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MEMORANDUM Downtown Redevelopment – Council Memo DT08-32

DATE: April 30, 2008

TO: Mayor and City Council

THRU: W. Mark Pentz, City Manager
Richard K. Mulligan, Economic Development Director

FROM: Teri Killgore, Downtown Redevelopment Manager

SUBJECT: RESOLUTION NO. 4174 APPROVING REVISIONS TO THE
DOWNTOWN IMPROVEMENT FUND PROGRAM

RECOMMENDATION: Staff recommends that Council approve Resolution No. 4174 authorizing revisions to the Downtown Improvement Fund Program (see attachments).

BACKGROUND/DISCUSSION: The Community Development, Economic Development and Planning and Development Subcommittee (Councilmembers Donovan, Orlando and Weninger) met on November 28, 2007 and February 15, 2008 to review the Downtown Improvement Fund (DIF) Program. Based on comments received from the public and private sector representatives in attendance, the Economic Development Division is proposing revisions to this program, as outlined in the proposed “Downtown Improvement Fund Information and Guidelines.”

Key modifications to the DIF Program include:

Program Requirements

- Applications must be submitted by property owner(s).
- New additions to existing buildings or patio space are considered to be ineligible.
- The property and its owner(s) must not be delinquent on payment of any State, County or City taxes.
- Any work done prior to Council approval is not eligible.

- Eligible improvements must be significant, exceeding \$10,000 (NOT maintenance or repair)
- A property shall be eligible for the program one time only.

Eligible Improvements

- Fire sprinkler systems must be installed in all properties receiving DIF monies.
- Examples of ineligible improvements include signage; City, County or State fees for inspections, license, permits, etc.; and furniture, removable shelving, communications equipment, etc.

Reimbursement Matching Funds

- Criteria for exceeding the \$50,000 matching grant reimbursement limit includes capital investment, improved square footage, number of jobs created or retained, public revenue, and other qualitative benefits.

Application Process

- Application packages must now include a copy of the proposed tenant's business plan and a copy of the lease between property owner and tenant.
- If a business in a building where a property owner received DIF monies closes or relocates outside of the DIF area within five years of the final reimbursement, the vacated retail space must be filled by another eligible business within one year. If the space is occupied by an ineligible business, or the building is sold to another owner who fails to locate an eligible tenant in the building, or the property sits vacant for more than one year, the property owner receiving the DIF monies shall reimburse the City for DIF monies received, based on an annualized, pro-rate share over a five-year period.

FINANCIAL IMPLICATIONS: Monies will continue to be made available for the Downtown Improvement Fund in the Economic Development Division, Downtown Redevelopment (Cost Center 1540).

PROPOSED MOTION: Move to approve Resolution No. 4174 authorizing revisions to the Downtown Improvement Fund Program, as outlined by staff.

RESOLUTION NO. 4174

APPROVING REVISIONS TO THE DOWNTOWN IMPROVEMENT FUND PROGRAM

WHEREAS, the City Council approved and adopted the "Downtown Improvement Fund Program" in December 2001, with one revision in April of 2006; and

WHEREAS, the Downtown Improvement Fund Program provides a vehicle to address the goals of the "Downtown Revitalization Program 1990"; and

WHEREAS, it is the City's desire to revise the Downtown Improvement Fund Program in order to continue to promote financial reinvestment in the Downtown area by property owners; and

WHEREAS, A.R.S. § 9-500.11 authorizes municipalities to undertake economic development activities to serve a public purpose;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. That the Downtown Improvement Fund Program is revised as set forth in the boundary map and the program description attached hereto as Exhibits "A" and "B".

Section 2. That it hereby found and determined that the Downtown Improvement Fund Program as herein revised is a program that will assist in the creation or retention of jobs within the Downtown area or that will otherwise improve or enhance the economic welfare of the inhabitants of the City of Chandler.

Section 3. That the program documents necessary to administer the Downtown Improvement Fund, including, but not limited to, the Matching Grant Agreement, shall be in a form approved by the Chandler City Attorney, and the Economic Development Director of the City of Chandler, Arizona, is authorized to execute the program documents for the City of Chandler as needed to complete the agreements required under the Downtown Improvement Fund Program as may be approved by the Chandler City Council.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this _____ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

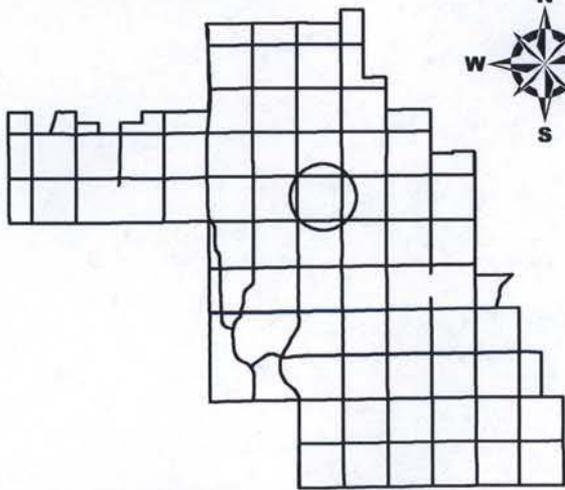
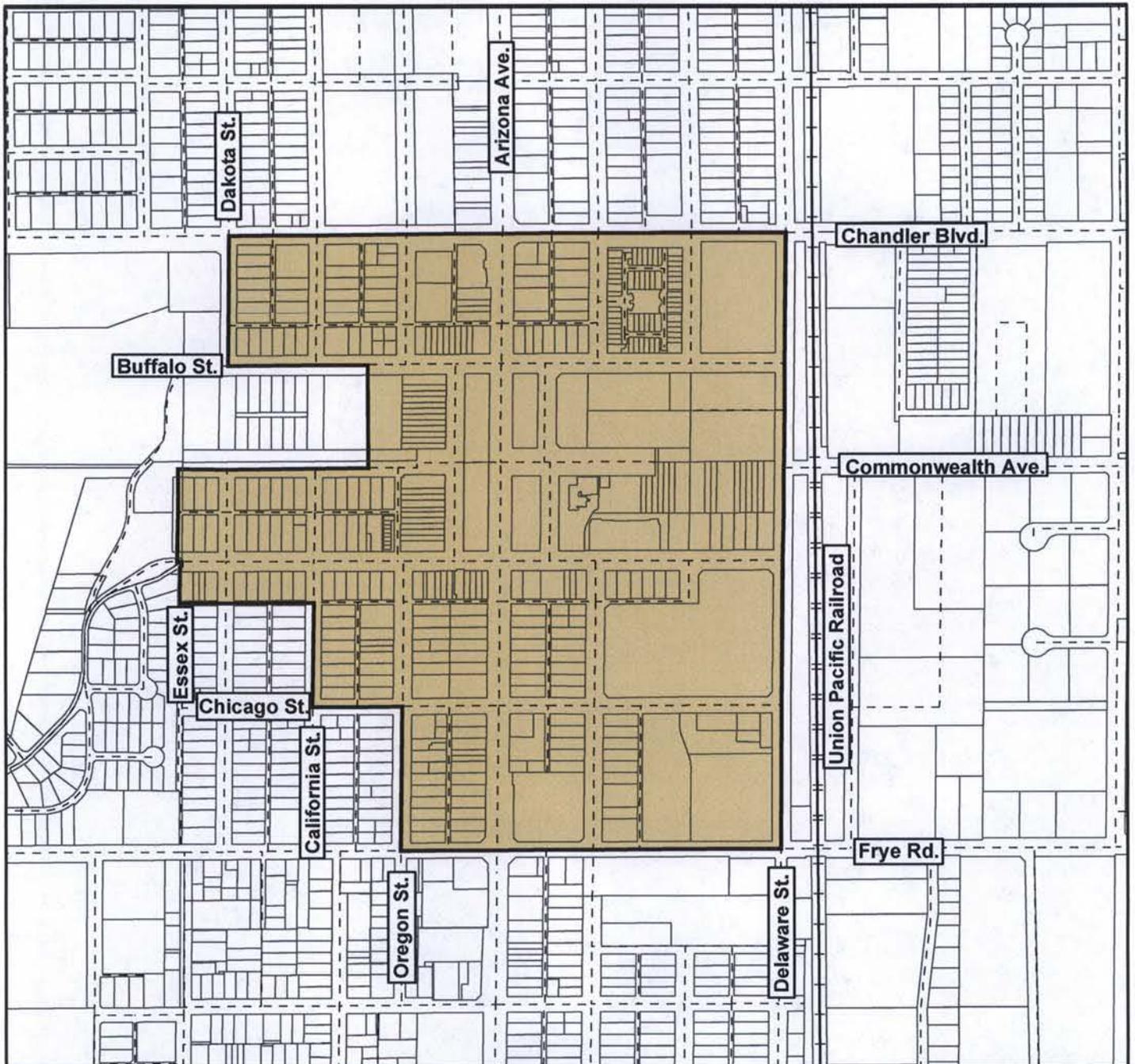
CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4174 was duly passed and adopted by the City Council of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2008, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY *GAB*

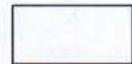


Boundary Map

EXHIBIT A



**Downtown Improvement
Fund Program Boundary**



Parcels



Streets



Railroad

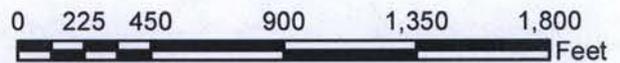


EXHIBIT B



Downtown Improvement Fund Information and Guidelines

Overview

The City of Chandler's Downtown Improvement Fund (DIF) Program offers up to \$50,000 in reimbursement matching funds to assist property owners in making renovations or significant improvements to existing Downtown properties and ensure they meet municipal code requirements. It is designed to create jobs, stimulate private-sector investment, and attract distinct, independently-owned retail and/or restaurant businesses that will generate employment opportunities and tax benefits for the City of Chandler, while also enhancing Historic Downtown Chandler as a premier point of destination for area residents and out-of-town visitors.

Program Requirements

1. Eligible properties must be located within the DIF Program Area, which is generally bounded by Chandler Boulevard on the north, Frye Road on the south, Delaware Street on the east, and Palm Lane on the west (see attached map).
2. The tenant space to be improved must be used at the time application is made, for commercial retail or restaurant purposes.
 - Non-profit organizations, lending institutions, general office use not affiliated with an existing Downtown retail or restaurant business, a use not allowed in the City Center District, or any properties included under a Development Agreement with the City of Chandler, are excluded from eligibility for DIF monies.
 - Commercial retail or restaurant establishments that fail to complement, strengthen or diversify the current retail/restaurant mix, or offer products incompatible with existing Downtown businesses, are excluded from eligibility for DIF monies.
3. The commercial retail or restaurant business must be located on the ground floor of an existing structure (constructed prior to 2000). New additions to existing buildings or patio space are considered to be ineligible.

4. The property and its owner(s) must not be delinquent in payment of any State, County or City taxes.
5. DIF participation is limited to 50% of the total eligible cost of a given project, or an amount not to exceed \$50,000, whichever is less. A project is limited to interior improvements.
6. Interior improvements must meet the eligibility guidelines and be pre-approved by the Chandler City Council. Any work done prior to City Council approval is not eligible.
7. Eligible improvements must be significant, exceeding \$10,000 (NOT maintenance or repair) and be completed prior to reimbursement eligibility. All improvements must be compatible with applicable zoning codes, satisfy permit requirements, and be completed within one year.
8. A property shall be eligible for the program one time only.

Eligible Improvements

1. **Allowable Improvements**: DIF monies may be used for fixed assets; constructing, renovating or modernizing real property; installing restrooms; installing or upgrading HVAC systems; implementing electrical improvements; installing kitchen equipment and systems; improving floors, ceilings, walls, lighting and other similar fixtures. Soft costs, such as architectural, engineering, legal and other professional services are also eligible for DIF monies.
 - Fire sprinkler systems must be installed in all properties receiving DIF monies.
2. **Ineligible Improvements**: The following are examples of activities that are NOT eligible improvements:
 - Speculative improvements to attract tenants or provide funds for working capital, real estate acquisition and debt financing.
 - Signage (see City of Chandler Colonnade Sign Program)
 - City, County or State fees for inspections, licenses, permits, etc.
 - Furniture, removable shelving, communications equipment, etc.

Reimbursement Matching Funds

1. The City of Chandler is simply implementing a reimbursement matching fund program and shall not be responsible for paying contractors, material supplies or others related to tenant improvements made in approved Downtown properties.

2. The \$50,000 limit may be exceeded if the applicant can demonstrate there are exceptional circumstances warranting further public investment. Criteria to be used in evaluating such requests on a case-by-case basis might include:
 - Capital investment
 - Improved square footage
 - Number of jobs created or retained
 - Public revenue
 - Other qualitative benefits
3. DIF monies shall be awarded at the sole discretion of the City of Chandler and are dependent upon funding availability.

Application Process

The City of Chandler's Economic Development Division will be responsible for administering the DIF Program. Downtown Redevelopment staff will provide marketing and outreach services, conduct preliminary inquiries and make visits to properties to establish basic program eligibility and project feasibility. Ineligible applicants will be so advised. Properties that meet the eligibility criteria outlined above, and wish to participate in the program, will be assisted in preparing a DIF application package.

1. **Application Package:** The application package must include the following documentation:
 - Name and address of property owner (formal applicant)
 - Proposed tenant business
 - Principal(s) who will be operating the tenant business
 - Proposed tenant business plan, including a detailed description of products and/or services to be offered and price points for core items
 - Itemized cost estimates from a licensed contractor outlining the proposed construction work, proposed renovations and materials
 - Conceptual drawing(s) of tenant improvements
 - Copy of lease between property owner and tenant
2. **Application Review:** All applications will be reviewed by the City's DIF Committee, which consists of representatives from various City departments, who will evaluate the proposed project to determine its eligibility, if construction costs are reasonable, and whether the proposed tenant will complement the current mix of retail businesses and restaurants in Downtown Chandler. The DIF Committee will review applications within 30 days of receipt.

If approved by the DIF Committee, their recommendation will be forwarded to City Council, along with a copy of the application package and proposed grant agreement, for final determination on the use of DIF monies. The Economic Development Director is designated as the staff person authorized to sign program documents on behalf of the City.

3. **Building/Zoning Codes, Licenses and Permits:** The property owner is responsible for obtaining all building permits and meeting applicable building and zoning codes, as well as obtaining any additional licenses or other permits.
4. **Reimbursement:** The City of Chandler must inspect the work and verify that the tenant improvements met the applicant's construction plan. The property owner must also provide a final construction bill.
 - The property owner must provide satisfactory proof of expenditures for tenant improvement expenses incurred before reimbursements will be processed. This includes, but is not limited to, cancelled checks, credit card receipts, contractor statements of expenses, invoices, etc. This process may take up to one month.
 - If satisfactory, the City shall then reimburse the property owner for one-half of the project cost, as outlined in the grant agreement.
 - The property owner must obtain a Certificate of Occupancy from the City of Chandler for final reimbursement of funds.
5. **Sale, Closure or Relocation of Business:** If a business in a building where a property owner received DIF monies closes or relocates outside of the DIF area within five years of the final reimbursement, the vacated retail space must be filled by another eligible business within one year. If the space is occupied by an ineligible business, or the building is sold to another owner who fails to locate an eligible tenant in the building, or the property sits vacant for more than one year, the property owner receiving the DIF monies shall reimburse the City for DIF monies received, based on an annualized, pro-rate share over a five-year period.
6. **Failure to Complete Project:** If a property owner receiving DIF monies fails to complete the project within one year, the property owner receiving the DIF monies shall reimburse the City for the DIF monies, and the property is ineligible for future DIF monies.



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MEMORANDUM

Downtown Redevelopment – Council Memo DT08-35

DATE: MAY 2, 2008

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER 
RICHARD K. MULLIGAN, ECONOMIC DEVELOPMENT DIRECTOR 

FROM: TERI KILLGORE, DOWNTOWN REDEVELOPMENT MANAGER 

SUBJECT: DCCP COMMENTS ON RESOLUTION NO. 4174 APPROVING
REVISIONS TO THE DOWNTOWN IMPROVEMENT FUND
PROGRAM

BACKGROUND/DISCUSSION: Staff pulled the DIF Program revisions from the April 24, 2008 agenda in order to allow time for discussions with DCCP and other interested stakeholders before asking Council to take action on this item. DCCP hosted a meeting on Thursday, May 1st to gather comments. City staff attended this meeting and answered questions and discussed ideas for modification. After the meeting, DCCP developed the attached letter that summarizes their proposals for modifying the proposed DIF Program guidelines. Staff offers the following comments on DCCP's proposed revisions:

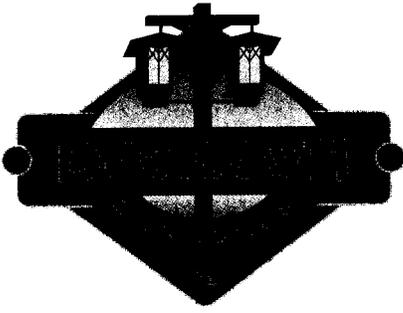
- Property Owners are only held liable for DIF monies that directly relate to infrastructure improvements. This concept has merit in that cosmetic changes may or may not be used by future tenants. One of the current program deficiencies is the difficulty in collecting monies owed from small proprietors. If the building owner elected to allow the business owner to use the entire grant for cosmetic improvements, the building owner would have no financial liability and City would have limited ability to regain its investment.
- Tenants have responsibility for Cosmetic Improvements and would be responsible to sign off on the DIF application. As noted above, this shifts financial accountability to the tenant, which is similar to the current program. While signing the application is not problematic, having the tenant as a 3rd party to the formal DIF agreement adds an added layer of complexity both in administration and tracking of expenses. If all parties clearly understand that

this is simply an educational step for the tenant and they are not a formal party, this becomes more tenable.

- Shift from Tenant to Property Owner. Staff's understanding of Council's input on the DIF revisions is that the intent was indeed to make the building owner a more active participant in the process both from an administrative perspective as well as financial. The proposed program guidelines are directly intended to accomplish this shift; however, the DCCP proposal and the hybrid options discussed at the ED Council Subcommittee create both administrative and legal issues. First, instead of the building owner taking on responsibility for coordinating and managing the improvements, City Staff would be asked to assume an increased workload to process two sets of applications, contracts, receipts and checks. Second, it places Staff in the position of mediator between building and business owners, especially should disputes arise. Third, it reduces both the amount and the effectiveness of the City's ability to recoup funds should a business fail.

At first glance, the proposed revisions may sound reasonable, but in essence, would effectively shift responsibility for performance from the property owner, who is already in a position to deal with these issues through a lease with their tenant, to one where responsibility for performance is split between the property owner and tenant. Inevitably, staff believes this will lead to multiple situations in which we're asked to "referee" any disputes that may arise between landlords and their tenants. Therefore, staff is recommending Council approve the proposed DIF Guidelines and Information, as originally presented.

If you have any questions, please don't hesitate to give me a call.



**Downtown Chandler
Community Partnership**

Mayor Boyd Dunn
City of Chandler Council Members

May 1, 2008

Dear Mayor Dunn and City Council Members:

Thank you for giving the Downtown Chandler Community Partnership an opportunity to give input on the proposed revisions of the Downtown Improvement Fund Program.

We understand that the revisions essentially shift the responsibility for the application and disbursement of the funds from the tenant to the property owner. Our hope is that any changes incorporate the following elements:

- ◆ Property owners are only held liable for DIF monies that directly relate to infrastructure improvements for the building (and presumably will be of benefit to future tenants). These would include the installation of fire and sprinkler systems, the installation or upgrading of HVAC systems and significant electrical improvements. These would not include more cosmetic changes that benefit a specific business and may or may not benefit the next tenant.
- ◆ Tenants would be required to attend a meeting with representatives from the City of Chandler, their landlord and the DCCP upon submission of the DIF. This will help them better understand how the program will benefit them, as well as how responsibility for use of the funds, should they be approved, will be shared with the property owner.
- ◆ Tenants would be required to sign off on the DIF application to indicate that they understand the nature of that shared accountability.

We are very appreciative of the tremendous contribution that DIF funds have made to the growth and development of businesses in Historic Downtown Chandler. We look forward to enjoying continued benefits from this great program.

Sincerely,

Eileen Brill Wagner
Executive Director

Patti Bruno
President