

MEMORANDUM

CITY OF GRAND RAPIDS

DATE: November 14, 2017

TO: Gregory A. Sundstrom
City Manager

FROM: Kara L. Wood *K. Wood*
Managing Director, Economic Development Services

**SUBJECT: Housing Advisory Committee Recommendation #5-Voluntary
Equitable Development Agreements (VEDA) Draft Policy**

Attached is a draft City Commission policy to provide for three party agreements between the City, an investor, and a community-based organization that would allow the community, the City and investors to voluntarily commit to various goals and joint interests in order to create a pathway for the investment to proceed for the benefit of each of the parties pursuant to an agreement memorialized in writing. The VEDA would detail the joint commitments of each party and specify the standards and conditions that will govern development of the property.

As suggested by the Housing Advisory Committee, these agreements would allow for community involvement through a process driven by the needs of the community.


Attached is a draft revised City Commission policy which incorporates goals, eligibility criteria, application process, review and compliance, which could govern the use of VEDAs and the City Commission's process for considering execution of such agreements.

The draft revision has been reviewed by the City Attorney's office.

KLW

Attachments

CITY COMMISSION POLICY

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| GRAND RAPIDS  MICHIGAN | NUMBER: 900-XX | HISTORY FILE # DATE |
| | DATE: | |
| | FILE NUMBER: XXXXX | |
| | DEPARTMENT: Economic Development | |

SUBJECT: VOLUNTARY EQUITABLE DEVELOPMENT AGREEMENTS (VEDA)

PURPOSE: To provide for three party agreements between the City, an Investor, and a community-based organization that would allow the community, the City and investors to voluntarily commit to various goals and joint interests in order to create a pathway for the investment to proceed for the benefit of each of the parties pursuant to an agreement memorialized in writing. The VEDA would detail the joint commitments of each party and specify the standards and conditions that will govern development of the property.

POLICY:

I. Introduction

The Housing Advisory Committee recommendations included establishing a policy to allow investors to voluntarily commit to various goals, which would create a pathway for the investment to proceed for the benefit of each of the parties pursuant to an agreement memorialized in writing.

II. Goals

The City’s goals in providing for Voluntary Equitable Development Agreements include, but not limited to:

1. Investment in Vital Streets Transit Corridors
2. Support for alternative transportation and parking options
3. Housing type diversity and affordability
4. Micro Local Business Enterprise (MLBE) contracting
5. Local hiring
6. Advancement of neighborhood Area Specific Plans

7. Job Training Opportunities
8. Employment Opportunities
9. Asset Limited, Income Constrained, Employed (ALICE) wage goals
10. Planning phases of development and future phases
11. Apprenticeship programming
12. Prevent displacement

III. Eligibility Criteria for Voluntary Equitable Development Agreements

1. Property Eligibility

- A. All private development on City-owned property
- B. Public or private projects with total projects costs in excess of \$10 million dollars.
- C. Any public or private projects seeking investment from the City's Affordable Housing Fund.

2. Applicant Eligibility

- A. The application must be filed in partnership with the relevant Neighborhood Association(s). Only where no Neighborhood Association exists, applications may be accepted from a Non-Profit Organization, or other community stakeholder group that has proven to the satisfaction of the City Commission their intent to improve the conditions of the neighborhood.
- B. Any applicant and the partner organization must be in good standing with the City, including any contractual relationships and must not be in default to the City on any obligations.
- C. The applicants must be able to commit to actively engaging in a citizen participation framework to gather public input and negotiate in good faith.
- D. In order for the City Commission to consider an application for a VEDA for a specific project, the applicant (defined as the individual(s) and/or the entity which owns or proposes to own the property) must meet the following criteria:
 - i. The applicant must have a legal interest in the property for which a VEDA is being sought, or must provide documentation evidencing its ability to acquire the property (i.e. binding purchase agreement).
 - ii. The applicant must be compliant with the City's income tax ordinance.
 - iii. The applicant must not be delinquent on any financial obligations to the City
 - iv. The applicant must not have any outstanding written orders or violations for any property under its control or ownership that is located in the City
 - v. Before a VEDA which has been approved by the City Commission will be executed by the City, the applicant shall have filed a completed Michigan Department of Treasury Form 2766 – Property Transfer Affidavit L-4260 with the City Assessor related to its acquisition of the property. The Property Transfer Affidavit shall be considered incomplete if the purchase price of the real estate is not entered on the form.

- E. If the applicant's project exceeds \$600,000 or total employment upon completion of project is likely to equal or exceed fifteen (15) persons, then they must receive certification of equal opportunity practices from the City's Office of Diversity and Inclusion according to the following guidelines.
- i. The applicant firm must complete and include all information requested on Forms EEO 200 (Covenant of Non-discrimination with the City of Grand Rapids), EEO 201 (Permanent Workforce Data), and EEO 202 (Covenant of Non-participation in Wage Theft Activities). The Office of Diversity and Inclusion will review, maintain and analyze the information contained on the firm's reports and notify the firm and the Economic Development Department of the firm's compliance with this requirement.
 1. Firms certified for VEDA purposes must submit a Form EEO 201 annually on or before the Commission approval anniversary date for the duration of the tax abatement period. This updated report will be in addition with other reporting requirements that the firm must file with the City's Economic Development Department, but addressed to the attention of the Office of Diversity and Inclusion.
 2. The City reserves the right to request such records necessary to verify the information provided on the EEO 201 report. At the discretion of the City Manager, or his/her representative, examinations may be conducted as necessary to ensure compliance with this policy.
 - ii. The Applicant must demonstrate a commitment to equal opportunity and non-discrimination by providing clearly documented evidence which demonstrates that the applicant has utilized all reasonable good faith methods for equal opportunity and inclusion recruitment, training and promotion of employees in their workforce. The Diversity and Inclusion Office and/or the Economic Development Department may request that such evidence be submitted for the previous five (5) years, or the length of time the applicant has been in business, whichever is shorter. The City's Office of Diversity and Inclusion shall review such evidence of good faith effort and report its findings and conclusions to the City Commission, or
 - iii. An applicant who is unable to demonstrate its past commitment to equal opportunity and non-discrimination under subparagraphs (i) and (ii) above, may demonstrate its present and future commitment to such employment through the adoption of a voluntary plan designed to develop and foster equal opportunity throughout its workforce. Such a plan shall comply with Federal, State and Local law and be in a form acceptable to the City's Office of Diversity and Inclusion, who will assist

the applicant in developing such a plan if requested. Such plan must also be implemented in good faith during the duration of the VEDA.

- iv. The City's Office of Diversity and Inclusion shall provide updates to the City Commission on all such tax abatement plans and proposals.
- v. Unless this Policy is waived as provided for hereunder, the City Commission shall not act upon the application until the City's Office of Diversity and Inclusion has certified that such applicant is either exempt from this policy, or has complied with Sections (i) and (ii) or (iii).

F. The applicant must comply with the City's EBO Policies including Micro-LBE Certification (Administrative Policy 04-01), Contract Compliance (City Commission Policy 600-10), EBO Construction (600-12) and EBO Goods and Services Policies (600-15).

3. Application Eligibility/Fee

- A. An application to initiate a VEDA requires the project to meet any and all statutory criteria of the economic development incentives being sought and City Commission policy.
- B. An application fee will be charged for each individual application, and will be payable by the investor. The amount of the fee will be established annually by resolution of the City Commission.

4. Project Eligibility Criteria

In order for the City Commission to consider a project for a VEDA, the proposed project must meet the following eligibility criteria:

- A. The project must propose a project in conformance with any requirements of the zoning ordinance.
- B. The project was not started prior to the City Commission's approval of the VEDA and filing of an application.
- C. There are no delinquent taxes on the facility or the structure.
- D. All projects must be in compliance with the zoning ordinance, have received the necessary approvals, or propose to come into compliance with the zoning ordinance as part of the project.
- E. Environmental Requirement: The City's Environmental Services Department will review the history of the property/applicant for environmental concerns and report the results to Economic Development.
- F. Fair Housing Practice: If the project is for commercial housing, the applicant must agree to the Fair Housing Practices and assure equal opportunity to all persons as described in Chapter 160 of the City Code.
- G. Micro-LBE Participation: Applicant must submit a plan in a format provided by the City that indicates their strategy and intentions for contracting with Micro-Local Business Enterprises (as defined in the City's Administrative Guidelines

04-01).

a. Levels of Participation

- i. Level One (+3 Years) Participant must identify aspirational goals of achieving 10% - 20% utilization of Micro-LBE's in their construction projects.
- ii. Level Two (+6 Year) Participant must identify aspirational goals of achieving greater than 20% utilization of Micro-LBEs in their construction projects.

b. Utilization of Micro-LBEs in NEZ and Economic Development projects will be incorporated into the Annual Report on EBO Construction presented and reported to the City Commission in March of each year.

V. Term

The term of the VEDA will be up to the number of years committed in City financial incentives or as long as required by City Commission approval.

VI. Application and Review Process

1. Application(s) for the requested economic development incentives must be submitted electronically through the City of Grand Rapids' Citizen Access website.
2. Economic Development staff, with assistance from other City departments as necessary, will review the application for compliance with eligibility requirements and determine whether a VEDA is necessitated and any applicable Act requirements are met.
3. An agreed upon community engagement process will be conducted by the three parties to negotiate the terms of the agreement. The three parties will establish leadership teams to represent the various groups in the negotiations.
4. If a project is within a tax increment financing authority district, staff will seek a recommendation from the authority's governing board, and the tax increment financing authority board will assign a member of the board to participate in the negotiations described in section 3 above.
5. Information regarding the project, including location, dollar amount of project, and employment impact will be published as part of the public hearing notice related to the incentives being sought.
6. The VEDA is not effective unless approved by the City Commission.

VII. Compliance

1. Reporting and compliance requirements will be detailed in the VEDA.
2. The investor and community partner will be required, at a minimum, to submit an annual report containing information requested by the City necessary to determine whether the project is being completed in accordance with the terms of the VEDA.
3. If the term of the VEDA was determined based on an applicant's representation of

certain aspects of the project (i.e. Affordable Housing), evidence of completion and/or ongoing compliance will be required and the process for ensuring compliance will be described in the VEDA.

4. For projects containing residential rental housing, certification of compliance with Chapter 140 of Title VIII of the Code of the City is required for each residential unit.
5. The project must be operated and maintained in compliance with all other applicable City codes and ordinances.

VIII. Termination of VEDA

If a party to the VEDA is found to be in default of the terms of the VEDA, in violation of any City code or ordinance related to the property, or with any eligibility requirement contained in any program's legislation or this Policy, the VEDA and any awarded financial incentives may be terminated at the City Commission's discretion. A VEDA may also be terminated if the project has not been completed within the time frame agreed upon by the parties, or the operation of the project is not consistent with the original intent of the VEDA, or the owner/operator is in violation of the Fair Housing Practices as described in Chapter 160 of the City Code.

Should any party be found in default as described in the preceding paragraph, the City shall notify the applicant of such default and will provide a 30 day period for the party to remedy the default.

In the event that the default is not or cannot be remedied, the City shall terminate the VEDA and related incentives.

IX. Evaluation

Staff shall provide the City Commission with a yearly report on the active VEDAs, which will include, at a minimum, the following:

1. List of projects approved within VEDAs
2. Projected and actual job and investment data
3. Estimated amount of property taxes abated and paid, and new City income tax generated
4. Quantitative analysis of projects achieving one or more City Investment Criteria

The City Commission will utilize this information to annually determine the effectiveness of the Policy in achieving the City's Investment Goals. The City Commission, at its sole discretion, shall determine whether modifications to this policy are necessary to increase the effectiveness of its programs in achieving desired outcomes.

X. Policy Waiver

The City Commissioner may waive this Policy, or any portion of it, when the Commission deems it in the best interest of the City.

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