

# CITY OF INDEPENDENCE, MISSOURI

## TAX INCREMENT FINANCING

Application Procedures, Policy Considerations and Application Form



Revised

November 7, 2005 - Resolution No. 5225

### **Important Notice and Disclaimer**

The attached procedures, policies and forms have been prepared by the City of Independence, Missouri (the "City") and The Tax Increment Financing Commission of the City of Independence, Missouri (the "TIF Commission") for the purpose of assisting private developers in the consideration of whether Tax Increment Financing ("TIF") for prospective projects is a realistic possibility. The authority to make the legislative findings and determinations necessary for the compliance with the TIF Statutes is vested solely and only in the City Council. Applicants and Projects are cautioned that the attached materials have been prepared primarily for informational purposes to inform applicants of the types of projects the City would consider for TIF assistance. The City reserves the right to reject any and all projects, even those which satisfy all of the attached criteria for the use of TIF for any reason whatsoever, without regard for the viability of the project. Furthermore, the City reserves the right to waive any non-conformance to these policies and approve any project the City deems favorable to the City.

## **Overview of the TIF Process**

- 1. An Application is submitted by private developer applicant to City's Department of Community Development.**
- 2. Community Development will review application and determine whether the Application is complete and whether the proposed project is eligible under the City's policy.**
- 3. Within 15 days after the filing of the application the City will cause a public notice to be inserted in a newspaper of general circulation in the City requesting proposals for development in the proposed project area.**
- 4. Within ninety (90) days of filing, the Application will be forwarded by City Staff to the TIF Commission for consideration.**
- 5. The Applicant submits TIF Redevelopment Plan to Commission.**
- 6. The TIF Commission conducts hearings and processes Application and Redevelopment Plan in accordance with requirement of TIF Statutes.**
- 7. Consideration will be given to material the City Staff desires to report.**
- 8. The TIF Commission approves or denies Redevelopment Plan.**
- 9. The City Council considers Redevelopment Plan and proceedings of the TIF Commission.**
- 10. The City considers Ordinance making necessary findings and approving Redevelopment Plan and Redevelopment Agreement.**
- 11. Execution of the Redevelopment Agreement between the City and Applicant.**

# Application Procedures

## 1. APPLICATION:

*Submission.* The TIF Application form, policies and procedures are available from the Community Development Department. Not less than 25 copies of the completed Application should be submitted to the Community Development Department together with the required application fee.

*Application Fee.* Each Application shall be accompanied with a check in the amount of \$10,000 made payable to the City (the "Application Fee"). Applications between 15 and 30 acres require a \$15,000 application fee. Applications over 30 acres require a \$25,000 application fee. Applications involving issuance of public bonds require an additional \$15,000 application fee. The Application Fee will be used by the City to pay the costs incurred by the City in the review of the Application. Such costs include the fees and expenses of the City's Staff time, Bond Counsel and Financial Advisor. Full amendments to a TIF Plan require a \$10,000 application fee and minor amendments require a \$5,000 application fee. In the event costs for third-party services exceed the fee collected, the applicant will reimburse the city for said amount prior to final consideration of the application by the City Council.

*Preliminary Determination of Completeness.* Upon submission the Application will be reviewed to determine if it is complete. If the Application is incomplete or if additional information is needed the Applicant will be notified in writing that the Application is not complete, and the reasons will be stated referring to the specific criteria that are not met, additional information required, or financial, legal or planning and development concerns.

*Requests for Proposals.* Within 15 days after the filing of the application the City will cause a public notice to be inserted in a newspaper of general circulation in the City requesting proposals for development in the proposed project area.

## 2. STAFF REVIEW:

Review of the Application will be conducted by the City's Finance, Law, Public Works, and Community Development Departments, and, when deemed appropriate by other City Staff, the City's Financial Advisor and Bond Counsel. Review time will be approximately 30 days from the date the completed Application is submitted to the City. However, more or less time may be required for particular Applications. Applications which are determined to be complete, consistent with all elements of the City's Comprehensive Plan, and in conformance with the City's policy will be forwarded to the TIF Commission for consideration. Applicants will be notified in writing of the City's Staff forwarding the Application to the TIF Commission.

Applications which are determined to be incomplete or do not conform with the City's policy will not be forwarded to the TIF Commission. Applicants will be notified in writing of a determination that the Application will not be forwarded.

### 3. TIF COMMISSION CONSIDERATION:

The TIF Commission may desire to hold one or more study sessions before any public hearing is held. During this period the Applicant may be required to submit a completed Redevelopment Plan. At the public hearing City Staff will introduce the subject material and the Applicant. The Applicant will make a presentation to the TIF Commission followed by the presentation of any material the City's Staff desires to report. Public comment will then be heard, followed by a response from the Applicant. After TIF Commission discussion, action may be taken to approve, deny or to continue the case to a date certain for further consideration. The TIF Commission will make the determination of whether the public hearing portion of the case will be closed or continued to a date certain.

If the Application and Redevelopment Plan are approved by the TIF Commission, the TIF Commission will make the findings and determinations required by the TIF Statute. The Application and Redevelopment Plan will be forwarded to the City Council.

City staff may require an independent feasibility study. The cost of such study shall be paid by the Applicant and shall be prepared by a professional consultant having a favorable reputation for the preparation of such studies. This study would be submitted to the TIF Commission prior to the public hearing by the TIF Commission.

Legal notices and mailings to taxing districts and property owners as required by statute, shall be reviewed by the City's Law Department prior to being mailed or published.

### 4. CITY COUNCIL CONSIDERATION:

The City Council may have a study session on the Application and Redevelopment Plan and will hold a public hearing before consideration of an ordinance. The recommendation of the TIF Commission may be approved, denied or amended by the City Council.

## Policy for the Use of Tax Increment Financing

**WHEREAS**, the City of Independence (the "City") finds it in the best interest of the public to establish certain policies and guidelines for the consideration of proposals that may be presented to the City by private developers requesting Tax Increment Financing ("TIF") assistance; and,

**WHEREAS**, by adopting this policy the City has determined that the use of TIF should be reserved for projects which further an important and clearly definable public interest of the City, and the City desires to restrict those projects which are eligible for TIF assistance to projects which further such a purpose; and,

**WHEREAS**, by adopting this policy the City intends to set forth a flexible framework for evaluating private Applications for TIF assistance; and,

**WHEREAS**, the use of TIF by the City is important to the City because many areas of the City are in need of public improvements that would foster development and redevelopment and TIF represents an important tool for encouraging the development of projects the City finds and determines are desirable and in the public interest; and,

**WHEREAS**, all prospective TIF projects must be carefully evaluated by the City because the character of tax revenues generated by different developments can vary widely, and in most cases will impact other taxing jurisdictions in the Independence community; and,

**WHEREAS**, the City desires to use TIF for those projects which demonstrate the highest public benefit by eliminating blight, financing desirable public improvements, strengthening the employment and economic base, increasing property values, reducing poverty, creating economic stability, upgrading older neighborhoods, facilitating economic self sufficiency, and implementing the Comprehensive Plan and economic development strategy of the City; and,

**WHEREAS**, the staff of the City is to pursue discussions about this policy with other taxing jurisdictions impacted by TIF in the City of Independence; and,

**WHEREAS**, each private TIF Application submitted to the City will be evaluated on its own merits, and an evaluation of the proposal will be performed by City Staff; and,

**WHEREAS**, all projects must demonstrate financial and economic reasons such that they would not otherwise go forward and be viable, but for conditions of blight, extenuating circumstances which exist in the site, location, or other factors related to the development.

**NOW, THEREFORE, THE TAX INCREMENT FINANCING POLICY FOR THE CITY OF INDEPENDENCE, MISSOURI, WILL BE AS FOLLOWS:**

**Section 1.** That the Tax Increment Financing (TIF) Policies and Guidelines for Application and Application Procedures are hereby adopted as fully set out herein and the City Manager is hereby authorized to implement the following procedures and to make such additional changes and clarifications that shall be deemed advisable and in the best interest of the City:

**A. General Policy.**

1. It is the policy of the City to consider the judicious use of TIF for those projects which demonstrate a substantial and significant public benefit by constructing public improvements in support of developments that will, by creating new jobs and retaining existing employment; eliminate blight, strengthen the employment and economic base of the City, increase property values and tax revenues, reduce poverty, create economic stability, upgrade older neighborhoods, facilitate economic self sufficiency, and implement the Comprehensive Plan and economic development strategy of the City.

2. Care will be exercised in the use of TIF to thoroughly evaluate each project to ensure that the benefits which will accrue from the approval of the agreement are appropriate for the costs which will result, and that they are equitable to the City as a whole.

3. The City will charge an administrative fee of two percent (2.0%) per annum to partially offset the cost of record keeping, report preparation, and accounting for each approved TIF Project. The fee may be assessed on a quarterly basis against the annual increment generated by the TIF Project.

**B. Policy Guidelines.** The following criteria are to be used by the City's staff to evaluate TIF Applications:

1. TIF Applications for residential redevelopment projects may be considered for removal of blight and revitalization of older developed neighborhoods, and/or to provide for public improvements to benefit economic development and employment.

2. Each TIF Application must demonstrate that "but for" the use of TIF, the project is not feasible and would not be completed without the proposed TIF assistance.

3. All TIF Applications requesting the issuance of bonds or notes will be required to demonstrate that the payments in-lieu of taxes and/or the economic activity taxes expected to be generated will be sufficient to provide a debt coverage factor of at least 1.25 times the projected debt service on any tax increment bonds or notes. This limitation shall not apply to infrastructure projects which involve the redevelopment of existing structures or the assembly and clearance of land upon which existing structures are located.

4. The total amount of TIF assistance for project costs for industrial, manufacturing, office, retail, commercial, and existing residential TIF Applications should not exceed fifteen percent (15%) of the total project costs. This limitation shall not apply to infrastructure projects which involve the redevelopment of existing structures or the assembly and clearance of land upon which existing structures are located.

5. TIF will generally be reserved for projects, which do not qualify for alternative methods of financing, such as, Chapter 353 or Neighborhood Improvement Districts or where TIF assistance is deemed by the City to be the preferred method of economic development incentive.

6. Each TIF Application must include evidence that the applicant:

(a) Has the financial ability to complete and operate the project.

(b) Will be liable for, or contribute equity of at least fifteen percent (15%) of the total cost of the project or provide a performance bond for the completion of the project. Projects with equity contributions from the developer in excess of fifteen percent (15%) will be viewed more favorably.

(c) Has thoroughly explored alternative financing methods.

7. The City will maintain a retainage account until each project is completed or satisfies other performance standards.

8. TIF Applications for new or expanded industrial, manufacturing and office projects will be viewed more favorably than retail and service commercial projects. TIF projects which create jobs with wages that exceed the community average will be encouraged. Industrial, manufacturing and office developments will be given more consideration than warehouse type uses based upon the projected employment per square foot. Additional consideration will be given to projects in excess of twenty million dollars (\$20,000,000) or the development of vacant property in areas where the project will be the initial development, if it is believed that the project will serve as a catalyst for further high quality development.

9. TIF Applications for retail and service commercial projects should be limited to those projects that encourage an inflow of customers from outside the City or will provide services or fill retail markets that are currently unavailable or in short supply in the City. Additional consideration will be given to projects in excess of twenty million dollars (\$20,000,000) or the development of vacant property in areas where the project will be the initial development, if it is believed that the project will serve as a catalyst for further high quality development.

10. TIF Applications for the redevelopment of existing residential neighborhoods, commercial and industrial areas will be viewed favorably. Projects to stabilize current residential neighborhoods, commercial, and industrial areas that have or will likely experience deterioration will be favored.

11. The projected term of the TIF will be a factor, with shorter terms being viewed more favorably than longer terms. TIF Applications which provide for the use of not more than twelve (12) years of tax increment financing generated by each redevelopment project will be preferred.

12. All TIF Applications must clearly comply with the requirements of the TIF Statute.

13. All approved projects must comply with prevailing wage and hour requirements for public works projects, as set forth in 290.210 R.S.Mo. et. seq. for all portions of the project receiving TIF assistance. Work to be covered by TIF funds will be identified in the application.

14. TIF Applications which include the establishment of business areas, or the redevelopment of existing business areas, should include information as to the business type of the major tenants of the TIF area. In addition, a thorough market analysis should be completed which identifies: (1) the population areas that will be drawn from; and, (2) the businesses of similar types which would be competing with the TIF area businesses.

15. TIF Project proposals for the Southeast Overlay Zone Area shall include the following considerations:

- a. Retail development must incorporate at least one other major use as part of the first phase of development. Such use shall comprise at least 20% of the total site area for the completed project. Major, high quality land uses including multi-story Class A office, quality multi-family residential and/or full service and/or convention hotel will be required as an integral part of the development proposal.

- b. Access and enhancements to adjacent public-park, open space, recreation facilities and infra-structure may be required.
- c. Natural features and sensitive areas of the site must be identified and preserved or a plan established for replacement or mitigation (off-site mitigation will be considered). Sensitive areas for this purpose are defined as wetlands, wooded areas, flood plains, creek beds, high points, archeological sites, and historic and culturally significant places.
- d. Retail uses such as adult book and video sales, adult entertainment, more than one fast food restaurant, except in designated areas as shown in the Comprehensive Plan, and retailers of intoxicating liquor by the drink and retailers of intoxicating liquor in the original package that operate as a primary use are prohibited. Other uses not specified will be reviewed and may be regulated.
- e. Direct access to 39th Street and the Little Blue Expressway will be limited. Direct access to other arterials will be subject to evaluation.
- f. Use of TIF funds for retail development are restricted to extraordinary costs over and above normal developer requirements unless a direct public purpose is substantiated, as solely determined by the City.

16. Notwithstanding the foregoing, TIF Applications which do not meet any of the above-reference criteria will be viewed favorably by the City if the Application clearly demonstrates that the project is of vital interest to the City and will significantly assist the City in the elimination of blight, financing desirable public improvements, strengthening the employment and economic base of the City, increasing property values, reducing poverty, creating economic stability, upgrading older neighborhoods, and facilitating economic self sufficiency.

**C. Accountability.** TIF Applications are expected to include the following:

1. If the TIF Application is being recommended based upon job creation criteria, language will be included in the Plan which stipulates that the City's obligation to the developer may be reduced if satisfactory evidence is not shown that the indicated number, and quality of jobs have been generated.

2. If businesses are to be relocated from other areas of the City, sufficient justification will be included to indicate why this relocation should be considered. If existing businesses are to be relocated to the TIF area, the base year activity for purposes of determining the tax increment for both real property and EATS taxes will be the last twelve month period at the businesses current location, immediately preceding the relocation.

**D. Method of Financing.** TIF Applications may request that TIF assistance be provided in one of the following forms:

1. Special Obligation Bond or Note Financing;
2. Direct Reimbursement to the Applicant;
3. Pledge of tax increment financing revenues to pay private financing; or,
4. Any combination of the foregoing methods.

In deciding which method of financing to use, the prevailing factor in making the determination will be total costs and the security for the bonds. The City may not provide credit enhancements for the special obligation bonds or notes, however, credit enhancement provided by the developer on any bonds or notes will be viewed favorably. The decision as to what method of financing will be left solely to the City. The City Charter requires that all bonds be sold at competitive sale.

The City will require as part of the redevelopment agreement a commitment that, if the property within the redevelopment area is transferred to an entity exempt from the payment of property taxes, the developer or subsequent owner of the property will have to continue the payment obligation for the PILOTs during the term of the project.

**E. Certain Economic Activity Taxes.** Only local option sales taxes will be considered for purposes of the tax increment derived from TIF economic activity taxes. Economic activity taxes shall not include utility franchise taxes collected either from private utilities or as payments in-lieu of taxes from publicly owned utilities to the extent such exclusion is permitted by law.

**F. Term.** The maximum period for which a TIF can be used is established by the TIF Statute at twenty-three (23) years.

**G. Other Conditions.** The City reserves the right to modify or waive any or all of these Policies and Procedures.

**Section 2.** That all other Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

## APPLICATION FOR TAX INCREMENT FINANCING ("TIF")

APPLICANT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE #: \_\_\_\_\_

FAX #: \_\_\_\_\_

CONTACTPERSON: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

*Application Format: On a separate sheet of paper please answer the following questions. Please type each question prior to the applicable response.*

- (1) In no more than three pages provide relevant information on the Applicant's background and development experience. Include resumes of key individuals assigned to the project.
- (2) Identify the Applicant's consultants involved or proposed to be involved in the project noting relevant experience on similar projects (i.e., civil engineer, land use planner, Applicant's legal counsel, Applicant's financial advisor).
- (3) Describe the proposed project, including the size and scope and phasing of the proposed project. Specifically outline residential development, if any, to be included in the project.
- (4) Define the boundaries of the proposed TIF area by address and locator number(s). Include a map of the proposed TIF area.
- (5) Identify the property which is currently in the control of the Applicant via ownership or option. If under option note the option expiration date.
- (6) Is the property currently zoned for the proposed use? If not, what zoning change will be required?
- (7) Will the proposed project result in the relocation of residential, commercial or industrial facilities? If so, discuss the nature of any anticipated relocations.

- (8) State the need and justification for TIF assistance. Explain how the applicant intends to demonstrate compliance with the "but for" test. Substantiate that other alternative methods of financing have been thoroughly explored.
- (9) Discuss the condition(s) that would qualify the proposed TIF District as a "blighted area" or "conservation area," as defined under Mo. Rev. Stat. 99.805.
- (10) Identify sources, amounts, and status of all debt financing and/or equity funding available to complete the project. Does the applicant anticipate the debt to be privately financed by the construction lender or developer or publicly sold? Please prepare information in the following table format.

<u>Source</u>	<u>Amount</u>	<u>Term</u>	<u>Status</u>	<u>Contact Person</u>	<u>Contact Telephone #</u>
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- (11) Provide an outline of the costs associated with the development of the proposed project(s) and related parcel or parcels located within the TIF area. Identify in the outline those costs you would propose to fund with TIF financing and the proposed payback time frame.
- (12) In one page or less, discuss and document information used to describe the market feasibility of each element of the proposed project. If a formal feasibility or comparable studies have been prepared, attach such reports as an appendix to this application.
- (13) On a revenue worksheet estimate the incremental property taxes and economic activity taxes to be generated by the project.
- (14) Provide an estimate of the market value of all fixtures and equipment to be used by all owners or tenants of the proposed project which will be taxed as personal property.
- (15) Identify any proposed tenants of the project. Have leases been negotiated or signed? What type of lease is contemplated?
- (16) Who will own the developed property?
- (17) Briefly describe the "economic and quality of life" benefits of the proposed project to the City.
- (18) Attach a letter from a financial institution indicating that the applicant has sufficient financial resources to obtain the private financing for the project.