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Statement of Position Small Cities' Expanded TIF Powers

Recognizing the unique needs of small cities, the 1997 Legislature gave small cities using economic development districts expanded TIF powers, permitting them to use tax increment financing (TIF) for purposes not otherwise permitted in the TIF Act.¹ In small cities, tax increment from an economic development district can be used to provide assistance in any form for a “separately owned commercial facility” of up to 15,000 square feet.

“Small City” Defined

A “small city” is defined as any home rule charter or statutory city that has a population of 5,000 or less and is located ten miles or more from a home rule charter or statutory city located in Minnesota with a population of 10,000 or more. The distance between the two cities is measured by drawing a straight line from the nearest boundaries of the two cities.² A city qualifies as a “small city” if it meets the statutory definition of a small city in the year in which the request for certification was made. It remains a small city for the duration of the district, regardless of whether the city later qualifies or ceases to qualify as a small city.³

Expanded Use of Tax Increment

Small cities may use tax increment to provide improvements, loans, subsidies, grants, interest rate subsidies, or assistance in any form to assist the development of a commercial facility. There is no restriction on how the commercial facility can be used: It may be a grocery store or fast food franchise. However, the assistance must have been necessary to develop the commercial facility.

The commercial facility assisted with tax increment must be located within the municipal jurisdiction of the small city and must be separately owned. More than one facility can

¹ For small city expanded TIF powers, see Minn. Stat. § 469.176, subd. 4c(b). For the TIF Act in its entirety, see Minn. Stat. §§ 469.174 – 469.1799, inclusive, as amended.

² Minn. Stat. § 469.174, subd. 27 (effective for districts with certification request dates (CRDs) after June 30, 1997).

³ Minn. Stat. § 469.176, subd. 4c(c).

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This Statement of Position is not legal advice and is subject to revision.

be constructed at the same time as long as each facility is separately owned. Separate facilities owned by related parties are not considered separately owned.

In addition, tax increment generated from the district can be spent only on activities within the district, with the tax increment spent only to assist the commercial facility, or for administrative expenses.

Modification of the TIF Plan

If, after the district is established, a development authority decides to use small city powers, the Office of the State Auditor recommends the authority modify its TIF plan upon notice and after discussion, public hearing, and findings required for approval of the original plan.⁴ The designation of small city does not require the adoption of a new plan, as required by law for a change in the type of district.⁵ Including a small city designation within an economic development district does not constitute a change in the type of district that would require a new plan.

If an economic development district is modified to authorize the use of small city powers, the cost and type of development activities in the district will change. The TIF plan should now state the cost and activities involved in the development of a commercial facility. In addition, the TIF plan should reflect that all tax increments generated from the district can be used only in the district and exclusively for direct assistance necessary to develop the commercial facility, and for administrative expenses.

If a district is designated as a small city economic development district but the development authority subsequently decides not to use the tax increment for commercial facilities, the authority may use its other economic development district powers, subject to the limitations of the TIF Act.

⁴ The Office of the State Auditor requires a development authority to expressly state in its TIF plan that it is a small city, if that designation is to be used for commercial development.

⁵ Minn. Stat. § 469.175, subd. 4(c).