws with respect to the development of any property.

9. Legal Representation. The Developer understands and acknowledges that this arrangement is an accommodation to the Developer in which the City's special legal counsel is not providing legal representation to the Developer and that no attorney-client relationship between the Developer and the City's special legal counsel shall exist by any reason including, but not limited to, the Developer's payment of the City's expenses under this Funding Agreement. Developer further understands that legal counsel paid pursuant to this Funding Agreement is legal counsel for the City and acknowledges the duties of confidentiality and loyalty to the City.

10. Subsequent Developers. In the event the City selects another developer of record pursuant to a request for proposals to carry out the Application, the City shall require the subsequent developer to assume all obligations of the Developer under this Funding Agreement as of the date that the subsequent developer is designated as the developer of record and to reimburse the Developer for its expenditures under this Funding Agreement.

11. Assignment. This Funding Agreement may not be assigned by any party without the prior written consent of the other party. No assignment, unless specifically provided for in such consent, shall relieve the assigning party of any liability pursuant to this Funding Agreement. This Funding Agreement shall be binding upon the parties and their successors and permitted assigns.

The parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

City of Independence, Missouri
By:

_____
Mayor

ATTEST:

_____
City Clerk

[DEVELOPER]
By: _____

Name: _____

Title: _____