

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2011 Legislative Session**

Resolution No. CR-38-2011

Proposed by Council Member Toles

Introduced by Council Members Toles, Lehman, Franklin, Patterson,  
Turner and Johnson

Date of Introduction May 17, 2011

**RESOLUTION**

1 A RESOLUTION concerning

2 Economic Development

3 For the purpose of revising the County’s policy for the use of Tax Increment Financing and other  
4 financial tools and incentives to fund economic and community development projects and  
5 initiatives in Prince George’s County.

6 WHEREAS, Tax Increment Financing (“TIF”) is an economic and community  
7 development tool that enables counties and municipalities to borrow money by issuing and  
8 selling bonds for the purpose of financing the development of industrial, commercial, or  
9 residential areas; and

10 WHEREAS, the Council adopted CR-89-2006 which established a policy for the County to  
11 use specific criteria in determining the appropriateness and necessity of applying TIF and other  
12 financial incentives to help fund economic and community development projects and initiatives  
13 throughout the County; and

14 WHEREAS, the Council adopted CR-98-2010 to revise the TIF policy by adding criteria to  
15 strengthen LMBE equity participation; provide for a MBE Plan to be approved by the County’s  
16 Compliance Manager; require best efforts to afford opportunities for public and private  
17 partnerships and to offer creative and unique opportunities for economic and community  
18 development projects and initiatives; require certification for all LMBEs; prior to bonds being  
19 sold, require certifications from the developer, County Executive and Bond Counsel that all  
20 provisions of CR-98-2010 have been complied with; and prior to the sale of the bonds, the  
21 Council must review the TIF proposal and certification and approve the same by resolution; and

22 WHEREAS, the economic and community development projects and initiatives that utilize

1 TIF and other financial tools and incentives shall be consistent with the County's General and  
 2 Sector Plans and other economic and community development policies, strategies/ tools, and  
 3 guidelines, as well as generate and produce additional significant revenue that will benefit all  
 4 County citizens and residents; and

5 WHEREAS, the economic and community development policies, strategies and guidelines  
 6 shall take into consideration and maximize all public and private partnership opportunities,  
 7 employment opportunities, Minority Business Enterprise ("MBE") equity participation  
 8 opportunities, opportunities to expand the County's commercial base, and the uniqueness that a  
 9 new project or initiative can bring to the County; and

10 WHEREAS, the Council has determined that the policy criteria needs to be refined and to  
 11 add additional criteria.

12 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's  
 13 County, Maryland, that Prince George's County shall use the following revised criteria in  
 14 determining the appropriateness and necessity of applying TIF and other financial incentives  
 15 funded by County taxes to help fund economic and community development projects and  
 16 initiatives throughout the County:

17 In order to demonstrate appropriateness and necessity, proposed projects and initiatives  
 18 must:

- 19 1) Be consistent with the County's General Plan and Sector Plans, as well as other  
 20 economic and community development policies, strategies, and tools;
- 21 2) Generate additional significant revenue for the County;
- 22 3) Meet both a short-term and long-term "But-For Test", which demonstrates that the  
 23 proposed project or initiative is not feasible without the County's participation and assistance;
- 24 4) Be subject to a "Trigger Mechanism/Look Back Provision", which, on an ongoing  
 25 basis, examines a project's proposed and projected cash flows, profits, and other financial  
 26 information to determine whether and when repayment of the County's investment is or may be  
 27 necessary;
- 28 5) Where appropriate, be used to help fund the revitalization of an area or community in  
 29 the County;
- 30 6) Provide documentation, prior to any issuance of TIF bonds, showing not less than five  
 31 percent (5%) of the value of the TIF issued to the developer through either (i) LMBE equity

1 ownership in the entity receiving TIF funds or (ii) LMBE ownership or participation equal to  
 2 five percent (5%) of the TIF note issued and a Minority Business Enterprise (MBE) Plan must be  
 3 submitted to include a goal of thirty percent (30%) for local business enterprise (LBE), minority  
 4 business enterprise (MBE) and local minority business enterprise (LMBE); however, at no time  
 5 shall the LMBE participation be less than twenty percent (20%) of the available project dollars;

6 7) Not have an adverse impact on the County's credit/bond rating;

7 8) Expand and strengthen employment opportunities with a minimum employment goal  
 8 of thirty percent (30%) for County residents;

9 9) Expand the County's commercial base;

10 10) Use best efforts to afford opportunities for public and private partnerships;

11 11) Use best efforts to offer creative and unique opportunities for economic and  
 12 community development projects and initiatives;

13 12) Certification of all LMBEs shall be required. Any LMBE certified by the County, the  
 14 Maryland Department of Transportation (MDOT), the Washington Metropolitan Area Transit  
 15 Authority (WMATA), Maryland/District of Columbia Minority Supplier Development Council  
 16 (or any other organizations with similar certification authority), or any Federal agency shall be  
 17 deemed certified for purposes of receiving contract awards as a LMBE;

18 13) Any developer or other party receiving TIF assistance estimated at One Million Dollars  
 19 (\$1,000,000) or more from Prince George's County shall submit a certification to the  
 20 Compliance Manager, as a condition of receiving such assistance, verifying that all construction  
 21 contractors and subcontractors, of whatever tier, performing work on the assisted project, shall  
 22 meet the apprenticeship requirements specified below. Failure to comply with this requirement  
 23 shall constitute a material breach on the part of the TIF recipient and result in the assessment of  
 24 One Thousand Dollars (\$1,000.00) liquidated damages per day for each day of non-compliance.

25 (A) The developer or other party receiving TIF assistance participates in a Class A  
 26 Apprenticeship Program for each separate trade or classification in which it employs craft  
 27 employees and shall continue to participate in such program or programs for the duration of the  
 28 project. For purposes of this section, a Class A Apprenticeship Program is an apprenticeship  
 29 program that is currently registered with and approved by the U.S. Department of Labor or a  
 30 state apprenticeship agency and has graduated apprentices to journey person status for at least  
 31 three of the past five years.

1       (B) To demonstrate compliance with this section, the developer or other party receiving  
2 TIF assistance shall provide to the Compliance Manager, with this certification, a list of all  
3 trades or classifications of craft employees it will employ on the project and documentation  
4 verifying it participates in a Class A Apprenticeship Program for each trade or classification  
5 listed.

6       (C) A developer or other party receiving TIF assistance may submit a request to the  
7 Compliance Manager for a partial waiver of the apprenticeship participation requirements of this  
8 Section if a partial waiver is necessary to ensure compliance with the MBE, LBE and LMBE  
9 goals of this Section.

10       (D) To obtain such a partial waiver, the developer or other party receiving TIF assistance  
11 shall demonstrate that it is unable to meet the applicable apprenticeship participation  
12 requirements unless a partial waiver is granted. However, a partial waiver issued under this  
13 Subsection shall be approved by the County Council and shall not waive apprenticeship  
14 participation requirements beyond the extent necessary to meet the MBE, LBE and LMBE goals  
15 of this Section.

16       14) Prior to bonds being sold, the developer, County Executive and Bond Counsel shall  
17 certify that the provisions of this resolution have been complied with and that the MBE Plan has  
18 been approved by the Compliance Manager in conformance with the MBE Plan Guidelines  
19 promulgated by the Compliance Manager; and

20       15) Prior to the sale of the bonds, the Council must review the TIF proposal and  
21 certification and approve of the same by resolution.

22       BE IT FURTHER RESOLVED that the County Council periodically may refine these  
23 criteria, as well as add additional criteria as experience and circumstances may require.  
24

1 BE IT FURTHER RESOLVED that this resolution shall apply to TIF bonds issued  
2 following the adoption of this resolution.

Adopted this 19th day of July, 2011.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Ingrid M. Turner  
Chair

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

KEY:  
Underscoring indicates language added to existing law.