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## MEMORANDUM

**TO:** Fargo City Commission

**FROM:** Jim Gilmour, Director of Strategic Planning and Research 

**DATE:** April 9, 2024

**SUBJECT:** TIF Policy Amendment

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The City of Fargo Tax Increment Financing (TIF) program has effectively removed blighted structures and supported new, high-quality development. This new development relies on existing infrastructure and provides increased property tax revenue, so it adds little to the cost of providing city services to the property.

Under the current TIF policy, the removal of blighted properties begins when a developer is ready to immediately start on the new development. The details of the new buildings are known and a financial review is done to determine the amount of public assistance. Currently, there is no incentive to maintain deteriorated and/or vacant buildings. In some ways, it encourages developers to leave properties in the current condition to qualify for TIF incentives.

### Policy Change

The Economic Development Incentives Committee is recommending an amendment to the TIF policy to encourage developers to remove blighted buildings in a first phase of redevelopment. The second phase would be review of the details of the proposed new development and a financial review to determine if additional incentives are needed.

The first phase would be the preparation of a Renewal Plan, creation of a TIF District and approval of a first phase development agreement. The terms of the development agreement would be the City agreeing to reimburse the developer for the actual cost of demolition and the value of the existing buildings as determined by the City Assessor. Payment of those costs would be made in the future from TIF income from property taxes on the new buildings. The developer would be given up to 5 years to begin construction of new buildings. If development does not start in the required time, the developer would not receive TIF assistance.

Prior to the second phase, the developer would apply for any plat or zoning changes needed for the project. The developer could apply for and may receive additional incentives such as the Renaissance Zone property tax exemptions or additional TIF assistance.

The policy changes are attached for your consideration.

### Recommended Motion

Approve changes to TIF policy.

## **Tax Increment Financing (TIF) Policy (N.D.C.C. 40-58)**

The purpose of this policy is to establish the City's position relating to the use of TIF for encouraging redevelopment of brownfield sites, slum areas or a blighted areas. The intent is to encourage desirable development or redevelopment that would not otherwise occur but for the assistance provided through TIF.

### **TIF POLICY DEFINITIONS:**

**Brownfield:** The Environmental Protection Agency defines a brownfield as "a property in which the expansion, redevelopment or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant."

**Slum:** ND Urban Renewal Law defines a slum as "an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and is detrimental to the public health, safety, morals or welfare."

**Blight:** ND Urban Renewal Law defines a blighted area as "an area other than a slum area which by reason of the presence of a substantial number of slums, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use. 'Blighted area' does not include any land that has been assessed as agricultural property within the last 10 years unless it was located within the interior boundaries of a city for at least 10 years."

**Industrial and Commercial:** The City may use the tax increment financing assist a project developer in the development of industrial or commercial property. The City may enter into the agreement only if it determines that the agreement will not result in unfair competition and that the agreement is in the best interests of the municipality as a whole. For the purpose of determining costs of development of industrial or commercial property to be reimbursed by tax increments, only the following public costs necessarily incurred, by either the municipality or the project developer, for the purpose of preparing the property for private development by the project developer may be included in the agreement as reimbursable public costs of development:

- The cost of acquiring, or the market value, of all or a part of the industrial or commercial property;
- Costs of demolition, removal, or alteration of buildings and improvements on the industrial or commercial property, including the cost of clearing and grading land;

- 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;
- 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.

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. These policies provide information for developers considering making a request for TIF Brownfield funding.

#### **TYPES OF REDEVELOPMENT PLANS AND DEVELOPER AGREEMENTS**

The City may work with a developer for the establishment and implementation of a renewal plan. Developers may or may not have a detailed redevelopment plan. Most often, a detailed plan has been designed along with financial projections. In other cases, the developer may have full or majority control of the development area but be in the process designing the new redevelopment.

The next two sections outline different renewal policies. There is a policy for developers that are ready to immediately proceed with development. The other policy is providing future assistance to a developer so that the removal of blighted properties would begin soon while allowing more time to design and obtain financing of the new development including potential financial incentives.

#### **FIRST PHASE REDEVELOPMENT**

##### **TERM:**

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. It is the intent of the City to provide the minimum amount of TIF at the shortest term required for the project to proceed. However; 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.

##### **RELOCATION REQUIREMENTS:**

To the extent required by state, federal or local law or regulations, a relocation plan should be provided in the development or renewal plan. Relocation payments to tenants of businesses or residential uses must be given. These relocation payments must follow state and federal guidelines.

##### **PROPERTY ACQUISITION (OR WRITE-DOWN) REQUIREMENTS:**

- The eligible costs paid to the developer shall be evaluated on 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 collective sum of all properties acquired.
  - 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).

##### **LIMIT ON PROJECT COST**

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 infrastructure. The limit of 15% may be exceeded if the project will include a community development purpose, for example:

- Direct investment in community gathering spaces;
- Direct and ongoing investment in public art;
- Development of affordable or replacement housing.

**TIF REVIEW DUE DILIGENCE PROCESS:**

The Fargo City Commission will establish fees for City staff time, legal counsel and City financial advisors. City staff and financial advisors will utilize due diligence procedures to determine the feasibility and the appropriate level of TIF assistance.

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.

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

**TIF EVALUATION CRITERIA:**

The City has established multiple objectives that should be met to qualify for TIF. Since there are different types of developments, the objectives for each of the development types are different. The four types of anticipated projects include:

- Housing;
- Commercial or industrial;
- Downtown;
- Mixed use (commercial + housing in same development).

**HOUSING PROJECTS SHOULD MEET AT LEAST FIVE (5) OF THE FOLLOWING EIGHT (8) OBJECTIVES:**

1. Served by existing infrastructure of the development or will upgrade the infrastructure to meet the needs of the development;
2. Compatible with the adjacent area or the future land use in the area;
3. Sidewalks, bike trails or a transit stop within 4 blocks;
4. High quality design, exceeding the requirements of the Land Development Code;
5. Includes affordable housing, workforce housing or includes a plan to replace some of the housing eliminated by the development;
6. Eliminates blighted conditions or substandard buildings;
7. Remediates brownfield conditions;
8. Creates significant growth in the tax base on the site.

**COMMERCIAL OR INDUSTRIAL PROJECTS SHOULD MEET AT LEAST FIVE (5) OF THE FOLLOWING EIGHT (8) OBJECTIVES:**

1. Served by existing infrastructure of the development or will upgrade the infrastructure to meet the needs of the development;
2. Sidewalks, bike trails or a transit stop within 4 blocks;
3. Contain primary sector business or jobs;
4. Include public spaces or public art;
5. Cleans up brownfield conditions, eliminates blighted conditions or substandard buildings
6. Create significant growth in the tax base on the site;
7. Encourages additional development on adjacent sites;
8. High quality design.

**DOWNTOWN PROJECTS SHOULD MEET AT LEAST 6 OF THE FOLLOWING 10 OBJECTIVES:**

1. Served by existing infrastructure of the development or will upgrade the infrastructure to meet the needs of the development;
2. Compatible with the adjacent area or the future land use in the area;
3. Sidewalks, bike trails or a transit stop within 4 blocks;
4. Adequate parking and access plan, preferably with shared parking by the different land uses;
5. Contain primary sector business or jobs;
6. Include public spaces or public art;
7. Cleans up brownfield conditions, eliminates blighted conditions or substandard buildings, or replaces surface parking;
8. Create significant growth in the tax base on the site;
9. Encourages additional development on adjacent sites;
10. Contains businesses that will provide needed services or goods used by adjacent land uses.

**MIXED-USE PROJECTS SHOULD MEET AT LEAST 6 OF THE FOLLOWING 10 OBJECTIVES:**

1. Served by existing infrastructure of the development or will upgrade the infrastructure to meet the needs of the development;
2. Compatible with the adjacent area or the future land use in the area;
3. Sidewalks, bike trails or a transit stop within 4 blocks;
4. Adequate parking and access plan, preferably with shared parking by the different land uses;
5. Contain primary sector business or jobs;
6. Include public spaces or public art;
7. Cleans up brownfield conditions, eliminates blighted conditions or substandard buildings, or replaces surface parking;
8. Create significant growth in the tax base on the site;
9. Encourages additional development on adjacent sites;
10. Contains businesses that will provide needed services or goods used by adjacent land uses.

**FIRST PHASE REDEVELOPMENT****Term:**

A phase one redevelopment project using a TIF revenue note is limited to five years. The five-year term is for the first five tax years after completion of the project and the expiration of any property tax exemptions.

**Relocation:**

The City will not reimburse for relocation costs unless the City, in its sole discretion, determines exceptional circumstances apply which justify paying some portion of the relocation costs.

**Limit on Project Cost:**

Eligible first phase TIF assistance is for the value of the buildings and/or improvements as determined by the City Assessor in the most recent tax year and the actual cost of demolition.

**TIF Review Process and Renewal Plans:**

The Fargo City Commission will establish application fees and administrative fees for City staff time and legal counsel either by resolution or through the development agreement or other agreement with the developer. Demolition of vacant structures must be completed within 6 months of the approval of a development agreement unless the City, in its sole discretion, determines exceptional circumstances apply to increase this time period.

Construction of the new development must begin within five years of the approval of the original development agreement and be completed within two years of the start of construction.

Renewal Plans may allow the City to use a portion of the TIF Revenue in future years for adjacent infrastructure.

**Future Incentives:**

The developer may apply for additional incentives such as the Renaissance Zone, PILOT or additional TIF assistance. Those applications will be considered according to the criteria for those programs.

**Evaluation Criteria:**

Projects review will evaluate:

- The conditions of the existing buildings;
- The short-term benefit of building removal to prevent nuisance properties;
- The potential for higher density and high-quality development;
- The existence of factors that prevent immediate redevelopment;
- The time needed to begin redevelopment.