RESOLUTION 2023-09-01

A RESOLUTION OF THE DOWNTOWN INVESTMENT AUTHORITY ("DIA") TO MODIFY UNDERWRITING STANDARDS AND PROCEDURES TO INCLUDE A PORTION OF ANTICIPATED LOCAL OPTION SALES TAX IN THE CALCULATION OF THE RETURN ON INVESTMENT IN DEFINED CIRCUMSTANCES THE SPECIFICS OF WHICH ARE INCLUDED HERETO AS EXHIBIT 'A'; AUTHORIZING ITS CHIEF EXECUTIVE OFFICER ("CEO") TO TAKE ALL NECESSARY ACTION TO EFFECTUATE THE PURPOSES OF THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Downtown Investment Authority ("DIA") has been designated by the City of Jacksonville as the Community Redevelopment Agency ("CRA") for community redevelopment areas within the boundaries of Downtown pursuant to Ordinance 2012-364-E; and

WHEREAS, via Ordinance 2014-0560, the City Council adopted a *Business Investment and Development Strategy* for Downtown Jacksonville (the "BID Strategy"), as updated and amended by Ordinance 2022-0372; and

WHEREAS, the City of Jacksonville Public Investment Policy dated June 28, 2016, as administratively updated November 21, 2019 (the "PIP"), states that, *"Projects will be evaluated on whether they provide a return on investment (ROI) to the City. Projects will also be evaluated against standard underwriting criteria and an assessment of the public investment risk associated with the project.*"; and

WHEREAS, the ROI, as outlined in the PIP, "*measures the economic benefit against the public investment for a project,*" and provides a goal to "*have the ROI on a project exceed the ratio of 1:1";* and,

WHEREAS, Redevelopment Goal No. 3 as found in the BID Strategy charges the DIA to, "*Increase and diversify the number and type of retail, food and beverage, and entertainment establishments within Downtown.*"; and,

WHEREAS, the underwriting protocol of the DIA heretofore has not considered Local Option Sales Tax (LOST) for programs and incentives requiring calculation of ROI unless the applicant provides executed leases, the project is owner occupied, or inclusion of LOST has been specifically approved in program guidelines by the DIA Board or the City Council where necessary, and

WHEREAS, the Tiers System was redefined in the BID Strategy update in 2022 to consider requests for funding that exceeds or differs from existing DIA Incentive Programs, and establishes criteria to be met for the DIA Board to be in a posture of recommending approval of such additional funding requests to the City Council; and

WHEREAS, funding of some or all of the incentive amounts approved following the Tiers System may require further approval by the City Council with funding to be committed to future appropriation from the General Fund; and

WHEREAS, in order to incentivize developers to incorporate additional retail space into their development plans where funding needs require following the Tiers System approach, incorporation of the prospective LOST following guidelines attached hereto as Exhibit 'A' is warranted to achieve the broader goals of Downtown redevelopment.

NOW THEREFORE, BE IT RESOLVED, by the Downtown Investment Authority:

Section 1. The DIA finds that the recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. The DIA hereby adopts the underwriting standards and procedures for inclusion of Local Option Sales Tax as set forth in Exhibit 'A' attached hereto.

Section 3. The DIA instructs its CEO to take all necessary action to effectuate the purposes of this resolution.

Section 4. The Effective Date of this Resolution is the date upon execution of the Resolution by the Chairman of the DIA.

WITNESS: Eric S. [signature]

DOWNTOWN INVESTMENT AUTHORITY

Jim Citrano, Chair

9/21/23
Date

VOTE: In Favor: 8 Opposed: 0 Abstained: ______

EXHIBIT A

SUMMARY

To further BID Strategy Redevelopment Goal #3 to "*Increase and diversify the number and type of retail, food and beverage, and entertainment establishments within Downtown*" the DIA encourages the development of true retail space, particularly street level and rooftop, beyond the minimums required by zoning or any other incentive program. To do so requires incorporation of Local Option Sales Tax on the guidelines established below to demonstrate a Return on Investment at a minimum of 1:1.

- The Tiers System was redefined in the 2022 update to the BID Plan and establishes the path to be followed for the DIA Board to be in a posture of recommending approval of additional funding requests to the COJ City Council.
- The Tiers Process as summarized includes the following:
    - Tier I – Establish the financial need or gap in the development budget.
    - Tier II – Demonstrate that the Development activity meets a minimum of 3 of the BID Strategy Goals by meeting 4 of the Strategic Objectives under each goal.
    - Tier III – Commit 3% of total development cost towards projects identified as "Tiers Eligible" in the Year's Tables as found in the Bid Strategy. (Conceptually, assuming some of TID or City burden for planned projects to free up funds for the additional incentive- the selected project(s) could be done by Developer more efficiently, perhaps more inexpensively, etc.)
    - If the development activity is deemed qualified under each step above, maximum eligibility for a REV grant is then determined independently by the overall number of BID Goals Advanced in combination with a review of the number of Performance Measures where positive impact will be made with possible outcomes ranging from 50% to a maximum of 75%.
    - Megaprojects meeting the tiers methodology with total development cost more than $250,000,000 are also eligible for consideration for additional incentives such as a completion grant, even if the 75% REV is not met.
- If approved by the DIA Board, the City Council then must make a policy decision in respect to the total funding package proposed, with specific attention given to completion grants and the impact on the General Fund giving consideration to other anticipated needs for those funds.
- This approach applies only to Tiers System compliant projects.

CRITERIA

1. Only projects that fully meet the Tiers System criteria are eligible for consideration.
2. Only projects that exceed the amount of retail space required by zoning or traditional REV grant criteria and are part of a larger mixed-use project are eligible.
3. The maximum payout of the Completion Grant is earned when leasing activity reaches 90% of the total leasable retail square footage as determined at the time of underwriting (Effective Gross Leased Space). Eligible leases, as provided to the DIA for consideration, shall be those that are entered into at commercially reasonable market rates (as determined by the DIA in its sole discretion), with a

minimum term of three years, and with operators meeting the definition of retail as found in the Retail Enhancement Program Guidelines and consistent with the type of operators that are expected to generate the level of taxable sales activity as captured in the pro forma at the time of underwriting.

4. Developers are provided up to two years following the documented date of Substantial Completion to satisfy the executed lease requirement and request payout of approved additional funding after which time the commitment for additional funding is terminated.
5. A pro rata portion of the Completion Grant may be earned and applied for in not more than two tranches up to the second anniversary of the documented date of Substantial Completion. The pro rata calculation shall be based on the actual gross square footage of eligible retail space where a binding, bona fide lease with a tenant meeting the requirements established herein has been entered into by landlord and tenant (Actual Leased Space), divided by Effective Gross Leased Space. A minimum of 60% of the Effective Gross Leased Space must be under lease before payment of the first tranche may be requested. The definition of Substantial Completion will include that the Certificate of Occupancy for the building has been issued to allow for the property's primary use, and that any retail space included in the LOST calculations is finished to a cold dark shell stage of completion.
6. Only the first one cent of the LOST is eligible in these calculations.
7. Because of the additional payout that may be earned, the retail space used in these calculations shall not be eligible for Retail Enhancement Program funding for tenant improvements.
8. For space leased by the landlord, only LOST from space facing the street front at ground level or rooftop may count towards the ROI calculation, unless otherwise agreed to by the DIA in its sole discretion. For further clarification, neither interior retail nor interior office space shall be considered in these calculations.
9. Minimum Direct Investor Equity (private investment excluding deferred developer fee, tax credit equity, or similar indirect sources) must equal 20% of total development costs or more to be eligible for employment of this ROI calculation methodology.
10. Leases from businesses relocating from other parts of Downtown are not eligible towards meeting minimum payout thresholds unless at the end of an existing lease term and considering moving from Downtown, or unless the proposed move is necessary for business expansion that includes job creation, involuntary displacement from current space that is unrelated to financial or operating disputes, or similar circumstances, consistent with the DIA Retail Enhancement Program.

UNDERWRITING METHODOLOGY (*Each of the following considerations are made to address the timing differences associated with payout when the lease condition is met (within the one-year timeline) and the receipt of funds through LOST or other ancillary benefits*).

1. Limit the incorporation of LOST and Benefits from Employees to a ten-year time horizon in accordance with the timeline found for measuring program benefits in the Public Investment Policy (PIP).
2. Incorporate into the calculation of LOST a 10% vacancy factor across the full ten-year time horizon based on industry standards.
3. Discount gross receipts anticipated by 75% for further mitigation of collection risk. Further, if the pro forma LOST is met, the payout would be equivalent to 75% of the amount collected, allowing the City to benefit from the 25% discount.

4. Maintain an overall ROI calculation minimum of 1.0X using traditional standards for calculation, but incorporating the Completion Grant into City Outflows, and the LOST and Payroll Related Sales Tax Benefit using the methodology outlined above and incorporating other guidelines found appropriate by the DIA Board.

OPERATIONAL/COMPLIANCE CONSIDERATIONS

1. As an additional risk mitigant, a condition of the commitment is required to submit copies of sales tax receipts remitted annually by the property owner and tenants (copies of form DR-15 or equivalent). Amounts that fall short of the cumulative expected payment in any given calendar year through year ten will be withheld from the REV payment applicable to the same calendar year. Any such withholding will not affect the maximum REV Grant amount as approved and documented in the Economic Development Agreement or other terms of that REV Grant including, but not limited to, the outside maturity date for payment.

2. Award recipients are required to submit on an annual basis a summary of LOST paid to the state by tenants for taxable retail sales and the applicant for sales taxes collected on leased retail space with supporting documentation for verification by the DIA Compliance Officer.

Two examples follow:

	EXAMPLE 1					EXAMPLE 2			
	Year 1	Year 2	Year 3	Year 4		Year 1	Year 2	Year 3	Year 4
LOST Expected	$100,000	$102,000	$104,000	$106,000		$100,000	$102,000	$104,000	$106,000
LOST Expected Cumulative	$100,000	$202,000	$306,000	$412,000		$100,000	$202,000	$306,000	$412,000
LOST Paid	$105,000	$100,000	$104,000	$103,000		$105,000	$100,000	$104,000	$100,000
LOST Paid Cumulative	$105,000	$205,000	$309,000	$412,000		$105,000	$205,000	$309,000	$409,000
Over/Under	**$ 5,000**	**$ 3,000**	**$ 3,000**	**$ 0**		**$ 5,000**	**$ 3,000**	**$ 3,000**	**($ 3,000)**

Example 1 – The expected LOST receipts don't sync with the amounts expected, but the cumulative amounts received surpass the cumulative expected and no adjustment to the REV payment is required.

Example 2 - The expected LOST receipts don't sync with the amounts expected, and the cumulative amounts received falls below the cumulative expected in Year 4. Therefore, a downward adjustment of $3,000 is made to the REV payment in that year.

For these purposes, the recipient will begin the collection of DR-15 or other LOST payment information with the thirteenth month following final payout of the Completion Grant or similar funding mechanism as may be approved and earned following criteria established above. Collection and remittance of this information will be in proportion to the pro rata number of full months remaining in that calendar year, followed by nine full years of data collection and submission, and a final pro rata year with the remaining number of full months from the first year of submission as outlined in the examples below.

	Example 1	Example 2	Example 3
Date of Substantial Completion	March 15, 2024	June 6, 2024	December 12, 2024
Last Date for Request for Funding (Evidenced by Executed Leases)	March 15, 2026	June 6, 2026	December 12, 2026
Date of Last Request for Funding	March 15, 2026	June 6, 2026	December 12, 2026
Begin DR-15 Date Collection	April 1, 2027	July 1, 2027	January 1, 2027
Pro Rata 1st Year	Apr 2027 – Dec 2027 9/12 = 75%	Jul 2027 – Dec 2027 6/12 = 50%	January 2027 – Dec 2027 12/12 = 100%
Nine Years	100%	100%	100%
Pro Rata Final Year	3/12 = 25%	6/12 = 50%	0/12 = 0%