



CITY OF RAPID CITY

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MEMORANDUM

TO: Planning Commission

FROM: Carla Cushman, Assistant City Attorney *CC*

DATE: March 10, 2016

RE: 15TIF001 – Project Plan for Tax Increment District, Rushmore Gateway Corridor
AKA Black Hills Energy Corporate Headquarters

This Project Plan would authorize utilizing tax increments received from the tax increment district as payment for a grant from the City to Black Hills Corporation in the amount of \$6,047,965. This memo is intended to provide additional explanation.

The Black Hills Corporation TIF is the first Rapid City TIF where a grant has been a part of the Project Plan and the project costs. State law provides that for each tax increment district, the Planning Commission shall adopt a Project Plan that includes a detailed list of estimated project costs that will be paid as a result of improvements in the tax increment district. *SDCL 11-9-13*. State law goes on to include specific items that may be included in the project costs, such as costs for the construction of public works or improvements, demolition of buildings, and grading of land, as well as financing costs, property acquisition costs, and professional services costs. *SDCL 11-9-15*.

Notably, the project costs section of state law was amended by the SD Legislature in 2011 with Senate Bill 90 to add language including in project costs those payments “and grants made, at the discretion of the governing body, which are found to . . . to stimulate and develop the general economic welfare and prosperity of the state.” *SDCL 11-9-15(8)*. The Project Plan before you today provides for TIF funds collected as part of the tax increment district to be paid to Black Hills Corporation as a grant in support of completing the interior buildout for an additional 39,640 square feet of interior office space at Black Hills Energy Corporate Headquarters.

If the Council wishes to establish the tax increment district and approve the proposed Project Plan, staff would recommend structuring the project costs as a grant. Providing a grant to ensure the completion of an additional 39,640 square feet of interior office space above and beyond the office space currently intended will “stimulate and develop the general economic welfare and prosperity of the state.” *SDCL 11-9-15(8)*. Although the TIF application initially contemplated payment of TIF funds for infrastructure costs, the basis for Black Hills Corporation’s TIF request has consistently been to permit a complete build-out of the available office space. Once staff recognized that state law permitted the City to award the TIF funds as a grant in a way that would allow the City to negotiate for the completion of additional office space, this seemed like the best approach. It makes sense to link the TIF funds to the interior buildout instead of to construction of public infrastructure, which would need to be built regardless of the size and capacity of the building.

While the City’s TIF policy pre-dates the 2011 change in state law and, therefore, does not discuss project costs that are grants, the policy does permit the Council to allow for project costs which, at the discretion of the Council, are necessary or convenient to the creation of the tax increment district or the implementation of the project plan. *TIF guidelines, page 6 Section 3.12*. The guidelines also permit the Council to specifically authorize “Private Development site improvements” and “[e]quipment and other permanent fixtures.” *Id. at Section 1.1 and 1.2*. I believe that Council approval of the Project Plan and its description of the project costs as a grant for the additional office space buildout would achieve the specific authorization required by the City’s TIF policy.

Because this grant is being funded through the TIF and is not an up-front payment, the City will only be obligated to pay Black Hills Corporation for moneys that are eventually received in the Black Hills Corporation TID fund, up to \$6,047,965, and these amounts will only be paid if and when TID 70 (which overlaps with this TID) is completely paid in full. An agreement that will follow the Project Plan will clarify what Black Hills Corporation will need to show with regard to the completion of interior buildout before any portion of the grant is paid with TID funds. As with other project costs, if the tax increment that is collected is less than the grant listed in the Project Plan over the 20-year life of the plan, the City is not obligated to pay any additional money.

If you have any further questions on this matter, please feel free to give me a call at any time. My number is 394-4140, and my email is carla.cushman@rcgov.org.