



City of Grand Forks
Staff Report

Special City Council Meeting – October 11, 2021

Agenda Item: Public Hearing on Application for Property Tax Incentives for New or Expanding Businesses – a payment in lieu property tax under N.D.C.C. § 40-57.1-03(2)

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

Staff Recommended Action: Approve the Resolution of the City Council of the City of Grand Forks Approving Payment in Lieu of Property Tax Development Agreement for Block V Property.

Committee Recommended Action:

Council Action:

BACKGROUND:

On February 1, 2021, the Grand Forks City Council provided approval for Block V a property tax incentive, in the form of a PILOT exemption of 90 percent of the incremental value created by the development and re-development of this property for a period of 15-20 years and a Grand Forks Growth Fund loan of \$900,000.00.

The property that is the subject of the Block V development is located at 2 North 3rd Street, Grand Forks, ND 58202 and is described as follows (the “Block V Development Property”):

The Front 100 feet of Lot 6, in Block 24, Subdivision of Blocks 16, 17, and 24 of the Town of Grand Forks, ND

AND

The Rear 50 feet of the Front 150 feet of Lots 4, 5, and 6, in Block 24, Subdivision of Blocks 16, 17 and 24 of the Town of Grand Forks, ND

Pursuant to N.D.C.C. §§ 40-05-24 and 40-57-03(7), the City has obtained the consent of the Grand Forks Public School District and Grand Forks County to participate in the property tax incentive that will be in the form of PILOT for the development and redevelopment of the Block V Property, and 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 the Block V, LLC, the developer, on agreements for the development and the associated loan from the Grand Forks Growth Fund, including the Payment in Lieu of Property Tax Development Agreement (attached hereto and referred to herein as the “Block V Development Agreement”).

At its October 4, 2020 meeting the Grand Forks Growth Fund approved its participation in the Block V Development Agreement, namely the loan, contingent upon approval by the City Council.

A final public hearing and resolutions by the City Council to approve the proposed Block V Development Agreement is required. The public hearing date is October 11, 2021 and pursuant to N.D.C.C. § 40-57.1-03(5), a notice to competitors was published in the Grand Forks Herald on September 18, 2021 and September 25, 2021.

In support of the findings of fact to be made by the City Council for this final approval of the proposed Block V Development 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 Block V development. These prior staff reports are attached and are incorporated in this staff report.

The current true and full value of the improvements on the Block V Property is \$1,558,200 and the land is \$112,500. The post-renovation value for the improvements is estimated at \$5.2 million. Using these figures, a 90% PILOT results in an exemption that equates to a property tax reduction of \$49,492 at the outset to up to \$63,353 at the end of 20 years (assuming a 1% valuation increase per year).

The original value of the Block V Property improvements of \$1,558,200 plus the land of \$112,500, plus the 10% incremental value of the development will be subject to property taxation.

Also, attached is a spreadsheet labelled “Block V Property Tax Incentive Analysis” that shows (a) the anticipated property revenue that will be received from the original value plus the 10% incremental value over the course of the 20 year term of the PILOT – that is shown in the column labelled “Tax Revenues” and is further broken down by taxing entity as to the amount each will receive (which are the columns labelled “City Share of Tax,” “County/State Share of Tax,” “School Share of Tax,” and “Parks Share of Tax”). Although not reflected on the spreadsheet, the property tax received on the land – being valued at \$112,500 - would be approximately \$1,700.00 at the outset.

The spreadsheet also shows the property tax savings attributable to the PILOT exemption each year from the 90% exemption of the incremental or increased value due to the development (assuming a 1% valuation increase). This is shown in the column labelled “90% of Incr. Avail. For Debt Service.”

SUMMARY OF BLOCK V DEVELOPMENT AGREEMENT:

The following is a brief overview terms of the Block V Development Agreement:

Section 1

- Provides definitions used within the agreement

Section 2

- Outlines the requirements for the development and re-development of the Block V Property, all of which are at the Developer’s sole cost and expense.
- Construction start date for is October, 2021 and completion is targeted for December 1, 2022.
- There are several construction requirements in Section 2.2 of the agreement, including meeting all applicable federal, state and local building laws.
- If there are changes to the development, they need to be reviewed and approved by the City. This is incorporated to avoid a situation where the developer makes significant changes, and in turn increases the value to a level that results in a much larger PILOT exemption than was anticipated.

Section 3

- Outlines the mechanism for the PILOT exemption.
- The following example, within the agreement, explains how the amount of the PILOT exemption will be calculated:

If the Incremental Property Value for the 2023 Assessment Date (being February 15, 2023) is \$5,200,000 and for the 2024 Assessment Date is \$5,252,000.00, the Block V PILOT for the 2023 and 2024 years shall be as follows:

	<u>2023 Year</u>	<u>2024 Year</u>
Incremental Property Value:	\$5,200,000.00	\$5,252,000.00
Minus Original Property Value	(<u>\$1,558,200.00</u>)	(<u>1,558,200.00</u>)
Sub-Total	\$3,641,800.00	\$3,693,800.00
Multiplied by 90%	<u>x 90%</u>	<u>x 90%</u>
Block V PILOT	<u>\$3,277,620.00</u>	<u>\$3,324,420.00</u>

- The Block V PILOT is then used as a reduction for purposes of the City reporting the true and full value of the Block V Property. This is done to assure property taxes are assessed to the portion that remains subject to property tax. In that regard, the City Assessor will report the true and full value of the Block V Property that is subject to property taxation, using this methodology. The following example, that is also within the agreement, explains how the true and full value of Block V

Property will be reported during the term of the PILOT:

	<u>2023 Year</u>	<u>2024 Year</u>
Incremental Property Value:	\$5,200,000.00	\$5,252,000.00
Minus Block V PILOT	(\$3,277,620.00)	(\$3,324,420.00)
Plus true and full value of the Block V Property land	<u>\$112,500.00</u>	<u>\$112,500.00</u>
Block V PILOT True & Full Value	<u>\$2,034,880.00</u>	<u>\$2,040,080.00</u>

- The term of the PILOT is for the shorter of 20 years or the date the loan to the Grand Forks Growth Fund is paid off.
- There are early termination provisions. Section 3.2.4 set out termination events that are set out by statute (i.e. a change in ownership to the Block V Property). Also, the PILOT can terminate if there an event of default by the Developer under the agreement (Sections 6.1 and 6.2) or the Developer ceases to do business (Section 7.5).
- There exist a number of conditions in order for the PILOT exemption to become effective – this include the development is finally completed and the Developer has executed all of the loan documents. (Section 3.3)

Section 4

- This outlines the loan with the Grand Forks Growth Fund.
- The loan funds will be provided when the development of the Block V Property is completed.
- In addition, there are other conditions to providing the loan. Section 4.1.3
- The Developer is to execute a promissory note that has a 20-year amortization and a 2% interest rate, which results in annual payments of \$55,041. The first payment is February 15, 2023 and final payment on February 15, 2042. Because the first payment will not have a full year’s interest, the final payment on the promissory note will be lower – estimated at \$34,280.
- The Developer is to provide a first lien mortgage to Grand Forks Growth Fund to the Block V Property to secure the repayment of the loan.
- Each member of the Developer is to provide a personal guaranty to secure the repayment of the promissory note.

- If there are events of default under the Block V Development Agreement, this will also be an event of default under the lending documents, which can then result in an acceleration of the amounts due and owing under the loan.

Section 5

- Contain various representations and warranties being given by the Developer.

Section 6

- Outline events of default and remedies that are available.

Section 7

- Contains miscellaneous provisions.
- One such provision is the Block V Property will not be eligible for any other property tax incentive during the term of this PILOT exemption. (Section 7.3)

ANALYSIS AND FACTUAL FINDINGS:

Further analysis and factual information are contained in the resolution and from prior staff reports.

SUPPORT MATERIALS:

1. City of Grand Forks Staff Report of December 21, 2020 – Block V LLC Tax Increment Financing (TIF) Application.
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. Application for Property Tax Incentives for New or Expanding Businesses from Block V LLC.
4. Resolution of the City Council of the City of Grand Forks Approving Payment in Lieu of Property Tax Development Agreement.
5. Block V Development Agreement]
6. Promissory Note to Grand Forks Growth Fund
7. Mortgage to Grand Forks Growth Fund
8. Guaranty to Grand Forks Growth Fund
9. Block V Property Tax Incentive Analysis Spreadsheet
10. Affidavit of Publication – Notice to Competitors