



City Council Committee Meeting Notice

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: (785) 368-3710
www.topeka.org

Committee: Policy & Finance
Meeting Date: January 28, 2025
Time: 1:00pm
Location: 1st Floor Conference Room, Cyrus K. Holliday Building
620 SE Madison (*a virtual attendance option is available*)

Agenda:

1. Call to order
2. Elect 2025 Committee Chair
3. Approve November 18, 2024 Meeting Minutes
4. Action Items:
 - a. CID Policy Amendments
 - b. TIF Policy Amendments
 - c. RHID Policy Amendments
 - d. Authorizing the Signing of Certain Contracts
5. Discussion:
 - a. 2026 Budget
6. Other:
 - a. ARPA Update
7. Public Comment
8. Adjourn

STAFF REQUESTED: Dr. Robert M. Perez, City Manager
Amanda Stanley, City Attorney
Rhiannon Friedman, Planning & Development Director
Josh McAnarney, Division Director of Budget and Finance

COMMITTEE MEMBERS: Marcus Miller – District 6
Spencer Duncan – District 8
Michelle Hoferer – District 9

Contacts: Tonya Bailey, Senior Executive Assistant
Tara Jefferies, Senior Executive Assistant
Council Office: councilassist@topeka.org 785-368-3710

*** Please call the Council Office by 5:00pm on the date prior to the meeting to request Zoom link. ***



CITY OF TOPEKA

CITY COUNCIL COMMITTEE MEETING MINUTES

POLICY AND FINANCE COMMITTEE

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: 785-368-3710
www.topeka.org

Date: November 18, 2024

Time: 2:00pm

Location: 1st Floor Conference Room, Cyrus K. Holliday Bldg. 620 SE Madison (*a virtual attendance option is available*)

Committee members Present: Spencer Duncan (Chair), Marcus Miller, Michelle Hoferer

City Staff Present: City Manager Dr. Robert M. Perez, City Attorney Amanda Stanley, Deputy Director Public Works Jason Tryon, Budget Manager Josh McAnarney, Senior Attorney Brandy Roy-Bachman

1) Call to Order

Committee Chair Duncan called the meeting to order at 2:00pm.

2) Approve October 22, 2024 Meeting Minutes

Committee member Miller made a motion to approve the minutes from the previous meeting. Committee member Hoferer seconded. Motion approved 3-0-0.

3) Topeka Performing Arts Center (TPAC) Common Consumption Area

Committee Chair Duncan spoke to the Topeka Performing Arts Center (TPAC) Common Consumption Area (CCA). When the CCA was introduced the area in front of TPAC was not included. Since then the TPAC Board of Directors have grown interest in participating.

City Attorney Amanda Stanley stated that after looking closer at the Common Consumption Area (CCA) it gave the opportunity to review policies concerning the alcohol drinking zone around 4th Street and Quincy.

Senior Attorney Brandy Roy-Bachman spoke to the recommendation for the boundaries encompassing the area.

The area amendment proposal is: 4th Street from Jackson Street to Monroe Street; Monroe Street from 4th Street to 8th Avenue; 8th Avenue from Monroe Street to Quincy Street; Quincy Street from 8th Avenue to 10th Avenue; 10th Avenue from Quincy Street to Jackson Street; Jackson Street from 10th Avenue to 4th Street.

Committee member Miller spoke to the positive impact to have the boundary down Monroe Street.

Committee Chair Duncan reminded everyone that all laws will apply and buildings can set their own standards to participate. He also spoke to notifying Shawnee County Department 200 SE 7th Street to give a courtesy update of the recommended amendment to the boundaries.

Committee member Hoferer stated she supports the boundaries of Monroe Street.

Committee members approved by consensus.

4) Other Items

Committee Chair Duncan spoke to American Rescue Plan Act (ARPA) and confirmed there are no funds remaining and everything has been accounted for in year 2024.

Committee Chair Duncan stated that currently there is not a meeting scheduled for December. If there is a need for a meeting it will be virtual.

Chairman Duncan adjourned the meeting at 2:12pm

The video of this meeting can be viewed at; <https://youtu.be/-qVc4Xdu5Mo>



**City of Topeka
Policy &
Finance
Committee**

620 SE Madison St.
Topeka, Kansas 66603
www.topeka.org

DATE: January 28, 2025

CONTACT PERSON: Amanda Stanley

SUBJECT: Community Improvement District (CID) Policy Amendments

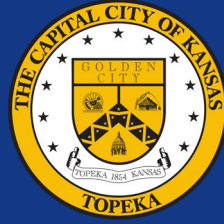
PROJECT #:

DOCUMENT DESCRIPTION:

Community Improvement District (CID) Policy Proposed Amendments.

ATTACHMENTS:

Presentation-TIF/CID/RHID-Policy & Procedure Updates
CID Policy Proposed Amendments (Clean version)
CID Policy Proposed Amendments (Redline version)
CID Procedure Proposed Amendments (Clean version)
CID Procedure Proposed Amendments (Redline version)



CITY OF
TOPEKA



TIF/CID/RHID
Policy & Procedure
Updates

Purpose

2

Outlined in this presentation are key updates and changes being proposed for our Tax Increment Financing (TIF) District, Community Improvement District (CID), and Reinvestment Incentive Housing District (RHID) policies and procedures.

The purpose of this is to bring a uniform approach across our various City of Topeka incentive programs and their structures.



Funding Agreement

- CID – Adding funding agreement of \$25,000 that will align with TIF & RHID. This allows for funding to cover the City's cost for financial and legal advisors and direct costs of outside consultants including, but not limited to, civil engineers and traffic engineers.
- TIF – Addition of any Engineering Fees to reimbursable items under funding agreement. Covering review of plans and traffic impact studies.
- RHID - modify the RHID policy to have the funding agreement signed once the project plan is submitted before further analysis is completed.



Application Fees

- The proposed change to the CID procedure will increase the CID application fee from \$1,500 to \$5,000 putting it in alignment with both TIF and RHID programs.



Signage

- CID – Addition of language requiring signage to be displayed in each business within the CID sales tax district.
 - Prominently at each public entrance for duration of the CID sales tax collection.
 - The font size of the printed message shall be at least 30 pt.
 - The sign shall be a minimum size of 8.5 inches by 11 inches.



Affordable Housing

- TIF – Additional language to the program goals adding in creation of affordable housing and any efforts to increase affordable housing.



Provisions & Policy Guidelines

- CID – Additional requirement of certification that neither the developer entity nor any of its shareholders/partners/members is delinquent on its property tax or special assessment payments on any property it owns or controls in Shawnee County.
- This language already exists in both TIF & RHID policies.



Review Committee

- CID & TIF – Adjustment to have Review Committee include the following: Assistant City Manager, Chief Financial Officer, Director of Public Works, Director of Planning & Development, and the City Attorney, or their designees. The committee may also include City staff and individual designated by the City Manager, including but not limited to the Utilities Director, City's bond counsel and City financial advisor.
- This is consistent with the RHID policy for internal staff and external advisors and counsel.



**CITY OF TOPEKA
COMMUNITY IMPROVEMENT DISTRICT ("CID") POLICY**

Effective Date:

Sections:

- I. OBJECTIVES**
 - II. SCOPE**
 - III. DEFINITIONS**
 - IV. PROVISIONS**
 - V. PROCEDURES**
 - VI. STATUTORY AMENDMENTS**
 - VII. EFFECTIVE DATE**
 - VIII. RESPONSIBILITY FOR ENFORCEMENT**
-

I. OBJECTIVES.

The proper use of a Community Improvement District (CID) should promote, stimulate and develop the general and economic welfare of and quality of life in the City of Topeka. A CID involves public financing of all or a portion of a "Project" as defined in the Community Improvement District Act ("Act") within a prescribed area (the District). A CID Project should provide public benefit such as strengthening economic development and employment opportunities; enhancing tourism; upgrading older real estate through redevelopment or rehabilitation; or promoting sustainability. Public financing is achieved by levying and collecting special assessments and/or a CID sales tax upon property in the District.

II. SCOPE.

An applicant may petition the City to utilize CID financing to fund Projects eligible under the Act. The authority and decision to approve a petition establishing a CID for a Project is within the sole discretion of the Governing Body. However, Projects in which the total project costs are less than \$1 million dollars will not be considered. The Governing Body is under no obligation to approve any petitioned Project. This Policy is intended to provide a guide in considering applications. The Governing Body reserves the right to deviate from this Policy when it believes it is in the City's best interest.

III. DEFINITIONS.

- A. "CID Sales Tax" means a retailers' sales tax over and above the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailer's sales tax act, within a District, in any increment of .10% or .25% not to exceed 2% as authorized

49 by the Act, pledging such revenue to pay the bonds issued for the Project
50 or to reimburse the cost of the Project pursuant to pay-as-you-go
51 financing.

52 B. "Cost" means the definition set out in K.S.A. 12-6a27, as amended. The
53 City, on a case by case basis, may consider costs incurred within 12
54 months prior to District establishment, provided the costs were incurred
55 after July 1, 2009. The City reserves the right to exclude otherwise
56 eligible costs under the Act. . The approved project costs shall be
57 described in detail in a Development Agreement.

58 C. "Owner" means the owner or owners of record, whether resident or not, of
59 real property within the District. The applicant shall be an owner.

60 D. "Pay-As-You-Go" means a method of financing in which the costs of a
61 Project are financed privately, and the approved costs of such Project are
62 reimbursed after Project completion as monies are deposited in the
63 District fund.

64 E. "Project" may include any item eligible under the Act, as described in
65 K.S.A. 12-6a27, as amended, but the City reserves the right to exclude
66 otherwise eligible Projects under the Act; determine eligible and ineligible
67 projects; and determine the amount of funding for a Project on a case by
68 case basis. These terms and approvals shall be set out in a Development
69 Agreement.

70 F. "Review Committee" includes the Assistant City Manager, Chief Financial
71 Officer, Director of Public Works, Director of Planning & Development, and
72 the City Attorney, or their designees. The Committee may also include
73 City staff and individuals designated by the City Manager, including but
74 not limited to the Utilities Director, City's bond counsel and City financial
75 advisor.

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77 **IV. PROVISIONS.**
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79 A. Criteria. The Governing Body shall consider establishment of a CID when
80 it determines it is in the best interest of the City and provided the Project
81 meets one or more of the following criteria:
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- 83 1. Creates facilities which promote the cultural, historical, or artistic
84 elements of the City and enhance tourism and quality of life.
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- 86 2. Attracts unique commercial, office, industrial, and/or mixed use
87 development which will enhance the economic climate of the City
88 and diversify the economic base.
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- 90 3. Substantially promotes economic development, investment or
91 reinvestment in the community.

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4. Encourages retail projects that enhance the retail base by either attracting new sales or capturing sales moving to other markets.
5. Provides for the construction of facilities that promote tourism or enhance the quality of life within the City.
6. Upgrades older commercial real estate through redevelopment and/or rehabilitation.

B. Applicant Responsibility. The application process shall include an application form and the petition required by the Act. As part of the process, the applicant shall complete the following prior to submission of the petition to the Governing Body:

1. Provide evidence in a form satisfactory to the City of the applicant's financial ability to complete the proposed project in a timely manner.
2. Provide documentation substantiating the applicant's sources of funding, including the amount/percentage of equity funding.
3. Submit a financial analysis demonstrating that the projected revenue is sufficient to pay the costs of the project, including bond debt service. The Review Committee may secure an independent feasibility study, the costs of which shall be borne by the applicant. Additionally, the Chief Financial Officer may secure an independent feasibility or 'but-for' analysis, the costs of which shall be borne by the applicant. As authorized under the Kansas Open Records Act, the City will treat as confidential any such sensitive financial information provided by the applicant or its guarantors to the City's Chief Financial Officer, other city advisors or legal counsel, and will, if requested, enter on the City's behalf into a non-disclosure agreement; provided, however, that such advisors or legal counsel must have the right under such agreement to convey their conclusions about the applicant's ability to meet the requirements above based upon its review.
4. Pay all required fees and comply with all procedural requirements of the Act and the City's CID Policy.
5. Execute a Development Agreement contemporaneous with presentation of the CID petition to the governing body.
6. If a CID Sales Tax is first levied or modified after [insert date], the applicant shall ensure that each retailer responsible for collecting the CID Sales Tax complies with the following requirements:

- 140 a. Upon establishment of a CID sales tax district, each
141 business within the CID sales tax district shall display
142 prominently at each public entrance, for the duration of time
143 that the CID sales tax is collected, a sign that contains, at a
144 minimum, the following: "This project made possible by
145 Community Improvement District Financing. Additional
146 Community Improvement District sales tax of ____% collected
147 here."
148 b. The sign shall be a minimum size of 8.5 inches by 11 inches.
149 c. The font size of the printed message shall be at least 30 pt.
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151 7. Provide additional information requested by one or more members
152 of the Review Committee to permit the members to assess the
153 need for the amount and timing of the CID subsidy requested.
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155 8. Provide certification that neither the developer entity nor any of its
156 shareholders/partners/members is delinquent on its property tax or
157 special assessment payments on any property it owns or controls in
158 Shawnee County;
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160 C. Review Committee Consideration. The Review Committee shall review
161 each application and petition and make a recommendation to the
162 Governing Body. In determining whether to recommend approval of a CID
163 petition and the method of financing, the Review Committee may consider
164 all of the following:
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166 1. Whether creation of a CID meets one or more of the criteria set
167 forth in Section IV(A);
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169 2. The total development costs and investment, including estimated
170 Project costs for which public financing is sought;
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172 3. Sources of funding, including the amount of equity funding in
173 comparison to public financing;
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175 4. Experience and financial stability of Developer;
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177 5. Whether tenants for the Project are in place and the nature and
178 quality of the tenants;
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180 6. Financial viability of the Project, including potential competition;
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182 7. The amount and purpose of the funding request, including the
183 percentage of funding for capital costs; operational costs; and
public costs; Whether the requested CID funding is necessary to
incentivize the project "but-for" analysis;

- 184 8. If bonds are requested, the projected debt service coverage ratio of
185 1.25 from projected revenues; any additional security pledged by
186 the Developer; and the marketability of the bonds; and
- 187 9. Whatever other factors or considerations the Review Committee
188 believes the Governing Body would find relevant to its decision.
- 189 D. Governing Body Review. The Governing Body shall review the financial
190 viability of each CID and shall use this information in determining whether
191 to grant the Petition and, if granted, the appropriate term of the CID, which
192 may be less than the duration allowed by the Act.
- 193 1. In the event pay-as-you-go financing is utilized, the CID sales tax
194 shall expire on a date approved by the City, but no later than
195 twenty-two (22) years from the date the state director of taxation
196 begins collecting such tax or when the pay-as-you-go costs have
197 been paid.
- 198 2. CID Bonds issued to finance the Project shall mature on a date
199 approved by the City, but no later than twenty-two (22) years from
200 date of issue, unless otherwise provided by law.
- 201 3. In no event shall any CID sales tax extend later than the date the
202 bonds issued to finance such project or refunding bonds issued for
203 the Project mature.
- 204 E. Financing.
- 205 1. Source of Funds. The cost of all or a portion of any authorized CID
206 Project may be financed by any or all of the following sources:
- 207 a. Pay-As-You-Go financing based either on a special
208 assessment or a CID sales tax within the District, or both;
- 209 b. Special Obligation Bond financing payable wholly through
210 special assessments within the CID;
- 211 c. Special Obligation Bond financing payable in part through
212 special assessments within the CID and in part through a
213 CID sales tax;
- 214 d. General Obligations Bonds;
- 215 e. Any other funds appropriated by the City; or
- 216 f. A combination of the foregoing methods.
- 217 2. Development Agreement. If after review of the application, the
218 Review Committee determines to recommend approval of the CID
219 to the Governing Body, the City Attorney will negotiate a

220 Development Agreement (the "Development Agreement") which
221 shall be presented to the Governing Body for consideration
222 contemporaneous with the Petition. The Development Agreement
223 shall address the recommended method of financing, approved
224 Project(s) and approved Costs; the feasibility of the Project, the
225 steps to be taken to minimize the risk of default; and any other
226 terms the Committee deems appropriate.

227 3. Bonds. The City encourages the use of private financing ("Pay-As-
228 You-Go") with reimbursement to the applicant for eligible, approved
229 costs associated with a CID Project, but the City may consider the
230 issuance of Bonds. Any determination to issue Bonds is within the
231 sole discretion of the Governing Body.

232 a. CID Bonds. The City may issue special obligation notes or
233 bonds ("CID Bonds") (collectively, "Bonds") to finance one or
234 more Projects. In no event shall special assessments be
235 levied against the City. The City will not provide credit
236 enhancements for CID Bonds; however, credit enhancement
237 provided by an applicant will be viewed favorably.

238 b. G.O. Bonds. The City discourages the use of full faith and
239 credit notes or bonds (G.O. Bonds) to finance a Project
240 under this Act, but may consider such action for that portion
241 of a CID Project that is exclusively for public improvements.

242 Prior to the issuance of any Bonds, the applicant must receive a
243 Certificate of Completion from the City. In addition, the applicant
244 must agree to certain disclosures required by the City and the Bond
245 underwriters and ensure that if necessary, such disclosure
246 requirements are included in all subsequent tenant leases and land
247 sales within the District.

248 4. Project Funds. A separate fund shall be created for each District
249 and such fund shall be identified by a suitable title (the "Fund").
250 CID sales tax receipts, special assessments paid to the City under
251 this Act, the proceeds from the sale of Bonds, and any other
252 moneys appropriated by the Governing Body for the purpose of
253 paying Project Costs, including the principal and interest on the
254 bonds issued pursuant to this Act shall be credited to such Fund.

255 a. The Fund shall be solely used to pay the Costs of the Project
256 either through the issuance of Bonds or Pay-As-You-Go
257 financing, and shall be limited to approved costs included in
258 the ordinance authorizing the Project or in the Development
259 Agreement.

260 b. Reimbursement of approved Costs may only be made after
261 a Certificate of Completion has been issued by the City.

**CITY OF TOPEKA
COMMUNITY IMPROVEMENT DISTRICT ("CID") POLICY**

Effective Date: ~~October 25, 2011~~

Sections:

- I. OBJECTIVES**
 - II. SCOPE**
 - III. DEFINITIONS**
 - IV. PROVISIONS**
 - V. PROCEDURES**
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III. DEFINITIONS.

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49 by the Act, pledging such revenue to pay the bonds issued for the Project
50 or to reimburse the cost of the Project pursuant to pay-as-you-go
51 financing.

52 B. "Cost" means the definition set out in K.S.A. 12-6a27, as amended. The
53 City, on a case by case basis, may consider costs incurred within 12
54 months prior to District establishment, provided the costs were incurred
55 after July 1, 2009. The City reserves the right to exclude otherwise
56 eligible costs under the Act. . The approved project costs shall be
57 described in detail in a Development Agreement.

58 C. "Owner" means the owner or owners of record, whether resident or not, of
59 real property within the District. The applicant shall be an owner.

60 D. "Pay-As-You-Go" means a method of financing in which the costs of a
61 Project are financed privately, and the approved costs of such Project are
62 reimbursed after Project completion as monies are deposited in the
63 District fund.

64 E. "Project" may include any item eligible under the Act, as described in
65 K.S.A. 12-6a27, as amended, but the City reserves the right to exclude
66 otherwise eligible Projects under the Act; determine eligible and ineligible
67 projects; and determine the amount of funding for a Project on a case by
68 case basis. These terms and approvals shall be set out in a Development
69 Agreement.

70 F. "Review Committee" includes the Assistant City Manager, Deputy City
71 Manager, Director of Chief Financial Officer, Director of Public Works,
72 Director of Planning & Development, Director of Development
73 Coordination, and the City Attorney, or their designees. The Committee
74 may also include City staff and individuals designated by the City
75 Manager, including but not limited to the Utilities Director, City's bond
76 counsel and City financial advisor.

77 78 **IV. PROVISIONS.** 79

80 A. Criteria. The Governing Body shall consider establishment of a CID when
81 it determines it is in the best interest of the City and provided the Project
82 meets one or more of the following criteria:
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84 1. Creates facilities which promote the cultural, historical, or artistic
85 elements of the City and enhance tourism and quality of life.
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87 2. Attracts unique commercial, office, industrial, and/or mixed use
88 development which will enhance the economic climate of the City
89 and diversify the economic base.
90

3. Substantially promotes economic development, investment or reinvestment in the community.
4. Encourages retail projects that enhance the retail base by either attracting new sales or capturing sales moving to other markets.
5. Provides for the construction of facilities that promote tourism or enhance the quality of life within the City.
6. Upgrades older commercial real estate through redevelopment and/or rehabilitation.

B. Applicant Responsibility. The application process shall include an application form and the petition required by the Act. As part of the process, the applicant shall complete the following prior to submission of the petition to the Governing Body:

1. Provide evidence in a form satisfactory to the City of the applicant's financial ability to complete the proposed project in a timely manner.
2. Provide documentation substantiating the applicant's sources of funding, including the amount/percentage of equity funding.
3. Submit a financial analysis demonstrating that the projected revenue is sufficient to pay the costs of the project, including bond debt service. The Review Committee may secure an independent feasibility study, the costs of which shall be borne by the applicant. Additionally, the Chief Financial Officer may secure an independent feasibility or 'but-for' analysis, the costs of which shall be borne by the applicant. As authorized under the Kansas Open Records Act, the City will treat as confidential any such sensitive financial information provided by the applicant or its guarantors to the City's Chief Financial Officer, other city advisors or legal counsel, and will, if requested, enter on the City's behalf into a non-disclosure agreement; provided, however, that such advisors or legal counsel must have the right under such agreement to convey their conclusions about the applicant's ability to meet the requirements above based upon its review.
4. Pay all required fees and comply with all procedural requirements of the Act and the City's CID Policy.
5. Execute a Development Agreement contemporaneous with presentation of the CID petition to the governing body.

6. If a CID Sales Tax is first levied or modified after [insert date], the applicant shall ensure that each retailer responsible for collecting the CID Sales Tax complies with the following requirements:

~~(a)~~a. Upon establishment of a CID sales tax district, each business within the CID sales tax district shall display prominently at each public entrance, for the duration of time that the CID sales tax is collected, a sign that contains, at a minimum, the following: "This project made possible by Community Improvement District Financing. Additional Community Improvement District sales tax of ____% collected here."

~~(b)~~b. The sign shall be a minimum size of 8.5 inches by 11 inches.
c. The font size of the printed message shall be at least 30 pt.

7. Provide additional information requested by one or more members of the Review Committee to permit the members to assess the need for the amount and timing of the CID subsidy requested.

8. Provide certification that neither the developer entity nor any of its shareholders/partners/members is delinquent on its property tax or special assessment payments on any property it owns or controls in Shawnee County;

C. Review Committee Consideration. The Review Committee shall review each application and petition and make a recommendation to the Governing Body. In determining whether to recommend approval of a CID petition and the method of financing, the Review Committee may consider all of the following:

1. Whether creation of a CID meets one or more of the criteria set forth in Section IV(A);
2. The total development costs and investment, including estimated Project costs for which public financing is sought;
3. Sources of funding, including the amount of equity funding in comparison to public financing;
4. Experience and financial stability of Developer;
5. Whether tenants for the Project are in place and the nature and quality of the tenants;
6. Financial viability of the Project, including potential competition;
7. The amount and purpose of the funding request, including the percentage of funding for capital costs; operational costs; and

public costs; Whether the requested CID funding is necessary to incentivize the project “but-for” analysis;

8. If bonds are requested, the projected debt service coverage ratio of 1.25 from projected revenues; any additional security pledged by the Developer; and the marketability of the bonds; and

9. Whatever other factors or considerations the Review Committee believes the Governing Body would find relevant to its decision.

D. Governing Body Review. The Governing Body shall review the financial viability of each CID and shall use this information in determining whether to grant the Petition and, if granted, the appropriate term of the CID, which may be less than the duration allowed by the Act.

1. In the event pay-as-you-go financing is utilized, the CID sales tax shall expire on a date approved by the City, but no later than twenty-two (22) years from the date the state director of taxation begins collecting such tax or when the pay-as-you-go costs have been paid.

2. CID Bonds issued to finance the Project shall mature on a date approved by the City, but no later than twenty-two (22) years from date of issue, unless otherwise provided by law.

3. In no event shall any CID sales tax extend later than the date the bonds issued to finance such project or refunding bonds issued for the Project mature.

E. Financing.

1. Source of Funds. The cost of all or a portion of any authorized CID Project may be financed by any or all of the following sources:

a. Pay-As-You-Go financing based either on a special assessment or a CID sales tax within the District, or both;

b. Special Obligation Bond financing payable wholly through special assessments within the CID;

c. Special Obligation Bond financing payable in part through special assessments within the CID and in part through a CID sales tax;

d. General Obligations Bonds;

e. Any other funds appropriated by the City; or

f. A combination of the foregoing methods.

- 218 2. Development Agreement. If after review of the application, the
219 Review Committee determines to recommend approval of the CID
220 to the Governing Body, ~~the Applicant shall supply an executed the~~
221 City Attorney will negotiate a Development Agreement (the
222 "Development Agreement") which shall be presented to the
223 Governing Body for consideration contemporaneous with the
224 Petition. The Development Agreement shall address the
225 recommended method of financing, approved Project(s) and
226 approved Costs; the feasibility of the Project, the steps to be taken
227 to minimize the risk of default; and any other terms the Committee
228 deems appropriate.
- 229 3. Bonds. The City encourages the use of private financing ("Pay-As-
230 You-Go") with reimbursement to the applicant for eligible, approved
231 costs associated with a CID Project, but the City may consider the
232 issuance of Bonds. Any determination to issue Bonds is within the
233 sole discretion of the Governing Body.
- 234 a. CID Bonds. The City may issue special obligation notes or
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236 more Projects. In no event shall special assessments be
237 levied against the City. The City will not provide credit
238 enhancements for CID Bonds; however, credit enhancement
239 provided by an applicant will be viewed favorably.
- 240 b. G.O. Bonds. The City discourages the use of full faith and
241 credit notes or bonds (G.O. Bonds) to finance a Project
242 under this Act, but may consider such action for that portion
243 of a CID Project that is exclusively for public improvements.
- 244 Prior to the issuance of any Bonds, the applicant must receive a
245 Certificate of Completion from the City. In addition, the applicant
246 must agree to certain disclosures required by the City and the Bond
247 underwriters and ensure that if necessary, such disclosure
248 requirements are included in all subsequent tenant leases and land
249 sales within the District.
- 250 4. Project Funds. A separate fund shall be created for each District
251 and such fund shall be identified by a suitable title (the "Fund").
252 CID sales tax receipts, special assessments paid to the City under
253 this Act, the proceeds from the sale of Bonds, and any other
254 moneys appropriated by the Governing Body for the purpose of
255 paying Project Costs, including the principal and interest on the
256 bonds issued pursuant to this Act shall be credited to such Fund.
- 257 a. The Fund shall be solely used to pay the Costs of the Project
258 either through the issuance of Bonds or Pay-As-You-Go
259 financing, and shall be limited to approved costs included in

260 the ordinance authorizing the Project or in the Development
261 Agreement.

262 b. Reimbursement of approved Costs may only be made after
263 a Certificate of Completion has been issued by the City.

264 c. In the event moneys remain in the Fund after the expiration
265 of the CID sales tax, such moneys shall continue to be used
266 solely to pay the Cost of the Project. Upon payment of all
267 Project Costs and principal and interest on any bonds issued
268 for such District, the City has the authority to terminate the
269 CID and spend any moneys remaining in such Fund for the
270 purposes for which local sales tax receipts may be spent.

271 5. Fees. When submitting its application the applicant shall pay a
272 non-refundable application fee to cover City expenses associated
273 with reviewing and processing the CID request. The City shall also
274 require the applicant to reimburse all costs incurred by the City for
275 additional legal, financial, ~~and/or~~ planning and engineering
276 consultants, for direct out-of-pocket expenses, and for other costs
277 relating to services rendered for the City to review, evaluate,
278 process and consider the petition for a CID. If bonds are requested
279 and subsequently approved by the City the applicant shall also be
280 responsible for all costs of issuance associated therewith. The
281 applicant shall also be responsible for paying an annual
282 administrative fee to cover the cost of monitoring and administering
283 the CID. Fee amounts shall be set out in the CID Procedures as
284 described in Section

285 V. PROCEDURES.

286 City staff shall develop procedures for processing CID applications and filing CID
287 petitions, in addition to such other matters such as the establishment of fees.
288 Such procedures shall be approved, and amended as appropriate, by the City
289 Manager.

291 VI. STATUTORY AMENDMENTS; CONFLICT WITH STATE LAW.

293 Any amendment to the Act or any statute cited herein or used as a source of
294 authority for development of the City's CID Policy shall apply without the need to
295 modify or amend this Policy. If any part of this policy conflicts with state law, the
296 latter shall control.

297 VII. EFFECTIVE DATE.

298 This CID Policy shall take effect upon passage by the ~~City Council~~ Governing
299 Body.

300 VIII. RESPONSIBILITY FOR ENFORCEMENT.

301 The City Manager shall be responsible for the enforcement of this Policy.

262 c. In the event moneys remain in the Fund after the expiration
263 of the CID sales tax, such moneys shall continue to be used
264 solely to pay the Cost of the Project. Upon payment of all
265 Project Costs and principal and interest on any bonds issued
266 for such District, the City has the authority to terminate the
267 CID and spend any moneys remaining in such Fund for the
268 purposes for which local sales tax receipts may be spent.

269 5. Fees. When submitting its application the applicant shall pay a
270 non-refundable application fee to cover City expenses associated
271 with reviewing and processing the CID request. The City shall also
272 require the applicant to reimburse all costs incurred by the City for
273 additional legal, financial, planning and engineering consultants,
274 for direct out-of-pocket expenses, and for other costs relating to
275 services rendered for the City to review, evaluate, process and
276 consider the petition for a CID. If bonds are requested and
277 subsequently approved by the City the applicant shall also be
278 responsible for all costs of issuance associated therewith. The
279 applicant shall also be responsible for paying an annual
280 administrative fee to cover the cost of monitoring and administering
281 the CID. Fee amounts shall be set out in the CID Procedures as
282 described in Section

283 **V. PROCEDURES.**

284 City staff shall develop procedures for processing CID applications and filing CID
285 petitions, in addition to such other matters such as the establishment of fees.
286 Such procedures shall be approved, and amended as appropriate, by the City
287 Manager.

288 **VI. STATUTORY AMENDMENTS; CONFLICT WITH STATE LAW.**

291 Any amendment to the Act or any statute cited herein or used as a source of
292 authority for development of the City's CID Policy shall apply without the need to
293 modify or amend this Policy. If any part of this policy conflicts with state law, the
294 latter shall control.

295 **VII. EFFECTIVE DATE.**

296 This CID Policy shall take effect upon passage by the Governing Body.

297 **VIII. RESPONSIBILITY FOR ENFORCEMENT.**

298 The City Manager shall be responsible for the enforcement of this Policy.

**CITY OF TOPEKA
COMMUNITY IMPROVEMENT DISTRICT (“CID”) PROCEDURES**

Effective Date:

Sections:

- I POLICY APPLICABILITY**
- II DEFINITIONS**
- III APPLICATION PROCESS**
- IV DISTRICT ESTABLISHMENT**
- V METHOD OF PROJECT FINANCING**
- VI BOND FINANCING GUIDELINES**

I. POLICY APPLICABILITY.

The following procedures are established under the authority of the City Manager and are intended to provide guidance in establishing a Community Improvement District (“CID” or “District”) in accordance with the Governing Body CID Policy as approved by Resolution No. _____ on _____. The CID Policy is incorporated herein by reference. These procedures may be waived by the City Manager, if such waiver is in the best interest of the City and does not conflict with any statutory or procedural requirement of state law. If any part of this procedure conflicts with state law, the latter shall control.

II. DEFINITIONS.

The terms used in these Procedures shall have the same meaning as set forth in Section III of the CID Policy.

III. APPLICATION PROCESS.

- A. CID Application. An applicant shall make application for a CID by filing with the City Clerk one (1) original written application on a form provided by the City, in addition to an electronic copy of the application. The applicant shall also submit the petition required by the Act.
- B. Fees.
 - 1. *Application Fee.* A non-refundable application fee in the amount of \$5,000.00, made payable to the City of Topeka, shall accompany the CID Application.
 - 2. *Funding Agreement.* In addition to the application fee, within fifteen (15) business days of an application, the applicant shall execute the City’s standard Funding Agreement and deposit with the City, in immediately available funds, \$25,000 to cover the City’s costs of

evaluating such request which may include, but not necessarily be limited to, direct costs of the City's financial and legal advisors and direct costs of outside consultants including, but not limited to, civil engineers and traffic engineers. The Funding Agreement shall provide that if the balance of such deposit declines below \$10,000 at any point in time, the applicant shall restore such balance to \$25,000 within ten (10) business days by making a subsequent deposit with the City in immediately available funds. Should the applicant withdraw its application, the City will use its best efforts to refund any unused balance of the deposit to the applicant within thirty (30) business days. The applicant may seek reimbursement from CID proceeds (if any) for any such City costs charged against the deposit.

3. *CID Administrative Fee if District is Approved.* An annual administrative fee of 2% of the annual CID revenue generated within the District shall be charged to reimburse City for services rendered in the administration and supervision of the Project. Such CID Administration Fee shall be paid from the Project Fund. The CID Administrative Fee is an eligible cost for reimbursement if there are sufficient funds. In no event shall the total fee, including the initial application fee and the CID Administrative Fee, but excluding the costs in Section III(B)(2), exceed 5% of the total Project cost.

4. *Amendments.* The City Manager may establish City fees, for amendments and modifications to the District financing documents that occur throughout the term. In addition, the applicant shall be responsible for all City Consultant fees associated with any such amendment request.

5. *State Fee.* In addition to the CID Administrative Fee, if a CID sales tax is utilized, the Kansas Dept of Revenue may retain an amount in the state CID sales tax administration fund to defray the expenses of the state in administration and enforcement.

C. Preliminary Review and Pre-Application Meeting. Prior to submittal of a formal application, an applicant is encouraged to meet with the Review Committee to discuss a proposed project and possible CID financing. These discussions are preliminary and are not binding on the applicant, the Review Committee, or the Governing Body. If the City utilizes any consultants to assist with the preliminary evaluation, the applicant shall be responsible to pay the associated costs.

IV. DISTRICT ESTABLISHMENT.

A. Petition. A CID shall be established by petition filed with the City Clerk. The Petition must meet all requirements of the Act, the CID Policy and

these Procedures and must be submitted in sufficient time for staff to follow established procedures for publication; to perform site plan review; and to analyze the merits and feasibility of the proposed CID. The City reserves the right to request any additional information to supplement the Petition.

B. Petition Participation.

1. An applicant seeking to finance all or a portion of the CID eligible expenses with a CID special assessment must obtain the signatures of 100% of the property owners of all land area within the District.
2. An applicant seeking to finance CID eligible expenses in whole or in part by a CID sales tax must obtain the signatures of 100% of the property owners of the land area within the proposed District.

C. Public Hearing (Sales Tax Only). If a CID sales tax is requested for all or part of the project, the Governing Body shall adopt a resolution calling for a public hearing on the creation of the District and imposition of a CID sales tax. The resolution shall be published once per week for two (2) consecutive weeks with the last publication at least seven (7) days prior to the hearing and also sent by certified mail to all owners at least ten (10) days prior to the hearing.

For Districts financed by special assessments only and for which a petition signed by 100% of the property owners is submitted, no notice or public hearing is required for Governing Body action.

D. Governing Body Action. The Governing Body will not consider a CID until a complete application is submitted and reviewed by the Review Committee, fees are paid, and a recommended Development Agreement is available. Following the public hearing, if required, the Governing Body by majority vote may establish the District by ordinance.

1. The ordinance shall authorize the Project, approve the estimated cost of Project, include a legal description of the District (with map), approve the method of financing including the levying of a CID sales tax (if applicable), and approve the maximum amount of and method of assessment, if applicable. The ordinance shall become effective upon publication once in the official city newspaper. The ordinance shall also be recorded with the Register of Deeds.
2. Governing Body establishment of a CID does not constitute approval of a site plan, zoning, or other land development approval. Establishment of a CID is an entirely separate process. CID projects are still required to obtain the necessary development and

regulatory approvals.

V. METHOD OF PROJECT FINANCING.

A. Certificate of Completion.

1. As noted in the Policy, Projects may be financed by a variety of methods. Before payment will be made to applicant, the City must issue a Certificate of Completion. Multiple Certificates of Completion may be issued for projects with approved phases.
2. The request for Certificate of Completion shall include an affidavit of the applicant certifying:
 - a. Project improvement is an approved CID eligible cost and identify its priority for reimbursement, if any;
 - b. Project was constructed in accordance with all applicable laws and codes;
 - c. Cost was incurred for authorized project improvements;
 - d. Cost has not previously been submitted for reimbursement;
 - e. Cost reflects the actual cost expended; and
 - f. Applicant has no outstanding or anticipated liens for work constructed.

B. Reimbursement.

1. If pay as you go financing is used, the applicant shall submit to the Chief Financial Officer or designee copies of all invoices supporting its request for reimbursement, accompanied by a Certificate of Completion. Invoices must be submitted pursuant to the Development Agreement but not more frequently than monthly.
2. The Chief Financial Officer or designee shall attempt to determine the eligibility of the cost within with a period of time identified in the Development Agreement. If the Chief Financial Officer or designee determines the nature or amount of the request for reimbursement is outside the scope of the Act or the Development Agreement, Developer may appeal this decision in accordance with the procedure in Chapter 2.145 of the Topeka Municipal Code. Any reimbursement payment shall be stayed pending a determination by the hearing officer.

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3. Requests for reimbursement shall be denied unless submitted before the Project is closed or within thirty (30) days thereafter.
 4. CID revenues shall be paid in the following order:
 - a. First, the CID administrative fee.
 - b. Second, cost of preparation and publication of notices of hearings, resolutions, ordinances and other proceedings relating to the creation or administration of the District or the issuance of bonds.
 - c. Third, the Petitioner's other costs as defined in Section III(B) of the CID Policy.

201 C. Special Assessments.

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1. If special assessments shall be levied to finance all or any part of the Project cost, the City must follow the procedures set out in K.S.A. 12-6a01 *et seq.* except that no assessments may be levied against the City at large. In addition, if the source of financing includes payment from a pledge of revenue received from the CID sales tax or any other funds appropriated by the City for purpose of paying Project costs, including the principal and interest of bonds, then the ordinance levying the assessments may state that the annual installments of such assessment for any year may be reduced or eliminated to the extent that, prior to the date the City certifies the City tax levy to the County, the City has received sufficient funds from the above described sources to pay the debt service on any bonds issued for the Project costs, which would have been paid by such installment.
 2. The City is not required to refund any prepayment of assessments after such prepayment is made to the City. Any prepayment must be paid in full prior to the issuance of bonds, or after the issuance of bonds by paying all of the installments which have been levied and also the unlevied installments with interest on the latter at the rate provided in the bonds from the date of the bonds to the time of maturity of the last installment in compliance with K.S.A. 10-115, and amendments thereto.

227 D. CID Sales Tax.

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1. A CID sales tax may be levied in any increment of .10% or .25% not to exceed 2%, which amount is in addition to the aggregate amount

of the retailers' sales tax contained in K.S.A. 12-187 through 12-197. The revenue from the CID sales tax may be pledged to pay the bonds issued for the Project or to reimburse the cost of the Project through pay-as-you go financing.

2. If CID bonds are issued, the CID sales tax shall expire no later than the date the bonds mature. If pay-as-you-go financing is used, the CID sales tax shall expire on a date approved by the City, but no later than 22 years from the date the state director of taxation begins collecting such tax or when the Project bonds or pay-as-you-go costs have been paid.

3. Procedure:

a. Upon adoption of a CID sales tax, the City shall send a certified copy of the resolution or ordinance authorizing the levy of the CID sales tax to the Kansas Director of Taxation. Notice must be received ninety (90) days before the first day of the quarter in which the CID sales tax will commence. Thereafter, the Kansas Director of Taxation shall commence collection of the CID sales tax in the District at the same time and in the same manner for the collection of the state retailers' sales tax. The full remittance shall be deposited in the state treasury.

b. The state may retain a portion of the CID sales taxes collected for deposit in the state CID sales tax administration fund to defray the state costs of administration and enforcement (the "state fee").

c. The state shall no less than quarterly remit to the City the CID sales tax receipts collected less the state fee, if any. The amount shall be deposited in the City CID Project fund. Such fund shall be created for each District,

d. Within 15 days of written request of the City, the state will provide the City with a copy of any retailers' sales and use tax return filed with the state in connection with a District for which sales or use tax revenues are intended to be used to finance Project costs. Such returns and the information contained therein shall be kept confidential, but may be used for purposes of allocating and depositing such revenues in connection with the bonds used to finance Project costs.

E. Appeals. No suit to set aside assessments or otherwise question the validity of the proceedings for the District establishment or Project authorization

shall be brought 30 days after publication of the resolution or ordinance creating the District. No suit to set aside the CID sales tax may be brought 30 days from the publication of the ordinance or resolution declaring the intent to impose the CID sales tax. No protest petition pertaining to the issuance of full faith and credit bonds may be brought 60 days following the date of public hearing to create or modify the District.

VI. BOND FINANCING GUIDELINES.

If CID bonds are issued for the project, the following guidelines shall be applied:

- A. The maximum maturity for Bonds is 22 years.
- B. For feasibility, it is recommended that Bonds be issued in a minimum amount of \$ 1,000,000. This amount may be adjusted upon recommendation of the Review Committee and approval of the Governing Body.
- C. CID Bonds issued under this Policy must include security for the bonds of a sufficient amount, and in a form approved by the City's bond counsel and financial advisor such as an irrevocable letter of credit or payment bond, to minimize any risk in the event of default.
- D. Bonds issued under this Policy must be sold to qualified investors (as defined by the Securities and Exchange Commission Regulation D) in accordance with the minimum denominations as provided herein.
- E. Bonds must initially be offered in denominations of \$100,000 or greater. These denominations may be stepped down (upon consultation with the City's bond counsel and financial advisor) when one of the following are met:
 - 1. the Project being bond financed is substantially leased;
 - 2. the estimated revenue stream yields significant debt service coverage ratio of 1.25 on the bonds;
 - 3. construction of the Project being bond financed is 100% complete;
 - 4. the repayment term is less than or equal to 60% of the maximum permitted repayment term; or
 - 5. waiver by the City Manager.
- F. If a negotiated sale of the bonds is utilized, the City will generally select the underwriter(s) needed to structure, price, and sell the bonds. Exceptions to

322 this process may be approved by the City Manager upon consultation with
323 the City's bond counsel and financial advisor.
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326 CITY OF TOPEKA
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Robert M. Perez, Ph.D., City Manager

**CITY OF TOPEKA
COMMUNITY IMPROVEMENT DISTRICT ("CID") PROCEDURES**

Effective Date: ~~November 9, 2011~~

Sections:

- I POLICY APPLICABILITY**
- II DEFINITIONS**
- III APPLICATION PROCESS**
- IV DISTRICT ESTABLISHMENT**
- V METHOD OF PROJECT FINANCING**
- VI BOND FINANCING GUIDELINES**

I. POLICY APPLICABILITY.

The following procedures are established under the authority of the City Manager and are intended to provide guidance in establishing a Community Improvement District ("CID" or "District") in accordance with the Governing Body CID Policy as approved by Resolution No. ~~8392~~ on ~~October 25, 2011~~. The CID Policy is incorporated herein by reference. These procedures may be waived by the City Manager, if such waiver is in the best interest of the City and does not conflict with any statutory or procedural requirement of state law. If any part of this procedure conflicts with state law, the latter shall control.

II. DEFINITIONS.

The terms used in these Procedures shall have the same meaning as set forth in Section III of the CID Policy.

III. APPLICATION PROCESS.

A. CID Application. An applicant shall make application for a CID by filing with the City Clerk one (1) original written application on a form provided by the City, in addition to an electronic copy of the application. The applicant shall also submit the petition required by the Act.

B. Fees.

1. Application Fee. A non-refundable application fee in the amount of ~~\$1,500.00~~ \$5,000.00, made payable to the City of Topeka, shall accompany the CID Application.

2. Funding Agreement. In addition to the application fee, within fifteen (15) business days of an application, the applicant shall execute the City's standard Funding Agreement and deposit with the City, in immediately available funds, \$25,000 to cover the City's costs of

47 evaluating such request which may include, but not necessarily be
48 limited to, direct costs of the City's financial and legal advisors and
49 direct costs of outside consultants including, but not limited to, civil
50 engineers and traffic engineers. The Funding Agreement shall
51 provide that if the balance of such deposit declines below \$10,000 at
52 any point in time, the applicant shall restore such balance to \$25,000
53 within ten (10) business days by making a subsequent deposit with
54 the City in immediately available funds.

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56 Should the applicant withdraw its application, the City will use its best
57 efforts to refund any unused balance of the deposit to the applicant
58 within ~~thirty~~ (30) business days.

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60 The applicant may seek reimbursement from CID proceeds (if any)
61 for any such City costs charged against the deposit.

62 ~~Reimbursement. Applicant shall pay the following costs by either paying the~~
63 ~~third party directly or by reimbursing the City prior to the City incurring the~~
64 ~~cost:~~

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66 ~~_____ a. All costs necessary to comply with state law, including~~
67 ~~but not limited to: costs of all legal publication notices, resolutions,~~
68 ~~ordinances, and proceedings relating to the issuance of bonds;~~

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70 ~~_____ b. City bond counsel, the City's financial advisor, and any~~
71 ~~other third party professional retained by the City to review and evaluate the~~
72 ~~petition.~~

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74 3. *CID Administrative Fee if District is Approved.* An annual
75 administrative fee of ~~12~~12% of the annual CID revenue generated within
76 the District shall be charged to reimburse City for services rendered
77 in the administration and supervision of the Project. Such CID
78 Administration Fee shall be paid from the Project Fund. The CID
79 Administrative Fee is an eligible cost for reimbursement if there are
80 sufficient funds. In no event shall the total fee, including the initial
81 application fee and the CID Administrative Fee, but excluding the
82 costs in Section III(B)(2), exceed 5% of the total Project cost.

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84 4. *Amendments.* The City Manager may establish City fees, for
85 amendments and modifications to the District financing documents
86 that occur throughout the term. In addition, the applicant shall be
87 responsible for all City Consultant fees associated with any such
88 amendment request.

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90 5. *State Fee.* In addition to the CID Administrative Fee, if a CID sales
91 tax is utilized, the Kansas Dept of Revenue may retain ~~2% of the CID~~
92 ~~sales tax up to a maximum of \$60,000.00 per state fiscal year, an~~

amount in the state CID sales tax administration fund to defray the expenses of the state in administration and enforcement.

- C. Preliminary Review and Pre-Application Meeting. Prior to submittal of a formal application, an applicant is encouraged to meet with the Review Committee to discuss a proposed project and possible CID financing. These discussions are preliminary and are not binding on the applicant, the Review Committee, or the Governing Body. If the City utilizes any consultants to assist with the preliminary evaluation, the applicant shall be responsible to pay the associated costs, ~~provided the City has first notified the applicant of such request and received their consent.~~

IV. DISTRICT ESTABLISHMENT.

- A. Petition. A CID shall be established by petition filed with the City Clerk. The Petition must meet all requirements of the Act, the CID Policy and these Procedures and must be submitted in sufficient time for staff to follow established procedures for publication; to perform site plan review; and to analyze the merits and feasibility of the proposed CID. The City reserves the right to request any additional information to supplement the Petition.

- B. Petition Participation.

1. An applicant seeking to finance all or a portion of the CID eligible expenses with a CID special assessment must obtain the signatures of 100% of the property owners of all land area within the District.
2. An applicant seeking to finance CID eligible expenses in whole or in part by a CID sales tax must obtain the signatures of 100% of the property owners of the land area within the proposed District.

- C. Public Hearing (Sales Tax Only). If a CID sales tax is requested for all or part of the project, the Governing Body shall adopt a resolution calling for a public hearing on the creation of the District and imposition of a CID sales tax. The resolution shall be published once per week for two (2) consecutive weeks with the last publication at least seven (7) days prior to the hearing and also sent by certified mail to all owners at least ten (10) days prior to the hearing.

For Districts financed by special assessments only and for which a petition signed by 100% of the property owners is submitted, no notice or public hearing is required for Governing Body action.

- D. Governing Body Action. The Governing Body will not consider a CID until a complete application is submitted and reviewed by the Review

Committee, fees are paid, and a recommended Development Agreement is available. Following the public hearing, if required, the Governing Body by majority vote may establish the District by ordinance.

1. The ordinance shall authorize the Project, approve the estimated cost of Project, include a legal description of the District (with map), approve the method of financing including the levying of a CID sales tax (if applicable), and approve the maximum amount of and method of assessment, if applicable. The ordinance shall become effective upon publication once in the official city newspaper. The ordinance shall also be recorded with the Register of Deeds.

2. Governing Body establishment of a CID does not constitute approval of a site plan, zoning, or other land development approval. Establishment of a CID is an entirely separate process. CID projects are still required to obtain the necessary development and regulatory approvals.

V. METHOD OF PROJECT FINANCING.

A. Certificate of Completion.

1. As noted in the Policy, Projects may be financed by a variety of methods. Before payment will be made to applicant, the City must issue a Certificate of Completion. Multiple Certificates of Completion may be issued for projects with approved phases.

2. The request for Certificate of Completion shall include an affidavit of the applicant certifying:

- a. Project improvement is an approved CID eligible cost and identify its priority for reimbursement, if any;
- b. Project was constructed in accordance with all applicable laws and codes;
- c. Cost was incurred for authorized project improvements;
- d. Cost has not previously been submitted for reimbursement;
- e. Cost reflects the actual cost expended; and
- f. Applicant has no outstanding or anticipated liens for work constructed.

B. Reimbursement.

1. If pay as you go financing is used, the applicant shall submit to the Chief Financial Officer or designee ~~Director of Finance~~ copies of all invoices supporting its request for reimbursement, accompanied by a Certificate of Completion. Invoices must be submitted ~~quarterly and such submission must occur at least thirty (30) days prior to any quarterly disbursement period or applicant shall have to wait until the next quarterly disbursement period pursuant to the Development Agreement but not more frequently than monthly.~~
2. The ~~Director of Finance~~ Chief Financial Officer or designee shall attempt to determine the eligibility of the cost within ~~thirty (30) days of the submittal~~ with a period of time identified in the Development Agreement. If the ~~Director~~ Chief Financial Officer or designee determines the nature or amount of the request for reimbursement is outside the scope of the Act or the Development Agreement, Developer may appeal this decision in accordance with the procedure in Chapter 2.145 of the Topeka Municipal Code. Any reimbursement payment shall be stayed pending a determination by the hearing officer.
3. Requests for reimbursement shall be denied unless submitted before the Project is closed or within thirty (30) days thereafter.
4. CID revenues shall be paid in the following order:
 - a. First, the CID administrative fee.
 - b. Second, cost of preparation and publication of notices of hearings, resolutions, ordinances and other proceedings relating to the creation or administration of the District or the issuance of bonds.
 - c. Third, the Petitioner's other costs as defined in Section III(B) of the CID Policy.

C. Special Assessments.

1. If special assessments shall be levied to finance all or any part of the Project cost, the City must follow the procedures set out in K.S.A. 12-6a01 *et seq.* except that no assessments may be levied against the City at large. In addition, if the source of financing includes payment from a pledge of revenue received from the CID sales tax or any other funds appropriated by the City for purpose of paying Project costs, including the principal and interest of bonds, then the ordinance levying the assessments may state that the annual

installments of such assessment for any year may be reduced or eliminated to the extent that, prior to the date the City certifies the City tax levy to the County, the City has received sufficient funds from the above described sources to pay the debt service on any bonds issued for the Project costs, which would have been paid by such installment.

2. The City is not required to refund any prepayment of assessments after such prepayment is made to the City. Any prepayment must be paid in full prior to the issuance of bonds, or after the issuance of bonds by paying all of the installments which have been levied and also the unlevied installments with interest on the latter at the rate provided in the bonds from the date of the bonds to the time of maturity of the last installment in compliance with K.S.A. 10-115, and amendments thereto.

D. CID Sales Tax.

1. A CID sales tax may be levied in any increment of .10% or .25% not to exceed 2%, which amount is in addition to the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197. The revenue from the CID sales tax may be pledged to pay the bonds issued for the Project or to reimburse the cost of the Project through pay-as-you go financing.
2. If CID bonds are issued, the CID sales tax shall expire no later than the date the bonds mature. If pay-as-you-go financing is used, the CID sales tax shall expire on a date approved by the City, but no later than 22 years from the date the state director of taxation begins collecting such tax or when the Project bonds or pay-as-you-go costs have been paid.
3. Procedure:
 - a. Upon adoption of a CID sales tax, the City shall send a certified copy of the resolution or ordinance authorizing the levy of the CID sales tax to the Kansas Director of Taxation. Notice must be received ninety (90) days before the first day of the quarter in which the CID sales tax will commence. Thereafter, the Kansas Director of Taxation shall commence collection of the CID sales tax in the District at the same time and in the same manner for the collection of the state retailers' sales tax. The full remittance shall be deposited in the state treasury.
 - b. The state may retain ~~2% of all~~ a portion of the CID sales taxes

collected ~~up to \$60,000 per state fiscal year~~ for deposit in the state CID sales tax administration fund to defray the state costs of administration and enforcement (the "state fee").

c. The state shall no less than quarterly remit to the City the CID sales tax receipts collected less the state fee, if any. The amount shall be deposited in the City CID Project fund. Such fund shall be created for each District,

d. Within 15 days of written request of the City, the state will provide the City with a copy of any retailers' sales and use tax return filed with the state in connection with a District for which sales or use tax revenues are intended to be used to finance Project costs. Such returns and the information contained therein shall be kept confidential, but may be used for purposes of allocating and depositing such revenues in connection with the bonds used to finance Project costs.

E. Appeals. No suit to set aside assessments or otherwise question the validity of the proceedings for the District establishment or Project authorization shall be brought 30 days after publication of the resolution or ordinance creating the District. No suit to set aside the CID sales tax may be brought 30 days from the publication of the ordinance or resolution declaring the intent to impose the CID sales tax. No protest petition pertaining to the issuance of full faith and credit bonds may be brought 60 days following the date of public hearing to create or modify the District.

VI. BOND FINANCING GUIDELINES.

If CID bonds are issued for the project, the following guidelines shall be applied:

A. The maximum maturity for Bonds is 22 years.

B. For feasibility, it is recommended that Bonds be issued in a minimum amount of \$ 1,000,000. This amount may be adjusted upon recommendation of the Review Committee and approval of the Governing Body.

C. CID Bonds issued under this Policy must include security for the bonds of a sufficient amount, and in a form approved by the City's bond counsel and financial advisor such as an irrevocable letter of credit or payment bond, to minimize any risk in the event of default.

D. Bonds issued under this Policy must be sold to qualified investors (as defined by the Securities and Exchange Commission Regulation D) in accordance with the minimum denominations as provided herein.

E. Bonds must initially be offered in denominations of \$100,000 or greater. These denominations may be stepped down (upon consultation with the City's bond counsel and financial advisor) when one of the following are met:

1. the Project being bond financed is substantially leased;
2. the estimated revenue stream yields significant debt service coverage ratio of 1.25 on the bonds;
3. construction of the Project being bond financed is 100% complete;
4. the repayment term is less than or equal to 60% of the maximum permitted repayment term; or
5. waiver by the City Manager.

F. If a negotiated sale of the bonds is utilized, the City will generally select the underwriter(s) needed to structure, price, and sell the bonds. Exceptions to this process may be approved by the City Manager upon consultation with the City's bond counsel and financial advisor.

~~G. All pricing for negotiated sales will be performed with direct involvement by City staff and the City's financial advisor. Any savings generated as a result of discounts or premiums will be used for the benefit of the District.~~

CITY OF TOPEKA

Robert M. Perez, Ph.D., City Manager



**City of Topeka
Policy &
Finance
Committee**

620 SE Madison St.
Topeka, Kansas 66603
www.topeka.org

DATE: January 28, 2025

CONTACT PERSON: Amanda Stanley

SUBJECT: Tax Increment Financing (TIF) Policy Amendments

PROJECT #:

DOCUMENT DESCRIPTION:

Tax Increment Financing (TIF) Policy Proposed Amendments.

ATTACHMENTS:

TIF Procedures 2025 (Redlined version)
TIF Policy 2025 (Redlined version)

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WHEREAS, all projects must demonstrate financial and economic reasons such that but for TIF assistance, conditions of blight, extenuating circumstances regarding the site, location, or other factors preclude the viability of project.

NOW, THEREFORE, THE TAX INCREMENT FINANCING REDEVELOPMENT DISTRICT POLICY FOR THE CITY OF TOPEKA, KANSAS WILL BE AS FOLLOWS:

SECTION ONE: GENERAL POLICY STATEMENT.

1. It shall be the policy of the City to consider creation of a one or more TIF redevelopment districts, each hosting one or more qualifying TIF redevelopment projects.
2. It is the policy of the City to consider the judicious use of TIF for projects that demonstrate a substantial and significant public benefit by constructing public improvements in support of developments that will, by creating new jobs and retaining existing employment, eliminate blight, strengthen the employment and economic base of the City, increase property values and tax revenues, reduce poverty, create economic stability, upgrade older neighborhoods, increase affordable housing, facilitate economic self-sufficiency, promote projects that are of community wide importance, diversify the City's tax base and implement the Comprehensive Plan and/or economic development goals of the City.
3. The City will use care in the employment of TIF by thoroughly evaluating each proposed TIF redevelopment project to ensure that there is an appropriate balance between the benefits that will accrue from the approval of TIF and the corresponding costs, and that they are equitable to the City as a whole.
4. The City may unilaterally initiate the creation of a TIF redevelopment district which may contain a TIF redevelopment project plan or plans, or the City may respond to a third-party request to create such district and related project plan or plans.
5. The City will charge a TIF application and an administrative service fee as set forth in this policy.
6. It shall be the policy of the City to give priority considerations to TIF applications that request only pay-as-you-go-financing.

SECTION TWO: POLICY GUIDELINES (TIF DISTRICTS). The following criteria are to be used by members of the City's TIF Committee, with input from appropriate staff, to evaluate applications for the creation of a TIF redevelopment district:

1. The City seeks to avoid the creation of single-parcel TIF redevelopment districts, preferring instead to encourage the redevelopment of larger scale projects that positively impact multiple land uses and bring economic activity to surrounding neighborhoods.
2. For third-party requests to create TIF redevelopment districts, the City will not consider creation of a TIF district unless the applicant certifies that it intends to submit a Redevelopment Plan and begin negotiating a Redevelopment Agreement within sixty (60) days of creation of the TIF district. Thereafter, the City will require satisfactory assurance that the project will be completed in a timely manner in accordance with the Redevelopment Plan and Agreement.
3. Within fifteen (15) business days of a third-party making application for the creation of a TIF redevelopment district, such third-party shall execute the City's standard Funding Agreement and deposit with the City, in immediately available funds, ~~\$2530~~,000 to cover the City's costs of evaluating such request which may include, but not necessarily be

limited to, direct costs of the City’s financial and legal advisors on TIF and direct costs of outside consultants on TIF. The Funding Agreement shall provide that if the balance of such deposit declines below \$10,000 at any point in time, the applicant shall restore such balance to \$~~2530~~,000 within ten (10) business days by making a subsequent deposit with the City in immediately available funds.

Should the applicant withdraw its application, the City will use its best efforts to refund any unused balance of the deposit to the applicant within ~~thirtyten~~ (340) business days.

The applicant may seek reimbursement from TIF proceeds (if any) for any such City costs charged against the deposit.

SECTION THREE: POLICY GUIDELINES (TIF PROJECT PLANS). The following criteria are to be used by members of the City’s TIF Committee, with input from appropriate staff, to evaluate applications for the creation of a TIF project plan within a TIF redevelopment district:

1. Each TIF project plan application must demonstrate that “but-for” the use of TIF, the project is not feasible and would not be completed without the proposed TIF assistance. The City (through staff or its advisors and consultants; and at its sole discretion) will conduct the but-for analysis and the applicant shall be responsible for providing all information reasonably requested by the City to conduct such analysis.

The City’s but-for requirement is a greater burden than the statutory burden for approval of a TIF project plan. The City shall, in its reasonable discretion, select the calculation methodology for such but-for analysis but it shall generally compare the return of the project and/or its developer taking into account TIF and other incentives against market rates of return for similar projects developed on “greenfield” sites (that is, those without the physical and legal impediments leading to the request for TIF). The but-for analysis will use time value of money discounting using reasonable assumptions (at the discretion of the City).

The but-for analysis shall take into account all incentives requested by the developer from any governmental or other source (such as GO Topeka), not just those benefits provided by the TIF.

The City will generally seek to target a level of TIF incentive sufficient to provide the applicant with a market rate of return, including the effects of the incentives, but the City, at its discretion, may choose to provide a greater rate of return to the applicant in exchange for extraordinary benefits to the public.

The City will provide priority consideration for projects where less than twenty percent (20%) of the project’s costs (excluding any interest on private financing) are expected to be paid from public incentives.

2. Each TIF project plan application must include evidence that the applicant:

- a. Has a complete capital stack established with sources and uses in balance;
- b. Has the financial ability to complete the project, on time, as proposed;
- c. Has a firm, demonstrable commitment from a lending institution(s) for any private borrowing required to complete the project;
- d. Has the financial wherewithal to make the equity contribution to the project required to secure such borrowing(s);
- e. Has a reasonable basis for its project cost estimates, with preference provided to applications that include professionally-estimated project costs; and
- f. Has the capacity, for itself or through experienced operators, to operate the project profitably over its lifecycle.

The City will generally agree to permit the applicant to provide sensitive financial information to the City's advisors or legal counsel on the City's behalf under non-disclosure agreement; provided, however, that such advisors or legal counsel must have the right under such agreement to convey their conclusions about the applicant's ability to meet the requirements above based upon its review.

3. The City places priority on TIF redevelopment districts in areas of greatest need such as any approved neighborhood revitalization area, redevelopment planning area, and/or other similar areas where significant public/private investment has been directed consistent with the infill growth policies of the comprehensive plan.
4. The City will give preference to TIF project plan applications which request reimbursement of eligible project costs solely from the incremental real property taxes generated by the TIF project. Should an applicant request reimbursement of eligible project costs from the City's one percent (1%) general sales tax or other locally-levied taxes or fees, the applicant shall demonstrate the necessity of including such other locally-levied taxes or fees.
5. The City will give preference to TIF project plan applications that do not seek one hundred percent (100%) capture of incremental real property taxes or other locally-levied taxes or fees and/or that provide tangible, immediate public benefits (such as constructing high-priority infrastructure at the project's cost, producing high-wage jobs, making quality jobs available in highly-distressed neighborhoods, etc.).
6. The applicant will include in its TIF project plan application a uses-by-source-of-funding schedule illustrating the project costs that will be reimbursed from TIF and any other incentive program (public or private) for which the applicant has or plans to apply.
7. If businesses are to be relocated from other areas of the city to the proposed TIF project plan area, the applicant must provide sufficient justification to indicate why the City should subsidize such relocation.
8. The City may reasonably request of the applicant, at the applicant's cost, a thorough, third-party market analysis identifying: (1) the likelihood of success of the business mix proposed for the TIF project plan area; and (2) the potential economic impacts on existing

businesses and corresponding tax revenues should the TIF project plan develop as proposed.

9. The applicant and/or developer must demonstrate that all real property taxes and assessments currently due on any real property owned by the applicant and located within the City limits have been paid and, furthermore, that the applicant is not indebted to the City. If the applicant is a business entity, this requirement will apply to any owner, member, or partner. If the applicant is a corporation, this requirement will apply to any shareholder holding a five (5) percent or greater interest.
10. Each TIF redevelopment project plan approved will expire not later than the 20th anniversary of the date upon which the Topeka Governing Body takes action to approve such project plan.

SECTION FOUR: DEVELOPMENT AGREEMENT. Concurrent with the City's review of an application for a TIF project plan, the City will negotiate a Development Agreement to be considered and adopted by the Topeka Governing Body concurrent with its consideration of approval of the TIF project plan. Among other things, the Development Agreement will provide for:

1. A minimum private expense requirement for the developer and maximum permitted reimbursement amount to the developer.
2. Specific developer performance requirements, corresponding to the proposed improvements provided in the TIF project plan application.
3. Consequences for developer non-performance, including reductions in the amount of incentives available, reductions in the maximum permitted reimbursement amount and/or acceleration of the date of expiration of the TIF.
4. The mechanics for reimbursement of TIF-eligible expenses.
5. The mechanics for establishing base year values for non-ad valorem taxes captured by the TIF.
6. ~~Payment in lieu of tax requirements if applicable~~ Charges for city services provided to the Developer.
7. Conditions under which the applicant could request the City issue special obligation TIF bonds on its behalf.

SECTION FIVE: FEES.

City Cost Reserve

At the point in time of an application for TIF redevelopment district is initiated by a third-party, such applicant shall deposit ~~\$2530,000~~ with the City (as provided in Section Two herein) to cover the City's Application Fee and its direct costs (including costs related to its outside advisors, consultants and counsel) associated with the review and evaluation of the application for a TIF redevelopment district, the review and evaluation of the application for the initial TIF project plan or plans and the negotiation of the Development Agreement.

Should an applicant make application within an existing TIF redevelopment district for a new or modified TIF project plan, it shall similarly deposit ~~\$2530~~,000 with the City to cover the costs of such review.

The City shall return any balance from this reserve upon the applicant's withdrawal of all applications then pending, or the conclusion of the approval processes.

Costs charged to the reserve are TIF eligible costs to the extent permitted by law.

Application Fee

The City shall charge a non-refundable application fee, paid from the City Cost Reserve, for each application as follows:

Application to create or modify a TIF redevelopment district	\$5,000
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The application fee is a TIF eligible cost.

TIF Administration Service Fee

During the life of the TIF, the City will charge an administrative fee of two percent (2%) against the tax increment generated from the project prior to disbursement of the increment to the developer or bond trustee to cover the administrative costs incurred by the City for the administration of, and other City costs associated with each approved TIF Project. Such administrative service fee shall be in addition to the TIF application fee and any other fees associated with the TIF Project.

Additional Costs

City bond issuance costs will be paid from proceeds of TIF bonds issued.

City-Initiated Developments

The City reserves the right, at its sole discretion, to reduce or waive the above fees if a redevelopment project is City initiated and/or it is determined to be in the best interest of the City to do so.

SECTION SIX: DESIGN CRITERIA. Development proposals under a TIF application are expected to meet the "highest development standards" as outlined by the City's adopted development policies for commercial, industrial, multi-family, and mixed use buildings, as well as all Design Guidelines adopted by the Topeka Planning Commission and Governing Body. Development proposals are expected to demonstrate innovative design with human scale that exceeds the design standards of conventional development throughout the City. A TIF project requires the use of high quality building materials, noteworthy architectural design and site design to achieve visual interest, provide human scale, place a premium on developing land in harmony with existing natural features, and enhance the value and function of adjacent properties.

All TIF projects will be required to utilize a Planned Unit Development and will include strict architectural, site, and landscape design requirements. In addition, the redevelopment plan and agreement, development review process, and zoning ordinances will establish land use controls,

allowed uses and materials, traffic improvements, environmental preservation areas and other design criteria to ensure the development will achieve the highest development standards possible.

The TIF project shall be compatible with the Comprehensive Plan of the City and the availability of existing infrastructure facilities and essential public services. The compatibility of the TIF project with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services will be a consideration. The project must be environmentally acceptable to the location intended as well as the surrounding area. Preference will be given to businesses that do their own pre-treatment or do not require extensive environmental controls. The proposed use must be clean, nonpolluting, and consistent with all policies, ordinances, and codes. The applicant must provide a traffic study on any projected traffic impact increase on the City based upon future growth.

SECTION SEVEN: METHOD OF FINANCING.

The City's general policy is that development should pay for itself. As a result, the City will consider general obligation or general fund support of TIF bonds only in extraordinary cases and typically only on City-initiated projects.

1. The City will give priority considerations to TIF applications that request only pay-as-you-go financing.
2. For third-party applications, the City will generally not consider full faith and credit TIF bonds or TIF bonds with other City credit enhancements.
3. The City will consider providing the applicant with the right to seek permit issuance of "special obligation" bonds (i.e. supported solely from TIF revenues) in the City's sole discretion. The City may include in the development agreement specific conditions precedent to this right becoming available (minimum leasing commitments, minimum revenue thresholds, etc.).
4. The City's financial advisor will manage the bond issuance process on the City's behalf, including advising the City on the selection of members of the bond financing deal team (to include, but not be limited to, underwriters, trustees, feasibility consultants, etc.).
5. The City's bond counsel will serve as bond counsel on all TIF bond transactions.
6. For any bond financing, all City fees for itself, its counsel and advisors, will paid from TIF bond proceeds (or by the applicant through an equity contribution to the financing).
7. For any special obligation bond financing, the City may request up to \$50,000 to cover its staff costs involved in preparing and managing the financing. Additionally, the City will charge to the TIF fund an additional one percent (1%) annually on all TIF collections for ongoing administration of the bonds.
8. If required by bond counsel, the applicant agrees to be a party to the tax compliance agreement and/or continuing disclosure agreement (if applicable) on any TIF bond transaction.

SECTION EIGHT: AUTHORITY OF GOVERNING BODY. The Governing Body reserves the right to deviate from any policy, but not any procedure set forth in state law, when it considers such action to be of exceptional benefit to the City or extraordinary circumstances prevail that are in the best interests of the City.

321 **SECTION NINE: EFFECTIVE DATE.** This Resolution shall take effect _____,
322 2025~~18~~.

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326 ADOPTED and APPROVED by the Governing Body on _____, 2025~~18~~.

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329 CITY OF TOPEKA, KANSAS

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333 Michael A. Padilla~~helle De La Isla~~, Mayor

334 ATTEST:

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338 _____
Brenda Younger, City Clerk



CITY OF TOPEKA TAX INCREMENT FINANCING DISTRICT ~~"-e1TIF"~~ PROCEDURES

Effective Date: ~~May 16th, 2018~~

The City's Tax Increment Financing (TIF) policy can be found at <https://www.topeka.org>. Please review these procedures and complete along with Application for Tax Increment Financing (TIF) District form.

Sections:

- I POLICY APPLICABILITY**
- II DEFINITIONS**
- III APPLICATION PROCESS**
- IV DISTRICT ESTABLISHMENT**
- V PROJECT FEASIBILITY**
- VI DEVELOPMENT AGREEMENT**
- VII METHOD OF PROJECT FINANCING**
- VIII BOND FINANCING GUIDELINES**

I. POLICY APPLICABILITY.

The following procedures are established under the authority of the City Manager and are intended to provide guidance in establishing a Tax Increment Financing District ("TIF" or "District") in accordance with the Governing Body TIF Policy as approved by Resolution No. ~~9016~~ on ~~May 15, 2018~~. The TIF Policy is incorporated herein by reference. These procedures may be waived by the City Manager, If such waiver is In the best interest of the City and does not conflict with any statutory or procedural requirement of state law. If any part of this procedure conflicts with state law, the latter shall control.

The TIF Procedures and Application are appropriate for when a TIF project plan occurs simultaneously with a TIF district. If the TIF district alone is being requested, then a modified application and procedures document may be requested.

II. DEFINITIONS.

Capitalized terms (other than proper names) in this procedures document have the meanings shown below:

"Finance Team" means the Assistant City Manager, Chief Financial Officer, Director of Public Works, Director of Planning & Development, and the City Attorney, or their designees. The Committee may also include City staff and individuals designated by the City Manager, including but not limited to the



Utilities Director, City's bond counsel and City financial advisor.

City Manager, Deputy City Manager, Finance Director, City Attorney, and the City's financial advisor

V.III. APPLICATION PROCESS.

A. TIF Application. An applicant shall make application for a TIF by filing with the City Clerk an electronic copy of the application

B. Fees.

1. Application Fee. A non-refundable application fee in the amount of \$5,000.00, made payable to the City of Topeka, shall accompany the TIF Application.

2. City Cost Reserve. Once the application is received and reviewed, if the project is proceeding, the City and developer shall execute a funding agreement for a deposit of ~~\$25,000~~\$30,000 to cover the City's costs of evaluating the requests which may include but not necessarily be limited to direct costs of the City's financial and legal advisors.

3. TIF Administrative Fee if District is Approved. An annual administrative fee of 2% of the annual TIF revenue generated within the District shall be charged by the City to reimburse it for services rendered in the administration and supervision of the Project. Such TIF Administration Fee shall be deducted by the City (a) in the case of property taxes, when the City receives property taxes from the County and (b) in the case of sales tax (or other locally-levied taxes), when the City makes the required transfers into the TIF fund.

4. Amendments. The City Manager may establish City fees, for amendments and modifications to the District financing documents that occur throughout the term. In addition, the applicant shall be responsible for all City Consultant fees associated with any such amendment request.

4-5. Engineering Fees. The applicant shall reimburse the City for any and all Engineering fees including the review of plans and traffic impact studies regardless of whether administered by city staff or third party consultants.



- C. Preliminary Review and Pre-Application Meeting. Prior to submittal of a formal application, an applicant is encouraged to meet with the Finance Team to discuss a proposed project and possible TIF financing. These discussions are preliminary and are not binding on the applicant, the review committee, or the Governing Body. If the City utilizes any consultants to assist with the preliminary evaluation, the applicant shall be responsible to pay the associated costs, provided the City has first notified the applicant of such request and received their consent.

IV. DISTRICT ESTABLISHMENT.

The establishment of the district shall generally follow the guidelines established by State statute KS.A. 12-1770 et seq. The Governing Body will consider setting the required public hearing to create a TIF District once a complete application is delivered to, reviewed by and recommended for action by the Finance Team, and the Applicant has paid any required fees (including entering into the funding agreement).

- A. Reviewing and Establishing the Redevelopment District. Upon receiving the recommendation of the Finance Team, including a determination by the City Attorney that the proposed district area potentially qualifies for TIF under Kansas law, the Governing Body shall determine whether ~~to reject the application for creation of a redevelopment district or~~ to further consider the request. ~~If t~~The Governing Body ~~must conclude~~s ~~that~~ redevelopment of the proposed area is necessary to promote the general and economic welfare of the City. ~~- If such a finding is made~~ the Governing Body may adopt a resolution calling for a public hearing.

1. Redevelopment District Resolution - Notice of Public Hearing. The resolution shall state that the City is considering the establishment of a redevelopment district; additionally, it shall: (1) give notice that a public hearing will be held to consider the establishment of a redevelopment district and fix the date, hour and place of such hearing; (2) describe the proposed boundaries of the redevelopment district; (3) describe a proposed comprehensive plan that identifies all of the proposed redevelopment project areas and that identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each development project area; (4) state that a description and map of the proposed redevelopment district are available for inspection at a time and place designated; and (5) state that the Governing Body will consider findings necessary for the establishment of a redevelopment district. Such resolution shall be an expression of good faith intent, but shall not in any way bind the City to establishing



a redevelopment district.

2. Public Notice and Hearing. No redevelopment district shall be established, nor TIF granted, by the City prior to notice and a public hearing as required by the Act. The date fixed for the public hearing shall be not less than 30 or more than 70 days following the date of the adoption of the resolution fixing the date of the hearing. The resolution shall be published by the City Clerk once in the official city newspaper not less than one week nor more than two weeks preceding the date fixed for the public hearing. A copy of the resolution providing for the public hearing shall be mailed certified mail, return receipt requested by the City Clerk to the Shawnee County Board of Commissioners, and the board of education of any school district levying taxes on property within the proposed district or proposed redevelopment project area, if known. Copies also shall be sent by certified mail, return receipt requested by the City Clerk to each owner and occupant of land within the proposed district or proposed redevelopment project area, if known, not more than 10 days following the date of the adoption of the resolution.

3. Shawnee County Board of Commissioners and Board of Education. No privately owned property subject to ad valorem taxes shall be acquired and redeveloped under the provisions of the Act and this Policy if the Shawnee County Board of County Commissioners or the Board of Education levying taxes on such property determines by resolution adopted within 30 days following the conclusion of the public hearing for the establishment of the redevelopment district will have an adverse effect on such county or school district. If the City has established the redevelopment district prior to receiving such timely notice from the BOCC or School Board, the City shall, within 30 days of receipt of such resolution pass an ordinance terminating the redevelopment district.

4. Establishing the Redevelopment District. Upon the conclusion of the public hearing, the Governing Body may pass an ordinance establishing the redevelopment district. The ordinance shall make findings that the proposed redevelopment district is an eligible area and the conservation, development or redevelopment of such area is necessary to promote the general and economic welfare of the City; contain the district plan as approved, which shall identify all of the proposed redevelopment project areas and identify in a general manner all of the buildings, facilities and improvements that are proposed to be constructed or improved in each redevelopment project



area; contain the legal description of the redevelopment district; and establish the redevelopment district. Any addition of area to the redevelopment district or any substantial change to the district plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the redevelopment district.

B. Reviewing and Approving the Redevelopment Project Plan.

1. The Redevelopment Project Plan. The City shall prepare a redevelopment project plan in consultation with the City Planning Commission. The Planning Commission must determine that the redevelopment project plan is consistent with the comprehensive general plan for the development of the City and this action must occur before the Governing Body adopts a resolution providing notice of a public hearing to consider adoption of the redevelopment project plan. The Redevelopment project plan shall include: (1) a summary of the feasibility study, described below, which shall be an open record; (2) a reference to the district plan that identifies the redevelopment project area that is set forth in the project plan being considered; (3) a description and map of the redevelopment area to be redeveloped; (4) the relocation assistance plan, if applicable; (5) a detailed description of the buildings, facilities and improvement proposed to be constructed or improved in such area; and (6) any other information the governing body deems necessary to advise the public of the intent of the project plan. Where the Governing Body determines that it will or may issue full faith and credit tax increment bonds to finance the redevelopment project, in whole or in part, the resolution shall also include notice thereof. Any project shall be completed within 20 years from the date of the approval of the project plan.

2. Notice and Public Hearing. No redevelopment project plan shall be approved by the City prior to notice and a public hearing as required by the Act. The date fixed for the public hearing shall be not less than 30 or more than 70 days following the date of the adoption of the resolution fixing the date of the hearing. The resolution shall be published by the City Clerk not less than one week or more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in sufficient detail to advise the reader of the particular land proposed to be included within the project area shall be included with the resolution. A copy of the resolution providing for the public hearing shall be mailed certified mail, return receipt requested by the City Clerk to the Shawnee County Board of Commissioners, the board of education of any school district levying taxes on property



within the proposed redevelopment project area. Copies also shall be sent by certified mail, return receipt requested by the City Clerk to each owner and occupant of land within the proposed redevelopment project plan area not more than 10 days following the date of the adoption of the resolution.

3. Governing Body Adoption. Following the public hearing, the Governing Body may adopt the redevelopment project plan by ordinance passed upon a 2/3 vote. Any substantial changes as defined in K.S.A. 12-1770a, as amended, shall be subject to a public hearing following publication of notice thereof at least twice in the official city newspaper.

V. PROJECT FEASIBILITY.

- A. Statutory Feasibility Study. The City will prepare the statutory feasibility study based upon information provided by the applicant.
- B. Demonstration of Financial Capacity to Perform. Each TIF project plan application must include evidence that the applicant:
 - 1. Has a complete capital stack established with sources and uses in balance;
 - 2. Has the financial ability to complete the project, on time, as proposed;
 - 3. Has a firm, demonstrable commitment from a lending institution(s) for any private borrowing required to complete the project;
 - 4. Has the financial wherewithal to make the equity contribution to the project required to secure such borrowing(s);
 - 5. Has a reasonable basis for its project cost estimates, with preference provided to applications that include professionally-estimated project costs; and
 - 6. Has the capacity, for itself or through experienced operators, to operate the project profitably over its lifecycle.
- C. But-For Test:
 - 1. Each TIF project plan application must demonstrate that "but-for"



the use of TIF, the project is not feasible and would not be completed without the proposed TIF assistance. The City (through staff or its advisors and consultants, at its sole discretion) will conduct the but-for analysis and the applicant shall be responsible for providing all information reasonably requested by the City to conduct such analysis.

2. The City's but-for requirement is a greater burden than the statutory burden for approval of a TIF project plan. The City shall, in its reasonable discretion, select the calculation methodology for such but-for analysis but it shall generally compare the return of the project and/or its developer taking into account TIF and other incentives against market rates of return for similar projects developed on "greenfield" sites (that is, those without the physical and legal impediments leading to the request for TIF). The but-for analysis will use time value of money discounting using reasonable assumptions (at the discretion of the City).

3. The but-for analysis shall take into account all incentives requested by the development from any governmental or other source (such as the Greater Topeka Partnership), not just those benefits provided by the TIF.

4. The City generally will seek to target a level of TIF incentive sufficient to provide the applicant with a market rate of return, including the effects of the incentives, but the City, at its discretion, may choose to provide a greater rate of return to the applicant in exchange for extraordinary benefits to the public.

5. The City will generally agree to permit the applicant to provide sensitive financial information to the City's advisors or legal counsel on the City's behalf under non-disclosure agreement, provided, however, that such advisors or legal counsel must have the right under such agreement to convey their conclusions about the applicant's ability to meet the requirements above based upon its review.

D. Information to Be Submitted with a Project Plan Application:

1. Information in support of the requirements in paragraph (B) of this section

2. Current financial statements of the applicant and owner and/or operating entity if different from the Applicant (2 years); P&L (2 years);



and Balance Sheet (2 years)

3. Market studies which identify target markets, analysis of competition, demographics, market rents and sales prices, letters of intent/interest from prospective tenants. The City may reasonably request of the applicant, at the applicant's cost, a thorough, third-party market analysis identifying: (1) the likelihood of success of the business mix proposed for the TIF project plan area; and (2) the potential economic impacts on existing businesses and corresponding tax revenues should the TIF project plan develop as proposed

4. A ten-year detailed operating pro forma for the Applicant/project

5. A schedule describing all incentives requested and/or granted in support of the project from any governmental entity

6. A uses-by-source-of-funding schedule illustrating the project costs that will be reimbursed from TIF and any other incentive program (public or private) for which the applicant has or plans to apply.

7. If businesses are to be relocated from other areas of the city to the proposed TIF project plan area, the applicant must provide sufficient justification to indicate why the City should subsidize such relocation.

8. A schedule identifying whether the TIF project plan is expected to create net new "quality jobs" in the city. The City defines a quality job as one that is (a) full-time (greater than 32 hours per week); (b) pays a wage equal to or greater than the average wage within the Topeka MSA; and (c) provides a basic benefit package including access to affordable health insurance, paid time off and the opportunity to participate in a retirement plan.

8-9. A detailed plan describing if the TIF project plan will ~~on~~-create or incentive ~~ing~~ housing in the specific project plan area with a particular focus on affordable housing.

VI. DEVELOPMENT AGREEMENT.

A. Timing. The Governing Body will take action on project plan approval, project planning/zoning approvals and a development agreement concurrently.

B. Contents. Among other things, the Development Agreement will



provide for:

- a. A minimum private expense requirement for the developer and maximum permitted reimbursement amount to the developer.
- b. Specific developer performance requirements, matching the proposed improvements provided in the TIF project plan application.
- c. Consequences for developer non-performance, including reductions in the amount of incentives available, reductions in the maximum permitted reimbursement amount and/or acceleration of the date of expiration of the TIF.
- d. The mechanics for reimbursement of TIF-eligible expenses.
- e. The mechanics for establishing base year values for non-ad valorem taxes captured by the TIF.
- f. Payment-in-lieu-of-tax requirements.
- g. Conditions under which the applicant could request the City issue special obligation TIF bonds on its behalf.

VII. METHOD OF PROJECT FINANCING.

A. Certificate of Completion.

1. As noted in the Policy, Projects may be financed by a variety of methods. Before payment will be made to applicant, the City must issue a Certificate of Completion. Multiple Certificates of Completion may be issued for projects with approved phases.
2. The request for Certificate of Completion shall include an affidavit of the applicant certifying:

- a. Project improvement is an approved TIF eligible cost and identify its priority for reimbursement, if any;
- b. Project was constructed in accordance with all applicable laws and codes;
- c. Cost was incurred for authorized project improvements;
- d. Cost has not previously been submitted for reimbursement;
- ~~e.~~ e. Cost reflects the actual cost expended; and
- ~~f.~~ f. A certificate of occupancy.

B. Reimbursement.



1. If pay as you go financing is used, the applicant shall submit to the Director of Finance copies of all invoices supporting its request for reimbursement, accompanied by a Certificate of Completion. Invoices must be submitted quarterly and such submission must occur at least thirty (30) days prior to any quarterly disbursement period or applicant shall have to wait until the next quarterly disbursement period.

2. The Director of Finance, ~~with optional guidance in consultation with the from the Finance Team as needed,~~ shall attempt to determine the eligibility of the cost within thirty (30) days of the submittal. If ~~it's the Director~~ determines ~~that~~ the nature or amount of the request for reimbursement is outside the scope of the Act or the Development Agreement, Developer may appeal this decision in accordance with the procedure in Chapter 2.145 of the Topeka Municipal Code. Any reimbursement payment shall be stayed pending a determination by the hearing officer.

3. Requests for reimbursement shall be denied unless submitted before the Project is closed or within thirty (30) days thereafter.

C. Appeals. No suit to set aside assessments or otherwise question the validity of the proceedings for the District establishment or Project authorization shall be brought 30 days after publication of the resolution or ordinance creating the District. No suit to set aside the CID sales tax may be brought 30 days from the publication of the ordinance or resolution declaring the intent to impose the CID sales tax. No protest petition pertaining to the issuance of full faith and credit bonds may be brought 60 days following the date of public hearing to create or modify the District.

VIII. BOND FINANCING GUIDELINES.

The City's general policy is that development should pay for itself. As a result, the City will consider general obligation or general fund support of TIF bonds only in extraordinary cases and typically only on City-initiated projects. If TIF bonds are issued for the project, the following guidelines shall be applied:

1. The City will give priority considerations to TIF applications that



request only pay-as-you-go financing.

2. For third-party applications, the City will generally not consider full faith and credit TIF bonds or TIF bonds with other City credit enhancements.

3. The City will consider providing the applicant with the right to seek permit issuance of "special obligation" bonds (i.e. supported solely from TIF revenues) in the City's sole discretion. The City may include in the development agreement specific conditions precedent to this right becoming available (minimum leasing commitments, minimum revenue thresholds, etc.).

4. The City's financial advisor will manage the bond issuance process on the City's behalf, including advising the City on the selection of members of the bond financing deal team (to include, but not be limited to, underwriters, trustees, feasibility consultants, etc.).

5. The City's bond counsel will serve as bond counsel on all TIF bond transactions.

6. For any bond financing, all City fees for itself, its counsel and advisors, will be paid from TIF bond proceeds (or by the applicant through an equity contribution to the financing).

7. For any special obligation bond financing, the City may impose an issuance fee of up to \$50,000 to cover its staff costs involved in preparing and managing the financing. Additionally, the City will charge to the TIF fund an additional one percent (1%) annually on all TIF collections for ongoing administration of the bonds.

8. If required by bond counsel, the applicant agrees to be a party to the tax compliance agreement and/or continuing disclosure agreement (if applicable) on any TIF bond transaction.

CITY OF TOPEKA

Robert M. Perez, Ph.D., City Manager





**City of Topeka
Policy &
Finance
Committee**

620 SE Madison St.
Topeka, Kansas 66603
www.topeka.org

DATE: January 28, 2025

CONTACT PERSON: Amanda Stanley

SUBJECT: Reinvestment Housing Incentive District (RHID)

PROJECT #:

DOCUMENT DESCRIPTION:

Reinvestment Housing Incentive District (RHID) Policy Updates.

ATTACHMENTS:

Resolution

RESOLUTION NO. _____

A RESOLUTION introduced by Interim City Manager Robert M. Perez, Ph.D. ~~Richard U. Nienstedt~~ amending Resolution No. ~~94529379~~ to update the Developer(s) funding agreement criteria and to change the references from 'Plan Pre-Application Rural' to 'Housing Development Plan Reinvestment' in the City of Topeka's policy for Reinvestment Housing Incentive Districts for clarification purposes ~~in order to conform to K.S.A. 12-5241, as amended by 2023 S.B. 17~~

WHEREAS, the City of Topeka, Kansas (the "City") recognizes that it is essential to stimulate economic growth and development of new residential housing developments in order to provide services, employment and tax revenues for the benefit of the community; and

WHEREAS, the declared purpose of the Reinvestment Housing Incentive District Act is to encourage the development and renovation of housing in areas of Kansas that experience a shortage of housing by authorizing cities and counties to assist directly in the financing of public improvements that will support such housing; and

WHEREAS, the Housing Study identified a need for approximately 420 units per year over the next 5 years to keep up with anticipated demand and another 2,300 units to catch up from past demand in order to have a balanced market with lower housing cost burdens; and

WHEREAS, to meet these housing goals, the City recognizes the need to occasionally assist in the redevelopment of property located within the City by the creation of Reinvestment Housing Incentive Districts (RHID), an economic development tool established by K.S.A. 12-5241 et seq. for the financing of qualified redevelopment projects; and

WHEREAS, the City finds it in the best interest of the public it serves to establish certain policies and guidelines for the consideration of proposals that may be presented to the City by private developers requesting RHID assistance; and

WHEREAS, all prospective RHID projects must be carefully evaluated by the City because the character of tax revenues generated by different developments can vary widely, and in most cases, will impact other taxing jurisdictions in the Topeka community; and

WHEREAS, the City desires to use RHID for projects that demonstrate the highest public benefit and encourage an equitable distribution of projects citywide, including downtown, in keeping with the documented demand for housing; and

WHEREAS, each RHID application submitted to the City will be evaluated on its own merits, and an evaluation of the proposal will be performed by a RHID Committee comprised of City staff and/or consultants; and

WHEREAS, all projects must demonstrate financial and economic reasons such that but-for RHID assistance, the project could not proceed or could not address the City's housing goals.

NOW THEREFORE, THE REINVESTMENT HOUSING INCENTIVE DISTRICT POLICY FOR THE CITY OF TOPEKA, KANSAS WILL BE AS FOLLOWS:

SECTION ONE: PREFERENCES FOR PROJECTS

1. The City will use RHID to address housing needs as described in its July 2020 Citywide Housing Market Study and Strategy document (the "Housing Study") as amended from time to time as needed. The City will amend this policy from time to time to adjust the targets below for progress to date or to address changing needs as identified by updates to its Housing Study. The Housing Study identified a need for approximately 420 units per year over the next 5 years to keep up with anticipated demand and another 2,300 units to catch up from past demand in order to have a balanced market with lower housing cost burdens. The City's current 3-year average is almost 270 new units per year. Therefore, a target of up to 3,100 units over a 5-year period is the substantiated need that is not being met by the market thus necessitating additional incentives. This total is further broken down by affordable, workforce, senior, market rate, and upscale units as referenced in the Housing Needs Analysis completed as an update to the Housing Study.

2. The City will use RHID to encourage an equitable distribution of projects citywide in keeping with the documented demand for 900 new units in downtown by 2030.

3. Per the Housing Study findings for greater housing choices, priority should be given to those projects that diversify the City's inventory with more attached unit typologies such as duplexes, townhomes, and multi-family projects.

4. The City will reserve a portion of projected RHID benefits to develop, improve or replace public infrastructure supporting housing developments and to fund multi-modal connections (transit, biking, walking) to housing developments.

5. The City will use a "but-for" approach (i.e., but-for the presence of the RHID incentive the project could not proceed or could not address the City's housing goals) in assessing the amount of RHID benefit granted to a housing development, maintaining flexibility with respect to the amount of incremental taxes permitted to be captured and/or the length of time an RHID will remain in place.

6. Housing developers seeking RHID assistance will need to be prepared to:

- Bear the costs of effecting an RHID incentive (estimated at \$25,000 to \$50,000 per project plan). Cost may include, but are not limited to, updating the housing study, preparation of necessary resolutions, ordinances, publication notices, development agreement, and statutory feasibility findings. The City will first apply the nonrefundable application fee described below towards the costs. Once a better estimate of costs is obtained, the City may, at its sole discretion, require a deposit to cover outstanding costs. If an additional deposit is required in addition to the nonrefundable application fee, the City shall return any balance from this deposit upon the applicant's withdrawal of the application or the conclusion of the approval processes.
- Provide the contractual and financial feasibility guarantees contemplated in the RHID statute (see K.S.A. 12-5245(a)(6)).
- Provide detailed information regarding the type, timing and implementation plan for the housing they propose to develop.
- Provide all information to the City required to effect an RHID project plan, as contemplated by Kansas law.
- Provide evidence in support of its need for RHID incentive under the but-for principle.

SECTION TWO: PROCESS

1. Creation of a District. The City intends to use the Housing Study, as updated from time-to-time at the discretion of the City, to meet the statutory requirement (K.S.A. 12-5244) that the City conduct a "housing needs analysis" to determine that "housing needs exist" in Topeka.

Either the City or a housing developer may initiate the district creation process by delivering to the City Manager a District ~~Pre~~-Application consisting of the following:

- a) A cover letter requesting the creation of a district, including a general description of the housing development expected to occur within the district, the names of the housing developer or developers expected to construct such housing, the expected timing of such housing development, a narrative describing how the district is likely to address the policy goals of the Housing Study and discussion of how the use of RHID is consistent with the City's but-for principle.
- b) A legal description of the proposed district and a map depicting the existing parcels of real estate in the proposed district.
- c) Evidence of site control or a detailed plan for which the developer intends to secure site control.
- d) A certification that neither the developer entity nor any of its shareholders/partners/members is delinquent on its property tax or special assessment payments on any property it owns or controls in Shawnee County.

- e) A certification that neither the developer entity nor any of its shareholders/partners/members has any outstanding utility bills, zoning or property maintenance, or other code cases pending with the city.
- f) A non-refundable application fee of \$5,000. If the Developer withdraws the application, the City Governing Body elects not to create the District or does not approve the Housing Plan, or Kansas Secretary of Commerce elects to not approve the application, the City shall keep the application fee to reimburse it for the costs of processing and reviewing the application. The Developer shall not be entitled to any refund of the fee.

Within thirty (30) days of receipt of a complete District ~~Pre~~-Application, the City Manager will direct the preparation of a resolution for consideration by the Topeka Governing Body at a regular meeting not later than sixty (60) days following the City Manager's receipt of a complete District ~~Pre~~-Application. The resolution shall include:

- a) The legal description and the map provided in the District ~~Pre~~-Application; and
- b) The findings required in K.S.A. 12-5244(a)(1) through (a)(4).

If the resolution is adopted by the Topeka Governing Body, the City Manager or designee will provide for publication of the adopted resolution as required in K.S.A. 12-5244(b) and will request approval by the Kansas Secretary of Commerce in the manner provided in K.S.A. 12-5244(c).

2. Creation of a Housing Development Plan. Once the Kansas Secretary of Commerce has approved creation of a district, one or more housing developers may petition the City Manager for the execution of a housing development plan within such district. This petition will need to include all of the following:

- a) Narrative describing the overall development plan specifically addressing how the plan meets the policy goals of the Housing Study.
- b) A legal description of the proposed project area if such project area is not coterminous with the district boundaries.
- c) A map of the proposed project area if such project area is not coterminous with the district boundaries.
- d) A table (Excel format preferred) listing (i) each parcel within the proposed project area, listing the current Shawnee County assessed valuation of land and improvements separately and (ii) the property owner's name and address for each parcel.
- e) A narrative and a graphical description of the housing and public facilities that the developer will construct or improve, and the location of each within the project area.
- f) A narrative describing any improvements the developer expects the City to make to support the planned project, including any on or off-site public infrastructure and coordination with other public agencies, etc.

- 181 g) A listing of the names, addresses and specific interests in real estate in the
182 project area of the housing developer(s) responsible for development of the
183 housing and public facilities in the project area.
- 184 • For the purpose of this requirement, "housing developer(s)" means
185 both the name of the business entity or entities, and the natural
186 persons comprising the ownership of such entity or entities.
- 187 h) A detailed total development cost budget for the housing and other
188 improvements to be constructed including an identification of costs for which
189 the developer will seek reimbursement from RHID proceeds.
- 190 i) A narrative describing all public incentives sought in support of the planned
191 project (including those that might be provided by other government
192 agencies, foundations or non-profits), including identification of whether the
193 developer seeks potential bond financing related to the RHID.
- 194 j) A detailed construction schedule, identifying any phasing of construction
195 anticipated.
- 196 k) A detailed financial pro forma, showing the operation of the project over the
197 life of the RHID, including sufficient detail on assumptions so the City may
198 determine, among other things, the developer's expectations for the number
199 and potential valuation of housing units to be constructed, the developer's
200 expected private financing for the project (including debt, equity and other
201 sources), and sufficient other detail to permit the City to make the required
202 statutory finding as provided in K.S.A. 12-5245(a)(7).
- 203 l) A detailed description of the contractual assurances the developer is willing
204 to make, including any financial guarantees it is willing to provide, to
205 "guarantee the financial feasibility" of the project, all as required by K.S.A.
206 12-5245(a)(6) (together, the "Housing Development Plan-Pre-Application"),
207 along with commercially reasonable information evidencing developer's
208 financial and operational capabilities to effect the proposed project as
209 presented.

210
211 Unless there are extenuating circumstances, within fifteen (15) days of receipt of a
212 complete Housing Development Plan-Pre-Application, the City Manager will direct the
213 City's Finance Director, or other City Manager designee, to review the Housing
214 Development Plan-Pre-Application for completeness (compared both to statutory
215 requirements and the requirements of this policy), to prepare a financial analysis of the
216 developer's proposal and to provide a written report to the City in conformance with K.S.A.
217 12-5245(a)(7).

218
219 Also, within fifteen (15) days of receipt of the complete Housing Development Plan, the
220 Developer shall enter into a funding agreement with the City under which the developer(s)
221 will agree to pay the City sufficient moneys to cover the City's costs in analyzing and
222 effecting the Housing Development Plan.

223
224 The City's Finance Director may request additional information from the developer to
225 assist in its analysis and the developer may request to provide certain information directly
226 to the City's Finance Director, particularly with respect to its financial capacity to perform.

The Finance Director may also consider: (a) the extraordinary or unique costs of the housing development plan; (b) the developer's (and its shareholders'/partners'/members') compliance with other City development agreements; (c) the creditworthiness of the developer; and (d) the experience of the developer constructing, completing and managing projects of a similar nature, scale and complexity. The City's Finance Director will provide its written report in draft to the City Manager within thirty (30) days after receipt of the Housing Development Plan ~~Pre-Application~~ and any supplemental information it requests of the developer.

As authorized under the Kansas Open Records Act, the City will treat as confidential any such sensitive financial information provided by the applicant or its guarantors to the City's Finance Director, other city advisors or legal counsel, and will, if requested, enter on the City's behalf into a non-disclosure agreement; provided, however, that such advisors or legal counsel must have the right under such agreement to convey their conclusions about the applicant's ability to meet the requirements above based upon its review.

Concurrently with the City Finance Director's work, the City Manager will coordinate with City departments, as applicable, to identify any concerns with the City's ability to support the proposed project, including, but not limited to, availability of utilities, the cost to construct public infrastructure identified by the developer as the City's responsibility, traffic considerations and the ability to provide public safety services to the project, etc.

3. RHID Review Team. Within fifteen (15) days of receipt of the City Finance Director's draft analysis, the City Manager will convene a meeting of the RHID Review Team to include: the Mayor, Deputy Mayor, affected district council member(s), City Manager, Finance Director, Public Works Director, Utilities Director, Planning Director and City Attorney. In the absence of one of the named members above, the City Manager may designate alternative members to the RHID Review Team as appropriate. The RHID Review Team will review the Housing Development Plan ~~Pre-Application~~, the City Finance Director's draft analysis and the City Manager's review of the City's ability to support the project, and may call on the financial advisor, City bond counsel and other resources to assist in its deliberations.

After reviewing the information presented, the RHID Review Team may (i) request the City Manager to seek additional information or provide additional analysis; (ii) make a recommendation to the Governing Body to establish the District and approve the plan with or without conditions; or (iii) not approve the plan.

In the event the RHID Review Team requests the City Manager obtain additional information from the developer, it will include a reasonable timeline for the completion of such additional work and a schedule for its reconsideration. Upon reconsideration, the RHID Review Team may take one of the actions identified above.

In the event the RHID Review Team makes a recommendation to not approve, the City Manager will report on the action of the RHID Review Team at a future Governing Body meeting.

In the event the RHID Review Team makes a recommendation of approval:

- a) The City Attorney, or appropriate designee, will prepare the resolution contemplated in K.S.A. 12-5245(b), setting a date for a public hearing on the creation of the district for inclusion on a regular City Governing Body agenda within thirty (30) days of the action of the RHID Review Team.
- ~~b) The City Attorney, or appropriate designee, will prepare a funding agreement, to be considered at the same meeting as the resolution setting the public hearing, under which the developer(s) will agree to pay the City sufficient moneys to cover the City's costs in analyzing and effecting the district's creation.~~
- ~~e)b)~~ The City Attorney, or appropriate designee, will draft a development agreement and enter into negotiations with the developer and its counsel on the contents of such development agreement. The purpose of the development agreement will be to translate into contract form the rights, responsibilities and obligations of both the City and the developer in the implementation of the housing development plan. The City Attorney may involve the City's financial advisor, bond counsel and other resources in the development and review of the development agreement.
- ~~d)c)~~ The City's Finance Director will finalize its analysis for inclusion in the Governing Body agenda packet and will incorporate any provisions from the development agreement that might affect its analysis.
- ~~e)d)~~ The City Manager will work with appropriate City departments to review project budgets for any capital improvements required to effect the housing development plan.
- ~~f)e)~~ The City Planning Director, or appropriate designee, will work with the developer to effect any planning and zoning approvals required to effect the housing development plan.

4. Governing Body Review and Approval. Once a housing development plan is recommended for approval from the RHID Review Team, it will appear on the Governing Body agenda as follows:

- ~~a) Approval of a funding agreement with the developer(s).~~
- ~~b)a)~~ A resolution setting a public hearing on the creation of the district, consistent with the requirements of K.S.A. 12-5245(b), at least thirty (30) and not more than seventy (70) days from the adoption date of this resolution.
- ~~e)b)~~ After this public hearing is held, at the same meeting or at a subsequent meeting, the Governing Body may consider an ordinance creating the district and adopting the housing development plan.
- ~~d)c)~~ At the meeting at which the Governing Body considers the ordinance creating the district and adopting the housing development plan it will also consider:
 - i. Approval of the fully-negotiated development agreement(s) with the housing developer(s) for the project(s).

- ii. Approval of any other City-provided incentives related to the project(s).
 - iii. Approval of project budgets related to any City-financed infrastructure related to the project(s) including the adoption or amendment of the CIB/CIP, if necessary.
 - iv. Approval of any planning or zoning matters required to effect the project(s).
- e)d) The effectiveness of all such related matters will be conditioned upon the RHID district creation ordinance surviving the thirty (30) day veto period of Shawnee County and any affected school district.

SECTION THREE: INCENTIVE STRUCTURE

1. Presumption of Pay-As-You-Go Incentives. The City will begin negotiations with housing developers with the presumption that it will structure RHID incentives on a pay-as-you-go basis.

2. Reimbursable Costs. The City will generally consider all statutorily-permitted uses of RHID proceeds as reimbursable costs (see K.S.A. 12-5249); provided, however, the City will generally not reimburse land acquisition costs from owners affiliated with the housing developer unless the developer provides evidence of its actual acquisition costs from a bona fide arms-length purchase from an unaffiliated owner or the housing developer can provide satisfactory evidence to the City Manager that the land acquisition was purchased at fair market value which may include the cost of reimbursing delinquent special assessments or other delinquent taxes from an owner affiliated with the housing developer and that the reimbursement of the acquisition costs satisfy the public purpose doctrine.

3. Downtown. Buildings or structures must be more than twenty-five (25) years old and used primarily for residential use located in the central business district or in a business or commercial district within a qualified census tract as approved by the Secretary of Commerce. Certification of the building/structure's age must be provided to the Secretary of Commerce. Improvements are limited to the second or higher floors. Improvements for commercial purposes are not eligible. K.S.A. 12-5249

4. Bonds. The City will generally not consider the issuance of special obligation bonds. A housing developer may petition the City Manager in writing to issue bonds secured by the proceeds of an RHID if:

- a) The project is complete, leased-up (multifamily)/substantially occupied (single family) and stabilized (multifamily).
- b) Shawnee County has completed at least four (4) tax valuations of the district.
- c) RHID-eligible costs exceed \$3 million.

Upon receiving a petition for bond issuance, the City Manager will engage the City's financial advisor to assess the feasibility of bond issuance given the track record of the project, the potential size of the financing and then-current market conditions. If the City's financial advisor determines that a bond financing would be feasible and par offered would be likely to exceed \$3 million, the financial advisor will report its findings to the City Manager along with an estimate of the potential transaction costs to effect the financing.

If a bond financing would be feasible, upon receipt of the financial advisor's findings, the City Manager will communicate the findings with the housing developer to determine whether the housing developer desires to proceed. If the housing developer desires to proceed, the City Manager will, within fifteen (15) days, convene the RHID Review Team to evaluate the housing developer's petition for bond issuance and the financial advisor's report.

After reviewing the information presented, the RHID Review Team may (i) request the City Manager seek additional information or provide (or commission) additional analysis; (ii) decline to advance the housing developer's petition for bond issuance; or (iii) direct the City Finance Director to proceed with execution of a potential bond issuance.

Upon direction from the RHID Review Team to proceed, the Finance Director will coordinate with the City's financial advisor and bond counsel to commence execution of a bond financing. The financial advisor will advise on method of sale and will assist the Finance Director in the selection of one or more underwriters for the financing. City bond counsel will prepare a bond sale intent resolution, describing the intended sale and authorizing appointment of the underwriter, directing staff and advisors/counsel to effect the financing, and causing the preparation of customary bond and sale documents.

Within thirty (30) days of bond counsel's preparation of the bond sale intent resolution, the City Manager will calendar the resolution for consideration by the Governing Body. If the Governing Body adopts the bond sale intent resolution, the City will use its best efforts to cause the issuance of the bonds.

5. No Issuance by Third Parties. The City will not consent to and will include language in any development agreement prohibiting the issuance of bonds by any third-party on behalf of the developer to be secured by an assignment of the developer's rights under the development agreement. For the purposes of clarity, this language is not intended to prevent or preclude developer's collateral assignment of the development agreement to a bank to secure the developer's private financing of the project.

SECTION FOUR: HOUSING DEVELOPER GUARANTEES

1. Assurances Required. The City interprets K.S.A. 12-5245(a)(6) as requiring that housing developers provide contractual assurances of their performance under a development agreement related to an RHID project. The City will expect a housing developer to offer one or more of the following contractual assurances of performance as part of the development agreement. The City does not expect a developer to provide all

of these contractual assurances and will work with the developer on what is the most appropriate assurance for a particular project:

- a) A firm commitment to construct and complete a substantial percentage of the housing units and related infrastructure proposed in its Housing Development Plan-~~Pre-Application~~ within a specified timeframe.
- b) A performance and payment bond sufficiently sized to cause completion of a substantial percentage of the housing units and infrastructure proposed in its Housing Development Plan-~~Pre-Application~~.
- c) A bank letter of credit sufficiently sized to secure completion of a substantial percentage of the housing units and infrastructure proposed in its Housing Development Plan-~~Pre-Application~~.
- d) Personal financial guarantees of one or more owners of the developer to ensure completion of a substantial percentage of the housing units and infrastructure proposed in its Housing Development Plan-~~Pre-Application~~.
- e) Other contractual assurances that, in the sole determination of the City, meet the intent of the statute.

SECTION FIVE: CITY REMEDIES IN THE EVENT OF DEVELOPER DEFAULT

Each development agreement will identify the conditions under which a developer may cause a default under the agreement. The City may impose one or more of the following remedies if a default occurs and is not cured timely:

- a) Reduction to or elimination of the amount of RHID proceeds that can be used to reimburse eligible costs.
- b) Shortening of the expiration of the RHID incentive.
- c) Cross-default against other incentives granted by the City.
- d) Other penalties or claw backs unique to each development agreement.

ADOPTED and APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk



**City of Topeka
Policy &
Finance
Committee**

620 SE Madison St.
Topeka, Kansas 66603
www.topeka.org

DATE: January 28, 2025

CONTACT PERSON: City Manager Dr. Robert M. Perez

SUBJECT: Authorizing the Signing of Certain Contracts

PROJECT #:

DOCUMENT DESCRIPTION:

Proposed Ordinance to sign specific contracts on behalf of the City pursuant to Charter Ordinance No. 94.

ATTACHMENTS:

Ordinance - Authorizing contract signatories

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Dr. Robert M. Perez authorizing the Deputy City Manager, Assistant City Manager, and Director of Administrative and Financial Services to sign specific contracts on behalf of the City pursuant to Charter Ordinance No. 94, codified at § A2-55 of the Code of the City of Topeka, adding Topeka Municipal Code § 2.20.015 .

WHEREAS, Charter Ordinance No. 94, § 22, codified as City of Topeka Code § A2-55(b), provides for officers or employees of the City other than the City Manager to execute contracts on behalf of the City when specifically authorized by ordinance; and

WHEREAS, it is in the best interests of the City to authorize the Deputy City Manager, Assistant City Manager and Director of Administrative and Financial Services to sign specific contracts on behalf of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS that:

Section 1. The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.20.015, which said section reads as follows:

(a) The Deputy City Manager, a member of the Executive Department, is authorized to execute contracts on behalf of the City relating to the Police Department, Fire Department, and Judicial Department pursuant to Charter Ordinance No. 94. § 22, as codified in the City of Topeka Code § A2-55.

(b) The Assistant City Manager, a member of the Executive Department, is authorized to execute contracts on behalf of the City relating to the Public Works Department, Utilities Department, and the Planning and Development Department pursuant to Charter Ordinance No. 94. § 22, as codified in the City of Topeka Code §

30 A2-55.

31 (c) That the Director of Administrative and Financial Services, a member of
32 the Executive Department, is authorized to execute contracts on behalf of the City
33 relating to the Administrative and Financial Services Department, Human Resources
34 Department, and the Information Technology Department pursuant to Charter
35 Ordinance No. 94. § 22, as codified in the City of Topeka Code § A2-55.

36 Section 2. This ordinance shall take effect and be in force from and after its
37 passage, approval and publication in the official City newspaper.

38 Section 3. This ordinance shall supersede all ordinances, resolutions or rules,
39 or portions thereof, which are in conflict with the provisions of this ordinance.

40 Section 4. Should any section, clause or phrase of this ordinance be declared
41 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
42 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

43 PASSED AND APPROVED by the City Council on _____.

44 CITY OF TOPEKA, KANSAS

45 _____
46 Michael A. Padilla, Mayor

47
48
49
50
51 ATTEST:

52 _____
53 Brenda Younger, City Clerk
54
55
56



**City of Topeka
Policy &
Finance
Committee**

620 SE Madison St.
Topeka, Kansas 66603
www.topeka.org

DATE: January 28, 2025

CONTACT PERSON: City Manager Dr. Robert M. Perez & Josh McAnarney

SUBJECT: 2026 Budget

PROJECT #:

DOCUMENT DESCRIPTION:

2026 Budget Discussion.

ATTACHMENTS:

Presentation



CITY OF
TOPEKA



2026 Budget Overview Policy and Finance January 28, 2025

Agenda

1

- Revenue and Expense Overview
- Options to Increase Revenue in 2026
- Options to Remove Expenses in 2026 and Beyond
- Sales Tax Ballot Question
- Next Steps
- Discussion



Revenue and Expense Overview

2

Category	2026	2027	2028
Revenues	\$119,346,616	\$120,848,686	\$123,350,497
Expenses	\$136,695,279	\$142,719,193	\$147,029,500
Projected Surplus/(Deficit)	(\$17,348,663)	(\$21,870,507)	(\$23,679,003)



Options to Increase Revenue in 2026

3

Increase Revenue in General Fund Options	Amount
Mill Shift with CIP Changes (50% DREAMS & Infill Sidewalks)	\$ 2,992,786
Additional Use of Unassigned Reserve Fund	\$ 2,500,000
PILOTS	\$ 500,000
Fee Schedule Adjustment	\$ 300,000
One-Time Unused Funds	\$ 523,000
Increase in fund Admin Fees	\$ 500,000
Spend Down to 15% General Fund Reserve Level	\$ 3,000,000

**Highlighted items are one-time Revenue Sources



Options to Remove Expenditures in 2026

4

Decrease Expenditures in General Fund Options	Amount
Hotel Policy Decision	\$ 1,425,000
Grant Program Reduction	\$ 750,000
Police Vehicle Decrease	\$ 150,000
Decrease Engineering Studies	\$ 300,000



Summary of Previously Listed Options

5

Summary	Amount
Hotel Policy Decision	\$1,425,000
Grant Program Reduction	\$ 750,000
Police Vehicle Purchase Decrease	\$ 150,000
Decrease Engineering Studies	\$ 300,000
Mill Shift with CIP Changes (50% DREAMS & Infill Sidewalks)	\$ 2,992,786
Additional Use of Unassigned Reserve Fund	\$ 2,500,000
PILOTS	\$ 500,000
Fee Schedule Adjustment	\$ 300,000
One-Time Unused Funds	\$ 523,000
Increase in fund Admin Fees	\$ 500,000
Spend Down to 15% General Fund Reserve Level*	\$ 3,000,000
Totals	\$12,940,786

*Highlighted items are one-time savings



Closing the 2026 Gap

6

Category	Amount
Projected Deficit for 2026	(\$17,348,663)
Non-Personnel Items from Previous Slide*	(\$12,940,786)
Department Cuts/Hiring Freeze for 2026	(\$4,407,877)
Total Surplus / (Deficit)	(\$0)

- Of the Non-Personnel Items \$6,023,000 is one-time revenue



Closing the 2027 Gap

7

Category	Amount
Projected Deficit for 2027	(\$21,870,507)
Re-Occurring Decreased Expenses	(\$6,917,786)
Re-Occurring Department Cuts	(\$4,407,877)
Total Surplus / (Deficit)	(\$10,544,844)



Sales Tax Initiative

8

- A proposed ballot initiative would include a total \$0.5 sales tax increase that would generate \$19M for the following priorities:
 1. **Public Safety**
 2. **Affordable Housing**
 3. **Homelessness Programs**



City Manager's Next Steps

9

- Discussion/Feedback
- **February 4th** – Governing Body Discussion
- **February 11th** – Governing Body Vote
- **April 28th** – Public Vote, if approved by City Council on February 11th
- **October 1st** – If approved, first date of collection





**City of Topeka
Policy &
Finance
Committee**

620 SE Madison St.
Topeka, Kansas 66603
www.topeka.org

DATE: January 28, 2025

CONTACT PERSON: Josh McAnarney

SUBJECT: American Rescue Plan Act (ARPA) Update

PROJECT #:

DOCUMENT DESCRIPTION:

ARPA Update

ATTACHMENTS: