CASHING

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Tax Increment Funds (TIF) are available to businesses that start ventures or relocate to municipal redevelopment areas. This article discusses potential monies available to small, medium or large-sized businesses. Cities throughout Nevada have formed redevelopment agencies and offer opportunities for businesses small and large to take advantage of programs designed to revitalize specific geographic areas. Redevelopment agencies assist businesses through use of funds generated by growth in property tax revenue, otherwise known as Tax Increment Funds. *See* NRS chapter 279.

IN ON REDEVELOPMENT

TIF is the growth in property tax revenue that occurs after a redevelopment area has commenced. Specifically, after the effective date of an ordinance approving a redevelopment plan, taxes levied on taxable property in the redevelopment area are divided between the taxing authorities and the appropriate redevelopment agency. The growth in tax revenue over the base year (the year last equalized before the effective date of the relevant ordinance establishing the redevelopment area) is distributed to the redevelopment agency to pay the costs of redevelopment and to pay the indebtedness incurred by the agency in the financing of redevelopment. NRS 279.676(1)(b).

TIF is used to pay the costs associated with redevelopment as defined in NRS 279.408. "Redevelopment" has a broad definition and includes planning, development, reconstruction, rehabilitation, and the provision of residential, commercial, industrial, public, or other structures or spaces that are in the interest of the general welfare. NRS 279.408

Small to Medium Projects

Several of the Nevada redevelopment agencies have programs to assist small- to medium-sized businesses. These programs typically assist the property owner or the business owner with improving the façade of the business, bringing a property into code compliance or replacing business signs. The following is a more thorough discussion of sample programs; however, funding for such programs may not always be available, and any specific project should be discussed with the appropriate redevelopment agency to ascertain if the proposed project qualifies under its specific program guidelines.

Sign programs help a business replace, refurbish or repair aging signs. The Henderson Redevelopment Agency provides sign grants that range from $2,500 to $10,000 per storefront for eligible businesses in their downtown and eastside redevelopment areas. Boulder City has a 50/50 signage grant program for businesses installing signs evoking the image of Boulder City in the 1950s and 1960s, through such design elements as non-rectangular shapes and the use of neon lighting and accents. Las Vegas' Visual Improvement Program includes a signage component.

Façade improvement programs assist businesses with exterior improvements. Las Vegas' Visual Improvement Program provides up to $50,000 to business owners in redevelopment areas for landscaping, parking improvements and façade improvements. Las Vegas requires a matching contribution from the recipient and a five-year commitment to maintain the improvements. Henderson has a façade improvement program for its downtown and eastside redevelopment areas that can provide up to 80 percent of the costs of painting and landscaping up to $15,000, with only a two-year maintenance requirement.

Tenant improvement programs are for the interiors of buildings. Henderson has a tenant improvement program designed to assist business owners with interior improvements that will stay with the property, such as electrical; HVAC; plumbing repairs and/or upgrades; drywall and flooring installation and repair; and interior

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demolition. Businesses must be in the downtown or eastside redevelopment areas and may receive up to $25 per square foot to a maximum of $50,000 for 50 percent of the cost of the project. Henderson has a point scoring system for this program. Business owners must commit to five years of maintenance on the improvements.

Large Projects

Large projects are handled by each redevelopment agency according to its own procedures, but the agreement between the redevelopment agency and the specific property owner/developer is typically memorialized in an Owner Participation Agreement (OPA). An OPA is a contract between a property owner/developer and the redevelopment agency, to provide financial assistance through TIF for a project that furthers the redevelopment plan. An OPA is a binding agreement recorded against the property.

Negotiating an OPA

Term:

The term of an OPA cannot be longer than the life of the redevelopment area in which the property is located. The developer should first ascertain the remaining life of the redevelopment area, as this information will be needed to evaluate and negotiate financial incentives. Note that the Nevada Legislature has, previously, extended the life of specific redevelopment areas. An OPA should address the potential extension of a redevelopment area and the effects of such an extension on an OPA.

Developer Initial Obligations:

In order to receive TIF, the developer must propose a project that furthers the goals of the adopted redevelopment plan. The project must be specific, achievable and be able to be financed. A developer must commit to completing the entire project, within a specified time, with a detailed milestone schedule. Further, a comprehensive project breakdown, with subsets of specific tasks to be accomplished, along with the costs of those specific tasks, must be identified and provided to the agency.

Type of Financial Incentive:

Financial incentives are usually in the form of reimbursement to the developer of TIF eligible expenses. Be aware: in Nevada if a project is to receive financial incentives of $100,000 or more, the project will be subject to prevailing wage requirements. NRS 279.500. Additionally, an agency may issue special obligation bonds for financing of a project. The proceeds of the special obligation bonds could go toward financing the project and are repayable from the tax increment generated.

Amount of Financial Incentive:

The agency and the developer will review the detailed submissions provided by the developer and determine which expenses are permitted under the definition of redevelopment in NRS 279.408 and the agency's own guidelines. Upon determining the total estimated amount of eligible expenses, the agency and developer must negotiate the amount of reimbursement to which the agency is willing to commit. For any large project, the agency and developer should have a forecasting study done to determine the amount of TIF the project is expected to generate. The two key provisions to negotiate are the cap and the percentage. The cap is the total amount of TIF the agency is willing to pledge to the project. This amount must correlate to the estimated amount of eligible expenses provided by the developer. Most agencies require a substantial investment by the developer so the cap is not typically 100 percent of the eligible expenses. The developer and the agency must also negotiate whether or not the cap will include any interest on the eligible costs – usually paid by the developer – years before reimbursement is received. The percentage is the percentage of TIF that is received by the agency from the project remitted to the developer. Practically, as TIF is received by the agency, a portion of that amount will be paid to the developer as reimbursement for the agreed-upon eligible expenses, up to the cap amount previously negotiated. The larger the percentage, the faster a developer recoups the money that was invested in the eligible improvements. However, the smaller the percentage the agency retains, the less money the agency has for administrative needs and other redevelopment projects. A balance should be struck between the needs of the agency versus the timely reimbursement of the developer. Agencies can only commit potential TIF and a developer is limited to the percentage of TIF that it has negotiated over the life of the redevelopment area until the cap is reached. If the cap is not reached before the end of the redevelopment area, the developer is required to waive any remainder. There is no obligation on the part of the agency to provide funds from any other redevelopment area, from general or administrative funds or from city funds. Finally, the agency and the developer need to consider, and address, the impact of potential legislative set-asides on the amount of TIF reimbursement. Currently, NRS 279.685 requires that an agency in a city of more than 500,000 set aside 18 percent of all revenue received for low-income housing and educational facilities. This set aside can be expanded to other cities or the set-aside percentage could change, so the OPA should address these potential issues.

Other Common Terms:

Developers should expect an audit requirement to determine the amounts actually paid for TIF eligible expenses, as well as provision of performance security and non-performance remedies to the agency. Agencies generally require prior approval of material changes to plans and changes in developer personnel. Finally, developers should be prepared to demonstrate that they are financially capable and that the provision of TIF is necessary for a successful project. ■

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