



# City of Madison TIF Loan Underwriting Policy

## **TIF Policy Committee:**

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**The City of Madison Common Council reserves the right to make exceptions to the TIF Loan Underwriting Policy.**

The City of Madison has adopted these TIF Loan underwriting policies to provide a consistent, measurable, transparent process for the underwriting review and analysis of all applications for TIF assistance. This document is primarily meant to be used by prospective applicants for TIF assistance, elected officials, and City Staff.

## **SECTION 1: TIF LOAN UNDERWRITING**

### **TIF Loan Policies – All Development**

- (1) **Land Cost Due Diligence, Excessive Land Costs**—The City may consider write-downs from the value of the current land use to the market value of the proposed use provided that Developers shall demonstrate proper due diligence in the purchase of land, including but not limited to studies of soil conditions, comparable land prices, environmental issues. Prior to purchase, developers seeking TIF shall provide the City with documented market evidence that the purchase price negotiated is within an acceptable range of values for the property's current land use and condition. Developers shall conduct initial meetings with the district alder and planning staff concerning building height, land use and other issues and shall provide such findings to the City. Developers are encouraged to option land while such studies are performed. The City shall not assist write-downs for land purchases that greatly exceed the assessed value of the current land use(s), as determined by the City. The City of Madison is not obligated to provide TIF assistance for land costs, whether purchased or optioned. Developer shall provide all such studies or reports to the City at the time of application
- (2) **Environmental Remediation**—The City may consider the cost to remediate environmentally contaminated property when it exceeds the reasonable cost experienced on typical redevelopment projects. However, the City shall not provide TIF write-downs that eliminate a responsible party's obligation to remediate contaminated property.
- (3) **Assessable Infrastructure Costs**. TIF may not be used to pay for public infrastructure expenditures that are paid for by special assessments or other City charges. Non-assessable public infrastructure expenditures may be funded with TIF.
- (4) **Operating Costs** Operating Costs including, but not limited to, lease-up reserves, working capital are not eligible TIF expenses.
- (5) **City Fees**. Parks dedication, sewer, water assessments, etc. are not TIF-eligible.
- (6) **"But For" Standard**. Each project must demonstrate sufficient need for the City's financial assistance, so that without that assistance, the proposed project could not occur. Every other financial alternative is to be exhausted prior to the use of TIF, including equity investment, other federal and state funds, bonds, tax credits, loans, etc. TIF assistance shall be utilized as gap financing as determined through gap analysis, except as described in Section (7) below. Each project must demonstrate a probability of success.
- (7) **55% Gateway**: Projects shall comply with the 55% Gateway, as outlined in the TIF Goals, Objectives and Process document, Section 3.1(7).
- (8) **Gap Analysis Methods**. There are three types of projects that the City of Madison may consider for TIF Assistance:

- a. (Re)Development Project: The construction, rehabilitation or expansion of a structure that creates property tax increment in a blighted area TID. TIF assistance shall be determined by gap analysis conducted through a formal TIF Application submitted by Developer.
- b. Affordable Housing Project: TIF assistance may be provided to a residential real estate project in which no less than 40% of the units are affordable to households making less than or equal to 40% of Area Median Income (AMI), said units made affordable for a period of not less than 30 years. TIF assistance shall be determined by gap analysis of a formal TIF Application submitted by the Developer based the developer's identified need in a Wisconsin Housing and Economic Development Authority (WHEDA) Low Income Housing Tax Credits (LIHTC) application scoring estimate. Developer shall provide City Staff with their own WHEDA scoring estimate, based upon the current WHEDA LIHTC scoring sheet / formula.
- c. Jobs Project - "Pay for Performance": TIF assistance may be provided to an eligible Employer to accomplish the City's public purpose goal of job creation and/or retention. TIF assistance shall be determined by gap analysis of a formal TIF Application. In some instances a waiver of gap analysis may be granted to the Employer providing Employer complies with Subparagraph (c) 4. below.
  - 1) *Eligible Employers*. Employers from the following primary industry sectors as defined by their respective NAICS code, are eligible for Jobs Project TIF assistance:
    - a) Manufacturing
    - b) Medical/Biotechnology
    - c) Agriculture/Biotechnology
    - d) Digital Technology
    - e) Finance and Insurance
    - f) Alternative Energy, Water and Sustainability
    - g) Other Sectors Consistent with the Economic Development Plan
  - 2) *Employer Requirements*. Employers eligible for Jobs Project TIF assistance shall:
    - a) Construct and occupy (or lease and occupy) a newly-constructed or redeveloped facility for not less than the projected life of the Jobs Project TIF loan; and
    - b) Create and/or retain living-wage jobs as defined by Madison General Ordinance (MGO) 4.20, over the projected life of the Jobs Project TIF loan; and
    - c) Generate and guaranty tax increment (unless Employer is leasing under (c)3 below) sufficient to recover the Jobs Project TIF loan within the remaining statutory life of the TID.
  - 3) *Jobs Project Analysis Method*. TIF assistance shall be determined by gap analysis (unless the City grants Employer a Gap Analysis Waiver in Subparagraph 4. below) and measured according to the following standards:
    - a) Similar to the U.S. Small Business Administration 504 job creation standard, TIF assistance to a Jobs Project shall not exceed the standard established by the Small Business Administration for investment per job in TIF assistance and shall not exceed 60% of the net present value of tax increments generated by the Employer's project.
    - b) City Staff shall make a recommendation to the Common Council regarding the method and timing for the disbursement of TIF assistance to an Employer. This may include assistance being disbursed as a

conventional loan, as an end loan (“Pay for Performance”), or as a hybrid of the two.

- c) *Anchor Tenant Leases, Sales or Transfers*--In the event that Employer is leasing a significant amount (more than 30% of the net leasable area) of newly-constructed or redeveloped space from a Developer, or Developer constructs a “build to suit” structure that is initially leased and then sold or transferred to Employer, or some other method of property transfer, Developer shall guaranty that tax increments are sufficient to recover the Jobs Project TIF Loan from the date of loan disbursal to Employer. Employer shall guaranty that jobs are created and/or retained within a period not to exceed five (5) years. Developer’s increment guaranty obligations shall transfer to Employer upon the sale or transfer of the property to Employer.
- 4) *Jobs Project – Gap Analysis Waiver*. Gap analysis may be waived only if an eligible Employer proposes to retain and/or create at least 100 full-time, living-wage jobs, and meets one or more of the following criteria and upon acceptance of the City’s Jobs Project TIF Loan offer, provides a sufficient tax increment guaranty to repay the Jobs Project TIF Loan and a guaranty that living wage jobs, as defined by MGO 4.20, shall be created and/or retained over a period not to exceed five (5) years. A waiver may be granted under one or more of the following conditions:
- a) The Employer is a subsidiary of a large parent corporation, does not measure financial performance independently of the parent and is therefore unable to provide financial statements to facilitate gap analysis.
  - b) The Employer is soliciting or has received financial incentive bids from other communities that do not require gap analysis. The City will give greater consideration to applicants that provide documented proof of such bids.
  - c) Similar to the U.S. Small Business Administration job creation standard, Employers receiving a gap analysis waiver may receive a Jobs Project TIF loan not exceeding the standard established by the Small Business Administration for investment per job of TIF loan per job created or retained and total TIF assistance and shall not exceed 40% of the net present value of tax increments generated by the Employer’s project.
  - d) Staff shall determine the appropriate disbursement method for TIF assistance.
  - e) *Anchor Tenant Leases, Sales or Transfers*--In the event that Employer is leasing a significant amount (more than 30% of the net leasable area) of newly-constructed or redeveloped space from a Developer, or Developer constructs a “build to suit” structure that is initially leased and then sold or transferred to Employer, or some other method of property transfer, Developer shall guaranty that tax increments are sufficient to recover the Jobs Project TIF Loan from the date of loan disbursal to Employer. Employer shall guaranty that jobs are created and/or retained for a period not to exceed five (5) years. Developer’s increment guaranty obligations shall transfer to Employer upon the sale or transfer of the property to Employer.

**(9) TIF Underwriting Criteria.** Staff conducts a gap analysis of each project (unless Employer is granted a waiver under (8)). A Staff recommendation for TIF assistance to the project is submitted to the Common Council based upon the following factors:

- (a) The amount of TIF requested
- (b) The type of project: Redevelopment, Affordable Housing or Jobs Project

- (c) Whether or not a gap has been identified by TIF staff through gap analysis (if not, indicate that Jobs Project gap analysis waiver is requested).
- (d) The effect of an anticipated tax credit application upon the project (if applicable), and the effect of proposed TIF Loan on the project's score for tax credits given known previous successful scores
- (e) The estimated value and projected increment created by the project
- (f) The financial health and age of the TID
- (g) Comparison of gap to 50% Goal or Jobs Project Rules
- (h) If applicable:
  - 1)Quantity of living-wage jobs created and/or retained
  - 2)Quantity of affordable housing units and level of affordability
- (i) The amount of TIF (if any) recommended
- (j) A general statement of comments or issues concerning the project, including recommendations on the Council's evaluation, given the criteria in the TIF Goals, Objectives and Process Section 3.1(9).
- (k) Identify any requested exceptions to TIF policy

**(10)Equity Greater, Equal to TIF** TIF assistance shall not exceed the amount of equity provided by the Developer. Equity is defined as cash or un-leveraged value in land or prepaid costs attributable to the project. Donated Developer or Construction Management fees shall not be constituted as equity investment (See section 18 regarding Non-profit developers).

**(11)No Rent or Sales Price Write-Down** TIF assistance will be limited to the amount necessary to make a project competitive with other similar projects in the Madison metropolitan market area. The intent is not to provide below-market sales prices or rent subsidies to assisted projects, except as applied to assist affordable housing.

**(12)Self-Supporting Projects**

- a. Each for-profit project demonstrating a need for TIF assistance must generate sufficient tax increment to cover or repay both the TIF contribution to the project and a portion of the planned public infrastructure costs within the tax incremental district.
- b. No increment from other private development projects within a tax increment district may be used to supplement another project's inability to generate sufficient tax increment.

**(13)No Mortgage Guarantees.** The City will not provide mortgage guarantees.

**(14)Guaranty**

- a. Increment Guaranty - The City will require a personal guaranty of increment, sufficient to recover the City's debt service on City-financed TIF loans.
- b. Loan Agreement Guaranty - The City shall also require a personal guaranty to provide the highest level of security to the City, of the terms and conditions of the loan agreement. A corporate guaranty may be acceptable if it provides the City with adequate security.

**(15)Private Development Projects Used by Government Units.** The City may provide TIF assistance to a private development project wherein a unit of County, State or U.S. Government leases space when the project addresses all of the following situations:

- a. Satisfies all other underwriting policies for TIF assistance to private development projects.
- b. Maintains or expands existing employment or reuses a blighted or vacant property.
- c. Provides an anchor for an overall development plan that will include other commercial, office, housing or mixed uses.
- d. Advances a development plan in an already established tax incremental district.
- e. Private development projects assisted under this policy will be required to provide a full reimbursement of the City's financial assistance and expenses for the project in the event the project is removed from the tax roll.

- f. Projects will be funded under this policy with sources other than general obligation debt to the maximum possible extent, in accordance with the general policy of the City's use of TIF.

**(16) Land Use or Contract Violations** Agreements for TIF assistance shall provide for remedies in the event the applicant violates the land use approvals or other contractual arrangements.

**(17) Method of TIF Funding** The City reserves the right to determine the method of financing TIF loans that is in the best interests of the taxpayer. The City will consider using accrued tax increment, general obligation borrowing, internal borrowing, and developer-financed or pay-as-you-go financing. When utilizing pay-as-you-go financing, the City reserves the right to negotiate terms such as interest costs, time frames, maximum award amounts, disbursement schedules, and the percentage of increment available to developers. For projects using a substantial portion of increment or projects with multiple components or phases, the City may require pay-as-you-go financing at its discretion. Regardless of the financing method, all TIF expenditures will require Common Council approval.

**(18) Non-Profit Applicants** Non-Profit Applicants for TIF assistance will be analyzed on a case-by-case basis.