



Takoma Park City Council Meeting – October 23, 2024

Agenda Items 4 and 5

Voting Session

Proposed Housing Tax Credits.

Recommended Council Action

Discuss and vote on three proposed tax credits to incentivize new rental housing construction, affordable housing preservation, and housing reinvestment for existing multifamily properties.

Two draft ordinances and a draft resolution are included for Council’s consideration. The ordinances are for each of the by-right process tax credits (New Rental Housing & Affordable Housing Preservation) that forthcoming administrative regulations will flesh out into a full process. For the Reinvestment credit, staff are putting forward a resolution to establish a program not fixed in law. Instead the resolution will direct staff to develop a competitive allocation program based on the concept presented. Once the program is established, staff will objectively evaluate properties and make recommendations to Council for an allocation of tax credits.

Context with Key Issues

On July 24, 2024, staff presented proposals on four housing tax credits aimed at incentivizing new rental housing construction, missing middle housing, affordable housing preservation, and housing reinvestment for existing multifamily properties shown below.

	<i>New Rental Construction</i>	<i>Affordable Housing Preservation</i>	<i>Housing Reinvestment</i>
Goal/Purpose	Encourage the creation of new rental housing.	Subsidize deed-restricted affordable housing for specific populations.	Incentivize reinvestment in existing multifamily housing.
By-Right/By-Application	By-Right	By-Right	By-Application
Eligibility Criteria*	10+net new rental units	Provides 30% AMI, Transitional or Units for specific groups (Individuals with Disability, Seniors)	Investment meets HUD definition of substantial rehab. Multifamily rental building
Credit Amount	Incremental difference between current tax bill and reassessed amount. (10 years full credit with 5 year scale down)	Percentage Discount equal to the share of qualifying units, capped at 50% of the tax bill. Annually renewed/verified	50% off tax bill for 10 years

On September 24, staff conducted a well-attended public forum on the tax credits. Council considered a draft ordinance and resolution for the three tax credits on the October 9th Council session. A fiscal impact analysis was presented at the October 16th Council session.

Changes and Updates

Based on conversations internally, City staff added language in the ordinance to clarify that the credit would be scaled for mixed use projects. A tracked version of the ordinance with the change is attached for your convenience.

The City Attorney has divided the two tax credits into separate ordinances, one ordinance for each credit. This change is to allow Council to consider each credit separately and does not affect the language for either credit. Staff and the City Attorney will ensure any language changes made at first reading will be incorporated into the final ordinances.

Council Priorities

Environmentally Sustainable Community

Community Development for an Improved & Equitable Quality of Life

Environmental Considerations

The proposed credits would incentivize potential new construction. Each potential project would be evaluated as part of the development review and permitting process and would have to mitigate or address potential environmental impacts. Some tax credits incentivize the improvement or preservation of housing which can result in lower emissions.

Fiscal Considerations

The New Rental Construction tax credit would not reduce current revenue but would provide a credit that would forgo future revenue created by development for a period of time. A fiscal impact analysis estimated the amount of foregone revenue per unit at \$18,828 over the 15-year tax credit period.

The Affordable Housing Preservation Tax Credit is currently expected to result in an annual revenue reduction of \$40,000 to \$197,000 depending on the AMI selected by Council (the City already waives roughly \$60,000 for affordable housing properties).

The Housing Reinvestment Credit would require an annual allocation by Council. City staff have provided a range of options that would require an allocation of \$50,000 - \$150,000. Depending on the criteria and credits adopted, the annual reduction in tax revenue for the proposed credits could be between \$150,000 and \$407,000. Currently, the City waives roughly \$60,000 in property tax revenue to properties under existing Payment in Lieu of Taxes (PILOTs). The annual cost of PILOTs in the past 10 years has not exceeded \$114,000.

Racial Equity Considerations

Approximately 50% of city residents are renters, and non-Hispanic white households make up less than 20% of renter households. Roughly half of the city's renters qualify as low income. Approximately 90% of the city's housing stock was built over 40 years ago and most of the city's high-rise apartments were built before 1970.

Attachments and Links

[July 1st Housing Staff Report](#)

[July 24th Tax Credit Proposals Staff Report](#)

[Housing Tax Credits City Webpage](#)

[Housing Policy Forum Recording](#)

[Fiscal Impact Analysis](#)

Draft Ordinances

Draft Resolution

City Attorney to Staff
10.14.2024

1 Introduced by: Councilmember XXXXX
2

First Reading: MONTH XX, 202X
Second Reading: MONTH XX, 202X
Effective Date: MONTH XX, 202X
3
4

5 **CITY OF TAKOMA PARK, MARYLAND**
6

7 **ORDINANCE 2024-XX**
8

9 **AMENDING TITLE 6 OF THE CITY OF TAKOMA PARK**
10 **CODE IN ORDER TO ADD PROVISIONS TO CREATE A**
11 **RENTAL HOUSING PRESERVATION TAX CREDIT**
12

13 WHEREAS, the Maryland Code, Local Government Article, Section 5–202, as amended,
14 authorizes the legislative body of each municipal corporation in the State of
15 Maryland to pass ordinances that such legislative body deems necessary to assure
16 the good government of the municipality, to protect and preserve the municipality’s
17 rights, property and privileges, to preserve peace and good order, to secure persons
18 and property from danger and destruction, and to protect the health, comfort, and
19 convenience of the citizens of the municipality; and
20

21 WHEREAS, Section 401 of the City Charter states that the Council has the power to pass all
22 such ordinances not contrary to the Constitution and laws of the State of Maryland
23 as it may deem necessary for the good government of the City, for the protection
24 and preservation of the City’s property, rights, and privileges, for the preservation
25 of peace and good order, for securing persons and property from violence, danger
26 or destruction, and for the protection and promotion of the health, safety, comfort,
27 convenience, welfare, and happiness of the residents of and visitors in the City; and
28

29 WHEREAS, the Council wishes to amend Title 6, Housing, of the Takoma Park Code, to provide
30 incentives to development projects which reserve rental housing within the City.
31

32 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA
33 PARK, MARYLAND, THAT:
34

35 SECTION 1. Title 6, Housing, of the Takoma Park Code is hereby amended as follows:
36

Chapter 6.16
LANDLORD-TENANT RELATIONS

Sections:

- 6.16.010 Legislative findings.
- 6.16.020 Applicability
- 6.16.030 Tenant rights of association
- 6.16.040 Obligations of tenants.
- 6.16.050 Obligations of landlords.
- 6.16.060 Lease requirements.
- 6.16.070 Lease term and renewal requirements.
- 6.16.080 Rent increases--Frequency and notification requirements.
- 6.16.090 Fees—General provision, permitted fees, optional fees, prohibited fees.
- 6.16.100 Utilities—Charges to tenant and transfer of utility payments.
- 6.16.110 Entry.
- 6.16.120 Notice to vacate.
- 6.16.130 Security deposits.
- 6.16.140 Defective tenancy.
- 6.16.150 Retaliatory practices.
- 6.16.155 Window Guards.
- 6.16.160 Department investigation and conciliation.
- 6.16.170 Landlord-tenant complaints
- 6.16.180 Tenant displacement and relocation expenses.
- 6.16.190 RESERVED
- 6.16.200 Housing Preservation Tax Credit

* * *

SECTION 3. Title 6, Landlord-Tenant Relations, of the Takoma Park Code is hereby amended as follows:

6.16.200 Affordable Housing Preservation Tax Credit

A. Definitions. As used in this Section:

- 1. “Applicant” means the party applying for the Tax Credit.
- 2. “Application” means an application for a Tax Credit submitted to the City and accepted by the City as complete.
- 3. “Department” means the City of Takoma Park Department of Housing and Community Development.
- 4. “Tax Credit” means the Affordable Housing Preservation Tax Credit.
- 5. “Property” means a pre-existing Multi-Family Dwelling that is the subject of an Application under this Section.

1
2 6. “Qualified Dwelling Unit” means a Dwelling Unit that is subject to at least one of
3 the restrictions identified in (B)(3) of this Section.
4

5 B. Credit Eligibility. A Property is eligible for the Tax Credit if:
6

7 1. The Property is located within the City Limits;
8

9 2. The Property is a Multifamily facility for rent containing at least 10 dwelling units.
10

11 3. The Property has a deed-restriction or other recorded agreement in the Land
12 Records for Montgomery County that provides for at least one of the following restrictions
13 on some, if not all, of the of the Property’s Dwelling Units:
14

15 a. The total yearly rent for tenants residing at the Property’s Qualified
16 Dwelling Units is capped at 30% of the area’s median income as reported by the
17 U.S. Department of Housing and Urban Development with tenancy in the
18 Property’s Qualified Dwelling Units restricted to individuals or families that make
19 80% or below the area median income. HUD’s annual reporting on area median
20 income can be found at: [https://www.hudexchange.info/programs/home/home-](https://www.hudexchange.info/programs/home/home-income-limits/)
21 [income-limits/](https://www.hudexchange.info/programs/home/home-income-limits/).
22

23 b. Tenancy at the Property’s Qualified Dwelling Units is restricted to seniors
24 of age 62 or older.
25

26 c. Tenancy at the Property’s Qualified Dwelling Units is restricted to
27 households with individuals currently receiving disability benefits from the Federal
28 Social Security Disability Insurance program or the Supplemental Security Income
29 program and who have annual earned income of 80% or below the area’s median
30 income as reported by the U.S. Department of Housing and Urban Development.
31 HUD’s annual reporting on area median income can be found at:
32 <https://www.hudexchange.info/programs/home/home-income-limits/>.
33

34 d. The Property’s Qualified Dwelling Units are restricted for use as either
35 transitional or permanent supporting housing for the formerly homeless. For a
36 Dwelling Unit to meet this criterion, Landlord must show that the Property is a
37 participant in a supportive housing program aimed at providing residents with rental
38 assistance or ongoing supporting services for individuals that are recently or
39 chronically homeless.
40

41 4. The Property has a valid Use & Occupancy Certificate.
42

43 5. The Property and its Owner are in good standing with all State, County and City
44 laws and regulations.
45

46 C. Application Requirements. Each Applicant must submit an Application for the Tax Credit on

1 a method and form set forth by the Department. The Department will evaluate an application
2 for completeness and may direct an Applicant to provide additional materials or clarification
3 as part of evaluating the tax credit amount and a Property's eligibility.
4

5 D. Tax Credit Period and Amount. The length and amount of the Tax Credit shall be as follows:
6

7 1. The Tax Credit shall only apply to Takoma Park City Real Property Taxes only.
8

9 2. The Tax Credit shall begin the next Fiscal Year after the date the Property's
10 Application is approved by the City.
11

12 a. The City Manager may alter the start date of the Tax Credit. An alteration
13 must be communicated in writing to the Applicant at least thirty (30) days in
14 advance of a new fiscal year.
15

16 3. The Tax Credit shall continue as long as the Property remains subject to the deed-
17 restrictions and/or land-use agreements identified above. If the Property is found to no
18 longer comply with these land-use restrictions, the Tax Credit shall terminate with
19 immediate effect.
20

21 4. The Tax Credit shall be a proportional reduction in the Property's yearly tax bill
22 not to exceed fifty percent (50%) of any fiscal year's property taxes. The Property's tax
23 reduction shall be calculated based on the number of dwelling units meeting the eligibility
24 criteria outlined in 6.16.200(B)(2) of this Section divided by the Property's total number
25 of dwelling units.
26

27 5. Eligibility for the Tax Credit shall be monitored by the Department on a yearly
28 basis in such a manner as set by the Department.
29

30 E. Tax Credit suspension and revocation. The City Manager may suspend or revoke a Tax Credit
31 if the Property is in violation of State, County or City laws, ordinances, or administrative
32 regulations.
33

34 1. The City Manager shall issue a written notice of the action setting forth the specific
35 reasons for the action and serve the notice on the property owner or agent of the property
36 as provided in Sections 1.04.120(C) and (D).
37

38 2. The Property owner or their agent, may, within 15 calendar days after service of
39 the written notice of the action, appeal the action to the City Council by filing a written
40 notice of appeal to the City. An appeal does not stay the City Manager's action unless the
41 Council stays the action for good cause.
42

43 F. Applicants found to have mistakenly included false statements on applications for the Tax
44 Credit will be subject to the correction of any erroneously awarded credit amount in the event
45 that the credit granted exceeded the amount the Applicant was actually entitled to.
46

1 G. Applicants found to have intentionally included false statements on applications for the Tax
2 Credit will be subject to the permanent removal of the credit and will be liable for any credit
3 amounts previously awarded, as well as back taxes due with penalties and interest.
4

5 H. If the Property is found to no longer comply with the land-use restrictions indicated in this
6 Section and Applicant failed to notify the City in a timely manner, Applicant will be liable for
7 any credit amounts previously awarded to Applicant starting from the date the Property fell
8 out of compliance with the land-use restrictions indicated in this Section, with penalties and
9 interest.
10

11 * * *

12
13 SECTION 4. The provisions of this ordinance are severable. If any part of this act is declared
14 invalid or unconstitutional, that declaration shall not affect any part which remains.
15

16 SECTION 5. This Ordinance shall become effective on MONTH XX, 202X.
17

18 Adopted this XXnd day of XXXX, 2024, by roll-call vote as follows:
19

20 AYE: None
21 NAY: None
22 ABSENT: None
23 ABSTAIN: None
24

25 Explanatory Note: New text is indicated with underlining and deleted text is indicated with
26 ~~strikethrough~~.
27

1 Introduced by: Councilmember XXXXX
2

First Reading: MONTH XX, 202X
Second Reading: MONTH XX, 202X
Effective Date: MONTH XX, 202X
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4

5 **CITY OF TAKOMA PARK, MARYLAND**
6

7 **ORDINANCE 2024-XX**
8

9 **AMENDING TITLE 6 OF THE CITY OF TAKOMA PARK**
10 **CODE IN ORDER TO ADD PROVISIONS TO CREATE A**
11 **NEW RENTAL HOUSING TAX CREDIT**
12

13 WHEREAS, the Maryland Code, Local Government Article, Section 5–202, as amended,
14 authorizes the legislative body of each municipal corporation in the State of
15 Maryland to pass ordinances that such legislative body deems necessary to assure
16 the good government of the municipality, to protect and preserve the municipality’s
17 rights, property and privileges, to preserve peace and good order, to secure persons
18 and property from danger and destruction, and to protect the health, comfort, and
19 convenience of the citizens of the municipality; and
20

21 WHEREAS, Section 401 of the City Charter states that the Council has the power to pass all
22 such ordinances not contrary to the Constitution and laws of the State of Maryland
23 as it may deem necessary for the good government of the City, for the protection
24 and preservation of the City’s property, rights, and privileges, for the preservation
25 of peace and good order, for securing persons and property from violence, danger
26 or destruction, and for the protection and promotion of the health, safety, comfort,
27 convenience, welfare, and happiness of the residents of and visitors in the City; and
28

29 WHEREAS, the Council wishes to amend Title 6, Housing, of the Takoma Park Code, to provide
30 incentives to development projects which create new rental housing within the City.
31

32 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA
33 PARK, MARYLAND, THAT:
34

35 SECTION 1. Title 6, Housing, of the Takoma Park Code is hereby amended as follows:
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Chapter 6.16
LANDLORD-TENANT RELATIONS

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- 6.16.050 Obligations of landlords.
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- 6.16.070 Lease term and renewal requirements.
- 6.16.080 Rent increases--Frequency and notification requirements.
- 6.16.090 Fees—General provision, permitted fees, optional fees, prohibited fees.
- 6.16.100 Utilities—Charges to tenant and transfer of utility payments.
- 6.16.110 Entry.
- 6.16.120 Notice to vacate.
- 6.16.130 Security deposits.
- 6.16.140 Defective tenancy.
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- 6.16.155 Window Guards.
- 6.16.160 Department investigation and conciliation.
- 6.16.170 Landlord-tenant complaints
- 6.16.180 Tenant displacement and relocation expenses.
- 6.16.190 New Rental Housing Tax Credit
- 6.16.200 RESERVED

* * *

SECTION 3. Title 6, Landlord-Tenant Relations, of the Takoma Park Code is hereby amended as follows:

6.16.190 New Rental Housing Tax Credit

A. Definitions. As used in this Section:

- 1. “Applicant” means the party applying for the Tax Credit.
- 2. “Application” means an application for a Tax Credit submitted to the City and accepted by the City as complete.
- 3. “Department” means the City of Takoma Park Department of Housing and Community Development.
- 4. “Tax Credit” means the New Rental Housing Tax Credit.
- 5. “Project” means a proposed housing project in the City of Takoma Park.

1
2 6. “Site” means the parcel(s) on which the Project is being built.

3
4 7. “Net New Rental Units” means the difference between the units being proposed on
5 the site by the project and the maximum number of units on the site in the prior three (3)
6 fiscal years before the application as evidenced by City Records or other documentation
7 accepted by the Department.

8
9 8. “Tax Reference Year” means the fiscal year that a Project’s Application was
10 approved.

11
12 9. “Gross Floor Area (GFA)” means the sum of the gross horizontal areas of all floors
13 of all buildings on a tract, measured from exterior faces of exterior walls and from the
14 center line of walls separating buildings.

15
16 a. Gross Floor Area includes:

- 17 i. basements;
18 ii. elevator shafts and stairwells at each floor;
19 iii. floor space used for mechanical equipment with structural headroom
20 of 6 feet, 6 inches or more, except as exempted in the LSC and
21 Industrial zones;
22 iv. floor space in an attic with structural headroom of 6 feet, 6 inches or
23 more (regardless of whether a floor has been installed); and
24 v. interior balconies and mezzanines.

25
26 b. Gross Floor Area does not include:

- 27 i. mechanical equipment on rooftops;
28 ii. cellars;
29 iii. unenclosed steps, balconies, and porches;
30 iv. parking;
31 v. floor area for publicly owned or operated uses or arts and
32 entertainment uses provided as a public benefit under the optional
33 method of development;
34 vi. interior balconies and mezzanines for common, non-leasable area in
35 a regional shopping center;
36 vii. in the LSC and Industrial zones, floor space used for mechanical
37 equipment; and
38 viii. any floor space exclusively used for mechanical equipment for any
39 medical/scientific manufacturing and production use.

40
41 10. “Residential Gross Floor Area” means the portion of a building or Project’s Gross
42 Floor Area that is devoted exclusively to residential use.

43
44 B. Project Eligibility. A Project is eligible for the Tax Credit if:

45
46 1. The Project is located within the City Limits;

1
2 2. The Project will create ten (10) or more Net New Rental Units;

3
4 3. The Project has received all necessary planning approvals required by the Maryland
5 National Capitol Parks and Planning Commission;

6
7 4. The Project has been issued all permits required by the City for its construction,
8 with eligibility for the Tax Credit conditioned on Applicant obtaining a Use and Occupancy
9 Certificate prior to the start of the Tax Credit Period; and

10
11 5. The Site does not have a currently active New Rental Housing Tax Credit.

12
13 6. Applicant and the owner of Site must be in good standing with all State, County
14 and City laws and regulations.

15
16 C. Application Requirements. Each Applicant must submit an Application for the Tax Credit on
17 a method and form set forth by the Department. The Department will evaluate an application
18 for completeness and may direct an Applicant to provide additional materials or clarification
19 as part of evaluating the tax credit amount and a Project's eligibility.

20
21 D. Tax Credit Period and Amount. The length and amount of the Tax Credit shall be as follows:

22
23 1. The Tax Credit shall only apply to Takoma Park City Real Property Taxes only.

24
25 2. The Tax Credit shall begin the next Fiscal Year after the date the Occupancy and
26 Use Certificate was issued by Montgomery County.

27
28 a. The City Manager may alter the start date of the Tax Credit. An alteration
29 must be communicated in writing to the Applicant at least thirty (30) days in
30 advance of a new fiscal year.

31
32 3. The Tax Credit shall last for no longer than fifteen (15) fiscal years from the year
33 the Application was approved.

34
35 4. For the first ten (10) years, the amount of the Tax Credit shall be calculated by
36 subtracting the amount of the Site's tax bill for that fiscal year from the Site's tax bill during
37 the Tax Reference Year. The amount of the Tax Credit shall be recalculated based on this
38 formula each fiscal year during the first ten (10) years.

39
40 5. In year eleven (11), the amount of the Tax Credit shall be eighty percent (80%) of
41 the difference between the tax bill of the Site in that fiscal year and the tax bill of the Site
42 in the Tax Reference Year.

43
44 6. In year twelve (12), the amount of the Tax Credit shall be sixty percent (60%) of
45 the difference between the tax bill of the Site in that fiscal year and the tax bill of the Site
46 in the Tax Reference Year.

1
2 7. In year thirteen (13), the amount of the Tax Credit shall be forty percent (40%) of
3 the difference between the tax bill of the Site in that fiscal year and the tax bill of the Site
4 in the Tax Reference Year.

5
6 8. In year fourteen (14), the amount of the Tax Credit shall be twenty percent (20%)
7 of the difference between the tax bill of the Site in that fiscal year and the tax bill of the
8 Site in the Tax Reference Year.

9
10 9. In year fifteen (15), the amount of the Tax Credit shall be ten percent (10%) of the
11 difference between the tax bill of the Site in that fiscal year and the tax bill of the Site in
12 the Tax Reference Year.

13
14 E. Adjustment for previously existing units. The amount of the Tax Credit shall be adjusted each
15 year by multiplying the amount of the Tax Credit by the quotient of the net new rental units
16 divided by the total number of housing units of the Project.

17
18 F. Adjustment for mixed use development. The amount of the Tax Credit shall be adjusted each
19 year by multiplying the amount of the Tax Credit by the quotient of the Residential Gross Floor
20 area divided by the Gross Floor Area of the Project.

21
22 G. Tax Credit suspension and revocation. The City Manager may suspend or revoke a Tax Credit
23 if the Project is in violation of State, County or City laws, ordinances, or administrative
24 regulations.

25
26 1. The City Manager shall issue a written notice of the action setting forth the specific
27 reasons for the action and serve the notice on the property owner or agent of the property
28 as provided in Sections 1.04.120(C) and (D).

29
30 2. The property owner or agent, may, within 15 calendar days after service of the
31 written notice of the action, appeal the action to the City Council by filing a written notice
32 of appeal to the City. An appeal does not stay the City Manager’s action unless the Council
33 stays the action for good cause.

34
35 H. Applicants found to have mistakenly included false statements on applications for the Tax
36 Credit will be subject to the correction of any erroneously awarded credit amount in the event
37 that the credit granted exceeded the amount the Applicant was actually entitled to.

38
39 I. Applicants found to have intentionally included false statements on applications for the Tax
40 Credit will be subject to the permanent removal of the credit and will be liable for any credit
41 amounts previously awarded, as well as back taxes due with penalties and interest.

42
43 * * *

44
45 SECTION 4. The provisions of this ordinance are severable. If any part of this act is declared
46 invalid or unconstitutional, that declaration shall not affect any part which remains.

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SECTION 5. This Ordinance shall become effective on MONTH XX, 202X.

Adopted this XXnd day of XXXX, 2024, by roll-call vote as follows:

AYE: None
NAY: None
ABSENT: None
ABSTAIN: None

Explanatory Note: New text is indicated with underlining and deleted text is indicated with ~~strikethrough~~.

Introduced by: Councilmember

**CITY OF TAKOMA PARK, MARYLAND
RESOLUTION 2024-**

**DIRECTING STAFF TO DEVELOP AND BUDGET FOR A MULTIFAMILY
REHABILITATION TAX CREDIT**

WHEREAS, the City Council adopted Housing and Economic Development Strategic Plan by Resolution 2019-47 on October 16, 2019 which lays out an objective to “Provide support to property owners and business owners through means such as grants and tax credits to allow such owners to maintain their property”; and

WHEREAS, Staff have presented a Rehabilitation Tax Credit Program which implements the objective stated in the Housing and Economic Development Strategic Plan; and

WHEREAS, the Council, having conducted a series of work sessions focused on this program, supports the development and implementation of such a Tax Credit.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF TAKOMA PARK, MARYLAND directs Staff to develop a Tax Credit Program based on the proposal presented to Council, budget funding in the amount of \$50,000 per year annually towards the program, and return with awardees for Council approval.

Adopted this ____th day of _____, 2024.

Attest:

Jessie Carpenter, CMC
City Clerk