



**Tax Increment Financing
Policy & Application**

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I. POLICY PURPOSE

For the purposes of this document, the term "City" shall include the Mandan City Commission.

The purpose of this policy is to establish the City's position relating to the use of Tax Increment Financing (TIF) for private development. This policy shall be used as a guide in the processing and review of applications requesting tax increment assistance. The fundamental purpose of tax increment financing is to encourage desirable development or redevelopment that would not otherwise occur but for the assistance provided through TIF.

The City is granted the power to utilize TIF by the Tax Increment Financing Act, Chapter 40-58 NDCC as amended. It is the intent of the City to provide the minimum amount of TIF at the shortest term required for the project to proceed. The City reserves the right to approve or reject projects on a case-by-case basis, taking into consideration established policies, project criteria, and demand on city services in relation to the potential benefits from the project. Meeting policy criteria does not guarantee the award of TIF to the project. Approval or denial of one project is not intended to set precedent for approval or denial of another project.

II. OBJECTIVES OF TAX INCREMENT FINANCING

As a matter of adopted policy, the City will consider using TIF to assist private development projects to achieve one or more of the following objectives:

- " To create opportunities for affordable housing.
- " To encourage additional unsubsidized private development in the area, either directly or indirectly through spin off development.
- " To facilitate the development process and to achieve development on sites which would not be developed without TIF assistance.
- " To remove blight and/or encourage redevelopment of commercial and industrial areas in the City that result in high quality redevelopment and private reinvestment.
- " To offset increased costs of redevelopment (i.e. contaminated site clean up) over and above the costs normally incurred in development.
- " To contribute to the implementation of other public policies, as adopted by the City from time to time, such as the promotion of quality urban or architectural design, energy conservation, and decreasing capital and/or operating costs of local government.
- " To assist development of underdeveloped commercial or industrial property that has been unoccupied for a significant period of time.

III. POLICIES FOR THE USE OF TIF

Policy #1

In areas of the City other than downtown, when undertaking a redevelopment project (as contrasted from underdeveloped commercial or industrial property) on a defined parcel(s) of land, slum or blighted conditions on a portion of the property or properties must exist. A City declaration of underdeveloped property for the purposes of using TIF assistance must also recognize that a slum and/or blighted condition also exists in order for the city to participate in redevelopment efforts.

Policy #2

In areas of the City other than downtown, when undertaking a redevelopment or development project on an under-developed parcel(s) of land, a TIF exemption or a TIF revenue note will be the preferred method of financing. Exceptions to this rule must be approved by the City and be based on reasons that can be documented by the developer and confirmed after review by the City's bond consultant.

Policy #3

When undertaking a redevelopment or development project using a TIF exemption or TIF revenue note, the length of the term of this financing method will be limited to 15 years or less as stated in Chapter 40-58 NDCC. The only exception to this policy will be if this exemption is integrated with other public exemptions (Renaissance Zone exemption) or when tax increment is utilized to pay special assessments, in which case the repayment period for such special improvement districts is likely to exceed 15 years.

Policy #4

To the extent required by state, federal or local law or regulations, a relocation plan should be provided in the development or renewal plan. When undertaking a redevelopment project on an under-developed parcel(s) of land, relocation payments to tenants of businesses or residential uses must be provided for. These relocation payments should follow state/federal guidelines, as applicable, for assistance (E.g. NDCC Ch. 54-01.1 and federal law).

Policy #5

When undertaking any TIF project within the City, the cost of land acquisition, or land write-down that is part of public assistance requested for a project, cannot exceed 50% of the total amount of the public assistance provided by the City. The eligible costs recouped to the developer shall be evaluated on a case-by-case basis, but the maximum should be limited to the lesser of:

- (a) the total acquisition cost for the property, provided the acquisition cost is no more than 150% of the City's market value for the property;
- (b) 50% of the total public assistance; and,
- (c) The difference between what was paid by the developer for the property less the City's market value for the land (as opposed to land and buildings).

For example:

- *If the total acquisition cost for a property is \$100,000, the City's market value is \$50,000, and the total amount of public assistance requested is \$500,000, the maximum allowed under this scenario to assist with the land acquisition portion of development costs is \$50,000.*

With respect to non-blighted/non-slum development or redevelopment, eligible costs, as stated in the urban renewal law (N.D.C.C. §40-58-20.1) are limited to the following:

- a. The cost of acquiring, or the market value, of all or a part of the industrial or commercial property;
- b. Costs of demolition, removal, or alteration of buildings and improvements on the industrial or commercial property, including the cost of clearing and grading land;
- c. Costs of installation, construction, or reconstruction of streets, utilities, parks, and other public works or improvements necessary for carrying out the development or renewal plan; and
- d. All interest and redemption premiums paid on bonds, notes, or other obligations issued by the municipality to provide funds for the payment of eligible public costs of development.

Policy #6

TIF assistance provided in the form of a revenue note should be limited to a percentage up to 15% of hard capital costs of development including the costs of acquisition. This means the TIF assistance will equal or be less than 15% of hard

construction costs, plus the land acquisition costs, and excluding the costs of professional fees, developer fees, furniture and fixtures, interest, profit, and other soft costs. TIF assistance in the form of an exemption may be similarly limited. In addition, Developer must provide at least 10% of total capital costs as Developer's equity in the project.

Policy #7

When undertaking any TIF project within the City, the due diligence procedures in determining the feasibility and level of public assistance will be reviewed by a financial consultant in conjunction with the City's staff. The financial consultant will use accepted public financing procedures in determining project feasibility and levels of public assistance. Particularly when public assistance includes substantial reimbursement to the developer for costs of acquisition or land write-down amounts, review of the level of public assistance may include an estimate of the return on investment anticipated by the project and analysis as to whether the expected return on investment, including the public assistance, is reasonable. For purposes of projecting future increments to be generated, an assumed maximum increase in valuation will be limited to two percent (2%) per annum, which any such increase and its term subject to approval by the City on a case-by-case basis.

Policy #8

When undertaking any TIF project within the City, a non-refundable administrative fee equal to 1% of the total cost of the public assistance shall be paid by the developer. Five hundred dollars (\$500.00) of the administrative fee shall consist of the deposit paid with the application. In the case of a tax exemption, pursuant to § 40-58-20(11), NDCC, the balance of the administrative fee shall be due and payable prior to implementation of the exemption. In the case of tax increment financing, pursuant to § 40-58-20.1, NDCC, the balance of the administrative fee shall be due and payable within 30 days after the approval of the agreement referred to therein.

These fees are to reimburse the City for costs expended by staff and consultants to determine the feasibility, level of public assistance, and the preliminary costs of project development by the City. Other City costs such as engineering, bond carrying costs, and annual special assessment administration will be in addition to this administrative fee if warranted. To the extent that TIF assistance exceeds \$2 million or more, the administrative fee on said excess may be negotiated to a sum less than 1%, as may be appropriate. A non-refundable deposit of \$500 shall be paid to the City along with an initial application for a TIF project. The City may require additional sums to be deposited, from time to time, to defray such costs initially borne by the City. Such sums may be recouped by the developer as eligible costs as may be agreed between the City and developer and as allowed by the urban renewal law (N.D.C.C. Chapter 40-58). The deposit and any other additional sums paid to the City will be offset against and accredited toward the 1% administrative fee.

For example:

- *\$500,000 in tax increment financing = \$5,000 administrative fee*
- *15-year tax exemption estimated at \$33,333 annually = \$500,000 in total public assistance = \$5,000 administrative fee*

Policy #9

Applications for TIF assistance are to be submitted to the City's Business Development Department. The application must include a description of the project and an estimate of the level of assistance needed to proceed with the project. [A checklist and application form are attached.] The application will be reviewed by the Growth Fund Committee as to the development and financial features of the project to determine if City staff, City financial advisors, and the City attorney should proceed with a development plan and developer's agreement. Decisions of the Growth Fund Committee are appealable to the City Commission within 30 days.

Policy #10

The redevelopment should be compatible with long-term City redevelopment plans, and create a high quality development that will have a positive impact on the tax base and the surrounding area. The developer's agreement should include design standards to insure that the development will be compatible with the long term plans for the area.

Policy #11

Interest rates allowed to be recouped as eligible costs under N.D.C.C. §40-58-20 and -20.1 shall be one percent (1%) over the municipal bond indexed rate for taxable municipal bonds or over such indexed rate for tax-exempt municipal bonds, as appropriate, as identified by the City Finance Director, with consultation with the City's financial advisor as may be needed.

IV. PROJECT QUALIFICATIONS

All TIF projects considered by the City must meet each of the following requirements:

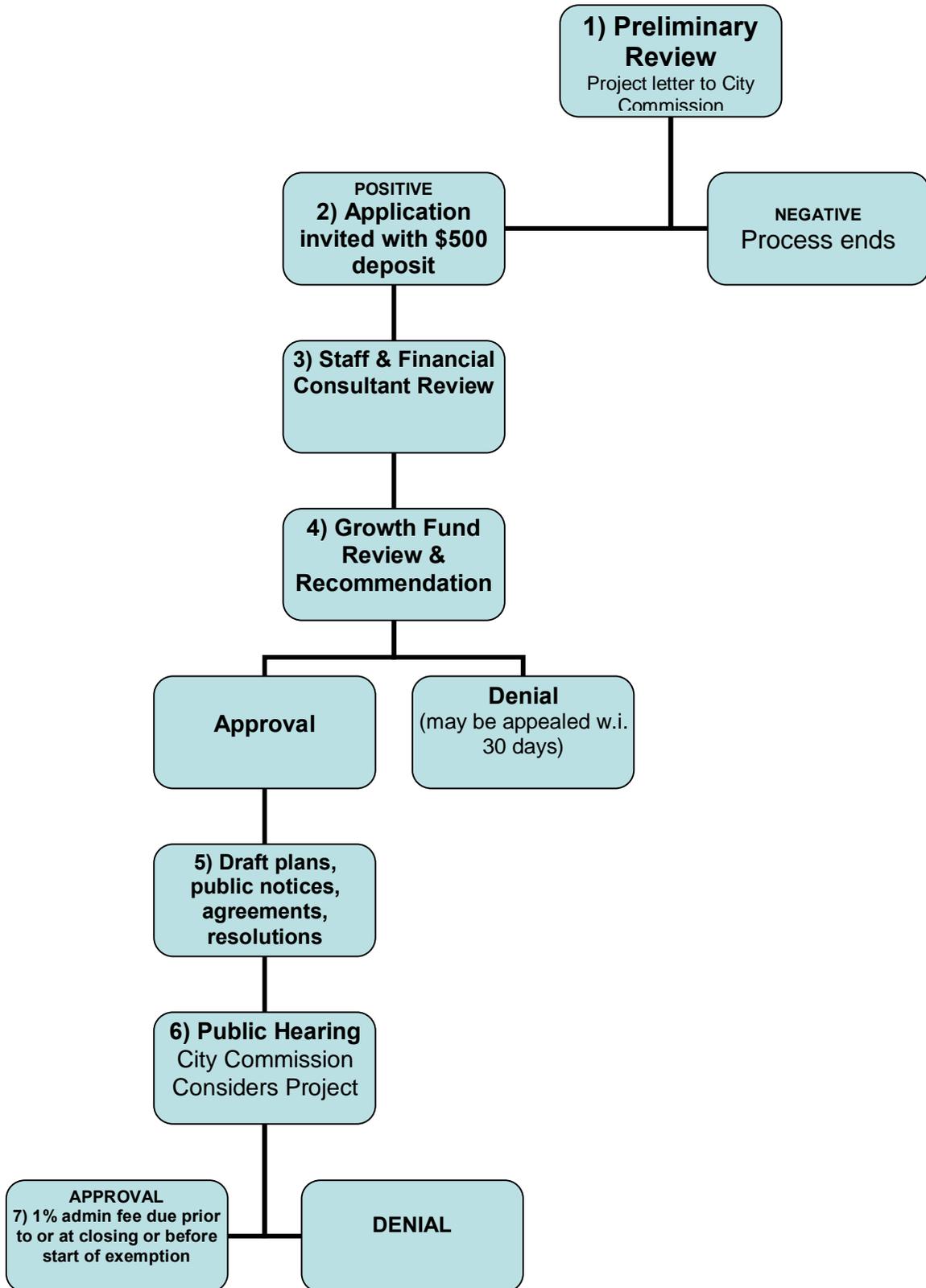
- a. To be eligible for TIF, a project shall result in a minimum increase of \$25,000 per year in property taxes for all jurisdictions combined, or, if not, the developer shall establish that other goals and objectives for the project warrant approval.

For example:

- *At a levy of 504 mills, the necessary increase in property value is approximately \$1 million.*
 - *True and full value = \$1 million*
 - *Assessed value (50%) = \$500,000*
 - *Taxable value (10%) = \$50,000*
 - *Taxation (\$50,000 x .504) = \$25,200*

- b. The project shall meet at least one of the objectives set forth in Section II and satisfy all the provisions set forth in Section III of this document.
- c. The developer shall demonstrate that the project is not financially feasible but for the use of TIF. The projected internal rate of return as determined by a financial consultant based upon information provided by developer must be no more than a percentage that provides a reasonable rate of return for a particular project.
- d. The project must be consistent with the City's Redevelopment Plan, Land Use Plan, and Zoning Ordinances.
- e. The project shall serve at least two of the following public purposes:
 - " Increase of tax base.
 - " Enhancement or diversification of the city's economic base.
 - " Industrial development that will spur additional private investment in the area.
 - " Removal of blight or the rehabilitation of a high profile or priority site.

V. TIF APPLICATION PROCESS



1. Individual or entity seeking TIF support submits letter to Business Development Department requesting assistance for a development or redevelopment project. The letter should describe the project including its overall cost and the amount of public assistance requested. The letter shall be forwarded to the City Commission for preliminary review and direction.
2. If the preliminary review is favorable, the applicant submits a completed application to the Business Development Department along with all application fees. (See Policy #7 - \$500 non-refundable deposit.)
3. City staff reviews the application. The application and supporting documentation will be submitted to a financial consultant for due diligence consideration. At least three (3) weeks should be allowed for due diligence review and consideration [upon receipt of a complete application.]
 - A. As part of the application review, the Business Development Director shall be authorized to inquire as to the character, reputation, fitness of the applicant to engage in the project and to bear the responsibilities entailed therein and any other pertinent information. Such inquiry may include background checks on the applicant and principals of the applicant, as the case may be.
 - B. With respect to certain proprietary, commercial and financial information that is submitted as part of the application and review process, said information may be exempt from the North Dakota Open Records law, Chapter 44-04, N.D.C.C., and to the extent that N.D.C.C. §44-04-18.4 allows, it is the City's intention to maintain confidentiality of such information when requested by the applicant. Section 44-04-18.4, N.D.C.C., provides:

“Confidentiality of trade secret, proprietary, commercial, and financial information.

1. Trade secret, proprietary, commercial, and financial information is confidential if it is of a privileged nature and it has not been previously publicly disclosed.

2. “Trade secret” includes:

a. A computer software program and components of a computer software program which are subject to a copyright or a patent, and any formula, pattern, compilation, program, device, method, technique, or process supplied to any state agency, institution, department, or board which is the subject of efforts by the supplying person or organization to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally

known to, and not being readily ascertainable by proper means by, other persons or organizations that might obtain economic value from its disclosure or use; and

b. A discovery or innovation which is subject to a patent or a copyright, and any formula, pattern, compilation, program, device, method, technique, or process supplied to or prepared by any public entity which is the subject of efforts by the supplying or preparing entity, person, business, or industry to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, any person who might obtain economic value from its disclosure or use.

3. "Proprietary information" includes information received from a sponsor of research conducted by a public entity, as well as any discovery or innovation generated by that research, technical, financial, and marketing information and other documents related to the commercialization, and any other discovery or innovation produced by the public entity which an employee or the entity intends to commercialize.

4. This section does not limit or otherwise affect a record pertaining to any rule of the state department of health or to any record pertaining to the application for a permit or license necessary to do business or to expand business operations within this state, except as otherwise provided by law.

5. Unless made confidential under subsection 1, the following economic development records and information are exempt:

a. Records and information pertaining to a prospective location of a business or industry, including the identity, nature, and location of the business or industry, when no previous public disclosure has been made by the business or industry of the interest or intent of the business or industry to locate in, relocate within, or expand within this state. This exemption does not include records pertaining to the application for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

b. Trade secrets and commercial or financial information received from a person, business, or industry that is interested in or is applying for or receiving financing or technical assistance, or other forms of business assistance.

6. Unless made confidential under subsection 1 or made exempt under subsection 5, bids or proposals received by a public entity in response to a request for proposals by the public entity are exempt until such time all of the proposals have been received and opened by the public entity or until such time that all oral presentations regarding the proposals, if any, have been heard by the public entity. Records included with any bid or proposal naming and generally describing the entity submitting the proposal shall be open.”

In advance of the submission to the City of such confidential records or information, the City and Applicant will make appropriate arrangements for the handling of such information and records to protect the confidentiality thereof.

4. The application along with any recommendations from City staff or financial consultants will be submitted to the Growth Fund Committee for review and consideration.
5. If the Growth Fund Committee recommends approval, the renewal or development plan, as the case may be, along with all necessary public notices, agreements, resolutions and certificates are prepared by City staff and legal counsel.
6. Notices are published as required.
7. Public hearing(s) on the proposed project, as may be required by law, are held.
8. The City Commission grants final approval or denies the proposal.

VI. APPLICATION FOR TAX INCREMENT FINANCING
APPLICANT INFORMATION

Name of Individual/Entity _____

Address _____

Primary Contact _____

Address _____

Phone _____ Fax _____ Email _____

On a separate sheet, please provide the following:

- Brief description of the individual/entity's business, including history, principal product or service, etc. **Attach as Exhibit A**
- Brief description of the proposed project. **Attach as Exhibit B.**
- List names of officers and shareholders/partners with more than 5% interest in the entity. **Attach as Exhibit C.**
- A *but-for* analysis. **Attach as Exhibit D.**
- If leased space, list names and addresses of future lessees and indicate status of commitments or lease agreements. As an alternative to naming specific prospective lessees, the applicant and City can work to develop an appropriate general description of the prospective lessees or types of prospective lessees to be expected. **Attach as Exhibit E.**

Attorney Name _____

Address _____

Phone _____ Fax _____ Email _____

Accountant Name _____

Address _____

Phone _____ Fax _____ Email _____

Contractor Name _____

Address _____

Phone _____ Fax _____ Email _____

Engineer Name _____

Address _____

Phone _____ Fax _____ Email _____

Architect Name _____

Address _____

Phone _____ Fax _____ Email _____

B. PROJECT DESCRIPTION

The project will be:

Industrial: New Construction Expansion
 Commercial: New Construction Expansion
 Redevelopment: New Construction Rehabilitation
 Other

The project be: Owner Occupied Leased Space

Note: If leased space, please attach a list names and addresses of future lessees and indicate the status of commitments or lease agreements. As an alternative to naming specific prospective lessees, the applicant and City can work to develop an appropriate general description of the prospective lessees or types of prospective lessees to be expected. **Attach as Exhibit E.**

Location Address _____

Legal Description _____

Site Plan Attached: Yes No

Amount of Tax Increment Requested: \$ _____

 Land Acquisition \$ _____

 Public Improvement \$ _____

 Site Improvement \$ _____

Current Real Estate Taxes on Project Site: \$ _____

Estimated Real Estate Taxes upon Completion:

Phase I \$ _____

Phase II \$ _____

Construction Start Date: _____

Construction Completion Date: _____

If Phased Project: _____ Year _____ % Completed

_____ Year _____ % Completed

C. PUBLIC PURPOSE

It is the policy of the City that the use of Tax Increment Financing should result in a benefit to the public. Please indicate how this project will serve a public purpose.

___ Job Creation:

___ Number of jobs created by project

___ Average hourly wage of jobs created

___ New industrial development that will result in additional private investment in the area.

___ Enhancement or diversification of the city's economic base

___ Removal of slum and/or blight

___ Rehabilitation of a significant structure or site

___ Other:

D. SOURCES & USES

SOURCES	NAME	AMOUNT
Bank Loan	_____	\$ _____
Other Private Funds	_____	\$ _____
Equity		\$ _____
Fed Grant/Loan	_____	\$ _____
State Grant/Loan	_____	\$ _____
Tax Increment	_____	\$ _____
TOTAL		\$ _____

USES	AMOUNT
Land Acquisition	\$ _____
Site Development	\$ _____
Construction	\$ _____
Machinery & Equipment	\$ _____
Architectural & Engineering Fees	\$ _____
Legal Fees	\$ _____
Interest During Construction	\$ _____
Debt Service Reserve	\$ _____
Contingencies	\$ _____
TOTAL	\$ _____

E. ADDITIONAL DOCUMENTATION

Applicants will also be required to provide the following documentation:

- _____ A) Written business plan, including a description of the business, ownership/management, date established products and services, and future plans

- _____ B) Financial Statements for Past Two Years
 - _____ Profit & Loss Statement
 - _____ Balance Sheet

- _____ C) Current Financial Statements
 - _____ Profit & Loss Statement to Date
 - _____ Balance Sheet to Date

- _____ D) Two Year Projections

- _____ E) Personal Financial Statements of all Major Shareholders
 - _____ Profit & Loss
 - _____ Current Tax Return

- _____ F) Letter of Commitment from Applicant Pledging to Complete During the Proposed Project Duration

- _____ G) Letter of Commitment from the Other Sources of Financing, Stating Terms and Conditions of their Participation in Project

- _____ H) Application fee/non-refundable deposit of \$500.

Note: All Major shareholders may be required to sign personal guarantees.

If the applicant has asked for public financial participation from other entities, please provide a description of the said participation, time frame for such participation, the name of the entity providing public financial participation and entity contact information.

The undersigned certifies that all information provided in this application is true and correct to the best of the undersigned's knowledge. The undersigned authorizes the City of Mandan to check credit references and verify financial and other information. The undersigned also agrees to provide any additional information as may be requested by the City after the filing of this application.

Applicant Name

Date

By: _____

Its _____

EXHIBIT A

Description of the individual or entity seeking tax increment financing.

EXHIBIT B

Description of the proposed project

EXHIBIT C

Names of officers and shareholders/partners with more than 5% interest in the entity.

EXHIBIT D

But-for analysis (see sample provided)

EXHIBIT E

Prospective lessees

Information required to complete financial assistance analysis (But For+ Analysis)

Project Details

To include # of housing units, type of housing units, size of housing units, etc

To include breakdown of commercial square footage, i.e., office, retail, manufacturing, industrial, hospitality, entertainment, etc

To include cost per square footage of construction of each type of housing unit and each type of commercial use

To include site improvement and public infrastructure costs

To include detailed breakdown of all costs

Project Phasing

To include commencement and completion for each building construction, or each site improvement, or public infrastructure

To include date for sale of unit or lease of unit, occupancy start and full occupancy, etc

Project Financing

To include development of complete sources and uses of funds

To include detail on bank financing, i.e., principal, term, rate

To include equity amount and timing of equity in project

To include take-out source of bank financing for construction period, if applicable

To include letters of commitment or interest from financial institutions

To include amount of public financing request, and form of request, i.e., bonds, pay-go-note, etc

To include gap amount to match public financing request (all equity and private sources are insufficient to pay all costs)

To include description of and rationale behind proposed governmental financial assistance

Public Financing Revenue Assumptions

To include estimated assessed value per type of construction

To include sales per s.f. estimates (if applicable)

To include any growth assumptions

Project Operation

To include operating assumptions related to retail, commercial, housing, etc

To include revenue and expense assumptions and increases

To include reserve assumptions (capital, operating, etc.)

To include type of lease for commercial, estimated lease rate, est. operating expenditures, assumed vacancy, etc

To include rent and/or sale assumptions for housing and commercial uses

To include lease commission, sales commission assumptions

To include complete operating pro-forma (10-Year Minimum)

To include complete operating pro-forma calculating internal rate of return with and without requested financial assistance

To include sale assumptions in appropriate future year (10 or 15), including capitalization rate

To include proposed tenants, job and wage information

General Information/Assumptions

Qualify any published source used in any of the above

SAMPLE *BUT-FOR* ANALYSIS

	WITH NO TAX INCREMENT	WITH TAX INCREMENT
	SOURCES AND USES	SOURCES AND USES
	SOURCES	SOURCES
Mortgage	9,600,000	8,667,000
Equity	2,400,000	2,400,00
Tax Increment Financing	0	933,000
TOTAL SOURCES	12,000,000	12,000,000
	USES	USES
Land	1,500,000	1,500,000
Site Work	300,000	300,000
Soil Correction	468,000	468,000
Demolition	100,000	100,000
Relocation	65,000	65,000
Subtotal Land Costs	2,433,000	2,433,000
Construction	6,750,000	6,750,000
Finish Manufacturing	250,000	250,000
Subtotal Construction Costs	7,000,000	7,000,000
Soft Costs	350,000	350,000

Taxes	35,000		35,000	
Finance Fees	850,000		850,000	
Project Manager	542,000		542,000	
Developer Fee	540,000		540,000	
Contingency	250,000		250,000	
Subtotal Soft Costs	2,567,000		2,567,000	
TOTAL USES	12,000,000		12,000,000	
	Income Statement		Income Statement	
	Sq. Ft.	Per Sq. Ft.	Sq. Ft.	Per Sq. Ft.
Rent-Space 1	100,000	\$8.00	100,000	\$8.00
	800,000		800,000	
Rent-Space 2	25,000	\$8.50	25,000	\$8.50
	212,500		212,500	
Rent-Space 3	25,000	\$9.00	25,000	\$9.00
	225,000		225,000	
Other	0	\$0.00	0	\$0.00
	0		0	
	1,237,500		1,237,500	
Mortgage	20 Term		20 Term	
	1,051,646		949,439	
	9.00% Interest		9.00% Interest	
	9,600,000 Principal		8,667,000 Principal	
Net Income	185,854		288,061	
Total Return on Equity	7.74%		12.00%	