

# **ECONOMIC DEVELOPMENT POLICIES OF THE CITY OF WESTWOOD**

## **PREFACE**

The following represents policies and guidelines with respect to the economic development policies of the City of Westwood. The City's purpose in adopting these policies is to improve the business health of the City, preserve property values, encourage the growth of a healthy tax base, and provide for the health, safety, welfare and betterment of the City and the community.

These policies do not constitute hard and fast rules; rather they are guidelines to assist the City in evaluating proposals on a case-by-case basis. The City is not bound to follow every provision in these policies, nor should any applicant have any expectation that any policy or practice of the City constitutes a guarantee. The City may deviate from any of the provisions herein when the Governing Body determines it is in the best interests of the City to do so.

Generally, the City will pursue a policy of pursuing development incentives when a project would not be feasible but for the City's grant of incentives. Further, the City will give careful consideration to the fiscal impact of any economic development initiative upon the existing businesses in the City and upon the community as a whole. For example, the City shall, in appropriate circumstances consider the impact of any proposal on other taxing entities and existing businesses, as well as the economic and other impact upon residential and commercial properties in the City.

Finally, these policies are not available to the exclusion of other development tools, nor are they a substitute for creative thought. Sales tax rebates, payments in lieu of taxes, or other development tools may be considered under appropriate circumstances.

## **TAX ABATEMENT PRE-APPLICATION**

The City of Westwood has a policy for granting tax abatements which is vested solely with the Westwood Governing Body. The decision to grant a tax abatement is discretionary and shall be considered on a case-by-case basis. The Westwood Governing Body is under no obligation to approve any requested abatement and reserves the right to deviate from the policies and criteria contained within the policy if, in the opinion of the Governing Body, circumstances exist to warrant such deviation.

# **DEBT POLICY**

## **Section 1. OBJECTIVES.**

This policy will provide for proper planning of capital expenditures, financing requirements, and guidelines for the issuance of various debt instruments. The results help secure favorable ratings and competitive lower interest costs on all types of borrowing instruments; thereby holding borrowing costs to a minimum and providing a savings to all taxpayers.

## **Section 2. SCOPE.**

This policy shall be applicable to Governing Body and City staff members during deliberation of financing methods for capital outlay.

## **Section 3. DEFINITIONS.**

The following words when used in connection with this policy shall have the meanings respectively ascribed to them herein.

**APPRAISED VALUE:** Real market value of real estate.

**ASSESSED VALUE:** Property value at which taxes are assessed against the real estate.

**DEBT INSTRUMENTS:** Municipal financial agreement between a municipality and the underwriter, or other parties to the transaction.

**DEBT SERVICE FUND:** Accounts for the payment of principal and interest on the City's general obligation bonds.

**DERIVATIVE:** Contract whose value depends on, or derives from, the value of an underlying asset, reference rate, or index.

**GENERAL OBLIGATION BOND:** A bond secured by the issuer's full faith and credit.

**MILL LEVY:** One-tenth of one cent. The tax applied to real property. Each mill represents \$1.00 of tax assessment per \$1,000 of property value assessment.

**PAYMENT DEFAULTS:** Nonpayment of specific monies promised.

**TAX INCREMENT FINANCING BOND:** A bond repaid by incremental revenues generated in a Tax Increment Financing (TIF) District. A TIF bond may also be secured by the issuer's full faith and credit (general obligation bond).

#### **Section 4. PROVISIONS.**

The acquisition of funds through debt will be a function of the type of funds needed, economic conditions at the time of sale, debt limit of the City, and other debt offerings within Johnson County at the time of sale.

#### **Section 5. PROCEDURES.**

**A. Pay as You Go Financing (PAYG):** PAYG financing can be utilized as an alternative to short-term or long-term debt. The use of PAYG financing serves as a down payment on capital projects which can be used to reduce the long term impact of debt issuance and help the City achieve its debt benchmark goals. PAYG financing will utilize current year revenues or reserves.

**B. Method of Sale:** The City will market its economic development debt issues generally on a negotiated basis, except for general obligation bonds which will be sold on a competitive basis, unless circumstances related to unusual credit quality, issue size, or market access create a need for a negotiated sale process. If a negotiated sale is advised, the City will normally select the underwriter(s) needed to accomplish the structuring, marketing, pricing, and sale of the bonds through a competitive process. Exceptions to this competitive selection process may be approved by the Mayor upon consultation with the City's bond counsel and financial advisor. All pricing for negotiated sales will be performed with direct involvement by City staff and the City's Financial Advisor.

**C. Sale to Accredited Investors:** Certain issues may be of a highly speculative nature due to the type of project or the revenue structure. The City wants to ensure that all of its debt issues are purchased by investors fully knowledgeable of the risks involved with the investment. For highly speculative issues, the City will require the purchase by qualified investors (those generally defined by the Securities and Exchange Commission, Regulation D). To ensure these types of investors are maintained both in the primary and secondary bond markets, the City will require minimum denominations of \$100,000. This provision may be waived by the Governing Body upon consultation with the City's Bond Counsel and Financial Advisor.

**D. Temporary Notes:** Temporary Notes will be issued only for equipment, land acquisition, and public improvements. Temporary Notes may be rated by a national credit rating agency or agencies if deemed financially advantageous. Judgment will be used on a project-by-project basis to determine the amount required for each note. Whenever possible, multiple projects will be consolidated into a single temporary note issue in order to minimize costs of debt issuance (financial advisor, bond counsel, rating fees, publications, closing costs). The maximum maturity of any one note will be four (4) years from date of issue.

**E. Tax Increment Financing (TIF) Bonds:** The City may issue TIF Bonds to finance eligible redevelopment project expenses as part of a TIF district. TIF Bonds issued by the City will normally be special obligation bonds supported by incremental revenues

generated from the TIF District, and normally not General Obligation Bonds secured by the City's full faith and credit. The maximum maturity of TIF Bonds shall be twenty (20) years, and shall not exceed the anticipated useful life of the project. The minimum issue size for TIF Bonds issued by the City will be established by the City in consultation with Bond Counsel and the City's financial advisors, unless an exemption is approved by the Governing Body. Additional policy requirements are provided in the City's Tax Increment Financing (TIF) Policy.

**F. Transportation Development District (TDD) Bonds:** The City may issue TDD Bonds to finance transportation related projects or infrastructure improvements as authorized by K.S.A. 12-17, 140 *et seq.*, as amended. In no event shall special assessments be levied against the City at large and no full faith and credit debt may be issued by the City to finance a TDD project under this Act. The maximum maturity for TDD Bonds shall be twenty-two (22) years and shall not exceed the anticipated useful life of the project. The minimum issue size for TDD Bonds issued by the City will be \$3,000,000, unless an exemption is approved by the Governing Body. Additional policy requirements are provided in the City's Transportation Development District (TDD) policy.

**G. Community Improvement District (CID) Bonds:** The City may issue CID Bonds to finance projects authorized by the Community Improvement District Act, K.S.A. 12-6a26, *et seq.*. CID Bonds issued by the City will normally be special obligation bonds and normally not General Obligation Bonds secured by the City's full faith and credit. The maximum maturity of CID Bonds shall be twenty-two (22) years, and shall not exceed the anticipated useful life of the project. The minimum issue size for CID Bonds issued by the City will be established by the City in consultation with Bond Counsel and the City's financial advisors, unless an exemption is approved by the Governing Body. Additional policy requirements are provided in the City's Community Improvement District (CID) Policy.

## **Section 6. REFERENCES.**

K.S.A. 10-101 *et seq.*; K.S.A. 10-201 *et seq.*; K.S.A. 10-301 *et seq.*; K.S.A. 10-427 *et seq.*; K.S.A. 12-6a01 *et seq.*; K.S.A. 12-6a26 *et seq.*; K.S.A. 12-631r *et seq.*; K.S.A. 12-685, K.S.A. 12-1740; K.S.A. 12-1770 *et seq.*; K.S.A. 12-17,140 *et seq.*

# TAX INCREMENT FINANCING POLICY

## Section 1. OBJECTIVES.

The proper use of TIF can promote, stimulate and develop the general and economic welfare of and quality of life in the City. This Policy establishes the procedures of the City of Westwood, Kansas, for considering applications for Tax Increment Financing ("TIF") used for economic development and redevelopment purposes in accordance with the provisions of K.S.A. 12-1770 et seq. and any amendments thereto (the "Act").

As noted above, these are intended as guidelines, not as "handcuffs" to prevent the City from using creative solutions, or to require the City to pursue a course it does not deem prudent. The City will use, as guiding principles, the goals of attempting to craft solutions that hold other entities harmless, and will only invoke development incentives when a project could not come to fruition but for the use of the development incentives. Finally, the City will pursue policies and practices which place the cost of the administration and execution of any development policies or incentives upon the applicant.

## Section 2. SCOPE.

The City is committed to the high quality and balanced growth and development of the community; to preserving the City's unique character and distinctive atmosphere; and to revitalizing and redeveloping areas of the City. Although the City does not encourage the practice of subsidizing private business with public funds, insofar as the City's objectives are substantially advanced by the expansion of the tax base and enhancement of the local economy, the City will consider, on a case-by-case basis, the approval of TIF projects where, but for the availability of TIF, such development would not be economically viable. It is the policy of the City that any decision regarding the approval of TIF projects will be made in accordance with the guidelines, criteria, and procedures outlined in this Policy. Nothing herein shall imply or suggest that the City is under any obligation to approve a TIF Project for any applicant; rather, these serve as guidelines or criteria to assist the City in determining if a given TIF proposal is in the best interest of the City.

## Section 3. PROVISIONS.

For the purpose of this Policy, the words or phrases as used in this Policy shall have the meaning or be construed as follows unless otherwise defined by state statute.

**APPLICANT:** The individual or business and its officers, employees, and agents requesting approval of a redevelopment district or redevelopment project plan associated with any proposed TIF Project. May also be referred to as Developer.

**ASSOCIATED THEREWITH:** As used with respect to tangible personal property shall mean being located within, upon, or adjacent to buildings or added improvements to buildings.

**BASE YEAR ASSESSED VALUATION:** The assessed valuation of all real property

within the boundaries of a redevelopment district on the date the redevelopment district was established.

**BLIGHTED AREA:** An area of real property which:

1. Because of the presence of a majority of the following factors, substantially impairs or arrests the development and growth of Westwood or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use:
  - a. a substantial number of deteriorated or deteriorating structures;
  - b. predominance of defective or inadequate street layout;
  - c. unsanitary or unsafe conditions;
  - d. deterioration of site improvements;
  - e. tax or special assessment delinquency exceeding the fair value of the real property;
  - f. defective or unusual conditions of title including but not limited to cloudy or defective titles, multiple or unknown ownership interests to the property;
  - g. improper subdivision or obsolete platting or land uses;
  - h. the existence of conditions which endanger life or property by fire and other causes; or
  - i. conditions which create economic obsolescence; or
2. Has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation, feasibility study and remediation or other similar state or federal action; or
3. Previously was found by resolution of the Governing Body to be a slum or a blighted area under K.S.A. 17-4742, *et seq.*, and amendments thereto.

**CAPITAL INVESTMENT:** The acquisition cost of land, buildings and tangible personal property constituting capital assets for accounting purposes.

**CONSERVATION AREA:** Any improved area comprising 15% or less of the land area within the corporate limits of Westwood in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

1. dilapidation, obsolescence or deterioration of the structures;
2. illegal use of individual structures;
3. the presence of structures below minimum code standards;
4. building abandonment;
5. excessive vacancies;
6. overcrowding of structures and community facilities; or
7. inadequate utilities and infrastructure.

**DISPOSITION AND DEVELOPMENT AGREEMENT:** A written agreement between the City and a Developer for the construction of a redevelopment project. Such agreement shall address issues involved in the redevelopment project, including, but not limited to, the following: Schedule of construction; acquisition of land; eligible TIF expenses; scope of the development (including development criteria); indemnity of the City and insurance requirements; reimbursement of City costs; financing (private and/or public); transfer restrictions prior to completion; maintenance and restrictive covenants; city inspection and information access rights; reporting requirements; and remedies upon default, including, but not limited to, remedies available to the City in the event a project is not completed in a timely fashion.

**FEASIBILITY STUDY:** A study which shows whether a redevelopment project's benefits and tax increment revenue and other available revenues under K.S.A. 12-1774(a)(1), and amendments thereto, are expected to exceed or be sufficient to pay for the redevelopment project costs and the effect, if any, the redevelopment project costs will have on any outstanding special obligation bonds as authorized pursuant to K.S.A. 12-1774(a)(1)(D), and amendments thereto. A Feasibility Study performed by the City or its designee shall be prepared prior to approval of the redevelopment project plan.

**FINANCE TEAM:** A Committee comprised of up to 3 residents of the City who are not members of the Governing Body, the City Clerk, the City Attorney, the Planning Commission Chairman, the City's Financial Advisor, the City's Bond Counsel, and any consultant the City may deem advisable to engage, or their designees, whose function is to review TIF applications and make recommendations for approval or denial to the Governing Body. The three residents who are members shall be appointed by the Mayor and subject to approval by the City Council, and shall serve for 4 –year terms.

**REAL PROPERTY TAXES:** Includes all taxes levied on an *ad valorem* basis upon land and improvements thereon.

**REDEVELOPMENT DISTRICT:** The specific area declared to be an eligible area in

which Westwood may develop one or more redevelopment projects. This is sometimes referred to as a TIF District.

**REDEVELOPMENT DISTRICT PLAN:** The preliminary plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each redevelopment project area.

**REDEVELOPMENT PROJECT:** The approved project to implement a project plan for the development of the established redevelopment district and for which a redevelopment project plan is approved and a disposition and development agreement is executed. Any redevelopment project must be completed within 20 years from the date of approval of the redevelopment project plan (or sooner if so required by the City). This is sometimes referred to as a TIF Project.

**REDEVELOPMENT PROJECT PLAN:** The plan adopted by the City for the development of a redevelopment project or projects which conforms to K.S.A. 12-1772, and amendments thereto, in a redevelopment district.

**TAX INCREMENT:** The amount of real property taxes collected from real property located within the redevelopment district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation. In certain circumstances, the City may also allow capture of the incremental City sales tax revenues and City franchise fees generated by the redevelopment project.

**TAXING SUBDIVISION:** Includes the county, the city, the unified school districts and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district.

#### **Section 4. PROCEDURES.**

##### **A. Legal Authority.**

Pursuant to state law, the City may create redevelopment districts in blighted areas, conservation areas, and enterprise zones created pursuant to K.S.A. 12-17,110 prior to July 1, 1992 or as otherwise may be provided by law. Certain costs of improvements within the redevelopment district may be reimbursed to the Developer or paid through the issuance of bonds as hereafter described. Funds to pay the reimbursement or to retire the bonds are generated by the tax increment and other sources that may be pledged by the City. This authority is discretionary and the City may provide for tax increment financing in an amount and for purposes more restrictive than that authorized by statute. No privately owned property shall be acquired and redeveloped if the Johnson County Board of County Commissioners or the Board of Education levying taxes on property proposed to be included in the redevelopment district determines, in the manner prescribed by K.S.A. 12-1771(d), that the proposed redevelopment district will have an adverse effect on such county or school district.



TIF financing will not be approved if any signatory to a TIF financing application has a financial interest in real estate located in the City of Westwood, Kansas with existing delinquent tax obligations. All applicants will be required to certify, under oath, that they have no financial interest in any real estate with delinquent special assessments, *ad valorem* taxes, or other City, state or federal tax liens at any location in the City of Westwood, Kansas.

**B. Eligible Redevelopment Project Costs.**

Permissible redevelopment project (TIF Project) costs or expenses, include but are not limited to:

1. acquisition of property within the redevelopment project area;
2. payment of relocation assistance pursuant to a relocation assistance plan as provided in K.S.A. 12-1777, and amendments thereto;
3. site preparation including utility relocations;
4. sanitary and storm sewers and lift stations;
5. drainage conduits, channels and levees and river walk canal facilities;
6. street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
7. street lighting fixtures, connection and facilities;
8. underground gas, water, heating, and electrical services and connections located within the public right-of-way;
9. sidewalks and pedestrian underpasses or overpasses;
10. drives and driveway approaches located within the public right-of-way;
11. water mains and extensions;
12. plazas and arcades;
13. major multi-sport athletic complex;
14. museum facility;
15. parking facilities including multi-level parking facilities;
16. landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and

17. related expenses to redevelop and finance the redevelopment project;

Redevelopment project costs shall not include costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a Developer.

**C. Bond Authority.**

The City may use proceeds of special obligation bonds or full faith and credit tax increment bonds to finance the undertaking of a redevelopment project, as provided in K.S.A. 12-1774. TIF Bonds issued by the City will normally be special obligation bonds supported by the incremental revenues generated from the TIF District. The maximum maturity of any such special obligation bonds or full faith and credit tax increment bonds shall be twenty (20) years. The City may also issue industrial revenue bonds or private activity bonds to benefit a Developer located within a redevelopment district.

**1. Special Obligation Bonds.**

a. The City may issue special obligation bonds to finance permissible expenses of a redevelopment project. Such bonds may be payable, both as to principal and interest: (a) from property tax increments allocated to, and paid into a special fund of the City; (b) from revenues of the City derived from or held in connection with the undertaking and carrying out of any redevelopment project; (c) from private sources, contributions or other financial assistance from the state or federal government; (d) from the increased franchise fees and city sales tax, or (e) from any combination of these methods.

b. Special obligation bonds are not general obligations of the City, nor in any event shall they give rise to a charge against its general credit or taxing powers or be payable out of any funds or properties other than those sources set forth above.

**c. Factors for Issuance.** Each request for the issuance of special obligation bonds shall be considered on a case-by-case basis, but the City shall consider a number of factors in deciding whether or not to issue special obligation bonds for a Project. These factors may include but are not limited to:

(1) Project compliance with this Policy;

(2) Source of revenue to repay the debt issued:

(3) The size of the issue (the City will require a minimum size of \$3,000,000 per issue, unless an exception is approved by the Governing Body);

(4) The Applicant's compliance with the approved Redevelopment Project Plan and Phasing Plan;

(5) Whether the Project requested for financing meets the stated goals and objectives of the Governing Body;

(6) Overall security provisions for debt repayment.

**d. Sale of Bonds.** Special obligation bonds issued under this Policy, whether privately placed or offered to the public through a competitive sale, must include security for the bonds of a sufficient amount to minimize any risk of default; be sold to qualified investors (as defined by the Securities and Exchange Commission Regulation D) in accordance with the minimum denominations as provided herein.

(1) The special obligation 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:

(a) the Project being bond financed is substantially leased;

(b) the estimated revenue stream yields significant debt service coverage on the bonds;

(c) construction of the Project being bond financed is substantially complete, as determined by the City;

(d) the repayment term is less than or equal to 60% of the maximum permitted repayment term; or

(e) waiver of the minimum denomination provision by the Governing Body.

(2) The City may require that special obligation bond proceeds be released in phases and amounts consistent with a percentage of construction or other performance standards which shall be agreed upon by the parties.

(3) If a negotiated sale of the bonds is necessary, the City will normally select the underwriter(s) needed to structure, market, price, and sell the bonds through a competitive process. Exceptions to this competitive selection process may be approved by the City upon consultation with the City's Bond Counsel and Financial Advisor. In addition, the City may issue a Request for Proposals and Qualifications to establish a list of pre-qualified underwriters

for TIF special obligation bonds. All pricing for negotiated sales will be performed with direct involvement by City staff and the City's Financial Advisor.

## **2. Full Faith and Credit Bonds.**

The City may also issue full faith and credit tax increment bonds to finance a redevelopment project. Any resolution establishing a public hearing on a redevelopment project plan for which the city intends or may intend to issue full faith and credit tax increment bonds, shall state the City's intent to issue full faith and credit tax increment bonds. These bonds are payable, both as to principal and interest: (a) from the revenue sources identified for special obligation bonds; and (b) from a pledge of the City's full faith and credit to use its *ad valorem* taxing authority for repayment thereof in the event all other authorized sources of revenue are not sufficient. Except in extraordinary circumstances in the sole discretion of the Governing Body, the proceeds of full faith and credit tax increment bonds shall only be used to pay for public improvements or public projects which would otherwise be eligible to be paid for with the proceeds of City general obligation bonds.

In accordance with K.S.A. 12-1774(b)(5), full faith and credit tax increment bonds are general obligations of the City and shall be exempt from all state taxes except inheritance taxes, and the amount of full faith and credit tax increment bonds issued and outstanding which exceed three percent (3%) of the assessed valuation of the City shall be within the bonded limit of the City.

## **3. Industrial Revenue Bonds and Other Financing Tools.**

Industrial revenue bonds may be issued by the City pursuant to K.S.A. 12-1740, *et seq.*, to benefit a Developer within the redevelopment district. All state law benefits associated with such bonds shall be available, except that pursuant to K.S.A. 79-201a *Second*, as amended, no *ad valorem* tax abatement shall be available for property which is located in a redevelopment project area established under the authority of K.S.A. 12-1770, *et seq.*, as amended.

Special assessment districts, Transportation Development Districts (TDD), Community Improvement Districts (CID) and other forms of financing may also be used in conjunction with TIF districts.

## **D. Reimbursement Authority.**

Pursuant to Attorney General Opinion 96-45, tax increment can be used to reimburse a Developer for eligible redevelopment project plan costs as opposed to issuing bonds. Under this method, the City may agree to reimburse the Developer for eligible redevelopment project costs on a pay-as-you-go basis over a period of time not to exceed

twenty (20) years from the date of redevelopment project plan approval in accordance with the terms set forth in the Disposition and Development Agreement. The reimbursement amount is paid solely from all or a portion of the Tax Increment, and the Developer takes the risk that the portion of the increment pledged for reimbursement will be insufficient to retire the eligible redevelopment project costs. This reimbursement method is preferred by the City over the use of bond financing as the method to reimburse Developers for eligible redevelopment project costs.

## **E. Amount of Tax Increment Financing Available.**

### **1. Criteria.**

The general objectives of the City in granting TIF for economic development are: (a) promote, stimulate and develop the general and economic welfare of the state of Kansas and the City; (b) promote the general welfare of the citizens of Kansas and the City through assisting in the development, redevelopment, and revitalization of central business areas, blighted areas, conservation areas, and environmentally contaminated areas located within the City; (c) create new jobs and retain existing jobs; and (d) expand the economic and tax base of the City. The specific objectives of the City to be considered when reviewing a proposed redevelopment district include but are not limited to promoting the redevelopment of locations that need assistance due to unique methods of construction, geological, environmental, or other site constraints. The City recognizes that a simple system of determining the amount of TIF to be granted in order to reach these objectives may not always be equitable if applied uniformly to different kinds of redevelopment project plans. As a result, in determining the actual amount and duration of TIF to be granted, the City shall review each application on a case-by-case basis and consider the factors and criteria set forth in this Policy including where applicable, a Feasibility Study as required by state law, as well as the amount and duration of previous TIF Projects supported by the City.

### **2. Capital Investment.**

Although no stated minimum capital investment is explicitly required by the City, the amount of capital investment made by an applicant is a factor to be considered by the City in determining whether or not to authorize a redevelopment project plan.

### **3. Application Of "But-For" Principle.**

All TIF applications shall be considered in light of the "but-for" principle, i.e., tax increment financing must make such a difference in the decision of the Applicant that the Project would not be economically feasible "but for" the availability of TIF. In evaluating the economic feasibility, the staff shall consider factors that include, but are not limited to:

- a. the extraordinary or unique costs associated with developing the project;
- b. the applicant's financial investment in the project and rate of return on developer equity in the project;
- c. the property, sales and other tax and fee revenue that may result from the project;
- d. the credit worthiness and experience of the applicant; and
- e. the value added, including intangible costs and benefits received by the City and other taxing jurisdictions, as a result of the proposed project.

The Governing Body does not encourage the subsidy of private businesses with public funds, the indirect consequence of TIF, unless some measurable public good results, as determined by the City, and the public subsidization can reasonably be expected to make a significant difference in achieving one or more objectives of the City.

#### **4. Costs.**

The costs of a TIF proposal, including the costs of evaluating and administering any TIF project, shall be borne by the Applicant, and the City may require such deposits, bonds, or security as the City may, in its sole discretion, deem reasonable or prudent to assure that the City does not have to absorb such costs, including in the event that a project should be abandoned or otherwise not come to fruition.

#### **F. Distribution of *Ad Valorem* Taxes.**

All tangible taxable property located within a redevelopment district shall be assessed and taxed for *ad valorem* tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all *ad valorem* taxes levied on such property shall be paid to and collected by the County Treasurer in the same manner as other taxes are paid and collected.

Some or all of the increment in *ad valorem* property taxes resulting from a redevelopment district may be apportioned by the City to a special fund for the payment of the eligible redevelopment project costs of the TIF Project, including reimbursement or the payment of principal and interest on any special obligation bonds or full faith and credit tax increment bonds issued.

#### **G. Condemnation.**

The City does not encourage the use of condemnation in association with projects.

However, the use of condemnation, to the extent permitted under K.S.A. 12-1773 or other applicable law, may be considered by the Governing Body, but only upon a finding that the Applicant has attempted, in good faith, to acquire the property privately. Although expenses associated with condemnation are an eligible redevelopment project cost under state law, in the event condemnation is approved by the Governing Body, the Applicant may be required to be responsible for all costs associated with the proceedings, including court and litigation costs, attorney's fees and the final condemnation awards made.

#### **H. Waiver of Requirements.**

The Governing Body reserves the right to grant or deny tax increment financing for the development or redevelopment of a redevelopment district under circumstances beyond the scope of this Policy or to waive provisions herein. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest. The Governing Body shall not waive any statutory requirement of State law.

#### **Section 5. PROCEDURES.**

City staff shall develop internal procedures for processing redevelopment district and redevelopment project plan applications and the applicable fees associated therewith. Such procedures shall be approved, and amended when appropriate, by the Mayor . All requests or applications for either redevelopment districts or redevelopment project plans shall be considered and acted upon in accordance with this Policy and its accompanying procedures.

#### **Section 6. STATUTORY AMENDMENTS.**

Any amendment to any statute cited herein or used as a source of authority for development of the City's TIF Policy shall apply without modification or amendment to the TIF Policy.

#### **Section 7. RESPONSIBILITY FOR ENFORCEMENT.**

The City Finance Team shall be responsible to the Governing Body for the enforcement of this Policy. The City Clerk, City Attorney, Bond Counsel, Financial Advisor, and any other consultants the City may engage shall assist in the implementation of this Policy.

#### **Section 8. REFERENCES.**

K.S.A. 12-1770 through 12-1780; 12-17,110; and 12-1740 as amended.

# **TAX INCREMENT FINANCING (“TIF) PROCEDURES**

## **Section 1. POLICY APPLICABILITY.**

The following basic procedures shall govern the approval of all redevelopment districts and TIF Projects within the City. All requests for or applications for redevelopment districts or redevelopment project plans shall be considered and acted upon in accordance with the TIF Policy set forth herein. These procedures are established under the authority of the Governing Body. These provisions may be waived by the Governing Body, if such waiver is in the best interest of the City and does not conflict with any statutory or procedural requirement of state law or other competent authority.

## **Section 2. APPLICATION PROCESS.**

### **A. Redevelopment District Application.**

The Applicant shall make application for a redevelopment district by filing with the City five (5) copies of a written application on a form provided by the City. The application shall include, but is not limited to: (a) legal description of the proposed boundaries of the redevelopment district; (b) map of the redevelopment district area with accompanying tax parcel I.D. information; (c) a comprehensive plan that identifies all the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and other improvements that are proposed to be constructed or improved in each redevelopment project area; (d) if applicable, accompanied by a study from qualified personnel establishing the information necessary to establish blight or conservation area findings as the basis for establishing the redevelopment district area; (e) information regarding expected capital expenditures by the Applicant; (f) an itemization of development assistance requested; and (g) the applicable application fee.

City staff may also initiate redevelopment districts. Such staff requests shall be accompanied by an application completed by the project manager, but the corresponding fee may be waived.

### **B. Redevelopment Project Plan Application.**

The applicant shall make application for a redevelopment project plan by filing with the City five (5) copies of a written application on a form provided by the City. The application shall include, but is not limited to: (a) legal description of the proposed boundaries of the redevelopment project plan; (b) description and map of the redevelopment project plan; (c) a detailed description that identifies the proposed buildings, facilities and other improvements to be constructed in the redevelopment project area, including the estimated fair market and assessed value of the improvements and the estimated date in which construction of the improvements will be commenced and completed; and (d) the proposed relocation plan required by K.S.A. 12-1777, and amendments thereto, if any relocation will be required under the redevelopment project plan.



City staff may also initiate redevelopment project plans. Such staff requests shall be accompanied by an application completed by the project manager, but the corresponding fee may be waived.

### **C. General Application Procedure.**

The City Clerk shall distribute the copies to the Finance Team. The City will only consider full and complete applications. Applicant will also be responsible for providing whatever additional information requested by staff or the Governing Body as necessary for assisting the City in making its recommendation or decision on the application. Any inaccuracy, misstatement or error in fact may render the application null and void and may be cause for the repeal of any development assistance ultimately provided by the City through the TIF statutes in reliance upon said information.

### **Section 3. APPLICATION AND ADMINISTRATION FEES.**

Redevelopment district applications and redevelopment project plan applications shall be accompanied by an application fee. This fee is in addition to other fees which may be required by the City, including fees for the issuance of bonds, costs incurred for preparation of the Feasibility Study as required by the Act and this Policy, and costs incurred, if any, for review and work done by the City's Financial Advisor and Bond Counsel. In addition, any applicant that receives redevelopment project plan approval and subsequent TIF assistance shall pay an annual administration service fee as set forth herein. All fees shall be due and payable as provided for herein or as otherwise set forth in an approved Development Agreement.

#### **A. Fees Associated with Redevelopment District.**

**1. Initial Application Fee.** A non-refundable amount of \$10,000.00 shall accompany the Redevelopment District application.

**2. Retainer.** A sum to be determined by the City based upon the size of the Project, but not less than \$10,000.00, ("Retainer") shall accompany the filing of the application. The City shall use the Retainer to pay for City bond counsel, financial advisor and other professional consultants' fees and apply the hourly fees incurred by the City's professional consultants for work on this Project against the Retainer. The City shall bill the applicant for any amounts incurred in excess of the Retainer. If there is money left in the Retainer when the professional work is completed, the City shall pay over to the applicant any amounts remaining. However, if that retainer should become exhausted or drop to a point unacceptably low to the City during the pendency of the TIF project, the City may require the deposit of such additional funds as the City may deem appropriate, in its sole discretion, in order to assure that the City will not have to absorb any of the costs of the evaluation or administration of the TIF project, and to assure the

financial security of the City.

## **B. Fees Associated with Redevelopment Project Plan.**

**1. TIF Fee.** A non-refundable amount equal to 1% of the total TIF assistance provided but initially based upon the estimated and approved eligible redevelopment project costs, in a maximum amount of \$50,000.00, which fee shall be paid as follows:

**(a) Initial Application Fee.** An amount of \$2,500.00 must accompany the application submission.

**(b) Redevelopment Project Plan Approval Fee.** An amount equal to 25% of the TIF fee or \$7,500.00 (whichever is less).

**(c) Balance of Fee.** Paid with the first increment disbursement or the issuance of bonds, if applicable, in the amount of 75% of the TIF fee or \$40,000.00 (whichever is less).

**2. Annual Administrative Service Fee.** An amount equal to 0.5% of the annual increment reimbursed to applicant or its successor in interest.

**3. Retainer.** A sum to be determined by the City based upon the size of the Project, but not less than \$10,000.00, (“Retainer”) shall accompany the filing of the application. The City shall use the Retainer to pay for City bond counsel, financial advisor and other professional consultants’ fees and apply the hourly fees incurred by the City’s professional consultants for work on this Project against the Retainer. The City shall bill the applicant for any amounts incurred in excess of the Retainer. If there is money left in the Retainer when the professional work is completed, the City shall pay over to the applicant any amounts remaining. However, if that retainer should become exhausted or drop to a point unacceptably low to the City during the pendency of the TIF project, the City may require the deposit of such additional funds as the City may deem appropriate, in its sole discretion, in order to assure that the City will not have to absorb any of the costs of the evaluation or administration of the TIF project, and to assure the financial security of the City.

## **Section 4. INITIAL REVIEW PROCEDURE.**

On receipt of the completed application and the required fee, the City Clerk or his or her designee shall determine whether the proposal is complete and sufficient for review. If the proposal is incomplete, the City Clerk shall immediately notify the Applicant of the need for such changes or additions as deemed necessary. Upon receipt of a completed application and the applicable fee, the City Clerk shall forward the application to the Finance Team for review.

## **Section 5. FINANCE TEAM REVIEW.**

The Finance Team shall review applications for TIF assistance. In the case of redevelopment district applications, the Finance Team shall also evaluate the proposed redevelopment district and verify that redevelopment is necessary to promote the general and economic welfare of the City; gather and review such additional information as may be deemed necessary to determine if the applicant meets the objectives of this Policy; obtain input of applicable City departments with respect to the proposed physical plan and infrastructure needs; prepare a timeline for processing the application; conduct discussions and negotiations with the applicant; and recommend to the Governing Body whether the application should be favorably considered.

In the case of redevelopment project plan applications, the Finance Team shall evaluate the proposed redevelopment project plan and determine if it meets the goals, objectives and codes of the City; obtain the input of applicable City departments with respect to the proposed physical plan and infrastructure needs; prepare a timeline for processing the application; prepare or cause to be prepared the Feasibility Study and review the same; conduct discussions and negotiations with the applicant; discuss terms of the Disposition and Development Agreement to be drafted by the City Attorney for Governing Body consideration; and recommend to the Governing Body whether the application should be favorably considered.

In reviewing any TIF project, the Finance Team shall bear in mind the criteria and policies of the City, including requiring the adherence to a timeline for development, establishing performance criteria to guide the project, making certain that the applicant pays the costs of the TIF evaluation and administration, making provision for such assurances and security as may be necessary to protect the City and its financial interests, applying the “but for” test to determine if the project requires TIF or other development assistance, endeavoring to hold harmless other taxing entities, and considering whether a project will create an unfair advantage with respect to any existing businesses.

In reviewing the information, the Finance Team may utilize the services of consultants, including but not limited to bond counsel and financial advisors. Finance Team records, including applications submitted for TIF, may be eligible for withholding from public disclosure as provided under the Kansas Open Records Act, but shall be available for public inspection when otherwise required by law.

Further, the review of the TIF considerations is not a substitute for any review of any plans by the Planning Commission, and all plan review and other zoning or land use procedures by the Planning Commission and/or the Governing Body shall not be affected by the Finance Team’s review, but rather the Finance Team shall endeavor to work in concert with all City bodies and personnel in a coordinated fashion.

## **Section 6. GOVERNING BODY ACTION.**

No elected or appointed officer, employee or committee of the City, and no Chamber of

Commerce, Board, Development Council, or other public or private body or individual, shall be authorized to speak for or commit the Governing Body to the provision of TIF, the establishment of a redevelopment district, nor the approval of a redevelopment project plan.

#### **A. Reviewing and Establishing the Redevelopment District.**

Upon receiving the recommendation of the Finance Team, the Governing Body shall determine whether to reject the application for creation of a redevelopment district or to further consider the request. Upon a favorable vote for further consideration, the Governing Body shall take action to establish a redevelopment district. The Governing Body must conclude 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 reflecting its findings as provided herein.

##### **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 not less than one week or 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 Johnson County Board of County Commissioners, and 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 district area not more than 10 days following the date of the adoption of the resolution.

### **3. Board of County 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 Johnson 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. Feasibility Study.**

Before any redevelopment project plan is approved, a Feasibility Study shall be prepared by a person or organization selected by the City. The Feasibility Study must show whether a redevelopment project's benefits and tax increment revenue and other available revenues under K.S.A. 12-1774(a)(1), and amendments thereto, are expected to exceed or be sufficient to pay for the redevelopment project costs and the effect, if any, the redevelopment project costs will have on any outstanding special obligation bonds as authorized pursuant to K.S.A. 12-1774(a)(1)(D). The cost of preparing the Feasibility Study shall be paid by the Applicant. Such study shall be an open public record.

### **2. 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: a summary of the feasibility study, which shall be an open record; a reference to the district plan that identifies the redevelopment project area that is set forth in the project plan being considered; a description and map of the redevelopment area to be redeveloped; the relocation assistance plan, if applicable; a detailed description of the buildings, facilities and improvement proposed to be constructed or improved in such area; and 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.

### **3. 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 Johnson County Board of County Commissioners and 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.

### **4. 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.

**Section 7. DISPOSITION AND DEVELOPMENT AGREEMENT.**

Prior to the commencement of development of the redevelopment project (including the issuance of bonds), and generally simultaneous with the approval of a redevelopment project plan, the Developer shall execute a Disposition and Development Agreement as approved by the Governing Body.

**Section 8. BOND ISSUANCE.**

All bonds, except full faith and credit bonds, may be issued following the public hearing. No full faith and credit bonds may be issued until the sixty day protest period expires after the date of the public hearing. If a protest petition is signed by 3% of the qualified voters of the City, and filed with the City Clerk in accordance with the provisions of K.S.A. 25-3601 et seq., within 60 days of the date of the public hearing, no full faith and credit tax increment bonds may be issued until the issuance of the bonds is approved by a majority of the voters. Failure of the voters to approve the issuance of the full faith and credit bonds shall not prevent the City from issuing special obligation bonds in accordance with this Policy and K.S.A. 12-1774, and amendments thereto.

**Section 9. ACQUISITION OF LAND.**

The City may proceed to acquire property within the redevelopment district by purchase or eminent domain (with 2/3 vote of the Governing Body) and implement the redevelopment project plan, subject to state law regarding such powers. However, the City may not exercise eminent domain in Conservation Areas. The City generally discourages the use of eminent domain in TIF projects, absent compelling reasons to do so.

# **TRANSPORTATION DEVELOPMENT DISTRICTS**

## **Section 1. POLICY STATEMENT.**

To meet the economic goals of the City as outlined above, it shall be the policy of the City to consider establishment of Transportation Districts, when the Governing Body deems it necessary, to finance certain Transportation Projects within the City. The City shall finance Transportation Projects by (a) special assessments levied on property within the Transportation District benefited by the Transportation Project, and/or (b) a transportation district sales tax on the sale of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas Retailers' Sales Tax Act, and amendments thereto, within the Transportation District. The City may, in accordance with the Act and, at its sole discretion, levy a sales tax within a Transportation District in any increment from .10% or .25% up to 1%, all of which may be pledged to repay any special obligation bonds issued to finance the Transportation Project. If special assessments are to be imposed within the Transportation District, the City shall follow the assessment procedures outlined in K.S.A. 12-6a01.

## **Section 2. PROCEDURE.**

Pursuant to the Act, the City shall consider creation of a TDD after receipt of a completed TDD Petition ("Petition") in a form as determined by the City and a Petition Fee as described in Section 5(a). The completed Petition will be reviewed by the City's staff and/or any consultants engaged by the City to assist the City in reviewing the Petition prior to consideration of a complete and valid Petition by the Governing Body. To form a Transportation District, the following procedure is established:

### **A. Petition Procedure.**

A valid Petition proposing the creation of a Transportation District, the making of Transportation Projects relating thereto, and the imposition of a transportation district sales tax or special assessments in order to pay the costs of such transportation projects must be filed with the City Clerk of the City of Westwood. The Petition must be signed by the owners of record, whether resident or not, of all of the land area within the proposed transportation district. The Petition shall be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the Economic Development Project's site plans, and to analyze the merits of the proposed Transportation District in the context of existing economic development and infrastructure projects. The Petition must contain a description of the following:

1. the general nature of the Transportation Project;
2. the proposed uses of all Transportation District funds;



3. the maximum cost of the Transportation Project supplemented by a preliminary budget describing each element of the Transportation Project proposed to be paid for by Transportation District sales tax or assessments;
4. the proposed method of financing the Transportation Project;
5. the proposed method of assessment, if any;
6. the proposed amount of any Transportation District sales tax;
7. a map and legal description of the proposed Transportation District.

**B. Supplemental Information.**

The City reserves the right to request any additional information to supplement the Petition, prior to consideration by the Governing Body.

**C. District Financed Only by Special Assessments.**

Upon filing of a Petition for a Transportation District financed only by special assessments, the Governing Body may proceed without notice or a hearing to make findings by ordinance as to the nature, advisability and maximum cost of the project, the boundaries of the Transportation District and the amount and method of assessment. Upon making such findings the Governing Body may authorize the Transportation Project in accordance with such findings as to the advisability of the Transportation Project. The ordinance shall be effective upon publication once in the official City Newspaper.

**D. Property Outside of the Transportation District Boundary.**

The Transportation District boundaries and the method of financing for the Transportation Project shall not require that all property that is benefited by the Economic Development Project, whether the benefited property is within or without the Transportation District, be included in the Transportation District, or be subject to an assessment or a Transportation District sales tax.

**E. Public Hearing Procedure.**

After review of a completed Petition by the City staff and any City consultants, and prior to creating any Transportation District (except a Transportation District financed only by special assessments, for which no public hearing is required) the Governing Body shall, by resolution, direct and order a public hearing on the advisability of creating such Transportation District and the construction of such Transportation Projects therein, and to give notice of the hearing by publication at least once each week for two consecutive weeks in the official City Newspaper and by certified mail to all property owners within the proposed Transportation District, the second publication to be at least seven days

prior to the hearing and such certified mail sent at least ten days prior to such hearing. The notice of public hearing shall contain the following information:

1. the time and place of the hearing;
2. the general nature of the proposed Transportation Project;
3. the maximum cost of the proposed Transportation Project;
4. the proposed method of financing the costs of the Transportation Project;
5. the proposed method of assessment, if any;
6. the proposed amount of the Transportation District sales tax; and
7. a map and legal description of the proposed Transportation District.

**F. Governing Body Findings.**

After the Public Hearing is conducted on the proposed Transportation District, the Governing Body shall determine the advisability of creating a Transportation District setting forth the boundaries thereof, authorizing the proposed Transportation Projects, approving the maximum costs thereof, levy the Transportation District sales tax, imposing any special assessments, and approving the method of financing the same. Such determinations will be made by the adoption of an ordinance.

**G. Project Account.**

The City shall create a separate account for each Transportation District and Transportation Project, and all transportation district sales tax and or special assessment revenues shall be deposited into such account.

**Section 3. CRITERIA AND ADJUSTMENTS.**

It is the intention of the Governing Body that all Economic Development Projects and Transportation Projects related to proposed Transportation Districts meet the criteria detailed below. Failure to meet the standards set forth below may result in rejection of the Petition or a decrease in the proposed TDD sales tax percentage or proposed special assessments. Adjustments may be made to increase the proposed TDD sales tax or proposed special assessments intended to be provided as an extra incentive to exceed certain economic development criteria. However, in no instance shall adjustments to the proposed TDD sales tax or special assessments exceed the maximum allowable TDD sales tax or special assessments which may be levied pursuant to the Act.

## **A. Transportation Development District Consideration.**

The City's staff and any consultants required to review Petitions shall utilize the following criteria to evaluate Petitions:

**1. "But For" Test.** Each Petition should demonstrate that "but for" the creation of a TDD and use of Transportation District sales tax and/or the levy of special assessments, the Economic Development Project is not feasible and would not be completed without the proposed TDD assistance.

**2. Debt Service Coverage Ratio for Special Obligation Transportation Development District Sales Tax Revenue Bonds.** All Petitions requesting the imposition of a TDD sales tax and the issuance of special obligation bonds or temporary notes should demonstrate that the TDD sales taxes expected to be generated will be sufficient to provide enough security to pay off the bonds. The TDD sales taxes generated should provide a debt service coverage ratio of at least 1.25 times the projected debt service on the special obligation bonds or notes. A debt service coverage ratio greater than 1.25 times may be necessary to market any notes or bonds that are public offerings. Petitioner or bank purchased bonds may be less than 1.25 times debt service coverage.

**3. Debt Service Coverage Ratio for Special Obligation Transportation Development District Special Assessment Revenue Bonds.** All Petitions requesting the imposition of TDD special assessments and the issuance of special obligation bonds or temporary notes should demonstrate that the TDD special assessments expected to be levied will be sufficient to provide enough security to pay off the bonds. The TDD special assessments should generate enough revenue to provide a debt service coverage ratio of at least 1.15 times the projected debt service on the special obligation bonds or notes. A debt service coverage ratio greater than 1.15 times may be necessary to market any notes or bonds that are public offerings. Petitioner or bank purchased bonds may be less than 1.15 times debt service coverage.

**4. Projected Payoff.** The total amount of TDD assistance provided for projects will be based on the economic payoff expectations of the Transportation Project and the Economic Development Project's significance to the community. In general, the goal for Transportation Projects (including any associated TDD special assessments) would be a 10-year payoff. Longer periods may be considered up to the maximum statutory payoff period of 22 years from creation of the Transportation District if a determination is made that the Economic Development Project is of community-wide significance.

**5. Developer Contribution & Cost Allocation.** Each Petition should include evidence that the Petitioner will do the following:

- a. Have the financial ability to complete and operate the Economic Development Project,
- b. Will be liable for, or contribute equity or private financing of at least fifteen percent (15%) of the total cost of the Economic Development Project or provide a performance bond for the completion of the Economic Development Project (Economic Development Projects with equity or private financing contributions from the developer in excess of fifteen percent (15%) will be viewed more favorably),
- c. Demonstrate a financial nexus between the public transportation infrastructure financed by the TDD assistance and the private transportation infrastructure financed by the TDD assistance. The TDD eligible costs identified by the Petitioner should be itemized within the Transportation Project as follows:

1. At least 50% of the TDD-eligible costs should pay for construction of major public City-specified transportation infrastructure outside of the Transportation District which must be improved to serve the Economic Development Project and which would not otherwise require improvement but for the Economic Development Project;
2. At least 25% of the TDD-eligible costs should pay for construction of public transportation infrastructure outside of the Transportation District, but which is located immediately adjacent to the Transportation District, which must be improved to serve the Economic Development Project and which would not otherwise require improvement but for the Economic Development Project;
3. No more than 25% of the TDD-eligible costs should be allocated to pay for construction of private transportation infrastructure costs within the Transportation District, including but not limited to construction of private parking lots and garages constructed to serve private businesses.

Projects with a portion of TDD-eligible costs dedicated to pay public transportation infrastructure costs in excess of seventy-five percent (75%) will be viewed more favorably by the Governing Body.

6. Project Completion. The City will require satisfactory assurance that the Economic Development Project and the Transportation Project will be completed in a timely manner in accordance with the Development Agreement described in Section 4.

## **B. Governing Body Consideration.**

The Governing Body shall consider the following factors when creating Transportation Development Districts pursuant to the Act:

**1. Existence of Economic Benefit.** Strong consideration will be given to Economic Development Projects which add to and diversify the Westwood tax base as well as Economic Development Projects which would provide an extraordinary or particularly unique community-wide economic opportunity. Evaluation criteria to be used in determining economic benefit to the community shall include, but shall not be limited to, consideration of the amount of capital investment and a determination of whether the proposed transportation improvements enable the development and location of new products and services in Westwood rather than the relocation of existing businesses already in the City.

**2. Location.** The Governing Body will give strong consideration for a Transportation District that will be located in a targeted area for economic development or redevelopment, has specific site constraints making development more difficult or costly, or is considered in need of rehabilitation in some way. Targeted areas for economic development or redevelopment may include, but not be limited to blighted areas or conservation areas as defined under K.S.A. 12-1770a.

**3. Design Criteria.** The City will require higher standards for the design of improvements and materials used in making improvements within a Transportation District than the minimum requirements set forth in any of the City's land use or other codes or requirements. 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 Economic Development Project's site plans and building elevations and the Transportation Project's plans are subject to final approval by the City to ensure that they are similar to the preliminary plans and elevations submitted.

**4. Compatibility with Adopted City Plans.** All Transportation Projects should be consistent with the City's Comprehensive Plan, street improvement plans, and any special established corridor plans. The City will consult these plans for consistency prior to the City approving any proposed Transportation District. When evaluating proposed Transportation Districts, the City will consider (1) the compatibility of the location of the proposed Economic Development Project and Transportation Project(s); (2) the compatibility of the proposed land uses with land use, capital improvement, and other relevant plans of the City; and (3) the availability of existing infrastructure facilities and essential public services. Preference will be given to projects which enhance pedestrian, bicycle, or public transportation options. If an Economic Development Project requires are zoning

in addition to any rezoning required within the Transportation District, the Petitioner shall demonstrate the Economic Development Project's compatibility with land use, capital improvement, and other relevant plans of the City.

**5. Traffic Impacts.** All Transportation Projects shall conform to all of the City's plans and/or policies which would or could trigger the issuance of a Traffic Impact Study or any other study. All additional studies shall be submitted with the Petition for consideration by the City's staff and any City consultants and before consideration of the Petition by the Governing Body.

**6. Utilization of City-Owned Utilities and Services.** All Transportation Districts within the boundaries of City-owned utility service areas shall use City-owned utilities and services when available. Exceptions will only be made when it is demonstrated in writing that City-owned utilities or services cannot feasibly provide acceptable service to the Transportation District.

#### **Section 4. DEVELOPMENT OR REDEVELOPMENT AGREEMENT.**

Any Transportation District approved by ordinance pursuant to this Resolution shall be accompanied by a development or redevelopment agreement ("Agreement") between the Petitioner and/or lessee and the City. The Agreement will be subject to approval by the Governing Body prior to reimbursement of eligible Transportation Project improvements and/or issuance of TDD Sales Tax Revenue Bonds or TDD Special Assessment Revenue Bonds, and prior to construction of the Economic Development Project and the Transportation Project. The City shall review information provided by the Petitioner, lessee, county, or state to determine compliance with the Agreement. Each Agreement shall contain a notice and waiver disclosing to each Petitioner that the City reserves the right to create future Transportation Districts on comparable projects with different Transportation District sales tax rates or different amounts of special assessments than those approved for such project. The aforementioned notice and waiver shall include a provision that the Petitioner waives any right to request a modification or amendment of such Transportation District sales tax rate or amount of special assessments based upon such differences.

All costs of preparation of the Agreement, publication of legal notices and all other related Petition costs shall be paid by the Petitioner.

#### **Section 5. PETITION AND BOND FEES.**

The Governing Body hereby establishes the following fees:

##### **A. Petition Fee.**

A non-refundable Petition Fee of \$5,000 shall accompany all Petitions and shall be paid prior to consideration of all Petitions for the creation of a Transportation District by the City's staff or any City consultants.

**B. Bond Issuance Fee.**

The City shall receive an issuance fee of (i) 25 basis points (.25%) of the first \$10 million par amount of Transportation District sales tax revenue bonds being issued, plus (ii) 20 basis points (.20%) of the par amount of the second \$10 million of bonds being issued, plus (iii) 10 basis points (.10%) of the par amount in excess of \$20 million of bonds being issued for each series of bonds to be paid by the proceeds of a TDD sales tax or special assessments. In no event shall the issuance fee be less than \$2,000 or more than \$100,000. The fee shall be due and payable at the time the bonds are issued. The City will not charge the issuance fee for any amount of any bond issue that refunds a prior bond issue.

**C. Administrative Service Fee.**

In addition to the fees listed above, the Petitioner shall pay to the City, at the time prescribed in the Agreement, an annual administrative service fee of .5% of the annual TDD revenue generated within the Transportation District, or any amount set forth from time to time by the City, to cover the administration and other City costs for each approved Transportation Project. Such administrative service fees may be paid from the Transportation District sales tax generated from the project, special assessments, bond proceeds, or from a direct billing to the Petitioner. The payment method of the administrative service fee shall be determined on a case by case basis under the terms of the Agreement.

**D. Additional Costs.**

The Petitioner shall reimburse the City for all costs associated with the analysis of a proposed Transportation District, all legal publication notices, the City's bond counsel and any other legal fees, financial advisor fees, any consultant fees, and all other miscellaneous costs. In order to secure the payment of such costs, a Retainer shall accompany the filing of the application in an amount to be determined by the City. The City shall use the Retainer to pay for City bond counsel, financial advisor and other professional consultants' fees and apply the hourly fees incurred by the City's professional consultants for work on this Project against the Retainer. The City shall bill the applicant for any amounts incurred in excess of the Retainer. If there is money left in the Retainer when the professional work is completed, the City shall pay over to the applicant any amounts remaining. However, if that retainer should become exhausted or drop to a point unacceptably low to the City during the pendency of the TDD project, the City may require the deposit of such additional funds as the City may deem appropriate, in its sole discretion, in order to assure that the City will not have to absorb any of the costs of the evaluation or administration of the TDD project, and to assure the financial security of the City.

**Section 6. AUTHORITY OF GOVERNING BODY.**

The Governing Body reserves the right to deviate from any policy except that it may not deviate from any procedural requirements of state law or other competent authority, 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.



# COMMUNITY IMPROVEMENT DISTRICTS

## Section 1. POLICY STATEMENT.

To meet the economic goals of the City as outlined above, it shall be the policy of the City to consider establishment of Community Improvement Districts, when the Governing Body deems it necessary, to finance certain Improvement Projects within the City. The City shall finance Improvement Projects by (a) special assessments levied on property within the Improvement District benefited by the Improvement Project, and/or (b) an Improvement District sales tax on the sale of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas Retailers' Sales Tax Act, and amendments thereto, within the Improvement District. However, the City hereby expresses its intent to consider the issuance of full faith and credit general obligation bonds to pay for Improvement District costs if such bonds are issued to pay for public infrastructure improvements which are financed by special assessments but are not financed by an Improvement District sales tax. The City, in accordance with the Act and in addition to and not withstanding any limitations on the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, may, at its sole discretion, levy a sales tax within an Improvement District in any increment from .10% or .25% up to 2%, all of which may be pledged to repay any special obligation bonds issued to finance the Improvement Project. If special assessments are to be imposed within the Improvement District, the City shall follow the assessment procedures outlined in K.S.A. 12-6a01 *et. seq.*

## Section 2. PROJECT ELIGIBILITY.

Pursuant to the Act, certain projects and activities may be paid from the proceeds of a Community Improvement District sales tax or special assessments. The City hereby identifies projects and activities identified as eligible for reimbursement under the Act which it will deem eligible and ineligible for reimbursement:

### A. Eligible Projects.

The following projects within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend shall be eligible for reimbursement out of the proceeds of a Community Improvement District sales tax or special assessments:

1. Public buildings, structures and facilities, and not-for-profit museums;
2. Sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, pedestrian amenities, abandoned cemeteries, drainage systems, water systems, storm systems, sewer systems, lift stations, underground gas, heating and electrical services and connections located within or without the public right-of-way, water mains and extensions and other site improvements;

3. Parking garages;
4. Streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;
5. Parks, lawns, trees and other landscape;
6. Communication and information booths, bus stops and other shelters, stations, terminals, hangers, rest rooms and kiosks;
7. Outdoor cultural amenities, including but not limited to, sculptures and fountains;
8. Airports, railroads, light rail and other mass transit facilities;
9. Lakes, dams, docks, wharfs, lakes or river ports, channels and levies, waterways and drainage conduits;
10. To provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons for public property, public buildings and outdoor spaces;
11. To provide or contract for cleaning, maintenance and other services to public property, public buildings and outdoor spaces;
12. To contract for or conduct economic impact, planning, marketing or other studies related to the district.

**B. Ineligible Projects.**

The following projects within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend shall be ineligible for reimbursement out of the proceeds of a Community Improvement District sales tax or special assessments:

1. Private buildings, structures and facilities, other than not-for-profit museums;
2. Indoor cultural amenities, including but not limited to, paintings, murals and display cases, which are not located in a private not-for-profit museum;
3. To operate or to contract for the provision of music, news, child-care, or parking lots or garages, and buses, minibuses or other modes of transportation;
4. To provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons inside private buildings;

5. To provide or contract for cleaning, maintenance and other services to private property;
6. To produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, advertising, decoration of any public place in the district, promotion of such activity and special events and furnishing music in any public place;
7. To support business activity and economic development, including, but not limited to, the promotion of business activity, development and retention and the recruitment of developers and business;
8. To provide or support training programs for employees of businesses.

**Section 3. PROCEDURE.**

Pursuant to the Act, the City shall consider creation of a CID after receipt of a completed CID Petition (“Petition”) and a Petition Fee as described in Section 6(a). The completed Petition will be reviewed by the City’s Finance Team as referenced under the City’s Tax Increment Financing Policy and any other staff required for review of the Petition prior to consideration of a complete and valid Petition by the Governing Body.

To form an Improvement District, the following procedure is established:

**A. Petition Procedure.**

A valid Petition proposing the creation of an Improvement District, the making of Improvement Projects relating thereto and the imposition of a Community Improvement District sales tax or special assessments in order to pay the costs of such Improvement Projects must be filed with the City Clerk of the City of Westwood.

**1. Petition Sufficiency.** The Petition must be signed by the owners of more than fifty-five percent (55%) of the land area within the proposed district, and signed by owners collectively owning more than fifty-five percent (55%) by assessed value of the land area within the proposed district, if the petitioners are seeking financing in whole or in part by a proposed Community Improvement District sales tax. The Petition must be signed by the owners of record, whether resident or not, of all of the land area within the proposed Improvement District if the petitioners are (1) seeking financing only by assessment and (2) not seeking the issuance of full faith and credit bonds pursuant to the Act.

**2. Petition Submittal Requirements.** The Petition shall be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the Improvement Project’s site plans, and to analyze the merits of the proposed Improvement District in the context of existing

economic development and infrastructure projects. The Petition must contain a description of the following:

- a. the general nature of the Improvement Project;
- b. the estimated cost of the Improvement Project, supplemented by a preliminary budget describing each element of the Improvement Project proposed to be paid for by Improvement District sales tax or assessments;
- c. the proposed method of financing the Improvement Project;
- d. the proposed amount and method of assessment, if any;
- e. the proposed amount of any Improvement District sales tax, if any;
- f. a map and legal description of the proposed Improvement District.

**B. Supplemental Information.**

The City reserves the right to request any additional information to supplement the Petition prior to consideration by the Governing Body.

**C. District Financed Only by Special Assessments.**

Upon filing of a Petition for an Improvement District financed only by special assessments, the Governing Body may proceed without notice or a hearing to make findings by ordinance as to the nature, advisability and maximum cost of the project, the boundaries of the Improvement District and the amount and method of assessment. Upon making such findings the Governing Body may authorize the Improvement Project in accordance with such findings as to the advisability of the Improvement Project, except no assessments may be levied against the municipality at large. The assessments may be reduced or eliminated once the City has received sufficient funds to pay the debt service on any bonds issued for the Improvement Project which would have been paid out of such annual installment. The ordinance shall be effective upon publication once in the official City newspaper.

**D. Public Hearing Procedure.**

After review of a completed Petition by the Economic Development Committee, and prior to creating any Improvement District (except an Improvement District financed only by special assessments, for which no public hearing is required) the Governing Body shall, by resolution, direct and order a public hearing on the advisability of creating such Improvement District and the construction of such Improvement Projects therein, and to give notice of the hearing by publication at least once each week for two (2) consecutive weeks in the official City Newspaper and by certified mail to all property owners within the proposed Improvement District, the second publication to be at least seven (7) days prior to

the hearing and such certified mail sent at least ten (10) days prior to such hearing. The notice of public hearing shall contain the following information:

1. the time and place of the hearing;
2. the general nature of the proposed Improvement Project;
3. the estimated cost of the proposed Improvement Project;
4. the proposed method of financing the costs of the Improvement Project;
5. the proposed amount of the Community Improvement District sales tax, if any;
6. the proposed amount and method of assessment, if any; and
7. a map and legal description of the proposed Improvement District.

**E. Governing Body Findings.**

After the Public Hearing is conducted on the proposed Improvement District, the Governing Body shall determine the advisability of creating an Improvement District setting forth the boundaries thereof, authorizing the proposed Improvement Projects, approving the maximum costs thereof, levy the Improvement District sales tax, imposing any special assessments and approving the method of financing the same. Such determinations will be made by adoption of an ordinance.

**F. Project Account.**

The City shall create a separate account for each Improvement District and Improvement Project, and all Improvement District sales tax and or special assessment revenues shall be deposited into such account.

**Section 4. CRITERIA AND ADJUSTMENTS.**

It is the intention of the Governing Body that all Improvement Projects related to proposed Improvement Districts meet the criteria detailed below. Failure to meet the standards set forth below may result in rejection of the Petition or a decrease in the proposed CID sales tax percentage or proposed special assessments. Adjustments may be made to increase the proposed CID sales tax or proposed special assessments intended to be provided as an extra incentive to exceed certain economic development criteria. However, in no instance shall adjustments to the proposed CID sales tax or special assessments exceed the maximum allowable CID sales tax or special assessments which may be levied pursuant to the Act.

**A. Improvement Development District Committee Consideration.**

The City's Finance Team as referenced under the City's Tax Increment Financing Policy and any other staff required to review Petitions shall utilize the following criteria to evaluate Petitions:

1. **“But For” Test.** Each Petition should demonstrate that “but for” the creation of a CID and use of Improvement District sales tax and/or the levy of special assessments, the Improvement Project is not feasible and would not be completed without the proposed CID assistance.
2. **Debt Service Coverage Ratio for Special Obligation Community Improvement District Sales Tax Revenue Bonds.** All Petitions requesting the imposition of a CID sales tax and the issuance of special obligation bonds should demonstrate that the CID sales taxes expected to be generated will be sufficient to provide enough security to pay off the bonds. The CID sales taxes generated should provide a debt service coverage ratio of at least 1.25 times the projected debt service on the special obligation bonds or notes. A debt service coverage ratio greater than 1.25 times may be necessary to market any notes or bonds that are public offerings. Petitioner or bank purchased bonds may be less than 1.25 times debt service coverage.
3. **Debt Service Coverage Ratio for Special Obligation Community Improvement District Special Assessment Revenue Bonds.** All Petitions requesting the imposition of CID special assessments and the issuance of special obligation bonds or temporary notes should demonstrate that the CID special assessments expected to be levied will be sufficient to provide enough security to pay off the bonds. The CID special assessments should generate enough revenue to provide a debt service coverage ratio of at least 1.25 times the projected debt service on the special obligation bonds or notes. A debt service coverage ratio greater than 1.25 times may be necessary to market any notes or bonds that are public offerings. Petitioner or bank purchased bonds may be less than 1.25 times debt service coverage.
4. **Projected Payoff.** The total amount of CID assistance provided for projects will be based on the economic payoff expectations of the Improvement Project and the Improvement Project’s significance to the community. In general, the goal for Improvement Projects (including any associated CID special assessments) would be a 10-year payoff. Longer periods may be considered up to the maximum statutory payoff period of 22 years from creation of the Improvement District if a determination is made that the Improvement Project is of community-wide significance.
5. **Developer Contribution & Cost Allocation.** Each Petition should include evidence that the Petitioner will do the following:
  - a. Have the financial ability to complete and operate the Improvement Project,
  - b. Will be liable for, or contribute equity or private financing of at least fifty percent (50%) of the total cost of the Improvement Project or provide a performance bond, letter of credit, or other appropriate security for the completion of the Improvement Project (Improvement Projects with

equity or private financing contributions from the developer in excess of fifty percent (50%) will be viewed more favorably),

- c. Demonstrate a financial nexus between the public and private improvements financed by the CID assistance. Preference will be given to projects in which at least 50% of the CID-eligible costs will pay for construction of public buildings, structures, and facilities, including but not limited to, major public City-specified infrastructure or City-owned facilities within the Improvement District which must be improved to serve the Improvement Project and which would not otherwise require improvement but for the Improvement Project.

**6. Project Completion.** The City will require satisfactory assurance that the Improvement Project will be completed in a timely manner in accordance with the Development Agreement described in Section 5.

## **B. Governing Body Consideration.**

The Governing Body shall consider the following factors when creating a CID pursuant to the Act:

- 1. Existence of Economic Benefit.** Strong consideration will be given to Improvement Projects which add to and diversify the Westwood tax base as well as Improvement Projects which would provide an extraordinary or particularly unique community-wide economic opportunity. Evaluation criteria to be used in determining economic benefit to the community shall include, but shall not be limited to, consideration of the amount of capital investment and a determination of whether the proposed Improvement Project enables the development and location of new products, services and amenities in the City rather than the relocation of existing City businesses.
- 2. Location.** The Governing Body will give strong consideration for an Improvement District that will be located in a targeted area for economic development or redevelopment, has specific site constraints making development more difficult or costly, or is considered in need of rehabilitation in some way. Targeted areas for economic development or redevelopment may include, but not be limited to blighted areas or conservation areas as defined under K.S.A. 12-1770a.
- 3. Design Criteria.** The City will require higher standards for the design of improvements and materials used in making improvements within an Improvement District than the minimum requirements set forth within the Westwood Zoning Code. Preference will be given to businesses that practice sustainable design practices, including but not limited to, energy efficient construction, use of recycled materials, use of native and drought-resistant landscaping, and conservation of natural hydrological systems. The proposed use must be clean, nonpolluting and consistent with all City policies, ordinances, and codes. The Improvement Project's site plans and building elevations and the Improvement Project's plans are subject to final approval

by the City's Planning Commission to ensure that they are similar to the preliminary plans and elevations submitted.

**4. Compatibility with Adopted City Plans.** All Improvement Projects should be consistent with the City's Comprehensive Plan, street improvement plans, and any special established overlay districts. The City will consult these plans for consistency prior to the City approving any proposed Improvement District. When evaluating proposed Improvement Districts, the City will consider (1) the compatibility of the location of the proposed Improvement Project(s); (2) the compatibility of the proposed land uses with land use, capital improvement, and other relevant plans of the City; and (3) the availability of existing infrastructure facilities and essential public services. Preference will be given to projects which enhance pedestrian, bicycle, or public transit options. If an Improvement Project requires a rezoning in addition to any rezoning required within the Improvement District, the Petitioner shall demonstrate the Improvement Project's compatibility with land use, capital improvement, and other relevant plans of the City.

**5. Traffic Impacts.** All Improvement Projects shall conform to the City's Access Management Plan and any other plans and/or policies which would automatically trigger the issuance of a Traffic Impact Study or any other study. All additional studies shall be submitted with the Petition for consideration by the Planning Commission and before consideration of the Petition by the Governing Body.

**6. Utilization of City-Owned Utilities.** All Improvement Districts within the boundaries of City-owned utility service areas (including the City's water, sewer, and solid waste services) shall use City-owned utilities. Exceptions will only be made when it is demonstrated in writing that City-owned utilities cannot feasibly provide acceptable service to the Improvement District.

## **Section 5. DEVELOPMENT OR REDEVELOPMENT AGREEMENT.**

Any Improvement District approved by ordinance pursuant to this Resolution shall be accompanied by a development or redevelopment agreement ("Agreement") between the Petitioner and/or lessee and the City. The Agreement will be subject to approval by the Governing Body prior to reimbursement of eligible Improvement Project costs and/or issuance of CID Sales Tax Revenue Bonds or CID Special Assessment Revenue Bonds, and prior to construction of the Improvement Project. The City shall review information provided by the Petitioner, lessee, county, or state to determine compliance with the Agreement. Each Agreement shall contain a notice and waiver disclosing to each Petitioner that the City reserves the right to create future Improvement Districts on comparable projects with different Improvement District sales tax rates or different amounts of special assessments than those approved for such project. The aforementioned notice and waiver shall include a provision that the Petitioner waives any right to request a modification or amendment of such Improvement District sales tax rate or amount of special assessments based upon such differences.



All costs of preparation of the Agreement, publication of legal notices and all other related Petition costs shall be paid by the Petitioner.

## **Section 6. PETITION AND BOND FEES.**

The Governing Body hereby establishes the following fees:

### **A. Petition Fee.**

A non-refundable Petition Fee of \$5,000 shall accompany all Petitions and shall be paid prior to consideration of all Petitions for the creation of an Improvement District by the Finance Team. Should an Improvement District be created, the petition fee shall be credited toward the City's Administrative Service Fee paid by Petitioner.

### **B. Bond Issuance Fee.**

The City shall receive an issuance fee of (i) 25 basis points (.25%) of the first \$10 million par amount of Improvement District sales tax revenue bonds being issued, plus (ii) 20 basis points (.20%) of the par amount of the second \$10 million of bonds being issued, plus (iii) 10 basis points (.10%) of the par amount in excess of \$20 million of bonds being issued for each series of bonds to be paid by the proceeds of a CID sales tax or special assessments. In no event shall the issuance fee be less than \$2,000 or more than \$150,000. The fee shall be due and payable at the time the bonds are issued. The City will not charge the issuance fee for any amount of any bond issue that refunds a prior bond issue.

### **C. Administrative Service Fee.**

In addition to the fees listed above, the Petitioner shall pay to the City, at the time prescribed in the Agreement, an Administrative Service Fee of up to five percent (5%) of the total cost of the CID project, minus the Petition Fee, for the cost of work done by the City to reimburse the City for the services rendered by the City in the administration and supervision of the project. Such Administrative Service Fees may be paid from the Improvement District sales tax generated from the project, special assessments, bond proceeds, or from a direct billing to the Petitioner. The payment method of the administrative service fee shall be determined on a case by case basis under the terms of the Agreement.

### **D. Additional Costs.**

The Petitioner shall reimburse the City for all costs associated with the analysis of a proposed Community Improvement District, all legal publication notices, the City's bond counsel and any other legal fees, financial advisor fees, any consultant fees, and all other miscellaneous costs. In order to secure the payment of such costs, a Retainer shall accompany the filing of the

application in an amount to be determined by the City. The City shall use the Retainer to pay for City bond counsel, financial advisor and other professional consultants' fees and apply the hourly fees incurred by the City's professional consultants for work on this Project against the Retainer. The City shall bill the applicant for any amounts incurred in excess of the Retainer. If there is money left in the Retainer when the professional work is completed, the City shall pay over to the applicant any amounts remaining. However, if that retainer should become exhausted or drop to a point unacceptably low to the City during the pendency of the CID project, the City may require the deposit of such additional funds as the City may deem appropriate, in its sole discretion, in order to assure that the City will not have to absorb any of the costs of the evaluation or administration of the CID project, and to assure the financial security of the City.

**Section 7. AUTHORITY OF THE GOVERNING BODY.**

The Governing Body reserves the right to deviate from any policy, but not any procedure set forth in this Resolution or any other procedural requirements of 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.