

Legislation Details (With Text)

File #: BILL NO. 19-14
Name:
Type: Ordinance
Status: Passed
File created: 12/11/2018
In control: City Council - Regular Session
On agenda: 1/8/2019
Final action: 1/22/2019
Title: An Ordinance approving the Tax Increment Financing Contract between the City of Lee's Summit, Missouri, and Streets of West Pryor, LLC, for the Streets of West Pryor Tax Increment Financing Plan. (Note: First Reading by City Council on January 8, 2019.)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance, 2. TIF Contract, 3. Developer Executed Signature Page - TIF Contract, 4. Law Dept Memo: Summary of TIF Contract

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------------------------|----------------------------|--------|
| 1/22/2019 | 1 | City Council - Regular Session | adopted and numbered | Pass |
| 1/8/2019 | 1 | City Council - Regular Session | advanced to second reading | Pass |

An Ordinance approving the Tax Increment Financing Contract between the City of Lee's Summit, Missouri, and Streets of West Pryor, LLC, for the Streets of West Pryor Tax Increment Financing Plan. (Note: First Reading by City Council on January 8, 2019.)

Issue/Request:

Ordinance to approve the TIF Contract to implement the Streets of West Pryor Tax Increment Financing Plan.

Key Issues:

The TIF Contract will implement the Streets of West Pryor TIF Plan. Developer has executed the contract.

Proposed City Council Motion:

I move for adoption of an Ordinance Approving the Tax Increment Financing Contract between the City of Lee's Summit, Missouri, and the Streets of West Pryor, LLC, for the Streets of West Pryor Tax Increment Financing Plan.

Background:

The TIF Contract establishes the rights, duties and obligations of the City and Developer to implement the Streets of West Pryor TIF Plan, which allows for the overall development. As approved, the TIF Plan allows for reimbursement in the maximum principal amount of \$29.95 million from the several incentive revenue sources, compared to total projected project costs of about \$182 million. The TIF Plan contained a project budget which itemizes the project costs and lists the items that are reimbursable from public sources (TIF, CID, TDD) and Chapter 100 cost savings. That same budget is used as an attachment to the TIF Contract.

Impact/Analysis:

A memorandum from the Law Department provides a summary of the TIF Contract, portions of which are repeated here:

Financing Structure

The Contract allows for bonds to be issued on terms that are acceptable to the City. Developer will be responsible for funding with private funds all costs of the project that are not funded by bonds. After the Contract is executed, the Developer must present a Financing Plan to the City, which sets forth the anticipated sources of funds to pay for all project costs, and the type and term of each source. The Financing Plan must explain the terms under which Developer will obtain private financing for the balance of the project that is not funded with bond proceeds. The Financing Plan is subject to the City's review and reasonable approval, in accordance with the approved budget for the project.

The bonds may be issued either in one series for the entire project or in more than one series in connection with multiple phases of development. The sizing of each bond issue will be based on the revenues that are projected to be generated as development occurs. The City has the sole authority to determine the amount, terms, interest rates, redemption terms and other terms and conditions of the bond issuance. The Contract provides that a company which is mutually approved by the parties will be the underwriter for the bonds. The City has the ability to use Piper Jaffray as the City's financial advisor for the financing, as a continuation of that company's work when the TIF Plan was considered and approved by the Council.

The size of each bond issue will be based upon the revenues that are projected to be generated by tenants that have been secured by Developer. An independent revenue study will be conducted prior to each bond issuance to determine the projected revenues that may be available for bond repayment. The amount of bonds issued will be based upon the projected revenue.

Developer Must Certify Costs for Reimbursement

Developer will receive reimbursement only for costs actually incurred for the project. Developer must submit each request for reimbursement within 180 days after incurring such costs. Developer is required to prove that eligible costs have been incurred through documentation, and the documentation must be in sufficient detail for verification by City staff. Each request for reimbursement must be for an eligible line-item in the approved budget. The City has the right to request additional verification and documentation for any requested reimbursable item.

Land Uses

The TIF Contract incorporates the allowed land use list from the approved Preliminary Development Plan ordinance. If the City approves amendments to the PDP at a later date, these amendments will automatically be incorporated into the allowed uses under the TIF Contract. The TIF Contract also contains a list of land uses which are prohibited in the project area (Exhibit I). Some of the uses on the list are prohibited as primary land uses, but are allowed as secondary uses to another primary use on the property. For example, precious metal/stones purchasing cannot be a primary use of a property but may be a secondary use, such as part of jewelry store operations. This contract does not provide the City with the right to approve tenants and does not contain a list of pre-approved tenants - the restricted land uses list and the PDP is the City's method of controlling what uses occur on the property in addition to the zoning restrictions that are already in place.

Reimbursement Limit and City Safeguards on Reimbursement

Public reimbursement is limited to the principal amount of \$29.95 million. The Developer is responsible for cost overruns associated with the overall project costs. In order to ensure that the public assistance provided by the TIF Plan

does not subsidize an otherwise economically viable project, and to ensure that reimbursement is scaled to the total amount of project costs that are actually funded with private funds, the TIF Contract imposes two limitations on reimbursement:

- (1) Profit limit. Developer's unleveraged cash on costs rate of return is limited to 14.0%. Developer is required to annually submit information and documentation showing the calculation of actual earnings. These statements must be certified by the Developer's Chief Financial Officer. The City may request additional documentation as necessary to verify Developer's statements of profit.
- (2) Private / Public Reimbursement Ratio. When bonds are issued, Developer is required to itemize all costs funded from private funds (Developer and third parties) based on actual costs already incurred or expected costs which can be documented based on executed contracts. This amount will be compared to the requested amount of TIF reimbursement for the pending bond issue. If the ratio of private to public costs is less than the ratio of 6.5/1 (\$6.50 funded from private sources for every \$1 of TIF reimbursement, excluding all CID- and TDD-generated revenues) then reimbursement from TIF revenues will be reduced to a point that maintains the 6.5/1 ratio. This ratio is adjusted to incentivize complete build-out of the project according to the following schedule: (See table in memorandum from Law Department, page 3)

A true-up will occur at the end of project construction, and final reimbursement will be scaled to meet the required private/public ratio.

Prohibition on Business Relocation

Developer may not lease or sell any portion of the project to any business operation if the business intends to close its current store in the City and move into the project area. A business is deemed to move into the project area if it closes its prior store within one year before or one year after the opening of the new store in the TIF area. If the City waives this prohibition, or if a business relocates from an existing location within Jackson County but outside the City into the Summit Place project area, then the base sales that occurred at the prior store are imputed to be the base sales of the new store that opens in the TIF area so that the prior sales tax levels are maintained with respect to all sales taxing jurisdictions.

City Hotel Sales Tax Rebate

The TIF Contract provides for the hotel sales tax rebate as discussed at the December 18, 2018 Council meeting. This rebate applies only to the City's 1% general sales tax levy collected from charges for sleeping rooms paid by transient guests of the hotel. This revenue would be annually appropriated to reimburse Developer for certified reimbursable project costs. Developer's total projected revenue from the Hotel Sales Tax Rebate is about \$508,000 over 30-year life of the request. The hotel sales tax rebate would last for a period not to exceed the lesser of (a) 30 years from the Effective Date of the TIF Contract or (b) the date that all Obligations and Reimbursable Project Costs have been repaid.

Timeline:

The timeline for the project is set forth in **Exhibit G** of the TIF Contract:

David Bushek, Chief Counsel of Economic Development & Planning
Mark Dunning, Assistant City Manager

Recommendation: Staff recommends approval of the Ordinance

Committee Recommendation: The TIF Commission recommended that the City Council approve a TIF contract with the Developer.