

# Agenda Items

**Regular City Council Meeting****Meeting Date:** 11/13/2012**TITLE:** Proposed Amendments to BIRD Agreement**PRESENTED BY:** Tina Volek**Department:** City Hall Administration**Regular 5.**

REVISED 11/8/12 CFV

---

**Information****PROBLEM/ISSUE STATEMENT**

The City Council by initiative directed staff to add to the Nov. 13 agenda a request from the Billings Industrial Revitalization District, Inc., (BIRD) to amend an April 2009 agreement between the City and BIRD for administration of the East Billings Urban Renewal District (EBURD). The proposed amendments to the agreement (attached) would:

- Delete the Downtown Billings Partnership, Inc., (DBP) as the entity providing administrative services to the BIRD to coordinate EBURD activities;
- Terminate the employment of a Tax Increment Finance District (TIFD) Coordinator employed by the Planning Division in the past year and authorize the BIRD to hire a TIFD Executive Coordinator to provide the administrative services to the EBURD and a second TIFD, the South Billings Urban Renewal District (SBURD);
- Adopt a BIRD Work Plan (attached); and
- Adopt a BIRD Budget (attached).

The SBURD has an advisory board, the South Billings Urban Renewal Association (SBURA). The majority of the SBURA Board has signed a letter agreeing to enter into a contract with BIRD for the provision of TIFD Executive Coordinator services to the SBURD.

**ALTERNATIVES ANALYZED**

The City Council may:

1. Approve the amendments as recommended by BIRD;
2. Postpone Council action until Dec. 17, 2012, to allow changes to be made as outlined in the Background section below;
3. Create an urban renewal agency -- either for each district, or for two or three districts -- which would take 6 months or more; or
4. Take no action, leaving the existing BIRD agreement in place and the TIFD Coordinator employed by the City.

**FINANCIAL IMPACT**

The financial impact to the EBURD and SBURD TIFDs of creating the TIFD Executive Coordinator's position at BIRD would be an increase from the current City costs of \$96,000 to \$201,662.05, in the first year. The funding includes a full time administrative support person and operating budget. The Planning Division, in which the TIFD Coordinator currently is located, would lose about \$12,000 a year in revenue to offset the costs

associated with housing him in that office. The City still is expected to collect administrative costs in addition to the staffing for services it extends to either BIRD or SBURA, such as financial services, bonding, and the like, under MCA 7-15-4288 (7).

## **BACKGROUND**

The City and BIRD entered into the agreement to manage the EBURD on April 13, 2009. The agreement anticipated that the DBP would manage the EBURD, but the DBP resigned, due to conflicting work. The EBURD Board managed the EBURD from April 13, 2009, to Sept. 29, 2011. The SBURD was created in 2007 and expanded in 2008. A TIFD Coordinator was hired in 2011 to serve both districts.

The Coordinator, the BIRD Board and a majority of the SBURA Board now state they believe that it is a conflict of interest for the Coordinator to be dealing with land owners while being employed by the City. They have requested the Council approve the amendments to the BIRD agreement as outlined in the Problem/Issue Statement. The SBURA Board also is requesting that an agreement between the City and the SBURA Board be created similar to the one between the City and the BIRD Board. Neither such an agreement nor work plan nor budget for SBURA now exist. The SBURA Board also has said it would like to contract with the BIRD for TIFD management services. Such an agreement has not been presented to the City at this time.

MCA 7-15-4232 allows municipalities to assign urban renewal powers to a municipal department or to create an urban renewal agency. An urban renewal agency would have a 5-member commission appointed by the City. The Council could investigate making the EBURD and the SBURD into separate urban renewal agencies, or combine the two districts into one agency, or combine all three TIFDs into a single urban renewal agency. MCA 7-15-4255 also allows a municipality to contract with an agency, public or private, to provide services in connection with an urban renewal project. It is under this statute that the City contracts with the DBP to administer the 27th St. TIFD. However, MCA 7-15-4281 vests specifically in the City the authority to borrow money, appropriate funds, enter into agreements and take other measures to operate an urban renewal district. For that reason, the City Council must approve all major expenditures and the budgets of the TIFDs.

One of the primary differences between the DBP, the BIRD and the SBURA is that the DBP Board includes as voting members the representatives of all the taxing districts affected by that TIFD, such as the City, the County, the School District and Big Sky Economic Development. The BIRD Board is composed of private business owners or their representatives. The SBURA Board is composed of business owners or their representatives and residential property owners in the district. One suggestion of staff is that, if agreements with those two boards are created, they should be expanded to include the representatives of the taxing agencies in the name of transparency and accountability for the public funds that are used by TIFDs.

Another suggestion of staff is that a City/SBURA agreement similar to the BIRD revised agreement should be offered at the same time as the BIRD agreement for City Council approval. The staff also believes the management agreement between BIRD and SBURA should be included at that time. A management services agreement between the BIRD and

the DBP was presented when the contract services agreement between the BIRD and the City was approved by Council in April 2009. Not all the SBURA Board was willing to sign the letter of support submitted by the BIRD. In the event the BIRD proceeds with the TIFD Executive Coordinator position and SBURA does not, the City could be left having to fill the Planning position without the support of BIRD funds. This would not be an efficient use of TIFD funds.

Staff also would recommend changes to the language of the agreement and the work plan to acknowledge the role of the Council and to be sure the language complies with allowable activities under state law.

### **STAKEHOLDERS**

Stakeholders in this issue include the BIRD and SBURA Boards, and the taxing agencies and public affected by the use of tax increment funds.

### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Changing the BIRD and SBURA Boards to include taxing agency representatives as voting members of their boards would make their operations comparable to the DBP Board in terms of transparency and involvement of those affected by the decisions of the two bodies. The BIRD Board is opposed to this concept.

### **RECOMMENDATION**

Staff recommends that:

- Council postpones the requested amendments to the BIRD agreement to Dec. 17, 2012, to allow for the revision of documents as outlined;
- Council directs staff to develop an agreement similar to the BIRD agreement and the accompanying work plan and budget with SBURA; and
- Council requires that BIRD and SBURA develop and approve an agreement regarding administration of both districts to be ratified by the Council at the same time as the agreements with the individual boards are approved.

### **APPROVED BY CITY ADMINISTRATOR**

---

#### **Attachments**

Agreement

Exhibit A

Exhibit B

---