



Policy for Evaluation of Requests
For Project Funding Assistance from the
Tax Increment Financing Fund
(TIF Fund Project Policy)

Adopted by the Village Board of Trustees

For questions regarding this policy or operating a business in the Kenilworth Business District, please contact:

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Section I - Introduction

In July of 2019, the Village Board adopted the ordinances necessary to form a Redevelopment Project Area and establish Tax Increment Allocation Financing for a defined area in and around the business district. The action is commonly referred to as, "Creating a TIF District." More specifically, the Village Board made a determination that the Green Bay Road and Park Drive business corridor was in an ongoing state of decline and, but for Village intervention, the area would continue to decline. Local governments generally form TIF Districts as an economic development tool that can be used to stimulate private investment in areas of decline with the goal being to revitalize the area. The funds generated from a TIF District can be used for a number of purposes including public infrastructure improvements, development incentives, and property acquisition as well as other purposes allowed by statute.

If the Redevelopment Plan progresses as intended, revitalization of the project area will be stimulated through both private and public investment. This would likely result in a vibrant business district that enhances the overall quality of life in the Village. TIF Fund revenues are received from property taxes. Therefore, the Village Board desires to ensure that any funds expended for private projects are evaluated carefully through policy controls. This policy has been developed to outline the process and considerations that Village Officials and Staff will utilize when evaluating non-governmental requests for funding from the TIF Fund. Additionally, this Policy will serve as a guide for those seeing financial assistance from the TIF Fund.

It is the intention of the Village to review requests for TIF Fund Project financial assistance based upon the merits of each situation, weighing each request against the anticipated benefit to the TIF District and Village as a whole. The fundamental purpose of TIF Fund Project assistance is to encourage desirable development/redevelopment projects that support the redevelopment plan and would not otherwise occur "but for" assistance from the Village. The Village does not intend to utilize TIF incentives to attract businesses from neighboring communities in a manner that would be in violation of the TIF Act or to allow the Village to become embroiled in a bidding battle for a particular project. Therefore, this Policy has been established as a guide to aid in the review of project funding requests and provide transparency to the review process. However, since it is impossible to anticipate all potential project scenarios in this Policy, the Village Board shall have the option of amending or waiving sections of this policy when determined necessary and/or appropriate in their sole consensus.

Section II - Purpose of the TIF Fund Policy

The purpose of the TIF Fund Policy is to provide guidance for the Village in response to requests for project financial assistance from the TIF Fund. The Policy provides an objective framework by which TIF Fund assistance requests may be received, reviewed and evaluated for furtherance of the redevelopment project objectives. The Village desires to maintain and encourage a strong and positive business climate, but this must be done in tandem with a cautious review of the long-term financial implications of a project, as well as potential village-wide impacts. As a general rule, the Village will consider using TIF Fund funds to assist with private projects only in those circumstances in which the proposed project show a demonstrated financial gap. This policy will help guide the review of the reported financial gap and identify the provisions in the proposed economic incentives requested to ensure that the redevelopment goals of the Village are met.

Section III - TIF Fund Incentive Eligibility

To help guide those seeking TIF Fund assistance from the Village, a listing of common improvement and development activities has been prepared. The listing is not exhaustive, and the Village will consider other types of activities so long as they are allowed by law and in furtherance of the redevelopment goals for the TIF District. The listing of potential incentive categories includes:

1. Business attraction, development or retention;
2. Building rehabilitation, reconstruction, repair, or demolition;
3. Land acquisition, preparation, site improvements, and/or environmental remediation;
4. Rehabilitation, repair, or replacement of underground or above-ground public infrastructure as necessary for the private project; and
5. Expenses related to studies, surveys, plan development and financing expenses.

Section IV – Development Assistance Criteria

The TIF District was created to correct the pattern of decline observed in the business district. To encourage economic development and a vibrancy in the business district, the Village will give consideration to granting financial assistance from the TIF Fund at the minimum level necessary to make the proposed activity viable. The purpose of the TIF Fund is not to provide a financial windfall to owners or developers as the expense of property tax payers. Proposals for assistance will be evaluated under the TIF Fund Project Policy criteria. The Village reserves the right to reject or approve projects on a case-by-case basis, taking into account established policies, specific project criteria, and the demand on Village 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 assistance. Furthermore, the approval or denial of one project is not intended to set a precedent for approval or denial of another project. The Village's decision to participate in any agreement should be viewed as a contribution that will aid growth and add long-term value to the community.

A. Consideration Criteria

In order for requests for development assistance to be considered, at least two of the following criteria must be present:

1. The proposed project will attract, retain or expand new or existing businesses for the purpose of improving the Village's economic base.
2. The proposed use would enhance the quality of life for residents by addressing a core need (e.g., food market, dining, housing stock) which is either not available, or has limited availability in the business district.
3. The proposed development is encumbered by the presence of extraordinary development/redevelopment costs such as, but not limited to:
 - Remodeling/demolition;
 - Environmental remediation;
 - Capital purchases;
 - Facility expansion;
 - Required public infrastructure improvements;
 - Governmental requirements (i.e., storm water retention, road improvements, etc.); or
 - Land acquisition costs.
4. The proposed project will enhance the streetscape and pedestrian experience and contribute to the pedestrian character of the Village.
5. The proposed project will improve substandard or antiquated public infrastructure.
6. The proposed project will enhance the offering of quality housing choices.
7. The proposed development will help maintain the character of the Village by exceeding the established design standards for aesthetics or land usage required by the Design Guidelines or other Village policies or regulations.

Section V - General Criteria

The following is a listing of overarching criteria that will apply as a request for financial assistance from the TIF Fund is considered:

A. Overarching Criteria

1. Financial incentives from the TIF Fund will only be offered to private projects that demonstrate a lack of financial feasibility (as determined by the Village) to proceed without the benefit of the assistance. The Village may undertake an independent analysis of the project costs to ensure that public funding assistance is required.
2. Those requesting TIF Fund funds must demonstrate, to the satisfaction of the Village Board, equity investment that is material and reflective of the scale of the proposed project. For example, a 10% equity investment may be a reasonable floor with greater amounts looked upon favorably by the Village Board.
3. An independent appraiser may be hired by the Village to determine fair market value and/or equalized assessed value (EAV) for the project. The developer will be responsible for paying all costs associated with the appraisal and the Village will

consult with the applicant regarding the expected expense prior to engaging an appraiser.

4. Projects that place extraordinary, or unmet demands on Village infrastructure or services will generally not receive funding from the TIF Fund.
5. As part of a TIF Fund financial agreement, the applicant shall provide the Village with adequate financial guarantees to ensure completion of the approved project, including, but not limited to, one or more of the following: letter of credit, cash escrow, or personal guarantee.
6. When the project is intended as a for-sale development (i.e., office, retail or residential condominiums), unless authorized by the Village Board, 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 until completion, stabilization of occupancy, establishment of property management, and initiation of payment of property taxes based on the increased assessed value.
7. Each TIF Fund supported project must demonstrate the probability of economic success. The applicant must be able to demonstrate to the Village's satisfaction an ability to construct, operate, and maintain the proposed project based upon past experience, general reputation, and credit history. The applicant shall initiate this effort by submitting to the Village preliminary sales, rental, and other projections and/or pro forma analyses concerning the subject project. Existing sales or transfer sales from existing Kenilworth businesses must be accounted for in the projections. The applicant shall also 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 Village or its financial consultants may require in order to review the need for TIF Fund assistance. This information will serve as the basis for the TIF Fund financial agreement.
8. Development projects receiving TIF Fund assistance may be required to provide a full reimbursement of the Village's financial contributions in the event the project is removed from the Village's tax rolls during the period of time that the applicable incentive agreement is in existence. Furthermore, unless otherwise agreed upon, the developer and any lessee, licensee or user of the project shall not appeal the equalized assessed value (EAV) of all or any portion of the project below such amount that was established as the EAV at the completion of the project inclusive of Village overall EAV growth, during the period of time the applicable incentive agreement is in place.
9. The Village may consider TIF Fund assistance for projects by non-profit organizations that own tax-exempt property. If incentives are given, the organization's project will need to meet the pertinent goals of the Village's applicable TIF redevelopment plan and clearly demonstrate a positive financial impact which is projected to exceed the funding awarded.
10. The Village may decide to offer special grant programs (e.g., façade improvement grants) that shall contain distinct funding criteria that may deviate from the requirements herein.

B. Incentive-Related General Guidelines

1. TIF Fund assistance will typically be provided by the Village on a “pay-as-you-go” note method. Requests for up-front financing will be considered on a case-by-case basis, if increment generation is expected to be sufficient to meet initial financing and debt service costs. However, it should be noted that the Village Board desires to avoid TIF bonds and by way of Ordinance 1244 adopted a TIF Bond cap not to exceed \$5,000,000. If assistance is provided, the developer will be responsible to provide tax bills and any other required information to allow the Village to estimate and track the increment produced by the project in accordance with the TIF Fund agreement.
2. 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 reasonable return on equity, return on cost or internal rate of return will be based on current market conditions, as determined by the Village.
3. Projects receiving TIF Fund assistance may be subject to a “claw-back” provision. The claw-back will mandate that the developer provide the Village, or its financial advisor, with evidence of its annualized cumulative internal rate of return on the investment (IRRI), other revenue, or applicable criteria (i.e., longevity or job creation commitments) at specified periods of time after project completion. In the case of IRRI, it shall be calculated with equity, revenues, and expenses in accord with generally accepted accounting principles.
4. When the developer owns the subject property and rents space to tenants, supporting documentation shall be provided to the Village for the term of the agreement, including, but not limited to, certified records of project costs and revenues including lease agreements and sales on a per square foot basis. When included as a part of the Village / developer agreement, if the records indicate that the developer has received a higher return on equity, a higher return on cost, or a higher internal rate of return than originally contemplated at the time of development agreement approval, the developer and the Village shall split any increase as mutually agreed upon by the developer and the Village.
5. When the subject property is a for-sale development and the IRRI cannot be calculated, the developer is to provide financial data after the project is completed. This shall include a calculation of profit on total development costs less the TIF Fund assistance. If the records indicate that the developer has received a higher return on equity, a higher return on cost, or a higher internal rate of return than originally contemplated at the time of development agreement approval, the developer and the Village shall split any increase as mutually agreed upon by the developer and the Village.
6. The process of examining the financial viability of a proposed project and impacts to the TIF District requires the Village to require a number of financial documents and records that may be of a confidential or proprietary nature. The Village desires to maintain the proposer’s confidentiality; however, the Village is subject to the

Freedom of Information Act and may have to release records within its possession as required by the Act. Accordingly, the proposer shall mark any proprietary or confidential records as such prior to distribution to the Village on a page-by-page basis. Marking all pages as “confidential” or “proprietary” is not accepted as valid under the Act. Therefore, the designation should only be used on those pages as necessary. Doing so will help the Village maintain the proposer’s concerns with document confidentiality to the extent allowed by law.

Section VI - Terms, Monitoring & Performance Measures

The Village Manager or his/her designee shall be tasked with monitoring, evaluating, and enforcing the performance measures specified in TIF agreement. If specified in the assistance agreement, the Developer will cover the administration costs to the Village for staff, counsel, and consultants throughout the term of the TIF Fund assistance agreement. Neither the Village nor the TIF Fund shall be responsible for Developer expenses. Extraordinary expenses such as ongoing transparency costs, filing and publishing of annual reports, and other expenses specifically related to the project shall also be reimbursed. To the extent possible, the Village will identify the amount of funds to be withheld to monitor each agreement at the time of development. TIF Agreements will describe the actions to be taken and financial impacts if performance goals are not met.

A. Performance Responsibilities

Projects receiving financial assistance from the TIF Fund are expected to produce a long-term benefit to the Village and specifically the business district. As such, any agreement for the distribution of TIF Fund assistance may include requirements for monitoring performance both during and after the project has been completed. To that end, any agreement should include a clear delineation of responsibilities for items such as:

1. Project upkeep;
2. Backstop for project revenue if increments are not sufficient;
3. Ongoing maintenance responsibilities;
4. Maintaining designated reserves, if required;
5. Project reporting and monitoring; and
6. Adherence with state and local laws.

B. Performance Measures

As necessary, the Village Manager may utilize the assistance of either in-house or contractual professional services to facilitate his/her duties under the agreement. Potential performance measures to gage the progress of a project toward achieving the desired impact may include but are not limited to:

1. Projected to actual EAV growth for the project;

2. Growth of EAV in the TIF District vs. remainder of the Village;
3. Ratio of private to public investment in projects;
4. Percentage of parcels redeveloped since initiation;
5. Number of housing units created;
6. Change in cost per square foot of commercial space;
7. Change in sales tax receipts from initiation of TIF District;
8. Percentage of public infrastructure replaced.

Section VII - Application Process and Procedure

The process to seek financial assistance from the TIF Fund for a project will generally begin with a pre-application meeting. The project developer or coordinator will meet with the Village Manager and Building/Planning Division Manager to discuss the proposed project. At the meeting, the proposer/applicant will provide an overview of the proposed project, current status of property rights, estimated project timeline, and a rough estimate of assistance needed from the Village. The Village staff will provide the proposer/applicant with an initial impression of the proposed project, guidance regarding the recommended next steps, and the TIF Fund application packet.

Upon completion of the pre-application meeting, the applicant may desire to either submit a letter of intent in order to obtain further information from the Village, or proceed to submitting a Kenilworth TIF Fund project application. The Building & Planning Division Manager will review the materials and, once all materials are received, the packet will be sent to the Application Review Team. The team consists of the Chair of the Finance Committee, Village Treasurer, Plan Commission Chair, Zoning Board of Appeals Chair, Building/Planning Division Manager, and Village Manager. The Village President may appoint an alternate representative if necessary to remain in conformance with the Open Meetings Act. The Application Review Team will evaluate the application, assist with the development of preliminary agreement business points, and forward a recommendation to the Village Board.

A. Project Consideration Steps

Typically, projects will follow the following steps:

1. Pre-application meeting
2. Submission of Letter of Intent and/or TIF Fund application
3. Staff review of application for completeness (1-2 weeks)
4. Complete application packet sent to Application Review Team (approx. 2 weeks)
5. Review for Conformance with Policy
6. Development of Preliminary Business Points for TIF Fund assistance agreement
7. Village Board review of request for funding (typically less than 4 weeks from development of preliminary business points)

B. Minimum Application Contents

Application for TIF assistance shall be made on the TIF Fund Financial Assistance application forms provided by the Village. At a minimum, the following items shall be included in the application:

1. As indicated in the Kenilworth TIF Fund Project Application, financial assistance application, the applicant shall submit a preliminary financial commitment from a financial institution; plans and/or drawings for the project; background information on the developer; a pro forma analysis; financial statements, etcetera;
2. The applicant shall submit audited financial statements for the last three years. If the audited statements are comparative, only two years are needed. If audited statements are not available, three years of annual financial statements, tax returns and summary schedules for other projects completed or started within the three year time frame covered by the financial statements must be submitted. The applicant must also submit an interim financial statement for the current year. Upon the request of the applicant, the Village may permit these documents to be provided directly to the Village's financial advisor or legal counsel in order to limit access to proprietary or confidential information. These requirements may be modified based upon the scope of the proposed project and magnitude of the funding request;
3. The applicant shall submit a complete listing (name and address) of all investors in the project with 5% or greater ownership interest. The listing shall also identify each individual's ownership interest;
4. The applicant shall submit a complete listing of any Village official or employee or immediate family member thereof who has any financial, ownership, or legal interest in the propose project;
5. The applicant shall submit the names and addresses of any persons who have received financial remuneration or any other thing of value in exchange for lobbying Village officials for the approval of the proposed project;
6. The applicant shall comply with all disclosure requirements of the Village, under applicable law;
7. The Village will protect the propriety and confidential information of the applicant to the degree allowed by law if the applicant has noted the confidential nature of the materials on the relevant pages. Please note that marking all pages as confidential or proprietary has typically been determined by the courts to invalidate the ability of government bodies to withhold the materials. Therefore, the applicant shall only mark the relevant confidential/proprietary information as such; and
8. Applicants may be required to reimburse the Village for extraordinary legal, administrative, planning, and/or consultant costs associated with processing the application.

-End of Policy Document-