

City of Cincinnati



*Interdepartmental
Correspondence Sheet*

August 1, 2007

To: Mayor and Members of Council
From: Milton Dohoney, Jr., City Manager
Subject: Tax Increment Financing Policy

200700888

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The Economic Development Committee, at its meeting on July 31, 2007, recommended the following item for approval:

REPORT, submitted by Councilmember Chris Bortz, CITY OF CINCINNATI
TIF POLICY Background The Primary purpose of Tax Increment Financing
(TIF) is to provide an incentive for commercial and residential developers to
construct projects that will provide economic growth to the City.

Attached is the most recent version of the Administration's Tax Increment Financing (TIF) Policy. This policy has been developed with the input of City staff and includes revisions suggested by City Councilmembers as a result of the July 31, 2007 Economic Development Committee discussion on this issue. This policy will serve as a guide for the application of TIF resources in future residential, commercial, and economic development deals.

The Administration recommends approval of this report.

City of Cincinnati TIF Policy

Background

The primary purpose of Tax Increment Financing (TIF) is to provide an incentive for commercial and residential developers to construct projects that will provide economic growth to the City.

This policy will provide guidance to departments and developers requesting City of Cincinnati TIF for use in economic and/or community development projects. This policy will also serve as a framework from which the City will operate when dealing with the development community as it relates to tax increment financing of economic and community development projects. It will serve to inform the public on the City's use of TIF financing and the requirements and decision-making process the City considers important in making its decision to use TIF. Even though this policy is intended to clarify the process, it is not intended to necessarily resolve all the details and complexities of tax increment financing arrangements – that will be analyzed on a case-by-case basis.

Any such tools providing project assumptions, pro forma operating statement, sources and uses of funds statement and analysis of returns statements are expected to be used in the analysis of a project.

In general, tax increment financing should not be thought of as a developer entitlement, but as a financing option that may be used to facilitate a public purpose and alleviate a defined financial need.

This policy was enacted as of August 1, 2007. The Administration should update Council at least once a quarter on the impact of this policy to economic and community development, changes to IRS regulations, activities of the Port Authority and any related issues.

Policy Objectives/Guidelines

1. The proposed project should meet economic and/or community development objectives. Those objectives may include:
 - Job creation;
 - Public improvements in support of economic and/or community development;
 - Increase in tax base;
 - Urban redevelopment;
 - Creation of homeownership units;
 - Rehabilitated housing units;
 - Create/support neighborhood retail and commercial opportunities;
 - Use of green building techniques to LEED standards;
 - Removal of slum/blight;

2. TIF must be used for projects in accordance with the applicable State Law and City Municipal Code requirements for every development project. A determination of the applicable TIF statute must be identified. Requirements include, but are not limited to:
 - There must be a public purpose benefit from the project as defined by the Ohio Revised Code.
 - The project must be consistent with existing urban renewal and/or blight remediation plan(s).
 - The proposed project is consistent with approved zoning regulations prior to submission or identifies a course of action to resolve zoning issues.
 - Ohio's prevailing wage law, codified in Ohio Revised Code Chapter 4115.
3. The community councils and business district associations will have the opportunity to review and/or comment within 30 days of being presented with the proposed project.
4. Projects that are located within an existing TIF district shall not be removed from that district unless a justification statement is prepared by the City Manager requesting relief from legislative policy for City Council approval.
5. Site control or a letter of acknowledgment from the property owners is required for new Project TIF applications. For projects in a TIF District, the developer must have site control of the properties within the development site.
6. TIF funding may be used to fill a financial gap in the development project only if the developer is able to prove that if not for TIF financing, the viability of the project is at stake and would not materialize.
7. The developer will not be reimbursed for public infrastructure improvement costs incurred prior to approval by City Council and settlement of City financing.
8. TIF proceeds should not be the first dollars spent on the project unless special circumstances arise.
9. A clear financial need should be presented as a basis for using TIF financing.

A. Revenues

- All sources and amounts of funds should be clearly identified including the source and amount of equity to be injected into the project.
- The developer must provide a detailed analysis of the economic gap created by public infrastructure costs that are related to the project. A description of efforts to mitigate

this gap should be included as additional support for the investment/subsidy request.

- All rental income streams should be identified along with all lease terms that influence rents; e.g. escalations, reimbursements, and overage provisions.
- Two weeks prior to submission for Council approval all pre-leased or committed space must clearly identify tenant name.
- The anticipated leasing timeframe for uncommitted space must be included.

B. Expenses

- All normal operating expenses should be identified including real estate taxes, fully assessed, based upon the tax value certification requested above.
- All expenses payable to individuals and entities related to the owner or developer must be clearly identified.
- In addition to normal operating expenses, leasing commissions should be quantified and scheduled based upon terms of payment. Commissions payable to individuals and entities related to the owner or developer must be clearly identified.

10. It is required that the costs of the project be verified by the City and the Developer. This includes: a detailed total project cost estimate inclusive of all hard and soft costs and/or any pending contracts supported by quotes, bids, or estimates by a state certified architect or engineer; the City Engineer must review and approve the cost analysis of the proposed public improvements/project; and all developer fees including all costs attributable to any individuals or entities related to the developer. The developer must provide an estimate of project value equal to the anticipated true value of the project to be added to the tax duplicate.
11. The Port of Greater Cincinnati Development Authority is the preferred issuer of debt. Port Authorities outside of Hamilton County may be used to issue debt with the approval of the Finance Director and the Ohio Development Director.
12. The City may issue revenue debt only, not general obligation debt, up to the maximum subsidy of 25% of the total project cost. The Minimum Service Payment (MSP) is equal to the debt service charges on the bonds, plus amounts payable to the School Board under the School Board compensation agreement. The developer its successors, assigns, or subsequent owners are responsible for the MSP for the outstanding life of the bonds. The debt will have additional covenants that require the following:

- Additional bonds tests to determine the TIF debt amount that will be supported by incremental TIF revenues during and after project completion.
- Preferred minimum debt service coverage ratio of 1.25.
- 0% growth assumption in TIF revenue.

If the developer provides developer guarantee support only until the revenue to debt service coverage ratio reaches 1.25, then the amount of TIF available to subsidize the project can not exceed 12.5%. If the developer is willing to provide a developer guarantee that is in addition to the MSP for the life of the bond issue, then they may receive a higher subsidy.

If a developer cannot meet the requirements of this section, then there will be an opportunity for the developer to present compelling reasons why the deal is still in the best interests of the City and may receive TIF support notwithstanding the policy.

13. Proof of private financing or completion guarantee surety bond is required before the City can commit to TIF financing.
14. Excess TIF revenues (defined as tax increment revenues after the provision for debt service repayments and school payments) will remit back to the City after fulfilling all related bond covenant provisions. Only the City can decide on alternate uses of excess TIF revenues.
15. The security for the repayment of the TIF bonds will be in the form of a Letter of Credit, Bond Insurance, Developer Guarantees or as a last resort, a dedicated revenue source of the City, as determined by the Finance Director. City dedicated revenue sources should be used as a credit enhancement only, not anticipated to be used as a primary repayment source. Any financing using City dedicated revenues should include a call option so that the original financing can be refinanced at a later date, thereby eliminating the City dedicated revenue.
16. The approval of the Finance Director is required for transaction fees including but not limited to bond counsel, financial advisor, underwriters, as determined by the Finance Director.
17. The Finance Director will determine the timing, type of debt issuance, and method of payment.
18. Final approval of the use of TIF can only be made by a vote of City Council.
19. A TIF financing commitment is valid for 12 months.

PROCESS FOR TIF APPROVAL

1. The developer or a representative authority of the development contacts the Economic Development Division (EDD) for projects downtown or projects with a total cost greater than \$50 million *or* Community Development & Planning Dept. (DCDP) for projects that are both outside of downtown and with a total cost less than \$50 million.
2. The initiating department identifies the project as project based or district TIF project. This could be a public financed project related to a private development, or in the case of TIF districts, could be a complete public improvement that would benefit the district (i.e. road/access improvements, lighting, etc.)
3. The initiating department requests the completion of a Financial Assistance Application, which would include all financial and owner information (see attached). During the completion of the application, staff will assist the developer with questions and advise them of missing components within 48 hours of submission.
4. EDD/DCDP staff meets with a designated representative of the Finance Department to alert them of a possible project and if possible begin discussion of what entity would issue the debt.
5. If the Port Authority or other entity other than the City is identified as the issuer of debt, EDD/DCDP staff will facilitate discussions.
6. EDD/DCDP will arrange meetings with community representative when the project is determined to be ready for public input, as determined by the Director.
7. EDD/DCDP staff reviews completed application. Within 30 days of receipt of the completed application, EDD/DCDP staff will inform the developer in writing of a denial of the request, recommended changes, or positive recommendation to City Council. Failure to meet the deadline requires a written memo to Council detailing the reasons for delay.

8. If EDD/DCDP recommends approval then a recommendation is forwarded to the Finance Department and the Law Department, along with an FYI to City Council, with accompanying documentation. The recommendation to the Finance Director will indicate the public purpose and public benefit of the project and the need for public involvement and subsidy. Emphasis will be placed on determining the financial gap in this project and the return on the City's investment in the form of tax revenues generated.
9. The Finance Director will respond within 30 days of receipt of recommendation from EDD/DCDP. Failure to meet the deadline requires a written memo to Council detailing the reasons for delay.
10. The Law Department will produce all necessary legislation/agreements are prepared within 45 days of receipt of recommendation from EDD/DCDP. These may include but not limited to: Development Agreement, Service Payment Agreement, Cooperative Agreement, and School Board Agreement, TIF Creation Ordinance.
11. Completed legislation is forwarded to City Council for consideration. Compliance with the process is no guarantee of City Council approval.