



TIF

POLICY & GUIDELINES



PURPOSE

The City of Whitewater (City) promotes economic development that is consistent with the City's comprehensive plan and returns substantial public benefit to all taxing entities (City, School District, Technical College, and County). The purpose of this Tax Incremental Financing (TIF) Policy is to provide existing or potential developers, property owners and businesses direction and guidance how to demonstrate community benefit and alignment with the comprehensive plan.

Notwithstanding compliance with any or all of the guidelines herein, the provision of TIF assistance is a policy choice to be evaluated on a case-by-case basis by the City staff, Joint Review Board (JRB), Plan Commission and City Council.

The burden of establishing public benefit of TIF shall be placed upon the applicant and must substantially meet the criteria and conditions contained herein. City Administration reserves the right to bring any TIF proposal forward for ultimate City Council consideration. Meeting statutory requirements, policy guidelines or other criteria listed herein does not guarantee the provision of TIF assistance nor does the approval or denial of one project set precedent for approval or denial of another project.

Any developer requesting TIF assistance must demonstrate a track record of successful project completion and the ability to perform and develop a project in the type and size of development proposed.

TIF SUBMITAL GOALS AND OBJECTIVES

To apply and qualify for TIF assistance a developer will be required to provide to staff a "Project Proposal" and to the City's third-party financial consultant a "Project Pro Forma." The City uses a third-party consultant to evaluate the project and developer's financial viability in order to maintain relevant information confidential. Both submissions are necessary for the City to evaluate and meet the State "BUT FOR" Legal Requirement: The project must demonstrate public benefit and that the project would not occur without TIF assistance. Submissions will need to provide and satisfy the following basic provisions and conditions:

- 1. Project Description**– The applicant will provide a project summary, proposed uses, site plan, development plan and timeline
- 2. Contact Information**– The applicant will identify all relevant team members, consultants, legal counsel, and contractors they plan to use on the project.
- 3. Conceptual Site Plan**– The project must support land uses that meet and exceed the vision of the City Comprehensive Plan, and target industrial, commercial, and mixed-use developments.
- 4. Property Value & Tax Base**– The project will not only increase the City's property values and tax base it will return greater value than the cost of city services to cover the development.

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- 5. Public vs Private Benefit**– "Public funds" should first be directed towards "public purposes" (blight elimination, public infrastructure expansion, etc.). The total incentive should be less than the tax generated. Preference will be given to TIF "public purpose" projects that have a payback period of 15 years or less. Any support towards private cost must be justified by a funding gap, and have a payback of 5 years or less
- 6. Jobs/Employment**– The project shall expand and strengthen the City employment base by creating long-lasting living-wage jobs, and attracting desirable and diversified employers.
- 7. Developer Financials, Project Financing, and Funding Gap**– The applicant will share with a third-party consultant relevant financials, including but not limited to current financial statement, project funding sources (i.e. equity participation, bonds, loans, other federal and state funds, grants, tax credits, etc.) project costs, projected construction schedule with incremental value estimates, and projected net income in order to demonstrate Funding Gap. Financial reports should demonstrate all other financial alternatives explored and exhausted prior to the use of TIF.
- 8. Pre-Development Agreement**– The developer will enter into an agreement to be responsible for all City consultant costs associated with the creation of a TIF package and the Project Plan and/or proforma review, including, but not limited to City administrative and legal expenses.

TIF SUBMITTAL & IMPLEMENTATION

An applicant will be responsible to provide all documents required on the TIF application form for the City staff to evaluate the proposal and to determine if the City Council will support the TIF request. All TIF projects introduced to the City will be reviewed as follows:

1. Applicant has initial meeting with City staff.
2. Applicant submits complete Project Proposal to City Staff and Pro Forma to Third-Party Consultant.
3. Staff review of TIF Project Proposal, upon satisfaction.
4. Staff and Applicant negotiate terms of Land Sale Agreement & Developer's Agreement.
5. Land sale terms and developer's agreement are reviewed for recommendation by CDA.
6. If a new TID or TID amendment is required see sub-items, otherwise skip to item 7. and ignore item 8.
 - First JRB ("JRB") meeting (present the boundaries and proposed TID project plan).
 - Plan Commission or CDA Public Hearing (consider creation, boundaries and proposed TID project plan).
 - City Council (consider boundaries and proposed TID Project Plan).
 - Second JRB meeting (review proposed TID Project Plan).

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7. Developer's Agreement (Land Sale Terms included as an addendum) reviewed and approved by City Council.
8. City Staff submits new TID or amendment to Wisconsin Department of Revenue.



DEVELOPER'S AGREEMENT

After evaluation of TIF applications, any City staff recommended TIF projects will require a fully executed developer's agreement ("Agreement") outlining the responsibilities and obligations of each party, the expectations of the development, and repayment terms if applicable. Depending on the type of incentive, additional documents may be recorded with the Register of Deeds.

TERMS & EXPECTED CRITERIA IN THE AGREEMENT

The following terms/criteria must be included in the agreement for the City to consider and approve project for TIF assistance.

- 1. BUT FOR" Statement-** The submitted Project Description and Pro Forma must address this fundamental principle that the project could not occur "but for" the assistance provided through TIF. The project must demonstrate both a funding gap and public benefit. The burden is on the developer to make this case to the City. Should this "but for" determination not be made, TIF for the project cannot be approved. The submitted documents will be used to determine an incentive package.

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- 2. Developer-Funded TID-** The City uses Developer-Funded TIF ("Pay-go") as a method to help reduce the financial exposure of the City. Under this financing method, the developer pays the upfront costs of the project. The City provides a Municipal Revenue Obligation ("MRO") to establish the criteria to fully or partially reimburse the developer using future tax increment. In the case of a land sale or site improvements, the City may front these costs and be reimbursed directly with TIF as long as the City maintains first rights to the land should the project be significantly delayed or not occur.
- 3. State Statute Compliance-** In the creation or amendment of a TID, the project must comply with the State Statutes including but not limited to the "12% Rule," whereby the sum of all TID increments in a municipality cannot exceed 12% of the municipality's total equalized value of taxable property and the "35% Residential Threshold," whereby mixed-use projects will remain under the 35% threshold for newly platted residential property.



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4. Annual Reporting

- MRO Payments – By October 1, the Developer shall submit to the City the appropriate documentation that he/she has paid the eligible TIF expenses for the City to issue an MRO or add to an existing MRO.
- TIF Project Update – By May 1, the Developer shall submit to the City an update for the project with a revised TIF development schedule including project costs, current development/value, and projected future development/value.
- Reporting Requirements – The Developer is responsible to provide reports to the City. Failure to provide the required information in a format acceptable to the City will constitute a breach of contract.

5. Zoning - Projects shall comply with all applicable City regulations and City zoning codes.

6. Comprehensive & Strategic Plans - Projects shall be consistent with both the City Comprehensive Plan and City Strategic Plan.

7. Tax Exempt Development – Tax Exempt entities that are a part of a master development will be required to establish a Payment in Lieu of Taxes (“PILOT”) with the City.

8. Dark Store Argument Prohibition – Any entity seeking TIF assistance or property within a master development receiving TIF assistance will agree not dispute an assessment using the Dark Store argument during the life of the TID.

RESERVATION OF RIGHTS

The process and considerations outlined herein are for the convenience of the City and are subject to change. The City reserves the right to proceed differently than described herein for any reason, or due to inadvertence or error, or for no reason, and without explanation. Meeting statutory requirements, policy guidelines or other criteria listed here in does not guarantee the approval of TIF assistance nor does the approval or denial of one project set precedent for another project.

