

**DISTRICT OF COLUMBIA
DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT**

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia Deputy Mayor for Planning and Economic Development, pursuant to the authority set forth in the Tax Increment Financing Authorization Act of 1998, effective September 11, 1998 (D.C. Law 12-143; D.C. Official Code § 2-1217.03 *et seq.*), and Mayor's Order 2001-108, August 6, 2001, hereby gives notice of the adoption on an emergency basis of an amendment to Title 10 DCMR, by adding a new Chapter 60. The new Chapter 60 to Title 10, DCMR, will establish criteria to be used in determining whether or not a project for which tax increment financing is sought has "special merits" that may warrant the use of such financing.

This emergency action is necessary for the immediate preservation of the public welfare, which will be achieved by the expeditious introduction to the financial marketplace of the existing tax increment financing projects during a financially advantageous period.

This rulemaking was adopted on an emergency basis on June XX, 2004, and became immediately effective on that date.

The District of Columbia Chief Financial Officer and the Deputy Mayor for Planning and Economic Development also give notice of intent to take final rulemaking action to adopt this amendment in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The emergency rule will expire on September 31, 2004, or upon publication of a Notice of Final Rulemaking in the Register, whichever occurs first.

Title 10 DCMR is amended by adding a new Chapter 60 – SPECIAL MERITS, to read as follows:

CHAPTER 60 – SPECIAL MERITS

6000 AUTHORITY AND SCOPE

6000.1 The Tax Increment Financing ("TIF") program is administered jointly by the Office of the Chief Financial Officer ("OCFO") and the Office of Deputy Mayor for Planning and Economic Development ("ODMPED"). The TIF program is intended to enhance the feasibility of private capital projects that are of significant economic, cultural, social, and financial value, which cannot otherwise proceed because of the high costs of urban development. This rulemaking describes the standards and procedures

under which the OCFO and the ODMPED shall determine whether a project for which TIF assistance is sought has Special Merits.

6001 DETERMINATION OF SPECIAL MERITS

6001.1 Except for the determination required of the OCFO pursuant to Section 4(c)(3) of the TIF Act, the designation of Special Merits is within the discretion of the ODMPED.

6001.2 In evaluating whether a Project has Special merits, ODMPED will take into consideration the criteria set forth in this subsection. The ODMPED will be entitled to give priority or more weight to any one of these criteria based on its view of the current needs of the District or as directed by law. These criteria are not intended to be used in a mathematical equation; consequently, mere compliance with a majority of these criteria does not guarantee a designation of Special Merits. The following criteria shall be used by the ODMPED to determine Special Merits:

- (a) the quantity and quality of housing units (both rental and owner-occupied) to be constructed by the Project that are affordable to low-and-moderate-income residents;
- (b) the quantity and quality of housing units that are available and accessible to physically or mentally challenged persons;
- (c) the quantity of permanent full time jobs and part time administrative, managerial, technical and service jobs that will be generated during construction and operation of the Project after its completion that pay 10% or more above Minimum Wage;
- (d) the quantity of the jobs set forth in subparagraph (c) above that pay wages that are equal to or exceed the prevailing wages in comparable jobs in the area;
- (e) the quantity of jobs generated during construction of the Project that pay 10% or more above the Minimum Wage;
- (f) the quantity of jobs generated during construction of the Project that will pay Davis Bacon wages;
- (g) the amount of expected Local Small Disadvantaged Business Enterprise ("LSDBE") participation in the Project above the LSDBE Minimum Requirement;
- (h) the extent to which the Project is expected to serve as a catalyst for other related development, particularly development that will not require additional public subsidy;
- (i) the extent to which the Project will increase property values and growth in net tax revenue collection by the District;

- (j) the extent to which the Project takes unproductive property and makes it more productive and profitable to the District from the standpoint of tax revenue generation;
- (k) the history of efforts to develop the proposed site of the Project;
- (l) the extent to which the Project is a rehabilitation of an historically significant site;
- (m) the amount of direct and indirect tax revenues that will flow to the District after payment of debt service on the TIF Bonds;
- (n) the extent to which the Project draws new and diverse businesses into the District, both in terms of the quantity of employers and the types of businesses (e.g., high-tech companies and scientific research companies);
- (o) the extent to which the Project reduces the need for other direct expenditures by the District, such as for streets, traffic controls, and sewers that otherwise would be funded from the General Fund;
- (p) the extent to which the Project maximizes the use of the District's public transportation infrastructure or enhances the utilization of mass transit facilities;
- (q) the extent to which the Project provides parking in excess of legal requirements;
- (r) the extent to which the Project improves environmental air, water, and soil quality within the District;
- (s) the extent to which the Project provides community meeting and recreational space;
- (t) the extent to which the Project will have a positive effect on tourism by increasing the quantity of tourists who come to the District, the length of their stay, or the amount of money that they spend, or by enhancing the experience of tourists in the District in a manner that strengthens the District's reputation as an important and attractive tourist destination;
- (u) the extent to which the Project contributes to the expansion of shopping, dining, cultural, and educational activities in the Downtown Area;
- (v) the extent to which the Project will improve the vitality or economic health of a neighborhood commercial center or corridor;
- (w) the extent to which the Project will encourage activities within the District, including the production and performance or display of works of art including, but not limited to, music, drama, dance, film, and writing;

- (x) the extent to which the Project will enhance a District-sponsored or supported development project which already has been approved or is already developed.

6001.3 Any application for tax increment financing that was filed with the OCFO prior to April 30, 2001, was the subject of a favorable Special Merits ruling issued in the form of a memorandum from the ODMPED to the OCFO prior to April 30, 2001, and was approved by resolution of the Council of the District of Columbia prior to April 30, 2001, shall be deemed to have Special Merits as defined by this rulemaking.

6099 DEFINITIONS

District – the Government of the District of Columbia

Downtown Area – the Downtown Area, as defined by § 2 of the TIF Act

Project – a private capital improvement project for which tax increment financing is sought.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the Register. Comments should be filed with the Office of the Deputy Mayor for Planning and Economic Development at 1350 Pennsylvania Avenue, N.W., Suite 317, Washington, D.C. 20004. Copies of these proposed rules may be obtained from the Office of the Deputy Mayor for Planning and Economic Development at the same address.