

ITEM #: 45
DATE: 06-25-24
DEPT: P&H

COUNCIL ACTION FORM

**SUBJECT: NORTH DAYTON AVENUE INDUSTRIAL PARK TIF AGREEMENT
AMENDMENTS AND FINDING THE DEVELOPER IS IN COMPLIANCE
WITH THE AGREEMENT FOR THE FIRST YEAR OF TIF REBATE**

BACKGROUND:

At the May 28 City Council meeting, staff was directed to prepare an amendment to the Development Agreement with Dayton Avenue Development LLC for the North Dayton Industrial Subdivision for three issues in response to requests by the developer. Those items include:

1. Amend the maximum reimbursement amount for eligible Public Improvements in the Development Agreement by an additional \$151,687.05 to a total of \$3,119,951.05
2. Increase the maximum allowed sale price of Lot 2 by an additional \$22,000 in excess of the prescribed land price ceiling.
3. Defer assessment of the \$15,000 penalty for timing of completion of the first speculative building until June 28.

The amendment to the Development Agreement is attached (Attachment A). Only the sections that are amended are included; all other provisions of the agreement remain as originally approved.

It should be noted that the existing agreement requires substantiation of public improvement costs to receive the TIF rebate. **With approval of the amendment to the Development Agreement, City Council is also being asked to find the developer has met the criteria for verifying eligible expense for TIF reimbursement based upon staff's review of the receipts provided by the developer.** The Development Agreement allows for City Council to provide a TIF rebate on an annual basis until the year 2035 or upon reaching the maximum reimbursement amount of \$3,119,951.05.

With Council's determination of developer conformance, the City Council will formally certify TIF debt in November to allow for the collection of tax increment and rebate the amount to the developer in 2025. The first year rebate will be based upon the assessed values established by the City Assessor in January 2024 for the ABC supply building and the partial value of the surgery center, an estimated payment of \$130,000. Subsequent years will not require developer substantiation, only the Council approval of annual appropriate of TIF each November.

ALTERNATIVES:

1. Approve the amendments in the attached amendment to the TIF Development Agreement through the following:
 - a. Approve a Resolution amending the TIF Development Agreement with Dayton Avenue LLC to 1) forbear assessment of penalty for first speculative building until June 28, 2) increase the total reimbursement amount to \$3,119,951.05 for revised expenses identified in Exhibit C, and 3) allow for an additional \$22,000 to be added to the sales price for Lot 2.
 - b. Approve resolution finding the developer in compliance with the development agreement for substantiation of public improvement costs to allow for approval of the first year of the TIF rebate.
2. Decline to approve the amendments to the Development Agreement and find the developer conforms to the requirements for TIF rebate of eligible costs to not exceed \$2,968,264.
3. Refer this matter back to staff and/or developer to gather more information.

CITY MANAGER'S RECOMMENDED ACTION:

The proposed amendments to the North Dayton Avenue TIF Development Agreement reflect the direction of City Council. These changes are consistent with the original intent of the agreement to rebate costs for specific public improvements and to limit land sales prices as an incentive to develop in the industrial park. In addition, the developer has provided documentation of eligible expenses and can be found to conform to the agreement to allow the Council in the future to certify TIF Debt for the developer rebate in accordance with the terms of the agreement. Therefore, it is the recommendation of the City Manager that the City Council act in accordance with Alternative #1.

ATTACHMENT(S):

[Attachment A- N Dayton Avenue Second Amendment.pdf](#)