

TAX INCREMENT FINANCE DISTRICT (TID) GUIDELINES

CITY OF MUSKEGO WAUKESHA COUNTY, WI

Facilitated by the Community Development Authority on October 17, 2006

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Approved by the Common Council on January 23, 2007

Tax Increment Financing Guidelines

City of Muskego

I. GENERAL GUIDELINES

The purpose of these guidelines is to establish the City's position relating to the use of Tax Increment Financing for private development. These guidelines shall be used as a guide in processing and reviewing applications requesting Tax Increment assistance. The fundamental purpose of tax increment financing in Muskego is to encourage desirable development and/or redevelopment that would not otherwise occur “but for” the assistance provided through TID.

The City of Muskego shall consider Tax Increment Financing for projects that serve to accomplish the City’s goals for economic development as they may change over time. The goals include facilitating projects that would result in the creation of quality jobs (e.g. stable employment and/or attractive wages and benefits), quality structures, and the attraction, retention, and expansion of business in the City.

In accordance with the TID guidelines, TID requests must comply with applicable state statutes. The City of Muskego is governed by the limitations established in Wisconsin Statutes Section 66.1105, the Wisconsin Tax Increment Financing Act.

II. CITY'S OBJECTIVE FOR THE USE OF TID:

Using this document and the statute as guides, the City of Muskego will consider using Tax Increment Financing (TID) to assist private development projects to achieve one or more of the following purposes (Not listed in any priority):

- Remove blight and/or encourage redevelopment in the commercial and industrial areas of the City in order to encourage high quality development or redevelopment and private reinvestment in those areas consistent with the stated guidelines already adopted by the community.
- To retain local jobs and/or increase the number and diversity of quality jobs (e.g. stable employment and/or attractive wages and benefits).
- To encourage additional unsubsidized private development in the area, either directly, or through secondary "spin-off" development.
- To offset increased costs of redevelopment (e.g. contaminated site clean-up), over and above those costs that a developer would incur in normal urban and suburban development.
- To facilitate the development process and to achieve development on sites which would not be developed to the full potential of the community vision without this assistance.

- To meet other uses of public policy, as adopted by the Council from time to time, including promotion of quality urban design, quality architectural design, energy conservation, decreasing the capital and operating costs of local government, etc.
- To encourage the application of Livable Communities Principles to a development project so as to create compact, efficient mixed-use development, quality amenities, and attractive, pedestrian and transit friendly development while preserving desirable environmental features.

III. COSTS WHICH MAY QUALIFY FOR TAX INCREMENT FINANCING ASSISTANCE

Any costs allowable by WI Statute Section 66.1105(2)(f) may qualify for Tax Incremental Financing in the City of Muskego. Actual allowed costs are under the strict evaluation of the Common Council.

IV. PROJECTS WHICH MAY QUALIFY FOR TAX INCREMENT FINANCING ASSISTANCE

Qualified projects should meet or exceed the following basic and desired qualifications to be eligible for TID assistance. Meeting the threshold of eligibility does not guarantee approval of the project by the City. Conversely, failure to meet the criteria will not automatically exclude a proposal from further consideration. Each proposal will be looked at on its own merit and how it meets the following basic and desired qualifications. Meeting the qualifications creates no contractual rights on the part of any potential developer to have its project approved. Final approval of any project will be made by the City Council at its discretion.

BASIC QUALIFICATIONS

- A. The project should meet one or more of the Tax Increment Financing Objectives outlined in Section 2, but at a minimum shall:
 - Remove blight and/or encourage development and redevelopment in the commercial and industrial areas of the City in order to encourage high quality development or redevelopment and private reinvestment in those areas.
 - Demonstrate that the project is not financially feasible "but-for" the use of tax increment financing.
- B. The project must be consistent with the City's Comprehensive Plan and Zoning Ordinances, or required changes to the plan and ordinances must be under active consideration by the City at the time of final TID application submittal.
- C. Prior to approval of a TID financing plan, the developer shall provide any requested market and financial feasibility studies, appraisals, soil boring, private lender commitment, and/or other information the City or its financial consultants may require in order to proceed with an independent review of the proposal.

- D. The developer must provide adequate financial guarantees to ensure the repayment of the TID loan and completion of the project. These may include, but are not limited to: letters of credit, bonds, willingness to sign Developer's Agreement that authorizes payback of TID funds only when an agreed upon amount of increment is generated by the development, etc.
- E. Any developer requesting TID assistance should be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed. TID will not be used when the developer's credentials, in the sole judgment of the City, are inadequate due to past track record relating to: completion of projects, general reputation and/or bankruptcy, or other problems or issues considered relevant by the City.

DESIRED QUALIFICATIONS

- A. Preference will be given to projects that meet good public policy criteria as determined by the City Council, including:
- High project quality (e.g. sound architectural design, quality construction and materials)
 - Projects that are in compliance with the Comprehensive Plan, Zoning Ordinance, Economic Development Strategic Plan, Design Guides, and other redevelopment plans of the City
 - Projects that provide significant improvement to surrounding land uses, the neighborhood, and/or the City
 - Projects that provide a significant increase in tax base
 - Projects that provide significant new, or retained, employment
 - Projects that meet financial feasibility criteria established by the City including but not limited to: 1. Keeping a proposed TID District to 15 years or less and, 2. Keeping the ratio of Developer dollars to TID dollars to around a 8:1 ratio (Ratio may be allowed to be lower and years may be more if proposed TID meets other requirements and fills an important need in the community); and
 - Projects that provide the highest and best desired use of the property
- B. TID proposals creating a higher ratio of property taxes paid before and after redevelopment will receive priority consideration. Given the different assessment circumstances in the City, this ratio will vary widely. A 1:2 ratio or higher of taxes paid before and after redevelopment is desired.
- C. TID proposals should not be used to support speculative industrial, commercial or office projects. The developer must be able to provide market data, tenant letters of commitment and/or finance statements, which support the market potential/demand for the proposed project.

- D. TID will normally not be used in a project that involves an excessive land and/or property price. This will normally be where the acquisition price is more than 15% in excess of market value as determined by an independent appraisal of the property.
- E. TID will not be used in projects that would give a significant competitive financial advantage over similar projects in the area due to the use of tax increment subsidies. Developers should provide information to support that TID assistance will not create such a competitive advantage. Priority consideration will be given to projects that fill an unmet market need.
- F. TID will be provided on a pay-as-you-go-basis with TID funds normally only be paid to the developer by the City once an agreed upon amount of tax increment resulting from the proposed project is generated and paid. Any request for upfront assistance will be evaluated on its own merit in accordance with the City's general financing policies. Projects requesting pay-as-you-go financing will receive priority consideration.
- G. TID will not be used to support projects that place extraordinary demands on City services. Preference will be given to projects that do not place extraordinary demands on City services.
- H. TID will not normally be used for projects that would generate significant environmental problems in the opinion of the local, state, or federal governments. Priority will be given to projects that aim to clean-up existing contaminated sites and would facilitate the location of an industry or business, which has an environmentally sound track record.

V. TAX INCREMENT PROJECT EVALUATION PROCESS

The following four methods of analysis for all TID proposals will be used:

1. Consideration of project meeting basic qualifications.
2. Consideration of project meeting desired qualifications.
3. Project meets "but-for" analysis and statutory qualifications.
4. Project is deemed consistent with City Adopted Plans

Please note evaluation methodology is intended to provide a balanced review. Each area will be evaluated individually and collectively and in no case shall one area outweigh another in terms of importance to determining the level of TID assistance.

VI. OTHER GUIDELINE ISSUES

Loss of Government Aid

At any time, if the formation of a new TID district or the use of an existing district to finance a project will subject the City to an Local Government Aid (LGA) / Certified Homestead Agricultural Credit Aid (HACA) penalty or local contribution to a project, the transaction shall

be structured so as to have the ultimate cost to the City minimized to the greatest extent permitted by law, so as to have the project bear the cost of the penalty or contribution.

Public Use of Tax Increment

The City shall follow applicable state laws in terms of potential public improvement financing with TID. It shall be the general guideline of the City to identify public improvements at the time of adoption or amendment of the TID Plan.

VI. APPLICATION PROCESS

The application process is a two-step process and must be completed in accordance with the TID application procedures (Separate procedure adopted by the Common Council with fees that may change from time to time by the discretion of the Common Council is found in Appendix A of these guidelines). The purpose of this approach is to give an applicant the opportunity to present a development proposal without expending a great deal of money and time in pursuing a development that may conflict with the City's goals and objectives.

Appendix A
TAX INCREMENTAL FINANCING DISTRICT REQUEST
PROCESS AND APPLICATION REQUIREMENTS
City of Muskego

INTRODUCTION

The City's tax increment financing program will be administered by the Muskego Common Council with assistance from the City Planning Commission and Community Development Authority as directed. The Muskego Common Council will require a non-refundable application fee in the amount of \$200 for its processing of the initial application. Upon Council conceptual approval, a non-refundable application fee in the amount of \$2,000 is required for processing of the final application. The application fee shall be paid to the Common Council at the time a final TID application is submitted. Fees and applications are accepted in the Muskego Planning Department and are subject to change without notice.

At the time a final TID application is submitted, the applicant shall also submit a \$10,000 developer's deposit to cover its attorney's and consultant's costs incurred as part of amending or establishing a TID district, drafting and negotiating a development agreement, and conducting any fiscal analysis that may be required to meet the requirements of utilizing TID. If additional expenses are incurred beyond the \$10,000, the applicant shall be notified in writing and the applicant will be required to deposit additional funds upon notice.

If the project is approved and the applicant proceeds with the project, the applicant shall be reimbursed any unused portion of the deposit as of the date of execution of the development agreement. Further, if the TID District is fully approved, the applicant may receive further reimbursements for any costs that are TID eligible. If the applicant does not proceed with the project, the applicant shall be reimbursed for the unused portion of the deposit as of the date the Common Council is notified in writing that the applicant desires to withdraw its application (Note: All incurred fees to that date will still be applied). Further, if the project is denied for any reason, the applicant shall be reimbursed for the unused portion of the deposit as of the date of the denial (Note: All incurred fees to that date will still be applied).

STEPS IN PROCESS

Step 1

- Complete and submit a TID Application (Application requirements found below) with supporting documents (Initial submittal may be in rough form for preliminary discussion purposes).
- Schedule a meeting with staff for initial review of the application.

Staff will work with applicant to develop the most appropriate TID application according to City adopted policies. Once developer and/or staff believes the initial application is ready, the request is sent to the Common Council for their review and comments. A non-refundable submittal fee of \$200 is required to put the TID proposal on the Common Council agenda. A

resolution from the Council will approve, deny, or approve with stipulations the conceptual TID proposal. This first step will aid the developer in keeping down initial costs in exploring TID availability. Stipulations commonly found as part of conceptual approvals usually relate to the adopted TID policies and may or may not consist of the following: Further solidification of numbers (Appraisals, Letters of Intent, Developer Agreements, etc); Making the TID proposal payoff in lower amount of years; and/or a higher ratio of Developer dollars to TID dollars, etc.

NOTE: The Common Council will determine what body (Planning Commission or Community Development Authority) will be the future recommending authority for the proposed TID at the time of conceptual approval.

Step 2

- Complete and submit a final TID Application with supporting documents along with appropriate submission (\$2000 non-refundable) and developer's deposit fees (\$10,000).
- Schedule a meeting with staff for initial review of the application.
- Staff then begins the TID approval process by taking it to the recommending body and beginning the Statutory TID process.
- Developer must comply with requirements of all approving bodies (Planning Commission, Community Development Authority, Common Council, Joint Review Board) throughout the process facilitating further info when needed (Further info may or may not include appraisals, Developer's Agreements, Letters of Intent, and other various number backing).

APPLICATION REQUIREMENTS

General Info

List the Date, Project Name, Tax Key Numbers involved, and the TID District Number the project is affiliated with (If within an existing TID).

Applicant Info

"Applicant" refers to the proprietor, general partner, authorized member, or manager of an LLC, or corporate officer signing this application. List the Name, Title, Company, Address, City, State, Zip, Email Address, Phone, and Fax for this individual. Also, list pertinent experience information.

Info about Management

List all owners, officers, directors, investors, members and/or partners. List the Name, % of Ownership, Title, Company, Address, City, State, Zip, Email Address, Phone, and Fax for these individuals. Also, list pertinent experience information.

Info about Support Firms

List all attorneys, accountants, contractors, engineers, architects, or other consultants supporting the venture. List the Name, % of Ownership, Title, Company, Address, City, State, Zip, Email Address, Phone, and Fax for these individuals.

Info about the Project Plan

A Project Plan must be created when a Tax Incremental District or amendment to a district is formed. The project plan must outline the incentives that are to result from the TID. These incentives must in turn demonstrate that they will be paid back once completed by an increase in tax increment within the district itself. A developer wishing to create a new TID District, or amend an existing one, must show the following (Further information may be required):

- Development Vision.
- How the project relates to the variables found in the City's adopted TID Guidelines
- Detailed outline of the TID incentive requests.
 - Incentive requests/costs
 - Reasons why the incentives pass a "but for" test
 - Project Proforma
 - Anticipated project costs
 - Base Values (Appraisals will be required to support base values)
 - Anticipated Value Added to TID as a result of the project (Resulting fair market values, possible future assessments, increment generations, etc.)
 - Timeline for intended development (Letters of intent and/or Developer's Agreements may be required to support timeline)
- Specific details on development proposal (Project Narrative, Site Plans, Four-Sided Building Elevations, Landscaping Plans, Grading Plans, Infrastructure Plans, etc.).
- Job creation information

Main Contact Info

Jeff Muenkel AICP

Planning Director

City of Muskego

(262) 679-4136

W182 S8200 Racine Avenue

PO Box 749

Muskego, WI 53150-0749