

**CRITERIA, STANDARDS AND POLICIES OF:  
SPEARFISH ECONOMIC REVOLVING FUND. (S.E.R.F.)  
BUSINESS FAÇADE REHABILITATION (BFR) LOAN PROGRAMS.**

*Amended June 18, 2018*

**1. STATEMENT OF PURPOSE**

The purpose of this resolution is to set forth the criteria, standards and policies to be addressed and followed prior to commitment of city sales tax revenue for purposes of promotion of the City of Spearfish. The purpose of the establishment of these criteria, standards and policies is to assist in insuring that public sales tax monies are committed to eligible projects through the Spearfish Economic Revolving Fund.

**2. GOAL OF S.E.R.F.**

The goal of the Spearfish Economic Revolving Fund is to provide a municipal financial resource that will compliment sources of financial assistance in the private and public arena which will result in an enhanced and more fully developed economy in the City. S.E.R.F. is intended to participate in conjunction with commercial and public lenders, in projects that present expanded employment opportunities within the City of Spearfish, improves the economic vibrancy of any commercial business district of Spearfish, or allows for the efficient operation of the Spearfish Economic Development Corporation (SEDC) which meet the criteria, standards and policies set forth in this resolution.

**3. ELIGIBILITY REQUIREMENTS**

Any for profit and non-profit business that is a commercial or industrial business creating new and additional primary jobs or results in a saving of jobs, which will result in more employment opportunities inside Spearfish (or in the Spearfish area if the project is deemed site specific requiring a location outside of the Spearfish city limits which is based upon natural resources or other unique circumstances), and improves a building to meet the Spearfish Building Codes, will be eligible to apply for a loan from the Spearfish Economic Revolving Fund. The term “primary jobs” is defined as “jobs which provide goods and services that shall be primarily exported from the area, gain market share from imports to the area, or meet an unmet need in the area resulting in the businesses which bring new income into the area, stimulate other businesses, or assist the Spearfish community in the diversification and stabilization of its own economy.

#### 4. USE OF LOAN FUNDS

Proceeds from a Spearfish Economic Revolving Fund loan may be used for any of the following purpose:

- (a) Land acquisition and related development.
- (b) Building construction, acquisition or related remodeling projects.
- (c) Acquisition of equipment (excluding rolling stock) for use in the commercial or light industrial business of the applicant (with the exception of S.E.R.F. BFR Loans).
- (d) Promotion and enhancement of the Spearfish Industrial Park.
- (e) Operating capital for the SEDC provided as a grant.

Requests for refinancing of existing debt will not be considered and are ineligible purposes for an S.E.R.F. loan.

#### 5. TARGETING CRITERIA.

The S.E.R.F. committee of the City of Spearfish will review, evaluate, and make decisions on each S.E.R.F. application and provide a recommendation to the Common Council. The S.E.R.F. committee shall consider the following targeting criteria along with other factors deemed by the Council appropriate with each S.E.R.F. application:

- (a) First priority shall be given to eligible applicants who are existing commercial or light industrial businesses located in the City of Spearfish, which propose to either improve or expand and relocate to a more appropriate location in the City of Spearfish.
- (b) Second priority shall be given to eligible applicants that propose to relocate an existing commercial or light industrial business to the City of Spearfish, from an area outside the northern Black Hills of South Dakota.
- (c) Third priority shall be given to: (i) eligible applicants who propose a startup commercial or light industrial business in the City of Spearfish, and (ii) to eligible S.E.R.F. BFR Loan applicants. The initial allocation of funds to the S.E.R.F. BFR Loan Program shall be \$50,000.00, which allocation may be reviewed, renewed, increased or decreased by the Common Council from time to time as determined by the Common Council.
- (d) Added priority shall be given to a business located in, or in the process of relocation to, the Spearfish Industrial Park, it being the policy of the Common Council of the City of Spearfish to give the highest possible priority, in addition to the above criteria, to business development in the Spearfish Industrial Park.

6. THE S.E.R.F. BUSINESS FACADE REHABILITATION LOAN PROGRAM (the "S.E.R.F. BFR Loan").

The goal of the S.E.R.F. BFR Loan Program is to stimulate private investment into projects which enhance or preserve the exterior appearance of building facades or interior structure of a building located within any commercial district of Spearfish. To accomplish program goals, low-interest S.E.R.F. BFR Loans will be made available to eligible property owners and/or tenants. Joint financing (the "Joint Loan") with commercial banks (the "Primary Lender") is encouraged under the S.E.R.F. BFR Loan Program.

- (a) **ELIGIBILITY REQUIREMENTS:** Owners and tenants of existing commercial property (excluding rental property used primarily for dwelling units {i.e.} apartments, located within the boundaries of any commercial district) are eligible to apply for S.E.R.F. BFR Loans. Tenants of commercial property must provide documentation of the real property owner's consent to the improvements at the time of written application. Written consent may either be in the form of a valid written lease indicating the lessee's responsibility for property renovations and repair or documentation of the real property owner's agreement to the proposed rehabilitation. If the security for the S.E.R.F. BFR Loan will be real property, the property owner must sign a mortgage or other necessary documents. Applicants must have a Primary Lender in place prior to application (if a Joint Loan) and/or must demonstrate adequate borrower's matching funds.
- (b) **MEMBERSHIP IN THE SEDC:** Recipients of the SERF or BFR loan programs are required at a minimum to become members of the SEDC for the duration of the loan.
- (c) **USE OF LOAN FUNDS:** Proceeds from the S.E.R.F. BFR Loan may be expended for any of the following purposes:
  - 1. Facade Painting;
  - 2. Exterior Wall Cleaning and Restoration;
  - 3. Repair, Add or Replace Awnings;
  - 4. Repair, Add or Replace Windows and/or Window Treatments;
  - 5. Repair, Add or Replace Doors;
  - 6. Repair, Add or Replace Signage (must not be the exclusive reason for the loan);
  - 7. Facade and Display Window Lighting;
  - 8. Architectural and Engineering Design Services;
  - 9. Removal of old signs, awnings, and other exterior clutter;

10. Installation of permanent Landscaping;
11. Handicapped Accessibility;
12. Fire Suppression Systems;
13. Public Access Improvements;
14. Building permits and Fees;
15. Any other conditions to meet current standards of the Spearfish Building Codes.

(d) FINANCING POLICIES: The following financing policies shall apply to S.E.R.F. BFR Loans:

1. The maximum S.E.R.F. BFR Loan for a single store front rehabilitation project is \$20,000 or 50% of the project cost, whichever is less, per tenant or property owner per year. There is no maximum project cost, and the loan by the Primary Lender may exceed \$20,000. The Primary Lender and/or borrower (or a combination of each) may not fund less than 50% of total project cost.
2. The minimum S.E.R.F. BFR Loan is \$2,500.
3. The Primary Lender will determine the equity injection requirement by the borrower in a Joint Loan.
4. S.E.R.F. BFR Loan interest rates will be a maximum of 6% per annum.
5. The term of the S.E.R.F. BFR Loan will not exceed five years.
6. The S.E.R.F. BFR Loan will be secured by a real estate mortgage.
7. All borrowers will be required to maintain adequate fire, liability and hazard insurance, naming the Primary Lender (if any) and the City as creditor loss payees.
8. S.E.R.F. BFR Loans will be offered on a first come, first served basis.

(e) APPLICATION AND REVIEW PROCESS: Application forms for an S.E.R.F. BFR Loan can be obtained from Spearfish area commercial banks or from the City of Spearfish.

1. Applicants will submit a completed S.E.R.F. BFR Loan application and all supporting documents to the Primary Lender (for a Joint Loan), or directly to the S.E.R.F. Committee (non- Joint Loan).
2. Preliminary plans, color samples, awning, sign designs, preliminary contractor bids and budget should be submitted with completed application.
3. The Primary Lender (Joint Loan) and S.E.R.F. Committee shall review the application for completeness and shall notify the applicant what further or additional information is required from the applicant, if any, before the Primary Lender and S.E.R.F. Committee will declare the application complete.
4. In a Joint Loan, the Primary Lender will complete the financial analysis of the

- applicant, and the S.E.R.F. Committee and City Council may: (i) rely upon the Primary Lender's financial records and documentation; (ii) adopt the Primary Lender's loan approval requirements, in whole or in part, and add further loan approval conditions; and (iii) declare the S.E.R.F. BFR Loan application complete upon the basis of reference to the financial or other analysis contained in the Primary Lender's documentation without inclusion of financial or other information.
5. Upon the Primary Lender (Joint Loan) and S.E.R.F. Committee declaring the application complete, the S.E.R.F. Committee shall review the application and make a recommendation to the City Council for approval or denial within 30 days. The City Council shall, within 30 days of the date of the joint Committee recommendation, either approve or deny the application.
- (f) CREDIT CRITERIA: The S.E.R.F. Committee will base its recommendation to the City Council on the following criteria:
1. The applicant must meet the eligibility and design requirements of the S.E.R.F. BFR Loan program.
  2. The applicant must show the ability to service the debt.
  3. The applicant must have the ability to manage and show commitment to the S.E.R.F. BFR Loan project.
  4. The payment history of the applicant with other lenders and creditors must be satisfactory.
  5. The review of the proposed collateral must be satisfactory.
  6. The credit history of the borrowers and any guarantors of the loan must be satisfactory.
  7. The applicant and the S.E.R.F. BFR Loan application must meet such other S.E.R.F. loan criteria as the S.E.R.F. Committee may from time to time deem applicable on a case by case basis.

(g) APPROVAL OF THE BFR LOAN APPLICATION:

If an S.E.R.F. BFR Loan application is approved by the City Council the usual S.E.R.F. post-approval procedures stated in Paragraph 9, APPROVAL OF APPLICATIONS, below will apply, except as follows: (i) the S.E.R.F. BFR Loan project must be started within 60 days after loan approval, unless a special schedule is approved; and (ii) if the loan is a Joint Loan, a joint loan agreement between the primary lender, the City of Spearfish, and the borrower must be executed as part of the loan documents.

(h) PROGRAM CONDITIONS:

1. Loan proceeds will be disbursed after all improvements are complete. Applicant must present proof showing that all project costs have been paid in full and that all contractors have executed waivers of mechanic's liens.
2. Qualified and insured contractors with appropriate contractor's license and certification must perform all structural work.
3. All improvements must conform to the City Building Codes, and the proposed project may be subject to design review by the City.
4. Participants will be asked to display a sign provided by the City. The sign shall be placed on the premise and be viewable by the general public. The sign shall be posted from the date of the Loan Agreement until the final disbursement of loan funds or until 30 days after the completion of the project. The sign shall read: "A Successful Participant of the City of Spearfish Business Facade Rehabilitation Loan Program."

## 7. FINANCING POLICIES FOR NON-BFR S.E.R.F. LOANS.

The following financing policies shall direct the City Council in its review, evaluation, and decision making process on S.E.R.F. applications other than S.E.R.F. BFR Loans:

- (a) To the extent practical, loan amounts will be based upon the formula of \$5,000 per new, full-time equivalent job created or existing job retained. This standard may be waived by the City Council at the time of application approval, if the project presents an unusual opportunity or set of unique circumstances for promotion of the City of Spearfish.
- (b) Applicants shall demonstrate through appropriate documentation that a S.E.R.F. loan is justified on the basis of either a financing gap that precludes the project from moving forward to completion without such a loan, or that there exists an unacceptable rate of return on investment based upon market investment interest rates.
- (c) The maximum amount of S.E.R.F. funds loaned to a single applicant shall be the minimum amount needed to move the project forward to completion in light of other public and private financing sources available as determined by the City Council.
- (d) Terms for repayment of S.E.R.F. loans will be based on the minimum needs of the applicant, the recapitalization needs of the Spearfish Economic Revolving Fund, and the collateral requirements of the loan. Loan terms shall not exceed the depreciable life of the asset(s) pledged as collateral, but in no event shall a loan term exceed twenty (20) years.
- (e) The interest rate of an S.E.R.F. loan shall be structured on a case by case basis and will be determined by the City Council based upon the minimum needs of the applicant and the recapitalization needs of the Spearfish

Economic Revolving Fund. The factors for consideration, among others, are set forth in the S.E.R.F. Interest Rate Matrix attached hereto and made part hereof.

- (f) Applicant equity shall be based upon a combination of the total financial position of the applicant and the equity in the funded project.
- (g) S.E.R.F. loans shall be collateralized by fixed assets of the applicant as determined by City Council based upon the value of such assets as determined by a qualified appraiser. The minimum security position for an S.E.R.F. loan shall be a second mortgage or security interest, as the case may be, upon the loan collateral.
- (h) An S.E.R.F. loan origination fee may be levied in an amount equal to one percent of the loan amount plus the actual cost of any and all settlement costs and fees incurred by the Spearfish Economic Revolving Fund for the processing, approval, and closing of the loan. The City Council may waive, in whole or in part, the loan origination fee or costs in its discretion.
- (i) Restructuring or modification of the terms of an S.E.R.F. loan shall be considered on a case by case basis by the City Council as needed.
- (j) The interest rate of S.E.R.F. loans may be adjustable after the first two years of the loan upon the basis of such factors as the borrowers performance in accordance with the business plan which is a part of application upon which the loan was originally approved, the creation or non-creation of jobs, and the financial position and progress of the borrower. If the interest rate is adjustable, the specific basis for interest rate adjustment shall be set forth in the loan documents and agreements between the City and the borrower.

#### 8. APPLICATION AND REVIEW PROCESS FOR NON-BFR S.E.R.F. LOANS.

Application for an S.E.R.F. loan other than an S.E.R.F. BFR Loan shall be made on forms available from the Spearfish Economic Revolving Fund Committee. Applicants will submit a completed application and all supporting financial documentation to the S.E.R.F. committee, who shall review the application for completeness and shall notify the applicant what further or additional information is required from the applicant, if any, before the committee will declare the application complete. Upon the committee declaring the application complete, the committee shall review the application and shall, within 45 days thereafter, make a recommendation to the City Council for approval or denial of the application. The City Council shall, within 21 days of the date of the committee recommendation to the City Council, either approve or deny the application. No application shall be declared complete unless it includes the following information:

- (a) Applicant's name and address;
- (b) Names, addresses, resumes, and references of owners, investors, and

- management of the business;
- (c) Articles of incorporation and bylaws or other agreements that describe the legal operation or structure of the business;
  - (d) Name and address of the owner or operator of the business during the term of the loan;
  - (e) A business plan which contains information regarding the products or services to be offered by the applicant; job descriptions with attendant salary or wage information by job category; educational requirements by job category; methods of accounting, financing, marketing, sales merchandising and other disciplines proposed to be used for business growth and expansion;
  - (f) Letters of commitment from all participating commercial and/or public funding sources;
  - (g) Up to three years of historical balance sheets, cash flow statements, income statements, and federal income tax returns as are applicable to the individual loan application;
  - (h) Pro forma balance sheets, cash flow statements, and income statements for the term of the loan, or for a period of three years, whichever is less;
  - (i) A statement of licensing requirements;
  - (j) Assurance of compliance with local zoning laws and building codes, and that the necessary public utilities are available or will be available when needed by the project;
  - (k) Approximate date construction will commence, construction completion date, and the date by which the project will be fully operational;
  - (l) Documentation that the preliminary design stage has been completed; and,
  - (m) Any other information as required by the City Council or S.E.R.F. committee in order to make a sound loan decision.
  - (n) If the S.E.R.F. loan application is part of a finance proposal involving simultaneous or consolidated funding with the R.E.D.I. loan fund of the State of South Dakota and the R.E.D.I. loan fund undertakes the primary role of financial analysis of the applicant, then the S.E.R.F. loan committee and City Council may: (i) rely upon the R.E.D.I. loan financial records (historical and future) or other S.E.R.F. application requirements set forth above if they are covered by the R.E.D.I. loan above if they are covered by the R.E.D.I. loan application; and, (ii) adopt the R.E.D.I. loan approval requirements, in whole or in part, and add further loan approval condition; and (iii) declare the S.E.R.F. application complete upon the basis of reference to the financial or other analysis contained in the R.E.D.I. loan application without inclusion of financial or other information set forth above.



9. APPROVAL OF APPLICATIONS FOR ALL S.E.R.F. LOANS (INCLUDING S.E.R.F. BFR LOANS).

In the event an application is approved by the City Council, the City and the applicant shall execute such agreements and documents as necessary which shall provide the rights and responsibilities of all parties and the terms and conditions of the loan. The agreements and documents shall be prepared by the City Attorney, and the cost of preparation and the review of further documents necessary to the closing of the loan shall be paid by the applicant as part of the costs of the loan. There shall be no commitment of an S.E.R.F. loan without the specific resolution of the City Council, notwithstanding any assurance, guarantee, communication or representation to the contrary.

10. CONFIDENTIALITY

The application and supporting documents submitted to the S.E.R.F. committee and the City Council shall be the property of the City. To the extent permitted by law, said documents shall be handled by the committee and the City in a confidential manner.

11. RECAPITALIZATION OF S.E.R.F.

The Spearfish Economic Revolving Fund shall initially be capitalized with sales tax revenues appropriated by the City of Spearfish. Recapitalization of the fund may be realized by the following:

- (a) Additional appropriations by the City.
- (b) Any grants, bequests or private contributions.
- (c) Loan origination fees.
- (d) Loan repayment proceeds of principal and interest.

Public grants which generate program income as defined by the grantor (e.g. CDBG), to which federal or state requirements are attached which restrict their expenditure and/or cause burdensome reporting requirements shall not be co-mingled with S.E.R.F. funds. Instead, such funds shall be deposited and administered under a separate account by the City of Spearfish.

12. SERVICING FOR ALL S.E.R.F. LOANS (INCLUDING S.E.R.F. BFR LOANS)

S.E.R.F. loans shall be repaid in accordance with an escrow agreement, or in the case of S.E.R.F. BFR Joint Loan, a Joint Loan agreement, prepared as part of the loan documents by the City Attorney naming an independent escrow agent which shall be chosen by the borrower and approved by the City. The escrow agent shall, in accordance with the escrow agreement, receive loan payments and account for all proceeds, interest and principal, to the City and the borrower. The

escrow agent shall remit all proceeds received to the City. The Primary Lender may act as escrow agent for S.E.R.F. BFR Joint Loan, and loan payments may be submitted directly to the City by the Primary Lender as designated in the Joint Loan agreement.

In the event that the borrower requests any modification or change of any loan term or condition, including without limitation variations in security position, insurance requirements, payment dates or amounts, or the like, or if there arises a need for management of insurance proceeds in the event of damage or loss or such other insurable event, the borrower shall notify the then acting chairman of the S.E.R.F. committee and the loan servicing request shall be handled on an as-needed, case by case basis by the committee. Any and all changes in loan terms or conditions of any kind whatsoever, and any disbursement of insurance proceeds requiring City approval by the terms of the loan or the insurance policy, shall be considered by the committee and submitted to the City Council for action upon committee recommendation. Under an S.E.R.F. BFR Joint Loan, the consent of the Primary Lender may also be required.

This policy was first established by Resolution 1992-16 – A Resolution establishing the criteria, standards and policies of the Spearfish Economic Revolving Fund (S.E.R.F.) to be used for the expenditure of funds from the Spearfish Economic Revolving Fund dated March 2, 1992.

Amended by:

- Resolution 1993-10 dated 2-16-2018
- Resolution 1997-20 dated 6-2-1997
- Resolution 1998-23 dated 6-1-1998
- Resolution 2001-22 dated 6-18-2001
- Resolution 2006-13 dated 4-21-2006
- Resolution 2015-42 dated 12-21-2015
- Amended by motion City Council 6-18-2018