



Legislation Text

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Fiscal Note

The proposed resolution amends the City of Madison's "TIF Policy" with changes to the "Jobs Project" section and authorizes Economic Development staff to prepare a "Small Cap" Business TIF Program to assist small businesses with expansion projects in healthy Tax Increment Districts. The Jobs Project section will be amended so that the current 60% net present value and 40% net present value options for a Jobs Project are consolidated to include only the 40% net present value Gap Analysis Waiver underwriting standard to qualified Employers. A "Jobs TIF - B" Program will also be created to assist medium-sized employment expansions. The Small Cap Business TIF Program is anticipated to have lower job creation/retention and qualification requirements and would involve smaller dollar values of TIF investment. Common Council approval of the program guidelines will be required prior to program implementation.

The proposed resolution only includes policy changes to the City of Madison TIF Loan Underwriting Policy, City of Madison TIF Goals, Objectives, and Process, and Jobs Project section (aka Jobs TIF). No projects using TIF funding in the 2018 Adopted Capital Budget are affected by this resolution and no additional City appropriation is required.

Title

Amending the "City of Madison TIF Loan Underwriting Policy" and "City of Madison TIF Goals, Objectives, and Process" dated February 25, 2014 with changes to the "Jobs Project" section (aka Jobs TIF); and, directing staff to prepare program guidelines for a new "Small Cap" Business TIF Program targeted at small businesses.

Body

WHEREAS, the Common Council adopted the current "City of Madison TIF Loan Underwriting Policy" and "City of Madison TIF Goals, Objectives, and Process" (collectively referred to as "TIF Policy") on February 25, 2014; and,

WHEREAS, TIF Policy goals include a desire to grow the property tax base, foster the creation and retention of family-supporting jobs, encourage the adaptive re-use of obsolete or deteriorating property, and encourage urban in-fill projects that increase (or decrease where appropriate) density consistent with the City's Comprehensive Plan; and,

WHEREAS, the current TIF Policy included the addition of a new "Jobs Project" (aka "Jobs TIF") section focusing on the creation and/or retention of jobs; and,

WHEREAS, the City made its first three Jobs Project TIF investments in 2017; and,

WHEREAS, through the course of underwriting these first three projects, City staff and policy makers identified areas where the new Jobs Project section worked well and areas where modifications to the TIF Policy may be warranted; and,

WHEREAS, the Mayor, Common Council Executive Committee, and Economic Development Committee all expressed an interest in reviewing the Jobs TIF section of the TIF Policy, resulting in a review by City staff engaged in managing the City's TIF program; and,

WHEREAS, the City staff team prepared a memo to the Common Council Executive Committee and Economic Development Committee outlining its findings and suggesting potential changes to the TIF Policy dated May 15, 2018.

NOW THEREFORE BE IT RESOLVED that the TIF Policy be amended as follows:

- 1) The current 60% net present value and 40% net present value options for a Jobs Project, as outlined in Section 1(8)c of the “City of Madison TIF Loan Underwriting Policy,” shall be consolidated to include only the 40% net present value Gap Analysis Waiver underwriting standard to qualified Employers.

Section 1(8)c4a and Section 1(8)c4b of the “City of Madison TIF Loan Underwriting Policy” shall be removed and replaced with the following:

“An Employer shall create and/or retain at least 100 full time living wage jobs with benefits to be eligible for the Jobs TIF Program or create and/or retain at least 30 full time living wage jobs with benefits for the Jobs TIF - B Program and meet at least one of the following “but for” standards.

A created job is defined as any job that does not exist in Dane County at the time the Employer receives Common Council approval for investment of Jobs TIF funds.

A retained job is defined as any job that is under a credible risk to be relocated outside of Dane County. Staff determines the credible risk of jobs moving outside of Dane County by reviewing objective evidence of public assistance from a community outside of Dane County. Such objective evidence would include, but is not limited to: review of the applicable community’s TIF project plans, other financial assistance program guidelines, capital/operating budgets, authorizing resolutions for TIF or financial assistance, relevant land records indicating an Employer’s purchase, option, or ownership of property within the applicable community, securing land use entitlements, interviews with staff from the applicable community, an existing, operating facility in the applicable community, and/or similar records from State economic development organization of the location being considered.

“But For” Standards (must meet at least one of the following)

- a) After reviewing objective evidence, the City has determined that there is a credible risk, as defined herein, that the Employer may create jobs outside of the City of Madison due to a financial incentive from a competing community either inside or outside of Dane County if an investment of TIF is not made by the City of Madison; or, will not retain jobs in Dane County due to a financial incentive from a competing community outside of Dane County if an investment of TIF is not made by the City of Madison.

Such objective evidence would include, but is not limited to: review of the applicable community’s TIF project plans, other financial assistance program guidelines, capital/operating budgets, authorizing resolutions for TIF or financial assistance, relevant land records indicating an Employer’s purchase, option, or ownership of property within the applicable community, securing land use entitlements, interviews with staff from the applicable community, an existing, operating facility in the applicable community, and/or similar records from State economic development organization of the location being considered.

- b) The building to be occupied has remained vacant for more than 5 years.

- c) Employer proposes to locate or expand on a site that is platted and zoned for employment in the City of Madison and said site has remained vacant for more than 10 years. The proposed sale price of such site shall conform to the City’s land sale due diligence policy. The attached maps attempt to identify sites that currently meet this standard; however, the maps are not intended to represent an exhaustive list of 100% of the sites within the City that could meet this standard at any point in time.

d) The Project is located within a Tax Increment District (TID) that has been designated, or is proposed to be designated, as an “Opportunity Zone Tax Increment District” An Opportunity Zone TID is a District where more than 50% of the parcel land area (excluding street right of way) is located within a Federally-designated Opportunity Zone at the time of TID creation (or amendment in the case of existing TIDs). Designation of an Opportunity Zone TID shall include a finding by the Joint Review Board that “but for” an investment of TIF, proposed projects within the TID may not occur because the household income of the area is such that it warranted an Opportunity Zone designation. This “but for” standard can only be used by Employers applying for Jobs TIF support; it cannot be used by developers in lieu of a traditional gap analysis. Other TIF Policy requirements, such as the need for a project to be self-supporting, the amount of TIF invested, the required job creation/retention guarantees, etc. will continue to be followed when this “but for” standard is utilized.

Project utilizing this “but for” standard must also demonstrate one of the following:

1. A credible risk that new and/or existing jobs may be created and/or relocated outside of the City.
2. Employer no longer has the capacity at their current facility and needs to expand operations.
3. Employer already operated at a location within the proposed or existing Opportunity Zone TID for at least 5 years.

The geographic areas of the City that are eligible for designation as an “Opportunity Zone Tax Increment District” are those geographic areas designated by the Federal Government as Opportunity Zones in 2018, regardless of future changes to the Federal Opportunity Zone Program. The City reserves the right to review and revise these boundaries at a future date based on future Census information and periodic review of the City’s TIF Policy.”

2) Add the following TIF Process conditions to Section 1(8)c of the “City of Madison TIF Loan Underwriting Policy:”

- a) “Jobs TIF authorizing resolutions shall be submitted to the TIF Joint Review Board for final consideration and approval.
- b) An Employer that has received Common Council authorization for Jobs TIF by demonstrating credible risk of job retention and/or creation shall not invoke the threat of “credible risk” as defined herein within five (5) years of the Common Council authorization for Jobs TIF under that section. The Employer may apply for future TIF assistance but must demonstrate the creation of no less than 100 jobs within five (5) years, in addition to demonstrating a gap or demonstrating an alternative “but for” in Section 1 above, paragraphs b), c), d)2 or d)3.
- c) Employers that complete Gap Analysis and are provided a gap finding by TIF staff are not eligible to re-apply for Jobs TIF for the same project phase.
- d) An Employer receiving Jobs TIF shall not be eligible to receive Jobs TIF for a subsequent project or phase unless receiving the specific approval of the Finance Committee.”

3) Add to the TIF Policy language that standardizes the disbursement schedule for projects receiving Jobs TIF support as follows:

“Jobs TIF Disbursement Schedule

- a) Disburse 40% of the authorized TIF assistance to the Employer at closing of the Jobs TIF Loan upon receipt of a draw request

- b) Disburse the next 40% of the authorized TIF assistance when the Employer occupies the Project (occupancy being evidenced by a Certificate of Occupancy), provides evidence that it has created and/or retained 50% of the projected jobs, and upon receipt of a draw request.
 - c) Disburse the remaining 20% of the authorized TIF assistance when the Employer demonstrates that it has created and/or retained 100% of the projected jobs, and upon receipt of a draw request.”
- 4) Clarify that the City will disburse Jobs TIF funds via an escrow account upon the receipt of draw requests by including the following language within the TIF Policy:

“Jobs TIF funds shall be deposited into escrow upon closing. They shall then be disbursed to the Employer upon receipt of a draw request that includes contractor invoices for an amount at least equal to the amount disbursed, per the disbursement schedule outlined in this Policy.”

- 5) Note that the City will request a credit analysis for Jobs TIF applicants by adding the following language to the TIF Policy:

“The City will require a credit analysis of all Employers applying for Jobs TIF support to determine any potential risks associated with entering into a Jobs TIF loan with that Employer. Depending on the complexity of the project, TIF staff may complete this analysis and/or retain an outside third party to complete the analysis.”

- 6) Amend references to full time living wage jobs throughout the TIF Policy by adding the phrase “with benefits,” so that the requirement reads “full time living wage jobs with benefits.” Include a provision that the benefits package must include health care coverage.

- 7) Create a “Jobs TIF - B” Program to assist medium-sized employment expansions by incorporating the following language in the TIF Policy:

“Jobs TIF - B” Program

“A weighted Jobs TIF program for medium-sized Employers, or “Jobs TIF - B”, would comprise the following:

A medium-sized Employer would be defined as an Employer that is creating and/or retaining between 30 and 99 jobs, as defined herein, within a five-year period following occupancy as evidenced by a Certificate of Occupancy.

A medium-sized Employer is eligible for a percentage of Jobs TIF represented by the number of jobs created and/or retained, as defined herein, divided by 100, said percentage being applied to the amount of Jobs TIF available to the project at 40% of TIF.

For example, assuming a \$10 million project value, an Employer creating or retaining 100 jobs would be eligible for about \$560,000 at 40% of TIF. Using the weighted formula above, a medium-sized Employer with 20 existing employees but creating and/or retaining 30 jobs would be eligible for 30% of that figure or \$168,000. At 50 jobs, the Employer could receive \$280,000, etc.

All other TIF policies would apply to the Jobs TIF - B program, including the creation of a minimum of \$3,000,000 of incremental value, the requirement that a project be self-supporting and all other adopted City TIF policies.”

- 8) Clarify the relationship between Employers and Developers to the Jobs TIF Program by adding the

following language to the TIF Policy:

“Jobs TIF and Jobs TIF - B is only available when the Employer is the applicant, either as the owner or lessee of property they occupy. In some cases, an Employer-affiliated LLC controlled by a parent company may own the real estate and improvements, lease them back to the Employer and still be eligible for Jobs TIF or Jobs TIF - B. In such cases, a jobs and tax increment guaranty shall be required from the parent company if the applicant is a subsidiary of the parent company.

In situations where a developer, not the Employer, is the applicant, the traditional gap analysis underwriting shall be used.”

- 9) Clarify when during the process the Gap Analysis Waiver should be considered by the Finance Committee by adding the following to the TIF Policy:

“The Finance Committee will consider a Gap Analysis Waiver for a Jobs TIF Project after staff has received a project value estimate, completed a TIF run estimating the amount of Jobs TIF investment under consideration, and conducted a credit review of the Employer.”

BE IT FURTHER RESOLVED THAT Economic Development Division staff and the City Attorney’s Office are authorized to modify wording and re-format the TIF Policy in such a way that these items can be added/changed in a manner that captures the intent of this resolution while creating a readable TIF Policy; and,

BE IT FINALLY RESOLVED that Economic Development Division staff are requested to begin preparing a “Small Cap” Business TIF Program, patterned off-of the City’s current residential “Small Cap” TIF loan program, to assist small businesses with expansion projects in healthy Tax Increment Districts. It is anticipated that such a program would have lower job creation/retention and qualification requirements and would involve smaller dollar values of TIF investment. Common Council approval of the program guidelines will be required prior to program implementation.