

CDFA Tax Increment Finance Course: Tax Increment Financing – How TIF is Created, Typical Improvements and Tax-Exempt Bond Financings and Case Studies

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Tax Increment Financing – a Powerful Public-Private Partnership Tool

- Tax Increment Financing (TIF)
 - Available in 49 of the 50 states (only exception is Arizona)
- TIF in a nutshell
 - A way to use a public revenue stream to create public-private partnerships
 - Essentially recycling incremental real estate tax revenue growth into specific projects (other tax streams available, too)
 - Pursuant to a redevelopment plan
 - ❖ for a designated area
 - ❖ for up to 23 years
 - ❖ for typically up to 15% to 20% of a specific project's cost
 - ❖ pursuant to discrete redevelopment agreements
 - Facilitates bond financings
 - Also, TIF notes tied to specific redevelopment agreements and projects

10 Key Characteristics of TIFs

1. Focus on specific geography
2. Take the long view
3. Wed land use planning and public and private finance
4. Encourage public investment in infrastructure, brownfield redevelopment and sustainable development
5. Use incentives to attract private investment and better design
6. Attract multiple funding streams
7. Facilitate a number of discrete projects to encourage tax exempt financing
8. Enable condemnation
9. Work well with various special district financings and zoning classifications

National Overview of TIF By State

State	Year TIF was passed into legislation	Estimated number of TIF districts	State contact or reference
Alabama	1987	<10	
Alaska	1988	0	
Arizona	N/A	N/A	
Arkansas	2000	10-20	Department of Economic Development
California	1952	771 ^a	State Controller's Office
Colorado	1974	42 ^b	Department of Local Affairs, State Auditor's Office
Connecticut	1994	<5	Connecticut Development Authority
Delaware	2003	0	
Florida	1977	173	Dept. of Revenue, Dept. of Community Affairs
Georgia	1985	<15	
Hawaii	1985	0	
Idaho	1988	50	
Illinois	1977	1,000	Department of Commerce and Economic Opportunity, Office of Comptroller
Indiana	1975	126	Department of Local Government Finance

National Overview of TIF By State

State	Year TIF was passed into legislation	Estimated number of TIF districts	State contact or reference
Iowa	1969	949 ^c	Department of Management
Kansas	1976	4	
Kentucky	2000	7	Cabinet for Economics Development
Louisiana	1988	5-10	
Maine	1977	>200	Dept. of Economic and Community Development
Maryland	1980	>18	
Massachusetts	2003	2	Office of Budget Management, Economic Assistance Coordinating Council
Michigan	1980	88 ^b	State Tax Commission, Department of Treasury, Economic Development Corporation
Minnesota	1979	2,184	Dept. of Revenue and Office of the State Auditor
Mississippi	1986	150	Development Authority
Missouri	1984	263 ^a	Department of Economic Development
Montana	1978	20-22	Department of Revenue
Nebraska	1978	398 ^a	State Property Tax Administrator
Nevada	1987	>50	Local Government Finance, Department of Taxation

National Overview of TIF By State

State	Year TIF was passed into legislation	Estimated number of TIF districts	State contact or reference
New Hampshire	1979	6-7	
New Jersey	2002	0	Local Finance Board
New Mexico	1978	2-3	
New York	1984	2	State Comptroller
North Carolina	2004	0	Local Government Commission
North Dakota	1989	10	
Ohio	1987	747	Office of Tax Incentives, Dept. of Development
Oklahoma	1992	25	
Oregon	1960	75 ^e	Department of Revenue, State Treasury
Pennsylvania	1990	>100	
Rhode Island	1984	2	
South Carolina	1984	100	
South Dakota	1978	74	Department of Revenue
Tennessee	2004	20-30 ^d	Comptroller of the Treasury

National Overview of TIF By State

State	Year TIF was passed into legislation	Estimated number of TIF districts	State contact or reference
Texas	1987	82 ^f	State Comptroller
Utah	1968	51	
Vermont	1985	<6	Department of Taxes
Virginia	1988	3	
Washington	2001	3	Department of Revenue
West Virginia	2002	11	West Virginia Development Office
Wisconsin	1975	818	Department of Revenue
Wyoming	1983	5-10	

Notes: Not all states call TIF locations “districts.” If a state does not have TIF districts, the numbers are estimates of the following: ^aprojects, ^bauthorities, ^careas, ^dprojects and districts, ^eplan areas, and ^fzones. Also, although most states only allow property taxes, some states allow alternate sources of funding, such as sales tax; no distinction for alternate sources of funding is made in this paper.

Source: Petersen, Jennifer A. The State of Tax Increment Financing In the United States. *State Tax Notes* August 27, 2007.

Regional Overview

Region	Estimated number of TIF districts by region					Year TIF was passed into legislation
	Minimum	Maximum	Median	Average	Standard deviation	Average
Midwest	4	2,184	331	555	637	1979
Northeast	0	200	5	36	69	1989
South	0	173	13	39	56	1992
West	0	771	31	89	216	1979

Note: For states that did not report an exact number of TIF districts, I used the average of the range. For inequalities, I used the number included in the inequality.

Source: Petersen, Jennifer A. The State of Tax Increment Financing In the United States. *State Tax Notes* August 27, 2007.

Economic Development Policy Context

- Project-specific TIFs (committed user)
- District-wide TIFs (central business districts, large brownfields)
- “If you TIF it, they will come” (public infrastructure for a range of projects, destination parks, master planned communities, etc.)

Who Takes the Risk?

- Timing of financing – front end or pay as you go
- Level of assistance – 5% to 20% of project – typically cover certain eligible costs
- Net benefit to local government – speeds up public investment, typically in a concentrated way

Financing TIF Improvements

- Incur front-end debt
- Pay-As-You-Go notes and project-specific agreements
- Combination of front-end debt and pay-as-you-go agreements

Bonds

- Long-term bonds may be issued
 - At the commencement of the project
 - Upon meeting/hitting certain development milestones, typically described in a redevelopment agreement
- Commonly, bonds are issued to take out previously issued notes, and as further seasoning occurs, refundings can occur

Redevelopment Project Costs in Illinois

- Costs of studies, surveys, development of plans, specifications, implementation and administration of the redevelopment plan
- Cost of marketing sites to prospective businesses, developers and investors
- Property assembly costs, costs of site improvements and addressing environmental contamination
- Costs of rehabilitation, reconstruction, repair or remodeling of existing public or private buildings, fixtures and leasehold improvements
- Costs of the construction of public works or improvements
- Costs of job training and retraining projects
- Certain financing costs – construction period interest and certain other interest costs
- Certain relocation costs

Examples of Eligible Redevelopment Project Costs

- California
 - Tax increment may be used for principal and interest on bonds issued by the redevelopment agency to finance the costs of the redevelopment
 - Redevelopment is defined as “the planning, development, replanning, redesign, clearance, reconstruction, rehabilitation or any combination of these, or all or part of a survey area, and the provision of those residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare”
 - Subject to certain exceptions, redevelopment agency must direct 20% of the tax increment toward increasing, improving, and preserving the community’s supply of low and moderate income housing
 - A certain percentage of any dwelling units must be provided at an affordable cost to persons of low or moderate income. Displaced families must be provided with alternate comparable housing, subject to certain exceptions

Examples of Eligible Redevelopment Project Costs

- Colorado
 - Increment may be used for the financing or refinancing of an “urban renewal project,” which includes land acquisition, demolition and removal of structures, redevelopment, construction of improvements, rehabilitation, and conservation
- New York
 - Increment can be used for acquisition of land, demolition and removal of buildings, installation of streets and other public utilities, and other public improvements or services integral to the redevelopment plan

Examples of Eligible Redevelopment Project Costs

- North Carolina
 - Proceeds may be used to pay capital costs to provide for redevelopment through the acquisition of land and the improvement thereof for assisting local redevelopment commissions
 - “Capital costs” include: all property acquisition costs; construction renovation, and demolition costs; financing charges; the costs of plans, studies, reports, and surveys; administrative and legal expenses; and any other costs necessary or incidental to the purpose authorized
 - The proceeds may be used only for projects that enable, facilitate, or benefit private development within the development within the development financing district

Tax Exempt Bonds in a Nutshell

- Private activity rule
- Two tests – private business and private payment

Private Business/Public Purpose

- Public improvements
 - Classic infrastructure
 - Certain public buildings
- Site preparation
- Building renovation or rehabilitation

Private Payment/Public Payment

- A tax of general application uniformly applied
- No private guarantees
 - Agreed assessment
 - Waiver of the right to protest ad valorem tax assessment amount

TIF is One Financing Technique Among Many Other Tools Used in the U.S., Including:

- Assessment districts
- Brownfields programs
- Business improvement districts (and other special districts)
- Community development block grants
- State and local economic development programs, including job tax credits
- Economic development administration (federal)
- Empowerment zones
- Foreign trade zones
- HUD Section 108 guarantee
- New markets tax credits
- State level infrastructure programs (various)
- Tax abatement
- Tax credits (economic development, training, housing – federal and state)
- Transportation departments (US And State)
- US Department of Agriculture programs (various)
- US EPA programs (various)

Chicago TIF's

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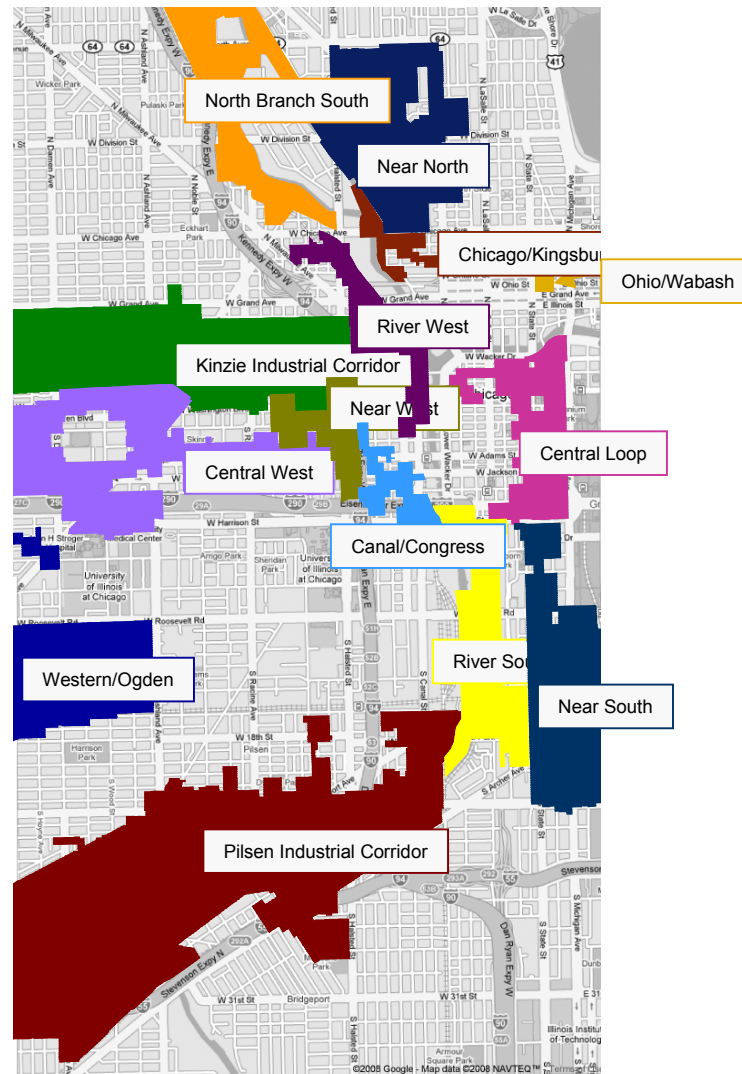
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City of Chicago Tax Increment Financing Districts



- 144 active TIF's
- ≈15% of the city's land area in TIF's
- A tool well used by Chicago to redevelop significant portions of the city
- We'll focus on five TIF's in the central area, including one of the newest, the LaSalle Street TIF

Potential TOD corridor of Chicago TIF's



Chicago's Central Loop TIF's and Millennium Park

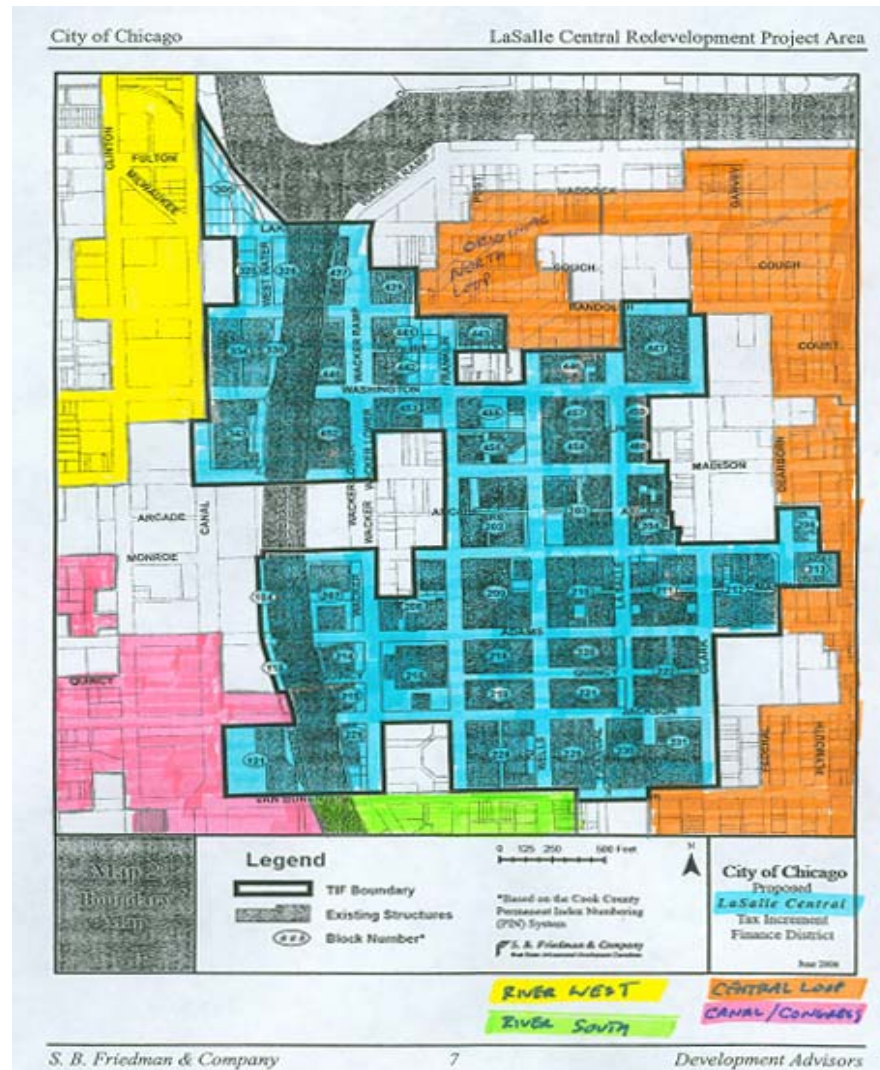
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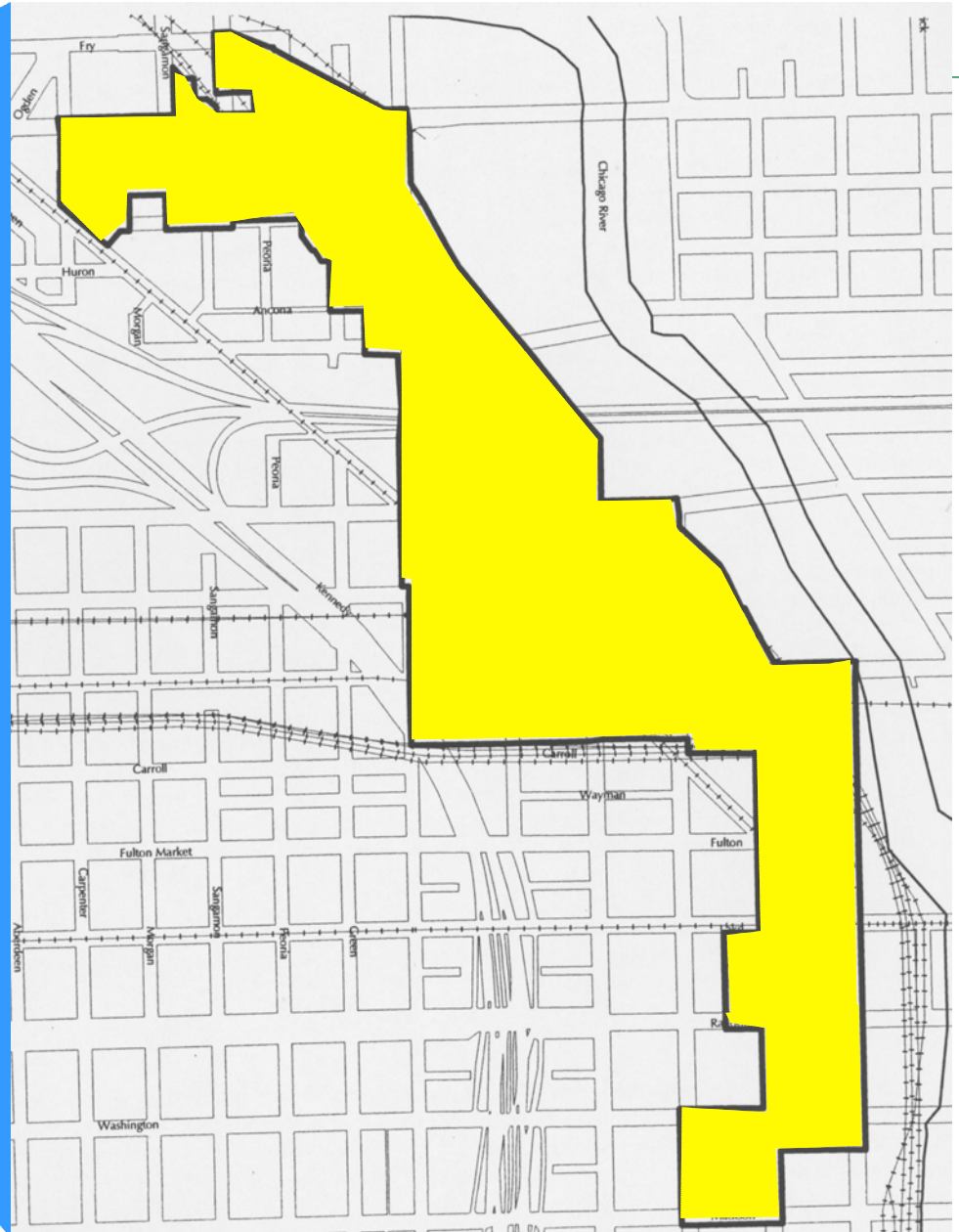
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Downtown Chicago



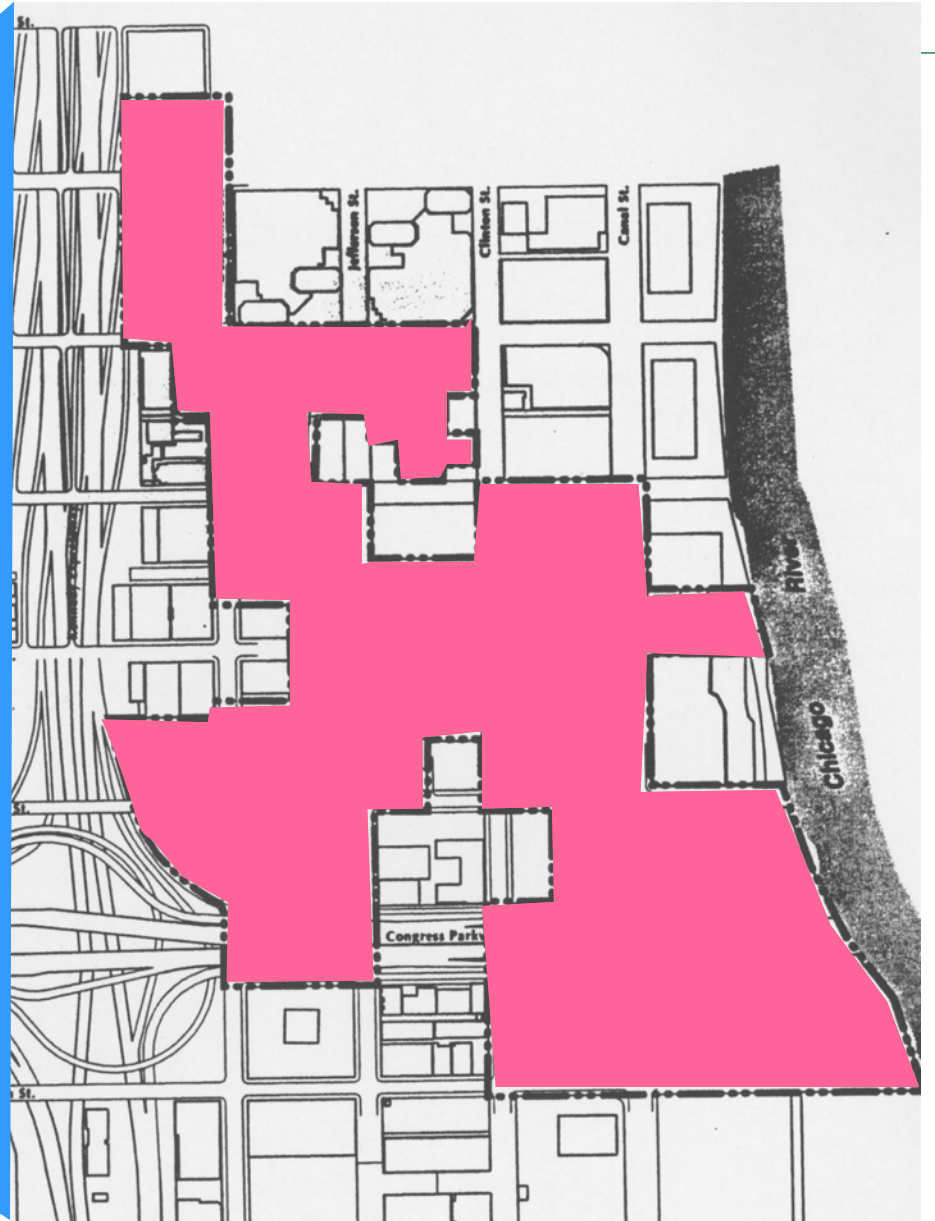
River West



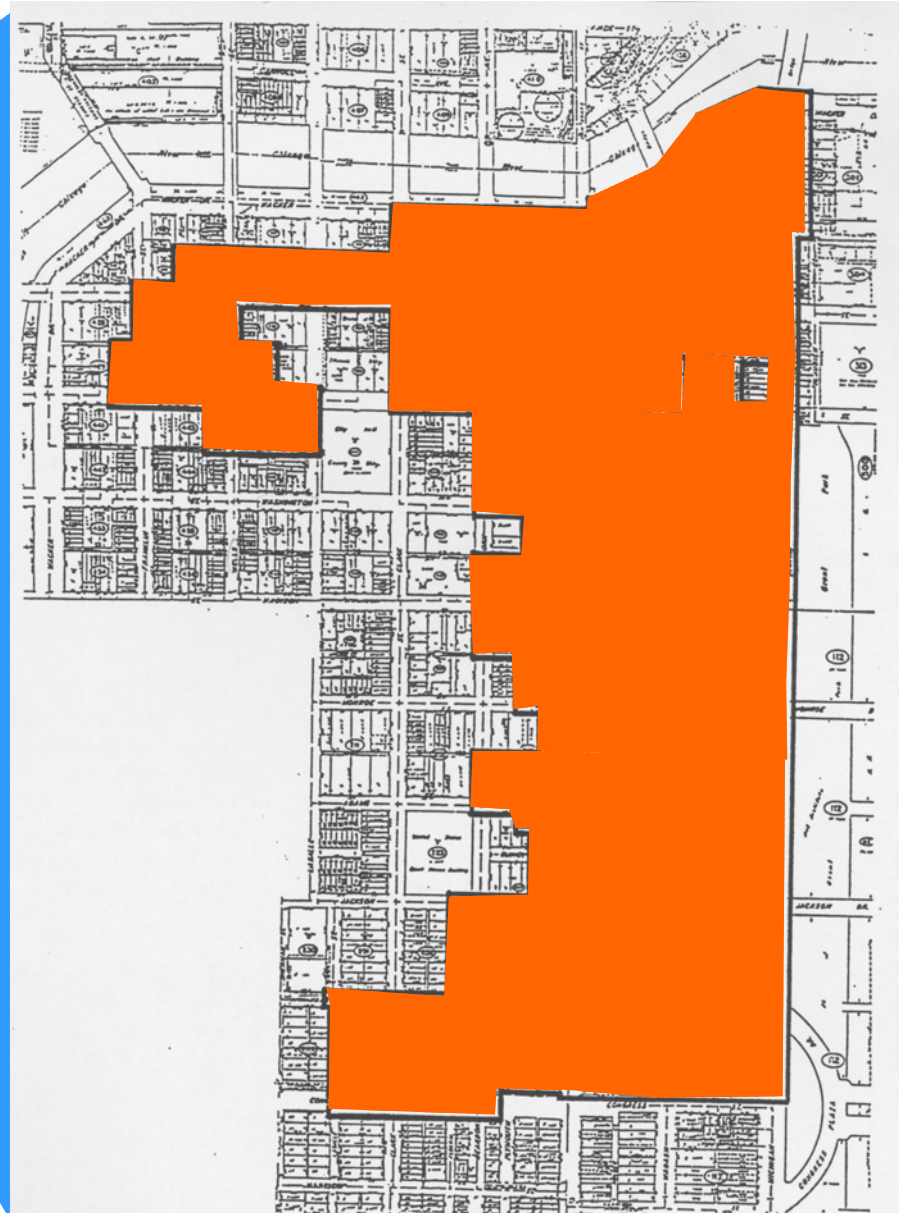
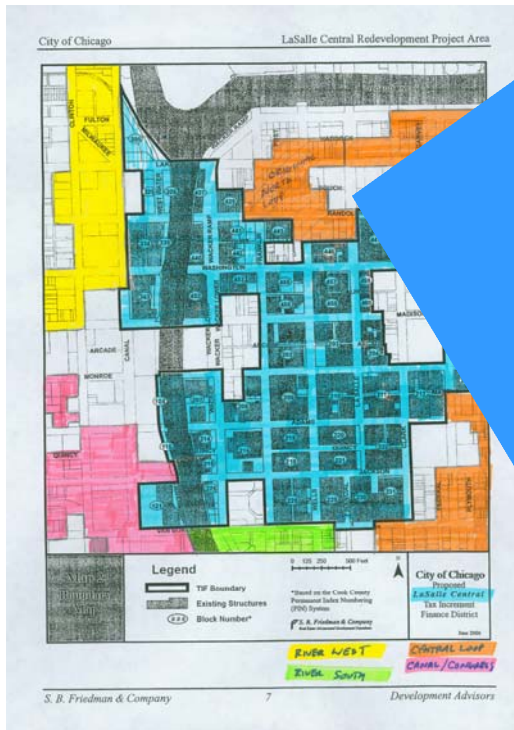
River South



Canal/Congress



Central Loop



River West

Table 4 Estimated Redevelopment Project Costs

Estimated Redevelopment Project Costs	
Professional Services	\$2,000,000
Property Assembly	\$1,000,000
Rehabilitation, Reconstruction or Repair or Recovery	\$37,000,000
Public Works or Improvements ⁽¹⁾	\$94,000,000
Job Training, Retraining, Welfare-to-Work	\$8,000,000
Relocation	\$1,000,000
Developer Interest Costs	\$2,000,000
Day Care	\$5,000,000
Total Redevelopment Costs ^{(2) (3)}	\$150,000,000

2005 results

≈\$182 million eav ≈\$50.5 million base ≈\$7.9 million annual increment

River South

EXHIBIT I: ESTIMATED REDEVELOPMENT PROJECT COSTS

<u>ELIGIBLE EXPENSE</u>	<u>Estimated Cost</u>
Analysis, Administration, Studies, Surveys, Legal, etc.	\$ 2,700,000
Property Assembly	
-Acquisition	\$ 3,000,000
-Site Prep, Demolition and Environmental Remediation	\$ 9,500,000
Rehabilitation of Existing Buildings	\$ 6,000,000
Public Works & Improvements	
-Streets and Utilities	\$ 28,500,000
-Parks, Open Space and Riverwalk	\$ 26,800,000 ⁽¹⁾
-Public Facilities	\$ 53,000,000 ⁽¹⁾
Job Training	\$ 2,000,000
<u>Developer/Interest Subsidy</u>	<u>\$ 4,000,000</u>
TOTAL REDEVELOPMENT PROJECT COSTS	\$ 135,500,000 ⁽²⁾

2005 results

≈\$201 million eav ≈\$66 million base ≈\$8 million annual increment

Canal/Congress

EXHIBIT II: Estimated Redevelopment Project Costs

<u>ELIGIBLE EXPENSE</u>	<u>ESTIMATED COST</u>
Analysis, Administration, Studies, Surveys, Legal, etc.	\$ 2,500,000
Property Assembly	
-Acquisition	\$ 5,000,000
-Site Prep, Demolition and Environmental Remediation	\$ 10,000,000
Rehabilitation of Existing Buildings	\$ 43,000,000
Public Works & Improvements	
-Streets and Utilities	\$ 6,000,000
-Parks and Open Space	\$ 9,000,000
Taxing Districts Capital Costs	\$ 1,200,000
Relocation	\$ 500,000
Job Training	\$ 5,000,000
<u>Developer/Interest Subsidy</u>	<u>\$ 6,500,000</u>
TOTAL REDEVELOPMENT PROJECT COSTS	\$ 88,700,000 ⁽¹⁾

2005 results

≈\$295 million eav ≈\$37 million base ≈\$15.5 million annual increment

LaSalle TIF

TABLE 2: Estimated Redevelopment Project Costs

Eligible Expenses	Estimated Project Costs
Professional Services (including analysis, administration, studies, surveys, legal, marketing, etc.)	\$10,000,000
Property Assembly (including acquisition, site preparation, demolition, and environmental remediation)	\$50,000,000
Rehabilitation of Existing Buildings, Fixtures and Leasehold Improvements	\$200,000,000
Eligible Construction Costs (Affordable Housing Construction Costs)	\$25,000,000
Relocation Costs	\$30,000,000
Public Works or Improvements (including streets and utilities, parks and open space, public facilities (schools & other public facilities) (1))	\$200,000,000
Job Training, Retraining, Welfare-to-Work	\$10,000,000
Interest Subsidy	\$20,000,000
Day Care Services	\$5,000,000
TOTAL REDEVELOPMENT COSTS (2), (3), (4)	\$550,000,000

Too early to tell

Central Loop

**Table 2: Estimated Redevelopment Project Costs
Central Loop Redevelopment Project Area
Chicago, Illinois**

Program Action/Improvement (in \$1,000's)	[1] Original Project Costs	[2] Additional Project Costs	Total Project Costs
Acquisition, Demolition, Site Prep and Relocation	171,000	30,000	201,000
Rehabilitation of Theatres	14,500	60,000	74,500
Rehabilitation of Landmarks	n.a.	20,000	20,000
Other Rehabilitation/Conversion/Reconstruction	n.a.	60,000	60,000
Job Training	n.a.	3,000	3,000
Bus Station Relocation	17,500	n.a.	17,500
Service Tunnel	3,000	n.a.	3,000
Utility Adjustments	3,000	n.a.	3,000
Surface right-of-way improvements	2,000	n.a.	2,000
Riverfront improvements and pedestrian walkways	2,000	n.a.	2,000
Public Improvements/Public Works/ Capital Costs	n.a.	52,000	52,000
Transit Improvements	6,500	49,000	55,500
Planning, Legal, Studies, Administrative	2,000	6,000	8,000
Financing (net capitalized interest)	53,000	n.a.	53,000
Contingencies	8,500		
Interest Subsidies		20,000	20,000
Gross Project Cost	283,000	300,000	583,000 [3]
Less: Disposition Proceeds	57,000	-	57,000
Net Project Cost	226,000	300,000	526,000 *

2005 results

≈\$2.6 billion eav ≈\$1.0 billion base ≈\$100 million annual increment

Millennium Park, Chicago

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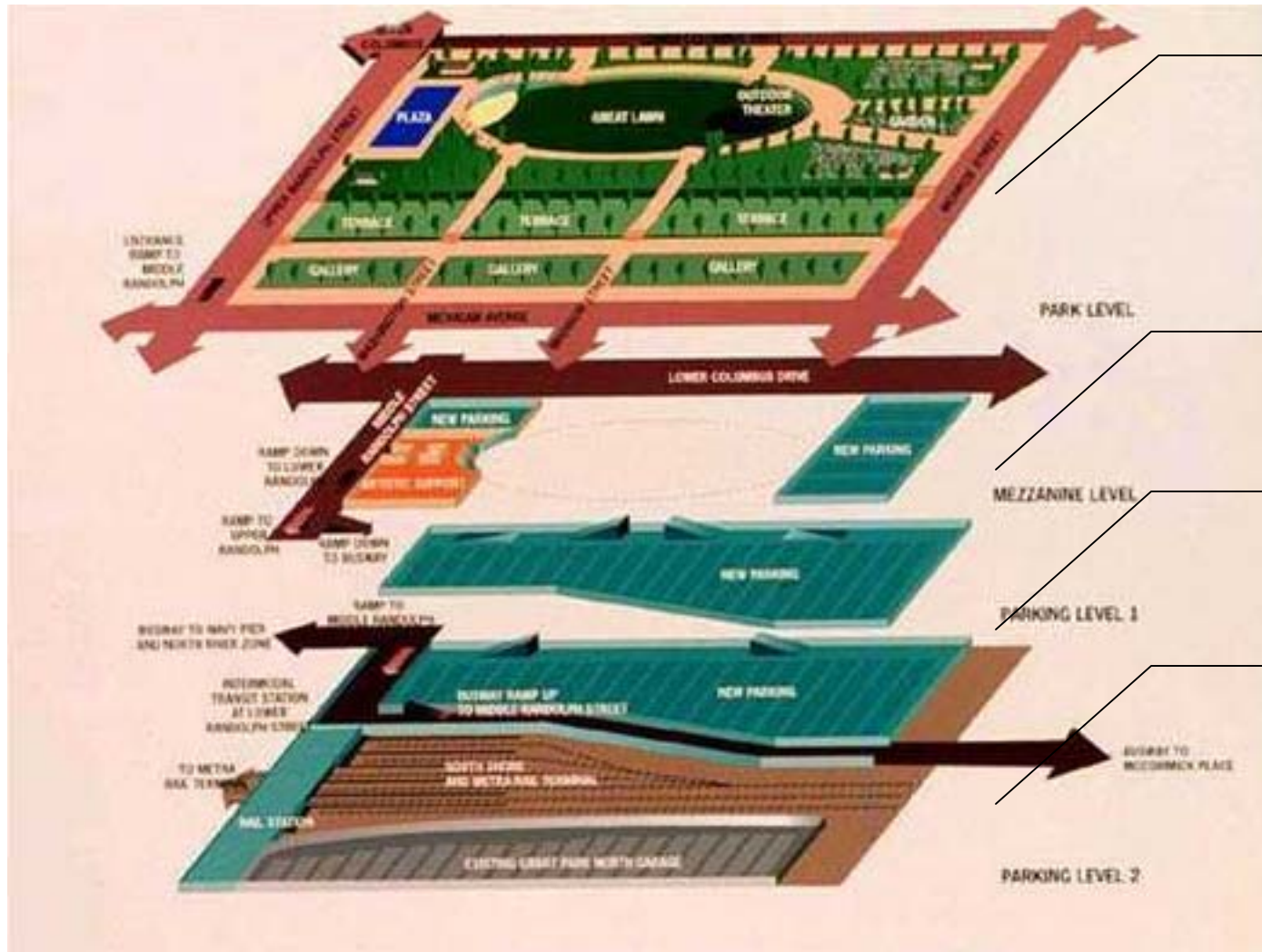
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Location for Millennium Park



>
**Park to cover parking and
railroad tracks**

Layers for Building Millennium Park



**Park
Level**

**Mezzanine
Level**

**Parking
Level 1**

**Parking
Level 2**

Millennium Park Being Constructed



Additional Case Study

Smaller City and Non-Urban Applications

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Whiteside County



Sterling, Illinois
Adaptive reuse
and resurrection of
an integrated steel
mill into a wire mill

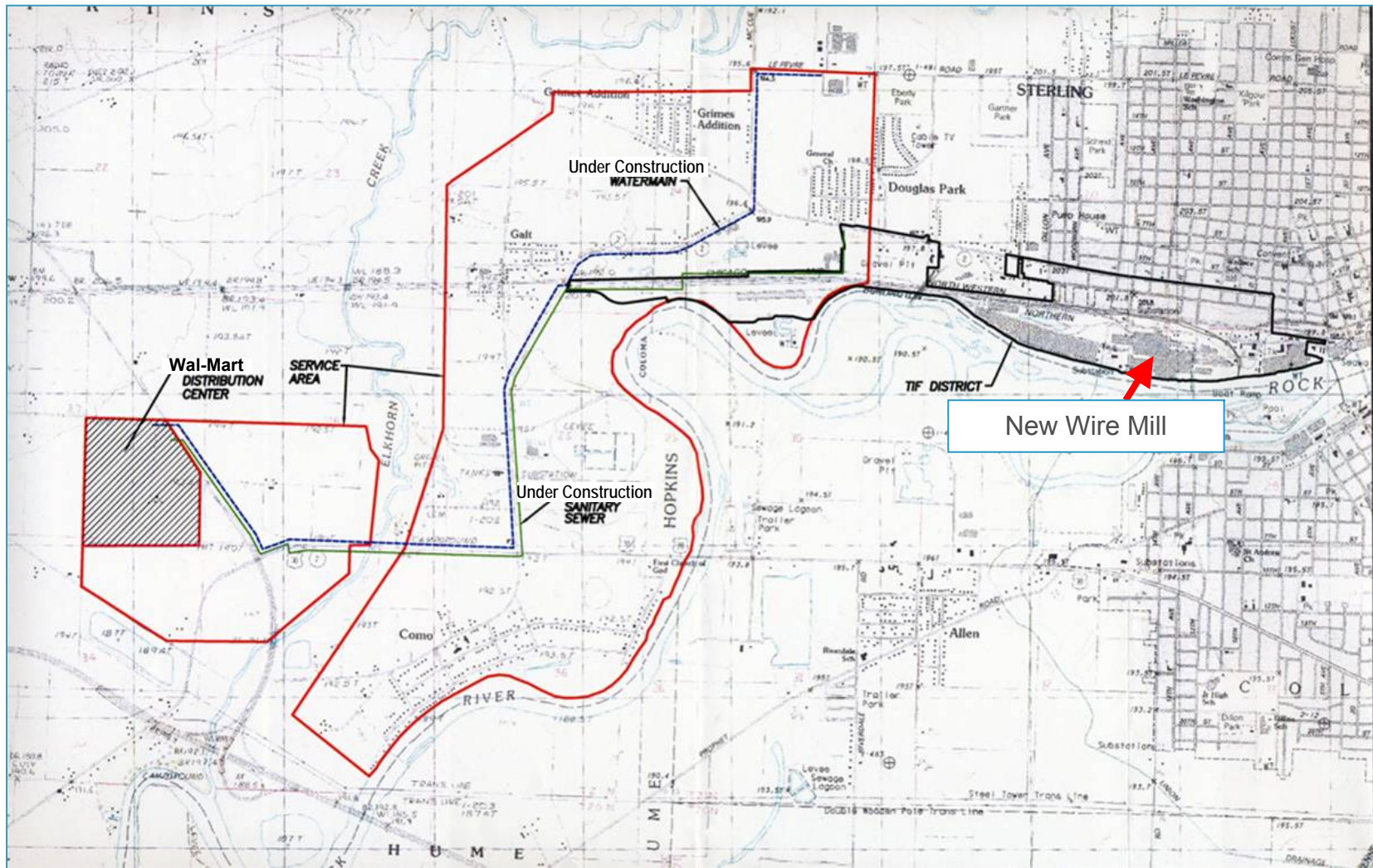
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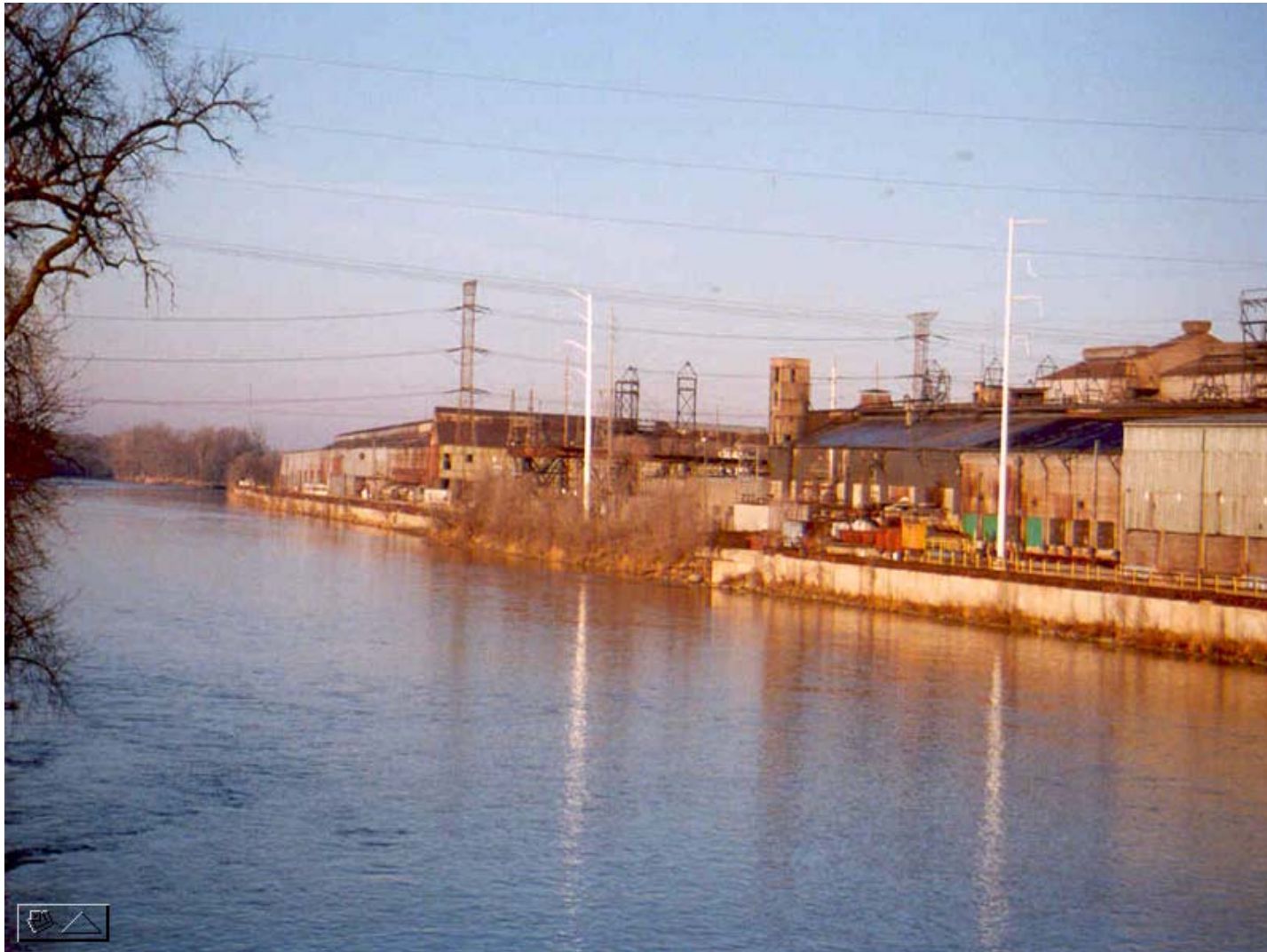
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Portion of Whiteside County



NWSW's Plant 1 & 2



World's Largest Arc Furnaces



Electrical Grid

Electrical Grid Serving Commonwealth Edison's Largest Customer



Looking west- towers that carry 138KV to Pentagon substation

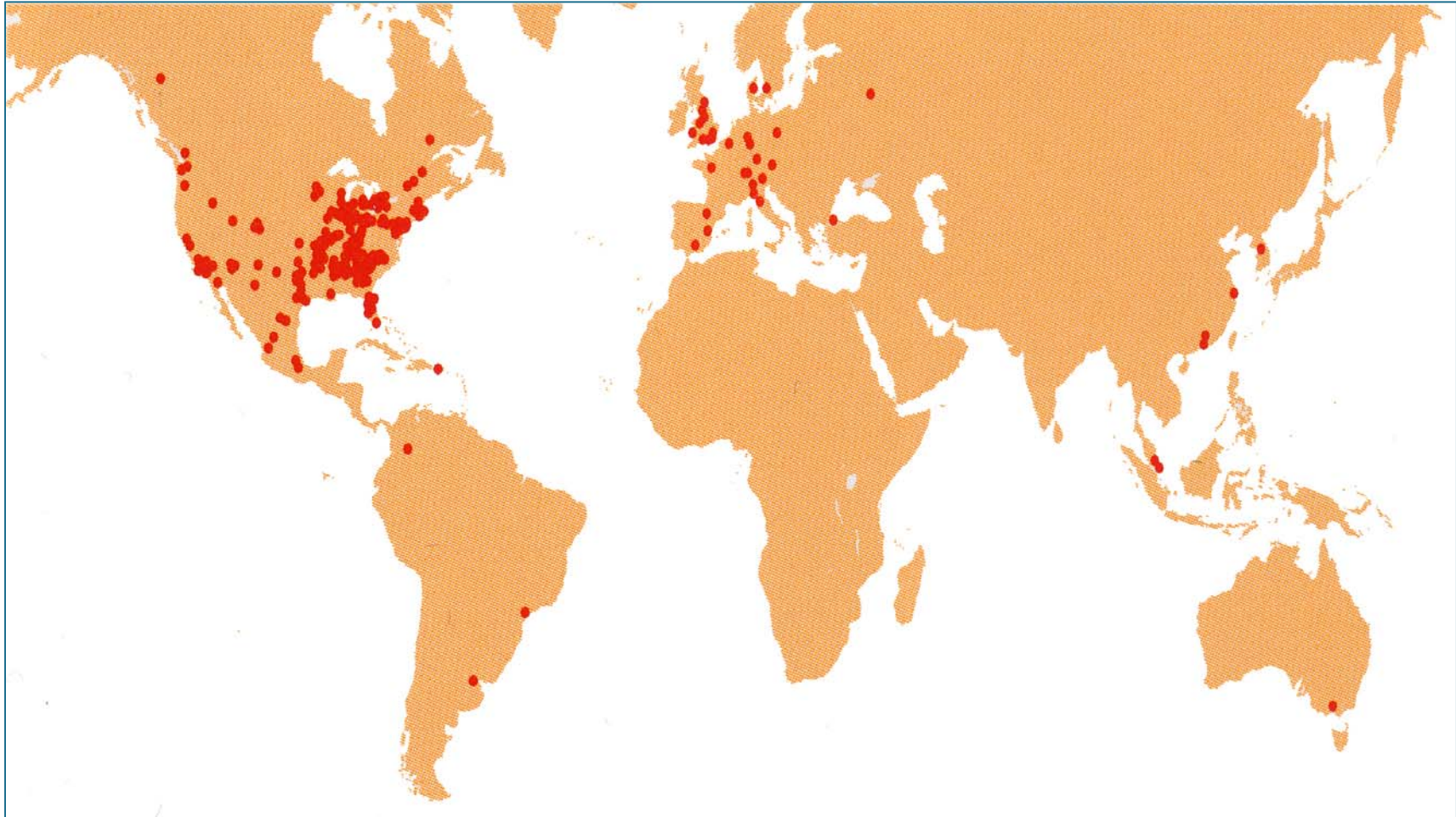
Aerial Photo of the Ronald Reagan Freeway's Trumpet Exchange (I-88)



Aerial of Main Line of Union Pacific Railroad



NWSW's Largest Customer Leggett & Platt



Final Product

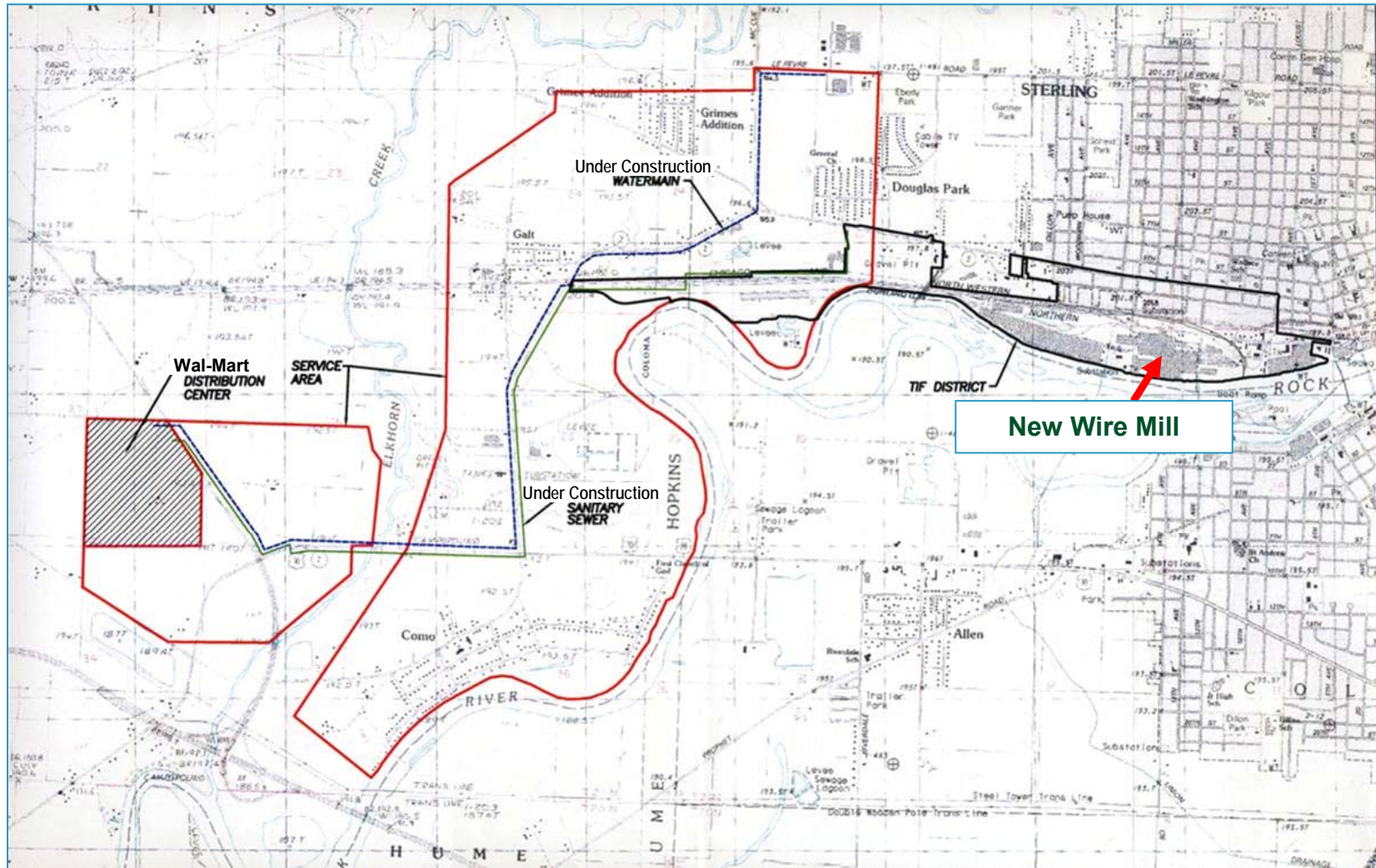


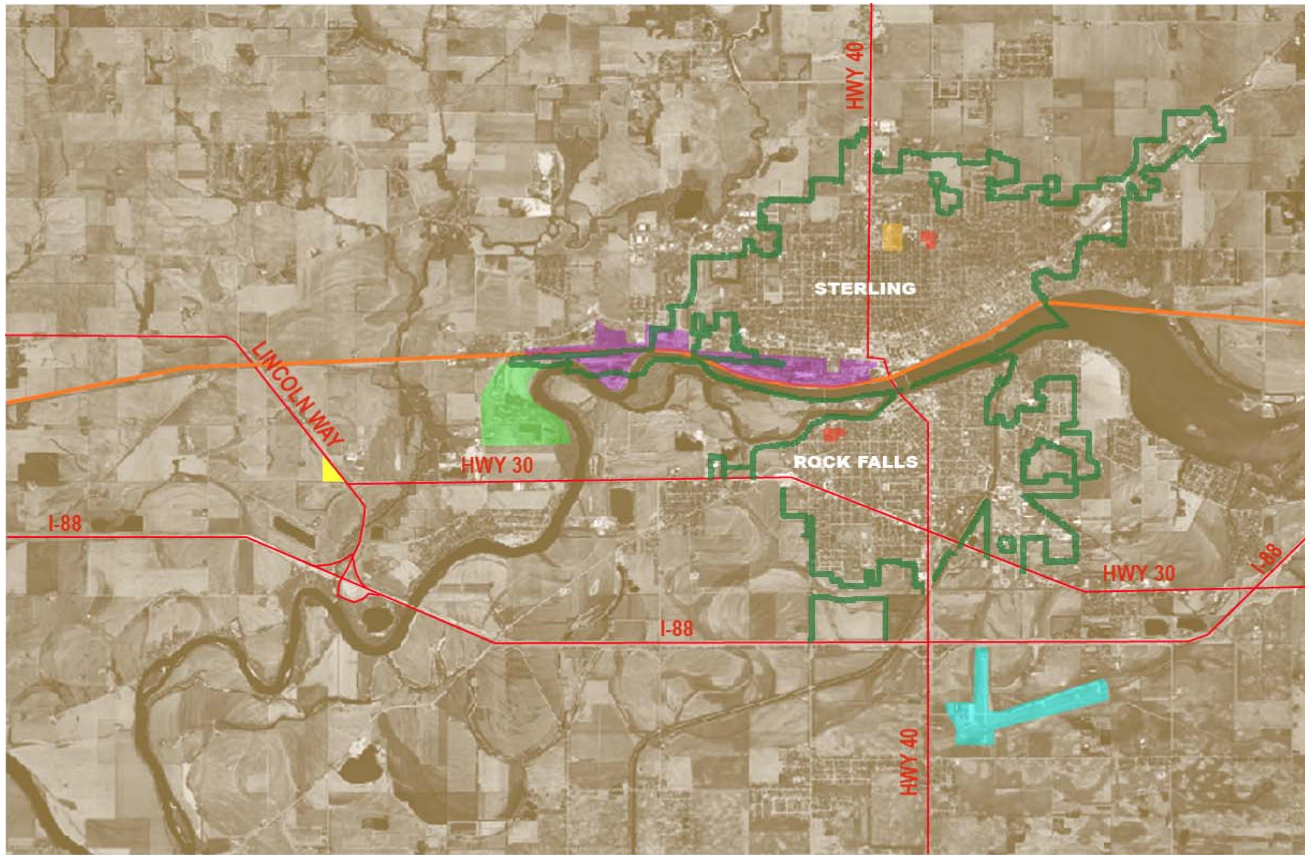
Parameters of Project Success

- Community buy-in of the project
- Unwavering support of the City Council and willingness to make a financial investment
- Project vision and foreseeable end point - allowing all stakeholders to contribute value
- Partnerships with IEPA, USEPA, DCEO and local economic development groups with “active commitment by all”
- Aggressive, proactive planning and strategy
- Vision and approach that allowed for thinking “outside the box”
- Use of “all available resources” including municipal internal expertise and personnel as well as outside consultants and professionals for strategy information, advice and site analysis

Future Projects in Progress

3,000-acre economic development area





- | | |
|---|--|
| ■ Airport | ■ Parcel Wal-Mart Distribution Center |
| ■ Balance of Northwestern Steel & Wire Land Holdings | ■ Rock River District TIF |
| ■ Community General Hospital | ■ Sterling & Rock Falls Township High School |

Techniques for Negotiating Successful Redevelopment Agreements

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Setting the Stage

- Clarify public policy
- Coordinate approval process
- Preliminary meeting for project
- Project review/gap analysis
- Deal structuring
- Creating a term sheet
- Redevelopment agreement

Who Does What to Whom, When?

- Site control
- Public vs. private realm – responsibilities involving infrastructure
- Delivery of land
- Condition of land
- Completion of plans and approval
- Perfection of financing
- Phasing
- Phased take-down
- Site preparation

The Rules of the Game (Collateral Objectives and Approvals)

- MBE/WBE
- Local hiring
- Affordable housing
- Prevailing wages
- Sales tax vs. property tax
- Define what is on and off the table
- Approval process – when other boards and commissions get involved

Show Me the Money!

- Relationship of TIF to conventional financing
- Developer note, pay-as-you-go or bonds?
- Impact on other municipal financing
- When do you get the money?
- Monetizing TIF options

How Does a Municipality Protect Itself?

- Plan documents/planned development approval
- Default provisions
- Right to cure
- Go-dark provisions
- Claw-backs
- Prove-ups and adjustments
- Shared savings
- Profit sharing
- Who monitors performance/flow of funds?
- How often do you review actual vs. objectives?



Speaker Information

- Gregory W. Hummel is a partner at Bell, Boyd & Lloyd LLP in the firm's Real Estate Department. Since the late 1980s, his practice has been principally concentrated in public-private partnership matters, including:
 - Infrastructure and other public improvement special district financings (as bond counsel or underwriter's counsel)
 - Economic development and redevelopment tax increment financings (project and bond counsel)
 - Energy, solid waste and other project financings (bond, host government or project sponsor counsel)
 - Incentives for large and small businesses including, tax credits, labor training and other grants, tax increment financing and tax abatements (incentive counsel)
- Prior to concentrating on public-private partnership matters, Mr. Hummel served as legal counsel to some of the nation's largest banks, insurance companies, construction companies and real estate developers. He represented clients in all facets of acquisition, zoning, construction, financing, leasing, management and disposition of office, retail, industrial

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