

**The Board of Finance of Baltimore City
Department of Finance
Bureau of Treasury Management**

**Tax Increment Financing Policy
and Project Submission Requirements**

January 23, 2012



PART I: TAX INCREMENT FINANCING POLICY

I. Introduction and Purpose

Tax Increment Financing (TIF) is an important and useful tool available to Baltimore City to encourage development of certain projects that are desirable and in the public interest, and that would not occur without assistance from the City. The Board of Finance of Baltimore City (“Board of Finance”) considers it essential that this mechanism be implemented consistent with the City’s land use and economic development goals, and in order to encourage development that would otherwise not occur but for the City’s participation in the financing structure (“but for” test).

The Board of Finance shall consider a TIF for projects with a significant public purpose and benefit, i.e., City-sponsored projects, or, otherwise, for developer-sponsored projects when the project:

- (1) Is consistent with the City charter and the TIF Enabling Act;
- (2) Includes a significant developer/ private sector contribution to the project;
- (3) Has approval of the coordinating agency Project Review Committee, or other such Oversight Board (if applicable);
- (4) Advances the City’s strategic land use, economic development and public improvement goals;
- (5) Is not feasible and would not be completed (within a reasonable time frame) without the proposed TIF assistance (“but for” test) and assistance is limited to the amount required to make the project feasible;
- (6) Satisfies economic and risk requirements;
- (7) Will create positive tax revenues to the City, taking into consideration the costs of public services to be provided to the new development and the tax increment revenues that will be required to repay the bonds.

City-sponsored projects will be defined by their size and scope, i.e., large public purpose projects. City-sponsored projects are further defined as projects where the City controls or will acquire the property for the project, and where the City issues the Request for Proposals to select the developer for the project. *The evaluation process for City-sponsored projects will be separate from the evaluation process to be used for developer-sponsored projects. The merits of such projects shall be decided on a case-by-case basis.*



Because there is a potential that TIF projects may defer potential gains in general fund revenues, the Board of Finance will proceed with caution when reviewing TIF proposals. City agencies and departments are strongly encouraged to contact the Bureau of Treasury Management as early as possible in the project development process. The Board of Finance considers it to be the sole responsibility of the coordinating agency to brief Treasury Management on details of the TIF proposal well in advance of a formal submission to the Board of Finance. The Board of Finance shall not consider, and the Clerk to the Board of Finance shall not submit to the Board of Finance, TIF proposals that do not adequately address the requirements of this policy. TIF is not a right under the City charter, and these guidelines do not create any right or entitlement in connection with an application for a TIF.

The Board of Finance reserves the right, at its sole discretion, to amend or waive certain provisions in these guidelines, when it is determined to be in the best interest of the City.

II. Legal Framework

The City's authority to issue TIF Bonds is established under Article II, Section 62 of the Baltimore City Charter (1996 edition) (the "Enabling Act"). The Enabling Act itemizes the eligible uses of TIF Bond proceeds and states that TIF Bonds shall be approved by an ordinance of the City Council. The ordinance shall describe the basic terms of the TIF Bonds or will provide that such terms are to be specified in a resolution of the City's Board of Finance. The City may also, acting through the Board of Finance, issue bonds to refund outstanding TIF Bonds.

In most cases, the City will require that the TIF Bonds also be secured by a special tax levied in the development district, pursuant to Article II Section 62A of the Baltimore City Charter (1996 edition). The establishment of a special taxing district ensures that if the anticipated benefit to be derived by proposed development does not occur, such that the tax increment revenues are not sufficient to pay debt service on the TIF Bonds, the City will levy a special tax on the property owners in the district (i.e., the developer) to make up any shortfall. A special tax requires the approval of 2/3 of the property owners, in both number and property value, within the special tax district.

In accordance with Article VII, Sections 19-21, of the Baltimore City Charter (1996 edition), the Members of the Board of Finance are the financial advisors to the Mayor and City Council of Baltimore. The Board of Finance is comprised of the Mayor, who serves as President, the Comptroller, and three



persons appointed by the Mayor pursuant to the City Charter. As the City's financial advisor, the Board of Finance is responsible for approving all TIF proposals prior to consideration by the City Council or the Board of Estimates.

III. TIF Description

In general, TIF Bonds are special obligations of the City secured by the incremental increase in property taxes resulting from the proposed improvement. The City utilizes this financing option by designating within its borders a TIF district. The base property valuation (assessable base) is then established and certified, and the property taxes from that assessable base continue to be collected and used for general governmental purposes. As the assessed valuation within the district increases, the taxes derived from the increased valuation (tax increment) pay debt service on the bonds used to fund TIF project costs within the district. When the TIF debt is repaid, the district is dissolved and the taxes collected from the increased assessed valuation flow directly to the City's general fund.

Under the Enabling Act, the date of the determination of the assessable base for the calculation of the tax increment is January 1 of the calendar year prior to the year in which the City adopts an Ordinance establishing the development district. For example, if an Ordinance is adopted in March of 2008, the assessable base will be determined as of January 1, 2007. Payment by the City to the holders of the TIF bonds is contingent upon appropriation by the City Council of tax increment revenues sufficient to cover the amounts due each year.

TIF functions by pledging property tax increments gained as a result of new development within the tax increment district. The City continues to collect the tax revenues that it had historically received from the district, but the incremental taxes collected from the enhanced value of the real estate is used to pay debt service on the TIF Bonds.

Under the Enabling Act, the proceeds of the TIF Bonds may be used to finance:

1. The cost of purchasing, condemning, or otherwise acquiring land or other property, or an interest in them, in the designated development district area or as necessary for a right-of-way or other easement to or from the development district area;
2. Site removal;
3. Surveys and studies;
4. Relocation of businesses or residents;



5. Installation of utilities, construction of parks and playgrounds and other necessary improvements including streets and roads to, from, or within the development district, parking, lighting and other facilities;
6. Construction or rehabilitation of buildings provided that such buildings (i) are to be devoted to a governmental use or purpose, (ii) are abandoned property, (iii) are distressed property, or (iv) will provide units of affordable housing;
7. Reserves and capitalized interest on the bonds;
8. Necessary costs of issuing the bonds;
9. Structured and surface parking facilities that are: (i) publicly owned; or (ii) privately owned but serve a public purpose; and
10. Payment of the principal and interest on loans, money advanced or indebtedness incurred by the Mayor and City Council of Baltimore for any of the purposes set out above.

TIF Bonds may be issued as "tax-exempt" or "taxable" obligations. The qualification of the bonds as "tax-exempt" involves an analysis that will include the review of, among other things, ownership, amount of private use of the facilities constructed, nature of the improvements, and any additional sources of payment of the debt service on the TIF Bonds.

IV. Considerations for New Tax Increment Financing Projects

The City regularly issues general obligation debt to finance important public improvements required by the City. An important purpose of this policy is to ensure that TIF projects, when added to other tax supported debt, do not negatively impact the City's general debt ratings. This shall require a consistent implementation of this policy. Elements of the TIF Policy of particular importance to this purpose are (i) use of TIF to advance the City's land use, economic development, and public improvement goals, (ii) preparation of a fiscal impact analysis that confirms the project produces sufficient tax revenues over and above repayment of the TIF bonds to cover the costs of public services required for the project, and (iii) ensuring the "but for" test is met and that assistance is limited to a reasonable amount that makes the project feasible.

TIF debt is considered by the rating agencies as debt of the City, and included in the calculation of the City's tax supported debt burden. Moody's Investor Service has established guidelines for a city's debt burden as measured by the ratio of total tax supported debt to the estimated actual value of taxable property of the jurisdiction. In general, a city's total tax supported debt burden, including outstanding TIF debt, should remain below 4% of the estimated actual value of the taxable property of the jurisdiction. It is the intention of this policy that the City's total tax supported debt burden, including outstanding TIF debt,



should remain below 4% of the City's estimated actual value of property as established by Moody's.

In addition, the City shall use its best efforts to pursue other funding programs or financial arrangements with developmental agencies that, particularly for large projects, minimize the overall aggregate level of the City's TIF debt.

V. Limited Size TIF projects

Certain TIF applications may be for projects of a scale that require a minor amount of participation by the City. The Board of Finance recognizes, that however worthy such projects may be, there are inherent risks associated with smaller projects. These risks include a lower probability of increment tax growth and resultant debt repayment from the tax increment, and the greater likelihood of higher interest rates from investors based on their assessment of risk. Smaller projects are also more likely to have a higher cost of issuance as a percentage of total project cost.

The Board of Finance recognizes that in such circumstances, it may be prudent for the City to issue a bond or note to the developer rather than to sell TIF bonds to investors as a means of providing project funding. Bonds issued by the City to the developer do not provide an up-front cash contribution by the City, but can be used to offset the future tax liability of the development by providing annual redemption of serial bonds based on the incremental tax revenues generated by the project.

The Board of Finance recommends this approach for TIF projects of \$10,000,000 and less.

VI. Third Party Fees

Each TIF applicant shall be required to execute a letter of intent with the City's bond counsel and financial advisor to include the scope of work and fees associated with the development of the TIF application before any legal or financial work has commenced. The applicant shall assume all risk for the full payment all third party fees for the TIF development to include legal review/document preparation, financial analysis and financial projections. While certain of the fees may be reimbursed from bond proceeds, they shall be due and payable by the applicant in the event the project does not secure the required City approvals or in the event bonds are not sold.



VII. Conclusion

Tax increment revenues are an important funding source for infrastructure improvements that can advance development in targeted areas of the City. It is the intention of the Board of Finance to use TIF as one of the incentive tools to encourage revitalization of Baltimore City. The Board of Finance shall exercise caution in the evaluation of each TIF proposal ensuring that the benefits of the project are appropriate for the risks and costs of the project, and that they are equitable and in the best interest of the City.

PART II: PROJECT SUBMISSION REQUIREMENTS

Approval of tax increment financing projects by the Board of Finance will be a four-step process.

Step 1:

The first step will consist of the development of the TIF plan and proposal by the appropriate City coordinating agency, such as the Baltimore Development Corporation or the Department of Housing and Community Development. The coordinating agency will be responsible for the following:

1. proposing the amount of TIF assistance, confirming the project requires this assistance (the “but for” test);
2. ensuring the proposed TIF will advance the City’s strategic land use, economic development and public improvement goals;
3. satisfies the criteria for TIF debt set forth in Section I of these policies;
4. preparing other analysis and documentation to be submitted to the Board of Finance for step two.

The coordinating agency may, and is encouraged to, consult with the City’s financial advisor and bond counsel for this stage of development; however, these agencies shall be responsible for any costs incurred by these firms during this step.



Step 2:

The second step consists of presentation of the proposed TIF to the Board of Finance for conceptual approval. The Board of Finance shall be responsible for ensuring that TIF requests comply with these policies. The information required for this presentation is described below. The purpose of this step is for the Board of Finance to confirm that the proposed TIF will be consistent with the City's policies regarding TIFs early in the process before significant City efforts are expended preparing legislation and moving the TIF forward.

Step 3:

The third step shall be presenting the proposed legislative package creating the TIF (and related special taxing district) to the Board of Finance for approval. This step will require the proposal legislation to be submitted to the Board of Finance with any appropriate update on the information submitted in the second step. The coordinating agency shall be responsible for scheduling and obtaining approval of the required legislation from the Board of Estimates, and the City Council as required.

Step 4:

The fourth step shall be the submission for approval of documents authorizing the proposed issuance of bonds to the Board of Finance. A substantially complete offering document, trust indenture, and funding agreement should be submitted to the Board of Finance for this step, along with any updates of the information presented in the second step that is not included in the offering document. If not included in the offering document, financial projections shall be provided showing bonds issued or debt incurred, projected assessed value and tax increment revenues, and debt service coverage. City-sponsored projects should demonstrate a strong public purpose; while developer-sponsored projects should demonstrate that incremental revenues will provide a minimum of 1.25x annual debt service coverage (not including special tax revenues) unless the Board approves an exception. Financial projections shall normally include two scenarios, including the expected scenario and a sensitivity scenario.

Information should be provided either in the offering document or separately to allow a risk assessment. This information should include a description of the risks associated with the project and how these risks are mitigated.



Board of Finance TIF Submission Requirements for Step 2

The Board of Finance shall be responsible for ensuring that TIF requests comply with these policies. The criteria a TIF project request must satisfy are identified in Part I of this policy, and specifically, Section I. Board of Finance review of a TIF proposal should occur early in the proposal before significant resources are spent preparing legislation. This review is the second step in the TIF approval process, following the preparation of the TIF proposal by the coordinating agency. The information to be submitted to the Board of Finance for it to confirm a proposed TIF is in compliance with the City's TIF policies, shall be as follows:

- I. Transmittal Letter: Each TIF request shall include a transmittal letter from the development agency head formally requesting the Board of Finance consider and conceptually approve the application. This letter should also include other pertinent information such as the amount of the TIF bond, approvals of internal review committees, the Mayor, and the Department of Planning if appropriate.
- II. Approval of the Coordinating Agency Board (if applicable): Provide evidence of approval of a request for a TIF for the project by the coordinating agency internal project review board or other such oversight committee. The approval shall include a description of the project and the public purpose being served by the TIF, and that the board is satisfied other funding sources are not available (the project would not occur "but for" the TIF funding).
- III. Development Team:
 1. Name of applicant/developer/owner, construction manager, project manager, operator (lender and any other significant team participants);
 2. Background information on each of the above;
 3. Summarize developer's experience with similar projects.
- IV. Project Information:
 1. Describe the project, including the location, size, phases, and proposed land uses.
 2. Describe existing property uses and any required demolition and relocation.
 3. Provide information and evaluation of any site constraints.
 4. Identify any environmental issues or constraints. Each project must comply with applicable requirements of local, state and federal environmental laws and regulations.



5. Provide a schedule and describe any time constraints that affect the project.
 6. Identify any permits and other governmental approvals required for the development of the property.
 7. Provide evidence of site control. This should include a detailed list of all addresses in the district. If the project is located on a scattered site the address list should be broken down by parcel.
 8. Provide a preliminary sources and uses of funds for the project.
 9. Identify whether the project is expected to receive any other public assistance. Other forms of public assistance should be taken into consideration in the amount of TIF assistance provided to ensure that the total assistance provided does not exceed the assistance required and justified.
 10. Provide letters of intent to provide financing for all construction and permanent funding sources (loans, grants and equity) associated with the project. At a minimum, letters of intent must be specific to the project and detailed concerning terms and conditions.
 11. Include detailed maps of the TIF and special taxing districts, and graphic depictions of the finished project.
 12. Other information critical to the success of the project.
- V. City Charter and TIF Enabling Act: Provide information to show the proposed TIF will be consistent with the City charter and the TIF Enabling Act.
- VI. Inclusionary Housing: City Council ordinance 07-474, stipulates housing development projects receiving TIF funding be subject to the Department of Housing and Community Development Inclusionary Housing Rules. Prior to Board of Finance approval the developer shall coordinate with Department of Housing and Community Development the implementation of this requirement. The inclusionary housing shall be incorporated into the project fiscal analysis (item XIII below).
- VII. Private Sector Contribution: Identify the public assistance as a percentage of total development costs and a comparison to other development projects of similar scope and magnitude whenever possible. All development proposals should seek to maximize the amount of private investment per dollar of public assistance. Each project must evidence substantial private resources (debt and/or equity) for the development (evidence will be required prior to the Phase II approval). In general, the Board of Finance recommends that developer-sponsored projects have an 8:1 to 12:1 ratio of non-City funding sources to City funding sources. Ratios of lower than 8:1 represent project participation levels by the City that may be unacceptable to the Board of Finance; while ratios of greater



than 12:1 call into question the need for the City to be a meaningful participant. The non-City contribution may be in terms of cash, land, buildings or other equivalent forms. This analysis shall also include an expected rate of return for the developer and City.

VIII. Advances the City's Land Use, Economic Development and Public Improvement Goals: Each TIF proposal shall be submitted to the Department of Planning for review and consistency with the City's economic development and public improvement objectives. A letter from the Department of Planning evidencing their approval is recommended. The coordinating agency should specify how the project is consistent with the City's economic development and public improvement objectives.

XI. But For Test: The coordinating agency shall provide an explanation of why the TIF is needed to make the project feasible – why the project would not occur “but for” the TIF funding. The intent is to prevent TIF funds from being used in place of available private financing, grants, or other non-tax supported funding sources. The Board of Finance will also need assurance that the TIF is not unnecessarily subsidizing a private enterprise. Evidence shall also be provided showing that the TIF assistance provided is limited to the assistance required to make the project feasible. Detailed reasoning will be required.

Examples of justification that may be used by the coordinating agencies includes the following:

- Persistent lack of development at the project site;
- Unusual development costs;
- Lack of private funds for the project;
- Lack of other forms of public assistance;
- A projected pro-forma indicating that the projected return on investment (without the TIF assistance) is below a market rate of return.

X. Public Benefit: Describe the project's public purpose benefit. The direct and indirect benefits of the development proposal shall be determined and quantified to the degree possible. Benefits shall include, but are not limited to, employment benefits (number of jobs retained or created, percentage of jobs held by City residents, wage and salary information, etc.), tax base benefits (estimated market value of new development, new property taxes generated, etc.), housing benefits (number of new rental or ownership units, number of affordable units, etc.), and other benefits relating to transportation, parking, blight remediation, environmental



cleanup and historic preservation. This description should also address whether these impacts are being shifted from other locations in the City or would be provided by other projects without TIF assistance.

TIF dollars are a finite resource and each proposed TIF will be required to compete with other TIF proposals. The public purpose benefit description should demonstrate that the proposed TIF compares well on a cost benefit basis to other TIF projects approved and contemplated by the City.

- XI. Positive Tax Revenues: A summary fiscal impact analysis shall be provided that demonstrates the project will create positive tax revenues to the City, taking into consideration the costs of public services to be provided to the new development, and the tax increment revenues that will be required to repay the bonds. Projects that do not show a positive fiscal impact shall require a demonstration of extraordinary public purpose to be approved. It is recommended this analysis be completed by the City's TIF advisor or other such qualified consultant, and shall be at the expenses of the coordinating agency.
- XII. Risk to the City: A detailed discussion of the risks associated with the TIF project as it pertains to the City's participation. Risks may include (but are not limited to) interest rate and market risk. For example, a new housing project may be required to sell a certain number of units within a particular time frame in order to generate the increment to pay debt service on the TIF bonds. If the developer does not sell the required number of units, revenues may not be sufficient to pay debt service. Additionally, if interest rates rise to a certain level, the cost of the debt may exceed the project's ability to repay.
- XIII. Project Fiscal Analysis: It is expected that the coordinating development agency shall conduct a financial review of the project prior to recommending it to Board of Finance. This review is expected to include a formal written analysis of financial feasibility of the project. The report shall provide projections that demonstrate quantitatively the project development can in fact support the requested TIF debt. Subject matter to be included are; debt service projections, project absorption assumptions, projection of market value, projection of net incremental property taxes and projected payment of debt service. It is recommended that this report be completed by the City's TIF advisor or other such qualified consultant, at the expenses of the coordinating agency.

Since every project is unique, additional evaluation criteria may become necessary for either phase and will be determined on a case-by-case basis.



Alternatively, some of the information described above may not be applicable to every TIF. Treasury Management shall be responsible for reviewing information submitted to the Board of Finance by the coordinating agency, ensuring the information is complete, and formalizing a recommendation to the Board of Finance. The coordinating agency should submit information to Treasury Management with sufficient time for it to be reviewed prior to being forwarded to the Board of Finance, and with sufficient time for the Board of Finance to review the information prior to any expected action.

