

Frederick County Government  
Administrative Policies and Procedures

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Policy: Guidelines for Tax Increment Financing (TIF) Districts

Purpose:

These Guidelines have been prepared for the purpose of (1) evaluating the feasibility of a TIF as a mechanism to fund public infrastructure improvements in connection with private development projects, and (2) to determine whether the private development and public improvements within the TIF District will meet the County's economic development, land use, and other strategic goals.

Background:

Funding infrastructure is a significant challenge to the smart and managed growth of Frederick County. State law (Annotated Code of Maryland, Economic Development Article, §12-201 et seq.) ("Tax Increment Financing Act") authorizes the creation of tax increment financing (TIF) districts as a means to finance infrastructure in connection with private development. The purpose of designating TIF districts is to provide another tool for local governments to finance public infrastructure improvements that benefit the general public through the generation of economic development which will enhance County revenues beyond the debt service requirements.

Under the TIF process, special obligation debt is issued by the County to provide funding for the infrastructure improvements benefiting the TIF district. The incremental real property tax revenues are pledged to the repayment of the special obligation debt. Theoretically, there will be incremental real property taxes created because the assessed value of the TIF district properties increases as a result of the new infrastructure and resulting development. Because only a portion of the incremental tax revenue is pledged to repay the debt service, the TIF structure allows the County to continue to receive the tax revenues that existed prior to the private development and to receive an immediate incremental tax benefit from the project. It is intended that TIFs will be used as part of an overall funding package for projects that benefit citizens and add significant income and property tax revenues to Frederick County.

Guidelines:

The authority to make legislative findings and determinations necessary for a particular project is vested solely in the County Council and County Executive. A TIF is not a right under Maryland State or Frederick County law and meeting any guidelines set forth herein shall not create a right or entitlement for the Applicant.



Process:

1. The Applicant is required to schedule a meeting with the Chief Administrative Officer and the Director of Finance to discuss the viability of any contemplated tax increment financing. The application process will require substantial effort on both the applicant and County's resources.
2. Applicants are required to work with the County's Tax Increment Financing (TIF) Consultant to compile financial projections. The TIF Consultant will work closely with the Applicant's staff to gain an understanding of the project, provide information related to the impact of the project on the revenue streams of the County, with the goal of providing financial projections that can be relied on by both the County and the Applicant. The TIF Consultants fee will be paid directly to the consultant by the Applicant. This cost will not be paid by the County.
3. The Applicant is required to provide performance and payment guarantees and credit enhancements for the public infrastructure improvements to be financed with TIF bond proceeds in accordance with the County's policies for all County-owned public improvements. These protective measures are to ensure that the development is completed on a timely basis within cost estimates used to determine the amount of bonds to be issued, that work meets quality standard and that subcontractors are paid according to their contracts with the Applicant.
4. The County's administrative costs of any proposed project shall be borne by the Applicant. An upfront deposit to cover County expenses for evaluation of any application will be required from the Applicant including the expense of the County's advisors and consultants relative to the review of the application and issuance of the bonds. The Applicant will be required to advance fund the costs incurred by the County's financial advisor and bond counsel. These costs may be repaid to the Applicant if sufficient funds are available from the bond proceeds. In the event the bonds are not issued, the costs incurred by the County's financial advisor and bond counsel will not be reimbursed to the Applicant.
5. In order to assure that TIF financing at a proposed location will accomplish its stated benefits, the TIF Review Committee will evaluate an application to establish a TIF District utilizing these guidelines prior to any required action of the County's governing body pursuant to the Tax Increment Financing Act. The County reserves the right, in its sole discretion, to amend these guidelines when such amendment would further the County's goals for establishment of the TIF.

A TIF application will be evaluated based on the following factors:

1. The proposed public improvements shall meet all requirements of the Tax Increment Financing Act.
2. The TIF district will be coterminous with a community development



authority formed under the provisions of Section 2-7-175 of the Frederick County Code (the "CDA Act"), so as to ensure that special taxes can be assessed to repay the bonds or other obligations incurred, if TIF revenues are insufficient.

3. The public improvements shall meet all the applicable requirements of the TIF Act and the CDA Act.
4. TIF districts are located on land zoned for commercial/industrial, or mixed use development (MXD), (or equivalent zoning in municipalities) that is within ½ mile of major or minor arterial routes, expressways or within a municipality. **TIF DISTRICTS MAY NOT BE USED FOR ANY DEVELOPMENT COSTS FOR RESIDENTIAL DEVELOPMENT INCLUDING ANY RESIDENTIAL PORTION DEVELOPED IN A MXD ZONED PROJECT.**
5. Any proposed development project that intends to utilize a TIF must comply with the County's Comprehensive Plan and all County planning and zoning regulations, including satisfying Adequate Public Facilities Ordinance (APFO) requirements.
6. The proposed development must provide significant new permanent employment opportunities with family-supporting wages for the County's citizens.
7. The proposed improvements to be financed shall be public infrastructure improvements that will not solely benefit the specific development project, but will provide regional benefit.
8. The Applicant has the burden to demonstrate that the total incremental property tax revenues generated by the development will exceed the anticipated annual debt service on the bonds issued to finance the public infrastructure.
9. The Applicant has the burden to demonstrate that the total incremental tax revenues will offset the fiscal burden placed on the County to provide annual on-going services to the new development (such as law enforcement and fire protection).
10. Debt Limitations:
  - a. The maximum amount of debt that can be issued is the amount to fund the public infrastructure together with a required debt service reserve fund, issue costs, and capitalized interest (no private project costs such as water and sewer capacity fees or APFO fees can be funded with TIF debt).
  - b. The maximum amount of debt that can be issued is an amount whose debt service does not exceed one-half of the projected incremental revenues.
  - c. The TIF debt must have an amortization schedule of no more than 15 years.
  - d. The average life of any individual issue shall be no longer than 60% of its longest maturity. This prevents the issue from having a majority of



its bond due near or at the end of the issue.

**To meet the requirements of #9 through #11 above the proposed development project must therefore be projected to generate incremental County property taxes at or exceeding 200% of the anticipated debt service of the TIF debt.**

11. The issuance of the bonds to fund the infrastructure must not adversely affect the County's credit rating.
12. Preference may be given to projects with primarily off site public infrastructure improvements.
13. The Applicant must demonstrate that the project is economically feasible, and has a high likelihood of being successful throughout the term of the debt proposed to be issued to finance the public infrastructure.
14. The Applicant must have a significant investment at risk in the development relative to the amount of County investment in the public infrastructure funded through the term of the TIF.
15. The Applicant must complete an application in its entirety.

#### Application for Tax Increment Financing:

An application for Tax Increment Financing is available from the Office of the County Executive and on the County's web site at [www.frederickcountymd.gov](http://www.frederickcountymd.gov). The application must be submitted to the Office of the County Executive.

The Application form, which is attached to these guidelines, will require: a detailed description of the entire project including zoning, ownership and current and planned land use; detailed project schedule; regulatory approvals needed; a detailed description of the public improvements to be funded by the TIF; demonstrated economic feasibility of the project including projected net new jobs and wages; and a reasonable estimate that incremental property tax revenues will be sufficient to cover principal and interest on any debt issue and generate excess property tax revenues over the debt service by at least 100%.

An initial application fee of \$10,000 is to be submitted with the application and an additional \$30,000 fee will be required if the project is approved for TIF financing. In addition, the Applicant should expect to forward fund resources to pay for the County's Bond Counsel and Financial Advisor (FA) during the application process up to and including the issuance of bonds. These funds can be reimbursed to the Applicant out of the "Cost of Issuance" portion of the bond proceeds when the bonds are issued. In the event the bonds are not issued, the Applicant will not be reimbursed for these expenses of the County's Bond Counsel and FA. These funds can be more than \$200,000 depending on the extent of the work required by Bond Counsel and FA.

The County must perform a due diligence investigation to confirm information regarding

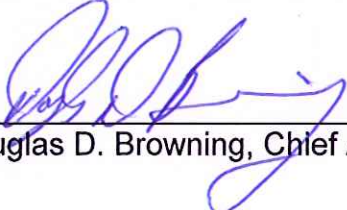
the developer's demonstrated ability to complete the project as well as the ability of the property to generate incremental tax revenues to pay the debt service on the bonds. The investigation must also include a review of the developer's and property owner's financial resources to sustain the project. This review of the Applicant's financial resources will be performed by the County's Financial Advisor. The project will be evaluated by the TIF Review Committee. The TIF Review Committee shall be chaired by the Chief Administrative Officer (CAO), and members shall be appointed by the County Executive, as appropriate. This review team will recommend approval, denial or revised terms of the TIF to the County Council and County Executive.

Upon issuance of the bonds, the County will assess an annual administrative fee. This fee will be determined based on the size, scope and nature of the financing.

The application must be completed in its entirety and submitted to:

Office of the County Executive  
Attn: Chief Administrative Officer  
Frederick County Government  
Winchester Hall  
12 East Church Street  
Frederick, MD 21701

This policy shall become effective upon the date of signature.

  
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Douglas D. Browning, Chief Administrative Officer

11/12/15  
Date