

RESOLUTION NO. 07-1148

A RESOLUTION ESTABLISHING A CITY OF OLATHE, KANSAS POLICY RELATING TO TAX INCREMENT FINANCING REDEVELOPMENT DISTRICT APPLICATIONS AND PROCEDURES FOR ~~NEW ECONOMIC DEVELOPMENT PROJECTS~~; AND REPEALING CERTAIN PRIOR RESOLUTIONS.

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

WHEREAS, it is further recognized that the stimulation of balanced economic development is a joint responsibility of the private and public sectors, working closely together creating a positive business environment and to induce commercial development and expansion in the City; and

WHEREAS, the economic development program goals of the City include economic diversification, broadening of the property tax base, stimulation of private investment, enhancement and support of new development, creation and quality of employment opportunities, and increased per capita income; and

WHEREAS, the meet these economic development goals, the City recognizes the need to assist in the redevelopment of property located within the City by the creation of Tax Increment Financing ("TIF") redevelopment districts; an economic development vehicle established by K.S.A. 12-1770 et seq. for the financing of qualified redevelopment projects; and

WHEREAS, the City finds it in the best interest of the public to establish certain policies and guidelines for the consideration of proposals that may be presented to the City by private developers requesting ~~Tax Increment Financing~~ ("TIF") assistance; and

WHEREAS, by adopting this policy the City has determined that the use of TIF should be reserved for projects which further an important and clearly definable public interest of the City, and the City desires to restrict those projects which are eligible for TIF assistance to projects which further such a purpose; and

WHEREAS, by adopting this policy the City intends to set forth a flexible framework for evaluating requests for TIF assistance; and

WHEREAS, the use of TIF by the City is an important economic development tool to stimulate the local economy and improve the quality of life for its citizens; and

WHEREAS, the use of TIF represents an important tool for encouraging the

development of projects the City finds and determines are desirable and in the public interest; and

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

WHEREAS, the City desires to use TIF for those projects which demonstrate the highest public benefit by eliminating blight, financing desirable public improvements, strengthening the employment and economic base, increasing property values, reducing poverty, creating economic stability, upgrading older neighborhoods, facilitating economic self sufficiency, and implementing the Comprehensive Plan and economic development goals of the City; and

~~**WHEREAS**, the staff of the City is to pursue discussions about this policy with other taxing jurisdictions impacted by TIF in the City of Olathe; and~~

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

~~**WHEREAS**, all projects must demonstrate financial and economic reasons such that but for TIF assistance, conditions of blight, extenuating circumstances regarding the site, location, or other factors preclude the viability of project they would not otherwise go forward and be viable, but for conditions of blight, extenuating circumstances which exist in the site, location, or other factors related to the development.~~

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

SECTION ONE: ADOPTION OF POLICIES AND PROCEDURES: The Tax Increment Financing (TIF) Application Procedures and Application Form, ~~in substantially the form of Exhibit A, are hereby adopted as fully set out herein.~~ and t The City Manager is hereby authorized to implement the following procedures and to make such additional changes and clarifications that shall be deemed advisable and in the best interest of the City:.

SECTION TWO: POLICY STATEMENT:

1. It shall be the policy of the City to consider creation of a redevelopment district for qualifying redevelopment projects. Prior to and following the creation of the redevelopment district, the applicant shall meet all state law and City requirements relating to the redevelopment plan and project.

2. It is the policy of the City to consider the judicious use of TIF for those projects which demonstrate a substantial and significant public benefit by constructing public improvements in support of developments that will, by creating new jobs and retaining existing employment, eliminate blight, strengthen the employment and economic base of the City, increase property values and tax revenues, reduce poverty, create economic stability, upgrade older neighborhoods, facilitate economic self sufficiency, promote projects that are of community wide importance, and implement the Comprehensive Plan and economic development goals of the City.

3. Care will be exercised in the use of TIF to thoroughly evaluate each project to ensure that the benefits that will accrue from the approval of TIF are appropriate for the costs that will result, and that they are equitable to the City as a whole.

4. The City will charge an TIF application and an administrative service fee as set forth in this policy.

SECTION THREE: POLICY GUIDELINES The following criteria are to be used by the City's TIF Committee and staff to evaluate TIF applications:

1. Each TIF application must demonstrate that "but for" the use of TIF, the project is not feasible and would not be completed without the proposed TIF assistance.

2. All TIF applications requesting the issuance of bonds or notes will be required to demonstrate that the incremental real property taxes and/or the economic activity sales and transient guest taxes expected to be generated will be sufficient to provide a debt coverage factor of at least 1.25 times the projected debt service on the tax increment bonds or notes. Debt service coverage greater than 1.25 times may be necessary to market any notes or bonds that are limited to public offerings. Developer or bank purchased bonds may be less than 1.25 times debt service coverage.

3. The total amount of TIF assistance provided for projects will be based on the economic payoff expectations of the project and its significance to the community. In general, the goal would be a 10-year payoff. Longer periods may be considered if a determination is made that the project is of community-wide significance.

4. Each TIF application must include evidence that the applicant:

(a) Has the financial ability to complete and operate the project.

(b) Will be liable for, or contribute equity or private financing of at least ~~fifteen~~ fifty percent (45 50%) of the total cost of the redevelopment project (including private development costs) or provide a performance bond for the completion of the project. Projects with equity or private financing contributions from the developer in excess of ~~fifteen~~ fifty percent (45 50%) of the total redevelopment project costs will be viewed more favorably.

5. The City will require satisfactory assurance that the project will be completed in a timely manner in accordance with the Redevelopment Plan and Agreement.

6. TIF applications for new or expanded industrial, manufacturing, office, and retail projects will be viewed more favorably than service commercial (commercial uses that mainly provide a service rather than the sale of products) projects. TIF projects which create jobs with wages that exceed the community average will be encouraged. Industrial, manufacturing, retail and office developments will be given more consideration than warehouse type uses based upon the projected employment per square foot. Additional consideration will be given to projects in excess of Twenty Million Dollars (\$20,000,000) or if the development has the ability to stimulate the local economy and improve the quality of life for its citizens.

7. TIF applications for retail and service commercial projects should be limited to those projects in which a substantial part of its total products and/or services are either exported from the Olathe area or they would add jobs and replace purchases now being made by Olathe citizens in areas outside of the City. Additional considerations may include whether the project has the effect of supporting or stimulating new retail development, and whether existing retail development is cannibalized by new sales tax revenue is substantially impacted by relocation of existing retail development into a TIF project.

8. TIF applications for residential development projects may be considered for removal of blight and revitalization of older developed neighborhoods, and/or to provide for public improvements to benefit economic development and employment.

9. TIF applications for the redevelopment of existing residential neighborhoods, commercial and industrial areas will be viewed favorably. Projects to stabilize current residential neighborhoods, commercial, and industrial areas that have or will likely experience deterioration will be favored.

10. All TIF applications shall comply with the requirements of the Kansas TIF Statute.

11. Project eligible costs covered by TIF funds shall be identified in the application and the Redevelopment Plan.

12. TIF applications that include the establishment of business areas, or the redevelopment of existing business areas, shall include information as to the business type of the major tenants of the TIF area. In addition, a thorough market analysis should be completed which identifies: (1) the population areas that will be drawn from; and (2) the businesses of similar types which would be competing with the TIF area businesses.

SECTION FOUR: PROCEDURE. The City may consider issuing tax increment financing bonds or reimbursing the eligible costs from tax increments pursuant to state law and this Resolution after the following occurs:

1. A complete TIF application is received by the City from the applicant in a form prescribed by the City. The TIF application shall be submitted in sufficient time for staff to follow established procedures, review the project documents, and to meet with the unified school district within which the property proposed for redevelopment is located.

2. Upon review of the TIF application, the City may require and the applicant shall furnish further information in order to clarify the submittal.

3. After creation of the TIF redevelopment district, the City may designate the applicant as the proposed developer through the adoption of a Memorandum of Understanding.

4. The applicant shall, in consultation with the City and the Planning Commission proceed with the preparation of a Redevelopment Plan pursuant to state law and City requirements, including a complete and comprehensive financial feasibility study demonstrating that the economic benefits of the project exceed the cost, the tax increment to be derived from the project will fully fund such costs or bond payments, and that the term of the redevelopment district does not exceed a mutually agreed upon period of time.

5. The applicant and City will enter into a Redevelopment Agreement upon satisfactory completion of the Redevelopment Plan.

SECTION FIVE: APPLICATION AND SERVICE FEES. This Resolution establishes a non-refundable TIF fee of one percent (1%) of the total TIF assistance authorized. The service fee, which is a TIF eligible cost, should be paid as follows:

Initial Application Fee* (Due at the time of submittal of the application)	5%** or \$2,500 5,000 whichever is less
Redevelopment Plan Approval Fee (Due one (1) week prior to consideration of the Redevelopment Plan by the City Council)	15%** or \$7,500 10,000 whichever is less
Ordinance Approving Redevelopment Agreement Plan and Issuance of Bonds	80%** or \$40,000-85,000 whichever is less
Maximum fee — due at a prescribed time (includes initial application fee)	1% of total TIF assistance of \$50,000 \$100,000, whichever is less

~~*To be paid at the time of submittal of the application.~~

~~**The portion of 1% of total TIF assistance requested.~~

Reapplication fees for substantial changes will be charged at the same rate as the schedules shown above.

~~In addition to the fees listed above, the applicant shall pay to the City at the prescribed time an administration service fee, as shown below, to cover the administration and other City costs for each approved TIF Project. Such service fee shall be in addition to the application fee. Such service fee may be paid from tax increment generated from the project, bond proceeds or from a direct billing to the applicant. The payment method of the administration service fee shall be determined on a case by case basis and only to the extent tax increment is available. The administration service fee shall be reduced to the amount shown below if only property tax increments are related to the project.~~

TIF Administration Service Fee

The following administrative service fees shall be paid to the City from the tax increment generated from the project prior to disbursement of the increment to the developer or bond trustee to cover the administrative costs incurred by the City for the administration of and other City costs associated with each approved TIF Project. Such administrative service fee shall be in addition to the TIF application fee and any other fees associated with the TIF Project.

Property Tax Increment Projects only	An amount equal to .5% of the annual increment
Property Tax, Sales and Other Tax Increment Projects	An amount equal to 2.5% of the annual increment

The applicant may be required to pay additional costs such as outside consultant and attorney fees as required for the City to fully analyze the TIF application. TIF application fees (excluding non-refundable), additional consultant and attorney fees may be reimbursed to applicant or paid to City from bond proceeds or TIF revenues. However, City bond issuance costs may not be reimbursed from TIF project revenue if TIF project reimbursable costs are payable from City sales tax or transient guest tax.

SECTION SIX: REQUEST FOR PROPOSAL. The City may initiate a Request for Proposal for a redevelopment project. The fees shown above are for both City initiated and non-City initiated redevelopment projects. The City reserves the right, at its sole discretion, to reduce or waive the above fees if a redevelopment project is City-initiated and it is determined to be in the best interest of the City to do so. Upon the filing of a TIF application that is non-City initiated, the City reserves the right to cause a public notice to be inserted in a newspaper of general circulation in the City or on the City's website requesting proposals for development in the proposed project area.

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

All TIF projects will be required to utilize a Planned Zoning District and will include strict architectural, site, and landscape design requirements. As well, the redevelopment plan and agreement, development review process, and zoning ordinances will establish land use controls, allowed uses and materials, traffic improvements, environmental preservation areas and other design criteria to ensure the development will achieve the highest development standards possible.

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

SECTION EIGHT: EMPLOYMENT AND BUSINESS RELOCATIONS. TIF applications are expected to include the following:

1. If the TIF application is being recommended based upon job creation criteria, language will be included in the redevelopment plan which stipulates that the City's obligation to the developer may be reduced if satisfactory evidence shows that the indicated number and quality of jobs have not been generated.

2. If businesses are to be relocated from other areas of the City, sufficient justification will be included to indicate why this relocation should be considered. If existing businesses are to be relocated to the TIF area, the base year activity for purposes of determining the sales tax increment will be the last twelve month period at the businesses current location, immediately preceding the relocation.

SECTION NINE: METHOD OF FINANCING. TIF applications may request that TIF assistance be provided in one of the following forms:

1. Special Obligation Bond Financing;

2. Direct Reimbursement to the applicant on a "pay as you go" basis;
3. Pledge of tax increment financing revenues to pay private financing; or
4. Any combination of the foregoing methods.

The City is, at its sole discretion, to determine the appropriate method of financing for a TIF project. In deciding which method of financing to use, the prevailing factor in making the determination will be total costs and the security for the bonds. The City will not provide credit enhancements for the special obligation bonds; however, credit enhancement provided by the developer on any bonds will be viewed favorably. The City shall not issue General Obligation Bonds for TIF eligible costs. The proposed method of financing will be clearly shown in the TIF application and the Plan. ~~The City has sole determination of the method of financing.~~

SECTION TEN: ~~CERTAIN ECONOMIC ACTIVITY TAXES AVAILABLE TO~~ REPAY TIF OBLIGATIONS. The City will, at its sole discretion, give preference to TIF redevelopment project applications which request reimbursement of eligible project costs solely from the incremental real property taxes generated by the TIF project. Should an applicant request reimbursement of eligible project costs from the City's 1% general sales tax and/or the City's 6% transient guest tax, the applicant shall demonstrate the necessity of including the City's sales and/or transient guest tax in writing. ~~Only City sales taxes, except those designated for City dedicated taxes, i.e. park sales tax will be considered for purposes of the tax increment derived from TIF economic activity taxes. Generally, In the event that a TIF redevelopment project requires that the City include its general sales tax to repay reimbursable project costs, the City will only, at its sole discretion, make available 50% of the general City sales tax for TIF projects. Transient guest taxes may, at the sole discretion of the City, be used as part of the tax increment if the City consents to make available any or all of its general City sales tax, but generally the City will only make 50% of the transient guest tax available to reimburse eligible redevelopment project costs. If an applicant requests reimbursement of eligible project costs from any amount of the City's sales tax, no more than twenty percent (20%) of the total square feet of the development may be leased to non-sales tax producing tenants. The City will not include utility franchise taxes collected from private utilities or as payments in-lieu of taxes from publicly owned utilities to repay TIF obligations to the extent that such exclusion is permitted by law.~~

SECTION ELEVEN: STAR BOND PROJECTS. The City shall contribute all revenues required by state law to be included within a STAR Bond project district. However, the City may, at its sole discretion, contribute additional revenues within a STAR Bond project district beyond those required by state law.

~~Transient guest taxes may at the discretion of the City be used as part of the tax increment but generally the City will only make 50% of the transient guest tax available. For STAR Bond projects that meet state required criteria additional revenues may be available.~~

SECTION ELEVEN: TERM. The projected term of the TIF will be a factor with

~~shorter terms being viewed more favorably than longer terms and will be consistent with Section 3, Paragraph 3.~~

~~SECTION TWELVE: OTHER CONDITIONS. The City reserves the right to modify or waive any or all of these policies in accordance with the approved redevelopment plan and/or redevelopment agreement.~~

~~SECTION THIRTEEN: That all other Resolutions or parts of Resolutions in conflict herewith are hereby repealed.~~

~~SECTION TWELVE~~ **FOURTEEN: AUTHORITY OF 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.

SECTION THIRTEEN: SUNSET DATE. Since the justification and necessity for creation of TIF districts may be lessened as the local economy moves towards its goals of balance and diversification and the City's redevelopment needs are satisfied, this policy shall automatically expire December 31, 2009 unless it is readopted for an additional term. No such TIF project shall be approved following such expiration, unless this policy is readopted or repealed by adoption of a new policy.

SECTION FOURTEEN: PREVIOUS RESOLUTIONS REPEALED. Resolution No. 03-1035 is hereby repealed.

SECTION FIFTEEN: EFFECTIVE DATE. This Resolution shall take effect immediately.

ADOPTED by the Governing Body this _____ day of _____, 2007.

SIGNED by the Mayor this _____ day of _____, 2007.

Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney

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