Tax Increment Financing Guidelines
Madison County, Mississippi

Purpose:

The following guidelines are intended to establish the considerations that Madison County, Mississippi (the "County") and the Madison County Economic Development Authority (the "MCEDA") will use in their decision-making process in reviewing proposals for tax increment financing ("TIF") to fund eligible public infrastructure and related improvements. These guidelines have been prepared for the purpose of (1) evaluating the feasibility of a TIF as a mechanism to fund eligible public infrastructure and related improvements in connection with private development projects, and (2) to determine whether the private development and public infrastructure and related improvements within the requested TIF district will meet the County's economic development, land use, and other strategic goals.

Background:

Title 21, Chapter 45 of the Mississippi Code of 1972, as amended (codified as the Tax Increment Financing Act) authorizes the creation of TIF districts as a means to finance eligible public infrastructure and related improvements in connection with private development. The purpose of designating TIF districts is to provide another tool for local governments to finance eligible public infrastructure and related improvements benefiting certain commercial and retail projects and the general public so as to generate economic development investments which will promote the creation and maintenance of jobs for the citizens of the County, improve the quality of life in the County and enhance County revenues beyond the debt service requirements.

Under the TIF process, special obligation debt may be issued by the County to provide funding for the eligible public infrastructure and related improvements benefiting the TIF district.[1] The incremental property tax revenues (or a designated portion thereof) to be received by the County from the associated private development project may be pledged to the repayment of the special obligation debt. Theoretically, there will be incremental property tax revenues created because the assessed value of the properties located within the TIF district increases as a result of the new private development project. Because only the incremental property tax revenues (or a designated portion thereof) are pledged to repay the special obligation debt service, the TIF structure allows the County to continue to receive the tax revenues after such debt has been repaid. Ideally, during the period that the debt is being repaid there will also be additional incremental property tax revenues (i.e., incremental tax in excess of the amount required for the repayment of the debt). The key to the success of the TIF is to have sufficient incremental property tax revenue created to pay the debt service on the special obligation debt. It is

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[1] Special obligation debt may alternatively be issued by a municipality located within the County pursuant to an interlocal agreement between such municipality and the County, pursuant to which the County will pledge its incremental property tax revenues pursuant to these policy guidelines and such municipality will pledge all or a portion of its incremental property tax revenues and/or sales tax revenues to the repayment of the special obligation debt.

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 the County.

Guidelines:

In order to assure that TIF financing for a project will accomplish its stated benefits, the MCEDA 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 ability of a private developer to utilize TIF financing is not a right or entitlement established by Mississippi law or by these guidelines. The County and the MCEDA reserve the right, in their sole discretion, to amend or waive these guidelines when such an amendment or waiver would further the County's goals for establishment of the TIF.

The maximum term of any special obligation TIF bond for which the County pledges incremental property taxes from a project shall not exceed fifteen (15) years; provided, however, if seventy-five percent (75%) or more of the proceeds of any such TIF bond will be used to fund or reimburse a developer for the cost of public road improvements, the maximum term of the TIF Bond shall not exceed ten (10) years.

For the avoidance of any confusion, a distinction must be drawn between:

(a) that portion of eligible incremental property taxes from a project which will be determined by the County to calculate (i.e., "size") the maximum principal amount of the TIF bond(s) to be issued following completion of the project (as if only such such portion of the taxes were going to be available to repay the TIF bonds) (the "Sizing Percentage"); and

(b) that equal or greater portion of eligible incremental property taxes from a project which will be pledged by the County to repay the TIF Bonds (the "Pledged Percentage").

The phrase "eligible incremental property taxes," as used herein, means that all County property taxes levied on the value of any real property improvements and/or personal property constructed or placed into service as part of a project AFTER the date of the TIF plan adopted by the County Board of Supervisors for such project, less and except any and all County property taxes expressly levied to support the following: community colleges, libraries, solid waste management, fire protection and repayment of existing bonded indebtedness.

The maximum principal amount of any special obligation TIF bonds to be repaid in whole or in part by eligible incremental County property taxes from a project shall be calculated using a Sizing Percentage of not more than ***fifty percent (50%) of the eligible incremental property taxes*** arising from such project; however, the County may, in its discretion, agree to a Pledged Percentage of up to ***seventy-five percent (75%) of the eligible incremental property taxes*** arising from such project to aid and promote the sale of the TIF bonds on favorable terms.

As a result, in some instances, the Sizing Percentage will be smaller than the Pledged Percentage. For example, the County may agree to participate in the issuance of a TIF bond for a project only to the extent that the maximum principal amount of the bond can be repaid over the life of the bond using fifty percent (50%) of the eligible incremental property taxes derived from the project (*i.e.*, a Sizing Percentage of only 50%). However, in order to find a willing purchaser for the TIF bonds and to obtain a competitive interest rate and other pricing terms, the County may pledge up to seventy-five percent (75%) of the eligible incremental property taxes from the project (the "Pledged Percentage"). From a purchaser's perspective, the difference between the Pledged Percentage and the Sizing Percentage provides reassurances that, while the principal amount of the bond was calculated based on the debt service coverage using the Sizing Percentage, the greater Pledged Percentage will nonetheless be available to repay the bonds in the event that the initial eligible incremental taxes based on the Sizing Percentage unexpectedly decline over time (*i.e*., the difference provides a payment "cushion" from the bond purchaser's perspective).

Notwithstanding the foregoing, the County and the MCEDA will not consider applications for any project <u>located within the municipal boundaries of the City of Canton or the City Flora</u> (a) for which the total capital investment from private sources is less than Five Million Dollars ($5,000,000); and/or (b) which will not support the timely repayment of a TIF bond during its fifteen (15) year term (or ten (10) year term, if applicable) of an aggregate principal amount of at least Five Hundred Thousand Dollars ($500,000), plus applicable interest and customary fees (*i.e*., any project for which the costs of eligible public infrastructure and related improvements is less than Five Hundred Thousand Dollars ($500,000)) will not be considered by the County and the MCEDA).

With respect to any other project <u>located elsewhere in the County (or within any other municipality other than Canton or Flora)</u>, the County and the MCEDA will not consider applications for any project (a) for which the total capital investment from private sources is less than Twelve Million Five Hundred Thousand Dollars ($12,500,000); and/or (b) which will not support the timely repayment of a TIF bond during its fifteen (15) year term (or ten (10) year term, if applicable) of an aggregate principal amount of at least One Million Dollars ($1,000,000), plus applicable interest and customary fees (*i.e*., any project for which the costs of eligible public infrastructure and related improvements is less than One Million Dollars ($1,000,000)) will not be considered by the County and the MCEDA).

Further, the County will not pledge or otherwise contribute toward the repayment any TIF bonds any eligible incremental property taxes derived from residential property.

Before any TIF bond(s) may be issued which will be repaid, in whole or in part, using the County's eligible incremental property taxes from a project, the County shall (a) first assess and levy eligible incremental County property taxes on the project and the (b) determine that the resulting Sizing Percentage will be adequate to repay that portion of the annual payments of principal and interest on the TIF bond payable using such Sizing Percentage amount. Consequently, no such TIF bonds shall be issued any earlier than the October 1 prior to February 1 of the following year upon which date such eligible incremental County property taxes will be first received by the County and such Sizing Percentage made available thereto to repay the TIF bond.

Further, any TIF bond(s) that is issued which will be repaid, in whole or in part, using the County's eligible incremental property taxes from a project, must be issued within five (5) years from the date that the associated TIF plan for such bonds was approved by the County Board of Supervisors, unless an extension is approved by such board.

Contemporaneously with the issuance of a TIF bond, each owner of real property located within the TIF district shall execute an agreement, pursuant to which such owner shall agree that, during the term of the TIF bond, such owner shall not (i) seek any reduction in the assessed value of his, her or its real property located within the TIF district during the term of the TIF bond, nor (ii) sell, transfer or otherwise convey such owner's real property located within the TIF district to any person or entity which is exempt under Mississippi law from the payment of ad valorem taxes. Such agreement shall be executed in recordable form and recorded, or caused to be recorded, by the County, in the County's land records as a restrictive covenant upon such property.

Any interlocal agreement between the County and any municipality, pursuant to which such municipality will issue a TIF bond(s) that will be repaid, in part, using the County's eligible incremental property taxes from a project, must contain provisions which make clear that the County shall not be responsible to the municipality for its contribution of incremental County property taxes to pay any monthly, semi-annual or annual payment of interest and/or principal and interest payment due and payable on a TIF bond unless such amount shall either (1) be deposited promptly upon receipt by the County thereof into a bond payment fund established pursuant to the interlocal agreement, and (2) requested by the municipality, in writing, within sixty (60) days following date such payment is initially due and oweing (*i.e*., after such sixty (60) days period, the County shall no longer be liable to make such payment).

Application for Tax Increment Financing:

An application for Tax Increment Financing is available from the MCEDA (in the form determined thereby from time to time) on its website at http://madisoncountyeda.com/_______________. The applicant must complete an application in its entirety.

The TIF application, in a form determined by the MCEDA, will be evaluated to determine if:

(i) The proposed public improvements meet all requirements of the Tax Increment Financing Act;

(ii) The proposed private development project and the eligible public infrastructure and related improvements to be funded through the TIF furthers the goals and policies set forth in the County's redevelopment plan and the other goals and policies established in other plans adopted by the County Board of Supervisors and/or other County departments;

(iii) The proposed private development is consistent with the County's Comprehensive Zoning Plan and the County's applicable zoning and subdivision regulations;

(iv) The developer requesting the TIF financing has a significant investment at risk in the development relative to the amount of the requested County investment in the eligible public infrastructure and related improvements funded through the TIF;

(v) The use of TIF for the project will not result in a loss of pre-existing property tax revenues to the County and the costs and benefits of the project are in the long-term best interest of the community;[2]

(vi) The proposed private development would not be economically feasible but for the establishment of a TIF district, and the financial assistance resulting from the TIF financing is limited to the amount required to make the development feasible;

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[2] For example, if the project is merely a relocation of a commercial enterprise already in existence and operation within the County, the application will likely be rejected unless the developer can demonstrate that the project includes a material expansion of the existing enterprise; provided that, in such instances, only the net eligible incremental taxes resulting from the property values in excess of the values associated with the existing operation will be considered for purposes of calculating the maximum principal amount of the TIF bonds for such project.

(vii) The proposed private development will be economically viable throughout the term of the bonds issued (or other obligations incurred) to finance the eligible public infrastructure and related improvements;

(viii) The projected portion of the eligible incremental property tax revenues (from all sources) to be generated by the new project exceed the projected annual debt service on the bonds to be issued to finance the eligible public infrastructure and related improvements to the extent needed to offset the fiscal burden placed on the County to provide services to the new development (such as the cost of new students in the school system, law enforcement and fire protection);

(ix) The issuance of special obligation bonds incurred to finance the eligible public infrastructure and related improvements will not have an adverse impact on the County's credit rating; and

(x) A guaranty and/or letter of credit pledged by the developer or another private party to secure all or a portion of the special obligation bonds is necessary under the circumstances.

The MCEDA will perform a due diligence investigation to confirm information regarding the developer's ability to complete the project as well as the ability of the resulting new property to generate eligible incremental tax revenues in amounts sufficient to pay the debt service on the associated TIF bonds. Such investigation will also include a review of the developer's and property owner's financial resources to complete and operate the project. The project and the associated application will be evaluated by the Executive Director of the MCEDA and members of his or her staff, the MCEDA board and board attorney, and/or their designees, as well as other appropriate staff and consultants. This review team will recommend approval, denial or revised terms of the proposed TIF to the County Board of Supervisors.