

C Community Development Committee
For the Metropolitan Council meeting of December 14,
2011

Item: 2011-351

ADVISORY INFORMATION

Date December 6, 2011
Prepared:
Subject: Amendment to the Livable Communities Act (LCA) 2011 Fund Distribution Plan – TOD Grant Category

Proposed Action:

That the Metropolitan Council adopt the attached amendment to the Livable Communities Act (LCA) 2011 Fund Distribution Plan <http://www.metrocouncil.org/services/livcomm/2011LCAFundDistributionPlan.pdf> to add a new category of Livable Communities Demonstration Account (LCDA) and Tax Base Revitalization Account (TBRA) grants specifically for LCA eligible activities in support of Transit Oriented Development (TOD).

Summary of Committee Discussion / Questions:

Guy Peterson, Community Development Division Director, reviewed the TOD grant category with the Committee noting changes made to the criteria stemming from the Committee's discussion on November 21, 2011 as well information covered in previous program overviews on September 9, 2011 and August 15, 2011.

Council Member Commers and Elkins indicated support for the program and suggested flexibility as the program is launched to respond to real estate market signals and the distances people are willing to walk or bike to access transit. Council Member Elkins asked Mr. Peterson if he thought there would be sufficient additional interest in the program so soon after cities had submitted their regular LCDA applications and if greatest need is anticipated for site assembly. Mr. Peterson responded affirmatively to both. Council Member Smith stated she would like to submit suggested wording to be included with the application materials. Council Member Wulff observed an emphasis on site acquisition with the TOD grant category and wondered how developers would feel about the public competing for land proximate to transit. Mr. Peterson responded that when cities control land they are better able to ensure desired community outcomes. Council Member Wulff expressed her disagreement with the Council incorporating the goals and vision of the Corridors of Opportunity into a Council program without going through the process typically used by the Council to establish policy. Wulff also expressed concern with the number of points available based on performance of a City rather than on the merits of a given project. Other members indicated they felt that a City's performance should be a focus of this program especially as it relates to land use decisions.

The motion passed with one dissenting vote.

C Community Development Committee

Meeting date: December 5, 2011

ADVISORY INFORMATION

Date:	November 30, 2011
Subject:	Amendment to the Livable Communities Act (LCA) 2011 Fund Distribution Plan – TOD Grant Category
District(s), Member(s):	All
Policy/Legal Reference:	MN Statutes §473.253
Staff Prepared/Presented:	Guy Peterson, Director, Community Development Beth Reetz, Director, Housing and Livable Communities Paul Burns, Manager, Livable Communities
Division/Department:	Community Development / Livable Communities

Proposed Action

That the Metropolitan Council adopt the attached amendment to the Livable Communities Act (LCA) 2011 Fund Distribution Plan <http://www.metrocouncil.org/services/livcomm/2011LCAFundDistributionPlan.pdf> to add a new category of Livable Communities Demonstration Account (LCDA) and Tax Base Revitalization Account (TBRA) grants specifically for LCA eligible activities in support of Transit Oriented Development (TOD).

Background

The economic downturn of the previous few years resulted in the slowing or abandonment of many development and redevelopment proposals in the region, and the contamination cleanup activities associated with them for several projects for which Livable Communities funding had been granted. The relinquishment of several LCDA and TBRA grants by grantees has left fund balances beyond the annual levies of nearly \$20 million and \$12.5 million respectively for these two accounts.

Staff is proposing the addition of a new category of grants to the 2011 LCA Fund Distribution Plan that would allow the Council to make available in 2011 and to be granted in early 2012, LCDA and TBRA funds to support TOD activities in several identified "TOD areas". These areas will consist of DEED-designated Transit Improvement Areas (TIAs), and other TIA-eligible station areas not yet designated by DEED, and other numerous locations on both high frequency bus local routes and high frequency express routes. (See attached map)

The proposed 2011 Fund Distribution Plan amendment includes the schedule for funding availability and Council decisions for this 2011 funding; the proposed amount of funds to be made available; maximum amounts for grant categories and types; the number of grants that may be submitted by eligible applicants; and the criteria that will be used to evaluate and prioritize the applications for both types of grants in this LCA TOD category. These criteria proposed include requirements for land use guidance and development consistent with the Council's *Guide for Transit Oriented Development* for rail or bus. They also include criteria addressing issues of equity and opportunity, such as affordable housing and gentrification concerns, and employment expectations.

Rationale

Advancing Transit Oriented Development (TOD) is a priority activity identified by the Council. The Council has nearly \$30 million of relinquished and re-purposed LCDA and TBRA funding that it can make available to facilitate TOD to further this objective over the next several years.

Funding

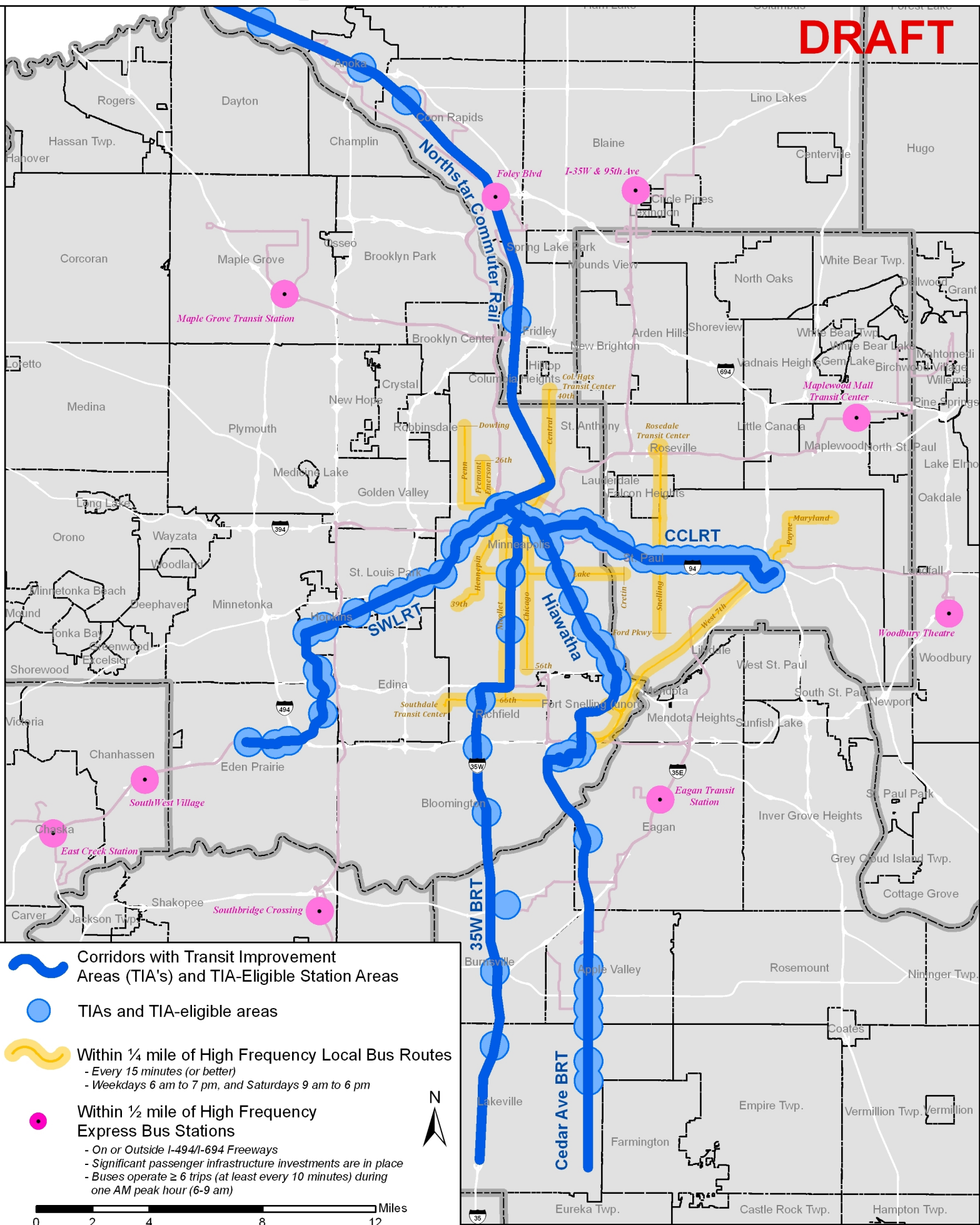
The 2011 funding for the TOD effort is indicated in the proposed Fund Distribution Plan Amendment as \$8 million for the LCDA and \$5 million for the TBRA.

Known Support / Opposition

Staff has received letters supporting the TOD effort from MN Brownfields, and leadership at Envision Minnesota, Minnesota Center for Environmental Advocacy and the Housing Preservation Project. CDC Chair Cunningham has received a letter of support from Metro Cities.

LCA TOD - Eligible TOD Areas

DRAFT



Legend

- Corridors with Transit Improvement Areas (TIA's) and TIA-Eligible Station Areas
- TIAs and TIA-eligible areas
- Within 1/4 mile of High Frequency Local Bus Routes
 - Every 15 minutes (or better)
 - Weekdays 6 am to 7 pm, and Saturdays 9 am to 6 pm
- Within 1/2 mile of High Frequency Express Bus Stations
 - On or Outside I-494/I-694 Freeways
 - Significant passenger infrastructure investments are in place
 - Buses operate ≥ 6 trips (at least every 10 minutes) during one AM peak hour (6-9 am)

Scale: 0 2 4 8 12 Miles

North Arrow: N

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Transit Oriented Development Funding Schedule

2011 Available Funding

TBRA TOD Grants: \$5 Million
LDCA TOD: \$8 Million

Application Type	Month	Activity
All: TBRA Site Investigation, TBRA Cleanup, LCDA Pre-development, LCDA Development	December 2011	Notice of Funding Availability
	February 2012	Applications due
	April 2012	Community Development Committee recommends grant awards
	April 2012	Metropolitan Council awards grants

Comment [R1]: Changed to insure adequate time to review applications

Tax Base Revitalization and Livable Communities Demonstration Accounts

Transit Oriented Development Grant Category

Section 1: Background and purpose

The Metropolitan Livable Communities Act¹ (LCA) created both the **Tax Base Revitalization Account** (TBRA) and **Livable Communities Demonstration Account** (LCDA) to promote the purposes of the Act and the policies of Metropolitan Development Framework.

The purposes of the Livable Communities Act include to:

- create incentives for all communities to implement compact and efficient development;
- interrelate development or redevelopment and transit;
- intensify land use that leads to more compact development or redevelopment; and
- encourage public infrastructure investments which connect urban neighborhoods and suburban communities, attract private sector redevelopment investment in commercial and residential properties adjacent to the public improvement, and provide project area residents with expanded opportunities for private sector employment.

The Framework policies include to:

- develop land uses in centers linked to the local and regional transportation systems;
- efficiently connect housing, jobs, retail centers and civic uses;
- conserve, protect and enhance natural resources by means of development that is sensitive to the environment.

High density, mixed-use development adjacent to transit stations using pedestrian friendly design standards is known as transit oriented development. Adding a new grant category, within the Livable Communities Demonstration Account and Tax Base Revitalization Account, to incent transit oriented development, meets the purposes of the LCA and Development Framework and will help demonstrate that increasing density around transit stations increases transit ridership and reduces automobile ownership, vehicular traffic, and associated parking requirements that would otherwise be necessary to support a similar level of more traditional development.

Additional TBRA and LCDA funds are available at this time for the TBRA and LCDA Transit Oriented Development grant category because:

- previously awarded grants, in which the development did not move forward within the grant period (primarily due to the downturn in the economy) have been relinquished by the grantees, and,
- levies set aside per legislation passed in 2009 authorizing the Council to use up to one half of the LCDA and TBRA levies in years 2009, 2010, and 2011 if needed for transit operations were not used for this purpose. This authorization sunsets this year.

The funding amounts available for the other TBRA and LCDA grant categories will remain available and unchanged. The additional funds made available for the TOD grant category will enable strong TOD projects to compete in the TOD funding cycle while enabling requests for developments less proximate to transit stations to better compete in the other TBRA and LCDA funding cycles.

¹ MN Statutes §473.252

Section 2: Partnerships and coordination

Same as listed for other TBRA and LCDA grant categories on pages 10 and 21

Section 3: Application process

Same as listed for other TBRA and LCDA grant categories on pages 10 and 21

Local resolution

Same as listed for other TBRA and LCDA grant categories on pages 10 and 21

Number of Applications

Cities are limited in the number of applications they may submit. This limit includes those submitted by all entities within the City (i.e. the city, economic development authority, port authority, etc) and applications submitted by counties on behalf of cities. Applicants submitting more than one application per funding cycle must provide the Council with their prioritization of the proposals at the time of application.

- No more than 3 applications for LCDA TOD Development and Pre-development may be submitted by a single city in any application cycle.
- No more than 6 applications for TBRA TOD Cleanup and Site Investigation may be submitted by a single city in any application cycle.

Award limits

- TBRA Cleanup-Site Investigation, regular and TOD - \$100,000
- LCDA Pre-development, regular and TOD – \$100,000
- TBRA TOD Cleanup-\$1,000,000
- LCDA TOD Development –\$1,000,000 for requests not involving site acquisition; \$2,000,000 for requests involving site acquisition.
- No one city/applicant will be awarded more than 50% of LCDA TOD funds in any TOD funding cycle.
- According to statute, if TBRA grant applications exceed the available funds for an application cycle, no more than one-half of the funds may be granted to projects in a single city, and no more than three-quarters of the funds may be granted to projects located in cities of the first class (Minneapolis and Saint Paul).
- The award limit guideline listed on page 22 does not apply to the LCDA TOD grant awards; however, the Council will consider geographic distribution of LCDA grant funds when making grant award decisions.

Section 4: Competitive process, eligible and ineligible uses

Eligible Applications

An application eligible for consideration for a TBRA TOD or LCDA TOD grant category award is one where the proposal pertains to activities within a **TOD Area** defined as:

1. A **DEED designated Transit Improvement Area (TIA)** or TIA eligible station area located along light rail, commuter rail and bus rapid transit transitways operational by

2020 (Hiawatha LRT, Northstar Commuter Rail, Central LRT, Southwest LRT, I-35 BRT, and Cedar BRT)

2. Areas within ¼ mile all along high frequency* local bus lines
3. Areas within a 1/2 mile radius of bus stops/stations on high frequency express routes** where significant passenger infrastructure is in place.

***High frequency local bus service =**

Bus service running at least:

- o Every 15 minutes (or better)
- o 6 am to 7 pm weekdays
- o 9 am to 6 pm Saturdays

****High frequency express bus routes on or outside the I 494/694 Freeways=**

Bus service running at least:

- o 6 trips during at least one hour of the am peak hours of 6-9 AM and
- o Every 10 minutes during the am peak hour

In the TBRA TOD grant category, eligible applications include requests for contamination site investigation and cleanup in support of both specifically identified development or redevelopment Projects, or anticipated future development or redevelopment Projects.

In the LCDA TOD grant category, eligible applications include requests for public infrastructure, site acquisition, building demolition and site preparation in support of both specifically identified development or redevelopment Projects, or anticipated future development or redevelopment Projects.

Applications that lack an identified Project with a development partner(s), must describe how the activity will provide market certainty to leverage private investment or will improve the cost effectiveness of the public investment, and have an estimated timeline for expected future development or redevelopment Project(s).

Eligible Uses for Grants

In addition to the eligible uses for TBRA Site Investigation and Cleanup grants on pages 10 and 13-14 and eligible uses for LCDA Development and Pre-Development grants listed on pages 22-23 and 26, the following uses are eligible:

- For site acquisition, funds can be used for associated holding costs prior to development.
 - o Eligibility for holding costs can also apply when the grant request does not include the cost of site acquisition.
- For site acquisition, funds can be used to reimburse a non-profit or socially responsible for profit developer, for sites previously acquired within 12 months of the application date for projects that will lead to the development of affordable housing or will result in jobs retained, created, or made more accessible to low-income and underserved populations including opportunities for entrepreneurship.
- For site acquisition, funds can be used for site preparation costs such as building demolition and other costs to prepare the site for future development.

Comment [R2]: Correction of typographical error

Comment [R3]: Changed to provide greater clarity

Ineligible Uses for Grants

The same ineligible uses as stated on pages 10 and 14 for other TBRA grant categories and as stated on pages 23 and 26 for other LCDA grant categories, with no changes, are also ineligible for TBRA TOD and LCDA TOD.

Evaluation process

The Evaluation Process includes both Threshold Criteria and Ranking Criteria.

To compete in the TBRA TOD and LCDA TOD grant categories, **all** threshold criteria must be met.

If all threshold criteria are not met, the application will be found ineligible and will not advance for scoring under the Ranking Criteria.

If not already met, the applicant must agree it will fulfill all of the threshold criteria within 36 months of the grant award. Note: Cities awarded TOD funds will be required to report annually on their progress toward achieving each of these thresholds. The Council reserves the right to recover grant funds from Cities awarded TOD funding that fail to achieve the thresholds during the allotted 36 months.

A staff evaluation team will review the application to determine if the proposal meets the threshold criteria. Applications that advance to scoring under the ranking criteria will also be reviewed and scored by a staff evaluation team.

Required Threshold Criteria that must be in place or will be in place within 36 months of the grant award.		
Land Use Criteria in the TOD Area and applicable to the development supported by the grant		
Local official controls, applicable within the TOD Area, are consistent with the Metropolitan Council's Guide for Transit Oriented Development by requiring development at:		
Residential Densities of: 30-75 units/acre for Rail OR 15-50 units/acre for Bus	Pass	Fail
Minimum Floor Area Ratios of: 1.5 to 3.0 for Rail OR .5 to 3.0 for Bus		
Employees per acre of 50-200/acre at employment cluster sites		
Transit Oriented Development Design Features in the TOD Area		
Local planning within the TOD Area demonstrates: <ul style="list-style-type: none"> minimal building setbacks, short blocks with pedestrian connections adjacent to the buildings, optimal pedestrian convenience between Station and other connecting transit a range of housing densities, types and costs connections between housing, retail, employment centers and recreational uses cycling and walking conveniences current and future employment opportunities within the TOD Area and within the connecting transit corridor/corridors, and conservation, protection, and enhancement of natural resources residential and commercial parking is limited, shared between uses, located to the rear of buildings, and/or is structured 		
Equity Considerations within the TOD Area		
City has adopted a policy/plan/guideline or other official local control to:		
Address both the preservation of existing subsidized and naturally occurring affordable housing units in the TOD Area		

AND: the addition of affordable housing units in the TOD Area OR the addition of higher value housing in lower income areas to achieve a mix of housing opportunities		
Address how the applicant will proactively and intentionally address gentrification		
Consistency with other Plans/Initiatives/Programs		
The TOD Area planning is consistent with the city's comprehensive plan		
The City has adopted the vision, goals, and principles promoted by the Corridors of Opportunity Initiative including the principle of Equitable Development		
Return on Public Investment		
The proposed activity will have the potential to enhance the tax base of the City within the TOD Area		

Comment [R4]: Changed to provide greater clarity

Only proposals that have met **all** of the above threshold criteria will advance to be scored using the following ranking criteria.

Ranking Criteria Applicable to all Proposals	Points
Proposal's ability to produce affordable housing	0 - 5-10
The degree to which the TOD Area provides the opportunity for residents and/or employees in that TOD Area to live or work there without reliance on an automobile.... for meeting daily needs through the use of transit or walking...for reducing automobile ownership, vehicular traffic, and associated parking requirements that would otherwise be necessary to support a similar level of more traditional development.	0 - 10
Proposal's ability to create or preserve employment opportunities within 24 months (for construction jobs) and/or 48 months (for permanent jobs)	0 - 10
The applicant's Housing Performance Score will be converted from a 100 point scale to a 10 point scale. If a proposed project includes new affordable housing or if affordable housing is located within the TOD Area, the proposal will be held harmless by assigning the higher of the community's actual score or the average score for this criterion from all proposals.	0 - 10
City has adopted affordability requirements for housing assisted with City funds or fiscal devices applicable in the TOD Area	0 - 10
The degree to which the City has formalized TOD guidelines	0 - 4-5
City has hiring and procurement goals and /or processes that advance and promote the employment of local workers and/or disadvantaged businesses	0 - 5
Partnership has been established with an existing funding commitment to advance the proposal and leverage other resources	0 - 5
Proposal's ability to be catalytic to attracting private sector investment	0 - 5
TOTAL	70

Comment [R5]: Changed in response to Committee requests to provide greater points for affordable housing efforts

Comment [R6]: Changed in response to Committee requests to provide greater points for affordable housing efforts

Comment [R7]: Changed to provide greater clarity

All proposals will additionally be ranked using one of the following two categories dependent on type of proposal.

Ranking Criteria Applicable to Site Acquisition Only	Points
* Applicant must certify and verify that acquisition cost will not exceed appraised market value – See page 39	
Anticipated Timeframe of Development	0 - 10
Site to be acquired has been identified	0 - 5
Percent of total development site assembly accomplished through this	0 - 5

request	
Ability to complete acquisition within 2 years	0 - 5
Intensity of potential future use of site	0 - 5
TOTAL	30

Comment [R8]: Changed to provide greater clarity

OR

Ranking Criteria Applicable to All other Requests	Points
Readiness (higher points for proposals further to the right on predevelopment continuum and development projects closest to "shovel ready/ground breaking" stage)	0 - 10
Proximity/high visibility from Platform/Station area (higher points for proposals with activities closest to platform and with high visibility)	0 - 5
Degree to which development plan demonstrates TOD design features listed on page 47	0 - 5
Proposal's ability to provide ridership impact	0 - 5
Proposal's demonstration value and potential to provide area wide benefits	0 - 5
TOTAL	30

To be considered for funding, proposals must score 60 or more points of a possible 100 points from the Ranking Criteria.

Section 7: Reporting Requirements

Grantees are required to submit periodic progress reports. The detail supplied with payment requests comprises the bulk of the progress reports, which are augmented with semi-annual reports. A final progress report is required with the last payment request. When the grant is closed, the grantee's chief financial officer is required to certify to the appropriate expenditure of funds.

Recipients of Cleanup-Site Investigation grants must also submit to the Council at the closure of the grant a copy of the environmental investigation documents and approval of the response action plan by the MPCA VIC or PBP program.

Grantees will be required to report on achieving the threshold criteria.

Recipients of TBRA cleanup grants must also submit a report annually to the Metropolitan Council after the end of the grant term and for four years, stating:

- the site redevelopment activities completed the previous calendar year;
- the net tax capacity assessed in the prior year and the total property taxes paid on the parcel (land and buildings) for the reporting year; and
- the percentage of full-time equivalent jobs on the site at the end of the previous year that are at or above a living wage.