

DEVELOPMENT INCENTIVES & TAX CREDIT



Husch Blackwell guides developers in accessing federal, state, and local incentives to help fund commercially and culturally significant projects, including office buildings and parks, industrial developments, mall and shopping center redevelopment, mixed-use development, and hotels, among others. Our early and ongoing leadership in the complex field of development incentives translates into a wealth of experience that benefits clients throughout our firm's geographic footprint.

Our guidance to clients on development incentives includes:

Brownfield tax credits

Community improvement districts (CID)

Historic tax credits (HTC)

Low income housing tax credits (LIHTC)

New Markets Tax Credits (NMTC)

Opportunity Zones

Tax abatement

Tax increment financing (TIF)

Transportation development districts (TDD)

Our team is particularly adept at identifying multiple incentives for eligible projects, as well as providing comprehensive legal advice regarding the debt and equity components of a project's capital stack. Clients rely on our team's can-do approach and creative lawyering to overcome obstacles and get projects to the finish line.

The practice has a deep bench, advising leading developers and investors on a comprehensive range of high-profile projects. Regularly sought after for its expertise in matters pertaining to tax increment incentives and tax-abated investment projects.

— Chambers
USA —

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Case Studies

Netrality Properties, LP

Houston-based Netrality had entered the Kansas City metropolitan area with the 2012 acquisition of a data center in Kansas City's Power & Light District. In 2021, it identified an 11-acre site in nearby Shawnee, Kansas, that would make an excellent addition to its data center footprint, once it was redeveloped. The prospective site provided an opportunity to accommodate Netrality's customers' increasing capacity demands, and the 10-mile distance between its P&L location and the Shawnee site would allow for one millisecond round trip latency for active-active replication between the two data centers; however, the property had some challenges that needed to be met.

Microsoft Corporation

In November 2017, the state of Wisconsin approved an agreement with Taiwan-based manufacturer Foxconn to build a large plant in Racine County; however, after many revisions and setbacks, the original project never materialized, and ultimately, by 2021, Foxconn and local governments sought to sell a substantial portion of the site. At that time, Microsoft was assessing dozens of properties across the U.S. for the location of a new center and determined that a portion of the Foxconn Racine County site would be an excellent choice. Microsoft's global director of community research and engagement called it "kind of a perfect parcel of land."

Representative Experience

Coordinated sale of a tenants in common (TIC) interest and

secured tax increment financing (TIF) from the city for a commercial real estate company to close on 100,000 square feet of office space in a new development in Wisconsin.

Advised bank seeking to provide \$13.72 million in construction financing for redevelopment of a historic building into a hotel. Advised bank on transaction structure, how to ensure that the federal and state historic tax credits coming into the deal would be secured collateral, and establishment of the bank's rights vis-a-vis the hotel franchisor. Also navigated title and survey matters.

Advised both developer and bank providing financing for a \$40 million redevelopment project adding a RiverWalk segment and public access to the river in downtown Milwaukee. Our team facilitated the short-term construction financing, New Markets Tax Credits, development agreements with the city for the RiverWalk portion of the project, lease work, and structuring of ownership interests.

Advised the School Sisters of St. Joseph on all phases of project to install 375 KW of solar panels at their retirement and healthcare facility, which involved a bond purchase, a power-purchase agreement, and a rooftop lease.

Structured complex \$14 million deal for the rehabilitation of Milwaukee's iconic 55,000-square-foot Mackie Building, listed on the National Register of Historic Places. Deal included 10 separate sources of financing, including federal and state historic tax credits, a loan from Milwaukee Economic Development Corporation, and PACE financing.

Structured, managed, and closed \$15.7 million deal to transform

51 undeveloped acres in Middleton, Wisconsin into a market-rate residential living complex. Work included securing project approvals, structuring the project as a commercial condominium, resolving title issues, and assisting with multiple rounds of financing, including construction and tax increment financing (TIF).

Secured a Chapter 353 property tax abatement from the City of Kansas City, Missouri and tax-exempt bond financings from the U.S. Department of Housing and Urban Development for the construction of a \$62 million Passive House-certified affordable residential development.

Helped Frisco Lofts LP obtain tax abatement, close its tax-exempt bond financing, and complete syndication of federal and state low-income housing and historic tax credits to convert the historic Landmark Building in downtown Springfield, Missouri, into new affordable housing for the physically disabled.

Represented financial institution in financing a multimillion-dollar healthcare center and affordable housing complex in Denver. We developed solutions to allow our client to provide NMTC financing concurrently with, but separately from, LIHTC financing.

Assisted with acquisition and financing, including securing \$5 million in New Markets Tax Credit funds, of \$50 million restoration of St. Louis Union Station and its hotel.

Represented Dairy Farmers of America to secure 10-year, 75 percent tax abatement; \$1 million in STAR bonds; and sales tax exemptions on construction materials for their new corporate headquarters.

Represented the developer in the financing and acquisition of West Allis, Wisconsin properties. Involved negotiations with one private seller and one school district, relocating multiple tenants, entering into new leases, negotiations with the city over a public park, Opportunity Zones, and New Market Tax Credit Financing. Also involved negotiating multiple mixed-use components including a hotel, event space, and retail, in addition to new tenant leasing.

Represented the Nelson Gallery Foundation, one of largest art museums in the U.S., with its long-term “master plan” for the city’s museum district. This included the disposition of property and the development of other tracts, along with land use, redevelopment of historical properties, zoning, and construction issues.

Represented client in the redevelopment of a building for a high-speed data center for companies that rely on high-speed data transmission. Worked with the state and city to successfully requalify the site for public financing.

Represented client in the redevelopment of an industrial site into a multifamily development in an energy-efficient building in the River Market area of Kansas City, Missouri.

Represented a privately owned cleaning products company with its redevelopment and expansion of a corporate headquarters, including a manufacturing and distribution complex, in St. Joseph, Missouri. Worked with the client and the state of Missouri to develop an environmental risk remediation plan and secure Brownfields Tax Incentives to help with the expense.

Represented client in the development of an \$8.2 billion multifacility data center and technology campus. Handled land use and public approvals as well as negotiated incentives package.

Represented European investment and asset manager in the development, construction lender financing, tax equity financing, and hedge financing of a 336 MW TG East wind project in Texas.

Represented European infrastructure fund as developer's counsel for the purchase, development, hedge equity investment, and tax equity financing of 848 GW of wind and solar projects in Texas.

Represented developer in the development, construction lender financing, tax equity financing, and hedge financing of 872 MW of solar projects in Texas, with projects totaling more than \$1.1 billion.

Represented developer of 440 MW of solar projects. Provided development, real estate, environmental, electric regulatory, and state tax expertise on all matters.

Represented leading solar and energy storage project development company as project counsel in the sale, construction, and tax equity financing of 200 MW solar project in Texas.

Advised St. Louis-based developer on negotiation and adoption of public financing incentives such as tax increment financing (TIF), brownfield tax credits, and other state tax credits for redevelopment of former automobile manufacturing site into

more than 2 million square feet of retail, office, and industrial uses.

Represented a historic theater in attracting and closing on financing using historic tax credits to restore a 1929 art deco masterpiece.

Served as investor's counsel to community development entity placing \$55 million of NMTC allocation for projects in Wisconsin, Illinois, and Indiana, including a recycled plastic pallet manufacturing facility, downtown retail/commercial development, and a manufactured home production facility.

Served as developer's counsel for the financing of a hotel in a catalytic redevelopment area of Wisconsin worth \$21 million, including Opportunity Zone financing and municipal involvement.

Represented developer in a \$32 million NMTC transaction that also included PACE financing and state and federal historic tax credits in a catalytic project for the city.

Represented nonprofit affordable housing owner in the acquisition of six multifamily low-income housing tax credit (LIHTC) properties with an aggregate purchase price of approximately \$47 million.