

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

To: City of Ann Arbor Brownfield Review Committee
From: Brett Lenart, Planning Manager
Subject: 1140 Broadway Brownfield Plan
Date: 6/19/2017

BACKGROUND

The Lower Town development was initially proposed for redevelopment in the early 2000s. A dense, mixed-use community was proposed, and the developer at that time secured various incentives in order to support the redevelopment. In 2003, the City approved a Brownfield Plan through the Washtenaw County Brownfield Authority, which included approximately \$40 million in eligible activities. The initial project did not proceed, and property ownership ultimately reverted to an investor. Morningside has now acquired the property and is proposing a dense, mixed-use urban development, with 4,200 s.f. of commercial and approximately 530 apartments and 70 for-sale condominiums. In addition, hot water solar, a green roof, transit improvements, and workforce housing is proposed. The workforce housing includes 30 income restricted units – 15 units at 100% of AMI, and 15 units at 80% AMI, as well as market rate micro units that are expected to garner less rent due to size. The project will be developed in three phases. Total private investment is estimated at \$146 million.

A revised Brownfield Plan was submitted on March 15, 2017. Based on the updated submittal, the developer is requesting approximately \$26 million in reimbursement for eligible activities. After County Brownfield Administrative Fees, and contribution to the Local Brownfield Revolving Fund (formerly LSRRF), the total proposed to be financed through TIF is approximately \$30 million, and is expected to need 15 years to pay off. Below is a summary of the maximum amounts proposed to be financed using Tax Increment Financing through an approved Brownfield Plan:

Maximum Proposed Tax Increment Financing

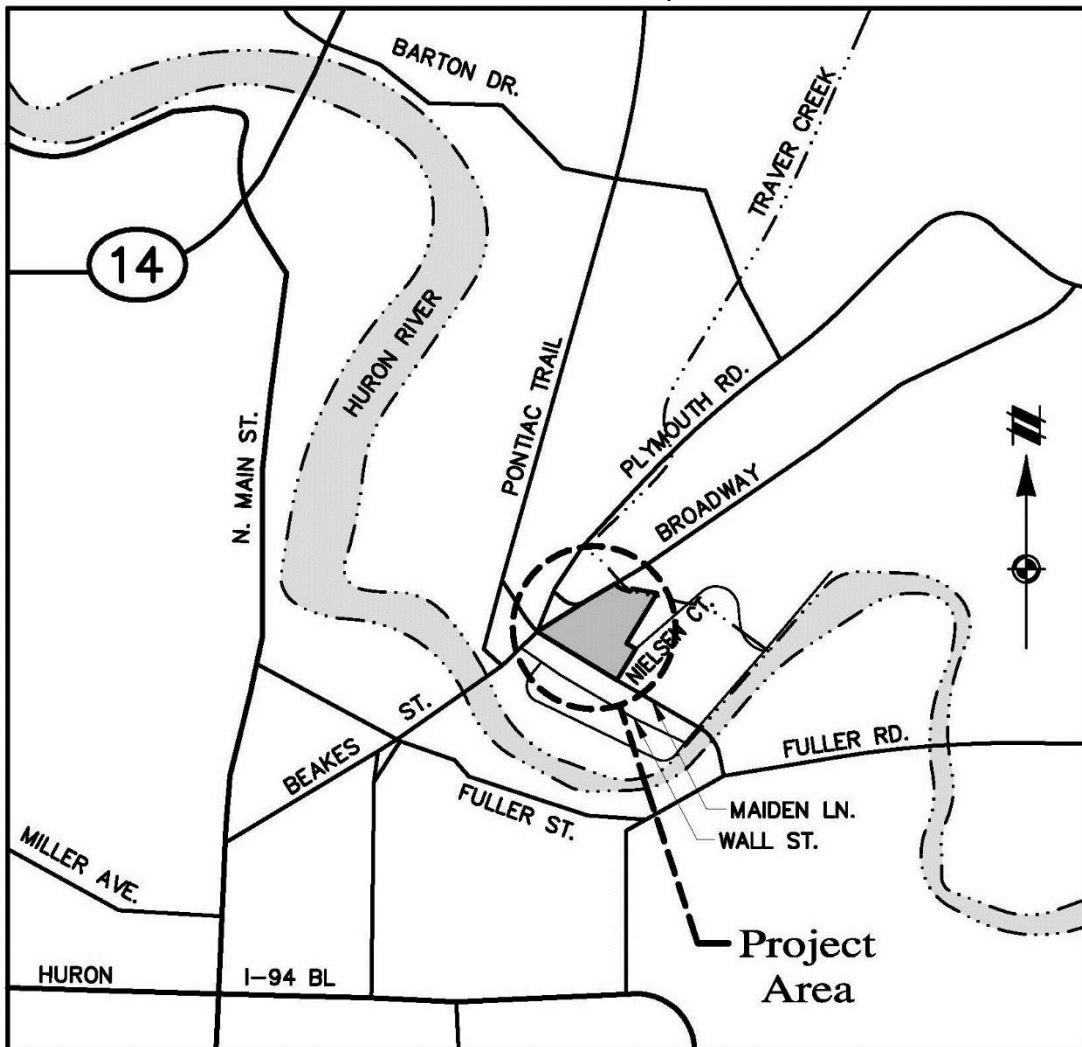
TIF Summary	
Environmental Activities	\$ 5,475,938
Non-Environmental Activities	\$ 20,406,760
TOTAL	\$ 25,882,698
Authority Administrative Expenses (3% annually)	\$ 1,181,913
Local Brownfield Revolving Fund	\$ 3,000,000
TOTAL BROWNFIELD TIF	\$ 30,064,611
Years for Developer Reimbursement	14 Years
Years to Reimburse All TIF Costs	15 Years

The environmental costs increased by approximately \$750,000 in the revised Brownfield Plan due to installation of the Permeable Reactive Barrier at a lower depth. Please refer to the "Environmental Conditions" section of this report for more information.

LOCATION

The 1140 Broadway site is 6 acres located at the corner of Maiden Lane and Broadway, near Plymouth Road. The site is vacant, except for some subsurface building foundations and urban fill left from building and site demolition completed in approximately 2009.

Site Location Map



BROWNFIELD APPROVAL PROCESS

A Brownfield Plan is approved pursuant to Act 381, the Brownfield Redevelopment Financing Act, of 1996. The City of Ann Arbor does not have its own Brownfield Authority, but rather participates with the Washtenaw County regional Brownfield Authority. In order for a Brownfield Plan to be approved it must first be approved by the Local Unit of Government, then by the Washtenaw County Brownfield Authority, and final adoption is by the Washtenaw County Board of Commissioners. The purpose of a Brownfield Plan is to finance certain

Eligible Activities through Tax Increment Financing. The City has supported both Environmental and Non-Environmental activities for past projects. Non-Environmental activities are only permitted in Core Communities, such as the Cities of Ann Arbor and Ypsilanti.

The City of Ann Arbor has historically requested a recommendation on proposed brownfield plans from a three-member (now four) Brownfield Review Committee (BRC). The BRC is composed of four City Council members. The 1140 Broadway project was introduced at the February 6th BRC meeting, and the developer was invited to make formal Brownfield Plan application and develop a draft Brownfield Plan with City and County staff, as well as three members of the County Brownfield Authority.

Generally, the purpose of a Brownfield Plan is to facilitate brownfield costs that otherwise would present an impediment to redevelopment. The idea is to “level the playing field” or close a financing “gap” between a brownfield and greenfield site.

ENVIRONMENTAL CONDITIONS

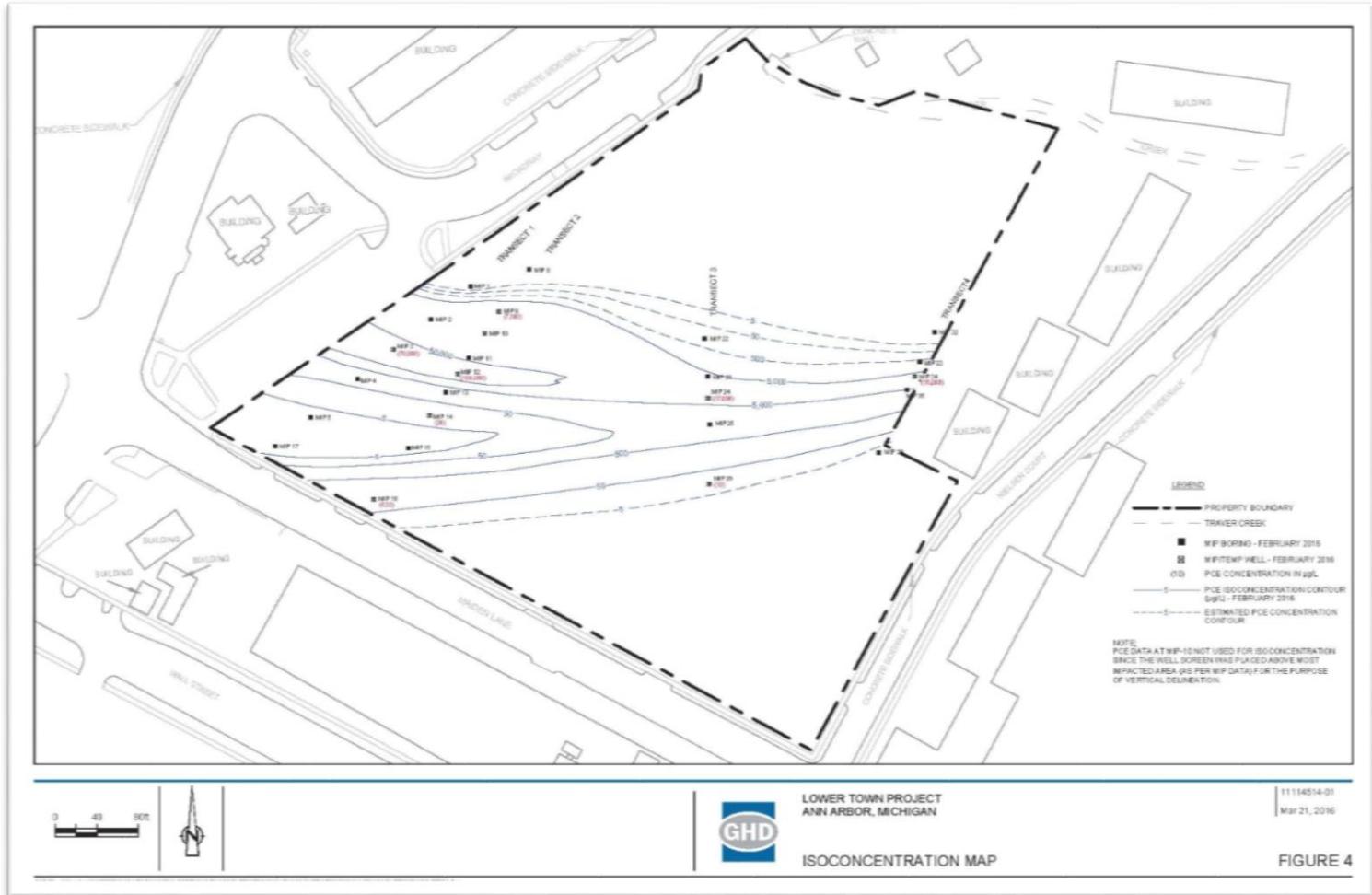
In order to qualify for Act 381 Brownfield Plan TIF incentives, a site must be eligible under at least one of various categories. The 1140 Broadway site has been established as eligible. Below is more detailed information on site eligibility:

Eligibility. The Property is eligible for inclusion in this Brownfield Plan in accordance with MCL 125.2652(n) because the eight parcels of land that comprise the Property individually meet and/or are contiguous to parcels that meet the definition of a “facility” pursuant to Part 201 of Michigan’s Natural Resources and Environmental Protection Act (1994 P.A. 451, as amended), hereinafter “Part 201”. The Property has been demonstrated to be contaminated with hazardous substances at levels above generic residential use criteria established pursuant to Part 201. Morningside is not liable for contamination existing on the Property. Morningside has complied with CERCLA All Appropriate Inquiries and the Part 201 Baseline Environmental Assessment process to qualify for limitations to environmental liability afforded purchasers of brownfield sites under federal and state environmental statutes. No viable party to which liability for the existing contamination on the Property can be assigned is known to exist. The western portion of the Property had been developed with residential dwellings, stables, and a junkyard by 1880. By 1937, two commercial storefronts had been constructed on the southwestern portion of the Property, and the central and eastern portions of the Property were developed as farmland. Beginning circa 1962, the residential and farmland portions of the Property were replaced with commercial businesses, including a grocery store, self-service car wash, gasoline filling station, and laundromats. By 2009 all structures and associated parking lots had been demolished, leaving the Property vacant, except for residual pavements and underground utilities.

Site Contamination. Numerous historical site activities involved the use of hazardous materials and petroleum products. Results from environmental assessments of the property revealed the presence of metals and/or volatile organic compounds (VOCs), principally tetrachloroethene (PCE), in soil and groundwater throughout the Property. VOCs associated with gasoline were identified in soil and groundwater near a former underground gasoline storage tank associated with a former gasoline service station and car wash on the Property. Soil and groundwater were contaminated with inorganic substances, including arsenic, iron, manganese, sodium, nitrate, sulfate, and chloride. A recent subsurface investigation indicated PCE was present at concentrations of approximately 15,000 µg/l in groundwater near the eastern border of the Property (See map of groundwater contamination below). Results from an environmental assessment of the east-adjoining properties demonstrated that the plume

has migrated southeastward off the Property and extends past Nielson Court. The presence of VOC impacts in soil and groundwater on the Property pose a vapor intrusion threat to occupants of buildings constructed on the site and require special management of excess soil and dewatering effluent (groundwater) generated during construction. Since the Property is located less than one-quarter mile northwest of the Huron River, and the PCE plume is known to have migrated off-site toward the river, the contaminated groundwater poses a water quality threat to the river.

2016 Map of PCE Groundwater Concentrations – Lower Town



Threats to human health and the environment associated with known site contamination will be reduced or eliminated by the following project design elements and planned response actions:

- Use of vapor intrusion mitigation systems or open parking structures to mitigate exposure risks;
- Removal of approximately 6,000 tons of contaminated soil (source material);
- Construction of a building and impervious pavement over most of the contaminated soil, which will reduce precipitation infiltration and contaminant concentrations in groundwater; and

- Installation of a zero-valent iron, permeable reactive barrier (ZVI-PRB) to intercept and significantly reduce VOC concentrations in groundwater migrating off the Property.

Proposed Remedy. The original estimate for installation of the permeable reactive barrier (PRB) along the east side of the site was based solely on intercepting the known plume at the eastern boundary, which was located in the approximately upper 10-12' of the saturated zone (previously defined by GHD assessment for previous owner). This resulted in a PRB height of 12-15', beginning at approximately 10' below the ground surface (bgs). After hearing numerous comments from multiple stakeholders in multiple meetings, and determining that the common desire was a high level of confidence that the response action would be as effective as possible in protecting downgradient populations and the Huron River, the developer revised the PRB design assumptions. Contaminated groundwater near the source area extends from the water table at approximately 8' bgs to a depth of approximately 35-40' bgs, resulting in a plume thickness of approximately 30' on the west side versus approximately 12' on the east side. There is insufficient available hydrogeological information to determine if the deeper contamination has not yet reached the eastern boundary or if hydrologic conditions are inhibiting the migration or causing the deeper contamination to merge with the shallower plume. To increase the level of confidence that the PRB would intercept the deeper contaminated groundwater if it migrated to the property boundary, the developer has redesigned the PRB to extend approximately 30', from the water table at 10' bgs to approximately 40' bgs, to intersect a lower-permeability clay stratum. The PRB cost in the eligible cost table has increased from \$555,000 to \$1,095,000, which is consistent with the approximate doubling of the depth of the PRB.

The PRB is a passive system that requires no regular maintenance. The city anticipates working with the MDEQ to install test wells before and after the PRB to provide the opportunity to evaluate the effectiveness of the remediation strategy. The city also anticipates preserving LBRF funds to replace the PRB if tests show that the effectiveness is significantly reduced over time. This technology has been used in other circumstances in the State of Michigan.

ELIGIBLE ACTIVITIES

Below is a detailed table of all eligible activities included in the revised Brownfield Plan:

Eligible Activities	
Environmental Activities	
BEA Activities	\$ 29,000
Due Care Activities (soil remediation, etc.)	\$ 3,472,250
Additional Response (Perm. Reactive Barr)	\$ 1,239,000
Brownfield and Work Plan Preparation	\$ 35,000
Contingency (15%)	\$ 700,688
SUB TOTAL	
\$ 5,475,938	
Non-Environmental Activities	
Demolition	\$ 90,000
Sewer Disconnect Fees (Local Only)	\$ 1,100,000
Infrastructure Improvements (Streetscape, traffic signals, bus stop)	\$ 720,000
Site Preparation Activities (Excavation of unsuitable materials, staking, land balancing, utility relocation)	\$ 780,000
Additional activities (Parking garages, Urban Stormwater Management, Green Roof)	\$12,450,000

Eligible Soft Costs (Architectural and engineering design, civil design, construction management, general conditions)	\$ 2,617,400
Workplan Development	\$ 15,000
Contingency (15%)	\$ 2,634,360
SUB TOTAL	\$20,406,760
DEVELOPER TOTAL	\$ 25,882,698
Authority Administrative Expenses	\$ 1,181,913
Local Brownfield Revolving Fund	\$ 3,000,000
TOTAL BROWNFIELD TIF	\$ 30,064,611
Years for Developer Reimbursement	14 Years
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STAFF REVIEW

TAX INCREMENT FINANCE ANALYSIS

In order to ensure that the requested public subsidy through TIF reimbursements will not result in excessive developer returns – in other words, the incentive is really not needed to make the project feasible, the City Financial & Administrative Services unit performs a robust pro-forma analysis of every brownfield project requesting Tax Increment Financing. If it is determined an excessive return may result from the public subsidy, recommendations may include limitations on what costs are supported, or a general cap on the overall TIF reimbursement to the developer. For example, in 2012 the Arbor Hills brownfield project was capped at \$5.4 million, from over \$6 million requested, and in 2016 the 221 Felch project was capped at \$4 million, from over \$5 million requested. Both of these projects included both Environmental and Non-Environmental eligible expenses.

The Financial & Administrative Services unit completed a Tax Increment Finance Analysis on March 15, 2017, which was based on the initial draft Brownfield Plan submittal from February. A revised Brownfield Plan has been provided dated March 15, 2017, which added approximately \$750,000 in environmental costs due to a deeper Permeable Reactive Barrier, as discussed in the “Environmental Conditions” section of this report, below.

The Tax Increment Finance Analysis recommends all the environmental costs be supported, with no contingency. Further, the Analysis recommends supporting specific non-environmental costs, for an additional \$1,000,000, for a grand total TIF support of \$6.16 million. LBRF is recommended to be limited to 10% of developer reimbursement, and County Administrative fees limited to 5% of developer reimbursement, or approximately \$260,000. This Analysis is attached.

NON-ENVIRONMENTAL ACTIVITY GUIDANCE

Act 381 allows Qualified Local Units of Government (Core communities) to finance certain Non-Environmental Activities through a Brownfield Plan. The Michigan Strategic Fund, through the Economic Development Corporation, sets more detailed policy guidance surrounding which specific non-environmental activities are eligible, and focus on sustainability, smart growth and supporting urban infill.

Only a “Core” community, such as the City of Ann Arbor or City of Ypsilanti, is eligible to include these non-environmental activities in a Brownfield Plan. Core Communities, which are defined under the Obsolete Property Rehabilitation Act (OPRA), are older, dense, urban areas where

redevelopment and infill pose greater challenges. As a result, the activities MEDC has made eligible are generally intended to address stormwater management, parking, relocation of existing franchise utilities, and public services like water and sewer. Parking decks are included as an eligible cost, because often in order to achieve the densities that many downtowns want, the biggest cost is parking. Finally, construction in urban areas can be significantly more complicated due to soil concerns from old fill, special foundation requirements due to adjacent built sites, and logistical complications such as traffic management during construction. These challenges are typically not as prevalent for construction in less dense suburban areas. As mentioned, the MEDC supports progressive Low Impact Site Design elements, such as green roofs, rain gardens, urban stormwater management systems, and permeable pavement.

All the non-environmental activities proposed for Lower Town are eligible under MEDC Act 381 guidance, with the exception of the City Sewer Disconnect charges. The MEDC will not participate in this cost, therefore it's proposed to be reimbursed with local taxing sources only ("local-only"). These charges have been included in at least five previous Brownfield Plans, including Packard Square, 601 Forest, 544 Detroit St., 618 S. Main, and 221 Felch.

RECOMMENDATION

Based on consideration of the proposed project and Brownfield Plan, Staff recommends the following support of activities as presented:

- Environmental Activities – The proposed method of addressing the groundwater contamination is a cost-effective approach to reduce the concentration of the impacted water prior to migration off site. While the proposed barrier is not required, utilization of tax increment financing to support the activity, in conjunction with development, provides a significant public benefit. - \$5,475,938
- Non-Environmental Activities – The proposed non-environmental activities should be considered in the context of reducing barriers to brownfield redevelopment versus an equivalent greenfield site, investment in public assets. The following non-environmental activities are recommended for support totaling \$995,000.
 - ROW Streetscape Improvements, Traffic Signals, Turn Lanes, Bus Stop Improvements – These public infrastructure improvements will provide benefits to this proposed development and the greater surrounding area. - \$720,000 (Note: As traffic review is still being completed through this process, staff may be supportive of additional support of public infrastructure improvements that are identified in the future during review).
 - Urban Stormwater System – While the installation of an underground system is necessary to accommodate the dense development proposed at the site, it also has a benefit to reduce infiltration of stormwater that exacerbates the groundwater contamination. Support 20% of this system - \$260,000.
 - Parking Garage Support – An equivalent amount of parking garage support based on the calculation of present value analysis to provide 15 residential units at or below 60% Area Median Income, in perpetuity, subject to the identification of structure.
 - Preparation of Act 381 Workplan - \$15,000

The proposed table below reflects the activities summarized above as well as the following additional costs:

- WCBRA Administrative Costs reduced from 5% to 3% of approved activities.

- Local Brownfield Revolving Fund reduced from \$3,000,000 (1 year of capture) to 20% of eligible activities. (Financial & Administrative Services Recommends 10%).

Recommended Eligible Activities	
<i>Environmental Activities</i>	
BEA Activities	\$29,000
Due Care Activities (soil remediation, etc.)	\$3,472,250
Additional Response (Perm. Reactive Barr)	\$1,239,000
Brownfield and Work Plan Preparation	\$35,000
Contingency	\$700,688
SUB TOTAL	\$5,475,938
<i>Non-Environmental Activities</i>	
Demolition Activities – Site Removal	\$90,000
Infrastructure Improvements (Streetscape, traffic signals, bus stop, green streets, roundabout, Plymouth Rd.)	\$975,000
Site Preparation Activities – Excavation of unsuitable soils	\$45,000
Additional activities (Portion of Urban Stormwater Management (\$260,000; Portion of parking garage equivalent to 15 units at or below 60% AMI \$2,501,760* Conditioned upon determination of structure to ensure affordability in perpetuity)	\$2,761,760
Soft Costs (interest, fees, general conditions, escalation, permitting)	\$520,000
Workplan Preparation	\$15,000
Contingency	\$285,000
SUB TOTAL	\$4,691,760
DEVELOPER TOTAL	\$10,167,698
State Revolving Fund (3 mils)	\$568,624
Authority Administrative Expenses (3% of activities)	\$273,230
Local Brownfield Revolving Fund (20% of activities)	\$1,821,540
TOTAL BROWNFIELD TIF	\$12,831,092
Years for Developer Reimbursement	6 Years
Years to Reimburse All TIF Costs	7 Years

* 15 affordable units represents 2.5% of the total number of units proposed in the development. A general benchmark or best practice is to dedicate 10% of the total number of units in a development as affordable.

** Estimated figures based on current TIF table.

This forms the basis of the staff recommendation of Brownfield TIF support to the proposed development.

In addition to the staff supported options, the developer is requesting:

- **\$2,300,000 Solar Water Heating System and roof infrastructure to support solar**
 - Support to offset addition of parking structure roof (\$1,500,000) to equivalent non-environmental TIF to support installation of solar hot water system (\$800,000) to serve Building A of development.
- **\$200,000 Green Roof Installation** – Support to offset installation of green roof on Phase II.
- **\$150,000 Electric Charging Stations and Bike Amenities** – Support installation of amenities through an equivalent amount of non-environmental TIF.
- **\$1,100,000 Sewer Disconnect Fees (Local Only Capture)** – Support reimbursement of development fees to comply with City's Developer Offset Mitigation Requirements.

DRAFT