

Shirley Oil Co.

CITY OF LeROY
COUNTY OF McLEAN
STATE OF ILLINOIS

ORDINANCE NO. 390

AN ORDINANCE PROVIDING FOR THE ACCEPTANCE OF A CONTRACT
APPROVING SHIRLEY OIL COMPANY TO ECONOMICALLY REDEVELOP
A PORTION OF THE CITY OF LE ROY, ILLINOIS

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LeROY THIS 20TH DAY OF MAY, 1991

PRESENTED: MAY 20TH, 1991
PASSED: MAY 20TH, 1991
APPROVED: MAY 20TH, 1991
RECORDED: MAY 20TH, 1991
PUBLISHED: MAY 20TH, 1991
In Pamphlet Form/In Newspaper

Voting "Aye" 5
Voting "Nay" 1

The undersigned being the duly qualified and acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned ordinance and that such ordinance was presented, passed, approved, recorded and published as above stated.

Juanita Stagle

City Clerk of the City of LeRoy
McLean County, Illinois

(SEAL)

Dated: MAY 20TH, 1991.

AN ORDINANCE PROVIDING FOR THE ACCEPTANCE
OF A CONTRACT APPROVING SHIRLEY OIL COMPANY
TO ECONOMICALLY REDEVELOP A PORTION OF THE
CITY OF LE ROY, ILLINOIS

WHEREAS, the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, hereinafter referred to as "City," is desirous of continued economic growth for the benefit of its citizenry; and

WHEREAS, City, by ordinance, has previously created a Tax Increment Financing District known as LeRoy First Tax Increment Financing District; and

WHEREAS, the redevelopment project proposed hereinafter is located within the geographical boundaries of the LeRoy First Tax Increment Financing District, is compatible with the general land use within the City and within the aforesaid tax increment financing district, and is consistent with the redevelopment plan for the aforesaid tax increment financing district; and

WHEREAS, Shirley Oil Company, an Illinois corporation, intends, upon approval of the contract attached hereto, to proceed with the redevelopment effort; and

WHEREAS, Shirley Oil Company seeks to build, own and develop a fuel facility, a convenience store and a fast-food restaurant; and

WHEREAS, the aforesaid developer is requesting that a portion of the tax increments of the aforesaid tax increment financing district, which increments would be a portion of those generated by the proposed project, flow back to the project, as an inducement to the developer to undertake said project, for the cost-eligible expenses of said project; and

WHEREAS, the City Council of the City of LeRoy, Illinois, finds that said project will reduce unemployment and underemployment for residents in City and will generate increased sales and property taxes for City,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of LeRoy, Illinois, in lawful meeting assembled, as follows:

Section 1. That the contract, a copy of which is attached hereto as Exhibit "A," incorporated herein by reference, is approved by the City Council and the Mayor and City Clerk are hereby authorized to execute the original and additional copies as may be necessary of said contract, which contract, by its terms, authorizes, approves and appoints Shirley Oil Company as a developer to redevelop a selected area of City and to build, own and operate the fuel facility, convenience store, and fast-food restaurant as specified in said agreement.

Section 2. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form.

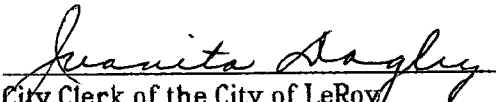
PASSED by the City Council of the City of LeRoy, Illinois, on the 20TH day of MAY, 1991, and deposited and filed in the office of the City Clerk in said City on that date.

ALDERMEN ELECTED 6

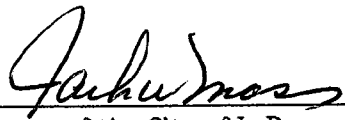
ALDERMEN PRESENT 6

AYES GARY BUILTA, ROBERT D. JOHNSON, WILLIAM SWINDLE, DAVE SPRATT, JERRY DAVIS

NAYS RANDY ZIMMERMAN

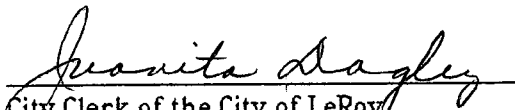

City Clerk of the City of LeRoy,
McLean County, Illinois

APPROVED by the Mayor of the City of LeRoy, Illinois, this 20TH day of MAY, 1991.


Mayor of the City of LeRoy
McLean County, Illinois

ATTEST:

(SEAL)


City Clerk of the City of LeRoy,
McLean County, Illinois

TAX INCREMENT REDEVELOPMENT AGREEMENT FOR
THE CITY OF LE ROY, ILLINOIS

THIS AGREEMENT is entered into this _____ day of _____, 1991, by and between the CITY OF LE ROY, McLean County, Illinois, an Illinois municipal corporation, hereinafter referred to as "CITY," and SHIRLEY OIL COMPANY, an Illinois corporation, of _____ hereinafter referred to as "OWNER/DEVELOPER."

Recitals

A. CITY has the authority to promote the health, safety and welfare of CITY and its citizens, and to prevent the spread of blight and deterioration and inadequate public facilities by promoting the development of private investment in industry, business and housing which will enhance the marketability of property, thereby increasing the tax base of CITY and reducing the unemployment of its citizens.

B. CITY has already by ordinance undertaken a program and plan of redevelopment of CITY by the adoption of tax increment financing, the creation of a Redevelopment Plan (the "Plan"), Redevelopment Project Area (the "Area") and Redevelopment Projects (the "Projects") pursuant to the Tax Increment Allocation Redevelopment Act, Illinois Revised Statutes, 1985 (as amended), Chapter 24, Sections 11-74.1-11, et seq., (hereinafter referred to as "the Act").

C. OWNER/DEVELOPER proposes to develop property as set forth in Exhibit 1, attached hereto and incorporated hereby by reference, pursuant to the aforesaid Plan.

D. Said proposed project is consistent with the land uses and the projects of the plan as adopted and is located within the Area;

E. OWNER/DEVELOPER has requested that incentives for the development be provided by CITY from incremental increases in both real estate taxes and sales, use and service taxes of CITY, which incentives are consistent with those of the Plan and are set forth in Exhibit 1.

F. CITY has the authority under the Act to incur Redevelopment Project Costs ("eligible project costs") and to reimburse OWNER/DEVELOPER for such costs.

G. CITY, by ordinance, has determined that all incremental increases in real estate taxes and CITY sales taxes in the Area are to be allocated to and when collected shall be paid to the CITY Treasurer for deposit into the Special Tax Allocation Fund Number I for LeRoy First Tax Increment Financing District (the "Fund") for the purpose of payment of eligible project costs;

H. The parties hereto desire to segregate within the aforesaid Fund the incremental increases in real estate taxes and CITY sales taxes derived from OWNER's/DEVELOPER's project which separate account shall be designated SHIRLEY OIL COMPANY SPECIAL ACCOUNT (the "SOC Special Account").

I. This project has been determined by CITY to require the incentives requested as set forth in Exhibit 1, and CITY has determined that said Project will, as a part of the Plan, promote the health, safety and welfare of CITY and its citizens by attracting private investment to prevent blight and deterioration, and to provide employment for its citizens and generally to enhance the economy for CITY.

Covenants

1. Acquisition of Property and Construction of Project Improvements.

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree OWNER/DEVELOPER shall acquire the property described in Exhibit 1 on or before _____, 1991. Construction by OWNER/DEVELOPER of the improvements to the aforesaid property, and development of the Project Area, all as set forth in Exhibit 1 attached hereto and incorporated herein by reference, shall commence as set forth in Exhibit 1, and OWNER/DEVELOPER shall complete such construction, occupy the property and begin operations as set forth in the time table in Exhibit 1. Failure of OWNER/DEVELOPER to meet this time table will release CITY from its obligations to OWNER/DEVELOPER under this contract, but will not relieve OWNER/DEVELOPER of any obligation to pay to CITY the expenses of issuing bonds, and any amount due on same over and above the unexpended amount of any such issue held by CITY (see subparagraph "c." below) at the time the determination is made that the time table will not be met.

2. Incentives.

a. OWNER/DEVELOPER shall be reimbursed by CITY for all eligible project costs permitted by the Act from those sums generated by the Project and deposited into the SOC Special Account of the Fund, but only to the extent of those proportions and amounts provided for in Exhibit 1, and only for the term of the Plan. CITY is not obligated, and the parties hereto do not contemplate that CITY will be requested at any future time, to use any of its proportionate share of the monies in the SOC Special Account of the Fund to reimburse OWNER/DEVELOPER for any cost eligible expense or eligible project costs, but, rather, CITY shall use such sums for any purpose under the Act as it may in its sole discretion determine.

b. If CITY enters into other agreements to encourage development within the Redevelopment Area and for any reason the amounts available from the tax increments generated throughout the LeRoy First Tax Increment Financing District are not sufficient annually to provide reimbursement for all projects covered by agreements, then the reimbursement covered by the individual agreements, this agreement included, shall be funded pro rata based upon the amount of increased incremental taxes generated by a project subject to an agreement to the total tax increment generated by all projects subject to such agreements. That ratio will be applied to the total tax increments deposited in the special tax allocation fund in any given year for the entire district to determine that project's share. A portion (see Exhibit 1) of the increment so generated and received will be used for OWNER's/DEVELOPER's expenses until all cost eligible expenses (eligible project costs) are paid or until the LeRoy First Tax Increment Financing District is dissolved.

c. CITY is contemplating issuing tax increment financing bonds, the proceeds from the sale of such bonds being intended, at least in part, to be utilized for public works projects that will enhance the project area intended to be developed by OWNER/DEVELOPER. The parties hereto agree that such public works projects by CITY are an integral part of the entire concept of the Project and that without such improvements being made the Project may be diminished in its capability of generating tax increment revenues to the extent that the project would not be economically viable for OWNER/DEVELOPER. CITY is not obligated to issue the aforesaid bonds. Failure of CITY to complete the frontage road (described in Exhibit 1) shall relieve OWNER/DEVELOPER of the obligation to complete construction or to commence operations (see Exhibit 1) although OWNER/DEVELOPER shall not be released from its obligations concerning bond issuance and repayment costs if CITY's failure to complete the road was due to OWNER/DEVELOPER's

failure to undertake construction of the Project by the date set forth in Exhibit 1, or to continue reasonable progress toward completion of the Project. Before CITY shall complete the sale of the bond issue contemplated by the parties, or be obligated to begin construction of the frontage road described in Exhibit 1, OWNER/DEVELOPER shall provide CITY with proof of binding leases being obtained by OWNER/DEVELOPER with any operators necessary to operate all of the various parts of the proposed Project, proof of loan commitments or the obtaining of all other necessary private financing and provision of the necessary funds to carry out the development of the Project, and proof that construction of the proposed improvements is ready to begin by a certain time. CITY may proceed with the sale and issuance of the contemplated bonds before all such information and proof is provided, and in such event OWNER/DEVELOPER shall still be liable as set forth in this provision (2 c.). OWNER/DEVELOPER agrees, in the event that it fails to complete the aforesaid construction, or to occupy the property and begin operations as set forth in the time table in Exhibit 1, for reasons attributable to OWNER/DEVELOPER, or primarily to OWNER/DEVELOPER, that any expense incurred by CITY in preparing the bond issue and marketing the same (including attorney's fees, printing costs, and marketing costs) as well as any amount of principal or interest, or both, that may then be due for the repayment of said bonds and not capable of being repaid by CITY from the proceeds of the sale of such bonds within a reasonable time (due to the expenditure of any or all such proceeds for their intended purpose, or the binding obligation to expend the same for their intended purpose), shall be reimbursed by OWNER/DEVELOPER to CITY within thirty (30) days of receipt of written request of CITY made upon OWNER/DEVELOPER for such reimbursement.

3. Payment for Eligible Project Costs.

a. Payment to OWNER/DEVELOPER for eligible project costs, as set forth by the Act, shall be made upon a Request for Verification of Cost Eligibility (hereinafter referred to as "Request") submitted from time to time by OWNER/DEVELOPER to the City Clerk of the City of LeRoy (hereinafter referred to as the "Clerk"), and payments of said Requests shall be made upon the approval of the City Council of the City of LeRoy (hereinafter referred to as the "Council"), said payment to be made subject to the availability of funds in the SOC Special Account. All Requests must be accompanied by verified bills or statements of suppliers, contractors, professionals, or other service providers, as required from time to time by CITY. The Clerk shall approve or disapprove a Request by written notice to OWNER/DEVELOPER within twenty (20) business days after receipt of the Request. Approval of the Request will not be unreasonably withheld. If a

Request is disapproved by Council or subsequently by the Illinois Department of Revenue the reasons for disallowance shall be set forth in writing and the OWNER/DEVELOPER may resubmit the Request with such additional information as may be required and the same procedure set forth herein shall apply to such resubmittals of any Request. Should the resubmitted Request fail to qualify for reimbursement, the OWNER/DEVELOPER shall refund the disallowed amount to the City within thirty (30) days after notice of the disallowance of the resubmitted Request.

b. The parties hereto acknowledge that the determination of eligible project costs, the Area and the Projects, and, therefore, qualification for reimbursement hereunder, are subject to changes or interpretation made by amendments to the Act, administrative rules or judicial interpretations during the term of this Agreement and CITY has no obligation to OWNER/DEVELOPER to attempt to modify those decisions but will assist OWNER/DEVELOPER in every respect as to obtaining approval of eligible project costs, Area, and this Project.

4. Verification of Tax Increment.

a. It shall be the sole responsibility of OWNER/DEVELOPER to provide to CITY, as requested, the following:

(1). The Illinois Business Identification Number of the business or businesses developed and operated within the geographical area of the Project (if applicable);

(2). A certified or verified copy of all sales tax reports filed by OWNER/DEVELOPER or by any other operator of any portion of a development occurring within the Project Area, said sales tax reports being those filed with the State of Illinois annually from January 1 through December 31 of each calendar year, or more frequently if requested by CITY;

(3). Certified copies of all real estate tax bills for tax year 1989 on the property located in the Project and, annually thereafter, certified copies of all paid real estate tax bills for the immediate preceding real estate tax year for the property located in the Project Area.

b. Failure of OWNER/DEVELOPER to provide any information required herein shall be considered a material breach of this Agreement and shall be cause for CITY to deny payments hereunder to OWNER/DEVELOPER which payments are conditioned upon receipt of the foregoing information.

5. Limited Obligation.

CITY's obligation under this agreement to make payments to OWNER/DEVELOPER for eligible project costs is a limited obligation to be paid solely from the SOC Special Account in the Fund. Said obligation does not now constitute, nor shall it ever constitute, an indebtedness of CITY within the meaning of the State of Illinois constitutional or statutory provisions regarding indebtedness of municipalities, nor shall it constitute or give rise to a pecuniary liability of CITY or a charge or lien against the CITY's general credit or taxing power.

6. CITY Determination Pursuant to Section 11-74.4-8a of the Act.

Pursuant to Section 11-74.4-8a(1) of the Act, CITY hereby finds and determines that no portion of the increase in the aggregate amount of taxes paid or to be paid by retailers and servicemen under the Retailer's Occupation Tax Act, Use Tax Act, Service Use Tax Act, or the Service Occupation Tax Act, is the result of the initiation of retail or service operations in the Redevelopment Project Area by either OWNER/DEVELOPER or any tenant or occupant of the Redevelopment Project Area known to CITY, as a result of the termination of retail or service operations by OWNER/DEVELOPER or any of the aforesaid tenants or occupants, at another location in CITY's standard metropolitan statistical area.

7. Limited Liability of CITY to Others.

There shall be no obligation by CITY to make any payments to any person other than OWNER/DEVELOPER nor shall CITY be obligated to pay any other contractor, subcontractor, mechanic or materialman providing services or materials to OWNER/DEVELOPER for the Project.

8. Time Is of the Essence; Force Majeure.

For this agreement, time is of the essence; provided, however, OWNER/DEVELOPER shall not be deemed in default with respect to any obligations under this agreement on its part to be performed if OWNER/DEVELOPER fails to timely perform the same and such failure is due in whole or in part to any strike, lock-out, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruption of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, war, fuel shortages, accidents, casualties, acts of God, acts caused directly or indirectly by CITY

(including CITY's officers, agents, employees and invitees) or third parties, or any other cause beyond the reasonable control of OWNER/DEVELOPER, including but not limited to delays in acquiring interests in or possession of the subject property caused by the parties who are contractually obligated to convey and grant the same to OWNER/DEVELOPER.

9. Assignment.

The rights and obligations of OWNER/DEVELOPER under this Agreement may be assigned only after written notice is given to CITY of the request to make such assignment, and then only upon written consent of the CITY being given approving the assignment. The parties hereto agree that no assignment shall be deemed to release OWNER/DEVELOPER, as an assignor, of its obligations to CITY under this Agreement unless the written consent of CITY to the release of the assignor's (OWNER/DEVELOPER) obligations hereunder is first obtained. Consent shall not be unreasonably withheld, provided that the nature of the Project is not substantially changed by the assignment, or intended to be changed by the assignment.

10. Prepayments.

Should the annual incremental tax revenue generated by the Project be sufficient to pay all eligible project costs and cost-eligible expenses, except mortgage interest buydown, prior to the expiration of the term of this Agreement, CITY may, in its sole discretion, elect to pay all the remaining payments (except mortgage interest buydown) in a single lump-sum payment.

11. Waiver.

Any party to this Agreement may elect to waive any remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless the party waiving such right or remedy does so in writing. No such waiver shall obligate such party to waive any right or remedy hereunder, nor shall any such waiver be deemed to constitute a waiver of other rights and remedies provided said party pursuant to this Agreement.

12. Severability.

If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provisions of this Agreement or of the application of same to parties or

circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

13. Notices.

All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with first-class postage prepaid, addressed as follows:

To Developer:
Shirley Oil Company

To CITY:
City Clerk
City Hall, 111 E. Center St.
LeRoy, IL 61752

14. Successors in Interest.

Subject to the provisions of paragraph 11, previous, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective assigns and successors in interest.

15. No Joint Venture, Agency, or Partnership Created.

Neither anything in this Agreement nor any acts of the parties to this Agreement shall be construed by the parties or any third person to create the relationship of a partnership, agency, or joint venture between or among the parties to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the duly authorized officers on the date first written above at LeRoy, Illinois.

ATTEST:

(seal)

Juanita Dagley, City Clerk

CITY OF LE ROY, ILLINOIS
an Illinois municipal corporation

by: _____
Jack Moss, Mayor

CITY: City of LeRoy, Illinois, an Illinois municipal corporation

OWNER/DEVELOPER: Shirley Oil Company, an Illinois corporation

A. **Narrative Description of the Project:** Shirley Oil Company will establish a fuel facility, convenience store and fast-food restaurant on ten acres presently owned by Glenn Golden, described in the attached site plan, and to be purchased from the aforesaid Glenn Golden by Shirley Oil Company or on its behalf. The City of LeRoy will build a frontage road to serve the project, the extent of the frontage road improvement in connection with the proposed project being shown on the attached site plan; the cost of said road not to exceed \$100,000.00. City further agrees that at such time as development of all or any part of the remaining property owned by the aforesaid Glenn Golden and located south of the previously-described ten acres shall take place, City shall, within a reasonable period of time of being notified of the intent to further develop said property, and in accordance with an agreed time table (agreed between City and Golden and any prospective developer on behalf of Golden) be obligated to extend the aforesaid frontage road, proportionately, to serve the next developed portion of the remaining property, but in no event shall said service road be extended or improved further than the west right of way line of East Street, of the City of LeRoy, extended south to the intersection of such extension with Interstate Route 74. In connection with the contemplated property development described herein, Shirley Oil Company will cause a berm of earth to be constructed along the north, east, and portions, as appropriate, of the west boundary of the Project Area so as to minimize the effect of noise generated by the use of the Project Area for its intended purposes as much as may reasonably be accomplished. Shirley Oil Company shall, in installing lighting for the Project Area, take all reasonable steps to minimize the effect of such lighting on the residential area neighboring the project to the north and northeast. Shirley Oil Company shall take all reasonable steps necessary to assure appropriate drainage and surface water control in and about the Project Area, and to the extent that surface water and underground water drain across or under all or any part of the Project Area from adjacent areas, and Shirley Oil Company shall insure that such steps are taken in connection with the approval of all such necessary steps by the City Engineer for the City of LeRoy. Shirley Oil Company shall take all necessary and appropriate steps to insure adequate traffic control for any road, street or intersection which provides means of ingress and egress to the Project Area, said measures to be taken in connection with approval by the City Engineer of the City of LeRoy.

(See attached Site Plan and/or Elevations)

- B. Time table
1. Commence Construction September 1, 1991
 2. Complete Construction June 22, 1992
 3. Commence Operations June 22, 1992
- C. Summary of Project Financial Data:
1. Construction or Renovation
 - a. Estimated Total Project Costs \$1,660,000.00
 - b. Estimated Eligible Project Costs \$2,806,537.00
 2. Anticipated Incremental Increase in Real Estate and Sales Taxes:
 - a. Real Estate Tax \$36,800.00
 - b. City Sales Tax \$35,400.00
 - c. State Sales Tax \$154,920.00
 3. Number of Jobs retained/Created 40
- D. Developer's/City's Share of TIF Proceeds
1. Real Estate Tax Increment 50% / 50%
 2. City Sales Tax Increment 50% / 50%
 3. State Sales Tax Increment 50% / 50%
- E. Anticipated Time of Payment to Developer
1. Cost Eligible Expenses 15 Years
 2. Mortgage Interest Buydown 15 Years

Exhibit 1
(page 2)

CERTIFICATE

I, Juanita Dagley, certify that I am the duly elected and acting municipal clerk of the City of LeRoy, McLean County, Illinois.

I further certify that on MAY 20TH, 19 91, the Corporate Authorities of such municipality passed and approved Ordinance No. 390, entitled:

AN ORDINANCE PROVIDING FOR THE ACCEPTANCE OF A CONTRACT APPROVING SHIRLEY OIL COMPANY TO ECONOMICALLY REDEVELOP A PORTION OF THE CITY OF LE ROY, ILLINOIS,

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 390, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on MAY 20TH, 19 91, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at LE ROY, Illinois, this 20TH day of MAY, 19 91.

(seal)


Municipal Clerk

