

BETHLEHEM REVITALIZATION AND IMPROVEMENT AUTHORITY

Guidelines for Projects in the City of Bethlehem's Community Revitalization and Improvement Zone

Purpose of These Guidelines

These Guidelines provide information for businesses, developers and other entities (collectively, "Applicants") seeking financing through the Bethlehem Revitalization and Improvement Authority (the "Authority") for qualified Projects within the Community Revitalization and Improvement Zone ("CRIZ") located within the City of Bethlehem. Applicants are encouraged to construct or improve properties within the CRIZ by utilizing financing available pursuant to the CRIZ Act (described below).

Included in these Guidelines is background on the creation of the CRIZ, the requirements of the CRIZ Act, criteria Applicants should consider when seeking financing through the Authority for a project within the CRIZ ("Project") and procedures for applying for financing. As further described herein, the financing process includes the following four stages of review and approval by the Authority:

1. **Qualification Stage.** An initial, non-binding confirmation of interest by the Authority to an Applicant. In this stage, a review of a proposed Project is provided by the staff and forwarded to the Authority to determine if the Project meets the preliminary criteria and requirements to be eligible for CRIZ financing under the CRIZ Act. Once the Qualification Stage is completed, the Applicant can proceed to the Application Phase.
2. **Application Stage.** A formal application for CRIZ financing is prepared and submitted by the Applicant for a specific Project or initial phase(s) of a multi-phased Project or proposed financing.
3. **Review and Approval State.** A formal review and approval of the Project must be completed by the Authority.
4. **Closing and Funding Stage.** This stage includes a closing of financing for an approved application.

Creation and Purpose of the CRIZ; Use of Qualified Tax Revenues: Statutory Background

The Authority is a body politic and corporate created under the laws of the Commonwealth of Pennsylvania (the "Commonwealth") and was established under 53 PA.C.S. CH. 56 by the City of Bethlehem (the "Authorities Act").

On November 18, 2013, the Authority designated the CRIZ within the City of Bethlehem pursuant to authorization provided in special legislation enacted by the Commonwealth, Act 52 of 2013 (the "CRIZ Act"). A copy of the CRIZ Act is attached as Appendix I.

The CRIZ consists of approximately 130 acres located throughout the City of Bethlehem. A map showing the parcels of the CRIZ is attached as Appendix II.

The CRIZ was established for the purpose of furthering development in the City of Bethlehem. The CRIZ Act provides that qualified state and local tax revenues may be used for payment of debt service on bonds or loans issued for the improvement and development of qualified capital improvements for Projects within the CRIZ. Such capital Projects may include, but are not limited to, office, commercial, hospitality, conference and retail.

Qualified Tax Revenues from new businesses starting up in the CRIZ within property owned or controlled by Applicants will be available to the Authority in order to secure bonds, notes or other debt obligations of the Authority issued to finance Projects for Applicants.

Disclaimers

These Guidelines are intended for informational purposes only. They are not meant to constitute any contractual offer or promise by the Authority. These Guidelines shall not be construed to limit in any way the discretion of the Authority. To the extent of any inconsistency between these Guidelines and the provisions of the Authorities Act and the CRIZ Act as they may be amended or interpreted, the provisions of such laws shall control. These Guidelines speak as of their date and while the Authority intends to update them as appropriate, Applicants should rely upon the advice of their own counsel and advisors with respect to matters of law and business judgment in any way relevant hereto.

Questions and Requests for Additional Information

Should you have any questions regarding these Guidelines, the CRIZ, available financing through the Authority or otherwise, please contact the Authority's Executive Director, Alicia Miller Karner at (610) 865-7085.

Common questions may be addressed in future Authority guidance.

Projects Eligible for CRIZ Financing by the Authority

The following is a summary of significant guidelines and requirements for new Projects. These are solely for discussion purposes by the Authority.

Eligible Applicants

Applicants may include both for-profit and not-for-profit development entities as well as individuals. The applicant must be the property owner and may not be a tenant.

The Authority will consider applications from joint ventures. When submitting joint venture proposals, both parties must provide all applicable application documents.

Eligible Projects

In order to be eligible for CRIZ financing through the Authority, all Projects must be in compliance with the City of Bethlehem's zoning ordinances (which may be accessed on the City of Bethlehem's website at www.bethlehem-pa.gov) and the City of Bethlehem's current and future development plans for the CRIZ. Further, the Project must be reviewed by the City of Bethlehem's Director of Planning and Zoning.

Timelines for Completion of Projects and Expenditure of Funds

Generally, all Projects must commence within 90 days of closing and be completed within 24 months of receipt of financing. Applicants should reflect this in their Project timeline. However, the Authority, in its sole discretion, may approve a different timeline depending on the size and scope of the Project.

Fees and Costs

With the formal application, Applicant shall pay a non-refundable fee as outlined in Attachment I to be used by the Authority as an offset to the out-of-pocket costs incurred by the Authority related to the CRIZ designation ("Application Fee".) The Authority reserves the right to change the amount of the Application Fee from time to time.

The Applicant shall pay a fee to the Authority upon closing of the financing as set forth below ("Financing Fee") as outlined in Attachment I. This Financing Fee will not be payable if the financing does not close.

The Applicant shall also reimburse the Authority and the City of Bethlehem for all out-of-pocket costs incurred by the authority related to the review and processing of any application for financing, the loan or bond documents relating to the financing and for transaction costs related to a loan, including costs of the Authority's attorneys. Such reimbursement shall be conditioned upon loan closing. In addition and for the life of any loan, the Applicant shall reimburse the Authority for all out-of-pocket costs related to the loan, including the ongoing monthly review process by the Authority and shall pay to the

Authority an annual Service Fee based on original principal amount, as outlined in Attachment I.

The Applicant, not the Authority or the City of Bethlehem, is responsible for its own expenses related to the application and financing.

Criteria that the Authority will consider in selecting Projects for financing

The Authority will consider the following criteria when reviewing an application for CRIZ financing:

- *Financial Strength of Applicant; Ability to Maintain Working Capital and to Operate Project in Start-up Period; Completion Risk/Risk of Obtaining Any Funding Necessary for Additional Phases of the Project.* In reviewing an application, the Authority will consider the Applicant's history developing similar Projects and the Applicant's financial history, as well as any issues specific to the proposed Project that may pose a risk to completion of the Project or maintaining working capital to operate the Project in the start-up period. Based on the foregoing and the Applicant's financial history and current capabilities, the Authority will also consider whether the Applicant would be able to secure additional funding for the Project should there be cost overruns or if additional phases of the Project are contemplated.
- *Job Creation.* The Authority will take into consideration the number and types of jobs the Project is expected to generate within the CRIZ and the City of Bethlehem and the degree to which the Applicant will hire workers living in close proximity to the CRIZ.
- *Occupancy Levels.* The Applicant should demonstrate that facilities financed by the Authority will reach at least fifty percent occupancy within one year of the issuance of a Certificate of Occupancy.
- *Project's Demand Upon Municipal Services.* The Applicant should provide information detailing how it will offset the increased demand for municipal services such as utilities, public safety and public works required for its Project.
- *Locally or Domestically Sourced Materials.* Preference will be given to Applicants whose Project plans involve the use of local or domestically sourced materials.

Ineligible Projects

Projects will not be approved if they would not be in compliance with any federal, state or local laws.

In addition to any other requirements of the CRIZ Act and these Guidelines, the following types of Projects are ineligible for Authority CRIZ financing:

- Financing acquisition of a Project in excess of the Project's cost; and,
- Projects not consistent with the City of Bethlehem's Zoning Ordinance and related planning documents; and,
- Any Project not located within the CRIZ; and,
- Projects that include operating costs of either the developer, building or the building tenant (s).

The following types of Projects, while eligible for Authority financing, may be determined to be of lesser prioritization to other proposed Projects of other Applicants and may require a more substantial justification to the Authority:

- Projects involving uses that would require a variance, special exception or other action because they are not consistent with the City of Bethlehem's zoning ordinances and the City of Bethlehem's Subdivision and Land Development Plan;
- Projects that may not be compatible with surrounding developments or consistent with the desired character for the developed CRIZ area due to the proposed massing, design, materials, accessory features, fixtures or design elements;
- Projects that may create concerns related to traffic, mass transit or pedestrian access, lighting, view obstructions, noise, etc.; or
- Projects that entail patterns of usage which may require markedly increased demand for public services (e.g., crowd management during off-hours requiring overtime from public safety officers).
- Projects that do not comply with the design guidelines of the appropriate historic district or do not receive historic district approval, as necessary.

Project Costs Ineligible for CRIZ Financing by the Authority and Financing Requirements

Ineligible Project Costs

The following types of Project costs are ineligible for Authority financing:

- Working capital
- Rolling stock

- Inventory/receivable financing
- Relocation costs
- Furniture and Equipment

Permissible Parameters for Authority Financing; Security

- Assuming compliance with applicable provision of the Internal Revenue Code of 1986, as amended, and regulations applicable thereto, Authority Financing will generally be taxable for Federal Income Tax Purposes (Tax-Exempt for Certain Commonwealth or 501(c)3 Purposes)
- Prepayment Provisions: the Authority reserves the right to impose a pre-payment penalty. Pre-payment needs to be approved by the Authority in advance.
- Mortgages, Security Interests – Lien Position: Permitted subject to Authority approval.

Insurance Requirements

The Authority will impose insurance requirements with respect to the Project, including but not limited to general liability, payment and performance and completion bonds with the Authority named as an additional insured. If insurance is required by Applicant's lender, the Authority may accept that coverage if the Authority is named as an additional insured.

Process for Obtaining Authority Financing of a Project in the CRIZ

Stage 1: The Qualification Stage

Interested developers must submit a summary, not to exceed four (4) pages in length, outlining the development Project, sketch plans and a spreadsheet modeling eligible CRIZ tax revenues for the project for a minimum of 5 years.

The key components of the Qualification Stage are as follows:

- A. The Authority will receive Project summaries from interested developers at the first regularly scheduled public meeting following a maximum 60 day staff review.
- B. An initial non-binding confirmation of interest by the Authority is provided to the Applicant by the Authority commencing an initial review of the proposed Project(s). The initial review will verify the following criteria are met:
 - a. The property to be developed is a designated parcel within the approved CRIZ or is being considered for inclusion in the CRIZ.

- b. The Applicant must prove actual or equitable ownership or have a binding option to purchase such property of adequate duration to acquire title by the time of financing. The Applicant may be asked to provide appraisals for property to be acquired or deeds for property it owns.
- c. The Project will be developed in a manner consistent with the definitions in the CRIZ Act.
- d. The project is determined to be in compliance with the City of Bethlehem's current Zoning Ordinances and other planning related documents.

Following a favorable initial determination by the Authority during the Qualification Stage, the Applicant can proceed to the Application Stage.

Stage 2: The Application Stage

The key components of the Application Stage are as follows:

- A. A formal application for CRIZ financing, along with the application fee made payable to the Authority, will be prepared and submitted by the Applicant.
 - a. The Applicant must provide a complete description of the Project, including a description of the property and its ownership interest, milestones, timelines, subcontractors, materials, any potential financing or timing concerns, a listing of any committed (or anticipated) leases, a complete list of proposed uses and the square footage for each use, and the number and types of jobs to be created by the Project.
 - b. The Applicant must provide a description of the ownership and management of the Applicant, including management or operating agreements; resumes for key personnel of the Applicant indicating their qualifications; background on the Applicant, including a company history; a list of subcontractors and their qualifications; and any other information requested by the Authority. The Applicant shall submit company information and allow a third-party background check to be conducted.
 - c. The Applicant must provide an initial Project budget including all sources of financing and expenditures, and any information that will assist the Authority in determining the overall financial viability of the Project. The Applicant shall match CRIZ funds with private money at a ratio of not more than five CRIZ fund dollars to one private dollar. A term sheet from the lender or underwriter for the bonds, as the case may be, should also be submitted.

- d. The Applicant must provide projected income and cash flow statements and balance sheets for the present fiscal year and three years forward. Start-up businesses should provide a monthly cash flow statement for the first year or until the business is projected to reach a break even point. List all material assumptions included in the projections. If a third party feasibility study has been prepared, all such third party feasibility studies shall be provided to the Authority, even if they are not being used or relied upon by the Applicant.
- e. The Applicant must provide three years of audited financial statements or Federal tax returns and all supporting schedules for the property owners (including owners of more than 25% of any partnership or corporate entity that will be an owner) and developer. Interim financial statements, including balance sheet and income statement dated within 90 days of application are also required.
- f. The Applicant and its general contractor/construction manager must demonstrate experience and capacity to develop a Project of the scale and size that they propose. The Applicant must provide a list of related Projects in progress or completed within the last five years and details of those Projects including budgets and a description of any significant delays or cost over runs experienced in the construction of such Projects. If available, the Applicant should provide any marketing plan or materials developed for the site.
- g. The Authority may require the Applicant to cause its lender(s) or underwriter for the bonds, as the case may be, and/or investors to submit underwriting information and analysis to demonstrate overall Project feasibility and the financial capability of the Applicant to complete the Project.
- h. The Applicant must demonstrate the plan's compliance with the City of Bethlehem's zoning ordinances and information relating to use of utilities and any public improvements that may be required. Additionally, the applicant must detail any on site amenities such as community recreational facilities which are reasonably expected to increase the value of the development.
- i. The Applicant must provide conceptual drawings of the proposed Project. The Authority reserves the right to comment on and approve all design and engineering, based on comments and recommendations of the Planning & Zoning Bureau and other appropriate certified staff.
- j. The Applicant must submit a reasonably detailed feasibility analysis, including market research and financial analysis to the Authority for review, demonstrating long term viability of the proposed Project, from a consultant reasonably acceptable to the Authority.

- k. Applicant must provide an estimate of the projected incremental new CRIZ revenue that will be generated by the Project to be used to pay debt service reduce the funding or reinvested in the CRIZ. The Authority may require a third-party review of such estimate to be provided by the Applicant. All costs associated with outside review will be the responsibility of the applicant.
 - l. With the assistance of the Authority, the Applicant must complete any additional documents required by the Commonwealth.
- B. Depending upon the nature of the particular Project and financing sought by an Applicant, the Authority may request or require certain additional information related to, among other things, how the Project may be integrated with or impact existing uses within the CRIZ. Following are examples of additional information which may be requested:
- a. Phase I/Phase II or other environmental impact reports (including storm water drainage/remediation if required) or assessments;
 - b. Parking/traffic impact studies; and/or
 - c. Land Development approval; and/or
 - d. Historic Review Board/Certificate of Appropriateness; and/or
 - e. Any other information the Authority requests.

Following approval of the application, the Authority will adopt a resolution approving the Project and the financing. A signed commitment letter from the lender or underwriter for the bonds, as the case may be, will be required beforehand. The Applicant may then proceed to the Closing and Funding Stage.

Stage 3: The Review and Approval Stage

After an application is determined to be complete, the Authority will take action to approve via resolution at a public meeting within sixty (60) days of the receipt of the completed application. If no action is taken within sixty (60) days, an application is considered deemed denied and will need to be resubmitted for consideration, unless the Authority has extended, in writing, the time for granting its approval. All approvals will be effective for nine (9) months from the date of approval. Periodic Project updates may be required.

Stage 4: The Closing and Funding Stage

The key components of the Closing and Funding Stage are as follows:

- A. The Authority shall be the limited recourse borrower or issuer on any loan or bond under the CRIZ Act. The Applicant shall secure financing for its Project and provide all necessary collateral, guarantees and credit enhancement that the lender or underwriter for the bonds, as the case may be, may require, including evidence that the Applicant has the availability to contribute 20% of the cost of the project. The Authority shall be the issuer of the debt obligation under such documents; provided that the recourse against the Authority's under the bond or loan documents shall be limited to the eligible taxes relating to the Project that it actually receives consistent with and as defined in the CRIZ Act. Subject to the foregoing, the Authority expects to be able to accommodate different credit structures. Applicants should have the Authority included in receipt of loan documentation during negotiations. However, the Authority does not expect to be involved in negotiation of business terms between the lender or underwriter for the bonds, as the case may be, and Applicant. The Applicant must provide the lender's or underwriter for the bonds, as the case may be, commitment letter or firm term sheet to the Authority during the negotiation process for the Authority's review and approval. The Applicant shall indemnify, defend and hold harmless the Authority and its officers and representatives from and against any and all claims, losses, damages or liabilities relating to the loan or the Applicant's Project. Among other things, such indemnifications shall extend to securities law and environmental claims and proceedings. The Authority expects to fund Applicant's Projects from loan proceeds on a periodic basis as approved capital expenditures are incurred. Thus, most loans would be expected to be draw-down loans. The Authority reserves the right to review and suggest modifications of all loan documents and Project expenditures.
- B. The revenues available for debt service on the Authority's obligations shall be limited to the qualified tax revenues under the CRIZ Act paid by qualified businesses in the Applicant's Project that have moved into the CRIZ. Except in the case of short-term, interim pre-development funding, a percentage of qualified tax revenues from businesses moving into the Applicant's Project shall not be pledged to the lender or bondholders. This percentage (the "Authority Retention") shall be determined by the Authority depending on the size and scope of the Project. The Authority reserves the right to use the Authority Retention for any and all permitted purposes under the Act, including pledging it to any obligations of the Authority, but will strive to provide eighty percent (80%) to the Project. The Authority may vary the amount of increment retained based on the circumstances of the Project.
- C. The Applicant shall contribute equity for the Project in a sufficient amount to support the underwriting of the Project, as determined by the Authority but in no event less than twenty percent (20%) of the Project cost.
- D. The Applicant and the Authority will enter into a funding agreement for the particular Project outlining requirements related to the development of the financed Project (the "Funding Agreement"). The Applicant shall provide the Authority with a detailed Project budget as well as other documentation the Authority may require,

including, but not limited to, a schedule of Project milestones and related timelines, in order to review, inspect and fund the Project. Any Funding Agreement shall be governed under Pennsylvania law and subject to the Authority and City of Bethlehem's standard policies related to, among other matters, sub-contractors, procurement, forum selection, jury trial, indemnification and liquidated damages.

- E. If the Applicant abandons or intends to transfer ownership of the Project or more than 25% of the ownership entity of the Applicant to another party, the Authority must first agree to the transfer before the Project may be assumed by an entity other than the original Applicant for the Project.

- F. At closing, the Applicant shall execute and deliver to the Authority a loan agreement or similar document obligating the Applicant to repay to the Authority all amounts as and when due under the note or bonds issued by the Authority in connection with the Project, and containing such covenants, representations, warranties and remedies as the Authority may require and such other documents, instruments or certificates as may be required by the lender or the underwriter for the bonds, as the case may be, and bond/special counsel for the loan. Additionally, the Applicant must provide the following:
 - a. A current Good Standing Certificate with respect to the Applicant issues by the Commonwealth;
 - b. Certification that the Applicant is:
 - i. Qualified to do business in Pennsylvania;
 - ii. Current in payment of all federal, state and local taxes;
 - iii. In compliance with all applicable federal, state and local laws and regulations;
 - iv. Not in bankruptcy, in default on any loans or other extensions of credit, and has no unsatisfied judgments against it; and
 - v. In compliance with all other provisions under the CRIZ Act and other applicable law, including all applicable local laws, ordinances and provisions;
 - c. A summary of any outstanding litigation;
 - d. Certification that all property subject to development in the CRIZ is in compliance with environmental regulations and provide a site assessment for each property; and
 - e. An opinion of counsel to the Applicant acceptable to the Authority; and
 - f. Evidence of 20% equity contribution to the Project.

- G. Transfers of approved Project funds from the Authority to the Applicant will occur annually. The Authority or its representative will review and approve all cost

documentation submitted by the Applicant on a monthly basis or as needed prior to funding. All cost documentation must be certified by an Authority-approved third party inspecting engineer on a monthly basis for the transfer to occur.

- H. The Applicant shall pay a fee to the Authority upon closing of the financing. The Applicant shall also reimburse the Authority and the City of Bethlehem for all costs related to the review and processing of any application for financing and for transaction costs related to a loan, including attorney's fees incurred by the Authority. For more information about fees, please see the Fee and Costs Section on Page 3 of these guidelines. The Applicant shall be solely responsible for payment of special counsel/bond counsel for the transaction and all fees and costs relating to the closing of the loan.
- I. Applicants should consult with their own tax advisors and attorneys regarding the federal and state tax implications of the receipt of Authority CRIZ funding.
- J. The Authority reserves the right to withhold any and all increment until all Project fees are paid.

Post-Closing

Post-Closing requirements will be outlined in the Developer Agreement and will include detailed reporting requirements, construction timeline review and tax form compliance. Any deviation may result in the loss of increment dedicated to the Project. The Applicant will be required to execute a post-closing compliance agreement consistent with the requirements of the internal Revenue Code of 1986, as amended and the Authority's policies.

Attachment I

BRIA Financing Fees and Costs

Application Fee \$15,000

Principal Amount of Project Financing	Issuance Fee%	Issuance Fee (Based on Total Amount of Borrowing)	Annual Fee %	Annual Fee (Based on the original amount financed)	Legal Fees	Example of Legal Fees
\$1 to \$1,000,000	1%	\$10,000	0.20%	\$2,000	0.75%	\$ 7,500
\$1,000,001 to \$5,000,000	0.65%	\$32,500	0.10%	\$5,000	0.65%	\$ 32,500
\$5,000,001 to \$10,000,000	0.50%	\$50,000	0.08%	\$8,000	0.50%	\$ 50,000
\$10,000,001 to \$15,000,000	0.40%	\$60,000	0.07%	\$10,500	0.40%	\$ 60,000
\$15,000,001 to \$25,000,000	0.30%	\$75,000	0.06%	\$15,000	0.30%	\$ 75,000
\$25,000,001 to \$50,000,000	0.20%	\$100,000	0.01%	\$25,000	0.20%	\$ 100,000
\$50,000,001 to \$100,000,000	0.15%	\$150,000	0.00%	\$40,000	0.15%	\$ 150,000
\$100,000,001 to \$200,000,000	0.15%	\$300,000	0.00%	\$60,000	0.15%	\$ 300,000

Appendix I

Community Revitalization and Improvement Zone Act

Appendix II

Map of City of Bethlehem Community Revitalization and Improvement Zone Parcels