

# CITY OF DETROIT BROWNFIELD REDEVELOPMENT AUTHORITY

## Interim Guidelines for Brownfield Projects Involving Housing Tax Increment Financing

Effective June 12, 2024

The City of Detroit Brownfield Redevelopment Authority (the “DBRA”) was established pursuant to Michigan Public Act 381, MCL 125.265 et seq, as amended (“Act 381”) to promote the revitalization of environmentally distressed and blighted areas within the boundaries of the City of Detroit (the “City”). Pursuant to Act 381, the DBRA facilitates the approval of brownfield plans (“Plans”) which provide for the utilization of certain tax increment revenues to pay for or reimburse costs of Eligible Activities as defined in Section 2 of Act 381. Michigan Public Act 90 of 2023, an amendment to Act 381 that went into effect on July 19, 2023, provides new opportunities to support certain housing development activities using tax increment revenues (“Housing Tax Increment Financing” or “HTIF”) by adding new terms to the definition of both Eligible Property’ and Eligible Activities, as these terms are defined in Section 2 of Act 381, specific to projects including housing (rental and/or for-sale).

Specifically, Housing Property (as defined below) that is located in a community that has identified a specific housing need and has absorption data or job growth data included in the Plan is now an Eligible Property and the cost of Housing Development Activities (as defined below) associated with such Housing Property may be supported by HTIF under a Plan or amendment to a Plan.

Plans which include (or will be amended to) include HTIF will be required to follow the processes already established by DBRA for all Plans in addition to the criteria set forth herein, as applicable.

Applicants will be required to meet with DBRA staff prior to submitting Plan applications or Plan amendments that contemplate HTIF and should expect to work collaboratively with the DBRA, City, and the Michigan State Housing Development Authority (“MSHDA”) as this program evolves.

*Note: These guidelines are subject to change and may be modified at any time by the DBRA. To the extent there is any conflict between these guidelines and the terms and provisions of Act 381, Act 381 shall control.*

**SECTION A: DEFINITIONS.** Capitalized terms shall have the meanings set forth in this section, unless otherwise defined herein.

1. “Affordable” means housing for which occupants earning no more than one hundred twenty percent (120%) of AMI (as defined herein) would be paying no more than thirty percent (30%) of their income for gross housing costs, including a utility allowance consistent with the annual rate established by MSHDA for Wayne County for the Development (as defined herein).
2. “Affordable Housing Plan” means a plan created and provided by the Developer (as defined herein) which has sufficient detail to determine compliance with applicable City ordinances and DBRA policies and sets out the housing development plan and affordability terms of the Development, including, without limitation, (i) description of how the Development meets the specific housing needs of the community, (ii) absorption data and/or job growth data, (iii) name of Developer, (iv) property identification (ex. address, tax id), (v) housing

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development costs, (vi) total number of Dwelling (as defined herein) units, (vii) total number of Affordable Dwelling units, (viii) number of Dwelling units at each AMI (as defined herein) percentage, (ix) number of Dwelling units by type (ex. 1 bedroom, 2 bedrooms, for-sale or rental, etc.), (x) evidence of commitment to maintain the Dwelling Units as Affordable during the applicable affordability period, (xi) phasing timeline and site plans for Affordable Dwelling units and market rate Dwelling units, and (xii) any and all other information reasonably required by the DBRA.

3. “*Area Median Income*” or “*AMI*” means the median family income for Wayne County, as described in the ‘Income and Rent Limits’ document published by MSHDA (as defined herein), as adjusted for person and number of bedrooms.
4. “*DEGC*” means the Detroit Economic Growth Corporation.
5. “*Developer*” means the legal or beneficial owner or the representative thereof, of a parcel of land proposed for inclusion in a Development (as defined herein), including the holder of an option or contract to purchase who performs the functions necessary to obtain land control and financing to construct or rehabilitate a property and expects to assume the risks and rewards upon completion of the project.
6. “*Development*” or “*to develop*” means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land or any clearing, grading, excavation or other movement of land, for which permission/permits may be required pursuant to the City zoning ordinances affecting the same.
7. “*Dwelling*” means a building or portion thereof which is designed for or occupied in whole or in part as the home, residence or living and sleeping area of one or more individuals, either continuously, permanently, or temporarily (temporarily pursuant to a lease or similar agreement). Dwelling does not include a hotel, motel, bed and breakfast, hostel, short-term rental (ex. Airbnb) or other similar lodging facilities.
8. “*Housing Property*” is defined as one or more of the following:
  - a. A property on which one or more units of residential housing are proposed to be constructed, rehabilitated, or otherwise designed to be used as a Dwelling, or
  - b. One or more units of residential housing proposed to be constructed or rehabilitated and located in a mixed-use project.
9. “*Housing Development Activities*” means one or more of the following:
  - a. Reimbursement to owners of rental housing units for Qualified Rehabilitation (as defined herein).

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- b. Costs for public infrastructure and safety improvements necessary for a Housing Property project.
  - c. Costs of demolition and renovation of existing buildings and site preparation to the extent necessary to accommodate an Income Qualified Household (as defined herein). The Income Qualified Household may be for rent or purchase.
  - d. Temporary household relocation costs for an Income Qualified Household for up to one year.
  - e. Acquisition cost for blighted or obsolete rental units for the purpose of rehabilitating or adaptive reuse of the unit(s) to accommodate Income Qualified Households (either for rent or purchase).
  - f. Reimbursement to Developer to fill financing gap associated with development of housing units priced for Income Qualified Households (either for rent or purchase).
  - g. Reimbursement to Developer to assist with costs related to infrastructure improvements and site preparation that are not a response (environmental) activity and that are necessary for a new housing unit development for Income Qualified Households (either for rent or purchase).
10. “*Income Qualified Household*” means a person, family, or unrelated persons living together, whose combined gross annual income for all cohabitating adults ages 24 years or older, is no more than 120% of the AMI for Wayne County as determined by MSHDA and adjusted for persons and number of bedrooms.
11. “*MSHDA*” means the Michigan State Housing Development Authority.
12. “*Project Rent Loss*” or “*PRL*” means the difference between the monthly control rents described in the ‘MSHDA Housing TIF Program Control Rents’ document published by MSHDA and the monthly Affordable rents for the Development.
13. “*Qualified Rehabilitation*” means rehabilitation of existing structures to make a housing unit suitable for sale or rent to an Income Qualified Household. Qualified Rehabilitation also includes rehabilitation that would bring the structure into compliance with local minimum building code standards for occupancy or improve livability while meeting minimum local building code standards.
14. “*Rental Ordinance Requirements*” means those processes and requirements provided in Detroit City Code §8-15-81 et seq., and any other local requirements affecting rental properties within the City of Detroit.

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**SECTION B: CRITERIA FOR PLANS REQUESTING HTIF THAT INCLUDE RENT AND INCOME RESTRICTED UNITS.**

1. Eligibility Criteria:
  - a. No less than 20% of all Dwelling rental unit types (i.e. studios, one (1) bedroom units, two (2) bedroom units, etc.) in an approved Plan shall be leased to occupants earning 80% AMI or below and evenly distributed throughout the Development. DBRA may encourage greater percentages or deeper affordability based on underwriting.
  - b. A restrictive covenant describing the rent and income restrictions set forth above must encumber the Housing Property for a minimum of five (5) years, or the period of reimbursement, whichever is greater.
  - c. All Dwelling rental units shall be in compliance with the applicable Rental Ordinance Requirements including, without limitation, registration of the Dwelling rental units with the City, certification of lead and blight clearances, passing all required inspections, and maintaining a current rental Certificate of Compliance from the City.
2. For HTIF Eligible Activity requests in mixed-income and/or mixed-use Developments:
  - a. Funding of the PRL is only available for the units occupied by an Income Qualified Household in a Development.
  - b. Non-PRL Housing Development Activities are available as a pro-rata share of the square footage of the units occupied by an Income Qualified Household compared to the total square footage of common areas of the Development.
3. The DEGC and DBRA will review the project proforma and underwrite HTIF requests the same way other Eligible Activity Tax Increment Financing requests are reviewed, by:
  - a. Reviewing cash flow analysis;
  - b. Reviewing sources and uses; and
  - c. Reviewing project investment returns including, but not limited to, internal rate of return (“IRR”), debt service coverage ratio (“DSCR”), cash on cash return (“COCR”), and yield on costs (“YOC”) calculation.

In the event the total cost of Eligible Activities exceeds the projected tax increment revenue captured under the Plan, reimbursement of Housing Development Activities at the lowest AMI level in the Development shall be prioritized.

4. Developers who receive approval of HTIF must implement the Affordable Housing Plan approved in the Plan. Developers who desire to adjust or remove the Affordable Housing Plan (such as AMI levels, affordability period, etc.) must amend the Plan in order to do so.
5. Income Verification: The City, by and through the Housing and Revitalization Department, shall verify the income of the Income Qualified Household at lease-up (and such other times as reasonably required by the City) and the Developer shall provide DBRA with

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written confirmation of the same. In order to accomplish the foregoing, Developers shall be required to provide the following documentation to the City:

- a. Two (2) months of most recent pay stubs.
- b. W2 forms for the most recent year.
- c. 1099 forms for the most recent year.
- d. If self-employed, the balance sheets or documentation showing the net income from the operation of the business and signed copies of federal tax returns for the three (3) most recent years.\* (\*The City may require less than three (3) years in the City’s discretion based on the specific circumstances of an applicant).
- e. Third party verification of employment.
- f. Documentation for any other sources of earnings such as child support, alimony, social security, etc.
- g. Such other documentation as reasonably required by the City.

The City reserves the right to utilize a third party to collect and review the above-referenced documentation.

6. Compliance of Income Qualified Units: Developer shall be responsible for verifying that the rental eligibility criteria described in Section B(1) above is met by providing the following to the City, for the benefit of the DBRA, on an annual basis:
  - a. Annual Wayne County AMI limits as designated by MSHDA.
  - b. Property status reports (or similar documentation) to confirm the overall number of units in the Development and the number of units rented to households meeting the approved annual income criteria.
  - c. Certified Rent Rolls to confirm the rental rates charged throughout the Development.
  - d. Utility allowance calculation documentation.
  - e. Any other documentation the City and/or DBRA may reasonably require to ensure the ongoing compliance of the Development with the Affordable Housing Plan.
  - f. Payment of the applicable fee, if any, to the City for the review of the documentation related to income verification and on-going compliance of the Development with the Affordable Housing Plan. The fees contemplated by this subsection, if applicable to the Development, shall be communicated to the Developer by the City in advance and in writing.
  
7. Developer shall be required to retain copies of all documentation required by Section B(5) and (6) for the entire term of the Plan and at least three (3) years after the expiration of the term of the Plan.

**SECTION C: CRITERIA FOR PLANS REQUESTING HTIF THAT INCLUDE INCOME AND SALE PRICE RESTRICTED HOMEOWNERSHIP UNITS.**

1. Eligibility Criteria:

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- a. For-sale Dwelling units must be sold to an Income Qualified Household.
  - b. For-sale Dwelling units must satisfy all applicable City requirements, including, but not limited to, certification of lead and blight clearances, passing all required inspections, and maintaining a current Certificate of Occupancy from the City.
  - c. A restrictive covenant describing the income restrictions required by the DBRA shall encumber the Housing Property for five (5) years, commencing on the date the Housing Property obtains a Certificate of Occupancy from the City and is sold to an Income Qualified Household.
  - d. Plans contemplating HTIF that include Affordable for-sale Dwellings shall only be proposed/submitted by a Developer. Individual homebuyers are not eligible.
2. DBRA support will include, but may not be limited to, a Development loss subsidy in an amount necessary to make the Dwelling affordable to a purchaser who qualifies as an Income Qualified Household. In all cases, the Development loss subsidy shall initially be funded by the Developer or its lender(s) and the Development loss subsidy shall be eligible for reimbursement with HTIF so long as all applicable conditions are satisfied by the Developer. For a mixed-use development, the costs of Housing Development Activities approved in the Plan for a Dwelling occupied by an Income Qualified Household will be eligible for full reimbursement with tax increment revenues under the Plan, as permitted by Act 381; however, for the portion of the Development that is not Affordable, reimbursement of Housing Development Activities costs will only be available as a pro rata share of the square footage of the Dwellings occupied by an Income Qualified Household compared to the total square footage of common areas of the Development.
  3. The potential Development loss subsidy amount is equal to the difference between the total Development cost and the amount an Income Qualified Household can afford based on annual household income.
  4. The Development loss subsidy will be forgiven in equal increments over the five (5) year affordability period. If an Income Qualified Household purchaser sells their Dwelling before the aforementioned affordability period is completed, the remaining subsidy amount will need to be repaid upon sale of the Dwelling. Notwithstanding the immediately preceding sentence, the DBRA, in its sole discretion, may (in lieu of requiring payment of the unamortized subsidy balance) permit the original Income Qualified Household to sell the Dwelling during the affordability period, provided that the sale is to another Income Qualified Household and not for a substantial financial gain.
  5. The Developer shall provide the following documentation to the City and/or DBRA to verify the sales price of the for-sale Dwellings:
    - a. Appraisals / Broker Price Opinions to confirm the value of the completed Dwelling.
    - b. Market comparison studies to confirm the sales prices of similarly situated Dwellings.
    - c. Annual Wayne County AMI limits as designated by MSHDA.
    - d. Listing agreements to verify the for-sale price of the Dwelling meets the limits designated by DBRA.

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6. Income Verification: The City, by and through the Housing and Revitalization Department, shall verify the income of the Income Qualified Household and the Developer shall provide DBRA with written confirmation of the same. In order to accomplish the foregoing, Developers shall be required to provide the following documentation to the City:
  - a. Executed Purchase Agreement.
  - b. Mortgage Pre-Approval.
  - c. Good Faith Estimate of Closing Costs.
  - d. If self-employed, then the balance sheets or documentation showing the net income from the operation of the business and signed copies of federal tax returns for the three (3) most recent years.\* (\*The City may require less than three (3) years in the City's discretion based on the specific circumstances of an applicant).
  - e. W2 forms for the most recent year.
  - f. Two (2) months of most recent pay stubs.
  - g. Two (2) months 1099 forms for the most recent year.
  - h. Bank Statements.
  - i. Securities Statements (stocks, mutual funds, etc.).
  - j. Evidence of other income (child support, alimony, disability, etc.).
  - k. Third-party verification of employment.
  - l. Such other documentation as reasonably required by the City.

The City reserves the right to utilize a third party to collect and review the above-referenced documentation.

Income verification shall be completed once prior to or at the closing of the Dwelling to an Income Qualified Household. To the extent applicable, Developers are encouraged to work with mortgage lenders and utilize some of the mortgage lender's verified information as part of the income verification process. Developer shall also be responsible for the payment of any applicable fees incurred by the City for the review of the documentation related to income verification and on-going compliance of the Development with the Affordable Housing Plan. The fees contemplated by this subsection, if applicable to the Development, shall be communicated to the Developer by the City in advance and in writing.

7. Additionally, Developer shall be responsible for any applicable City/DBRA reporting requirements through the sale of the Dwelling and, to the extent Developer has any continuing obligations during the affordability period, the Developer shall continue meeting annual reporting requirements until such affordability period or Developer's obligations are completed. During the affordability period, the Income Qualified Household may also have annual reporting requirements, which include, but are not limited to, confirmation that property taxes are paid, etc.
8. The DEGC and DBRA will review the project proforma and underwrite HTIF requests the same way other Eligible Activity Tax Increment Financing requests are reviewed, by:
  - a. Reviewing cash flow analysis;
  - b. Reviewing sources and uses; and

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- c. Reviewing project investment returns including, but not limited to, internal rate of return (“IRR”), debt service coverage ratio (“DSCR”), cash on cash return (“COCR”), and yield on costs (“YOC”) calculation.

In the event the total cost of Eligible Activities exceeds the projected tax increment revenue captured under the Plan, reimbursement of Housing Development Activities at the lowest AMI level in the Development shall be prioritized.

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