

## FINAL REPORT OF THE TAX INCREMENT FINANCING GUIDELINES REVIEW COMMITTEE

### Committee Creation:

On August 6, 2007, at the request of the Rapid City Council, Mayor Alan Hanks appointed the following people to the Tax Increment Financing Guidelines Review Committee: Malcom Chapman, Bill Okrepkie, Karen Gundersen Olson, Sam Kooiker, Deb Hadcock, Jason Green, Marcia Elkins, Dirk Jablonski and Pauline Sumption. On August 20, 2007, the following people representing the private sector and business community were added to the Committee: Dan Dryden, Bob Brandt, Norbert Sebade and Mike Tennyson. Subsequently, at the request of the Tax Increment Financing Guidelines Review Committee, Ethan Schmidt representing the Pennington County Commission was appointed to the Committee. Robert Ellis replaced Dirk Jablonski on the committee in March 2008. The Committee was tasked with reviewing the existing Tax Increment Financing Guidelines and the state statutes and bringing back proposed changes to the City Council.

### Committee Tasks:

The Committee held twenty meetings including a general briefing advertised to the public on October 22, 2007 and a public hearing on October 29, 2007 to take input from the public. At that meeting numerous comments were received from the public regarding the guidelines and the manner in which Tax Increment Financing is being used in Rapid City. Subsequently, the Committee met to discuss the existing guidelines, State Statutes, the public comments and possible changes to the guidelines. On July 24, 2008, the Tax Increment Financing Guidelines Review Committee held a public hearing to receive comments on the draft recommendations. On July 31, 2008, August 19, 2008 and October 17, 2008, the Tax Increment Financing Guidelines Review Committee met to review the public comments and to finalize its recommendations.

### Committee Recommendations:

The following constitutes a summary of the Tax Increment Financing Guidelines Review Committee recommendations. Attached as addendums are a revised "Guide for Applicants", a revised "Application for Tax Increment Financing", copies of the minutes of each of the Committee meetings and Public Comments.

1. The Committee recommends that the membership of the Tax Increment Finance Committee be revised to eliminate the staff as voting members and to add a representative of the Pennington County Commission.
2. The Committee recommends that the Tax Increment Finance Project Review Committee meetings be public meetings with the minutes recorded including streaming audio and with public comment allowed and notice of the public meeting provided.
3. The Committee recommends incorporation of the statutory language for the "blight" criteria into the Policy.

4. The Committee recommends that the City Council approve the following revised language modifying the recently approved Interest Rate Bench Mark language:

Each applicant shall provide a Tax Increment Financing proposal from a prospective lender of his choosing which shall address these loan terms and conditions:

- Fixed or variable interest rate, if variable state frequency of pricing adjustments
- Interest rate index
- Interest rate spread over/under index, if any
- Loan term
- Collateral
- Guaranty requirements from the developer
- All identity of interests between developer and lender

The City Finance Officer will review and analyze the proposed financing terms and forward a recommendation for approval or disapproval to the City Council along with the Developers Agreement or proposal for refinancing. If the City Finance Officer concludes that the proposal is not competitive with current market conditions or is otherwise unsatisfactory, a report detailing the deficiencies shall also be forwarded to the City Council.

The City reserves the right to require the refinancing of any existing Tax Increment Finance loan utilizing whatever means the city decides most beneficial to the taxpayers at any time during the term of the developer's agreement. This shall include the City's right to require that the developer assign and/or reassign the Tax Increment Finance loan to the City or any other entity designated by the City. Each project plan and developer's agreement shall include language that allows the City to be reimbursed for any and all project costs should they elect to either finance or refinance the Tax Increment Finance loan.

For purposes of development of the project plan all interest expenses shall be calculated utilizing a fixed rate not to exceed 9 percent annual interest. This interest amount shall be included in the project plan and at no time during the term of the project shall the actual interest expense exceed the amount budgeted in the project plan.

5. The Committee recommends that the City Finance Office provide an "Annual Summary of all Active Tax Increment Finance Districts" to the City Council utilizing the Summary of Current Interest Rate on Active Districts spreadsheet with the addition of Prior Assessment and Revenues Received Information on or before July 31 of each year (See Exhibit 1).
6. The Committee recommends that the City Finance Office review each active Tax Increment Finance District and provide a recommendation to the City Council on the utilization of revenue bonds to refinance those Districts to reduce the interest rate, provided there are sufficient revenues to protect the City's financial investment.
7. The applicant shall identify all persons and entities that have an interest in the project and/or in the entity applying for the tax increment financing district. The

disclosures shall require identification of all members of an LLC or LLP, other partners, investors, shareholders and directors of a corporation or any other person who has a financial interest in the project or in the entity applying for the tax increment financing. This provision requires identification of all persons who have an interest in the project, including those whose interest exists through, an LLC, LLP, corporation (whether as a director or shareholder) or other legal entity. The applicant shall be under a continuing obligation to update this disclosure within thirty (30) days of any changes throughout the application process and throughout the life of the developer's agreement. If the applicant is a publicly traded company, the applicant shall be deemed to have complied with this provision if it has provided the City a copy of its most recent annual report with the application.

8. The Committee recommends that the following language be added to the disclosure requirements:
  - A. That the applicant shall be under a continuing obligation to update this disclosure within thirty (30) days of any change throughout the application process and throughout the life of the developer's agreement; and,
  - B. That a publicly traded corporation is deemed to comply with the disclosure requirements with submission of their most current annual report.
9. The Committee recommends that Item 6 under "Process for Revising Approved Tax Increment District Project Plans" be revised to read "may approve, amend or reject."
10. The Committee recommends that the City Council adopt an ordinance establishing a public hearing notification process for Tax Increment Finance requests by setting the application for hearing at City Council prior to the presentation of the Planning Commission's recommendation at the Legal and Finance Committee.
11. The Committee recommends that certified, return receipt mailing be sent to property owners inside the District boundaries and first class mailings be sent to property owners adjacent to the District boundaries.
12. The Committee recommends adoption of a \$1,000 application fee for each Tax Increment Finance request.
13. The Committee recommends an increase in the Imputed Administrative Fees for a Tax Increment District as follows:

An Imputed Administrative Fee shall be charged by the City of Rapid City to every Tax Increment District for which a project plan is approved in the amount of \$20,000. Such fee shall be paid to the City as a project cost from the tax increment fund balance in year five of the Tax Increment District. For an initial Tax Increment District application that includes phases an additional \$2,000 of Imputed Administrative Fee shall be paid to the City. Should subsequent amendment of a Tax Increment District result in a phased Project Plan an additional \$5,000 of Imputed Administrative Fee shall be paid to the City.
14. The Committee recommends that the Project Plan identify the actual percentage of commercial and industrial zoned acreage in the proposed District.

15. The Committee recommends that written justification be provided by the applicant when the sum of the Necessary and Convenient Costs and Contingency Cost line items exceed 10% of the total Project Costs.
16. The Committee recommends that the developer be required to provide an itemized list of the Estimated Costs, including the Professional Fees.
17. The Committee recommends retaining the current affordable housing language.
18. The Committee recommends that the Mayor and City Council appoint a committee to address all components of the affordable housing issue.
19. The Committee recommends approval of the following revisions to the Purpose of Tax Increment Financing section of the existing policy:  
Purpose of Tax Increment Financing. The City of Rapid City recognizes the following purposes for the use of Tax Increment Financing:
  1. To encourage the redevelopment of deteriorated or otherwise blighted real property in Rapid City through the investment of public funds;
  2. To stimulate economic development in the community by assisting projects that promote the long term economic vitality of the community;
  3. 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;
  4. To stimulate the construction of safe and affordable housing units for low and moderate income residents and workers in the community; and,
  5. To facilitate the reconstruction, maintenance and completion of the City's existing infrastructure network to support the existing growth and guide the future growth of the community.
20. The Committee recommends approval of the following Allowable Project Costs language:  
Project Costs  
Allowable Project Costs: To accomplish the purposes of Tax Increment Financing, the following costs are determined to be allowable costs:
  1. Oversizing costs for sewer, water and streets required by the City of Rapid City;
  2. Extension of off-site sewer, water, street and public improvements to the development site;
  3. Oversizing costs for storm drainage detention and transmission facilities to accommodate storm water runoff beyond that generated by the development;
  4. Reconstruction of existing streets, water, sewer, sidewalks or other public infrastructure;
  5. Regional lift stations, pump stations or other public facilities to be owned by the City of Rapid City;
  6. Public playgrounds, parks and recreational improvements to be owned by the City of Rapid City;
  7. Demolition costs for the removal of existing structures or infrastructure;
  8. Interest and financing fees;
  9. Imputed administrative fees due to the City;

10. Removal and replacement of contaminated soils;
11. Professional service fees limited to engineering, design, survey and construction management associated with the allowable project costs; and,
12. Costs, at the discretion of the governing body, which are found to be necessary or convenient to the creation of the Tax Incremental District or the implementation of the Project Plan.

Project Costs Not Allowed: The following costs are not allowed unless specifically authorized by the Rapid City Council:

1. Acquisition of equipment or other permanent fixtures;
2. Private Development site improvements including but not limited to parking lots, landscaping, driveways, site lighting, sidewalks, signs, grading and fill;
3. Real property assembly costs including land acquisition;
4. Clearing and grading of land;
5. Relocation costs;
6. Organizational costs;
7. Professional service fees including engineering, design, survey and construction management fees associated with project costs not allowed as part of the Project Plan;
8. Alteration, remodeling, repair or reconstruction of existing buildings or structures; and,
9. Legal and developer fees.