Memo

To:	Members of the City Council of the City of Little Canada Chris Heineman, City Administrator Corrin Wendell, Community Development Director
From:	Mikaela Huot, Director
Date:	June 8, 2022
Subject:	Spending Plan for Use of Unobligated TIF funds per Temporary Transfer Authority for Twin Lake Apartments Housing Project

Background

The City of Little Canada has received an application for financial assistance through Tax Increment Financing (TIF) to assist with financing a portion of the extraordinary development costs related to the construction of a new 60-unit multifamily affordable housing project comprising of 1, 2 and 3-bedroom units with income and rent limits restricted to 60% area median income (54 units) and 30% area median income (6 units). The total development cost of the project is approximately $19.5 million and will be financed with a combination of debt financing (supported by project cash flow and tax increment revenues), tax credits, deferred developer fee and Ramsey County grant funding. The developer has requested financial assistance of $1,000,000 from the City through TIF revenues.

The developer's initial request for assistance was through the establishment of a new tax increment financing housing district as a pay-as-you-go note. This method would provide additional annual cash flow to the project and subsequent increased debt financing amount as the remaining funding source to close the financial gap. A pay-as-you-go note would require a 26-year housing district with semi-annual payments made to the developer for up to $1.0M of principal payments plus interest at a rate of approximately 4.5%.

Upon further review of the City's existing tax increment districts (as further described under temporary transfer authority), it was determined the City had an alternate option of providing upfront assistance to the developer (upon certain terms and conditions that would be outlined in a Loan Agreement) to fill the $1.0M gap. This would not require the establishment of a new TIF district and the increased tax capacity would not be captured but instead added to the general tax base for the City, County and School District upon project completion. Under this option the City will use the temporary transfer authority and use unobligated tax increment funds

The City will be providing a deferred loan to the developer of $1,000,000 anticipated to be provided after inspection and final approval of the footings and foundation. The developer will make annual payments to the City consisting of interest only for 17 years with the interest rate ramping up with a balloon principal payment in year 17 – to coincide with the developer's anticipated capital investment/refinancing. Additional terms of the loan are included within the term sheet attached to this memorandum. The City Council will be asked to consider the Loan Agreement at the June 20 City Council meeting.

Prior to approving the use of this temporary transfer authority by resolution following a public hearing, the City must also create a written spending plan that authorizes the City to provide the assistance or make the investment that makes the development qualify. The plan must detail the use of transferred increment. The OSA recommends identifying planned expenditures using the same categories identified in TIF plans and TIF reporting (e.g., acquisition, site preparation, financing costs, etc.), except for a category for administrative expenses, because administrative expenses are not included in the permissible uses of the transferred increment in the new law.

Proposed Action Items:

1. Hold public hearing considering the spending plan
2. Consider adopting resolution approving the written spending plan for Tax Increment Financing (Redevelopment) District No. 3-2, Tax Increment Financing (Housing) District No. 3-3 and Tax Increment Financing (Renewal & Renovation) District No. 5-1

The Loan Agreement providing the terms of assistance between the City and developer will be provided for consideration of approval at the June 20, 2022 City Council meeting.

Temporary Transfer Authority

In 2021, the Legislature enacted expanded, temporary authority to transfer unobligated tax increments for purposes of assisting private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities, if doing so will create or retain jobs in the state. Proposed amidst the COVID-19 pandemic, the enacted law is narrower than initially proposed and is similar to 2010 legislation that temporarily expanded the use of TIF with the aim of stimulating economic recovery after the Great Recession.

Authority and Purpose

The new law temporarily permits the City to elect, by resolution, to transfer unobligated increment for certain specified purposes. The new law does not, however, override requirements to pay bonds to which increments are pledged.

Any transfer under this provision must be for the purpose of assisting private development that meets all the following criteria:

1. it consists of the construction or substantial rehabilitation of buildings and ancillary facilities;
2. it creates or retains jobs in the state, including construction jobs; and
3. construction commences before December 31, 2025 and the project would not have commenced before that date without the assistance.

Developments that would already commence construction prior to December 31, 2025, or those that do not add or retain jobs in the state, would not be permitted beneficiaries of the transfer. Transfers must provide the assistance in one or both of the following ways:

1. by providing improvements, loans, interest rate subsidies, or assistance in any form to the private development; or
2. by making an equity or similar investment in a corporation, partnership, or limited liability company that the authority determines is necessary to make construction of a development financially feasible.

In order to demonstrate compliance with the new provision, an authority may wish to include affirmation of the qualifications in the written resolution electing to make the transfer. The authority also should keep documentation that demonstrates that the development created or retained jobs in the state and that commencement of construction by December 31, 2025, depended on the transfer.

Parameters and Limitations

The authority to transfer increments under this provision expires on December 31, 2022. Amounts being transferred under this provision must be transferred from the fund or account in which tax increments are segregated and into a separate fund or account by December 31, 2022. All transfers must be spent by December 31, 2025.

Transfers from a TIF district in calendar years 2021 and 2022 are limited to a maximum transfer equal to the excess of the district's unobligated increment. Under the provision, unobligated increment includes any increment not required for payment of obligations due during the six months following the transfer on outstanding bonds, binding contracts, and other outstanding financial obligations of the district to which the district's increment is pledged. Therefore, the transfer of increment for 2021 is limited to the eligible balance of tax increment at the end of 2020, less amounts needed to pay bonds, pay-as-you-go notes, and interfund loans due from January 1, 2021, to June 30, 2021. Similarly, the transfer of increment for 2022 is limited to the eligible balance of tax increment at the end of 2021, less amounts needed to pay bonds, pay-as-you-go notes, and interfund loans due from January 1, 2022, to June 30, 2022.

Increment that is improperly retained, received, spent, or transferred is not eligible for transfer under this authority. Therefore, the 2020 and 2021 balances of tax increment should be carefully evaluated prior to making transfers in 2021 and 2022, respectively. For example, excess increment calculated for 2019 that might remain in the TIF fund after it should have been returned by September 30, 2020, would not be eligible for transfer, nor would any subsequent excess increment be eligible for a transfer after it should have been returned. Likewise, if a district receives tax increment after it should have decertified under the Six-Year Rule, such amounts of increment would also not be eligible for transfer.

Unspent Transfers
Increment not spent by December 31, 2025, must be returned to the fund(s) of the contributing TIF district(s). The distribution of returned amounts need not be proportional to the amount contributed, but the amount returned to each TIF district must not exceed the amount transferred from the district.

The spreadsheet on the following page provides an overview of the initial financial analysis for each of the City's existing Tax Increment Financing District to determine the estimated available amounts of unobligated funds that could potentially be available pursuant to this legislation. Current estimates of unobligated funds from all of the City's districts is approximately $2.254M. None of the districts are reporting excess increment and are not projected to have excess increment.

The total development costs from the developer's financial materials is illustrated in the table below.

Sources	Amount	Uses	Amount
Debt	$8,165,000	Acquisition	$240,000
Equity (Tax Credits)	$7,794,854	Construction	$13,656,631
Ramsey County	$1,500,000	Professional Fees	$1,138,636
TIF	$1,000,000	Developer Fee	$2,280,000
Deferred Developer Fee	$466,826	Syndicator Fees	$45,000
NOI During Construction	$121,678	Financing Costs	$1,388,510
		Reserves	$299,581
Total	$19,048,358	Total	$19,048,358

Tax increment financing has been identified as a tool that could either be provided as pay-as-you-go from a new housing tax increment district as reimbursement for eligible costs, or as upfront funding source through the temporary transfer authority and structured as a potential loan with interest repayment. The developer will use traditional affordable housing funding sources including tax credit equity and debt to finance initial project costs

City of Little Canada, Minnesota

Excess Increment Calculation Reporting

		TIF 2-1	TIF 3-2	TIF 3-3	TIF 5-1	TIF 6-1	TIF 7-1	TIF 7-2
Decertification date		12/31/2016	12/31/2022	12/31/2029	12/31/2025	12/31/2039	12/31/2045	12/31/2029
District Type		Redevelopment	Redevelopment	Housing	newal & Renovation	Redevelopment	Redevelopment	Econ Dev
Projected Available Balance as of 12/31/2022	*2,254,135*	*1,102,109*	*70,401*	*786,692*	*154,402*	*-*	*136,895*	*3,636*
		From 2020 Annual Reports	From 2020 Annual Reports	From 2020 Annual Reports	From 2020 Annual Reports	From 2020 Annual Reports	From 2020 Annual Reports	From 2020 Annual Reports
Excess Increment Calculation								
Tax increment generated by the district since certification		3,272,626	8,138,337	2,563,976	2,048,326	330,585	-	-
Multiply the above amount by 1.2		3,927,151	9,766,004	3,076,771	2,457,991	396,702	-	-
Total costs authorized by the TIF plan to be paid or financed with tax increment		5,633,500	15,900,000	5,432,259	6,502,200	2,288,000	7,969,930	321,471
Based on the calculation above, the Excess Increment Calculation Report is:		**NOT REQUIRED**	**NOT REQUIRED**	**NOT REQUIRED**	**NOT REQUIRED**	**NOT REQUIRED**	**NOT REQUIRED**	**NOT REQUIRED**
Excess Increment Calculation Report								
Total tax increment generated by the district since certification		3,272,626	8,138,337	2,563,976	2,048,326	330,585	-	-
Subtract total tax increment returned to the county		-	425,648	-	-	-	-	-
Subtotal A		3,272,626	7,712,689	2,563,976	2,048,326	330,585	-	-
Total costs authorized by the TIF plan to be paid or financed with tax increment		5,633,500	15,900,000	5,432,259	6,502,200	2,288,000	7,969,930	321,471
Subtract authorized costs that have been or will be paid from sources other than		-	-	-	-	-	-	-
Subtract principal and interest payments due after the year ended December		-	-	-	-	-	-	-
Add transfers of increment made prior to December 31, 2020, used to pay for		-	-	-	-	-	-	-
Subtotal B		5,633,500	15,900,000	5,432,259	6,502,200	2,288,000	7,969,930	321,471
Excess increment (Subtract subtotal B from subtotal A)		(2,360,874)	(8,187,311)	(2,868,283)	(4,453,874)	(1,957,415)	(7,969,930)	(321,471)
Subtract any of the authorized uses of excess increment listed below:		-	-	-	-	-	-	-
Prepayment of any outstanding bonds		-	-	-	-	-	-	-
Discharge of the pledge of tax increment for any outstanding bonds		-	-	-	-	-	-	-
Payment into an escrow account dedicated to the payment of any outstanding		-	-	-	-	-	-	-
Excess increment after subtractions of authorized uses:		(2,360,874)	(8,187,311)	(2,868,283)	(4,453,874)	(1,957,415)	(7,969,930)	(321,471)

* Excess increments after subtractions must be returned to the county for distribution to the city, county, and school districts in which the TIF district is located within nine months after the end of the year (by September 30)

Extract of Minutes of a Meeting of the
City Council of the
City of Little Canada, Minnesota

Pursuant to due call and notice thereof, a regular or special meeting of the City Council of the City of Little Canada, Minnesota, was duly held at the City Hall, in said City on Wednesday, June 8, at 7:30 p.m.

The following members were present:

and the following were absent:

Member __________ introduced the following resolution and moved its adoption:

RESOLUTION NO.2022-6-___

APPROVING A WRITTEN SPENDING PLAN FOR TAX INCREMENT FINANCING (REDEVELOPMENT) DISTRICT NO. 3-2, TAX INCREMENT FINANCING (HOUSING) DISTRICT NO. 3-3 AND TAX INCREMENT FINANCING (RENEWAL & RENOVATION) DISTRICT NO. 5-1

The motion for the adoption of the foregoing resolution was duly seconded by member _____________, and after full discussion thereof and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

RESOLUTION NO. 2022-6-____

APPROVING A WRITTEN SPENDING PLAN FOR TAX INCREMENT FINANCING (REDEVELOPMENT) DISTRICT NO. 3-2, TAX INCREMENT FINANCING (HOUSING) DISTRICT NO. 3-3 AND TAX INCREMENT FINANCING (RENEWAL & RENOVATION) DISTRICT NO. 5-1

BE IT RESOLVED, by the City Council (the "Council") of the City of Little Canada, Minnesota (the "City") as follows:

Section 1. Recitals

A. The Council established Tax Increment Financing (Redevelopment) District No. 3-2, Tax Increment Financing (Housing) District No. 3-3 and Tax Increment Financing (Renewal and Renovation) District No. 5-1 (the "Districts") pursuant to, and in accordance with, Minnesota Statutes, Sections 469.174 to 469.1794, inclusive, as amended.

B. The City is proposing the adoption of a Written Spending Plan for the Districts, pursuant to, and in accordance with, Minnesota Statutes, Sections 469.176, Subd. 4n inclusive, as amended, in substantially the form submitted to the Council (the "Spending Plan") to utilize unobligated tax increment revenues from the Districts in order to stimulate construction or substantial rehabilitation of private development in a way that will also create or retain jobs.

C. The financing to be offered pursuant to the Spending Plan is intended to be for housing projects and therefore is not subject to Minnesota Statutes, Sections 116J.993 to 116J.995, as amended (the "Business Subsidy Act").

D. The City has performed all actions required by law to be performed prior to the adoption of the Spending Plan, including, but not limited to, causing notice of a public hearing to be published and holding a public hearing on the Spending Plan.

Section 2. Approval

A. The Spending Plan for the Districts is hereby approved and adopted in substantially the form submitted to the Council.

The motion for the adoption of the foregoing resolution was duly seconded by Council member _________________, and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

Adopted by the City Council of the City of Little Canada, Minnesota this 8th day of June, 2022.

____
John T. Keis, Mayor

ATTEST:

____
Christopher Heineman, City Administrator

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

I, the undersigned, being the duly qualified and acting City Administrator of the City of Little Canada, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council of said City duly called and held on the date therein indicated, insofar as such minutes relate to giving approval on a proposed multifamily housing revenue note to finance a housing finance program.

WITNESS my hand this ___ day of June, 2022.

____
City Administrator

(Seal)

TWIN LAKE APARTMENTS

Reuter Walton Development, LLC- Term Sheet for TIF Loan Agreement
DRAFT – For Discussion Purposes Only
MAY 31, 2022

I. Project Summary
   a. Construction of a 60-unit mixed-income, multifamily rental housing project (Project) by Reuter Walton Development, LLC (Developer).
   b. The Project shall comprise of 60 units with 10% (6 units) affordable at or below 30% AMI, and the balance of the Project (54 units) at 60% AMI. The Project will consist of 25 1-bedroom units (6 units at 30% AMI and 19 units at 60%), 24 2-bedroom units (all at 60%) and 11 3-bedroom units (all at 60%).
   c. Total development cost estimate: $19,048,358.

II. Agreement Summary
   a. Developer agrees to build the Project substantially in the form of the approved final development plan and estimated cost of $19,048,358.
   b. City agrees to invest in Project by:
      i. Providing loan to be repaid with available cash flow and refinancing
         1. $1,000,000 of assistance provided to developer
            a. Using transferred tax increment revenues from several of the City's existing tax increment districts
         2. Loan to be provided when portion of project complete
            a. *After inspection and final approval of the footings and foundation permit*
         3. Loan repayment structure
            a. Interest only for up to 17 years
               i. 1% for 5 years, 3% for 5 years and 4% remaining 7 years
               ii. Unpaid interest does not accrue or compound
               iii. Principal balloon payment in year 17
            b. Cash flow after debt service and interest-only loan repayment pays deferred developer fee
   c. The Project shall consist of 10% of units at 30% AMI and remaining units at 60% AMI for up to a 26-year affordability period

III. City Public Investment
   a. City will provide tax increment assistance to the Project using available tax increment district funds through the issuance of a Loan to the Developer:
      i. Repayment terms described above, and subject to cash flow feasibility of the Project
   b. City sale of land to Developer at reduced purchase price

Draft Spending Plan

for

Tax Increment Financing (Redevelopment) District No. 3-2

Tax Increment Financing (Housing) District No. 3-3

Tax Increment Financing (Renewal & Renovation) District No. 5-1

City of Little Canada, Minnesota

Prepared by

Baker Tilly Municipal Advisors, LLC

Draft Dated: May 27, 2022

Review by City Council: June 8, 2022

Anticipated Public Hearing and Approval by City Council: June 8, 2022

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Draft Spending Plan

for

Tax Increment Financing (Redevelopment) District No. 3-2,
Tax Increment Financing (Housing) District No. 3-3, and
Tax Increment Financing (Renewal & Renovation) District No. 5-1

Introduction

The State Legislature amended the TIF law (the "Law") in 2021 to provide flexibility to cities to utilize unobligated tax increment revenues in their districts to promote construction and job creation in their communities. Increments expended under the Law do not count against the pooling limitations of the districts, which for two of the City's identified districts, is 25% of the TIF collected over the life of the districts.

The law allows authorities (Cities, HRAs, EDAs) to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities if it will create or retain jobs in this state, including construction jobs. In addition, they can make an equity or similar investment in a corporation, partnership, or limited liability company that they determine it is necessary to make construction of private development happen. The City has until December 31, 2022 to transfer the funds to another designated City fund, and the dollars must be expended by December 31, 2025. Any unused TIF dollars must be returned to the applicable TIF district after this date.

The City of Little Canada established Tax Increment Financing (Redevelopment) District No. 3-2, Tax Increment Financing (Housing) District No. 3-3, and Tax Increment Financing (Renewal & Renovation) District No. 5-1 to achieve certain redevelopment and development (including construction of housing) objectives of the City (the "TIF Districts"). The TIF Districts are administered by the City of Little Canada and have been identified as TIF Districts that contains unobligated tax increment revenues. The following text represents the Spending Plan for the Districts.

Section A Purpose

The Districts are administered by the City of Little Canada, Minnesota (the "City"). The City proposes to adopt a Spending Plan for the TIF Districts in accordance with Minnesota Statutes, Section 469.176 Subd. 4n.

The purpose of the Spending Plan is to assist in the private development or redevelopment of sites or lands or areas within the City in conformity with the City's Comprehensive Plan or other City plans or objectives using unobligated tax increment revenues from the TIF Districts. The unobligated tax increments are to be utilized for one of the following purposes:

1) to provide improvements, loans, interest rate subsidies, or assistance in any form to the private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities if the following conditions exist:
    a. it will create or retain jobs in the state, including construction jobs;
    b. construction commences before December 31, 2025 and
    c. the construction would not have commenced before that date without the assistance.

2) to make an equity or similar investment in a corporation, partnership, or limited liability company that the City determines is necessary to make construction of a development that meets the requirements of the law financially feasible.

The City Council must approve a written spending plan by December 31, 2022 (after a properly noticed public hearing) that specifically authorizes the City to take such actions. The City must provide to the Office of the State Auditor a copy of the spending plan approved and signed by the City. As identified within the Minnesota Office of the State Auditor's August 2021 Statement of Position - Temporary Transfer Authority (2021 Law) included as Exhibit I, any tax increments authorized under the spending plan must be transferred out of the applicable TIF Fund by December 31, 2022 and spent by December 31, 2025. Any funds unspent shall be returned to the originating TIF Fund.

The City has been working in partnership with Reuter Walton Development, LLC on a new affordable housing project (the "Project") in the City, of which 10% of the units will be affordable for occupants with incomes no greater than 30% AMI (area median income) and the remaining units will be affordable for occupants with incomes no greater than 60% AMI. The proposed project has a financial gap, for which additional financial resources are necessary to allow for the project to proceed. The City has identified this Project as a potential qualifying use for which unobligated tax increments as further described in the next section of the Spending Plan will be necessary to fill a financial gap and allow for construction to occur.

The assistance provided pursuant to this Plan shall be subject to Minnesota Statutes, Sections 116J.993 to 116J.995 (the "Business Subsidy Law"), if applicable, and shall be subject to the City's Business Subsidy Policy.

Section B Unobligated TIF Funds

The City has identified an estimated total of $1,011,495 of unobligated tax increments that are anticipated to be available as of December 31, 2022 within the TIF Districts. It is anticipated the unobligated tax increments will be used on eligible costs of the affordable housing project that may include acquisition, site improvements/preparation costs, other qualifying improvements, construction of affordable housing and other related expenses associated with development of the project.

Section C Spending Plan

Under the Spending Plan, the City is authorized as follows:

1. To use unobligated tax increments from the TIF Districts to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities in financing assistance to further the goals in the City's Comprehensive Plan or other City plans or objectives, if doing so will create or retain jobs in the state, including construction jobs. Each project shall be considered and subject to approval by the City.

   The assistance authorized under this Spending Plan is intended further the goals within the City's Comprehensive Plan and other City plans or objectives. Preference for financing assistance will be for the proposed affordable housing apartment project including acquisition, site preparation, affordable housing construction and other development costs related to construction of the project. The Project shall commence before December 31, 2025 (unless a later commencement date is authorized by law) and shall constitute Project that would not commence by such date without the assistance provided pursuant to this Spending Plan.

2. To administratively amend the budget set forth in the Tax Increment Financing Plans for the TIF Districts as necessary to provide for the assistance authorized by this Spending Plan.
3. To take any other action necessary and authorized under the Act in connection with the construction or substantial rehabilitation of facilities of the type described in clause (a) above.
4. To authorize and direct staff to maintain a copy of this Spending Plan with the City's records for the TIF District, and to file a copy of the Spending Plan with the Office of the State Auditor.

In 2021, the Legislature enacted expanded, temporary authority to transfer unobligated tax increments for purposes of assisting private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities, if doing so will create or retain jobs in the state. Proposed amidst the COVID-19 pandemic, the enacted law is narrower than initially proposed and is similar to 2010 legislation that temporarily expanded the use of TIF with the aim of stimulating economic recovery after the Great Recession.

Authority and Purposes

The new law temporarily permits a development authority to elect, by resolution, to transfer unobligated increment for certain specified purposes. The new law does not, however, override requirements to pay bonds to which increments are pledged.

Any transfer under this provision must be for the purpose of assisting private development that meets all of the following criteria:

1. it consists of the construction or substantial rehabilitation of buildings and ancillary facilities;
2. it creates or retains jobs in the state, including construction jobs; and
3. construction commences before December 31, 2025 and would not have commenced before that date without the assistance.

Developments that would already commence construction prior to December 31, 2025, or those that do not add or retain jobs in the state, would not be permitted beneficiaries of the transfer. Transfers must provide the assistance in one or both of the following ways:

1. by providing improvements, loans, interest rate subsidies, or assistance in any form to the private development; or
2. by making an equity or similar investment in a corporation, partnership, or limited liability company that the authority determines is necessary to make construction of a development financially feasible.

In order to demonstrate compliance with the new provision, an authority may wish to include affirmation of the qualifications in the written resolution electing to make the transfer. The authority also should keep documentation that demonstrates that the development created or retained jobs in the state and that commencement of construction by December 31, 2025, depended on the transfer.

Approvals and Spending Plans

Prior to approving the use of this temporary transfer authority by resolution, a development authority must also create a written spending plan that authorizes the development authority to provide the assistance or make the investment that makes the development qualify. The plan must detail the use of transferred increment. The OSA recommends identifying planned expenditures using the same categories identified in TIF plans and TIF reporting (e.g., acquisition, site preparation, financing costs, etc.), except for a category for administrative expenses, because administrative expenses are not included in the permissible uses of the transferred increment in the new law.

The municipality (which may or not be the same as the development authority) must also approve the authority's spending plan after holding a public hearing. The municipality must publish notice of the hearing in a newspaper of general circulation in the municipality and on the municipality's public website at least ten days, but not more than 30 days, prior to the date of the hearing.

An authority making a transfer under this authority must provide a copy of the spending plan approved and signed by the municipality to the Office of the State Auditor. Plans should be emailed to TIF@osa.state.mn.us as soon as possible after their approval.

Parameters and Limitations

The authority to transfer increments under this provision expires on December 31, 2022. Amounts being transferred under this provision must be transferred from the fund or account in which tax increments are segregated and into a separate fund or account by December 31, 2022. Amounts must not be expended directly from the transferring TIF fund or account, and may not be spent after December 31, 2022, if they remain in the TIF district's fund or account at that time. All transfers must be spent by December 31, 2025.

Transfers from a TIF district in calendar years 2021 and 2022 are limited to a maximum transfer equal to the excess of the district's unobligated increment. Under the provision, unobligated increment includes any increment not required for payment of obligations due during the six months following the transfer on outstanding bonds, binding contracts, and other outstanding financial obligations of the district to which the district's increment is pledged. Therefore, the transfer of increment for 2021 is limited to the eligible balance of tax increment at the end of 2020, less amounts needed to pay bonds, pay-as-you-go notes, and interfund loans due from January 1, 2021, to June 30, 2021. Similarly, the transfer of increment for 2022 is limited to the eligible balance of tax increment at the end of 2021, less amounts needed to pay bonds, pay-as-you-go notes, and interfund loans due from January 1, 2022, to June 30, 2022.

Presumably, receipts of tax increment for the first half taxes in each year would be used to make payments on outstanding obligations due in the second half of each year, but note that this authority does not provide any exception to pay those obligations to which tax increment is pledged, and an authority should not transfer amounts that might impair their ability to make payments on those obligations.

Increment that is improperly retained, received, spent, or transferred is not eligible for transfer under this authority. Therefore, the 2020 and 2021 balances of tax increment should be carefully evaluated prior to making transfers in 2021 and 2022, respectively. For example, excess increment calculated for 2019 that might remain in the TIF fund after it should have been returned by September 30, 2020, would not be eligible for transfer, nor would any subsequent excess increment be eligible for a transfer after it should have been returned. Likewise, if a district receives tax increment after it should have decertified under the Six-Year Rule, such amounts of increment would also not be eligible for transfer.

Unspent Transfers

Increment not spent by December 31, 2025, must be returned to the fund(s) of the contributing TIF district(s). The distribution of returned amounts need not be proportional to the amount contributed, but the amount returned to each TIF district must not exceed the amount transferred from the district.