



REQUEST FOR COUNCIL ACTION

MEETING DATE: March 20, 2022

PREPARED BY: Brett Angell, Assistant Community and Economic Development Director

AGENDA ITEM: Arbor Lakes Business Park 5-7 Gravel Mining Area TIF development agreements

PREVIOUS ACTIONS:
None.

RECOMMENDED COUNCIL ACTION:

Motion to adopt Resolution No. 23-051 concurring in the approval of, and authorization to execute tax increment financing development agreements for Arbor Lakes Business Park phase III, buildings five through seven.

COMMENTS:

Endeavor Development, dba Arbor Lakes 2 Industrial Owner, LLC and Arbor Lakes Building 7, has submitted a request for tax increment financing assistance to aid in the costs to construct phase III of Arbor Lakes Business Park. The approved development includes three buildings totaling approximately 510,000 square feet and located at the southeast corner of the Fountains Drive and Zachary Lane intersection. Buildings five and six are each 203, 020 square feet and will be built on a speculative nature. Building seven is 106,424 square feet and has an identified medical technology user using the name alias of Project Next.

The City of Maple Grove and the EDA have statutory powers pursuant to Minnesota Statutes to assist in the financing of costs related to projects as an incentive for the development to occur. With the use of tax-increment financing, developments must pass a “but-for” test which means a development must prove it would not occur without the use of public assistance. Extraordinary costs related to this development include soil correction and remediation costs which are qualified costs that TIF can be used for via State Statute.

Gravel Mining Area (GMA) TIF District

On February 5, 2018, the City Council and EDA approved the tax increment financing plan for the Gravel Mining Area (GMA) TIF District. The district was subsequently certified with the state and encompasses all parcels within the GMA. The GMA TIF District is a soil deficiency

district which required special legislative approval. The district was defined as a soil deficiency district due to the presence of unusual soils or terrain deficiencies which require substantial filling, grading, or other physical preparation for use. The intention for the creation of the district was to stimulate development within the area and to allow for the city to collect increment to aid in the extensive infrastructure improvements needed in the area. Increment within the district has begun to be collected in 2021 with the district having a 21-year period.

Since the GMA TIF District is already established and the TIF plan for the district has been approved, the city has the ability to add projects to the district without the need of creating a new TIF district or TIF plan. In order to add a project to the district, the City Council and EDA must approve a TIF development agreement for the project. Since the developments are in the GMA area, they qualify to be added into the GMA TIF district.

TIF Development Agreement

The total TIF assistance contemplated for the developer related to this project is \$965,000 for building five, \$958,000 for building six, and \$504,000 for building seven. Based on review of the developer's project budgets and 15-year proformas, city staff and Ehlers and Associates determined that providing TIF assistance in this amount is necessary to make the projects financially feasible. Included below is a summary of the terms contained within the TIF development agreements. The complete agreements are attached to the EDA agenda. An overview of the agreements was provided at the EDA meeting.

1. General

- a. The TIF development agreements are with Arbor Lakes 2 Industrial Owner, LLC and Arbor Lakes Building 7, LLC. Three separate agreements are being utilized per recommendation of staff, the city's bond counsel, the Ehlers for reporting purposes and for any future assignments, if necessary.

2. Tax Increment

- a. The developer will be reimbursed for soil corrections and land costs in the form of a pay-as-you-go (PAYGO) notes in the amounts of \$965,000 for building five, \$958,000 for building 6, and \$504,000 for building seven, which:
 - i. Are issued upon completion of the project and proof of expenditures of the qualified costs.
 - ii. Terms of the TIF notes will be for up to nine years. Should the note(s) be paid off before the nine years, the project(s) would not receive additional funds above what is specific in each note. Should the increment generated over the term of the note not meet the projected amount, the city would not be responsible for the difference in amounts. Pay-as-you-go notes provide the least risk for cities as it is semi-annual payments based upon actual taxes collected.

- iii. Developer will receive 90% of the increment generated from the project for the term identified above. The city retains the remaining 10% for administrative expenses and pooling.

3. Job and Wage Goals

- a. Each development agreement includes a required number of full-time equivalent permanent employee positions to be created and maintained with wage levels of at least 150% of the State of Minnesota minimum wage, exclusive of benefits within two years. If job and wage goals are not met, the principal amount of the TIF Notes may be reduced by the city by a pro rata formula.
- b. The job creation minimum for building five is 100, for building six is 100, and for building seven is 70.
- c. The developer agrees to work with the tenants and city to obtain the job and wage reporting data necessary to demonstrate the above goals are met.

4. Taxes

- a. The developer shall pay all real property taxes.
- b. The developer cannot seek a deferral or abatement of taxes, or sell to a tax-exempt user.
- c. The developer must inform the EDA in writing of filing any tax petitions. The EDA will withhold any TIF payment until the tax petition is settled or dismissed and will not be required to pay any interest on the withheld amount.

5. Assessment Agreement

- a. Agreements which will set a minimum assessed market value for each building are included. The developer shall agree to not petition for a value below the minimum assessed amount during the duration of the TIF Note.

6. Lookback Provisions

- a. The developer will be required to submit financials to the City's Municipal Advisor at a specified time for review. The amount of the TIF note would be reduced should the qualified costs be less than the defined amount in the agreements, the cash-on-cash rate of return exceeds the projected amounts at the time of project stabilization, and/or if the developer sells any one of the properties within the first seven (7) years and their return exceeds the defined projections.

Public Hearing

As required by statute, a public hearing notice was published for March 20, 2023 EDA meeting to allow for public comment on the TIF Development Agreements and use of public subsidy. The EDA held the public hearing prior to the consideration of this item.

ATTACHMENTS:

Attachment A: Resolution No. 23-051