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## City of St. Louis Issues Draft Incentives Framework

After months of analysis, the St. Louis Development Corporation (SLDC) recently published its long-awaited Summary of Incentives Analysis and Draft Future Incentives Framework (the Framework). The Framework, developed in conjunction with the City's Economic Justice Action Plan (the EJAP) is intended to provide guidance to developers seeking incentives for projects located in the City.

### Scoring

The Framework establishes a scoring system that can be used to assess a project's potential viability for tax abatement or tax increment financing (TIF). This system groups projects by one of three classifications (Residential, Commercial or Mixed Use). Each project's merits are then evaluated according to certain criteria to produce an aggregate score, sorted into one of three tiers: No Incentives (0-30 points), Tier 1 (30-50 points) and Tier 2 (50+ points). The chart below summarizes the maximum amount and term of abatement available within each scoring tier and classification:

|                             | Residential |                 | Commercial |                 | Mixed-Use |                 |
|-----------------------------|-------------|-----------------|------------|-----------------|-----------|-----------------|
|                             | Max Years   | Max % Abatement | Max Years  | Max % Abatement | Max Years | Max % Abatement |
| No Incentives (0-30 points) | 0           | 0               | 0          | 0               | 0         | 0               |
| Tier 1 (31-50 points)       | 20          | 80/50           | 15         | 80/50           | 15        | 80/50           |
| Tier 2 (50+ points)         | 25          | 90/50           | 20         | 90/50           | 20        | 90/50           |

\*abatement percentages shown are for the first 10 years of the term/any remaining of the term

It is worth noting that the Framework describes the tax abatement terms and levels as maximums. The Framework provides that TIF projects must reach the Tier 2 scoring level in order to be eligible for subsidy.

The Framework's scoring system varies across the three classifications, with a different maximum point total available for Residential (127), Commercial (102) and Mixed Use (152) projects. In the Residential and Mixed Use classifications, the largest available point total (50) is allocated to affordable housing, with point totals awarded based on the percentage of units dedicated to levels of area median income (AMI), as shown in the below chart:

| Affordable<br>at or below | Percent of Units |            |            |
|---------------------------|------------------|------------|------------|
|                           | 50% or More      | 20% to 49% | 10% to 19% |
|                           | 30% AMI          | 40 points  | 30 points  |
| 60% AMI                   | 40 points        | 30 points  | 20 points  |
| 80% AMI                   | 15 points        | 10 points  | 5 points   |

The largest available point category for Commercial projects (and the second largest in the Residential and Mixed Use classifications), offering 30 points, is geography. The EJAP broke down the entire City into five different Economic Justice Index (EJI) areas. A map of those areas is set forth in the EJAP. The points available within each area are:

- EJI-5 0 points
- EJI-4 5 points
- EJI-3 10 points
- EJI-2 20 points
- EJI-1 30 points

Although affordable housing and geography are by far the largest point categories within each applicable class, points are also available for capital investment, transit access, environmental remediation, public infrastructure improvements, walkability, infill development, minority or women owned business participation, and historic restoration/preservation, among others. A full breakdown of the points available in and grading scale for each category are enumerated in the Framework.

The Framework provides substantive guidance into the objective criteria that SLDC intends to employ going forward to evaluate certain incentive requests. Nevertheless, some important questions remain, such as: How will the City evaluate the amount of a TIF financing request? What considerations will apply to evaluating other incentives (e.g., construction materials sales tax exemption, personal property tax exemption, etc.)? Further dialogue with SLDC and key stakeholders will be important not only to answer these questions, but in order to apply the scoring criteria appropriately.

## **Process**

The Framework also articulated a nine-step process for evaluating incentive requests:

**Application** - The developer submits an application to SLDC.

**Community Benefits Scorecard** - The project will be reviewed with a Community Benefits Scorecard to determine eligibility.

**Return Analysis** - The project's potential return will be compared to market information to determine whether the project is being overly incented.

**Cost-Benefit Analysis** – The project's financial impact on taxing districts will be evaluated to determine the projected net benefit.

**Developer Vetting** – SLDC will evaluate the developer based on prior projects and compliance with previous agreements.

**Developer Negotiations** – SLDC will meet with the developer to determine potential opportunities or modifications.

**Neighborhood Engagement** – The developer may be required to meet with neighbors to ensure community input.

**Development Agreement** – The agreement between the City and the developer may contain clawbacks, MBE requirements and community investment provisions.

**Reporting/Compliance** – The developer will be required to provide regular reports throughout the term of the incentive.

## **Analysis**

The Framework, while leaving open some questions, provides important insight into the paradigm through which incentive requests will be evaluated in the City of St. Louis on a going forward basis.

The Framework is in draft form, and we expect to engage in conversation with SLDC and City staff to clarify and obtain detail regarding open questions. In the meantime, developers with requests for incentives in the City of St. Louis should familiarize themselves with the Framework and its requirements.

**Contact us**

If you have any questions about this legal alert, please contact Jonathan Giokas or your Husch Blackwell attorney.