

## REQUEST FOR COUNCIL ACTION



### 2021 TAX INCREMENT FINANCING (TIF) POLICY REVISIONS: PREVAILING WAGE REQUIREMENTS FOR AFFORDABLE HOUSING PROJECTS

**MEETING DATE:**

April 19, 2021

**ORIGINATING DEPT:**

City Administration

**AGENDA SECTION:**

Reports and Recommendations

**PREPARED BY:**

Terry Spaeth

**COUNCIL ACTION REQUESTED:**

Adopting Tax Increment Financing (TIF) policies related to the removal of the prevailing wage requirements for certain affordable housing projects as indicated by approval of the related Council Initiated Action on March 22, 2021.

**COUNCIL PRIORITIES:**

Enhance quality of life

**POLICY CONSIDERATIONS:**

With the level of development activity in the City, it seems prudent to review TIF policies on a regular basis to ensure the use of TIF in the City aligns with the City's goals and objectives.

**REPORT NARRATIVE:**

The Council reviewed the proposed TIF policy revisions at the February 22, 2021 Council Study Session. On March 1, 2021 the Council approved the proposed TIF Policy revisions, but had expressed concerns related to the prevailing wage exemption for affordable housing projects that was approved by the Council on October, 2020.

A Council initiated Action to remove the affordable housing prevailing wage exemption was submitted and was discussed at the March 22, 2021, Council meeting. Several items of concern were brought up as part of the discussion.

- Practical matter vs. Financing matter: From the standpoint of its impact to the City, it would be more of a practical matter. Often times, these projects are vying for Housing Tax Credits or other funding resources to help move the projects forward. A show of local support by filling a small financing gap with tax increment financing often helps these projects secure those other resources, which can make up a large share of the project financing.
- Paying prevailing wages for apprentice workers: It should be noted that under Section 3.2 of the City's Prevailing Wage Requirements, there is an exemption to prevailing wage rates for apprentice workers as follows:
  - E. Qualified apprentice agreements may allow the Contractor to pay an employee less than Prevailing Wage at agreed union level rates plus benefits. Union Apprentice Agreements must be uploaded to LCPtracker, web based reporting system.

- Wage Theft discussion: This is not a wage theft issue. That is a separate matter, and as was pointed out, there are processes in place to deal with that matter.

**COMMUNITY ENGAGEMENT:**

The TIF Policies were worked on collaboratively with the DMC EDA and developers previously.

**ALTERNATIVE ACTION(S):**

N/A

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

Over the years, the Council has reviewed and amended the City's TIF Policies from time to time. Last amendment to the policies was approved on March 1, 2021.

**FISCAL AND RESOURCE IMPACT:**

The proposed amendments should not have significant fiscal and resource impacts to the City.

**ATTACHMENTS:**

2021 TIF Policy Amendments incl. restoring prev. wage req.

**REVISED  
4/19/2021**

**CITY OF ROCHESTER POLICY ON DEVELOPMENT  
INCENTIVES FOR TAX INCREMENT FINANCING  
AND TAX ABATEMENT**

**I. GENERAL POLICY**

The purpose of this policy is to establish guidelines and procedures for the provision of development incentives to private businesses. The fundamental purpose of providing development incentives are to encourage the redevelopment of the city's older residential, commercial, and industrial areas; to preserve and expand the city's economic and employment base, and to provide affordable housing.

Development incentives may be provided when the city believes that the desired development would not occur without municipal involvement. The city reserves the sole right to accept or reject proposals for development assistance, taking into account the degree to which they adhere to the intent of this policy and any other factors the City Council may wish to consider

**II. OBJECTIVES**

Within these stated priorities, the City will consider providing development incentives to private projects to achieve one or more of the following objectives:

- A. Encourage development or redevelopment consistent with the City of Rochester Comprehensive Plan and the goals and objectives of the City of Rochester.
- B. To encourage the redevelopment of developed areas through the removal of blight and blighting conditions.
- C. To retain jobs and/ or increase the number and diversity of quality jobs.
- D. To provide a balanced and sustainable housing stock and to promote neighborhood stabilization and revitalization.
- E. To increase the city's tax base.
- F. To encourage additional unsubsidized private development, either directly, or through secondary "spin-off" development.
- G. To provide specific community benefits in addition to those included in these policies. Community benefits may include such things as

space for child care center or commercial spaces for small and local businesses and living wage jobs (The wage floor for wages to be paid for the jobs created shall be 110% of the established federal poverty income wage level for a family of four.) for jobs in the project. The specific community benefits will be determined by the type and nature of the proposed development and will be incorporated into the terms of a Development Assistance Agreement and articulated to the City Economic Development Authority (EDA) in the Request for EDA Action.

H. To meet other public objectives as determined by the Council.

### III. **PRIORITIES FOR USE OF DEVELOPMENT INCENTIVES**

(Projects that meet 1, 2 or 3 below are considered to be of equal priority and are a higher priority for the use of development incentives than other projects).

1. Development or redevelopment projects that are included in the Destination Medical Center Development Boundary Area that further the goals and objectives of the plans and research outlined below:
  - a. DMC Development Plan
  - b. Rochester Downtown Master Plan
  - c. DMC District Design Guidelines
  - d. Public Realm Plans
  - e. DMC Transportation Plan
  - f. City of Rochester Comprehensive Plan
  - g. DMC District Market Demand Studies
2. Economic development projects of an industrial or manufacturing nature, that are consistent with the Minnesota Statutes and that create or retain living wage jobs or increase the tax base in the City.
3. Housing TIF District projects must provide for at least 40% of the units to be affordable to persons at 60% area median income or 20% of the units to be affordable to persons at 50% area median income, as required by statute. For Housing TIF District proposed development projects seeking development incentives, priority will be given to those projects that
  - a. Secure other funding sources, such as Housing Tax Credits or Housing Revenue Bonds
  - b. Take advantage of an infill site.
  - c. Are within 1/4 mile of bus stop.
  - d. Are located within 1/2 mile of essential services, including schools, grocery, park and medical facilities that serve the property.
  - e. Are within the 4 minute EMS response time.
  - f. Have no tenant relocation issues associated with the project.
  - g. Single family dwelling owner occupied housing as permitted by Statute.
  - h. Provide rents affordable to persons at or below 50% AMI

- i. Provide for preservation of existing Naturally Occurring Affordable Housing stock.
- 4. Other Redevelopment projects. Determination of project approval should consider the following:
  - a. The project site is deemed to be blighted or distressed and in significant need of renovation or redevelopment, as evidenced by brownfield designation, declining property value, several years of high vacancy rates or negative impacts on the surrounding neighborhood; or
  - b. The site's proximity to the downtown core and transit availability; or
  - c. The site is deemed to have a concentration of households to support the proposed use of the site; or
  - d. If the project includes a housing component, a goal of 20 % of the units must be affordable to persons at 60% of the area median income or 10% of the units must be affordable to persons at 50% of the area median income; or if a project consists of only market rate units, that a percentage (to be determined by the Council) of the available tax increments is to be used for affordable housing purposes within the City.
  - e. For projects that do not propose a housing component as part of the project, that 5% of the available tax increments will be utilized for affordable housing purposes within the City.
  - f. The property is within a Qualified Opportunity Zone or other Federal or State economic development incentive zone.
- 5. Other projects deemed critical to the long range economic development of the City, or as identified for transit oriented redevelopment in the Comprehensive Plan, as determined by the Mayor and City Council.
- 6. As indicated by City of Rochester Economic Development Authority action taken on August 19, 2019, the development of stand alone hotel projects within the City will not be considered a priority for the use of tax increment financing assistance.

#### **IV. RELOCATION ASSISTANCE**

- 1. Prior to the execution of a Development Assistance Agreement (a TIF Plan may be approved) for City TIF assistance, it is the developer's obligation to ensure that appropriate relocation benefits are provided to displaced rental unit tenants whose incomes are at or below the 60% area median income (AMI) and who are otherwise entitled to such benefits under applicable law that have been displaced within the previous 6 months to an application submittal.
- 2. In order to qualify for the relocation assistance, a tenant must have resided in the unit for a period of 90 days prior to the displacement.

3. For those displaced tenants who do not utilize Housing Choice Vouchers, the relocation assistance amount shall be based upon the monthly difference between the tenant's current monthly rent amount and the maximum monthly gross rents identified by HUD for income levels at or below 50% AMI and number of bedrooms, for a period of 42 months.
4. For those displaced tenants that do utilize Housing Choice vouchers for part of the monthly rent payment, the amount of relocation assistance provided to the tenant would be the difference between the tenant's portion of the current monthly rent payment and any increase in monthly rent that would be the tenant's responsibility, for a period of 42 months.
5. In cases of displaced tenants with special needs, the developer will be obligated to provide additional relocation assistance in an amount to cover the costs of renovating a comparable dwelling unit to accommodate the tenant's needs, with a maximum cap of \$20,000 for renovation costs and no more than \$25,000 in aggregate, including rental assistance and moving related costs.
6. The developer will be obligated to pay a fixed cost fee per displaced tenant based upon the schedule listed below, which is the MnDOT standard.

Residential Moving Expense and Dislocation Allowance Payment Schedule The occupant owns furniture

Rooms	1	2	3	4	5	6	7	8	Each Add'l Room
Amount	\$575	\$725	\$925	\$1125	\$1325	\$1525	\$1725	\$1925	\$275

Residential Moving Expense and Dislocation Allowance Payment Schedule  
The occupant does not own furniture

Rooms	1	Each Add'l Room
Amount	\$450	\$100

## V. POLICIES

- 1) To directly link the level of assistance provided to a project to the attainment of the objectives defined above.

The level of public assistance provided to a project shall be commensurate with the extent to which the project addresses specific redevelopment, DMC Plan, economic development or housing goals and objectives. Assistance shall be limited to the minimum amount necessary for the successful construction of the project and to address an identified funding gap.

- 2) To keep the payback period for bonds, loans, abatements, or other forms of

assistance to the shortest to 1m possible.

- 3) To structure any assistance in such a manner as to minimize financial risk to the city. Up front bonding will primarily be directed to City owned public infrastructure. All other assistance will be typically done on a "PAYGO" reimbursement basis.
- 4) To require proposers to provide full disclosure of project information so that the city can assess the need for incentives.
- 5) To require guarantees and other forms of financial security commensurate with risk incurred by the city.
- 6) Projects seeking City assistance will be more strongly considered if they meet one of the Sustainable Building Certification Standards as follows :
  - a. For commercial projects:
    - i. LEED for New Construction and Renovation; Certified Silver, Gold or Platinum.
    - ii. State of Minnesota B3 Guidelines; Certified Compliant.
  - b. For residential projects:
    - i. LEED for New Construction and Renovation; Certified Silver, Gold or Platinum.
    - ii. State of Minnesota B3 Guidelines; Certified Compliant.
    - iii. Green Star; Certified Silver , Gold or Platinum
    - iv. [ V. Green Communities; Certified
- 7) Redevelopment and Economic Development Projects must also meet the standards set forth below. Projects applying for City funding assistance shall also integrate the goals and requirements of the attached Exhibit A (Sustainable Building Appendix) into the project's application.
  - a. Predicted and actual energy use and greenhouse gas emissions - meet SB 2030
  - b. Energy Standard through design and operation
    - i. Predicted and actual use of potable water: 30% below Energy Policy Act of 1992 levels
  - c. Predicted and actual use of water for landscaping: 50% reduction from consumption of traditionally irrigated site
  - d. Utilization of renewable energy: Evaluation of 2% of on-site renewables; installation if cost-effective using SB 2030 guidance
  - e. Electric vehicle charging capability: install conduit that allows charging stations to be installed at a future date
  - f. Diversion of construction waste from landfills and incinerators: 75% diversion rate
  - g. Indoor Environmental Quality: Low VOC materials includes paints, adhesives, sealants, flooring, carpet as well as ASHRAE thermal and ventilation minimums
  - h. Stormwater Management: Quantity and quality requirements, including infiltration rate, suspended solid and phosphorous reductions

- i. Resilient Design: Document a design response to several identified potential shocks such as utility interruption, extreme rainfall and transportation interruption. Design Team shall integrate the identified strategies into the design of the project.
- j. Participate in the City of Rochester's Voluntary Benchmarking Program for a period of three years after construction is completed to report energy and water consumption of the project
- k. Performance standards outlined above must be verified by a third party proposed by the Developer and acceptable to the City of Rochester

## **VI. PERMISSIBLE COSTS**

The city may provide financial incentives to cover any cost permitted by regulation or statute. While the city will consider any eligible cost, it reserves the right to participate in only those costs it deems appropriate.

## **VII. PROVISIONS**

- A. Prior to application submittal for any required City land use / zoning approvals, the Proposers will be required to provide the City with a written notice of intent to seek City assistance and submit project and financial data in sufficient detail to document their need for assistance. Such information may include, but not be limited to, financial statements, project pro-formas, source and use of funds statements, market and feasibility studies and similar documents.
- B. Projects must be consistent with the city's comprehensive plan, zoning ordinance and other land use policies. Projects not consistent with such plans, ordinances and policies must obtain land use approvals prior to provision of any financial assistance.
- C. Redevelopment Projects should leverage the maximum private investment possible. Each project will be reviewed to determine funding gap and the level of assistance will be based upon that and the public benefits provided by the project. Desired goals of the City are a maximum city funding of no more than ten (10) years of present value tax increments be provided to the project, except that additional tax increments may be provided for eligible expenses that provide public amenities or benefit, as determined by the City. Projects that are provided more than 10 years of TIF will be required to meet one of the Sustainable Building Certification Standards indicated. Not more than 75% of the estimated project tax increments being provided to the developer on an annual reimbursement basis
- D. If incentives are to be provided, proposers must submit evidence of



private financing satisfactory to the city, or secure the city's costs before the city makes any significant financial commitment to a project

- E. In the case of tax increment financing projects, prior to the execution of any assistance agreements, the proposer must complete project plans and provide project financial data in sufficient detail to allow the Olmsted County Assessor to estimate the market value of the project upon completion, and provide evidence satisfactory to the City that private financing is secured
- F. The city may require collateralized guarantees, assessment agreements, and other forms of security to protect the public's investment in the project. The amount of security required will be based on the City's assessment of the risk of the project.
- G. In evaluating a project, the City may utilize outside legal, financial, real estate, marketing, design and other consultants. Unless waived by the Council, proposers will be required to pay the costs of such consultants.
- H. In the case of tax increment projects, proposers must agree to provide documentation of actual allowable costs no less than quarterly during project construction. These costs must be categorized as required by the State of Minnesota "Tax Increment Financing Authority Report".
- I. The City will require that all tax increment projects receiving City funding assistance shall be subject to prevailing wage requirements during project construction for the construction project laborers. In addition, the City of Rochester's Destination Medical Center Targeted Business Utilization Plan goals for Targeted Business and Workforce Participation and American made steel will also be applicable.

## **VIII. LIMITATIONS**

- A. Development incentives will not be used to support projects that place extraordinary demands on city services and infrastructure, unless such demand is mitigated as part of the project.
- B. Because tax abatement requires an offsetting levy increase, it will be used in very limited instances, primarily used to encourage development or redevelopment of the central business district or DMC Plan boundary area. Tax abatement will not be used for retail or office projects located outside of the central business district. In limited circumstances, the Council may consider the use of tax abatements to assist manufacturing and technology, housing, historic preservation and public infrastructure projects. For manufacturing and technology projects, tax abatements will be considered only if it is not feasible to provide assistance through tax increment financing and then, only when there is an imminent threat of significant job loss, or when there will be a significant increase in new jobs.

C. Where new job creation provides the primary rationale for the granting of development incentives, the city will consider providing assistance to employers paying a living wage, shall consider the number of jobs generated and the wage and benefit levels provided by the Company as factors in determining the amount of assistance for the project. Assistance agreements may include provision for repayment of all or a portion of the assistance granted if, the business fails to either create or maintain the targeted number of jobs at the stated pay level thresholds.

D. For Statutory Housing TIF District projects that typically include housing revenue bonds or other state or federal housing assistance, the following guidelines will be considered:

1. For projects that include Housing Tax Credits, Bonds or other State or Federal funding assistance, a threshold of no more than \$12,000 / dwelling unit or a maximum of 15 years of available tax increments, whichever is less.
2. For housing projects that meet underserved market needs such as senior housing or special needs supportive housing in the community, a greater threshold of assistance may be considered.
3. Priority for TIF assistance will be given to those housing projects that have been successful in leveraging other sources of funding such as housing tax credits, housing bond funding or other sources,
4. The City reserves the right to limit the number of housing units assisted annually.

## **IX. PROCESS**

- A. Prior to submission of a formal application requesting development incentives and land use / zoning approval, the proposer shall meet with staff to discuss the nature of the proposal and its relationship to the City's and or DMC Plan development goals, objectives, and priorities. Procedures and submission requirements will also be reviewed. For projects located within the DMC Development Plan boundary area, the City/ DMC EDA joint staff application submittal and review process will be followed.
- B. The proposer shall submit sufficient copies of his / her proposal to the City Administrator for distribution to appropriate officials and staff.
- C. Staff will review the proposal and submit a written report to the Council and/or City Economic Development Authority (EDA) outlining its findings. The Council and City EDA may accept the proposal, reject it, or indicate to the proposer those modifications to the proposal necessary for continued consideration.

- D. A recommendation to accept the proposal shall include the basic terms and conditions of an agreement to be entered into by the city and the proposer.
- E. The terms of the agreement and staff report and recommendation will be presented to the Common Council and/or the City EDA for final action.

## **X. SUBMISSION OF PROPOSALS**

Proposals for development incentives shall include the following information:

- A. A completed application form and application fee.
- B. Qualifications of the proposer including prior experience with similar projects. Qualifications, where applicable, of principal members of development team, including the architect, construction company, and financial advisor.
- C. Financial capability of the proposer to undertake the project.
- D. Site plans, schematics, and narrative describing the location, type, scope, and size of the project.
- E. Identification of all public assistance being sought.
- F. Preliminary analysis showing existing taxes, estimated future taxes, and for economic development projects, the number of new jobs created, by wage level.
- G. The proposer's source and use of funds including any public assistance being requested.
- H. A preliminary listing of any approvals, permits, licenses or other authorizations required for the project.
- I. A statement identifying the specific public objectives the project will address.
- J. A preliminary schedule identifying significant milestone dates leading to the completion of the project.
- K. Any other pertinent data the city may require.

## **XI. APPLICATION INFORMATION**

Applicants shall include the information listed in the City or DMCC application form that will be provided. Not all of the information will be needed for every proposal. The applicant will work with city staff to assure all appropriate information is provided.

- A. A \$5,000 application fee must be attached to the application. This fee is designed to cover a portion of the city's costs associated with evaluating the proposal. If warranted by the complexity of the proposal, additional deposits may be required to cover City out of pocket expenses related to the application process. If the project is determined to be a DMC Plan project, the application filing fee shall be \$10,000.