

RESOLUTION NO. 2489

A RESOLUTION ESTABLISHING A TAX INCREMENT FINANCING (TIF) REVIEW COMMITTEE AND PROCEDURES FOR THE ESTABLISHMENT OF TIF DISTRICTS WITHIN THE CITY OF PIERRE.

WHEREAS, the City of Pierre is authorized, pursuant to SDCL 11-9-2, to establish TIF districts. The amount financed in the TIF district is considered a part of the bond indebtedness of the City. In order for the City to control the nature of the TIF districts that it will approve and to maintain control of the amount of bonded indebtedness that the City will incur, procedures for the implementation of TIF districts need to be established;

NOW THEREFORE, BE IT RESOLVED THAT THE CITY HEREBY ADOPTS THE FOLLOWING PROCEDURES FOR THE ESTABLISHMENT OF A TIF DISTRICT WITHIN THE CITY OF PIERRE.

TAX INCREMENT FINANCING IN PIERRE, SOUTH DAKOTA

A Guide for Applicants

I. Introduction

In 1978, the South Dakota Legislature approved the use of Tax Increment Financing (TIF) by municipalities to help finance redevelopment projects. Tax Increment Financing is a method of funding public investments in an area by capturing, for a time, all of the increased tax revenue that results when public investment stimulates private investment. TIF is one of the few economic development and community redevelopment tools currently available to municipalities in South Dakota. However, as with any technique, TIF should be used according to carefully specified criteria. These criteria will assure that projects help fulfill the City's objectives for economic development and redevelopment and avoid unnecessary subsidies. This guide outlines criteria and procedures for evaluating proposals for the use of TIF. These criteria should be considered guidelines only and do not guarantee approval of a request for Tax Increment Financing.

II. Objectives

Tax increment financing is intended to contribute to the economic growth and stabilization of the City of Pierre. The policies herein outlined, have been established to meet the following objectives:

- a. To provide a framework with which the City Commission and Mayor can evaluate and compare proposed uses of tax increment financing; and
- b. To guide city staff and other recognized public bodies in forming recommendations regarding the use of tax increment financing and negotiating contract terms with developers; and
- c. To inform developers and the public of the City's position on the use of tax increment financing and the process through which decisions regarding the use of the tool are made.

III. Purpose of Tax Increment Financing

Purpose of TIF. The City of Pierre recognizes one or more of the following purposes for the use of Tax Increment Financing:

- a. To encourage the redevelopment of deteriorated or otherwise blighted real property in Pierre through the investment of incremental property tax proceeds;
- b. To stimulate economic development in the community by assisting projects that promote the long term economic vitality of the community;
- c. To stimulate increased private investment in areas that would have otherwise remained undeveloped or under-developed and which will, in the long term, provide a significant source of additional tax revenues to all taxing entities;
- d. To stimulate the construction of safe and affordable housing units for low and moderate income residents of the community and expand the general housing stock in the community;
- e. To facilitate the reconstruction, maintenance and completion of the City's existing infrastructure network to support existing growth and guide the future growth of the community; and
- f. To encourage development that would not occur without Tax Increment Financing.

IV. Project Review Process

Each project seeking to use TIF must submit a complete application including all items listed in Section V to the City Planning Department. The completed application will be forwarded to the City Commission. The applicant or his/her designee shall present the application to the City Commission. The City Commission shall determine if the TIF application should be forwarded to the TIF Project Review Committee for an application completeness review. The TIF Project Review Committee may consist of the following members: the Mayor or his/her representative; Pierre School District Superintendent or his/her representative; Hughes County Commission Chairman or his/her representative; the City Planning Commission Chairperson or his/her representative; and one at-large member appointed by the Mayor. The Mayor shall act as chairperson of the TIF Project Review Committee. The responsibility of the TIF Review Committee shall be to determine if the TIF application is complete. A majority of the TIF Project Review Committee members must be present at the meeting where the TIF application is evaluated and a majority of members present must concur for an application to be determined complete. The application completeness review of the TIF Project Review Committee will be forwarded to the Planning Commission for a recommendation within 30 days and on to the City Commission for a final decision. The City Planning Commission shall be responsible for the technical review of the application. The review shall be limited to the typical functions of the Planning Commission including compliance with the City's Comprehensive Plan, the zoning ordinance, the subdivision ordinance and the availability of public services such as streets and utility infrastructure.

V. Application Requirements

An application for the use of TIF must include the following information:

- a. A detailed project description to include location, type of activity, impact on surrounding property, potential impact on infrastructure and pertinent information that may clarify the project;

- b. A preliminary development financing plan, including sources of funds, identification of lender, interest rates, financing costs and loan terms (amount and length of term);
- c. An itemized list of the project costs to be funded by the Tax Increment Financing including identification of typical developer costs, exceptional costs, oversizing costs and professional fees.
- d. A list of the specific public improvements and a list of the specific private improvements to be constructed along with the project;
- e. A proforma indicating projected costs and revenues from a committed business;
- f. A statement and demonstration that the project would not proceed without the use of TIF;
- g. A statement or evidence identifying the specific evaluation criteria which the applicant believes the request addresses;
- h. Conceptual plans, sketches, maps or site plans for the project;
- i. A development time schedule including specific phasing of improvements and project costs;
- j. Corporation, LLC, partnership papers or other business documents identifying the parties with an ownership interest in the corporation and property involved in the project, including land ownership, contract for deed or other contractual information relating to control of the property and the applicant's ability to complete the project;
- k. A financial statement of the corporation, LLC, partnership, or individual for the most recent five calendar year(s) or the life of the company if appropriate;
- l. A copy of the proposed wage scale, employee benefit package, and number of full and part time jobs. One full time equivalent (FTE) job shall equal 2080 hours and part time jobs can be combined to equal an FTE. Jobs associated with the construction component of the TIF shall not count;
- m. In the case of an affordable housing project, a copy of any applicable federal or state commitment for a grant or loan program as part of the financing package of the project;
- n. A non-refundable application fee which shall be set out in a schedule to be approved by the City Commission, as presented and on file at the city business office; and
- o. Other information that may be required by the Project Review Committee.

All applications for TIF must be submitted to the City Planning Department. After the application has been deemed complete, the City Planning Commission will schedule a meeting within thirty (30) days at which the applicant will present his/her project and financing request.

VI. Criteria for Evaluation

Criteria for Evaluation. Projects applying for assistance through Tax Increment Financing must qualify by meeting certain criteria. Some criteria are mandatory according to state law and must be met

in order for the City to establish a Tax Increment Financing District. Others are discretionary, and enable the City Commission to determine the benefits of the project. The project application must demonstrate how the project meets the required criteria. However, in all cases, the decisions to create a Tax Increment Financing District and to enter into a developer's agreement with any applicant are wholly discretionary. There is no right for an applicant to have a Tax Increment Financing District created or to have the City enter into a developer's agreement.

Mandatory Criteria. In order to be considered for a TIF, a project must meet each of the following criteria:

- a. Findings required as to blighted areas or economic development as specified in SDCL 11-9-8, 11-9-9, 11-9-10 and 11-9-11.

SDCL 11-9-8. Findings required as to blighted areas or economic development--Likelihood of enhanced value from improvements. To implement the provisions of this chapter, the resolution required by § 11-9-5 shall contain findings that:

1. Not less than twenty-five percent, by area, of the real property within the district is a blighted area or not less than fifty percent, by area, of the real property within the district will stimulate and develop the general economic welfare and prosperity of the state through the promotion and advancement of industrial, commercial, manufacturing, agricultural, or natural resources; and,
2. The improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district.

It is not necessary to identify the specific parcels meeting the criteria. No county may create a tax incremental district located, in whole or in part, within a municipality, unless the governing body of the municipality has consented thereto by resolution.

SDCL 11-9-9. Areas conducive to disease or crime defined as blighted. Any area, including slum area, in which the structures, buildings, or improvements, by reason of:

1. Dilapidation, age, or obsolescence;
2. Inadequate provisions for ventilation, light, air, sanitation, or open spaces
3. High density of population and overcrowding;
4. The existence of conditions which endanger life or property by fire and other causes; or
5. Any combination of such factors; are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and which is detrimental to the public health, safety, morals, or welfare, is a blighted area.

SDCL 11-9-10. Developed areas impairing growth defined as blighted. Any are which by reason of:

1. The presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures;
2. Predominance of defective or inadequate street layouts;
3. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
4. Insanitary or unsafe conditions;
5. Deterioration of site or other improvements;
6. Diversity of ownership, tax, or special assessment delinquency exceeding the fair value of the land;
7. Defective or unusual conditions of title;
8. The existence of conditions which endanger life or property by fire and other causes; or

9. Any combination of such factors; substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use, is a blighted area.

SDCL 11-9-11. Open areas impairing growth defined as blighted. Any area which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of a municipality, is a blighted area.

- b. The project shall be consistent with the most recently adopted Comprehensive Plan and all other appropriate plans and regulations.
- c. The project must demonstrate that it is not economically feasible without the use of Tax Increment Financing. In addition, if the project has site alternatives, the proposal must demonstrate that it would not occur in Pierre without Tax Increment Financing.
- d. The project will result in the construction of affordable housing units defined as housing where the occupant is paying no more than thirty percent (30%) of gross income for housing costs including utilities and complies with the following requirements:
 1. Affordable housing projects must target residents at or below eighty percent (80%) of median income with rents at thirty percent (30%) of the tenants income or the Fair Market Rent (FMR) for the Section 8 Program whichever is greater. The income limits and Fair Market Rents (FMRs) by County are printed annually by the Department of Housing and Urban Development. A minimum of 51% of the dwelling units of the proposed development shall be occupied by households meeting this income guideline;
 2. Affordable housing is required to remain affordable as defined above for the term of the TIF. If affordability is less than the term of the TIF, repayment of a prorated share of increment benefit will be due and payable to the City.

Additional Criteria A project must meet at least **three or more** of the following criteria:

- a. The project will eliminate actual or potential hazard to the public. Hazards may include condemned or unsafe buildings, sites, or structures.
- b. The project will bring at least 5 full time equivalent (FTE) jobs.
- c. The project will result in revitalization of existing properties.
- d. All Tax Increment Financing proceeds are used for the construction of public improvements.
- e. The building or site to be redeveloped itself displays conditions of blight as established by the provisions of SDCL 11-9.
- f. The project involves the start-up of an entirely new business or business operation within the City of Pierre.
- g. The project involves the expansion of an existing business operation within the City of Pierre.

- h. The project site has displayed a recent pattern of static or declining real property assessments, as measured by the Hughes County Director of Equalization.
- i. The project costs are limited to those specific costs associated with a site that exceed the typical or average construction costs (i.e. excessive fill, relocation costs, additional foundation requirements associated with unusual soil conditions, extension of sewer or water mains, on-site or off-site vehicular circulation improvements, etc.)

VII. General Guidelines

The following apply to all projects:

- a. Tax increment financing shall not be used for construction of residential structures but may be used for residential related public infrastructure such as streets, curb and gutter, sanitary sewer, storm sewer, water, street lights, etc.
- b. Any TIF assisted rehabilitation within a National Historic District must be carried out according to the Secretary of the Interior's Standards for Rehabilitation.
- c. The Developer is responsible for acquiring all necessary financing. The city assumes no responsibility for the repayment of any loan or bond beyond the tax allocations outlined in the Project Plan and the funds received.
- d. All proposed projects shall create a new taxable value equal to or greater than \$1 million.
- e. Because the funds flow through a political subdivision of the State of South Dakota, they are considered public funds and must be used in accordance with South Dakota contract and bid laws (SDCL Title 5). Bid openings will be handled by the City Finance and City Engineer's office. Bid awards will be approved by the City Commission. Copies of bid documents must be submitted to the Finance Office prior to any public funds disbursement.
- f. Construction must start within 12 months or the applicant must reapply for the TIF.

VIII. Eligible Project Costs

Eligible project costs are defined under SDCL 11-9-15. Restrictions on eligible project costs are as follows:

- a. Clearing and grading of land shall be limited to grading/clearing directly related to the installation of public improvements.
- b. Real property assembly costs including land demolition costs for the removal of existing structures or infrastructure; and the alteration, remodeling, repair or reconstruction of existing buildings shall be limited to the redevelopment of existing properties. These costs will not be allowed for projects that improve undeveloped property.

IX. TIF Review Process

If after reviewing the application the TIF Project Review Committee determines that the application is complete, the following review process shall be initiated:

- a. Preparation of the Project Plan. The City Staff or its designee shall prepare a Project Plan for the proposal. The plan must meet certain statutory requirements including information about the use of the Tax Increment Financing funds. It shall also include a resolution defining the proposed Tax Increment District.
- b. Review of the Project Plan. The Resolutions creating the Tax Increment District and the Project Plan are then submitted to the Planning Commission for its recommendation. Following public notice, a public hearing, Planning Commission review and recommendation, the Resolution and Project Plan are then submitted to Legal Counsel for a recommendation. The recommendation of Legal Counsel and the recommendation of the Planning Commission are then forwarded to the City Commission for public notice, a public hearing and consideration.
- c. Review of the Development Agreement. If the Resolutions creating the Tax Increment District and the Project Plan are approved by the City Commission, the city Attorney shall draft a Development Agreement. The Agreement sets forth the mutual responsibilities of both parties. The Development Agreement is reviewed by the City Commission who must authorize the Mayor and Finance Officer to sign the agreement. An administrative fee which shall be set out in a schedule to be approved by the City Commission, as presented and on file at the city business office shall be charged to every TIF project for which a project plan is approved. The fee is intended to recover city staff and city attorney costs to review the project, prepare the project plan and the development agreement.

If the TIF Project Review Committee determines that the application is not complete or if the Planning Commission does not recommend approval of the technical requirements of the application, the applicant may appeal that decision to the City Commission. If the appeal is approved by the City Commission, City Staff shall prepare the resolution creating the district and the Project Plan and the proposal shall be reviewed as outlined above in steps b and c.

If the City Commission does not approve the appeal, a request for the same TIF cannot be resubmitted within one year of the Commission's final determination, unless in the opinion of the City Commission, a substantial change has been made and a new review is warranted.

Dated this 18th day of December, 2012.

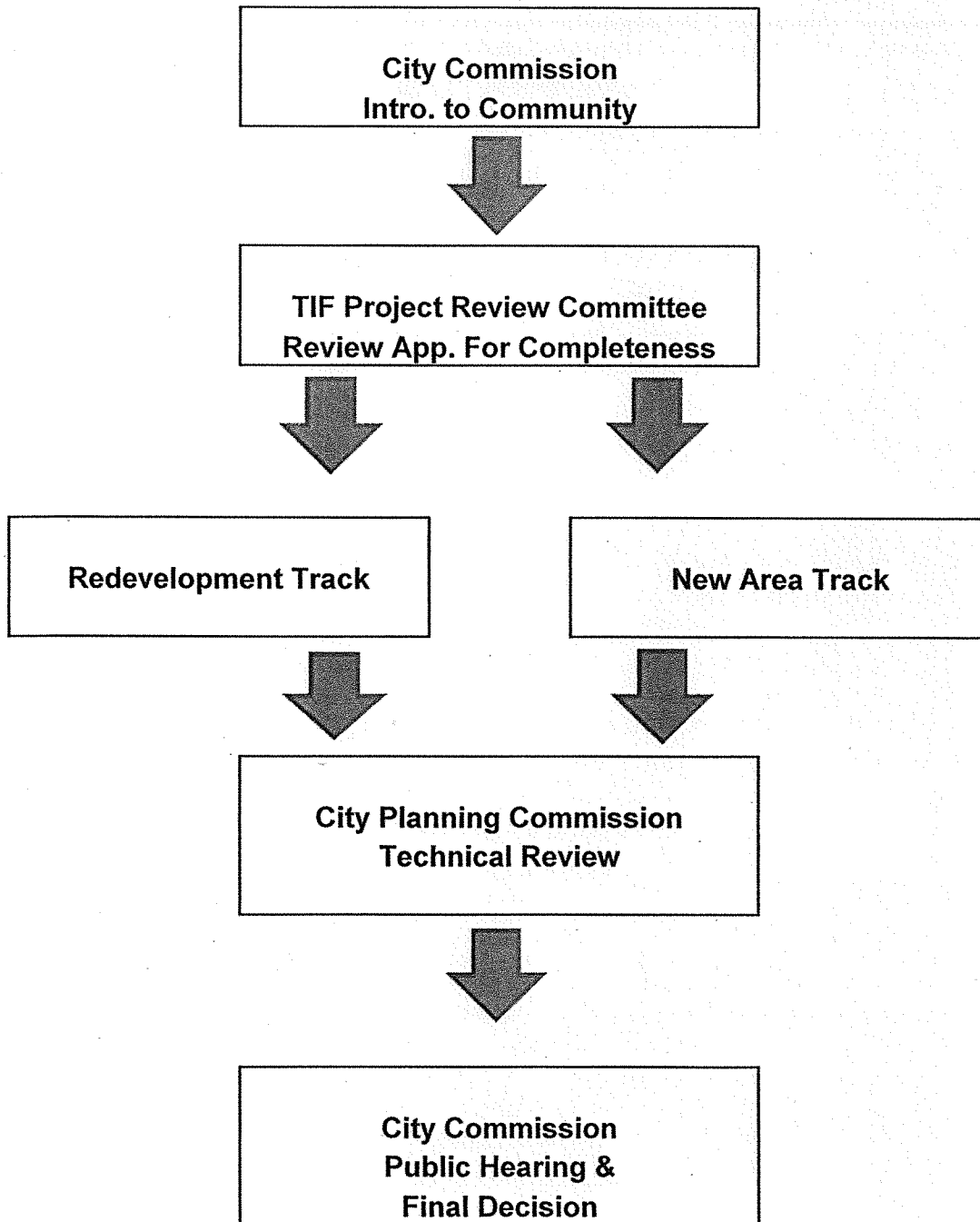
CITY OF PIERRE, SOUTH DAKOTA

BY: Laurie R. Gill
Laurie Gill, Mayor

ATTEST:

Twila Hight
Twila Hight, Finance Office

Tax Increment Financing Flowchart



RESOLUTION NO. 2490

A RESOLUTION ADOPTING A FEE SCHEDULE FOR TAX INCREMENT FINANCING (TIF) PROJECTS.

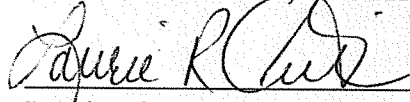
WHEREAS, the City has adopted guidelines for Tax Increment Financing (TIF) projects and the guidelines reference application and administrative fees for TIFs,

NOW THEREFORE, be it resolved that the City hereby adopts the following fees:

	<u>9. Miscellaneous Fees</u>
TIF Non-Refundable Application Fee	\$500.00
TIF Administrative Fee	\$5,000.00

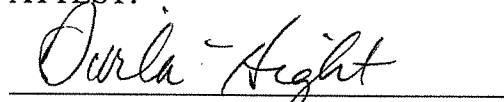
DATED this 18th day of December, 2012.

CITY OF PIERRE, SOUTH DAKOTA



Laurie Gill, Mayor

ATTEST:



Twila Hight, Finance Officer