Draft Spending Plan

for

Tax Increment Financing (Redevelopment) District No. 1-1

Tax Increment Financing (Redevelopment) District No. 1-7

Tax Increment Financing (Redevelopment) District No. 2-1

Housing and Redevelopment Authority for the City of Marshall

City of Marshall, Minnesota

Prepared by

Baker Tilly Municipal Advisors, LLC

Draft Dated: December 13, 2022

Expected Public Hearing by City Council: December 27, 2022

.

Anticipated Review and Approval by City Council: December 27, 2022

MA175-114-844878.v1

TABLE OF CONTENTS

Draft Spending Plan

for

**Tax Increment Financing (Redevelopment) District No. 1-1,
Tax Increment Financing (Redevelopment) District No. 1-7, and
Tax Increment Financing (Redevelopment) District No. 2-1**

Introduction

The State Legislature amended the TIF law (the "Law") in 2021 to provide flexibility to cities to utilize unobligated tax increment revenues in their districts to promote construction and job creation in their communities. Increments expended under the Law do not count against any pooling limitations of the districts. *See* Minn. Stat. § 469.176, subd. 4n.

The Law allows authorities (Cities, HRAs, EDAs) to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities if it will create or retain jobs in this state, including construction jobs and the construction commences before December 31, 2025, and would not have commenced before that date without the assistance. In addition, the authority can make an equity or similar investment in a corporation, partnership, or limited liability company that the authority determines is necessary to make construction of private development financially feasible. The authority has until December 31, 2022 to transfer the funds to another designated City fund, and the dollars must be expended by December 31, 2025. Any unused TIF dollars must be returned to the applicable TIF district after this date, or if the TIF District is decertified, returned as excess increment to the County for redistribution.

The Housing and Redevelopment Authority for the City of Marshall, Minnesota (the "Authority"), established Tax Increment Financing (Redevelopment) District No. 1-1, Tax Increment Financing (Redevelopment) District No. 1-7 and Tax Increment Financing (Redevelopment) District No. 2-1 to achieve certain development objectives of the City (the "TIF Districts") including redevelopment of substandard properties and areas within the City. The TIF Districts are administered by the Authority and have been identified as TIF Districts that contain unobligated tax increment revenues. The following text represents the spending plan (the "Spending Plan") for the Districts.

Section A Purpose

The Districts are administered by the Authority. The Authority proposes to adopt a Spending Plan for the TIF Districts in accordance with Minnesota Statutes, Section 469.176 Subd. 4n.

The purpose of the Spending Plan is to assist in the private development or redevelopment of sites or lands or areas within the City in conformity with the City's Comprehensive Plan or other City plans or objectives using unobligated tax increment revenues from the TIF Districts. The unobligated tax increments are to be utilized for one of the following purposes:

1) to provide improvements, loans, interest rate subsidies, or assistance in any form to the private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities if the following conditions exist:
    a. it will create or retain jobs in the state, including construction jobs;
    b. construction of the project and spending of the funds commences before December 31, 2025 and

   c. the construction would not have commenced before that date without the assistance.
2) to make an equity or similar investment in a corporation, partnership, or limited liability company that the City determines is necessary to make construction of a development that meets the requirements of the law financially feasible.

The City Council must approve a written spending plan by December 31, 2022 (after a properly noticed public hearing) that specifically authorizes the City to take such actions. The City must provide the Office of the State Auditor with a copy of the spending plan approved and signed by the City. As identified within the Minnesota Office of the State Auditor's August 2021 Statement of Position - Temporary Transfer Authority (2021 Law) included as Exhibit I, any tax increments authorized under the spending plan must be transferred out of the applicable TIF Fund by December 31, 2022 and spent by December 31, 2025. Any funds unspent shall be returned to the originating TIF Fund and if the TIF District has been decertified, remitted to the County for redistribution.

The City has been working on several development and redevelopment initiatives in the City that further the City's strategic priorities of redeveloping underutilized areas within the City and implementing an established plan for growth and active development in certain areas within the City. Potential projects identified to meet these initiatives are anticipated to require public assistance to be financially feasible and have been identified as potential qualifying uses for which unobligated tax increments, as further described in the next section of the Spending Plan, will be necessary to fill a financial gap and allow for construction to occur.

The assistance provided pursuant to this Spending Plan shall be subject to Minnesota Statutes, Sections 116J.993 to 116J.995 (the "Business Subsidy Law"), if applicable, and shall be subject to the Authority's Business Subsidy Policy.

Section B Unobligated TIF Funds

The Authority has identified an estimated total of up to $500,000 of unobligated tax increments from the districts that are anticipated to be available as of December 31, 2022 within the TIF Districts. It is anticipated the unobligated tax increments will be used on certain identified projects that may include existing commercial corridors within the City, East College and surrounding area, underutilized and/or vacant properties, expanded downtown area, and infrastructure improvements that would allow for additional industrial and residential growth. Eligible costs of potential future projects may include acquisition, site improvements/preparation costs, public improvements, utilities, other qualifying improvements, and other related expenses associated with development of the projects. Such projects are further described in paragraph one in Section C hereto.

Section C Spending Plan

Under the Spending Plan, the Authority is authorized to use unobligated tax increments from the TIF Districts to provide improvements, loans, interest rate subsidies, or assistance in any form to private development to further the Authority's redevelopment goals and objectives if doing so will create or retain jobs in the state, including construction jobs.

Financing assistance may be available for development and redevelopment projects that will create new housing, commercial, retail, industrial or open space, or any combination thereof, that are located within the City. For the purposes of this Spending Plan, the areas considered as potential project locations where funds may be spent include existing commercial corridors within the City, East College and surrounding area, underutilized and/or vacant properties, expanded downtown area, and infrastructure improvements that would allow for additional industrial and residential growth. Eligible expenses related to such projects may include land acquisition, environmental rehabilitation, site preparation, public improvements, utilities, and other redevelopment costs. Such projects are expected to result in increased tax base and new job creation.

The projects shall commence before December 31, 2025 (unless a later commencement date is authorized by law) with the funds expended by that same date and shall include projects that would not commence by such date without the assistance provided pursuant to this Spending Plan.

As related to the action of adopting the Spending Plan for the TIF Districts, the City is authorized as follows:

1. To administratively amend the budget set forth in the Tax Increment Financing Plans for the TIF Districts as necessary to provide for the assistance authorized by this Spending Plan.

2. To take any other action necessary and authorized under the Law in connection with the construction or substantial rehabilitation of facilities of the type described in paragraph one above.

3. To authorize and direct staff to maintain a copy of this Spending Plan with the Authority's records for the TIF District, and to file a copy of the Spending Plan with the Office of the State Auditor.

In 2021, the Legislature enacted expanded, temporary authority to transfer unobligated tax increments for purposes of assisting private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities, if doing so will create or retain jobs in the state. Proposed amidst the COVID-19 pandemic, the enacted law is narrower than initially proposed and is similar to 2010 legislation that temporarily expanded the use of TIF with the aim of stimulating economic recovery after the Great Recession.

Authority and Purposes

The new law temporarily permits a development authority to elect, by resolution, to transfer unobligated increment for certain specified purposes. The new law does not, however, override requirements to pay bonds to which increments are pledged.

Any transfer under this provision must be for the purpose of assisting private development that meets all of the following criteria:

1. it consists of the construction or substantial rehabilitation of buildings and ancillary facilities;
2. it creates or retains jobs in the state, including construction jobs; and
3. construction of the projects commences before December 31, 2025, spending of the funds occurs prior to December 31, 2025 and the projects would not have commenced and funds expended before that date without the assistance.

Developments that would already commence construction prior to December 31, 2025, or those that do not add or retain jobs in the state, would not be permitted beneficiaries of the transfer. Transfers must provide the assistance in one or both of the following ways:

1. by providing improvements, loans, interest rate subsidies, or assistance in any form to the private development; or
2. by making an equity or similar investment in a corporation, partnership, or limited liability company that the authority determines is necessary to make construction of a development financially feasible.

In order to demonstrate compliance with the new provision, an authority may wish to include affirmation of the qualifications in the written resolution electing to make the transfer. The authority also should keep documentation that demonstrates that the development created or retained jobs in the state and that commencement of construction by December 31, 2025, depended on the transfer.

Approvals and Spending Plans

Prior to approving the use of this temporary transfer authority by resolution, a development authority must also create a written spending plan that authorizes the development authority to provide the assistance or make the investment that makes the development qualify. The plan must detail the use of transferred increment. The OSA recommends identifying planned expenditures using the same categories identified in TIF plans and TIF reporting (e.g., acquisition, site preparation, financing costs, etc.), except for a category for administrative expenses, because administrative expenses are not included in the permissible uses of the transferred increment in the new law.

The municipality (which may or not be the same as the development authority) must also approve the authority's spending plan after holding a public hearing. The municipality must publish notice of the hearing in a newspaper of general circulation in the municipality and on the municipality's public website at least ten days, but not more than 30 days, prior to the date of the hearing.

An authority making a transfer under this authority must provide a copy of the spending plan approved and signed by the municipality to the Office of the State Auditor. Plans should be emailed to TIF@osa.state.mn.us as soon as possible after their approval.

Parameters and Limitations

The authority to transfer increments under this provision expires on December 31, 2022. Amounts being transferred under this provision must be transferred from the fund or account in which tax increments are segregated and into a separate fund or account by December 31, 2022. Amounts must not be expended directly from the transferring TIF fund or account, and may not be spent after December 31, 2022, if they remain in the TIF district's fund or account at that time. All transfers must be spent by December 31, 2025.

Transfers from a TIF district through December 31, 2022 are limited to a maximum transfer equal to the excess of the district's unobligated increment. Under the provision, unobligated increment includes any increment not required for payment of obligations due during the six months following the transfer on outstanding bonds, binding contracts, and other outstanding financial obligations of the district to which the district's increment is pledged. Therefore, the transfer of increment for 2022 is limited to the eligible balance of tax increment at the end of 2021, less amounts needed to pay bonds, pay-as-you-go notes, and interfund loans due from January 1, 2022, to December 31, 2022.

Presumably, receipts of tax increment for the first half taxes in each year would be used to make payments on outstanding obligations due in the second half of each year but note that this authority does not provide any exception to pay those obligations to which tax increment is pledged, and an authority should not transfer amounts that might impair their ability to make payments on those obligations.

Increment that is improperly retained, received, spent, or transferred is not eligible for transfer under this authority. Therefore, the 2021 balances of tax increment should be carefully evaluated prior to making transfers in 2022.

Unspent Transfers

Increment not spent by December 31, 2025, must be returned to the fund(s) of the contributing TIF district(s). The distribution of returned amounts need not be proportional to the amount contributed, but the amount returned to each TIF district must not exceed the amount transferred from the district.