CITY OF LIVERMORE
SALES TAX REIMBURSEMENT ECONOMIC INCENTIVE PROGRAMS

I. Introduction

The City of Livermore's Sales Tax Economic Incentive Program ("Incentive Program") is intended to attract and encourage new businesses to establish operations within the City that will generate significant new sales tax revenue for the City and to increase the viability of expansion of existing significant sales tax-generating businesses within the City. To qualify for any of the Incentive Programs, a business must actually, or be projected to, generate in excess of $3,000,000 in annual sales taxable by the State of California attributed to activity occurring in the City and reimbursements will be measured against specific amounts of tax revenues actually received by the City due to such sales.

The City Council has designed the Incentive Program to provide sales tax revenue sharing with a qualifying business to reimburse the business for specified development costs the business incurs to establish or expand operations in the City. The requirements of the Incentive Program will ensure the following public policy goals are met:

A. The net financial benefit to the public derived from a participating-business' expansion or establishment is substantially larger than the City's financial contribution though the Incentive Program;

B. The City complies with all applicable laws regarding reimbursements;

C. All participating business are reasonably expected to generate significant new sales tax revenue to the City;

D. Only qualifying businesses participate;

E. That all participating businesses are expected to actually incur costs to construct infrastructure improvement and actually pay City development impact fees; and

F. Incentive Program reimbursements are equivalent to the actual cost of a business' improvements and/or development impact fees.

This Incentive Program replaces the City's Economic Incentive Program adopted by City Council Resolution No. 2013-072 on June 25, 2013. However, any business that submitted an Incentive Program application prior to the date this new Program is adopted by the City Council shall be entitled to pursue the economic incentive for which it applied pursuant to the prior Program, or may apply pursuant to this new Program. The City will conduct public hearings as required by State law and Part IV(D) before awarding any economic incentive.

II. Program Summary

The City offers three Incentive Programs that provide sales tax reimbursement opportunities to eligible businesses. Generally, the programs authorize the City to share with a qualifying business a portion of the sales tax revenue the City receives due to the business' tax-generating activity within the City in order to reimburse a qualifying business for some of the following expenses:

1. City entitlement and development impact fees; and
2. Costs incurred to construct new Public Infrastructure Improvements in the City associated with a business' expansion or establishment.

The City's three Incentive Programs are as follows:

Program 1 Estimated Annual Sales: $3,000,000 and $130,000,000
- $30,000 - $1,300,000 in sales tax to be received by the City
- New and Existing Businesses.

Program 2 Estimated Annual Sales: More than $100,000,000
- More than $1,000,000 in sales tax to be received by the City
- New and Existing Businesses.

Program 3 Estimated Annual Sales: $25,000,000
- More than $250,000 annual sales tax to City each of 3 prior years
- Existing Businesses.

Program Nos. 1 and 2 are available to qualifying new and existing businesses not currently operating in the City. Program No. 3 is available solely to existing City businesses expanding or improving their operations in the City. A business may only participate in one of the three programs per physical location.

III. Definitions

A. "**Existing Business**," means a business that has operated from a fixed location in the City for at least 5 consecutive years prior to the date when a business signs an agreement to participate in a City Incentive Program.

B. "**Incentive Program**," means all, some or one of the City's sales tax economic incentive programs.

C. "**Ineligible Relocating Business**," is a term designed to ensure the City complies with California Government Code, section 53084.5 and means, (1) any Retailer, as defined by Section 53084.5, that at the time the Retailer proposes to gain the benefit of an Incentive Program, is located in a local agency other than the City and whose relocation to the City would reduce the other local agency's tax proceeds collected under the Bradley-Burns Uniform Local Sales and Use Tax Law of the Revenue and Taxation Code; and (2) the Retailer continues to maintain a physical presence within the territorial jurisdiction of the other local agency but the operations in the other local agency and its new operations in the City are not comparable.

D. "**Maximum Reimbursement Amount**," means the total amount of sales tax revenue a business is eligible to receive from the City pursuant to a particular Incentive Program. The Maximum Reimbursement Amount any business is entitled to receive shall be determined by the City Engineer as the amount of the following costs:

1. 100% of the costs of constructing Public Infrastructure Improvements, as that cost is determined by the City Engineer; and

2. 100% of development impact fees paid to the City.

E. "**New Business,**" means a business that has not operated from a fixed location in the City at any time during the 12 month period prior to the date it signs and submits an Incentive Program agreement to the City for approval.

F. "**Public Infrastructure Improvement**," means those items constructed for the benefit of the public including, but not limited to bridges, curbs, driveways, flood control or storm drainage facilities, freeways, gutters, interchanges, lighting facilities, overcrossings, public utilities, sanitary sewers and facilities, sidewalks, street work, traffic controls, water facilities, landscaping and fences. Improvements are to be located in the public rights-of-way and certified by the City Engineer as benefitting the public as opposed to solely a private entity.

G. "**Reimbursement Period**," means the period 15 years after the Reimbursement Start Date of an Incentive Program agreement or the date a business has received the Maximum Reimbursement Amount pursuant to the same Incentive Program agreement, whichever occurs first.

H. "**Reimbursement Start Date**," is the date agreed to by the parties in an executed Incentive Program agreement, or, if no such date is specified in the agreement, the later of the following dates: (1) the date a business has completed all improvements and paid all development fees encompassed by its Incentive Program agreement; and (2) the date, following the full execution of an Incentive Program agreement, on which the City has received from the State of California four quarters of sales tax payments generated by the business' activities.

IV. General Requirements for all Incentive Programs

A. Qualifying Requirements. In addition to the unique requirements of the specific Incentive Program pursuant to which a business seeks an incentive, to qualify for any Incentive Program, a business must meet all of the following requirements:

1. Be either (a) a New Business; (b) an Existing Business moving from one location within the City to another location within the City in order to expand operations; or (c) an Existing Business expanding and improving its existing location;

2. Not constitute an Ineligible Relocating Business;

3. Actually incur costs to construct Public Infrastructure Improvements and/or pay development impact fees to the City;

4. Apply for the Incentive Program by submitting to the City a fully-completed business information sheet designed by City Staff that provides information

the City requires to determine the business' eligibility to participate in an Incentive Program and to calculate the incentive for which the business qualifies;

5. Sign an Incentive Program agreement in a form acceptable to the City Attorney no later than 3 months after the business begins operations at the location which qualifies the business for its reimbursement and which states the public purpose of the incentive; and

B. Public Hearings. For any Incentive Program reimbursement where the Maximum Reimbursement Amount may exceed a total of $100,000, before the Incentive may be authorized, the City Council must hold a noticed public hearing, approve the incentive, and publicly report on the incentive pursuant to the requirements of the most-current enactment of California Government Code, section 53083.

C. Maximum Agreement Term. The term of any Incentive Program agreement shall expire, at the latest, 15 years after the Reimbursement Start.

D. Reimbursement Timeline. Reimbursements, when they become owed by the City pursuant to any Incentive Program agreement, shall be distributed over time and the first reimbursement shall not be due until either June 30 or December 31 following the Reimbursement Start Date, whichever is closer to the Reimbursement Start Date.

V. Incentive Program 1

- Estimated annual sales between $3,000,000 and $130,000,000
- $30,000 - $1,300,000 in sales tax to be received by the City
- New or Existing Businesses

A. **Program 1 Eligibility**. In addition to the General Requirements stated at Section IV, to participate in Incentive Program 1, the City must determine that the business meets the following additional requirements:

1. The business is expected to generate between $3,000,000 and $130,000,000 in annual sales tax payments to the State of California;

2. The business is expected to generate between $30,000 and $1,300,000 in annual sales tax revenue received by the City from the State of California; and

3. The business must actually incur costs to construct Public Infrastructure Improvements and/or pay development impact fees to the City related to (a) establishing a New Business in the City; or (b) expanding the operations of an Existing Business or by moving from one location within the City to another location within the City.

B. **City Reimbursement Schedule**. The City shall make reimbursements to a business that has entered into an executed Program 1 Incentive agreement pursuant to the general provisions and as follows:

1. After the Reimbursement Start Date and each year after during the Reimbursement Period, the City will reimburse the business 25 percent of the sales tax payments generated by the business' activities which the City has received from the

State of California for the previous four quarters; and

2. No business may receive a total of more than the Maximum Reimbursement Amount in an Incentive Program agreement and no business may receive more than $325,000 in reimbursements per four-quarter period.

VI. Incentive Program 2

- Estimated annual sales more than $100,000,000
- More than $1,000,000 in sales tax to be received by the City
- New or Existing Businesses

A. **Program 2 Eligibility.** In addition to the General Requirements stated at Section IV, to participate in Incentive Program 2, the City must determine that the business meets the following additional requirements:

1. The business is expected to generate more than $100,000,000 in annual sales tax payments to the State of California;

2. The business is expected to generate more than $1,000,000 in annual sales tax revenue received by the City from the State of California; and

3. The business must actually incur costs to construct Public Infrastructure Improvements and/or pay development impact fees to the City related to (a) establishing a New Business in the City; or (b) expanding the operations of an Existing Business; or (c) by moving from one location within the City to another location within the City.

B. **City Reimbursement Schedule.** The City shall make reimbursements to a business that has entered into an executed Program 2 Incentive agreement pursuant to the general provisions and as follows:

1. After the Reimbursement Start Date, and each year after during the Reimbursement Period, the City will do the following with the sales tax payments generated by the business' activities which the City has received from the State of California for the previous four quarters:

a. Retain the first $1,000,000 of sales tax dollars;

b. Reimburse the business a maximum of $500,000 of sales tax dollars between $1,000,000 and $1,500,000; and

c. Reimburse the business 25 percent of the sales tax dollars generated in excess of $1,500,000; and

2. No business may receive a total of more than the Maximum Reimbursement Amount set in an Incentive Program agreement, however, unlike Incentive Program Nos. 1 & 3, no cap exists limiting the amount of reimbursement made per four-quarter period.

VII. Incentive Program 3

- Estimated annual sales more than $25,000,000
- More than $250,000 in sales tax to the City in the last three years

- Existing Businesses Only

A. **Program 3 Eligibility**. In addition to the General Requirements stated at Section III, to participate in Incentive Program 3, the City must determine that the business meets the following requirements:

1. The business has operated from a fixed location in the City of Livermore for at least 5 consecutive years prior to the date when the business signs an Incentive Program Agreement. Program 3 is not available to a New Business;

2. The business has generated a minimum annual average sales tax revenue received by the City of at least $250,000 in each of the last three full years of operation prior to the date the business filed an application to participate in Incentive Program 3;

3. The business has incurred at least $200,000 in costs that contribute to the business' permanence in the City and will result in sales and property tax growth and such costs must be associated with (a) Public Infrastructure Improvements or, (b) other exterior improvements that increase the value of a property and enhance business operations; and

4. The business must have paid all development impact fees assessed by the City for any work for which it seeks to qualify for reimbursement.

B. **City Reimbursement Schedule**. The City shall make reimbursements to a business that has entered into an executed Program 3 Incentive agreement pursuant the general provisions and as follows:

1. After the Reimbursement Start Date and each year after during the Reimbursement Period, the City will do the following with the sales tax payments generated by the business' activities which the City has received from the State of California for the previous four quarters:

a. The City will retain the first $250,000 sales tax dollars;

b. For sales tax dollars between $250,000 and $600,000, the City shall reimburse 25 percent of those sales tax dollars capped at $87,500; and

c. The City shall retain all sales tax dollars generated in an amount greater than $600,000; and

2. No business may receive a total of more than the Maximum Reimbursement Amount set in an Incentive Program agreement, and no business may receive more than $87,500 in reimbursements per four-quarter period.