

The City of Fargo Policy on Tax Increment Financing

1. Policy Purpose

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

The City of Fargo is granted the power to utilize TIF by the Tax Increment Financing Act. 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.

This policy will be effective upon adoption by the City Commission, and it is the intent of the City Commission that this policy

2. Objectives of Tax Increment Financing

As a matter of adopted policy, the City will consider using TIF to assist development projects to achieve one or more of the "City Objectives" listed in the evaluation criteria section of this policy.

3. Designated Redevelopment Areas

In order to maximize the ability of the City to meet its redevelopment goals, the City may designate redevelopment areas. In order to designate a redevelopment area, a plan for the redevelopment area will:

- Document existing conditions;
- Describe the plan for the future, and;
- Outline activities needed to implement the plan

Designation of the Redevelopment may occur in two ways.

- The designation may be at the request of a property owner and/or developer that has a proposed redevelopment plan.

- The designation may be initiated by the City Commission for an area where the City would like to see development, and then work with property owners within the TIF district to implement projects consistent with the development plan.

4. City of Fargo Policies for the Use of TIF

These policies are to provide guidance to developers who are considering making a request for TIF funding, and to guide City Commission decisions in the development of renewal plans and development agreements. When renewal plans are initiated by the City, not all of these policies are applicable to those plans.

Policy #1

When undertaking a redevelopment project on a defined parcel(s) of land, slum or blighted conditions on a portion of the property or properties should exist. A City Commission declaration of underdeveloped property for the purposes of using TIF assistance will outline activities needed to implement the redevelopment.

Policy #2

When undertaking a redevelopment or development project on an underdeveloped parcel(s) of land, a TIF exemption or TIF revenue note will be the preferred method of providing assistance directly to a developer. Exceptions to this rule will be considered by the City Commission 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 note is limited to 15 years.

Policy #4

The length of a TIF may extend beyond 15 years when used for city infrastructure, public parking, or community development efforts, such as, affordable housing, replacement housing, public space, and public art.

Policy #5

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 underdeveloped parcel(s) of land, relocation payments to tenants of businesses or residential uses must be made. These relocation payments must follow state and federal guidelines, as applicable, for assistance.

Policy #6

Land acquisition or land write-down costs must meet the requirements outlined as follows:

- The eligible costs recouped to the developer shall be evaluated in a case-by-case basis, but the maximum should be the lesser of:
 - The total acquisition cost for the property, provided the acquisition cost is no more than 150% of the assessor's market value for the property. This 150% limit applies to the total of all properties acquired, not a property by property limit.
 - The difference between what was paid by the developer for the property less the assessor's market value for the land (as opposed to land and buildings).

Policy #7

With respect to non-blighted, or non-slum development or redevelopment, eligible costs, as stated in state law, are limited to the following:

- A. The cost of acquiring, or the market value, of all or 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 #8

TIF assistance to the developer should be limited to a percentage of up to 15% of hard capital costs of development including the costs of property acquisition, and public facilities. In other words, The TIF assistance will equal or be less than 15% of hard construction costs including the land acquisition costs, hard capital costs excluding the costs of professional fees, developer fees, furniture and fixtures, interest, profit, and other soft costs. In addition, the developer must provide at least 10% of total capital costs as developer's equity in the project.

The limit of 15% may be exceeded if the project will include a community development purpose, for example, accepting lower rates of return to provide affordable housing, or other public benefits. Examples:

- Direct investment in public or free publicly accessible private spaces.
- Direct and ongoing investment in public art.
- Development of affordable or replacement housing.
- City equity treated equally to other investor equity with City returns to be used by City for community development purpose, which should be used in the nearby neighborhoods.

Policy #9

If funds are used for a City lead project, a public-private partnership, or for public benefit, the total TIF costs may exceed the limits stated in policy #8, including but not limited to the following:

- If funds are going to pay for public parking, public infrastructure, or other public investments such as rehabilitation or provision of affordable or replacement housing in the nearby neighborhoods or areas, or other public improvement not directly related to the project.
- Affordable housing, ideally in conjunction with the use of 4% or 9% Low Income Housing Tax Credits

Policy #10 - ROI Analysis, Reasonable Assistance Requirement

When undertaking any TIF project that provides assistance to a developer, the due diligence procedures in determining the feasibility and level of public assistance must be reviewed by the City's financial consultant in conjunction with the City's staff. The financial consultant must use accepted public financing procedures in determining project feasibility and levels of public assistance. Particularly when public assistance includes substantial reimbursement to the developer 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 within reason.

Policy #11 - Projection of Future Increments

For purposes of projecting future increments to be generated, an assumed maximum increase in valuation will be limited to two percent (2%) per annum. The exact assumptions made for projections is subject to approval by the City on a case-by-case basis.

Policy #12

When undertaking any TIF project within the City of Fargo, a non-refundable administrative fee set by schedule, must be paid by the developer after final approval of the City Commission and prior to or at the closing of the transaction. 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 administration will be in addition to the administrative fee if warranted. To the extent that TIF assistance, including administrative fees, exceeds \$2 million the administrative fee on said excess may be negotiated to a sum of less than 5%. A non-refundable deposit, set by schedule, 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 the developer and as allowed by the urban renewal law (N.D.C.C. Chapter 40-58). The non-refundable deposit and any other additional sums paid to the City will be offset against and credited towards the administrative fee.

Policy #13

Applications for TIF assistance are to be submitted to the Department of Planning and Development. 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 will be available from the Department of Planning and Development.

Policy #14

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

standards to ensure that the development will be compatible with the long-term plans for the area.

Policy #15

The maximum interest rates allowed to be recouped as eligible costs will be set by schedule. The City Finance Director in consultation with the City's financial consultant will recommend the actual rate.

Policy #16 – Good standing

Applicants for TIF assistance must be in good standing with the City. Good standing means current in property taxes, utility fees, city accounts, and no significant history of unresolved code violations

Policy #17 – Post Project Review

Developers' agreements will include terms that require documentation of TIF eligible costs, allow for an audit at the discretion of the City, and require cooperation with the city staff or auditors.

On large scale projects, the City may require a review of the financial performance of the project in the future, and if the project has a significantly higher than expected return on investment, the amount of the TIF assistance may be reduced.

Policy #18

Renewal Plans may include terms that allow for the city to use a portion of the TIF revenue for the preservation or replacement lower density housing in neighborhoods adjacent to higher density housing projects. The housing plan would be outlined in the Renewal Plan.

Application & Review Process for Developer Request for TIF Assistance

1. Applicant submits letter requesting TIF support for a project. The letter shall describe the project and shall be submitted to the City Commission for preliminary review and direction authorizing staff to move forward with the application process. City Commission approval is required to proceed to application review and plan development.
2. Applicant submits the completed application along with all application fees.

3. City Staff reviews the application and completes the Application Review Worksheet. The application and supporting documentation will be submitted to the City's financial consultant for due diligence consideration. Allow at least three (3) weeks for due diligence review and consideration [upon submittal of a complete and approved application].
 - a. As part of the application review, City staff are 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 inquiries may include background checks on the applicant and principles 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.
 - c. In advance of 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 results of the financial review will be reviewed by the Finance Department and the Finance Committee. The Finance Committee may recommend a specific level of assistance based on the review of the financial advisor.
5. Results of the reviews are submitted to the Renaissance Zone and/or the Tax Exempt Review Committee, for recommendation.
6. The renewal plan or development plan along with all necessary notices, resolutions, and certificates are prepared by City staff and/or consultants.
7. Notices mailed and published as required.
8. Public hearing(s) on the proposed project are held.
9. The City Commission grants final approval or denial of the plans and development agreements.

Application & Review Process for City Initiated Renewal Plans and TIF Districts

1. Renewal Plans and TIF Districts may be proposed by any City Commissioner, the Planning Commission, the City Administration, or the Planning Department. The proposal shall include a boundary, a description of existing conditions, and general plan for development.
2. City Commission directs the preparation of the renewal plan.
3. City Staff prepares a plan for future development.
4. The renewal plan or development plan along with all necessary notices, resolutions, and certificates are prepared by City staff and/or consultants.
5. Notices mailed and published as required.
6. Public hearing(s) on the proposed project are held.
7. The City Commission grants final approval or denial of the plans and tax increment financing district.

5. Evaluation Criteria for Assistance to Developers

Evaluation Criteria

The City of Fargo has established multiple objectives that should be met to qualify for Tax Increment Financing. Since there are different types of developments, the objectives for each of the development types is different. The three types of projects anticipated are:

1. Housing
2. Commercial or Industrial
3. Downtown or Mixed Use

Housing projects should meet at least 5 of the 7 objectives listed below.

- The housing development is served by existing infrastructure of the development or will upgrade the infrastrure to meet the needs of the development.
- The housing is compatible with the adjacent area or the future land use in the area.
- Sidewalks and bike trails connect to the housing development. A transit stop is with within 4 blocks of the development.
- The project has a high quality design, exceeding the requirements of the Land Development Code.
- The project includes affordable housing, workforce housing, or includes a plan to replace some of the housing eliminated by the development
- The housing project eliminates blighted conditions or substandard buildings.
- The project will create significant growth in the tax base on the site.

Commercial projects should meet at least 5 of the 8 objectives listed below.

- The development is served by existing infrastructure of the development or will upgrade the infrastructure to meet the needs of the development.
- Sidewalks and bike trails connect to the development. A transit stop is within 4 blocks of the development.
- The commercial/industrial development is expected to contain some primary sector business or jobs.
- The development will include some public spaces or public art.
- The project cleans up brownfield conditions.
- The project eliminates blighted conditions or substandard buildings.
- The project will create significant growth in the tax base on the site.
- The project is expected to encourage additional development on adjacent sites.

Downtown or Mixed Use (Mixed use is commercial/housing in the same development.) Projects should meet at least 7 of the 11 objectives listed below.

- The development is served by existing infrastructure of the development or will upgrade the infrastructure to meet the needs of the development.
- The project is compatible with the adjacent area or the future land use in the area.
- Sidewalks and bike trails connect to the development. A transit stop is within 4 blocks of the development.
- There is an adequate parking and access plan, preferably with shared parking by the different land uses.
- The development is expected to contain some primary sector business or jobs.
- The development will include some public spaces or public art.
- The project cleans up brownfield conditions.
- The project eliminates blighted conditions or substandard buildings, or replaces surface parking.
- The project will create significant growth in the tax base on the site.
- The project is expected to encourage additional development on adjacent sites.
- The project contains businesses that will provide needed services or goods used by adjacent land uses.