

RESOLUTION NO. 31631

A RESOLUTION ADOPTING THE TAX INCREMENT FINANCING POLICIES AND PROCEDURES, A COPY OF WHICH IS IN THE FORM SUBSTANTIALLY ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby adopting the Tax Increment Financing Policies and Procedures, a copy of which is in the form substantially attached hereto and made a part hereof by reference.

ADOPTED: June 6, 2023

/mem

POLICIES AND PROCEDURES RELATING TO  
TAX INCREMENT INCENTIVES

APPROVED BY

THE CITY OF CHATTANOOGA, TENNESSEE

AND

THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE CITY OF CHATTANOOGA

Effective June 6, 2023

# **POLICIES AND PROCEDURES RELATING TO TAX INCREMENT INCENTIVES**

## **Introduction**

The Industrial Development Board of the City of Chattanooga, Tennessee (the “Board” or “IDB”) and the City of Chattanooga, Tennessee (the “City”) have adopted these Policies and Procedures (these “Policies”) relating to the use of tax increment incentives pursuant to Section 7-53-312 of the Tennessee Code Annotated (a “Tax Increment Incentive”) and are adopted pursuant to Section 9-23-107 of the Tennessee Code Annotated. These Policies set forth the procedures of the Board and the City associated with Tax Increment Incentives and are intended to facilitate the consideration of requests for Tax Increment Incentives by the applicable legislative bodies of the City and Hamilton County, Tennessee (the “County”). These Policies also provide for the administration of the Tax Increment Incentives. The adoption of these Policies does not create or vest any rights in any person or entity, and both the City and the Board retain the right to approve any Tax Increment Incentive in the sole discretion of the City and the Board.

These policies and procedures only apply to any Tax Increment Incentives with respect to a specific project being initiated by a private developer and supported by incremental property tax revenues. If the City initiates a project supported by tax increment revenues on its own behalf or on behalf of or through the Chattanooga Housing Authority to finance public improvements in a redevelopment area, the City shall follow such procedures as the City deems appropriate under the circumstances.

Tax Increment Incentives generally take one of two forms – (i) reimbursements from Tax Increment Revenues to a private party of eligible costs incurred by that party relating to a Project as Tax Increment Revenues are received by the Board or (ii) non-recourse financing by the Board of eligible costs relating to a Project, which financing is payable from Tax Increment Revenues. The latter type of incentive is often called tax increment financing or a “TIF.” These Policies apply to both types of Tax Increment Incentives.

Capitalized terms used in these Policies and not otherwise defined shall have the meanings given to such terms in Section 10 of these Policies.

## **Section 1. General Policy**

A Tax Increment Incentive is an economic development tool used by municipalities to allocate a portion of the new, additional taxes generated by a particular geographic area over a limited period of time to pay for eligible costs to the extent authorized by applicable law. For purposes of these Policies, the taxes that can be allocated are limited to property taxes. The tax increment is the difference in the property tax revenues generated by the property in the Plan Area after a Project has been completed compared with the tax revenues generated by such property before the applicable plan was adopted (less certain deductions as required or permitted by applicable law). This increment can be used, as described above, to reimburse eligible costs or to pay debt service on tax increment financing incurred to finance such eligible costs. Notwithstanding anything herein to the contrary, no portion of City or County property taxes, if any, that

is dedicated to, earmarked, or designated for public school operations shall be allocated to the IDB in connection with any Tax Increment Incentive, and in connection with any Tax Increment Incentive, no stormwater fees shall be deducted from any such property taxes so dedicated, earmarked or designated.

The benefits of Tax Increment Incentive transactions include the following:

- (i) A TIF can be effective as “off balance sheet” financing of components of public infrastructure such as utilities and road and traffic improvements. A TIF is generally not included as a liability on the City’s balance sheet (although it may be noted). The structure of these transactions allows the City to utilize new incremental revenue streams to accelerate funding of public improvements. A TIF therefore can enable the City to complete public infrastructure that it otherwise could not afford at the time.
- (ii) Tax Increment Incentives provide support for Projects that are not otherwise economically feasible. For instance, a Tax Increment Incentive transaction may assist in the redevelopment of blighted and under-utilized property in the City.
- (iii) Because of the accelerated development of public infrastructure improvements, the ad valorem property tax base from associated and adjacent properties often increases, which produces even greater benefits for the City and County.
- (iv) Tax Increment Incentives are paid from increases in tax revenues from a Plan Area and not from tax subsidies from other areas of the City. Therefore, that portion of the cost of Projects supported by Tax Increment Incentives generally are paid by the development itself.
- (v) Projects supported by a Tax Increment Incentive may attract significant new jobs, businesses, and investment to the community, or may retain jobs and businesses that otherwise would be missed or lost without the investment made possible through a Tax Increment Incentive.

Tax Increment Incentives will generally be used for economic development Projects that provide improvements in blighted and under-utilized areas in the City and in other properties approved by the City and, if applicable, the County. Members of the City Council of the City and the County Commission of the County (collectively, the “Governmental Authorities”), as the community’s elected representatives, are not only vested with the final authority to approve plans authorizing Tax Increment Incentives, but also are in the best position to determine the relative priorities of the proposed infrastructure improvements and the related community benefits from a public policy standpoint. The Board, with the support of the City’s staff, will administer and implement these Policies consistent with the policy directives of the City and, to the extent applicable, the County.

## **Section 2. Statutory Background**

The IDB is a nonprofit public corporation that was established in 1966 pursuant to the Tennessee Industrial Development Corporation Act (the “IDB Act”), Tenn. Code Ann. §§7-53-101 et seq. The Board’s

statutory purpose includes financing, owning, and leasing certain real and personal properties, which will have the effect of maintaining and increasing employment and otherwise promoting new industry, commerce and trade in Tennessee and the City, in particular.

On May 14, 2004, the Tennessee General Assembly amended the IDB Act to vest industrial development corporations like the Board with the authority to initiate and administer Tax Increment Incentives in areas that are approved by the Governmental Authorities. The Board's responsibilities under the amendment include the following:

- (i) Preparation and submission of an Economic Impact Plan for an area that includes an eligible Project, which plan must comply with certain statutory criteria;
- (ii) Holding a public hearing relating to the Economic Impact Plan after proper, published notice; and
- (iii) Administering the incremental tax payments allocated to the Board under the Economic Impact Plan.

The purpose of these Policies is to specify the procedures for applying for a Tax Increment Incentive, specify the information that will be required of an Applicant, confirm that the Governmental Authorities retain the legal authority to approve any plan that would affect their respective property taxes, and prescribe the role the Board will play in the process. These Policies presume that each Economic Impact Plan will be submitted for approval by both Governmental Authorities, but the IDB, with the approval by the City Council, may approve an Economic Impact Plan that only applies to the City's taxes, in which case all references to the County in these Policies will not be applicable as to such Economic Impact Plan.

The amendment, which is codified as Tenn. Code Ann. §7-53-312, provides that City Council is entitled to approve any Economic Impact Plan affecting property taxes due to the City and the County Commission must approve any Economic Impact Plan affecting property taxes owed to the County. Neither has the authority to approve an Economic Impact Plan affecting the property taxes of the other. A Tax Increment Incentive may be approved that allocates to the Board incremental property tax revenues from both real and personal property taxes in the specified area. However, because of the complexity of administering the calculation of the increment relating to personal property taxes, a Tax Increment Incentive that includes personal property taxes will only be approved if the allocation of incremental personal property taxes is essential, in the judgment of the Board and the Governmental Authorities, to the development of the Plan Area.

In 2012, the Tennessee General Assembly enacted the Uniformity in Tax Increment Financing Act of 2012 (the "TIF Uniformity Act") to provide a more comprehensive statutory framework for utilizing Tax Increment Incentives. The TIF Uniformity Act was codified as Chapter 23 of Title 9 of the Tennessee Code Annotated. Pursuant to Section 9-23-107 of the TIF Uniformity Act, the City and the Board were specifically authorized to adopt policies and procedures relating to Tax Increment Incentives, and these Policies are adopted pursuant to such statutory authorization.

The Tennessee General Assembly has also enacted Section 7-53-316 of the IDB Act, which authorizes the use of certain incremental sales tax revenues to supplement Tax Increment Revenues in connection with the development of certain brownfield sites. These Policies shall apply to the consideration of an Economic Impact Plan to be adopted pursuant to Section 7-53-316 of the IDB Act, as well as Section 7-53-312 of the IDB Act, and any Applicant requesting consideration of an Economic Impact Plan under Section 7-53-316 of the IDB Act shall request such consideration in the Applicant's Application.

### **Section 3. Process**

**3.1. Application.** The process for requesting a Tax Increment Incentive will commence with an Applicant filing a completed Application in the form attached to these Policies as Exhibit A and incorporated herein by reference together with all exhibits, supplements, schedules, and financial information required in the Application. The Applicant shall tender an application fee to the Board in an amount set forth in Section 6 of these Policies. No action will be taken with respect to the Application until the Board (or its Administrative Agent) determines that it has received all information which may be relevant or necessary in determining the qualifications of the Applicant and the Project. **Acceptance of the Application does not imply, evidence, or confirm the IDB's support for, or recommendation of, the Project identified in the Application or the Tax Increment Incentive request.**

**3.2. Board Considerations.** The Board has always viewed its core mission as the promotion of economic development and growth in the City, and in particular, commercial and industrial Projects that involve a significant capital investment and the generation of new jobs with wages in excess of the annual average wage in the City. An Application detailing a Project that fits within this core mission will encounter greater flexibility and receptivity by the Board, as well as the City and the County, as opposed to Projects that do not involve these factors. Additionally, the Board will evaluate the Project's community impact in connection with evaluating an Application for a Tax Increment Incentive. The Board recognizes that new commercial and industrial Projects have direct and indirect impacts on the existing businesses and people who work, live, dine, shop, and commute in and around the location of the Project, and an Applicant should consider any concerns of the community to be impacted by the Project and, to the extent practicable, be responsive to such concerns.

**3.3 Submission to Governmental Authorities.** Upon receipt of the Application, the Board shall work with City staff to review the Application. The review shall include, but not be limited to, the following considerations: the purpose of the request; experience of the Applicant; description of the Project to be located in the area that would be the subject of the Economic Impact Plan (the "Plan Area"); proposed sources of funds to pay the Project; evidence of the financial capability of the Applicant to undertake the Project; and community impact of the Project. Once the Board determines that it has received a properly completed Application and any other information that it considers relevant or necessary for City Council to evaluate the Application and the Project, the Board will submit its acceptance of the Application with a proposed Resolution of Intent to the City Council.

Upon receipt of the Application from the Board, the City Council may take one of three actions: (i) reject the Application and return it to the Board, (ii) return the Application to the Board to request more information from the Applicant as specified by City Council, or (iii) approve the Resolution of Intent to

consider an Economic Impact Plan relating to the Application. If adopted, the Resolution of Intent will instruct the Board to prepare and submit to City Council an Economic Impact Plan as requested by the Application.

If the Tax Increment Incentive request will affect County property taxes, the Board will also submit the Application and a proposed Resolution of Intent to the County Mayor and County Commission. County Commission may then take one of three actions described above in the same manner as City Council. If County Commission disapproves the Application or does not consider the Application in a timely manner, the City Council may reconsider the Application and adopt another Resolution of Intent instructing the Board to prepare and submit an Economic Impact Plan that only affects City taxes.

**3.3. Economic Impact Plan.** If the Board receives a Resolution of Intent from the City Council and, if applicable, County Commission, the Board may prepare, with input from the Applicant, a proposed Economic Impact Plan for the Board's consideration. The Board may also instruct the Applicant to prepare the proposed Economic Impact Plan for the Board's consideration. The proposed Economic Impact Plan shall contain the information required by Section 7-53-312(b) of the IDB Act and, to the extent not already required by the IDB Act, shall also include the following information:

- (i) a list of tax parcels composing the Plan Area, including owners and parcel numbers, from which the Tax Increment Revenues will be generated, and the Base Taxes for each such tax parcel;
- (ii) a map clearly identifying the boundaries of the Plan Area;
- (iii) a clear description of the Project or Projects that will be located in the Plan Area and that will be developed by the Applicant;
- (iv) confirmation of the current zoning of the parcels in the Plan Area subject to the Economic Impact Plan;
- (v) the proposed period of time for which taxes will be allocated from the Plan Area in accordance with the Economic Impact Plan as to each tax parcel, and if the allocation period as to each tax parcel shall not commence in the same tax year, the maximum period of time during which such allocation periods can commence;
- (vi) a description of any proposed borrowing related to the Tax Increment Incentive;
- (vii) the number of jobs which the Applicant estimates will be created by the Project identified in the Plan Area and a summary of the projected compensation that will be paid to those holding the jobs;
- (viii) the estimated development and construction costs of the Project; and
- (ix) the projected total cost of the Tax Increment Incentive, including interest paid during the

term of the Tax Increment Incentive.

If the Applicant is requested to prepare a proposed Economic Impact Plan, the Applicant shall submit the proposed Economic Impact Plan to the Board no later than ninety (90) days after such request is made of the Applicant. If the Applicant does not submit the proposed Economic Impact Plan within that period, the Board has the authority to take no further action with respect to the Application and the Project. If the Board chooses to take no further action, the Board will consider any further requests of the Applicant as a new request requiring a new Application, the re-commencement of the procedures described above, and the payment of another application fee. If the Board elects to cause the preparation of the Economic Impact Plan, the Board will cause such preparation to occur promptly after approval of the applicable Resolution of Intent. In either case, the Applicant shall fully cooperate in connection with preparation of the proposed Economic Impact Plan and shall provide such economic impact information, including a report relating thereto from an independent consultant if requested by the Board.

**3.4. Application Review Committee.** There shall be an Application Review Committee consisting of not less than seven (7) members. Two (2) members shall be appointed by the City Mayor; two (2) members shall be appointed by City Council; two (2) members shall be appointed by the Board, and one (1) member shall be a representative of the Chamber of Commerce. The Board shall appoint its two members before the end of each calendar year for the following year. The Application Review Committee will review each Application, each proposed Economic Impact Plan, the application process to date, and the Resolution(s) of Intent. The Committee will advise the Board whether the Application and the proposed Economic Impact Plan comply with the IDB Act and these Policies, and is, therefore, qualified to be considered for submission to City Council and/or County Commission for approval. The Committee, in consultation with the Board's chairman, will then establish a proposed date for the Board to hold a public hearing and determine whether to submit the Economic Impact Plan to the City Council and, if applicable, County Commission for approval. The meetings of the Application Review Committee shall be subject to the Tennessee Open Meetings Act.

**3.5. Public Hearing by the IDB.** After the Application Review Committee and the Board's designated staff and counsel determine the Economic Impact Plan to be complete, the Board will hold a public hearing relating to the proposed Economic Impact Plan at a regular or special meeting of the Board. Notice of the public hearing shall be published in a newspaper of general circulation in Hamilton County at least two weeks prior to the date of the public hearing, as required by Section 7-53-312(g) of the IDB Act. If approved by the Board, the Board will submit the Economic Impact Plan to Chattanooga City Council and, if applicable, County Commission for consideration and approval. The submission shall include a summary of any comments from the public hearing on the proposed Economic Impact Plan and other information deemed pertinent by the Board.

**3.6. Approval of Economic Impact Plan.** The City Council and, if applicable, County Commission shall then consider whether to approve the proposed Economic Impact Plan. Such approval, if provided, shall be undertaken by resolution of the applicable governing body in accordance with the IDB Act and TIF Uniformity Act. After such approval, City Council and, if applicable, County Commission shall provide a certified copy of the resolution providing such approval to the Board.



**3.7. Closing of Tax Increment Incentive.** If an Economic Impact Plan requested by an Applicant is approved by City Council and, if applicable, County Commission, the Applicant and the Board will commence negotiation of the appropriate documents implementing the Tax Increment Incentive authorized by the Economic Impact Plan. Such documentation shall include, without limitation, a Development Agreement with the Applicant that will incorporate the specific terms of the Tax Increment Incentive and will require the Applicant to undertake the Project identified in the Economic Impact Plan consistent with the Applicant's Application. If the Tax Increment Incentive includes tax increment financing, the documents required to implement such tax increment financing shall also be negotiated between the parties. Such documents, once negotiated, will be presented to the Board in substantially final form for consideration for approval.

The Board may instruct its counsel to prepare the documentation required to implement any Tax Increment Incentive or may instruct the Applicant to prepare such documents for the Board's review. In any event, all contractual commitments of the Board under such documents, including any tax increment financing, shall be non-recourse as to the Board other than with respect to allocated Tax Increment Revenues. All such documents shall be subject to the review and approval of the Board's counsel.

The Applicant will close the Tax Increment Incentive transaction within a reasonable period of time after the City Council and, if applicable, County Commission, approve the applicable Economic Impact Plan. If the closing of the Tax Increment Incentive does not occur within a 120-day period after such approval, the Board may consider the Application withdrawn and, unless such time period is extended by the Board, all approvals by the Board shall be deemed to have lapsed and be of no further force or effect.

#### **Section 4. Board Policies for Tax Increment Incentives**

The following policies shall apply with respect to Tax Increment Incentives within each Plan Area:

**4.1. Maximum Allocation Period.** Unless City Council and, if applicable, County Commission, approve otherwise in an Economic Impact Plan, the maximum allocation period for any Tax Increment Revenues as to any parcel in a Plan Area shall be 20 years, but the Board may provide for a shorter allocation period in any Economic Impact Plan if the Board determines that such shorter allocation period will result in a Tax Increment Incentive sufficient to make the Project financially feasible. A longer allocation period will only be permitted in extraordinary circumstances and only with the required statutory approvals under the TIF Uniformity Act.

**4.2. Limit on Allocation of Gross Incremental Tax Revenues.** Unless City Council approves otherwise in an Economic Impact Plan, the maximum amount of Gross Tax Increment Revenues of the City allocable to support a Tax Increment Incentive shall be 75% of the Gross Tax Increment Revenues of the City if the allocation period for the Tax Increment Incentive is 10 years or less and 60% of the Gross Tax Increment Revenues of the City if the allocation period for the Tax Increment Incentive is more than 10 years. The maximum amount of Gross Tax Increment Revenues of the County allocable to support a Tax Increment Incentive shall be as is approved by the County Commission if the Economic Impact Plan is submitted to the County for approval.

**4.3. Plan Area.** The Plan Area, from which the Tax Increment Revenues will be generated, will consist of no more than (i) the parcels on which the applicable Project will be located, and (ii) those parcels, determined by the Board, to be directly affected and substantially benefited by the Project, whose owners have received the notice referred to in Section 4.5. The Board may rely upon the opinions of City staff and such independent consultants as the Board deems advisable in determining whether a parcel would be directly affected and substantially benefited by the Project in the Plan Area.

**4.4. Eligible Costs.** Unless City Council and, if applicable, County Commission approve otherwise in an Economic Impact Plan, a Tax Increment Incentive may only be used to pay or reimburse the cost of Public Infrastructure in a Plan Area that relates to a Project or Projects in such Plan Area. The cost of Public Infrastructure may include the following costs:

- (i) The cost of the land on which the Public Infrastructure will be located;
- (ii) Costs relating to the design and construction of the Public Infrastructure, including clearing, grading and excavating, site work, and other hard construction expenses;
- (iii) costs of obtaining permits for the Project from Governmental Authorities;
- (iv) capitalized interest relating to financing of the Public Infrastructure;
- (v) premiums for payment and performance bonds issued in favor of Governmental Authorities or professional fees for architectural and engineering services and legal expenses capitalized as Project costs under generally accepted accounting principles;
- (vi) acquisition costs for equipment included in the Public Infrastructure; and
- (vii) fees and expenses of the Board and other fees and expenses related to the Tax Increment Incentive.

For purposes of these Policies, “Public Infrastructure” shall have the meaning given to that term in Section 9-23-102 of the TIF Uniformity Act.

If an Applicant desires the Board to pay any cost not described above, the Applicant should make such a request in its Application and shall demonstrate the extraordinary circumstances requiring the payment of such additional costs. If City Council and, if applicable, County Commission approve such additional costs as part of a Resolution of Intent, the Board may include such additional costs as being permitted in the applicable Economic Impact Plan.

**4.5. Notice to Property Owners.** The Board through its designated administrative staff will notify any owners of parcels included in the proposed Plan Area (other than the Applicant) that the Board will consider the Application for Tax Increment Incentive on a certain date and at a prescribed time and place. The Applicant will provide a list of all parcels contained in the Plan Area, the names of the record owners and the address of each owner. The Board’s notice will invite public comment and will be mailed to such

property owners at least 14 days prior to the public hearing of the Board relating to the Economic Impact Plan described in Section 3.5 above. In addition, the form of notice will advise property owners how they may comment on the Economic Impact Plan such as by email or by letter, as well as by attending the hearing. This notice is in addition to the notice required by Tenn. Code Ann. 7-53-312(g).

**4.6. Maximum Percentage of Project Cost and Minimum Project Size.** The amount of a Tax Increment Incentive for a specific Project (either through the reimbursement of costs or based upon the principal amount of any tax increment financing) shall not exceed fifteen percent (15%) of the Total Projected Project Cost of any Applicant. The Applicant must also reasonably anticipate a Total Projected Project Cost of at least \$5,000,000 with respect to a proposed Project in order to apply for a Tax Increment Incentive.

**4.7. Eligible Projects.** As is described above, each Economic Impact Plan must include an eligible Project. The list of eligible Projects is included in Section 7-53-101(15) of the IDB Act. Such list of eligible Projects includes many types of commercial, industrial, and warehousing facilities as may be determined by the Board. However, in the absence of unusual or extenuating circumstances acceptable to the Board and the City, Projects that are substantially residential or are multifamily housing facilities under Section 7-53-101(15)(x) of the IDB Act will not qualify as an eligible Project for purposes of an Economic Impact Plan. A request for an incentive for a residential project, including a multifamily housing facility, should be submitted to the appropriate governmental authority or entity to the extent incentives may be available for such projects.

**4.8. Guaranties of Completion.** The Board may require guaranties of completion of all or any portion of the Public Infrastructure from principals of the Applicant, payment and performance bonds from sureties acceptable to the Board, or letters of credit from financial institutions acceptable to the Board that assure the timely completion of the Public Infrastructure.

**4.9. Transfer of Tax Increment Incentive.** No rights to a Tax Increment Incentive may be sold, assigned, or leased, including by transfer of ownership interests in the Applicant, unless approved by the Board or otherwise specified in the Development Agreement, provided however that the Board will consent to the collateral assignment of Tax Increment Revenues to secure tax increment financing.

**4.10. Additional Requirements; Amendments.** These Policies are in addition to the normal rules and procedures of the Board. From time to time and without notice, these Policies may be amended or waived, in whole or part, by the Board and the City, and new policies may also be adopted by the Board and the City. The Board may consider any special circumstances or conditions in determining whether to submit an Application for consideration by the City Council and, if applicable, County Commission, and whether to prepare and submit an Economic Impact Plan for approval.

**4.11. Applicant Affidavit and Third-Party Review.** The Applicant must submit a signed affidavit certifying that the Project cannot proceed without the availability of a Tax Increment Incentive and must provide supporting documentation justifying the need for and the amount of the Tax Increment Incentive, in accordance with the Application form. The form of such affidavit is attached to these Policies as Exhibit B. In addition to requiring such affidavit, the Board, as a condition to the approval of any

Economic Impact Plan, shall retain an independent consulting firm with experience in public finance and real estate development, at the expense of the Applicant, to evaluate the Applicant's financial projections for the Applicant's Project to assist in evaluating whether the amount and allocation period of Tax Increment Incentive requested by the Applicant is required for Applicant to receive a commercially reasonable return on investment with respect to the Applicant's Project. By submitting an Application, the Applicant agrees to pay the cost of such independent consulting firm.

**4.12. Tax Increment Payment Dates.** The Tax Increment Revenues to be allocated to the Board for any Tax Increment Incentive shall be paid by the City and, if applicable, the County no later than sixty (60) days from the last day of each February, which is the last day that such tax revenues are not overdue. Delinquent taxes to be allocated to the Board shall be paid by the County and the City no later than sixty (60) days after each date such delinquent taxes are collected, together with interest thereon to the extent required by the Tax Increment Act.

**4.13. State Approval Process.** If any Tax Increment Incentive will be used to pay any cost that does not relate to Public Infrastructure or if any allocation period with respect to any parcel is to extend beyond 20 years, and only to the extent permitted by these Policies, the State Commissioner of Community and Economic Development and the State Comptroller of the Treasury shall be required to make a determination, as provided in the TIF Uniformity Act, that it is in the best interests of the State to permit such use of the Tax Increment Incentive or such extended allocation period.

**4.14. Stormwater Fees.** All applications for Tax Increment Incentives shall require verification that all stormwater fees for any properties owned by the Applicant shall have been paid in full. No Tax Increment Incentive payments shall be made by the Board or the City to an Applicant or its permitted assigns unless all stormwater fees have been paid in full and continue to be paid in full during the term of any Tax Incremental Incentive by the Applicant and its permitted assigns. Additionally, no stormwater fees within a Plan Area shall be waived at any time during the term of the Tax Increment Incentive pursuant to Tennessee law.

## **Section 5. Post-Closing Evaluation**

The Board intends to produce substantial and measurable changes and improvements to and for the economic and commercial environment of the City through the use of Tax Increment Incentives. Accordingly, the Applicant will be obligated to develop the Project substantially in accordance with the Economic Impact Plan and the Applicant's Application, and the Development Agreement will document that obligation. Material departures from the development specified in the Development Agreement will require the consent of the Board and may result in reductions or even elimination of the Tax Increment Incentive, depending on the effect of the proposed changes.

In addition, the Board requires the Applicant to annually certify compliance with the Development and Financing Agreement in a writing signed by the Applicant's chief executive officer or other executive acceptable to the Board. The Board will annually (or at such other times as it deems appropriate) evaluate each Project receiving a TIF to ensure compliance with the Development and Financing Agreement.

## **Section 6. Fees**

**6.1. Application Fee.** The Applicant will submit the Application with an Application Fee of \$1,500.00, provided that for any Application submitted on or after January 1, 2023, the Application Fee shall be increased to \$8,000.00.

**6.2. Annual Administrative Fee.** For all Economic Impact Plans approved prior to January 1, 2023, the Applicant will pay to the Board an annual administrative fee equal to 25 basis points (0.25%) of the Tax Increment Revenues allocated to the Board each year with respect to the applicable Plan Area. For all Economic Impact Plans approved on or after January 1, 2023, the Applicant will pay to the Board an annual administrative fee equal to 250 basis points (2.50%) of the Tax Increment Revenues allocated to the Board each year with respect to the applicable Plan Area. The annual administrative fees provided for in this paragraph shall be payable from the Tax Increment Revenues allocable to the Board and not from Gross Tax Increment Revenues retained by the City.

In addition, the Board will charge reasonable fees for any amendments to the Tax Increment Incentive, including any amendment to the Development Agreement, that will be based upon the facts and circumstances requiring the amendment, the actions required by the Board to effect the amendment, and the involvement of any Governmental Authorities. The Board may require that these fees be paid in advance of Board action and at the time the Applicant requests the amendment.

The fees described above are intended to offset the expenses of the Board and the City staff for evaluating and administering Tax Increment Incentives. In addition to the fees described above, the Applicant is responsible for payment of the Board's counsel fees and other expenses incurred by the Board with respect to the Application, the Economic Impact Plan, the Development Agreement and all other aspects of the Tax Increment Incentive, as applied to the Applicant, including, without limitation, the cost of any economic impact study and/or financial review deemed advisable by the Board.

## **Section 7. Environmental Report and Title Insurance**

The Board may require the Applicant to provide at its expense a Phase I Environmental Site Assessment Report for the Project and/or Plan Areas that (i) shall be prepared by a recognized Person in the health, safety and environmental field that is acceptable to the Board; (ii) shall bear a date acceptable to the Board; and (iii) shall disclose no unacceptable conditions to the Board. All environmental reports requested by the Board must grant to the Board the right to rely on such reports.

The Board may also require that the Applicant obtain at its expense, and deliver to the Board, a title insurance commitment for the Project and/or Plan Areas described in the Economic Impact Plan.

## **Section 8. Conflicts of Interest**

Each Board member shall be responsible for disclosing any material interest which he or she may have in or with an Applicant or any financing source for the applicable Project. Any Board member having any material interest in a Project or a financial or family relationship with an Applicant or financing source

for the applicable Project shall submit to general counsel for the Board a representation of that interest, and such counsel shall advise both the Board and Board member whether the member needs to recuse himself or herself from consideration of the Application. Such recommendation of the Board's counsel shall be conclusive. If recusal is recommended, the Board will then consider the Application without participation from the member or members who recuse themselves.

If any counsel has a professional legal relationship with the Applicant or source of the financing for the Project other than incidental representations in connection with financings of other projects, the Board will retain special counsel to represent the Board in connection with the particular Application and Project being considered.

### **Section 9. Disclosures**

The Application will require the Applicant to disclose, in addition to all other information required by the Application, the following:

- (i) If the Applicant or any principal in the Applicant are currently engaged in any civil or criminal proceeding;
- (ii) If the Applicant or any principal in the Applicant have ever been charged or convicted of any felony or currently is under indictment; or
- (iii) If the Applicant or any principal in the Applicant has ever filed for bankruptcy.

### **Section 10. Definitions**

For purposes of these Policies, the following terms shall have the following meanings:

**“Administrative Agent”** means the Person providing administrative services to the Board from time to time. The Board's current administrative agent is Office of Economic Development of the City.

**“Application”** means the Application for Tax Increment Incentive submitted hereunder in the form designated by the Board and as amended from time to time. The current form of the Application is attached hereto as Exhibit A.

**“Base Taxes”** has the meaning given to such term in Section 9-23-102 of the TIF Uniformity Act.

**“Dedicated Taxes”** has the meaning given to such term in Section 9-23-102 of the TIF Uniformity Act.

**“Development Agreement”** means the Development Agreement between the Board and the Applicant (and any guarantor thereof) or similar agreement or contract providing for the terms and implementation of the Project and the Tax Increment Incentive.

**“Economic Impact Plan”** means an economic impact plan within the meaning of Section 7-53-312 of the IDB Act.

**“Governmental Authority”** means the City of Chattanooga, Tennessee, and Hamilton County, Tennessee.

**“Gross Tax Increment Revenues”** means the property tax revenues generated from the Plan Area less the Base Taxes, without reduction for Dedicated Taxes and any amount the County, the City, or the Board withhold as administrative expenses or as may be reserved pursuant to applicable law.

**“IDB Act”** means Chapter 53 of Title 7 of the Tennessee Code Annotated, as amended.

**“Person”** means any individual, sole proprietorship, corporation, limited liability company, association, partnership (general, limited, or limited liability partnership), organization, business, trust, individual and Governmental Authority.

**“Plan Area”** means the parcels of real property identified as the plan area in the applicable Economic Impact Plan.

**“Project”** means a project under Section 7-53-101(11) of the IDB Act and includes the infrastructure, utilities, road and traffic improvements, traffic signage and signals, buildings, structures, machinery, equipment, and land defined in the Application as part of the Project.

**“Public Infrastructure”** has the meaning assigned to it in Section 4.3.

**“Reserved Taxes”** means the Base Taxes and the Dedicated Taxes.

**“Tax Increment Revenues”** means the property tax revenues generated from the Plan Area after the Reserved Taxes less any amount that the County, the City or the Board withhold as administrative expenses or as may be reserved pursuant to applicable law.

**“TIF Uniformity Act”** means the Uniformity in Tax Increment Financing Act of 2012, as amended.

**“Total Projected Project Cost”** means all costs that are expected to be incurred in connection with the development of a Project and that would be capitalized in accordance with generally acceptable accounting principles other than interest, property taxes and insurance during the construction of the Project as set forth in the Applicant’s Application.