

**AN ORDINANCE AMENDING CHAPTER TWO OF THE REVISED
ORDINANCES TO REQUIRE RESPONSIBLE DEVELOPMENT FOR TAX
INCREMENT FINANCING AND TAX INCREMENT EXEMPTION PROJECTS**

Be it ordained by the city council of the city of Worcester, as follows:

Chapter Two of the Revised Ordinances of 2008 is hereby amended by inserting a new section thirty-five A, as follows:

§ 35A. Responsible Development Ordinance

(a) *Statement of Purpose.*

The City Council hereby supports the use of Tax Increment Financing (TIF) through the Commonwealth's Economic Development Incentive Program (EDIP) and Tax Increment Exemptions (TIE) through the Commonwealth's Housing Development Incentive Program (HDIP). The City of Worcester has an expectation that projects receiving TIF/TIE assistance will provide meaningful benefits to the Worcester community both during the development and after the project is completed. To ensure that expectation is met, this Responsible Development Ordinance has been created and is incorporated by exhibit into all TIF/TIE Agreements with developers/companies. Projects receiving TIF/TIE assistance are also subject to Chapter 2, Section 39A of the City's Revised Ordinances regarding Wage Theft Prevention, which will be further incorporated by exhibit into all TIF/TIE Agreements. The following goals and objectives are considered for any projects seeking TIF/TIE assistance:

- (1) Expansion of the City's tax base and revenues.
- (2) Eliminate blight and/or redevelop an underutilized property.
- (3) Create permanent, full-time, livable-wage jobs for Worcester residents (EDIP).
- (4) Create new housing opportunities for Worcester residents (HDIP).
- (5) Enhance the diversification of the City's housing stock and economic activities.
- (6) Improve livability and stabilization in the City's neighborhoods and commercial districts.
- (7) Encourage sustainable and resilient building design.
- (8) Directly or indirectly spur additional, unsubsidized private development in Worcester.
- (9) Benefit the long-term economic development goals of the City of Worcester.

(b) *Application Process.*

- (1) The applicant must submit a letter of intent to the City's Executive Office of Economic Development (EOED) expressing interest in the program. The EOED

will review the project information for program eligibility and alignment with the program goals and objectives.

- (2) The applicant must demonstrate that the TIF/TIE assistance is necessary for the financial feasibility of the project or other financial considerations of sufficient merit. The applicant must provide a project pro forma which demonstrates the financial need and/or a written statement from the lender or principal funding provider noting the importance and basis therein of tax benefits to the overall financial package assembled to support the project.
- (3) The applicant must demonstrate evidence of the required financing to complete the proposed project. In addition to the pro forma, applicant must submit a project budget and sources and uses of funds statement.
- (4) The applicant should demonstrate additional economic benefits to the Worcester community, such as the employment of youth interns or support for local initiatives.
- (5) The EOED will submit projects recommended for approval through the City Manager and to the City Council. The City Council will refer the recommendation to its Economic Development committee. The applicant must also meet with the Worcester Jobs Fund committee to discuss any short-term construction jobs and/or long-term jobs associated with the project. The EOED will work with the applicant to coordinate the meeting with the Worcester Jobs Fund, with the goal of occurring prior to the Economic Development committee meeting.
- (6) In its recommendation, the EOED will provide a copy of the completed program application, the terms of the TIF/TIE Plan, and a copy of the draft TIF/TIE Agreement.
- (7) If the TIF/TIE Plan is approved by the City Council, the EOED will work with the applicant to submit the project application to the appropriate state agency for certification. For EDIP projects, the state agency is the Mass Office of Business Development and Economic Assistance Coordinating Council. For HDIP projects, the state agency is the Executive Office of Housing and Livable Communities.

(c) General Requirements and Assurances.

- (1) The project will generate an increase in property tax revenue.
- (2) The project will be beneficial to a "Blighted Open Area", "Decadent Area", or a "Substandard Area" as defined in 402 CMR 2.03.

- (3) The project must meet all local and State permitting, licensing and regulatory requirements.
- (4) The applicant must provide documentation of adherence to the Immigration and Nationality Act.
- (5) The applicant must provide documentation demonstrating it has a Criminal Record Offender Record Information (CORI) Policy that matches the City of Worcester's CORI Policy.
- (6) For EDIP projects, if the property is or will be leased to company, copies of leases with all tenants seeking certification must be submitted to demonstrate that the tax benefits will be passed through to the tenant in the form of a favorable lease.
- (7) For EDIP projects, permanent, full-time livable wage jobs* must be created for Worcester residents. *Livable wage jobs shall be 125% of minimum wage as of January 1st in the year of the approved TIF Plan.
- (8) For EDIP projects the applicant agrees that 100% of the newly created positions will be made available to residents of Worcester. The City of Worcester reserves the right to also require that certain applicants ensure a percentage of the permanent full-time jobs to be created are filled by Worcester residents, with a goal of at least 50% Worcester residents and 15% low- to moderate-income residents.
- (9) The applicant must use its best efforts to purchase supplies, materials, equipment, appliances, and services from suppliers and vendors located in Worcester. These best efforts will include requesting proposals from Worcester suppliers and vendors, giving preference to Worcester suppliers and vendors that are both qualified and competitive; and allowing Worcester suppliers and vendors the opportunity to match or better lower prices provided by qualified non-Worcester suppliers and vendors.
- (10) The applicant must commit to a goal of hiring at least 50% of its contractors and sub-contractors from qualified local (within thirty miles of the project address) companies. These best efforts will include advertising the work locally; giving preference to local contractors and sub-contractors that are both qualified and competitive; and allowing qualified local contractors and sub-contractors the opportunity to match or better lower prices provided by qualified, non-local contractors and sub-contractors.
- (11) The applicant must commit to supporting Women Business Enterprises (WBE) and Minority Business Enterprises (MBE) certified by the state Supplier Diversity

- Office or similar certifying agency. The applicant must commit to a goal of contracting at least 15% of the value of all contracts with WBEs and 10% of the value of all contracts with MBEs.
- (12) The applicant must commit to a goal of achieving workforce hours in each trade of 50% Worcester residents, 38% people of color, and 10% women.
 - (13) The applicant, its contractors, subcontractors and lessees, if applicable, will ensure non-discrimination in all their respective employment decisions. The applicant, its contractors, subcontractors and lessees, if applicable, will ensure without regard to race, color, religious creed, national origin, age, sex, gender identity & expression, sexual orientation, genetic information, ancestry, military service, source of information, or disability in the areas of hiring, promotion, demotion, transfer, recruitment, layoff, termination, rate of compensation, in-service or apprenticeship training programs, and all other terms and conditions of employment as it pertains to the applicant, its contractors, subcontractors and lessees, if applicable.
 - (14) The applicant must affirm that it will not unlawfully misclassify workers as self-employed or as independent contractors and certify compliance with applicable state and federal employment laws and regulations, including but not limited to minimum wages, unemployment insurance, workers' compensation, child labor, and the Massachusetts Health Care Reform Law, Chapter 58 of the Acts of 2006, as amended.
 - (15) The applicant must affirm that any construction manager, general contractor, subcontractors, or any entity hired by the applicant for the construction of the project shall not unlawfully misclassify workers as self-employed or as independent contractors, or that fail to comply with applicable state and federal employment laws and regulations, including but not limited to minimum wages, unemployment insurance workers' compensation, child labor, and the Massachusetts Health Care Reform Law, Chapter 58 of the Acts of 2006, as amended.
 - (16) The applicant and all contractors and sub-contractors will comply with the Wage Theft Prevention ordinance as described in Chapter 2, Section 39A of the Revised Ordinances of the City of Worcester.
 - (17) The applicant must ensure that all contractors and sub-contractors comply with the health care laws of Massachusetts, and the applicant must not hire any contractors or sub-contractors that are on the Commonwealth of Massachusetts debarment lists.

- (18) The applicant must ensure that all contractors and sub-contractors have not within the past three years been found in violation of any law applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, environmental laws, or others.
- (19) The applicant must ensure that all contractors and sub-contractors maintain appropriate industrial accident insurance sufficient to provide coverage for all the employees on the project in accordance with G.L. c.152 and provide documentary proof of such coverage to the Commissioner of Inspectional Services to be maintained in Inspectional Services as a public record.
- (20) The applicant must provide the City of Worcester with a list of contractors and sub-contractors that will be given the opportunity to bid on the project construction. Said list must be provided to the City's Program and Compliance Manager prior to the commencement of construction.
- (21) Contractors and subcontractors at every tier must at the time of bidding certify that all employees working on the project will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration (OSHA) that is at least 10 hours in duration, and shall ensure that all employees working at the worksite possess such qualifications at all times throughout the duration of their work on the project and furnish documentation of successful completion of the course.
- (22) A copy of this Responsible Development Ordinance must be included in all solicitations for pricing from contractors and subcontractors at every tier. The Responsible Development Ordinance must also be included in all contracts and subcontracts at every tier.
- (23) If the applicant decides to sell the property or business during the TIF/TIE Plan or to otherwise transfer control of the property or business and/or its operation, the applicant must give the City of Worcester as much notice as is practicable. The applicant must ensure that regardless of future ownership, the property will remain taxable or pay a tax equivalent payment for the life of the TIF/TIE Plan, unless the property is repossessed or foreclosed upon by a mortgagee.

(d) Workforce Development.

- (1) The applicant and its tenants (if applicable) must work with the City's Program and Compliance Manager regarding workforce development resources to help advance the goals described in this ordinance. The applicant must also meet and collaborate with the City's Workforce Development Division, the Program

Director of the Worcester Jobs Fund, other local employment agencies, and community or neighborhood organizations as identified to outline the job profiles of those positions to be created in order to secure positions at the project address for Worcester residents. The applicant and its tenants (if applicable) must also agree to make all commercially reasonable efforts to maintain and add to the level of jobs at the project address as long as the TIF Plan is effective.

- (2) The applicant's support of local workforce development initiatives such as job fairs or programs like the Building Pathways program is highly encouraged.
- (3) The applicant must commit to a goal of 15% workforce hours for apprentices in an Apprenticeship program registered with the Massachusetts Division of Apprenticeship Standards (DAS) and comply with such standards. In furtherance of this goal, applicant must demonstrate efforts to procure contractors and subcontractors in each trade that maintain a DAS registered apprenticeship program. Opportunities on the project for apprentices who are Worcester residents and/or students or graduates of the Worcester Public Schools are a priority of the City and highly encouraged.

(e) Reporting and Monitoring.

(1) During Construction.

- (i) In furtherance of the contractor requirements and workforce goals for the project, the applicant must submit to the City certified payroll documentation for all contractors and sub-contractors at every tier. The documentation must be submitted at least monthly and shall include each employee's name, address, gender, race/ethnicity, apprentice status, wages, and withholdings. The OSHA 10 cards referenced in section (c) of this ordinance must be submitted for each employee with the first certified payroll form in which the employee appears.
- (ii) The applicant must ensure that its construction manager or general contractor maintain a daily log of each employee working on the project. The log must contain the project location, date, printed employee name, employee signature, name of employer, and time of entry / exit. The logs must be submitted to the Program and Compliance Manager at least bi-weekly.
- (iii) The applicant must participate in the City's Construction Diversity Monitoring Committee (CDMC) meetings throughout the duration of the project. Attendance by a representative from the project's

development team and a representative from the project's Construction Manager/General Contractor team are required at CDMC meetings.

- (iv) The applicant must make the Program and Compliance Manager aware of any shortfalls regarding goals and meet with the Program and Compliance Manager monthly/periodically or as needed throughout the project construction to evaluate and reassess performance toward diversity goals and develop a strategic plan to address any shortfalls.
- (v) The applicant will provide the site access for periodic monitoring and compliance visits throughout the duration of the project.

(2) Post-Construction.

- (i) Per M.G.L. Chapter 23A and 402 CMR 2.00, active EDIP projects are required to submit an annual report to the Commonwealth's Economic Assistance Coordinating Council (EACC) and to the municipality in which the project is located. The EACC reviews each project for compliance with job creation and retention, private investment goals and if applicable, investment tax credit utilization. The failure to submit the annual report to the EACC is grounds for project decertification which may result in the revocation and potential recapture of state tax benefits. The annual report requires the following information: full-time employment levels at the facility at the beginning and end of the reporting period; the specific number of Worcester residents employed full-time at the facility at the beginning and end of the reporting period; the total project investment made as of the date of the report; the applicant's financial contribution to the City of Worcester (i.e. property taxes, motor vehicle excise taxes, and water and sewer fees), for the fiscal year; a description of any private investment made for the benefit of the community during the reporting period.
- (ii) In addition to the annual report required of the EACC, the City of Worcester requests similar reports on a semi-annual basis, for time periods ending June 30th and December 31st during the duration of the TIF Plan.
- (iii) Active HDIP projects must provide annual reporting to the City of Worcester including occupancy rates of the residential units, rental rates of the residential units, and the applicant's financial contribution to the City of Worcester for the preceding fiscal year.

(f) Corrective Action & Remedies.

(1) General Requirements and Assurances.

Any violation of compliance with laws, requirements, and/or assurances in section (c) of this ordinance may result in revocation or reduction of local tax benefits in the sole determination of the City of Worcester.

(2) During Construction.

- (i) Failure to submit complete and accurate documentation as outlined in section (e) of this ordinance may result in fines, revocation, or reduction of local tax benefits.
- (ii) Failure to perform best faith efforts in achieving the goals described in section (c) of this ordinance may result in fines, revocation or reduction of local tax benefits.
- (iii) As a result of project reporting and monitoring, if the Program and Compliance Manager determines that the project is failing to meet the requirements or expectations of this ordinance, a Letter of Noncompliance will be issued. The initial Letter of Noncompliance will result in a fine of five thousand dollars (\$5,000.00). The applicant must respond to the letter with a Corrective Action Plan outlining the steps that will be taken to remedy the issues of Noncompliance. Failure to implement the Corrective Action Plan may result in a revocation or reduction of local tax benefits associated with the project in the sole determination of the City of Worcester. The severity of Noncompliance issues will inform the City's determination of whether to revoke the tax benefits, or the degree in which the tax benefits may be reduced.

(3) Post Construction.

Failure to submit a semi-annual report to the City of Worcester, as well as a company's failure to retain its permanent, full-time job base as stated in the application, complete the project as proposed, or reach at least 50% of its job creation goal as stated in the application, may result in the revocation and/or potential recapture of local tax benefits. The City of Worcester reserves the right to consider the revocation or reduction of local tax benefits on a case-by-case basis. If the City of Worcester chooses to reduce the percentage of a company's local tax benefits due to non-compliance with its job retention or creation goals, the percentage reduction amount will be proportionate to the company's current permanent, full-time employment levels.