

City of Batavia Policies and Procedures Relating to the Use of Tax Increment Financing

I. Introduction

The purpose of this document is to provide guidance for the City of Batavia's use of Tax Increment Financing (TIF) assistance for development activities in its TIF Districts. These policies are separate from the established Façade, Downtown Development and Signage Grant programs. These policies apply specifically to low interest loans and redevelopment projects within the existing TIF Districts.

As a matter of policy, the City of Batavia will consider using TIF to assist private developments only in circumstances where: 1) the developer can demonstrate a financing gap where a reasonable rate of return cannot be obtained; and 2) the project is consistent with the City's overall development goals, the City's applicable TIF Plan and this policy. The City will also consider using TIF to support public and or not-for-profit developments that promote the City's overall development goals and/or encourage further economic activity within the district.

In addition to assisting private developers, public and not-for-profit agencies that engage in redevelopment activities; the City will also use TIF to construct public infrastructure that furthers redevelopment goals within the district.

This policy shall be used as a guide in processing and reviewing requests for TIF assistance. The City Council shall have the option of amending or waiving sections of this policy when determined necessary or appropriate.

The fundamental purpose of TIF assistance is to encourage desirable development/redevelopment projects that would not otherwise occur "but for" the assistance provided through TIF.

It is the intent of the City to provide the minimum amount of TIF assistance to make the project viable. The provision of financial assistance is at the sole discretion of the City. The City reserves the right to reject or approve the projects on a case-by-case basis, taking into account established policies, specific project criteria and the demand on City services in relation to the potential benefits to be received from the proposed project. Meeting policy guidelines or other criteria does not guarantee the award of TIF assistance. Furthermore, the approval or denial of one project is not intended to set a precedent for approval or denial of another project. The purpose of the City's TIF

assistance program is to encourage private activity that will aid the City in advancing its own redevelopment goals and objectives and add long-term value to the community. It is the intention for these programs to be an incentive for new buildings and redevelopment projects of existing buildings within the TIF Districts. It is not intended for maintenance or repetitive grants on the same parcel or PIN more than once every ten (10) years.

II. TIF Funding Objectives (Downtown Project Areas)

The City will consider utilizing TIF funds within the downtown redevelopment project areas for the following purposes:

- A. Attracting, retaining or expanding businesses for the purpose of improving the City's economic base.
- B. Encouraging development projects that enhance the streetscape and pedestrian experience and improve the vitality of the downtown by adding interest and activity on the first floor of mixed-use buildings.
- C. Improving the public infrastructure.
- D. Providing a variety of quality housing choices.

III. Eligible Development

The type of development for which the City will consider TIF funding include the following:

- A. Attraction and or expansion of retail, restaurant, or other uses that enhance the vitality and character of downtown Batavia
- B. Creation of new downtown housing (owner occupied/rental)
- C. Historic revitalization
- D. Projects consistent with approved City development policies and plans.
- E. Development compatible with other redeveloped properties in terms of land use, capital improvements, and pedestrian/vehicular traffic patterns.

F. Sustainable development.

IV. General Policies for the use of TIF

- A. TIF assistance will not be provided to projects that are financially viable without the benefit of assistance. Assistance will not be provided solely to broaden a developer's profit margin on the project, if a reasonable rate of return is already being generated. Prior to consideration of a TIF assistance request, the City will undertake an independent analysis of the project costs to ensure that the request for assistance is valid.
- B. Individuals requesting TIF assistance must demonstrate, to the satisfaction of the City, sufficient equity investment in the project. Equity is defined as cash or un-leveraged value in land or prepaid costs attributable to the project.
- C. TIF assistance for land/property purchase costs will not be provided in an amount exceeding ten percent (10%) of the fair market value to the property, unless the property will be utilized for a public purpose. The fair market value will be determined by an independent appraiser hired by the City.
- D. The developer shall provide any market and financial feasibility studies, appraisals and all information provided to private lenders for the project as well as any other information or data which the City, or its financial consultants, may require in order to review the need for TIF assistance.
- E. TIF assistance will not be used for projects that place extraordinary demands on City infrastructure or services.
- F. The developer shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to, letters of credit, cash escrow and personal guarantees as requested by the City.
- G. The developer must be able to demonstrate to the City's satisfaction, an ability to construct, operate and maintain the proposed project based upon past experience, general reputation and credit history.
- H. When the project is intended as a for-sale development (i.e., office, retail or residential condominiums), the developer must retain ownership of the overall project until final completion; provided, however, that individual condominium units may be sold as they are completed. For all other projects, the developer

must retain ownership of the project at least long enough to complete it, to stabilize its occupancy, to establish the project management and to initiate payment of taxes based on the increased project value.

- I. The level of TIF assistance should be reduced to the lowest possible level in the least amount of time by maximizing the use of private debt and equity financing first.
- J. The total amount of direct TIF assistance for a given private development shall not exceed 20% of the total project costs.
- K. Each TIF project must demonstrate the probability of economic success. The developer shall initiate this effort by submitting to the City preliminary sales, rental and other data projections and/or proforma analyses concerning the subject site.

V. Criteria for TIF Assistance

- A. TIF assistance will be provided by the City on a “pay-as-you-go” note method. Requests for up-front financing may be considered on a case-by-case basis if increment generation is sufficient to meet initial financing and debt service costs. The developer will be responsible to provide tax bills and any other required information to allow the City to track the increment produced by the project.
- B. The amount of assistance provided to a developer will be limited to the amount necessary to provide the developer a reasonable rate of return on investment in the project and the subject site. A developer’s return on equity, return on cost or internal rate of return will be based on current market conditions as determined by the City.
- C. Projects receiving assistance may be subject to a “look back” provision per a redevelopment agreement (RDA) with the City.
- D. No applicant shall be eligible for grant funds if they have any current delinquencies to the City, or if they have been delinquent or past due on City accounts more than four (4) times in a calendar year, nor shall an applicant be eligible if they have declared bankruptcy in the past seven (7) years.

VI. Loan Program

Low interest loans may be made available at a lower interest rate than banks rates. The rate shall be established by the City Council and redetermined annually. Maximum amounts loaned shall not exceed \$75,000. One loan may be made available per parcel or PIN once every ten (10) years. A personal guarantee is required for any loan, and the City shall be permitted to record a lien and/or mortgage against the property for such loan. Any bankruptcy or default shall entitle the City to immediately call the remaining balance of the loan, draw on the personal guarantee and/or foreclose on the lien established on the property. Loan duration shall be no longer than ten (10) years or one month less that the remaining life of the TIF District, whichever is shorter. Qualification for any loan shall include a background and credit check before approval of any loan agreement.

VII. Eligible Properties

- A. The City may consider financial assistance only for projects that have or will generate TIF incremental property taxes during the life of the TIF. The City Council may grant exceptions to this policy as it relates to other governmental bodies that collect property taxes in the TIF, subject to reduction by any TIF funding they already receive as required by State law.

VIII. Application Process and Procedure

See Tax Increment Financing Assistance Application.

City of Batavia, Illinois
Economic Development
Tax Increment Financing Assistance Application

Overview

The Economic Development Office (EDO) reviews all applications for tax increment financing (TIF) assistance. This application is to assist all decision makers in ensuring the all necessary information is available. All applications will be reviewed in a timely fashion.

1. Convene Introductory Meeting Prior to Formal Submission of Application.

Prior to preparation of a formal TIF application, the prospective applicant should request a meeting with the appropriate EDO and Community Development Department (CDD) staff to discuss the concept of the potential project and its scope as well as obtain general information.

2. Submission and Review of Application.

The EDO requires submission of a formal application for TIF assistance in order to consider an applicant's request for assistance. TIF assistance may only be used to pay for eligible costs in accordance with the applicable Illinois Statutes. An application must include all items referenced in the TIF Application Instructions. Applicants are required to demonstrate a financial need for assistance as well as indicating the public benefit.

3. Prepare and Negotiate Term Sheet

This document spells out the business terms and conditions associated with the proposed TIF assistance.

4. Present Proposed Plan to Community Development Committee

5. Draft and Negotiate Agreement with City. Note: This agreement does not constitute any zoning entitlements or plan approvals.

6. Present Agreement to Community Development and the City Council for Approval.

The agreement will not be considered valid until executed.

7. Implement Project/Payout Funds.

**City of Batavia, Illinois
Economic Development
Tax Increment Financing Assistance Application**

TIF Assistance Application Instructions

The Economic Development Office (EDO) will review all applications for TIF assistance. The EDO will solicit input from other city staff during the review process, as deemed necessary. In order for the EDO to effectively evaluate a request for TIF assistance, the applicant must:

- Provide all applicable items in a single submission;
- Organize the submission and present the required information in the manner indicated below; and
- Provide an electronic copy, additional hard copy may be requested upon submittal.

Failure to provide all required information in a complete and accurate manner could delay processing of the application. The EDO reserves the right to return applications that lack all required items.

General Project Information

1. Summary Letter

Provide a summary of the project in the form of a letter addressed to the EDO. The letter should include the following essential information about the project:

- Description of the site or building, including address and TIF District
- Amount of TIF assistance
- Current and proposed uses
- Statement regarding why TIF is necessary
- Description of end users
- Provide a summary of increment projections
- Project start and end dates
- Name of developer and owner
- List of Parcel Index Numbers (PINs) included in the proposal
- Total development costs
- Profitability
- Overview of private-sector financing
- Description of public benefits, including job creation

2. Project Narrative

Provide an in-depth overview of the project in narrative format. The narrative must include a description of the following aspects of the project:

- Current condition of the site and historical overview that includes the size and condition of any existing structures, environmental conditions, and past uses of the site.
- Proposed use(s) of project (e.g. industrial, commercial, retail, office, or mixed-use).

- Construction information about the project including: size of any existing structure to be demolished or rehabbed; size of any new construction; types of construction materials (structural and finish); delineation of square foot allocation by use; total number and individual square footage of residential units; type of residential units (e.g. for-sale, rental, condominium); number of affordable residential units; degree of affordability of residential units (i.e. 100% AMI, 80% AMI, 60% AMI); number and type of parking spaces; and construction phasing.
- Confirm that this project is consistent with the goals and objectives identified in the applicable TIF Redevelopment Plan. Copies of TIF Redevelopment Plans are available on the City’s website (www.cityofbatavia.net/business).
- A summary of proposed “green” features to be included in the project. Projects that receive TIF assistance are strongly encouraged to, but are not required to include environmentally friendly features. However, when appropriate, include details regarding the type and extent of green roof or other environmental elements that will be provided and the degree of LEED certification, or equivalency that will be obtained.
- Provide preliminary architectural elevations, plans and renderings for the project.
- Submit documents to verify that the developer has control of the project site or that the Applicant has, or will have control of the property. Acceptable documentation may include deeds, title policies, leases, options, and real estate sales contracts. If the property has yet to be acquired, provide a statement regarding the method of acquisition, status and next steps of the related processes.

Detailed Project Information

3. Project Timeline

A comprehensive project timeline is required. Include anticipated dates for site acquisition or lease, project start and completion, as well as other project milestones. Multi-phase projects must include details for each phase. The timeline should also identify any critical or time-sensitive dates as well as any time constraints facing the Applicant.

4. Public Benefits

Fully describe the public benefits that can be realized by the completion of this project. Projects with a high degree of public benefit are typically more likely to receive TIF assistance. Examples of public benefits include, but are not limited to the following:

- Attraction and or expansion of retail, restaurant, or other uses that enhance the vitality and character of downtown Batavia
- Creation of new downtown housing (owner occupied/rental)
- Historic revitalization
- Projects consistent with approved City development policies and plans.
- Development compatible with other redeveloped properties in terms of land use, capital improvements, and pedestrian/vehicular traffic patterns.
- Sustainable development.

This statement should include qualitative examples of public benefits as well as quantifiable and measurable outcomes of the short-term and long-term benefits to the neighborhood and to the City of Batavia. Support documentation for the estimates of public benefits must be included.

Demonstration of Need

5. Sources and Uses of Funds

Identify the sources of funds used to finance the project. Typical sources include equity, lender financing, mezzanine financing, other anticipated types of public assistance, and any other types or methods of financing. Describe the sources of equity. Include term sheet for lender financing, if available. The project budget must identify the up-front sources intended to finance the development costs of the project. If determined, specify the specific line items of the project budget that each source will finance. Summarize the uses of funds. General categories to be identified include: acquisition and related site costs, hard construction costs and a breakdown of soft costs.

All projects must include for the construction phase a monthly or quarterly cash flow (i.e., sources or “cash in” by source, and uses or “cash out” by use). For-sale housing developments must show income from the rental or sale of commercial space, the sale or rental of parking spaces, and unit upgrades must be included. Clearly identify all assumptions (such as absorption, sales prices, taxes, etc.). Identify the profit expected at the completion of the project.

Applicants are advised that to extent possible, sales contracts for land acquisition should not be executed until EDO and the Applicant have agreed on an amount of TIF assistance to be provided. This is because purchase price of a development site to be acquired or recently acquired will be reviewed to determine whether or not that price exceeds the property’s current market value. Market value sets the upper limit of acquisition costs that will be considered in the estimation of TIF assistance. EDO will review any market value appraisal submitted in support of an acquisition, and the department may obtain its own appraisal or review appraisal.

6. Request for Assistance

Specifically state the amount of TIF assistance that is necessary to make this project possible. Also specify the terms of payment (e.g. pay-as-you-go, developer note, etc). Explain how the developer will fund project costs that will be reimbursed with TIF increment after those project costs have been incurred. For example, will the developer provide additional equity or borrow additional funds to “front-fund” the TIF assistance?

7. Development Budget/Budget of TIF Eligible Expenses

Provide an accurate and detailed development budget for the project that includes a detailed breakdown of significant line item costs. The budget should be arranged to identify acquisition and site related costs, hard costs and soft costs. Also, identify all line items that are performed by the developer, owner, or related entities. Identify which of the development budget costs are eligible for reimbursement as allowed by the Illinois TIF Act. The City may request further financial information as deemed appropriate.

8. Pro Forma Income and Expense Schedule

Applicants whose projects involve the rental of commercial, retail, industrial and dwelling space must submit pro formas that identify income and expense projections on an annual basis for the remaining life of the TIF. A hypothetical property reversion is to be assumed. Clearly identify all assumptions (such as absorption, vacancies, debt service, operational costs, etc) that serve as the basis for the pro forma. Two sets of pro formas are to be submitted. The first set should show the project without TIF assistance and the second set with TIF assistance. For owner-occupied industrial and commercial projects, detailed financial information must be presented that supports need for financial assistance (see below).

9. Analysis of Financial Need

Each application must include financial analyses that demonstrate the need for TIF assistance. Two analyses must be submitted: one without TIF assistance and one with TIF assistance. The Applicant must indicate the minimum return or profit the Applicant needs in order to proceed with the project and the rationale for this minimum return or profit. The analyses will necessarily differ according to the type of project that is being developed.

Rental Property – For projects involving the rental of space by the developer to tenants (tenants include offices, retail stores, industrial companies, and households), an internal rate of return on equity must be computed with and without TIF assistance based on the pro forma of income and expense prepared showing the reversion at the end of the life of the TIF. State all assumptions in the analyses.

For Sale Residential – Show profit as a percent of projects cost (minus developer fee and overhead and minus sales commissions and closing costs, which should be subtracted from gross sales revenue). Other measures of profitability may be submitted, such as profit as a percent of sales revenue.

Mixed Use Commercial/For-Sale Residential – Provide either separate analyses for each component of the project or include in the revenue sources for the for-sale portion, the sale value of the commercial component based on the net operating income of the commercial space at stabilization. Indicate how the sale value was derived.

Owner-Occupied Commercial – For projects such as “big-box” retail projects, provide copies of the analyses that the company used to determine the amount of assistance that would be needed to allow the company to meet or exceed the company’s minimum investment threshold(s) for proceeding with the project.

Competitive Projects – In instances where the City is competing with other jurisdictions for the project (e.g., corporate headquarters, new manufacturing plant), present detailed analyses that demonstrate the capital and operating cost differential between the proposed location(s) in Batavia and locations outside the City that are being seriously considered by the Applicant.

10. Increment Projections

Include projections of the incremental taxes that will be generated by this project for the remaining life of the TIF District. Clearly indentify all assumptions considered in these projections.

When EDO staff reviews these projections, the following assumptions are typically considered. Provide a concise explanation if your assumptions differ.

- Base EAV as certified by Kane County
- Full reassessment of project occurs at least 1-year after project completion (may be distributed for phased projects)
- Tax reassessment increase
- Most recent tax rate used for all future years
- NPV calculated at three reasonable discount rates

11. Financial Commitments

Submit commitment letters and/or term sheets from all lenders for proposed debt (such as construction, mezzanine, permanent, and government financing) and all other financial sources of the project (such as grants and tax credits). Commitment letters must clearly specify the nature and terms of the obligations.

12. Other Subsidies

Identify all other forms of public assistance that are provided by the City of Batavia or any other agency. Examples include: land write-down, grants, permit fee waivers, etc.

Professional Studies

13. Market Studies

Applications for commercial and mixed-use projects must include a comprehensive market study. The market study must identify target markets, analysis of competition, demographics, market rents, letters of intent/interest from prospective tenants, or for residential mixed-use, sale prices or rental rates of comparable properties.

14. Appraisal

All projects that involve the transfer of land must include a recent appraisal. Projects that include land as a form of equity or collateral must also submit a recent appraisal. The appraisal must value the property “as is”, and the impact on value must be considered for such items as demolition, environmental remediation, relocation of utilities, lease buy-outs, and other work necessary to make the site developable. The property must be valued assuming that the highest and best use is the proposed use.

All appraisals must be performed by a designated MAI or bank-approved appraiser. The initial appraisal may need to be updated or amended at the request of EDO. Also, the EDO may obtain its own appraisal or review appraisal at the expense of the Applicant. Contact EDO if there are questions or concerns about the approach to the appraisal.

15. Environmental Studies and Reports

When required by the City, submit a copy of the Phase I environmental report/study performed on the property. If there is a probable or potential contamination on the project site, then a Phase II report/study or evidence that the site has been, or is being enrolled in an IEPA, a No Further Remediation (NFR) Program must also be included.

16. Other Studies and Reports

Include, as appropriate, other reports in support of information that is presented in the application.

Developer Information

17. Ownership Structure

Submit a narrative description of the ownership structure of the development and ownership entities, which includes information on individuals involved in each. The financial relationship of each entity must be clearly and accurately described. Where applicable, also identify the relationship between the developer/owner and the operating entity. Indicate the entities that will serve as construction manager and general contractor for the project.

18. Principal Profile Information

Submit the requested information for each of the principals and business entities involved in this project. This information will be used to verify that the applicants and related associates do not have any outstanding debts to the City.

19. Financial Statements

Provide year-end historical (prior 3 years) and interim financial statements of the Applicant and owning and/or operating entity if different from the Applicant. Financial Statements should include accountant audited or compiled Balance Sheet, Income Statement, and Statement of Cash Flows.

20. Prevailing Wage Requirements

The owner/developer must declare knowledge and acceptance of the Illinois Prevailing Wage requirements to the extent required by state law or the City.

**City of Batavia, Illinois
Economic Development
Tax Increment Financing Assistance**

Application Checklist

Include this Checklist when applying for TIF assistance. If any of the required items are omitted from the application, please provide a brief explanation.

General Project Information

1. Summary Letter
2. Project Narrative

Detailed Project Information

3. Project Timeline
4. Public Benefits

Project Financial Information

5. Sources & Uses of Funds
6. Request for TIF Assistance
7. Development Budget/Budget of TIF Eligible Expenses
8. Pro Forma Income & Expense Schedule
9. Analysis of Financial Need
10. Increment Projections
11. Financial Commitments
12. Other Subsidies

Professional Studies

13. Market Studies
14. Appraisal
15. Environmental Studies & Reports
16. Other Studies & Reports

Other Information

17. Ownership Structure
18. Principal Profile Information
19. Financial Statements
20. Prevailing Wage Requirements

**City of Batavia, Illinois
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Principal Profile

The following information must be provided for each individual that is an owner, partner, investor, director or officer of the Applicant entity or of any entity holding an interest in the applicant.

Name: Home Address: Date of Birth: Social Security Number: Driver's License Number:	All information must be typed
Name: Home Address: Date of Birth: Social Security Number: Driver's License Number:	All information must be typed
Name: Home Address: Date of Birth: Social Security Number: Driver's License Number:	All information must be typed
Name: Home Address: Date of Birth: Social Security Number: Driver's License Number:	All information must be typed
Name: Home Address: Date of Birth: Social Security Number: Driver's License Number:	All information must be typed

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Job Creation or Retention Activities

The developer shall document and report on job creation and/or retention activity as per the terms and conditions of the TIF redevelopment agreement. The form, content and scheduled reporting dates, of the employment information that is to be supplied by the developer shall be determined by EDO.

Initials: _____ Date: _____