



City of Grand Forks  
Staff Report

Special City Council Meeting – August 23, 2021

**APPROVED & ACCEPTED**  
*by City Council*

08/23/2021

*Maureen Storstad*  
Maureen Storstad  
City Auditor

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**Agenda Item: Resolution of the City Council of the City of Grand Forks Approving Renewal and Development Plan 2021-01, Tax Increment Financing District No. 2021-01 and Tax Increment Financing Development Agreement for Beacon Development Property (and related Public Plaza and City Parking Area Management Agreement)**

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**Submitted by:** Todd Feland, City Administrator  
Dan Gaustad, City Attorney

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**Staff Recommended Action: Approve the Resolution of the City Council of the City of Grand Forks Approving Renewal and Development Plan 2021-01, Tax Increment Financing District No. 2021-01 and Tax Increment Financing Development Agreement for Beacon Development Property (and related Public Plaza and City Parking Area Management Agreement), subject to City Attorney’s Office final review and approval of the Tax Increment Financing Development Agreement for Beacon Development Property and Public Plaza and City Parking Area Management Agreement.**

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**Committee Recommended Action:** N/A

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**Council Action:** Motion by Sande, second by Weber, to approve. Motion carried unanimously.

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**BACKGROUND:**

On February 1, 2021, the Grand Forks City Council provided approval for the Beacon By EPIC tax incentive as an 80 percent, up to 25-year term Tax Increment Financing (TIF) and TIF revenue bonds to finance the public plaza improvement.

The property that is the subject of the Beacon by EPIC development is located at 710 1st Avenue North, Grand Forks, ND 58201 (the old Townhouse Hotel) and is described as follows (the “Beacon Development Property”):

Lot Two (2), in Block Two (2), Renewal Resubdivision No. 5 to the City of Grand Forks, according to the plat thereof on file in the Office of the County Recorder within and for Grand Forks County, N.D., and recorded in Book “152” of Deeds page 253.

Pursuant to N.D.C.C. §§ 40-05-24 and 40-58-20.2(4) the Grand Forks School Board approved the TIF at its January 25, 2021 meeting and the Grand Forks County Commission provided its approval of the TIF at its January 19, 2021 meeting, both entities supplied the City with written

documentation of this approval on January 28, 2021. The Grand Forks Park District has likewise provided a general consensus to move forward with the same.

Since that time, City staff have been working with Beacon by EPIC on agreements for this development and the associated TIF, including the Tax Increment Financing Development Agreement (the “TIF Agreement”) and an agreement for the management of the public plaza to be constructed on the Beacon Development Property, which agreements have now been finalized and ready for final approval.

A final public hearing and in turn resolutions by the City Council to approve the proposed Beacon By EPIC development plan (the “Beacon Development Plan”), the TIF District for this development and the TIF Agreement are required. A preliminary briefing and overview the resolutions and the TIF Agreement occurred at the City Council Committee of the Whole and City Council meetings on July 26, 2021 and August 2, 2021 respectively. The City Council set the public hearing date for August 16, 2021 for final consideration and approval of the Beacon Development Plan, the TIF District for this development and the TIF Agreement. Pursuant to N.D.C.C. §§ 40-58-20.1 and 40-58-20.2 Notice of the Public Hearing and Notice to Competitors were mailed out to the School District, Grand Forks County, Grand Forks Park District and competitors on July 27, 2021 and was published in the Grand Forks Herald on July 28, 2021.

In support of the findings of fact to be made by the City Council for this final approval of the proposed Beacon Development Plan, the TIF District for this development and the TIF Agreement, there have been previously submitted staff reports to the City Council at its December 21, 2020 and February 1, 2021 meetings, which provide detailed analysis and factual findings of the Beacon By EPIC development. These prior staff reports are attached and are incorporated in this staff report.

Also, attached is a TIF Impact Analysis Spreadsheet that shows (a) the anticipated revenue from tax increments which will be received to complete the Beacon Development Plan, (b) the anticipated date when the Development Plan will be completed, the costs will be fully paid and the tax increments released and (c) the estimate of dollars annually attributable to the levies from each taxing entity which will be credited to the tax increment fund.

## **SUMMARY OF TIF AGREEMENT:**

The following is a brief overview terms of the TIF Agreement:

- The Developer, at its sole cost and expense, is responsible to design, construct and install the Public Plaza and City Parking Area and the three buildings that will surround the Public Plaza (including infrastructure). The Public Plaza and City Parking Area are described as the “Public Components.”
- The Public Components are depicted in orange and green on the map attached to the TIF Agreement.
- The plans and specifications for the Public Components are reviewed by the City Engineer, City Planner and City Inspector to assure compliance with applicable standards and will be subject to inspection and approval during and upon completion

of the Public Components.

- Construction start date for the Public Components is June, 2022 and completion is targeted for July, 2023.
- There are several construction requirements in Section 2.4 of the agreement, including meeting all applicable federal, state and local building laws.
- The City approves all costs and expenses (including any change orders) for the Public Components.
- The Developer is required to provide a letter of credit in favor of the City in amount equivalent to estimated cost of Public Components. The letter of credit remains in place until Building 3 has been issued a certificate of occupancy.
- Once the Public Components are completed and 2 of the 3 buildings have been issued certificates of occupancy, then title to the Public Components will be transferred to the City.
- The TIF Agreement also calls for the City to acquire space within building 1 and space within either building 2 or 3. The spaces storage, warming areas, restrooms and other public events support areas.
- A purchase agreement will be subsequently created for this transfer of the Public Components to the City, which is a condition for funds to be paid to the Developer.
- The TIF Agreement sets out the amount the City will pay for the Public Components (and the spaces within the private buildings) is the lower of: (1) the costs and expenses to construct the Public Components or (2) the maximum amount of a revenue bond that can be serviced with the tax increments generated from the incremental value from the private buildings that surround the Public Components. The determination of the maximum bond will be made by Baker Tilly. By way of example, if the total amount of costs and expenses for the Public Components were \$7,000,000 but the maximum bond amount that can be serviced by the tax increments is \$6,500,000, then the amount payable for the Public Components is \$6,500,000.00.
- Under preliminary estimates and amenities considered for inclusion in the Public Components, the estimated cost of the Public Components is \$7,500,000-\$8,000,000.
- Under preliminary calculations, assuming a 4% interest rate and 25-year term, it is estimated the maximum revenue bond that can be serviced with the tax increments is \$6,500,000.00. See the attached TIF Impact Analysis Spreadsheet that provides the calculation.
- Because these are early and preliminary estimates of the costs of the Public Components and the maximum amount of the bond, there may be need for the City to contribute funds to cover costs of amenities requested for the Public Components that exceeds what would be paid under the TIF Agreement. Any such determination of

additional contribution by the City, if at all, would be made when the revenue bond issuance is being considered for approval.

- The City pays for the Public Components over time. First, when the Public Components are finally completed and 2 of the 3 buildings have been issued a certificate of occupancy, then 2/3 of the amount under the agreement is paid. Once the third building has been issued a certificate of occupancy, then the remaining 1/3 is paid to the Developer. This payment over time was included to provide incentive to complete all 3 buildings.
- Funds for the payment of the Public Components will be through a revenue bond be issued for such payment that will have a 25-year term. By statute, this revenue bond is not an obligation of the City.
- We understand this is the first time the City has done a TIF revenue bond mechanism in this form. This is being done here because of the interplay and interconnection between the Public Components and private development. Other similar and recent tax incentives have generally been 10-20 years for 80% to 100% of the developmental value.
- The tax increments from 80% of the increased value from the development are used to service this revenue bond. Here is an example:
  1. Assume tax value of private buildings after development = \$39,282,800.
  2. Current tax value = \$2,282,800.
  3. Difference or “Incremental Value” = \$37,000,000 (\$39,282,800 – \$2,282,800)
  4.  $\$37,000,000 \times 80\% = \$29,600,000$
  5.  $29,600,000 \times 1.51\%$  (which is the effective property tax rate) = \$446,500.  
(this \$446,500 is referred to as the “tax increment”)
  6. This \$446,500.00 is collected similar to property taxes but will be dedicated to paying revenue bond.
  7. The original value of \$2,282,800 and the 20% on the Incremental Value remain subject to property taxation, with these revenues paid to the respective taxing entities. See attached TIF Impact Analysis Spreadsheet.
- If there is a shortfall in tax increment (which could be due, for example, because the values do not reach expectations or there is non-payment of a property tax bill), there are mechanisms to cover these shortfalls, including (1) personal guaranties that could be pursued for payment of the shortfall, (2) the City can special assess to property owner, and/or (3) the City could, but is not obligated, to create a loan from sales tax fund that would be repaid back from future tax increments.

- The Public Components will be managed pursuant to a management agreement. This parallel's the management of the Alerus Center from its inception to the present day.
- The management agreement calls for the creation of an entity called Beacon Events, Inc. that will be the manager of the Public Components. This is parallel to the Alerus Commission with respect to the Alerus Center.
- There are 9 appointed members on the board of directors of the Beacon Events, Inc. – with three (3) appointed by the City, three (3) appointed by the School District, two (2) appointed by the Park District and 1 appointed by the Developer.
- Beacon Events, Inc. can employ persons or contract with an entity to run the day-to-day operations of the Public Components. It is anticipated the Developer or persons connected with the Developer will be engaged for these day-to-day operations.
- The Operating Budget of Beacon Events, Inc. is approved by the City.
- There is a monthly manager fee payable by the City to Beacon Events, Inc. that will be determine in and will be a separate line item in the operating budget.
- Initial start up costs are to be approved by the City, in an amount up to but not exceeding \$85,000.
- The term of the management agreement will start in 2023 (when the Public Component title is transferred to the City) and ends on December 31, 2026. The City has 4 options to renew the management agreement for 5-year terms.
- The management agreement provides the City will have first priority use of the Public Components.
- The management agreement has several similar provisions that parrot the Alerus Center management agreement.

## **ANALYSIS AND FACTUAL FINDINGS:**

The following, being additional analysis and factual information and a summary of information contained within the prior staff reports, are recommended to be made as factual findings in the approval of the Beacon Development Plan, the TIF District for this development and the TIF Agreement:

- The Beacon Development Plan relates only to the development and redevelopment commercial property. Although the Planning and Zoning Commission has had some review of this development through zoning and a PUD, pursuant to N.D.C.C. § 40-58-06(2), the Planning and Zoning Commission is not required to review the Beacon Development Plan.
- No families will be displaced as a result of the Beacon Development Plan and the development and redevelopment of the Beacon Development Property.

- The Beacon Development Plan, and the proposed development and redevelopment of the Beacon Development Property conforms and is consistent with and furthers the general plan for the City, which includes the 2045 Land Use Plan and the Grand Forks Renaissance Zone Plan, setting forth therein its development plans and goals for the City.
- The Beacon Development Plan, and the proposed development and redevelopment of the Beacon Development Property will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the development and redevelopment of the Beacon Development Property by a private enterprise.
- The Beacon Development Plan, and the proposed development and redevelopment of the Beacon Development Property will activate a downtown space with a new high quality redevelopment consisting of residential and commercial properties.
- The Beacon Development Plan and the proposed development and redevelopment of the Beacon Development Property will promote economic development by rehabilitating a high visibility and high priority site.
- The Beacon Development Plan and the proposed development and redevelopment of the Beacon Development Property will enhance and diversify the City's economic base.
- The Beacon Development Plan and the proposed development and redevelopment of the Beacon Development Property will meaningfully contribute to the City's tax base based on the preliminary estimated incremental tax value of the Beacon Development Property after development and redevelopment exceeding at least \$30 million dollars.
- The Beacon Development Plan and the proposed development and redevelopment of the Beacon Development Property will broaden and connect to the existing downtown without the need for significant City infrastructure development and investment.
- The financial strength of the project has been reviewed by independent third party Baker Tilly.
- On December 10, 2020, the City's Local Government Advisory Committee reviewed proposed development and redevelopment of the Beacon Development Property, including the attendant proposal for tax increment financing for such development and redevelopment, and provided a consensus and non-binding recommendation to move forward with the Beacon Development, with the proposed tax increment financing as more particularly described herein.
- Based on the information obtained to date, the Beacon Development Property appropriate for a renewal and development project.
- The Beacon Development Property is unused or underutilized real property that is zoned or used as a commercial site and therefore is "industrial or commercial property,"

as defined in N.D.C.C. § 40-58-01.1(14) within the City.

- Based on the information obtained to date, and the review of the City Council, the City's Local Government Advisory Committee, the independent review by Baker Tilly, City staff reports, and the City's policy on tax increment financing, the Beacon Development Plan and the proposed development and redevelopment of the Beacon Development Property is necessary to further the public economy, health, safety, morals, or welfare of the residents of the City.
- Based on the information obtained to date, the TIF Agreement will not result in unfair competition and the TIF Agreement is in the best interests of the City as a whole.

### **SUPPORT MATERIALS:**

1. City of Grand Forks Staff Report of December 21, 2020 – the Beacon by EPIC Redevelopment Project Tax Incentive
2. City of Grand Forks Staff Report of February 1, 2021 – Tax Incentive Approvals – Beacon By EPIC; Memorial Village; Lyon's; and Block V.
3. City of Grand Forks Staff Report of August 2, 2021 – Beacon By EPIC Development Agreement.
4. Resolution of the City Council of the City of Grand Forks Approving Renewal and Development Plan 2021-01, Tax Increment Finance District NO. 2021-01, And Tax Increment Financing Development Agreement For Beacon Development Property.
5. City of Grand Forks Renewal And Development Plan 2021-01 For Beacon Development Property.
6. TIF Agreement, that includes the Management Agreement (in redlined format to show changes made to documents reviewed at July 26, 2021 COW and August 2, 2021 City Council meeting).
7. TIF Impact Analysis Spreadsheet.
8. Notice of Public Hearing and Notice of Competitors (with affidavit of mailing and affidavit of publication).