

Memo

To: Mayor Hall
From: Sanya Vitale
cc: City Council
Date: July 11, 2023
Re: Economic Incentives for Development Update

The City Attorney Curcio provides the following guidance with regard to the City's request for insight with respect to offering free/reduced tap fees as economic incentives for potential development opportunities.

Connection fee waivers for economic development can be done on a limited basis without significant legal risk but may open the door for the following liability issues:

- The basic argument is that the more people are exempted from paying a rate (for reasons unrelated to the cost of service), the more the customers who don't qualify for a waiver have to pay.
- Eventually, the imbalance can rise to the point where the fees that some customers pay is no longer reasonably proportional to the cost of the services they receive, which violates the Bolt test for the legality of service fees.

If the City Commission decides to offer incentives, Attorney Curcio recommends Council do so sparingly, and that each time it does Council should clearly articulate in the approval motion or resolution, the perceived economic benefits (e.g., job creation, increase in tax base resulting from significant building improvements, etc.).