

ARTICLE 349

ECONOMIC DEVELOPMENT INCENTIVE REPORTING AND EVALUATION

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CROSS REFERENCES

Pennsylvania Right to Know Law, 65 P.S. §§67.101 et seq.
Third Class City Code, Act of June 28, 1951, P.L. 662, as amended

349.01 GENERAL PURPOSE

A. In the interests of fairness, maintaining community trust, increasing transparency, educating the public, and promoting responsible stewardship of local tax revenue and City of Bethlehem (“City”) resources, this Article contains provisions, including without limitation: (a) supporting more efficient City resource allocation by establishing a system for periodic, evidence-based performance evaluations of economic development incentives and related programs; (b) making the City budgeting process more transparent and effective through regular reporting of economic development tax and other indirect expenditures, thereby allowing the public and the City to track indirect expenditures, whereas previously only direct expenditures were visible during the budgeting process; (c) improving transparency and educating the public about the types of costs incurred in connection with economic development incentives through online publication of incentive program summaries and tax expenditure information; (d) supporting development of improved procedures for holding recipients of economic development benefits accountable for complying with their City tax and other obligations; and (e) improving the City’s capacity to collect economic development data in support of City efforts to help local businesses and spur economic growth.

B. The City Council of the City of Bethlehem (“City Council”) intends that this Article and its individual provisions shall be interpreted and administered consistent with the City’s need to operate in an efficient and cost-effective manner given existing resource and staff constraints, the City’s interest in maintaining a business and investment-friendly environment, and the City’s legal obligations, including without limitation, to protect confidential information such as taxpayer and business records, trade secrets, and proprietary information.

349.02 DEFINITIONS (Selected)

- (1) “*Administration*” means the Mayor or any City department, bureau, or other City agency, designated by the Mayor from time to time, to perform functions under this Article.
- (2) “*Administration Documents*” include: (a) Incentive Inventories; (b) Administration Reports; (c) Program Summaries; (d) Tax Expenditure Spreadsheets; and (e) any other document required from the Administration under this Article, if any.
- (3) “*Administration Reports*” include the (a) Tax Expenditure Reports; (b) Evaluation Reports; and (c) any other reports required from the Administration under this Article, if any.
- (4) “*Annual Fair Hearing*” has the meaning set forth in 349.04 (A).
- (5) “*Article*” means Article 349 of the Codified Ordinances of the City of Bethlehem, as amended.
- (6) “*City administration of*” or “*City administered,*” in connection with any Economic Development Incentive, is evidenced by such incentive having any of the following attributes: (1) receiving a City funding allocation and/or (2) requiring a City Council authorization. Additionally, City administration of any such incentive may be evidenced by a legal requirement or authorization for a City agency to undertake any of the following actions in connection with such incentive: (1) promulgation of rules or regulations; (2) determination, review, or confirmation of eligibility or qualifications; (3) entering into a contract with an Economic Development Purpose; (4) facilitating management of such incentive by distributing funds to any non-City person, entity, or government agency; or (5) Conducting oversight or substantial administrative functions when the public purpose associated with such incentive is within the core mission of a City agency.
- (7) “*Change List*” has the meaning set forth in 349.06 (B).
- (8) “*City agency*” means any City department, bureau, or any other administrative unit.
- (9) “*City Website*” means the primary City website and/or any other website maintained by or on behalf of the City.
- (10) “*Committee*” means the Community and Economic Development Committee of Bethlehem City Council.
- (11) “*Effective Date*” means the date on which City Ordinance 2018-01, passed in City Council on February 6, 2018, takes effect pursuant to the “Third Class City Code,” Act of June 28, 1951, P.L. 662, as amended. The Effective Date is February 27, 2018.
- (12) “*Economic Development Incentives*” include: (a) Economic Development Tax Incentives; (b) Non-Tax Incentives; and (c) Other Incentives, if any.
- (13) “*Economic Development Purpose*” means a goal or purpose to increase or maintain business activity beneficial to the City, including without limitation, any of the following: attracting new businesses; retaining existing businesses; encouraging business expansion or investment; increasing or maintaining hiring; or increasing business sales, revenue, or profit.

- (14) *“Economic Development Tax Incentive”* means a benefit provided through City tax policy that is intended to alter, reward, or subsidize a particular action or behavior by the recipient in order to promote an Economic Development Purpose, including without limitation the following tax benefits:
- (1) an exemption, deduction, credit, preferential rate, or other tax benefit that: (a) reduces the amount of a tax that would otherwise be due to the City; (b) results in a tax refund in excess of any tax due; or (c) reduces the amount of property or other taxes collected, and/or retained, or that would otherwise be due to the City;
 - (2) dedication of City tax or other revenue to provide improvements or to retire bonds issued to pay for improvements in an economic development area, a community revitalization area, an enterprise or other zone, or a tax increment financing district.
- (15) *“Evaluator”* means any City agency designated by the Mayor to produce any Evaluation Report or other Administration Document or portion thereof.
- (16) *“Evaluation Report”* has the meaning set forth in 349.05 (B)(3)(a).
- (17) *“FAIR Program”* has the meaning set forth in 349.03.
- (18) *“Feasibility Considerations”* means reasonable Administration operational, financial, staffing, resource, and/or legal considerations; information access constraints created by applicable law; or situations wherein the efforts needed to collect certain information would materially compromise a City agency’s ability to operate efficiently.
- (19) *“Incentive Inventories”* has the meaning set forth in 349.05 (B)(1)(a).
- (20) *“Inventory of Economic Development Tax Incentives”* has meaning set forth in 349.05 (B)(1)(a).
- (21) *“Inventory of Non-Tax Incentives”* has the meaning set forth in 349.05 (B)(1)(a).
- (22) *“Law and/or Policy”* means any applicable law and/or regulation and/or City policy.
- (23) *“Material Change”* has the meaning set forth in 349.06 (A).
- (24) *“Non-Tax Incentive”* means any incentive and/or program with an Economic Development Purpose that does not reduce and/or redirect City tax revenue.
- (25) *“Other Incentives”* means any incentive and/or program not included in the definitions of Economic Development Tax Incentive or Non-Tax Incentive and designated by the Committee to have an Economic Development Purpose as its primary object.
- (26) *“Program Summary”* has the meaning set forth in 349.05 (B)(4)(a).
- (27) *“Recipient”* means any person, association, corporation, joint venture, partnership, or other entity that receives an Economic Development Incentive.
- (28) *“Tax Expenditure Report”* has the meaning set forth in 349.05 (B)(2)(a).
- (29) *“Tax Expenditure Spreadsheets”* has the meaning set forth in 349.05 (B)(2)(d).
- (30) *“Third Party”* has the meaning set forth in 349.08 (C).

349.03. ECONOMIC DEVELOPMENT INCENTIVE CYCLICAL EVALUATION

Pursuant to this Article, the Administration shall develop and implement the Financial Accountability Incentive Reporting (FAIR) Program (“FAIR Program”) for the cyclical, evidence-based, performance evaluation of Economic Development Incentives through production of Administration Documents and submission of such documents to City Council. The Committee shall require, from time to time, an Evaluation Report on any or all Economic Development Incentives. The Administration and the Committee shall collaborate to develop evaluation plans and metrics customized for individual Economic Development Incentives and any standardized report forms or other documents required by this Article or necessary to carry out its provisions.

349.04. FAIR HEARINGS

A. *Scheduling; Hearing Purpose.* No later than October 31st each year, the Committee shall conduct an annual public hearing (“Annual FAIR Hearing”) to evaluate the effectiveness of Economic Development Incentives with a material fiscal, economic, or other impact on the City. Annual FAIR Hearings shall assess whether existing Economic Development Incentives should be modified, continued, amended, or repealed, subject to any authorizing legislation. The Committee may hold additional FAIR-related hearings as it may deem necessary from time to time. (Ord. 2019-26. Passed 9/3/2019)

B. *Transparency.* A public comment session shall be included in each Annual FAIR Hearing. The hearing agenda shall be posted on a City Website prior to each Annual FAIR Hearing and hearing minutes shall be posted on a City Website following each Annual FAIR Hearing. Commencing in 2019 and thereafter annually, the Administration shall post any Administration Reports approved by the Committee on a City Website.

349.05. FAIR HEARING DOCUMENTS AND RESPONSIBILITIES

A. *City Council Documents and Responsibilities.* Prior to the first Annual FAIR Hearing in 2018, the Committee shall develop (1) a standard form Annual FAIR Hearing agenda and (2) Economic Development Incentive evaluation due diligence questions (together, “Council Documents”). Prior to the second Annual FAIR Hearing and any subsequent Annual FAIR Hearings, the City Clerk shall provide Committee members with at least the following FAIR hearing background documents produced during the preceding one (1) year period: (a) hearing agenda(s) and due diligence questions list; (b) meeting handout(s), if any; (c) hearing minutes; and (d) Administration Documents submitted to City Council and/or any City Council committee.

B. *Administration Reports and Document Submissions.* The Administration shall produce the following Administration Documents in connection with each Annual FAIR Hearing:

1. Incentive Inventories - Administration Document Submissions 349.05 (B)(1)

(a) *Submission Schedule.* No later than March 1st each year, the Administration shall submit the following standardized inventories to the Committee: (i) an inventory of Economic Development Tax Incentives, in effect on January 1 of the current year (“Inventory of Economic Development Tax Incentives”); (ii) an inventory of Non-Tax Incentives in effect on January 1 of the current year (“Inventory of Non-Tax Incentives”); and (iii) any other inventories that may be requested by the Committee, from time to time, upon reasonable prior notice (“Other Administration Inventories”). Together, such inventories shall be referred to as “Incentive Inventories.” The Committee may modify the submission schedule for any Incentive Inventory upon reasonable prior notice to the Administration.

(b) *Inventory Forms.* The Committee shall collaborate with the Administration to design the initial Incentive Inventory standardized forms. The Administration shall submit initial draft Incentive Inventories to the Committee by March 1, 2018 for their review and approval. (Ord. 2019-26. Passed 9/3/2019)

(c) *Inventory Content.* Each Incentive Inventory shall include at least the following content unless excepted by the Committee: (1) name of Economic Development Incentive; (2) references to any authorizing legislation and year of enactment, or the initial year of availability where no authorizing legislation exists; (3) any expiration, sunset or other critical dates; and (4) any other content requested by the Committee, from time to time upon reasonable prior notice, to carry out the purpose of this Article.

2. Tax Expenditure Reporting - Administration Document Submissions **349.05 (B)(2)**

(a) *Submission Schedule.* No later than March 31st each year, the Administration, shall submit a separate tax expenditure report to the Committee for each Economic Development Tax Incentive listed in the current-year Inventory of Economic Development Tax Incentives (each a “Tax Expenditure Report”). Each such report shall contain the Tax Expenditure Report Content (defined below). The Committee may modify the submission schedule for any Tax Expenditure Report and add or delete tax incentives subject to reporting from time to time upon reasonable prior notice to the Administration. (Ord. 2019-26. Passed 9/3/2019)

(b) *Tax Expenditure Report Forms.* The Committee shall collaborate with the Administration to design initial standardized Tax Expenditure Report forms for each Economic Development Tax Incentive. The Administration shall submit initial report forms to the Committee by March 1, 2018 for their review and approval.

(c) *Tax Expenditure Report Content.* The Committee shall collaborate with the Administration to set reporting periods and design standardized report information fields and content individualized for each Economic Development Tax Incentive. Tax Expenditure Reports shall include at least the following information for each Economic Development Tax Incentive subject to reporting in a given year: (1) the amount of City tax revenue forgone or redirected; (2) a citation of the statutory or other legal authority for the applicable tax incentive; (3) the year in which it was enacted or the tax year in which it became effective; and (4) any other report content, document, and/or information requested by the Committee from time to time upon reasonable prior notice to the Administration (together, such content being “Tax Expenditure Report Content”). Tax Expenditure Reports may contain additional information which the Administration considers relevant to City Council’s consideration and review of individual incentives.

(d) *Tax Expenditure Spreadsheets.* No less than two (2) weeks prior to each Annual FAIR Hearing, the Administration shall submit to the Committee a separate spreadsheet, in electronic format, for each Economic Development Tax Incentive listed in the most current Inventory of Economic Development Tax Incentives (together, the “Tax Expenditure Spreadsheets”). The Administration shall submit initial Tax Expenditure Spreadsheet forms to the Committee by March 1, 2018 for their review and approval.

3. Evaluation Reports - Administration Document Submissions **349.05 (B)(3)**

(a) *Submission Schedule.* No later than March 31st each year, the Administration, shall submit to the Committee a separate incentive evaluation report for each Economic Development Incentive listed in the current year Incentive Inventories (each report being an “Evaluation Report”) unless the Committee exempts any such incentive from the reporting requirements in this subsection. The

Committee may modify the submission schedule for any Evaluation Report from time to time upon reasonable prior notice to the Administration. (Ord. 2019-26. Passed 9/3/2019)

(b) *Evaluation Report Forms.* The Committee shall collaborate with the Administration to design initial standardized report forms for evaluating each Economic Development Incentive. The Administration shall submit initial report forms to the Committee by March 1, 2018 for their review and approval.

(c) *Evaluation Criteria and Metrics.* Standardized evaluation criteria and metrics shall be developed for each Economic Development Incentive through collaboration between the Administration and the Committee. To the fullest extent possible, such criteria and metrics shall be standardized from year to year to facilitate accurate cross-incentive and inter-period comparisons.

(d) *Evaluation Report Content.* The Committee shall collaborate with the Administration to design standardized report content, report forms, and set reporting periods for each Economic Development Incentive. Each Evaluation Report shall contain the Evaluation Report Content (defined below). “Evaluation Report Content” includes the information elements set forth in EXHIBIT A to this Article.

4. Program Summaries - Administration Document Submissions

349.05 (B)(4)

(a) *Public Education.* On an annual basis and subject to the submission schedule below in this section, the Administration shall submit to the Committee a separate standardized summary document, for each Economic Development Incentive, designed to educate the public about key features of each such incentive program and the types of direct and indirect costs incurred by the City in connection with each such incentive (each such incentive summary being a “Program Summary,” and if consolidated in a single document, such document being the “Program Summaries document”). The Administration shall post the most current Program Summaries document on a City website.

(b) *Submission schedule.* No later than March 31st each year, the Administration, shall submit to the Committee the Program Summary for each Economic Development Incentive listed in the current year Incentive Inventories unless the Committee exempts any such incentive from this submission requirement. (Ord. 2019-26. Passed 9/3/2019)

(c) *Program Summary Forms; Content.* The Committee shall collaborate with the Administration to design standardized Program Summary forms, content, and information fields for Each Economic Development Incentive and periodically collaborate to improve the Program Summaries. The Administration shall submit initial draft Program Summaries to the Committee by March 1, 2018 for their review and approval.

(d) *Administration Presentation of Program Summaries.* During each Annual FAIR Hearing, the Administration shall present highlights from each Program Summary.

349.06. CHANGES TO ADMINISTRATION DOCUMENTS

A. *Material Changes to Administration Documents.* Any Material Change (defined below) to an Administration Document, as compared to the last submitted version of such document, shall be subject to the approval of the Committee. The following modifications to an Administration Document shall be deemed a “Material Change” under this section, as applicable: (1) deletion of any Economic Development Incentive from an Incentive Inventory; (2) deletion of a required information field and/or associated content; (3) change of source document for any required figure and/or ratio between an audited and an un-audited document; (4) change between use of an actual and estimated figure; (5) any material change to

the calculation methodology for a required figure and/or ratio; (6) material change to a previously stated financial assumption; (7) where an account reference number is required in an Administration Document, a change to a different account reference number or a change, addition, or deletion of any subaccount serving as an input into any required account reference number. The Committee may deem a change to an Administration Document, not specified above in this subsection, to be a Material Change.

B. Notice of Material Changes; Change List. Commencing in 2019 and annually thereafter, when submitting any Administration Document under this Article, the Administration shall include in a transmittal memorandum an itemized list (“Change List”) identifying any Material Change as compared to the last submitted version of such document.

349.07. INCENTIVE RECIPIENT ACCOUNTABILITY

A. Accountability Improvement Recommendations. In the interest of improving the City’s capacity for ensuring that Recipients of Economic Development Incentives comply with their tax and other financial obligations to the City, the Administration shall: (a) investigate the incidence of Recipient non-compliance with such obligations; (b) assess whether cost-effective options exist to improve Recipient monitoring and/or compliance; and (c) if such cost-effective options exist, develop recommendations to improve Recipient monitoring and/or compliance subject to the Feasibility Considerations. The Administration shall report to the Committee on any such recommendations at any time upon reasonable prior notice, or as part of a FAIR hearing.

B. Enhanced Recipient Reporting Documents. The Administration and the Committee shall periodically collaborate to design enhanced Recipient reporting documents and requirements to increase the City’s capacity to collect and analyze Economic Development Incentive performance data from Recipients and other sources. The Administration alternatively may adopt reporting documents and requirements of any state or federal statutes and regulations enabling or applicable to a state or federal EDI program (“EDI” defined below) to increase the City’s capacity to collect and analyze Economic Development Incentive performance data from Recipients and other sources.

C. Economic Development Incentive Recipient Reporting Obligation. The Recipient of an Economic Development Incentive (“EDI”) shall comply with rules or regulations issued by the City, or included in any agreement entered with the City, requiring a Recipient to supply reports with EDI performance data used by the City to assess the program’s fulfillment of its purposes and those intended by this Article. The City may modify, suspend or revoke a Recipient’s EDI benefits and continuing eligibility for an EDI program when the Recipient fails to comply with reporting requirements; and may reinstate benefits and program eligibility when the City deems appropriate under the circumstances.

349.08. MISCELLANEOUS

A. New, Modified, and Continued Tax Incentives. Any bill proposed by the Administration for City Council consideration, following the Effective Date, that creates, renews, continues, or materially modifies an Economic Development Incentive, must include a reasonably detailed statement of intent that clearly provides the purpose of such incentive and one or more standards or goals against which its effectiveness may be empirically assessed. In preparing any such proposed bill, the Administration shall (a) consider whether adequate protections exist in the bill to reasonably ensure the fiscal impact of the incentive does not increase substantially beyond the City’s expectations in future years; and (b) consider whether the bill or existing state, federal, and/or local laws contain reasonably adequate provisions to (i) facilitate Recipient data reporting and (ii) encourage Recipient compliance with the terms of the incentive and City financial and other obligations.

B. *Cooperation; Additional Information Requests.* The Committee may request any additional documents, information, and/or reports (together, “Other Administration Information”) from the Administration in order to carry out the purposes of this Article.

C. *Engagement of Third Parties.* The Administration may engage third-parties, including without limitation consultants or other vendors, non-profits, and/or educational institutions (each, referred to as a “Third Party”), to conduct research, analysis, and/or to produce any information or document required from the Administration under this Article.

D. *External Assistance Opportunities; Institutional Partnerships.* In order to facilitate continual FAIR Program improvement and sustainability, the Administration shall make reasonable efforts to periodically identify and take advantage of operationally feasible and cost-effective external assistance opportunities, including without limitation, potential grants and other external funding options, technical assistance programs, and institutional partnerships with colleges, universities, researchers, and/or other institutions.

E. *Open Data Program.* Subject to the Feasibility Considerations, the Administration shall make reasonable efforts to publish and periodically update Economic Development Incentive information on the City’s open data website established by City Ordinance 2017-34, passed in City Council on November 8, 2017 (“Open Data Ordinance”). If requested by the Committee, the Administration shall discuss their progress integrating the Open Data Program (defined in the Open Data Ordinance) and the FAIR Program during each Annual FAIR Hearing.

F. *Contracting and Procurement.* Subject to the Feasibility Considerations, the Administration shall periodically coordinate with applicable City agencies to develop rules and procedures for supporting the FAIR Program through applicable City contracting and purchasing procedures, including without limitation, placing requirements in applicable City contracts with vendors engaged to collect and/or produce information necessary for production of any Administration Document. The foregoing shall not prohibit the negotiation of contract terms which do not include such requirements where deemed reasonably necessary by the Administration.

G. *Data Collection Improvement.* Subject to the Feasibility Considerations, the Administration shall periodically review its data collection practices, software, and information technology systems to identify potential cost-effective options for improving Recipient data collection practices to support the FAIR Program and other purposes of this Article.

H. *Discontinuance of Publication.* The City reserves the right to amend or discontinue any policy or practice regarding availability of any information made available for public review, on a City Website or otherwise, under this Article, and to withdraw any such published information after notice to and consultation with the Committee, unless the amendment or discontinuance is required by law, in which case only notice is required.

I. *Legal Provisions.*

1. *Compliance; Confidentiality.* Any documents produced under this Article and disclosed to the public shall comply with all applicable Laws and/or Policies, including without limitation, those related to the confidentiality and disclosure of taxpayer information and/or records. Nothing in this Article shall be construed to supersede any such provision with respect to the confidentiality of taxpayer records. Any documents produced pursuant to this Article and made available to the public shall not disclose any proprietary or otherwise confidential taxpayer information.

2. *No private right of action.* This Article shall not create any private rights or any private right of action to enforce its provisions. Failure to comply with this Article shall not result in any liability to the City, its employees, agents, contractors, or counterparties to any data-sharing or other agreements.

3. *Immunities and defenses preserved.* Nothing in this Article or any City policy or act attributable to a City official or employee shall be construed to waive any privilege, right, defense, or immunity arising out of any applicable governmental immunity laws, statutes, rules, regulations, or common law.

4. *Pennsylvania Right to Know Law.* Adoption of this Article is neither intended nor to be interpreted to alter, narrow or invalidate exceptions and exemptions from disclosure of records under the Pennsylvania Right to Know Law, 65 P.S. §§67.101 et seq., as amended, or any other Law and/or Policy.

5. *Defined Terms in Exhibits.* Any terms appearing in exhibits or schedules to this Article shall have the definitions stated in the body of this Article, or if undefined, shall have their plain meaning.

6. *Severability.* The provisions of this Article are severable. If any part of this Article is declared illegal or otherwise invalid, the other provisions of this Article shall remain in effect to the fullest extent permitted by law.

J. *City Rules and Regulations.* The City Council and Administration shall have the authority to promulgate reasonable rules and regulations to implement and enforce the requirements of this Article.

K. *Ongoing Collaboration.* The format, design, and content of the various documents, reports, schedules, etc. set forth herein may be revised from time to time by the Committee in a manner consistent with this Article and following consultation with the Administration.

L. *City Council Oversight.* The Committee shall report regularly to City Council on the FAIR Program, so that City Council may consider appropriate guidance and legislation.

M. *Incorporation.* Any schedules and/or exhibits to this Article shall be incorporated herein.

(Established by Ord. 2018-01. Passed 2/6/2018)

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EXHIBIT A**EVALUATION REPORT CONTENT**

Exhibit to Article 349, section 349.05 (B)(3)(d)

Exhibit Date: _____

To the extent applicable, the following required Evaluation Report Content shall be included in any Evaluation Report produced pursuant to Article 349. For purposes of this Exhibit A only, the Economic Development Incentive subject to an Evaluation Report shall be referred to as the “incentive.”

1. DESCRIPTIVE INFORMATION

- (a) Name and description of the incentive;
- (b) Statutory reference(s) to any authorizing legislation;
- (c) Enactment date, term of the incentive, and any sunset or other critical dates;
- (d) Legislative purpose, if stated;
- (e) Eligibility requirements; and
- (f) Reference(s) to relevant policy or other City documents, if any.

2. TAX EXPENDITURE DATA

Where the incentive is included in the current-year Inventory of Economic Development Tax Incentives, defined in section 349.05 (B)(1)(a), include the following information:

- (a) Number of taxpayers who received the incentive, itemized by taxpayer type, using North American Industry Classification System (NAICS) codes or similar codes, if available; and
- (b) Total dollar value of such incentive received by taxpayers, including amounts eligible to be carried forward into future tax years, if any.

3. ECONOMIC AND COMMUNITY IMPACT

For the last reporting period and reasonable projections where possible, include the following to the extent applicable:

- (a) “Return on investment calculation” analyzing the costs of providing the incentive and the benefits realized by the City;
- (b) Total value of investment resulting from the incentive;
- (c) Number of projects planned, started, and completed;
- (d) Changes in property value assessments directly or indirectly related to the incentive;
- (e) Number of jobs and other direct economic benefits resulting directly from the incentive;
- (f) Estimate/discussion of the indirect economic or other benefits or activity stimulated by the incentive, including without limitation, changes to social and real estate indicators; and

- (g) Discussion of quantifiable and non-quantifiable community impact effects the Evaluator believes relevant.

4. RECOMMENDATIONS; OTHER INFORMATION

- (a) Recommendations for improving future evaluations and Administration Documents;
- (b) Where data constraints significantly limited the Evaluator's ability to provide required information and/or measure incentive performance, include recommendations for changing City law and/or practices that could mitigate such constraints in future years;
- (c) Recommendations for potential legislative action, including continuing, amending, terminating, or otherwise modifying the incentive; and
- (d) An assessment of whether adequate protections are in place to ensure the fiscal impact of the incentive does not increase substantially beyond the City's expectations in future years.