

RECEIVED

NOV 24 2014

CASS COUNTY COMMISSION



Memo

To: Cass County Commission
From: Eide Bailly LLP
Date: November 21, 2014
Subject: Growth Initiative Fund

The Growth Initiative Fund (GIF) was established in 1993 to provide support to existing and new business in the county. They applied to the IRS for public charity status, and received a determination letter indicating that they were tax exempt under Internal Revenue Code Section 501(c)(3) and were further classified as a public charity under Internal Revenue Code Section 170(b)(1)(A)(vi), since the majority of their support was going to be coming in the form of contributions from the government or the general public. To maintain their public charity status GIF is required to show that at least 33 1/3% of their support is coming from a governmental unit or the general public. This test is completed based on the current year and four prior years' revenue sources.

The most recently filed Form 990 for the year ended December 31, 2013 indicated that the public support percentage for the year was 72.35%; however, the majority of that percentage is coming from a large donation in 2009 that will not be included in the Schedule A for 2014. The majority of the income for the remaining years is coming from investment sources, and will cause the GIF to no longer be able to meet the technical requirements under Section 170(b)(1)(A)(vi). Failure to meet these requirements for two years in a row will result in the organization becoming a private foundation. To minimize this from occurring in prior years the GIF has attempted to raise a minimum amount of public funds to show that their revenues are coming from public sources. The 2009 donation was made to increase the amount of public funds to assist in maintaining the public support level.

It is our recommendation that the GIF restructure its public charity status to become a supporting organization under Internal Revenue Code Section 509(a)(3) as a supporting organization. To meet the technical requirements of a supporting organization GIF must show that they are organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations. The GIF does not currently meet the technical requirements of a 509(a)(3) supporting organization. It has been identified that through a few changes to the GIF's organizational structure it will be able to meet the technical requirements of a 509(a)(3) supporting organization of the Greater Fargo Moorhead Economic Development Corporation (GFMEDC). Specifically GIF will need to amend its organizing documents to show that the governing body of GFMEDC selects a majority of the GIF's governing body.

SUGGESTED MOTION:

Move to approve (or deny) a request to restructure the GFMEDC Growth Initiative Fund (GIF) public charity status under IRS regulations to a supporting organization and change the organizational structure of the GIF board from two Cass County representatives to one representative.

Worden, Heather

From: John Machacek <jmachacek@fmedc.com>
Sent: Monday, November 17, 2014 12:55 PM
To: Worden, Heather
Subject: RE: GFMEDEC Growth Initiative Appointment

Heather,

Would you please remind me again of the deadline we need to get information to you for the 12/1 meeting? I anticipate we will have both the GFMEDEC update, which Missy communicated with you about, as well as the GFMEDEC/Growth Initiative Fund request to modify the Cass County appointments number.

As a FYI, regarding the appointments, we plan to have a representative from Eide Bailly with us to discuss a suggestion they made for the GIF to become a Type 1 Supporting organization of the EDC. In order for that to work, the EDC must have a majority of the board representation to comply with the IRS rules. Currently the board has 3 EDC appointments, 2 Cass County, 1 Fargo and 1 West Fargo. The ask will be for Cass to relinquish one appointment and then the EDC appointment will go to four. If that is approved and we can move forward with the next steps, then Eide Bailly can submit the paperwork with the IRS. This really won't change anything with how the GIF operates aside from the appointments every few years. GIF has basically been operating like a Type 1 all this time as it supports the economic development mission in our county and EDC has been assisting with the administration of the fund. Eide Bailly's recommendation will help fix a problem that has existed for a number of years due to the GIF being front-funded in the late 90's and early 2000's. The problem stems from the IRS Public Support Test that the auditors need to do each year, and every few years, it causes a need for more public contributions to be added to the fund to pass the certain percentage from the test formula. By becoming a Type 1 organization, it will eliminate the need for the rounding up public funds every so often. Eide will obviously explain it better than me, and I meet with them next week to go over this again in prep for the meeting.

To finally get to my point of explaining that in this email, should it get approved and moved forward, then the current Cass County appointment of James Burgum (which is up for reappointment) would switch over to EDC. However, due to timing of the process, I expect I will still need to have James submit his application to Cass County. I will know more from Eide on that next week.

Thank you,

John Machacek

Research and Business Information Manager

Greater Fargo Moorhead EDC

51 Broadway, Suite 500 | Fargo, ND 58102

Direct: (701) 364-1921 | Cell: (701) 261-9715

From: Jim Gartin
Sent: Thursday, November 06, 2014 2:04 PM
To: John Machacek
Subject: Fw: GFMEDEC Growth Initiative Appointment

FYI

Jim Gartin