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Office of Business Resources
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TO: **Common Council**

FROM: **Matthew Mikolajewski, Economic Development Director**
Jim Wolfe, City Engineer

SUBJECT: **Background Memo Regarding Updated Policy for Assessing Street Improvements (Legistar #81982)**

DATE: **March 19, 2024**

City Engineering and DPCED leadership have identified a potentially useful change to the Policy for Assessing Street Improvements as it relates to the use of the City's Tax Increment Finance (TIF) program in some redevelopment and infill projects. The purpose of this memo is to provide additional background information regarding this proposed change (Legistar #81982).

Why is this change being considered?

The City's Comprehensive Plan and several Neighborhood Plans recommend adding new streets to large redevelopment sites within older parts of the City as a way to improve connectivity and support denser development. Examples include areas around the two regional malls, large redevelopment sites in South Madison, the Voit Farm on Milwaukee Street, and the former Oscar Mayer property. The current Policy for Assessing Street Improvements requires developers to pay for 100% of the cost of constructing new streets in most cases. The cost for constructing new streets has grown significantly over the past couple of decades, and shows no sign of slowing, and this is especially true for areas within the already developed parts of the City as compared to undeveloped areas on the periphery. Developers may be financially unable to construct the new streets desired by the City per the current Assessment Policy.

State Statue allows individual municipalities to develop and manage a Public Works Assessment Policy of its choosing. State Statue also governs the use of Tax Increment Finance (TIF). State Statute only allows TIF to be used for non-assessable infrastructure expenditures. As most new street construction costs in the City of Madison are currently considered 100% assessable, the practical use of TIF to assist with the cost of constructing new streets is limited.

At a time when the City desires greater density and connectivity through the construction of new streets within key redevelopment sites, our Assessment Policy is effectively saying that TIF can't be used to help a developer financially with this work. The purpose of this change to the Public Works Assessment Policy is to close this loop; to allow new street construction costs in certain situations to be considered non-assessable, thereby allowing them to be considered within a TIF application, and potentially funded through TIF if a financial gap in the overall project financials is present.

<u>How will TIF work with this proposed change to the Assessment Policy?</u>

This change to the Public Works Assessment Policy will likely mean that the City uses TIF to pay for more new street construction costs in the future than it has in the past. There are, however, limitations to this use of TIF. First, from the Public Works Assessment Policy perspective, this change only impacts a certain type of new street within the older parts of the City.

Second, from a TIF perspective, projects will still need to meet all requirements of the City's TIF policy to receive funding via this approach. This includes the finding of a financial gap. If a financial gap doesn't exist, the developer will still need to pay for 100% of the cost as is the case now. If a financial gap does exist, the City may be able to pay for a portion of the cost via TIF.

The process would be as follows:

- The City Engineer makes a determination that a project would be eligible for the new Redevelopment and Infill Improvement Policy being proposed by this change; notifies Developer and TIF Staff.
- Developer submits a TIF application to the Economic Development Division (EDD), including non-assessable street costs as outlined in the new Redevelopment and Infill Improvement Policy.
- EDD staff underwrite the project per TIF Policy and confer with the City Engineer about whether or not a financial gap exists and the amount that could be paid using TIF. If the cost of new street construction contributes to a financial gap for the project, then the City will consider investing TIF into the project per the requirements of the City's TIF Policy.
- City Engineer negotiates a Developer Agreement and EDD staff negotiate a Letter of Intent for TIF support confirming the investment of TIF into the project.
- Resolutions submitted to Council for approval of a TIF Loan and Developer Agreement.
- If needed, amendments made to the TIF Project Plan or a new TID created.

<u>What are some of the drawbacks of making this Policy change?</u>

The purpose of this policy change is to open the possibility that the City could assist financially with the construction of new streets within large redevelopment sites. While there are not many of these sites in the City, the cost of constructing streets within each could be significant given the size of these properties. City TIF investment is generally made via upfront City GO Borrowing repaid over time by the new increment generated by the redevelopment project. As such, this policy change would increase the amount of TID-supported GO Borrowing in years when an investment into these projects is made. As with all TIF Loans, there is a mitigated risk that these borrowed funds won't be repaid through the TID as planned, requiring enforcement of guarantees and/or repayment via the General Fund.

Using TIF for these new street construction projects could delay or prevent the investment of TIF in other areas such as parks, transportation, transit, affordable housing, economic development, etc. If the City approves providing TIF loans to these projects, it could also delay the closure of TIDs, and in turn, delay the "extra year affordable housing bonus" that the City receives upon a TID closure. It would also delay the increase of property tax revenue to the four taxing jurisdictions, including the City, when the TID eventually closes. Finally, staff capacity is finite. The amount of time spent on reviewing these TIF applications and amending/creating tax increment districts to support these projects will increase workload, possibly resulting in longer project turn-around times, and reduced capacity to work on other initiatives.

Another consideration is the make-up of development that will occur within these areas of the City. Many of these neighborhoods will include affordable housing; however, they will likely also include market rate housing. The City hasn't invested TIF in market rate housing in over a decade. While not universally considered a drawback, there might be public concern about investing TIF in market rate housing.

What are some of the benefits of this Policy change?

Major redevelopment sites in older areas of the City could result in a significant number of new housing units (affordable and market), new commercial space, better connectivity to Bus Rapid Transit and the rest of the City's transportation system, and a significant increase in property tax revenue decades into the future following closure of a TID. The cost to construct this new street infrastructure is significant and "but for" TIF, developers may not be able to fund the type of development that the City wants to see at these locations. By enabling the City to invest TIF in these redevelopment projects to offset the cost of new street construction, it may be more likely that the City achieves its development goals at these locations, which will in turn produce the benefits noted above.

Per City TIF Policy, the City limits its investment in private redevelopment projects to around 50% of the net present value of the increment generated by the project. The remaining 50% can be used by the City for other infrastructure projects, small business support, affordable housing, a cushion against future economic downturns, and other desired initiatives. As such, investment in these new street projects may generate additional increment that could be used for other City programs and projects. Given that TIF law requires a finding that "but for TIF" a project would not occur, even if a District is open longer because of the investment made in these new street projects, the Affordable Housing fund (through the extra year affordable housing bonus) and taxing jurisdictions may ultimately receive additional revenue, although perhaps after a longer period of time.