

Memorandum

City of Lawrence

City Manager's Office

TO: Mayor and City Commission

FROM: City Manager David L. Corliss

Date: May 29, 2008

RE: Future Agenda Items

The items listed below are planned for future agendas. I have listed the date of items as they are known. Dates are subject to change.

06/10/08 Consider the following transit related items:

- a) Consider authorizing staff to obligate the Federal Job Access Reverse Commute (JARC) Grant recently awarded by KDOT in the amount of \$496,817.50 for transit vehicle replacement. [Staff Memo & Attachments](#)

ACTION: Authorize staff to obligate JARC Grant funds, if appropriate.

- b) Consider transit items, including planning for service beyond 2008.

- 06/17/08
- Receive update from KDOT and HNTB on the design effort for the replacement of the 23rd Street Bridge. [04/15/08 Mtg Minutes](#)
 - Public hearing regarding a request for vacation of city right-of-way along Indiana Street between 11th Street and 12th Street related to the Oread Inn project

- TBD
- Downtown sidewalk dining regulations and guidelines.
 - Rural Water District contracts. [Rural Water District #4 Agreement](#) [Rural Water District #5 Agreement](#)
 - Economic Development study session follow-up items.
 - Consideration of ordinances to change the composition of the Convention and Visitor's Bureau Advisory Board.

- Consider adoption of Tax Increment Financing and Transportation Development District policies. [Staff Memo & Attachments](#)

ACTION: Adopt policies, if appropriate.

- Receive staff memo regarding green burials. [Staff Memo & Attachments](#)
- Consider a request for a marked crosswalk together with pedestrian refuge islands on Louisiana Street adjacent to Dakota Street (Considered by the City Commission and referred back to the Traffic Safety Commission on 05/06/08). [TSC 03/03/08 Minutes - Item #4](#) [Attachments](#)
- Receive request for changes to the definition of "street vendor" in city code to allow art services and provide for the granting of a street vendor license for said services. [Request](#)
- Consider adopting on first reading, Ordinance No. 8214, regarding the keeping of live fowl and domesticated hedgehogs in the city limits. [Staff Memo & Attachment](#)
- Receive County Commission findings concerning proposed annexation of property at K-10 and the Farmers Turnpike. [Staff Memo & Attachments](#)
[Findings of Fact \(Resolution 08-18\)](#)
- Consideration of airport industrial park annexation and rezoning items.

City of Lawrence

Public Transit

TO: Dave Corliss, City Manager

FROM: Cliff Galante, Public Transit Administrator

CC: Diane Stoddard, Assistant City Manager
Cynthia Boecker, Assistant City Manager

DATE: May 23, 2008

RE: Obligate Awarded Job Access Reverse Commute Grant for Transit Vehicle Replacement

Please place the following item on the City Commission agenda for consideration at their June 3, 2008 meeting:

Authorize staff to obligate the Federal Job Access Reverse Commute (JARC) grant recently awarded by KDOT in the amount of \$496,817.50 for transit vehicle replacement. Staff will need to apply for the approved funding through the Federal Transit Administration, as KDOT will not be applying for these awarded funds on the City's behalf.

BACKGROUND INFORMATION:

In January, upon receiving City Commission approval, staff submitted a Job Access Reverse Commute grant application in the amount of \$520,000 to the Kansas Department of Transportation for fixed-route vehicle replacement to support ongoing efforts by the City to transport low to moderate income residents to and from employment. On May 6, staff was notified by KDOT that was awarded \$496,817.50 in JARC funding.

The Federal Transit Administration has requested that staff obligate the awarded JARC funds in June since they are older funds that are scheduled to lapse. Obligating the funds prevents them from lapsing and becoming unavailable.

To obligate the available funds the Federal Transit Administration requires that the vehicle type and unit cost be identified.

Staff is not seeking to acquire vehicles using these funds at this time, and would be seeking City Commission approval when such procurement is initiated. Once grant funds are obligated, there is no specific requirement that they be spent within a certain period of time. However, FTA encourages grantees to spend the awarded funds as quickly as possible since it could adversely impact future awards. Spending money slowly implies that the grant funds were not needed immediately and could have been provided to others with more pressing needs.

Staff Recommendation:

Staff recommends that the available funds be used to acquire two (2) 30ft heavy-duty, low-floor, transit vehicles at a unit cost of \$320,000 each. These vehicles will be used to replace vehicles currently operating in T fixed-route service that will fulfill their useful service life

requirements at the end of this year. The \$143,182.50 local match needed to acquire the vehicles and spend the grant funds would be covered using available funds in the transit system's equipment reserve.

Staff believes, based on a variety of factors listed below, that the City of Lawrence would be best served by operating heavy-duty transit vehicles for fixed-route service. Staff's professional experience as well as research conducted by speaking with many peers, maintenance professionals, and vehicle manufacturers throughout the transit industry reinforces this recommendation. This recommendation is based upon the conditions T vehicles are placed under, operating 14 hours a day, 6 days a week and traveling on average 55,000 miles per year. A heavy-duty vehicle has a useful service life of 12 years or 500,000 miles.

A bus is nothing more than a tool. In order to make the wisest investment possible with limited resources, it is important to obtain the right tool for the right job.

The smallest heavy-duty transit vehicle that is manufactured is 30ft in length. The buses currently operated in T fixed-route service are 30ft in length. By comparison, the buses operated by the University of Kansas for their fixed-route service are 35ft and 40ft in length. If the City and University are to increase coordination of service in the future it will be important that the City operate the appropriate size vehicles. The City may want to explore using different sized-vehicles based on certain applications. One-size fits all approach does not necessarily need to apply.

The current T buses are rated through Altoona bus testing as medium-duty vehicles with a manufacturer's useful service life of 10-years or 350,000 miles (whichever comes first). They have a seating capacity of 25. When the two wheelchair securements are used, the seating capacity is reduced to 18. On some routes at certain peak times, this capacity is reached.

Transit vehicles used to operate T Lift service are 25ft in length and are rated as light-duty vehicles with a 5 year or 100,000 mile service life. These vehicles have a seating capacity of 10 with 2 wheelchair securements. Vehicles 30ft in length or greater, as compared to vehicles less than 30ft in length in terms of how they are manufactured and their overall durability is comparing "apples and oranges", thus justifying the large difference in acquisition price. Vehicles less than 30ft are referred to cutaways since they are bus bodies installed on truck chassis. Vehicles 30ft or greater are built specifically for mass transit purposes.

See [attached photo](#) that compares the length of a 25ft T Lift bus, 30ft T bus, and 40ft KU bus.

Main factors to consider when acquiring vehicles are:

(1) Safety; (2) Reliability; (3) Accessibility; (4) Efficiency; and (5) Capacity

Other important factors to consider include: turning radius, ride quality, public acceptance, visual impact, route flexibility, legal liability, adequacy of maintenance and storage facilities, training needs, and fleet standardization.

See [attached](#) for analysis completed by staff with the assistance of MV Transportation in comparing life-cycle costs of heavy-duty vehicles to light-duty vehicles.

Action Required:

City Commission direction on the vehicle type and unit cost for staff to submit to the Federal Government to obligate available grant funds.



MV Transportation, Inc.

City of Lawrence Transit System

Light-Duty Cutaway vs. Heavy-Duty Transit Vehicle Lifetime Cost Comparison

5/20/2008

30' Heavy-Duty Vehicle		2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Subtotal
Miles		55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	660,000
Maintenance Cost per Mile		\$0.16	\$0.18	\$0.22	\$0.22	\$0.28	\$0.35	\$0.36	\$0.37	\$0.38	\$0.40	\$0.42	\$0.42	
Annual Maintenance Costs		\$8,800	\$9,900	\$12,100	\$12,100	\$15,400	\$19,250	\$19,800	\$20,350	\$20,900	\$22,000	\$23,100	\$23,100	\$206,800
Annual Depreciation Cost per Gallon		\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$320,000
\$4.48 (Diesel) w/o fed tax		\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	
Miles Per Gallon		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	
Annual Fuel Costs		\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$547,800
Total Costs		\$ 81,117	\$ 82,217	\$ 84,417	\$ 84,417	\$ 87,717	\$ 91,567	\$ 92,117	\$ 92,667	\$ 93,217	\$ 94,317	\$ 95,417	\$ 95,417	\$ 1,074,600

25' Light-Duty Cutaway		2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Subtotal
Miles		60,500	60,500	60,500	60,500	60,500	60,500	60,500	60,500	60,500	60,500	60,500	60,500	726,000
Cost per mile		\$0.070	\$0.080	\$0.120	\$0.180	\$0.078	\$0.090	\$0.134	\$0.202	\$0.088	\$0.100	\$0.151	\$0.226	
Annual Maintenance Costs		\$4,235	\$4,840	\$7,260	\$10,890	\$4,743	\$5,421	\$8,131	\$12,197	\$5,312	\$6,071	\$9,107	\$13,660	\$91,868
Annual Depreciation		\$40,500	\$40,500	\$40,500	\$40,500	\$48,600	\$48,600	\$48,600	\$48,600	\$58,320	\$58,320	\$58,320	\$58,320	\$589,680
Cost per Gallon (Gasoline) w/o fed tax		\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	
MPG		7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	
Annual Fuel Costs		\$27,265	\$27,265	\$27,265	\$27,265	\$27,265	\$27,265	\$27,265	\$27,265	\$27,265	\$27,265	\$27,265	\$27,265	\$327,184
Total Costs		\$ 72,000	\$ 72,605	\$ 75,025	\$ 78,655	\$ 80,609	\$ 81,286	\$ 83,997	\$ 88,062	\$ 90,898	\$ 91,657	\$ 94,692	\$ 99,246	\$ 1,008,732
Additional Labor Cost		\$14,910	\$15,563	\$16,204	\$16,832	\$17,485	\$18,185	\$18,912	\$19,668	\$20,455	\$21,273	\$22,124	\$23,009	\$224,622
														\$ 1,233,354

Notes:

Miles on Cutaways are 1.1 times the number of a heavy-duty vehicle operated as it will take two cutaway vehicles to provide peak service capacity and complete 14 hour service day as opposed to one heavy-duty and to extend the useful life of the vehicle beyond 2 years. Please note the additional cutaway vehicles purchase price is included in the cost comparison under depreciation.

Assumes cost of vehicles increases 5% annually.

Assumes heavy-duty vehicle on 12 year depreciation and Cutaway on 4 year depreciation life.

Assumes heavy-duty vehicles will travel 726,000 miles before they are replaced.

Experience indicates that you can squeeze out more miles on heavy-duty vehicles. Drive train components may need to be replaced, however, vehicle is still structually sound.

Assumes light-duty vehicles will travel 121,000 miles on average before they are replaced. Operating and maintaining these vehicles for a fifth year is cost prohibitive and adversely impacts service reliability.

Experience indicates that light-duty vehicles are dead upon traveling approximately 130,000 miles requiring both costly major component replacement and structural repairs.

Manufacturer's useful service life of a heavy-duty vehicle is 12 years or 500,000 miles (whichever comes first).

Manufacturer's useful service life a light-duty vehicle is 5 years or 100,000 miles (whichever comes first).

Based on current level of service for fixed-route service, vehicles are operated 14 hours per day, 6 days per week.

Another factor not included in the analysis is increased labor cost to operate 2 cutaways instead of 1 heavy-duty bus on each route.

Estimated to increase labor cost to increase by 20 minutes per route, per day or 3.3 hours total per day of additional labor if all routes were converted.

Additional labor cost would be included in operating expenses to accurately reflect additional time required for increased number of daily pullouts.

In order to maximize the vehicle useful life, by decreasing the total number of hours each vehicle is in operation, would require replacing vehicles on route during the service day.

This would impact the number pullouts required. A pullout meaning a bus leaving the yard which has to be inspected by driver, fueled and reinspected at end of working shift.

Fuel costs are based on current prices as of 5/20/08 excluding federal tax.

MV Transportation, Inc.
City of Lawrence Transit System
Light-Duty Cutaway vs. Heavy-Duty Transit Vehicle Lifefime Cost Comparison
5/20/2008

30' Heavy-Duty Vehicle	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Subtotal
Miles	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	660,000
Maintenance Cost per Mile	\$0.16	\$0.18	\$0.22	\$0.22	\$0.28	\$0.35	\$0.36	\$0.37	\$0.38	\$0.40	\$0.42	\$0.42	
Annual Maintenance Costs	\$8,800	\$9,900	\$12,100	\$12,100	\$15,400	\$19,250	\$19,800	\$20,350	\$20,900	\$22,000	\$23,100	\$23,100	\$206,800
Annual Depreciation Cost per Gallon (Diesel)	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$26,667	\$320,000
Miles Per Gallon	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	\$4.15	
Annual Fuel Costs	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	
Total Costs	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$45,650	\$ 547,800
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25' Light-Duty Cutaway	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Subtotal
Miles	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	660,000
Cost per mile	\$0.090	\$0.170	\$0.101	\$0.190	\$0.101	\$0.213	\$0.113	\$0.239	\$0.126	\$0.267	\$0.142	\$0.300	
Annual Maintenance Costs	\$4,950	\$9,350	\$5,544	\$10,472	\$5,544	\$10,472	\$6,209	\$13,136	\$6,954	\$14,712	\$7,789	\$16,478	\$111,611
Annual Depreciation Cost per Gallon (Gasoline)	\$ 40,500	\$ 40,500	\$ 44,550	\$ 44,550	\$ 49,005	\$ 49,005	\$ 53,906	\$ 53,906	\$ 59,296	\$ 59,296	\$ 65,226	\$ 65,226	\$ 624,965
MPG	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	\$3.38	
Annual Fuel Costs	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	
Total Costs	\$24,787	\$24,787	\$24,787	\$24,787	\$24,787	\$24,787	\$24,787	\$24,787	\$24,787	\$24,787	\$24,787	\$24,787	\$ 297,440
	\$ 70,237	\$ 74,637	\$ 74,881	\$ 79,809	\$ 79,336	\$ 84,264	\$ 84,901	\$ 91,828	\$ 91,037	\$ 98,795	\$ 97,802	\$ 106,490	\$ 1,034,016

Notes:

Assumes heavy-duty vehicle on 12 year depreciation and Cut-away on 2 year depreciation life.

Assumes heavy-duty vehicles will travel 726,000 miles before they are replaced.

Assumes light-duty vehicles will travel 110,000 miles on average before they are replaced.

Manufacturer's useful service life of a heavy-duty vehicle is 12 years or 500,000 miles (whichever comes first).

Manufacturer's useful service life a light-duty vehicle is 5 years or 100,000 miles (whichever comes first).

Based on current level of service for fixed-route service, vehicles are operated 14 hours per day, 6 days per week.

Assumes cost of vehicles increasing by 5% annually.

Fuel costs are based on current prices as of 5/20/08 excluding federal tax.

MEETING NOTES



April 15, 2008

HNTB Project No. 44353

KDOT Job No. 10-23 KA-0685-01

K-10 Bridge Replacement Team Meeting #2 held April 3, 2008

Location: City Commission Chambers, City Hall
6 East 6th Street
Lawrence, KS

Purpose: The purpose of this meeting is to review developed alternatives and decide on 2-3 concepts to further evaluate. .

Attending:	Kris Norton	KDOT, Road Design
	Glen Scott	KDOT, Road Design
	Sue Riley	KDOT, Public Affairs
	Kim Qualls	KDOT, Public Affairs District 1
	Earl Bosak	KDOT, Area Engineer
	Michelle LaRoche	KDOT, Bridge Design
	Gary Chan	KDOT, Bridge Design
	Shoeb Uddin	City of Lawrence, City Engineer
	Chuck Soules	City of Lawrence, Public Works
	Shelley Schupp	City of Lawrence, Utilities
	Keith Browning	Douglas County Public Works
	John Roane	HNTB Corporation
	Brenda Foree	HNTB Corporation, Bridge
	Eric Saggars	HNTB Corporation, Project Manager
	Katie Blakemore	HNTB Corporation, Public Involvement

Eric Saggars began the meeting with an overview of the agenda and proceeded with introductions around the room. He then gave the team a status update on schedule where we are approximately 6 to 8 weeks behind. However, the time can and will be made up during the design phase where we have already begun to work on solutions and are farther along than expected. We will still make Feb 2009 Field Check, ahead of KDOT's 883 schedule.

Next, Katie Blakemore let the team know that a summary of the workshop had been emailed to all team members for review and gave a brief summary on the Landowner Workshop held on February 26, 2008. Forty-three property owners, adjacent to the project area, were invited. Eleven confirmed and ten people attended to speak with project team members about access, current conditions and concerns they may have about the project. A few themes emerged from those comments:

- ◇ Vehicular access under bridge – Haskell Indian Nations University was opposed to removing vehicular access under the bridge. The current access is used by faculty, staff and students, especially during football games. Multiple landowners mentioned their priority under the bridge is to have a pedestrian structure, no less than 10' x10' – length of the structure is a concern to the public as well as having the structure lighted.
- ◇ Lowering the bridge profile – all users seem to approve of this idea for increase in safety as well as visibility to businesses along K-10.
- ◇ 5th Lane – landowners stressed the difficulty of making left-hand turns both to the east and west during peak times. Having a 5th lane to be used as a turning lane would be an advantage.
- ◇ Traffic during construction – summer months are seen as the best time for construction and keeping 2 lanes open in each direction.
- ◇ Other items of discussion –
 - Provide a sidewalk on the south side – lots of foot traffic along K-10 throughout the day.
 - No median barriers as part of the design

- Drainage issues in the area of 641 E. 22nd
- Consolidating access for businesses along K-10 seems to work fine for most, with the exception of Bradley Animal Hospital who currently does not have enough parking for their current capacity and would not like to reduce it in any way.

Eric led the rest of the discussion topics:

Traffic Analysis

- ◇ HNTB has not finalized the traffic analysis, but our preliminary recommendation is to carry two lanes of traffic in each direction throughout construction. Analysis of turning movement or storage needs has not been completed.
- ◇ If only one lane were carried in each direction, queues from the signals would back up into the shoo-flies. HNTB is still fine tuning the model and will finalize that information before the next team meeting.
- ◇ Also, due to the short distance between the adjacent intersections and the shoo-flies, the desirable lane drop spacing may not fit so it is likely that drivers will make lane changes before the signals, This will affect the approach to Haskell Ave. and Barker Ave. both from the east and west.
- ◇ Work on design solutions has proceeded with the two lane recommendation, prohibiting left turns on to K-10 from side streets such as Learnard Ave., etc. during construction. Currently, left turns are prohibited during peak times in the project area.
- ◇ No advantages were found to have three lanes maintained during construction, even with a reversible middle lane because peak traffic flows are not directional.

Design Alternatives

Handouts of all alternatives evaluated to this point were handed out. The drawings were also shown in a large view by PowerPoint during the meeting.

Ultimate Condition of 23rd Street

- ◇ 5 lanes through project with curb & gutter
- ◇ Sidewalk on both sides
- ◇ Most of widening would go to the south, fits best with constraints at west end..

1A Option – Pedestrian Box Structure Only (4:1)

- ◇ 4:1 side slopes outside of clear zone.
- ◇ Carry traffic on top while pedestrian structure is built, lower the roadway; and carry 2 lanes WB on north shoo-fly and 2 lanes for EB on north side of 23rd Street.
- ◇ Significant retaining walls needed due to width increases; approx. <10' height, but not studied in detail yet.
- ◇ A 10' x 10' box structure, could be built between existing piers; 110' long & lighted (it had earlier been mentioned that this may be undesirable in urban areas).
- ◇ The building with the loading dock on northwest quadrant requires additional retaining wall and a large pad, to allow truck turnaround space.
- ◇ Shoo-flies shown are conceptual only:
 - South side shoo-fly is less desirable than north because more work is probably needed at southeast tie-in due to existing parking lot and trees in the southeast quadrant.
 - No intention to leave any portion of shoo-flies in place after construction. KDOT is not interested in keeping them and adding access points to 23rd Street.
 - It is possible to sequence construction with north shoo-fly only and carry two lanes on the existing bridge.
 - Pushed shoo-flies inward to keep limits of construction from west of Learnard and off from Haskell Ave.

1B Option – Pedestrian Only Tunnel (3:1)

- ◇ 3:1 side slopes outside of clear zone.
- ◇ Reduced height and length of retaining walls needed (1000' vs. 450') due to steeper slopes.
- ◇ Guardrails would need to be added depending on what is at the bottom of the slope using the 3:1 slopes
- ◇ Pedestrian box structure is the same as 1A option: 10' x 10' tunnel structure, built between existing piers; 110' long & lighted (undesirable in urban areas). A taller box (12') may be desired for comfort and would not affect proposed profile.
- ◇ Profile -
 - Same for 1A & 1B – can be lowered by 8.7' from the existing profile.
- ◇ Truck movement

- Assumed WB-62 truck to be conservative with turning movement required.
- Additional cost associated with needing extra surfacing and a retaining wall to maintain truck movement at loading dock.
- Dock would not be accessible during construction if north shoo-fly is used. The building owner had earlier stated he would work with KDOT on this issue. He is trying to evict current tenant. He is open to working around loading dock access during construction.
- Turning movement with a truck from the northwest frontage road dock to EB 23rd Street in this scenario is difficult due to short spacing. A turning truck would block vehicles coming and going from Learnard Ave...

2A Option – Pedestrian & Vehicular Box Structure (separate structures)

- ◇ Two separate structures between spans
 - Ped - 10' x 10' tunnel structure, built between existing piers; 110' long & lighted (undesirable in urban areas).
 - Vehicular – 28' x 16'-4" – must go through existing longest span.
- ◇ By adding the vehicular structure, retaining walls are reduced to placement between two structures and to the south side (shoo-fly).
- ◇ Easier to construct during traffic than a combined structure but headwall and hubguard details need to be studied further.
- ◇ Profile
 - Assumes 16'-4" vertical clearance in vehicular structure.
 - Profile lowered by 7' from the existing profile.
 - Gets rid of dip in existing profile west of bridge, so still a significant improvement for sight distance.
- ◇ The space between structures is a concern of the City – possible difficulty with compaction presents possibility of a bump emerging in 23rd Street. Granular backfill would help with compaction and help avoid hard spot in the pavement.
- ◇ Location of vehicular tunnel has implications for loading dock access during construction.
 - May need to pave more due to offset of vehicular structure.
 - Wing wall could be close to turning trucks and should be protected with guardrail or bollards.

2B Option – Pedestrian & Vehicular Box Structure (combined)

- ◇ 45' x 16'-4" Conspan structure – aligned with existing roadway beneath bridge
- ◇ Could construct footings and stem walls before demolition of existing bridge, thus reducing construction time.
- ◇ South retaining wall still required
- ◇ Long pedestrian structure eliminated and comfort level of user is likely increased.
- ◇ Structure is too wide to construct under the existing bridge between piers.
- ◇ If utilizing 2 shoo-flies during construction, with traffic on both
 - Bridge taken down in one phase and a new structure built
 - Cost of additional shoo-fly
 - Contractor must work between traffic
- ◇ Utilizing 1 shoo-fly
 - would allow bridge to be taken down 1/2 at a time
 - temporary shoring needed (= increased cost)
 - build con-span structure to carry 2 lanes, and north shoo-fly would carry 2 lanes
- ◇ Cost implications for scenarios still need to be studied/evaluated
- ◇ Profile – can not be lowered by as much as 2A, but still about 5' depends on Conspan geometry.
 - Shoulder width in lower roadway through the structure needs further study – with low traffic volumes, could it withstand 2' shoulders? May be limited in standard sizes available from Conspan. Look at cost of both 42' and 48' wide openings
 - nice aesthetically – stamped, etc.
 - Build cast-in-place stem walls and foundations entire width in Phase 1. Place precast conspan units on south 1/2 only during Phase 1.
- ◇

Option 3 – Open-span Bridge

- ◇ 3-span bridge structure, accommodating both vehicle and pedestrians
- ◇ KDOT's past bridge concept study needs further refinement of spans and location
- ◇ 2 walls at frontage roads are still needed on south side
- ◇ Can be constructed in phases with 1 or 2 shoo-flies similar to 2B.

- ◇ Cost of second shoo-fly could be as much as extra cost of phasing construction – need to evaluate before next team meeting.
- ◇ Profile – lowered by 3.4'
 - Conservative estimate based on prestressed concrete beam bridge
 - Shallower structure type can be used to lower profile more – RC slab or steel beam (profile would be similar to 2a & 2B options)
 - Construction time can be decreased - Cost needs to be studied

Design Criteria

- ◇ 6:1 (20' clear zone) vs. 5:1 (25' clear zone) at 50 mph
 - City asked to consider use of 45 mph (as posted) in this setting
 - Consider using a 5:1 slope in the clear zone and 3:1 beyond the hinge point to minimize retaining walls and grading limits. This tends to be counterproductive.
 - KDOT prefers 6:1 vs. having to add 3' tall barrier to protect clearzone. Wall is preferred along frontage roads rather than up along K-10.
 - Need to look at sight distance from driveways due to guardrail along K-10.
- ◇ Sidewalks
 - Current design has 6' sidewalks on both sides of 23rd Street.
 - City of Lawrence designs for one side to be 10' of multi-purpose and the other to be 6' f sidewalk.
 - If sidewalks are designed for both sides, can carry one side across the structure – for example, carry sidewalk across the south side, and have sidewalk on north go down to connect to the trail, and then carry sidewalk back up to 23rd St. Would possibly cut down on cost of walls if guardrail is put in – needs to be evaluated.
 - City of Lawrence – need the sidewalks to connect to trail.
 - During phased construction, south sidewalk could be used for vehicles.
- ◇ City asked if lane width could be narrower – they use 11'. KDOT requires minimum of 12' lanes.
- ◇ Aesthetics
 - City of Lawrence commented that the users viewpoint is missing. Typical sections do not include aesthetics for users, walkers, etc – sidewalks too close to roadway, guardrail, etc.
 - Lawrence Master Plan for 23rd Street have intermittent medians, curb & gutter with soil/landscape & lighting. 5th lane is needed for phased construction, however it does not have to remain after construction and can be filled in and landscaped as a City project.
 - Chuck Soules would like the team to consider a raised median on K-10 to break up the pavement width. The median could be landscaped, stamped pavement, or brick pavers. Need to evaluate lane widths and the total pavement width to determine the typical section for the raised median section. (Note: Check 127th Street project in Overland Park as an example)
 - KDOT thinks something could be added to medians after the phased construction. City wants to landscape the median as part of this project so it does not appear to the public that they are tearing up new work.
 - Details can be taken up by the City after Field Check plans are submitted.

Utilities

Shelley Schupp with City of Lawrence Utilities Department was present to discuss the location of existing lines. From the design alternatives shown at today's meeting, the bridge or combined structure would work best to avoid utilities. Eric said that utility lines were picked up in the survey, but he would check against the GIS materials that Shelley provided. Shelley indicated that the survey should be used as the main plan, with GIS used only as supporting materials.

Other issues that were brought to the team's attention:

- ◇ Water line is located along the south portion of where designs indicate a shoo-fly and a retaining wall, immediately north of the Douglas County Shop buildings on the north side of the frontage road..
- ◇ Any retaining walls will be an issue for future maintenance when access to repair a line is needed.
- ◇ None of the utilities (water, gravity, force) are currently cased and an evaluation of additional embankment loads would be necessary.

Shelly asked about schedule and it was explained that there is no funding for construction at this time. The project team will be coordinating with City Utilities when field check plans are submitted, in Feb 2009, and funding has been secured for construction. If funding is secured, the earliest potential letting date would be October 2011, with plans complete earlier in June 2011.

In the meantime, Eric Saggars (and team) will plan to attend a regular scheduled utility coordination meetings as field check plans near submittal date. Utility meetings occur on the first Tuesday of each month. Eric will coordinate with Shoeb Uddin or Shelley Schupp to get on the agenda prior to the scheduled meeting.

Design Concepts for Further Study

Kris Norton suggested to the team elimination of 1A and 2A from further consideration. KDOT and the team selected the following concepts to move forward to study and evaluate costs:

2B, 3, and 1B

- ◇ 1 B is a big change and less desirable to landowners. More discussion needs to take place with HINU, and Lawrence Police Department in order to evaluate vehicular needs under the bridge.
- ◇ Modify 1B to have a 12' x 10' structure, as well as using 4:1 without 6:1 in clear zone.
- ◇ A connection needs to be provided from the bike trail (multi-use path) on K-10 to the rail trail below.

Next Steps

- ◇ HNTB Corporation will study the selected design concepts over the next 6 weeks, and will present cost comparisons at Team Meeting #3 to be scheduled for the last week of May '08.
- ◇ Presentation of recommended solution to the KDOT Program Review Committee (PRC) – early June
- ◇ Presentation of concepts/recommended solution to Lawrence City Commissioners – 3rd week of June
- ◇ Public Meeting – last week of June
- ◇ Douglas County Commission – If the preferred solution is a pedestrian box only, the team will need to present to the County Commission. Keith Browning suggested that if there were no big changes to the operation of the vehicular access, there is no meeting needed. Keith will keep the Commission informed of the information on the project.
- ◇ A second presentation to the PRC should occur following the completion of field check plans (Feb/Mar 2009)

Action Items

- ◇ HNTB will schedule a meeting/lunch with HINU to discuss and obtain feedback design concepts.
- ◇ HNTB will meet with Lawrence Police Dept. to discuss the potential elimination of the underpass and the potential impacts on traffic and accidents. (detour traffic during football and other local games held at HINU.)
- ◇ Kris Norton will check on status of existing Right-of-Way and contact Eric with the info.
- ◇ Eric will schedule a meeting/teleconference with KDOT and City of Lawrence to discuss design criteria further
 - 45 vs 50 mph, etc.
- ◇ HNTB will schedule a meeting with Lawrence transit, and JoCO/Haskell bus system to discuss access and routes to be maintained during construction.

This is our understanding of items discussed and decisions reached. Please contact Eric Saggars if there are changes or additions. esaggars@hntb.com or 913-312-4805.

Submitted by,

HNTB CORPORATION

Eric Saggars
Project Manager

CONTRACT

THIS CONTRACT for the sale and purchase of water, entered into as of the 19th day of August, 1975, by and between the City of Lawrence, Douglas County, Kansas, a municipal corporation of first class, hereinafter referred to as SELLER, and Rural Water District No. 4, Douglas County, Kansas, hereinafter referred to as PURCHASER.

WITNESSETH:

WHEREAS, the Purchaser is organized and established under the provisions of K.S.A. 82a-612 et seq. of the Kansas Statutes Annotated, for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the office of the Purchaser and Seller and to accomplish this purpose, the Purchaser will require a supply of treated water; and

WHEREAS, the Seller owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the office of Purchaser and Seller; and

WHEREAS, by Resolution No. 4107 enacted on the 19th day of August, 1975, by Seller, the sale of water to Purchaser, in accordance with the provisions of said resolution was approved, and the execution of this contract carrying out said Resolution by the Mayor and attested by the City Clerk was duly authorized; and

WHEREAS, by Resolution of the Board of Directors of Purchaser, enacted on the 18th day of August, 1975, the purchase of water from the Seller in accordance with the terms set forth in said Resolution was approved, and the execution of this contract by the

Chairman and attested by the Secretary was duly authorized.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth:

A. The Seller Agrees:

1. To furnish to the Purchaser at a point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting the applicable purity standards of the Kansas State Board of Health for domestic use, in such quantity as may be required by the Purchaser not to exceed 175,000 gallons per day, and this limitation shall escalate to 300,000 gallons per day when Clinton water supply is used by the City of Lawrence. However, at such time as there is available to the Purchaser a supply of water in an amount of approximately 300,000 gallons per day from Clinton Reservoir, Douglas County, Kansas, as a result of Purchaser's application to the Water Resources Board, State of Kansas, then and in that event, Purchaser shall provide for its own daily gallonage requirement and the Seller shall not thereafter be required to furnish a supply of water to the Purchaser. Purchaser agrees to make all reasonable efforts to secure its allocation from the said Water Resources Board.

It is further provided, that the Seller shall treat, in accordance with the applicable purity standards of the Kansas State Board of Health, the Purchaser's supply of water obtained from Clinton Reservoir, not to exceed 300,000 gallons per day, for which the Purchaser shall pay the Seller the same rate as if Seller were also supplying the water. Payment of said rate shall also entitle Purchaser to delivery of the water allocated to Purchaser and treated by Seller, through the water lines of Seller, to the point of delivery specified herein. Further provided, however, that the cost the Purchaser shall pay the Seller for the treatment of said

water shall not include any water storage charge which may be made for said Clinton Reservoir water supply by the State of Kansas, its agents or assigns.

The limitation of 300,000 gallons per day may be hereafter increased upon written consent of Seller.

Purchaser agrees to construct elevated storage facilities within its water distribution system sufficient to reasonably assure that water shall not be taken by Purchaser during peak hourly loads at a rate in excess of 175,000 gallons per day, nor in excess of 300,000 gallons per day when water from Clinton Reservoir is available.

2. That said water will be furnished at a reasonably constant pressure of approximately 50 pounds PSI to an existing 12" water main of Purchaser located at a point at or near 31st Street and Haskell Road in the City of Lawrence. If a greater pressure than that normally available at the point of delivery is required by Purchaser, the cost of providing such greater pressure shall be borne by the Purchaser. Emergency failure of pressure supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service.

3. To furnish to Purchaser not later than the 20th of each month, at such address as Purchaser shall specify in writing, an itemized statement of the amount of water purchased by Purchaser during the preceding month.

4. To furnish, install, operate and maintain at its own expense at the point of delivery, necessary metering equipment and required devices of standard type for measuring the quantity of water delivered to Purchaser.

B. The Purchaser Agrees:

1. To furnish and install, at its own expense, at the point of delivery, a meter house to be approved by Seller. That Seller will calibrate the aforementioned metering equipment whenever requested by Purchaser, but not more frequently than once every 12 months. A meter registering not more than two percent (2%) above or below the test results shall be deemed to be accurate. The previous reading of any meter disclosed by test to be inaccurate shall be corrected for the six months previous to such test in accordance with the percentage of inaccuracy found by said test. If any meter fails to register for any period, the amount of water furnished and/or treated during such period shall be deemed to be the amount of water delivered and/or treated in the corresponding period immediately prior to the failure unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read by the Seller on or before the fifth day of each month. Appropriate officials of Purchaser and Seller shall at all reasonable times have access to the meter for the purpose of verifying any readings.

2. The Purchaser further agrees to maintain and keep in a good state of repair all of its lines, meters, pumps, storage tanks, and other equipment and facilities used in the operation of its water system. It is understood that the Seller shall not in any event or upon any condition become liable or responsible for any such maintenance and upkeep. The Seller will make no allowance for loss of water due to repair problems.

3. The Purchaser further agrees that the Seller has the right to examine and approve the plans and specifications, for the meter pit and other devices, prior to the time that construction of Purchaser's system is commenced.

The Purchaser further agrees that the Seller has the right at any time to inspect the completed system and Seller has the right to withhold water from the Purchaser, should any part of Purchaser's system be defective, until such time that the defect has been remedied.

4. The plumbing system of water consumers in the District shall be subject to inspection by officers or employees of the City prior to the furnishing of water and will comply with the cross-connection provisions of the Uniform Plumbing Code.

5. The Purchaser further agrees to pay to the Seller, not later than the first day of each month following submission of statement, for water delivered and/or treated in accordance with the following schedule rates:

52¢ per 1000 gallons with a minimum monthly charge for the first six months of \$100.00 and a minimum monthly charge of \$200.00 from and after the expiration of said six months.

It is understood and agreed that the price per gallon may be amended as hereinafter provided. The Rural Water District No. 4 shall be solely responsible for the payment of charges for water and/or the treatment thereof.

C. It is further mutually agreed between the Seller and the Purchaser as follows:

1. The provisions of this contract pertaining to the schedule of rates to be paid by Purchaser for water delivered and/or treated are subject to the modification as herein provided. Any increase in rates shall be based on the demonstrable increase in the costs of treating and processing water by the City of Lawrence over the base year, 1974. Said percentage of increase shall be applied to the base price of 52¢ per 1000. Seller shall furnish all cost data

to Purchaser to justify any modification of rates. No increase in rates shall be allowed pursuant to this paragraph unless and until such increase in rates to be paid by Purchaser are accompanied by an increase in rates paid by other rural water district customers of Seller outside the City of Lawrence, in a percentage of increase reasonably identical to the proposed increase to be paid by Purchaser hereunder. Purchaser will pay the cost of any water storage at Clinton Reservoir and any cost data furnished by Seller shall not include cost to Seller for storage of water.

2. That all water supplied by said Seller to Purchaser, pursuant to the terms and provisions of this contract and all distribution lines, pumping equipment and other equipment installed and provided by said Water District shall remain the absolute property of said Water District with full title and ownership thereto.

3. This contract shall be extended for a term of 40 years from the date of the initial delivery of any water as shown by the first bill submitted by Seller to Purchaser and the same may be renewed or extended for such term or terms as may be agreed upon by Seller and Purchaser, provided, however, that in the event that either Seller or Purchaser should not desire to continue with said agreement, said party shall give the other party at least eighteen months notice in writing prior to the expiration of any term or the renewal thereof, such notice to be effective upon delivery to the City Clerk of Lawrence, Kansas, and upon delivery to the Chairman of the Board of Directors or Rural Water District No. 4, Douglas County, Kansas.

4. That Purchaser intends to construct the water district in more than one phase. That at least thirty days prior to the estimated date of completion of any phase of construction of Purchaser's water supply system, Purchaser will notify Seller in writing the date for the initial delivery of water. Purchaser will also, at

least thirty days prior to the estimated date of completion of any subsequent phase of construction notify Seller that such phase is to be completed on or before a certain date.

5. When requested by Purchaser, the Seller will make available to the Purchaser's contractor at the point of delivery, or other point reasonably close thereto, water sufficient for testing, flushing and trench filling the system of the Purchaser during construction, irrespective of whether the metering equipment has been installed at that time, at a charge of 52¢ per 1000 gallons which will be paid by contractor or, on his failure to pay, by the Purchaser.

6. That Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish Purchaser with quantities of water required by the Purchaser, not to exceed 175,000 gallons per day and will treat, as provided in Paragraph A-1 hereof, not to exceed 300,000 gallons per day when Clinton water supply is used by the City of Lawrence. Temporary or partial failures to deliver and/or treat water shall be remedied with all possible dispatch. The Seller does not guarantee a specific quantity of water to be delivered. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over a period of time, the supply of water to Purchaser's consumers shall be reduced or diminished in the same ratio or proportion as the supply to other outside City limit consumers is reduced or diminished.

7. That the provisions of this contract pertaining to schedules of rates to be paid by the Purchaser for water delivered and/or treated is subject to the modification as hereinbefore provided.

8. This contract is subject to such rules, regulations, or laws which may be applicable to similar requirements in this State and Seller and Purchaser will cooperate in obtaining said permits, certificates, or the like, as may be required to comply therewith. Any regulations in conflict with City policy must be agreed upon by the City Commission of Lawrence.

9. That the construction of water supply distribution system by Purchaser is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through Farmers Home Administration of the United States Department of Agriculture, and the provisions hereof pertaining to undertakings of Purchaser are conditioned upon approval, in writing, of the State Director of the Farmers Home Administration.

10. That in no event will Purchaser, without the written consent of Seller, furnish water under any conditions to any purchaser north of the Wakarusa River.

11. The Purchaser agrees to pay in advance to the Seller, as a connection fee to the City Water System, the sum of \$3,000.00 plus the cost paid by Seller for the metering device described in Paragraph A-4 above.

12. That in the event the area being serviced by the Purchaser or any part thereof should be brought within the city limits of the Seller, the Seller shall, at its option, have the right to purchase the water distribution system of the Purchaser or any part thereof at a price to be agreed upon by the parties or in accordance with procedures established in K.S.A. 12-527, taking into consideration the following items: original cost of the system, number of years the system has been in use, condition of the system, loss of water revenue to the Purchaser and additional water income to the Seller, potential cost to the Seller to duplicate the water distribution system, whether Purchaser shall retain the right to transport water to customers through the water transmission facilities bought within the city limits, together with any other reasonable consideration proposed by either party.

13. The Purchaser and Seller mutually agree that the purpose of this rural water district is to serve primarily agricultural

and other rural subscribers, both present and future, and the purpose is not to encourage urban growth in areas unreasonably removed from the city limits of the City of Lawrence. The parties agree that without substantial increase in line size, the design of Purchaser's water system is not engineered for more than 800 water meters and should Purchaser in the future sell water through more than 800 meters, it will thereafter limit its growth to one percent per year or will arrange for a supplemental water source sufficient to assure Seller that additional water needs for customers in excess of the maximum increase of one percent per year shall come from sources other than Seller.

14. This agreement is and shall be binding and obligatory upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto, acting under the authority of the respective governing bodies, have caused this contract to be executed in triplicate, each of which shall constitute an original.

CITY OF LAWRENCE, a Municipal Corporation

By: Barbara Clark
(SELLER)

ATTEST:

Ann Bruce
City Clerk

RURAL WATER DISTRICT NO. 4,
DOUGLAS COUNTY, KANSAS

By: William H. Williams
Chairman (PURCHASER)

ATTEST:

William H. Williams
Secretary

THIS CONTRACT is approved on behalf of Farmers Home Administration this 4th day of September, 1975.

By: E. Morgan Williams
E. MORGAN WILLIAMS
State Director

Agreement File

AGREEMENT

Sale of Treated Water to Rural Water District No.5
of Douglas County, Kansas
from City of Lawrence, Kansas

1.00 PROVISIONS

- 1.10 **General.** This agreement for the treatment and transmission of water entered into this 21st day of December, 1998, by and between the City of Lawrence, Douglas County, Kansas, a municipal corporation of the first class, hereinafter referred to as "City," and Rural Water District No. 5, Douglas County, Kansas, hereinafter referred to as "District."

Whereas, the District, has contracted for an allotment of water from the Clinton Reservoir, Douglas County, Kansas, as administered by the Kansas Water Office, and

Whereas, the District is organized and established under the provisions of K.S.A. 82a-612 et. seq. for the purpose of operating a water supply distribution system serving water users within the area defined in this agreement, and the District requests a supply of treated water; and

Whereas, the City owns and operates a water supply treatment and distribution system with a current and projected capacity capable of serving District needs as defined in this agreement; and

Whereas, the City and the District mutually agree that the purpose of the District is to serve primarily agricultural and other rural subscribers, both present and future, and the purpose is not to encourage urban growth in areas unreasonably removed from the city limits of the City of Lawrence; and

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, the details of this agreement are as follows:

2.00 DEFINITIONS

For purposes of this Agreement the following definitions shall be applicable:

Average Day Demand shall mean the total annual volume of water divided by 365 days.

City shall mean the City of Lawrence, Kansas

District shall mean Rural Water District No. 5, Douglas County, Kansas

gpd = gallon per day

gpm = gallon per minute

Maximum Day Demand shall mean the maximum water use demand over a 24 hour period.

Peak Hourly Demand shall mean the maximum usage over a one (1) hour period.

QUANTITY

2.10 Agreement Amount. The City agrees to treat and deliver a quantity of water to the District as specified herein:

Year	Allowable Service Connections	Average Day Demand shall not exceed	Maximum Day Demand shall not exceed	Peak Hourly Demand shall not exceed
1998	891	205,000 gpd	410,000 gpd	500 gpm
1999	923	212,500 gpd	425,000 gpd	500 gpm
2000	958	220,500 gpd	441,000 gpd	500 gpm
2001	981	226,000 gpd	452,000 gpd	500 gpm
2002	1,005	231,000 gpd	463,000 gpd	500 gpm
2003	1,030	237,000 gpd	474,000 gpd	500 gpm
2004	1,055	243,000 gpd	486,000 gpd	500 gpm
2005	1,081	250,000 gpd	497,000 gpd	500 gpm
2006	1,108	255,000 gpd	510,000 gpd	500 gpm
2007	1,135	261,000 gpd	522,500 gpd	500 gpm
2008	1,163	268,000 gpd	535,000 gpd	500 gpm
2009	1,192	274,000 gpd	549, 000 gpd	500 gpm
2010	1,221	281,000 gpd	562,000 gpd	500 gpm

2011	1,221	281,000 gpd	562,000 gpd	500 gpm
2012	1,221	281,000 gpd	562,000 gpd	500 gpm
2013	1,221	281,000 gpd	562,000 gpd	500 gpm

The City and the District both acknowledge the likelihood of renegotiating the provisions of this Agreement concerning water quantities to be supplied and service connections permitted after the year 2010; provided such renegotiation and agreement terms are in the best interest of both parties.

2.20 Reservoir Allotment. As the terms of this agreement reflect the sale of water-treatment and water-transmission only, and not the sale of water itself, the District shall maintain its agreement with the Kansas Water Office for purchase and security of water allotments. Should, at any time, the amount of withdrawal as specified in the agreement between the City and the District become in excess of that amount as specified in the agreement between the District and the Kansas Water Office, this agreement shall be voidable by either the City or the District, given ninety (90) days written notification.

3.00 BOUNDARIES

3.10 Service Area. The District shall be defined as that area inclusive of the boundaries of Rural Water District No. 5 as recorded with the Board of County Commissioners of Douglas County, Kansas, and any subsequent annexations as recorded by same.

4.00 METERING

4.10 Master Meter Location. The master meter location shall be at the intersection of 35th Street and Iowa. Structure and equipment shall be purchased and constructed in accordance with City specifications, at the District's expense.

The necessary easements and rights-of-way shall be obtained by the District. The master meter, valve immediately downstream of the master meter, meter strainer, and valve immediately upstream of the master meter, shall, upon acceptance by the City, be owned by the City. All further maintenance of the master meter, meter strainer, upstream valve, and downstream valve shall be the responsibility of the City. The remaining equipment and structure shall be maintained by the District, at the District's expense.

The City and the District acknowledge the possibility of the relocation of the master meter. The master meter may be relocated provided the City approves

in writing the relocation and the District is responsible for all costs associated with the relocation and the new master meter and master meter location.

- 4.20 **Master Meter Specifications.** Master meters shall meet applicable AWWA specifications and be of either the Turbine type, Compound type or Fire-service type. The type of meter shall be determined by the City of Lawrence Utilities Department. For monthly water usage billing purposes, meter readings will be taken at the actual meter register. If master meters of other types are desired, prior approval must be obtained by the City.
- 4.30 **Master Meter Testing.** Testing shall be performed annually by the City on master meters, with a copy to the District. A master meter registering not more than two percent (2%) above or below the test results shall be deemed accurate. Should any master meter be found registering inaccurately, adjustments in billing shall be made to the District by the City for water metered during the previous six (6) months.
- 4.40 **Master Meter Reading.** The City shall read the District master meter once per month. The City shall have the authority to install, maintain, remove, and otherwise operate remote reading devices at the meter location. The City shall grant the District no allowances for loss of water due to repairs, main breaks, or similar system disruption. The City shall read the District's master meters during the week respective of the City's established meter-reading schedule. The District shall be billed from the City's established billing cycle.
- 5.00 **BACKFLOW PREVENTION**
- 5.10 **Devices.** The master meter location shall contain backflow prevention devices, approved by the City, in accordance with the City's Cross-connection Control Code (City of Lawrence, Kansas Code Section 19-701 et seq. and amendments thereto). Devices shall be installed at the District's expense. The devices shall be adequately protected from freezing, and maintain adequate drainage to prevent submergence.
- 5.20 **Testing.** Backflow prevention devices shall be tested at the time of installation, at the District's expense, by a licensed and certified backflow device technician. Devices shall be tested annually, at the District's expense, by a licensed and certified backflow device technician. Devices shall be rebuilt every five years, at the District's expense, by a licensed and certified backflow device technician. Completed test records shall be sent to the City and maintained on file.
- 5.30 **Accountability.** The District shall provide the City, to be kept on file with the City, a copy of the District's Public Water Supplier's Permit. The District shall

also, in accordance with the City's Cross-Connection Control Code, provide the City with the District's cross-connection control plan, to be kept on file with the City.

6.00 FEES

- 6.10 **Billing Rate and Annual Review.** The City shall bill the District monthly for treatment and transmission services registered at the master meter location. The 1998 billing rate shall be \$1.56 per 1000 gallons, as established by the City. The City shall annually establish the billing rate as provided for herein, provided that if the City does not adjust the rate the most recently established rate shall remain in effect until adjusted by the City.

Unless otherwise determined by the City the rates shall be as follows:

1999	\$1.62 per 1000 gallons
2000	\$1.68 per 1000 gallons

For every year after 2000, the City shall determine the billing rate. The billing rate shall be determined by the City based on the following:

The rate shall be based on the reasonable projected cost of service, which shall include but not be limited to the cost of service for peak demand service, administrative cost of service and rate of return on City investment, and related reasonable capital improvement costs associated with service to the District.

The cost of service for District service shall not include the cost of City distribution lines of eight (8) inches or less in size, costs of City water usage, City public fire protection related costs, or any costs related to the purchase of raw water from Clinton Reservoir purchased by the District.

6.20 DEMAND CONTRACT CHARGE

The City and the District acknowledge that the City is expending substantial resources to ensure the orderly and timely provision of water service to the District, including fixed capital costs which would be idled or of reduced need if the District does not use water as contemplated by the provisions of this Agreement. The District agrees to pay \$50,000.00 on an annual basis to the City until December 31, 2013, regardless of the amount of water used during that time. All payments by the District shall be credited to actual water used and paid for pursuant to Section 6.10. The intent of this provision is to hold the City harmless during the duration of this Agreement in the event the

District terminates this Agreement, seeks other supplies of water, or otherwise significantly reduces its use of water.

All warranties, representations, indemnifications, covenants and agreements between the City and the District contained in this Agreement, including but not limited to the Demand Contract Charge, shall survive the termination or the expiration of this Agreement. Provided, that if termination occurs as the result of notification thereof made by the City, pursuant to paragraph 15.20, then the the District shall have no further liability for the Demand Contract Charge after termination.

7.00 CONNECTIONS

- 7.10 **Number of Services.** The District shall be permitted to maintain a maximum number of service connections as established in Appendix A to this Agreement. Service connections shall be counted as all those connections made onto the District's system, all those connections made inside the District's Service Area, as defined in this agreement, and otherwise all those connections made immediately following the master meter location, as defined in this Agreement.

8.00 WATER QUALITY

- 8.10 **Source Water.** The City shall draw source water from the Clinton Reservoir, the Kansas (Kaw) River, and an alluvial well field, immediately adjacent to the Kaw River. Water pursuant to this agreement shall be treated by either the Kaw River Water Treatment Plant or the Clinton Reservoir Water Treatment Plant. Nothing in this Agreement shall be interpreted as a limitation on the source of supply the City provides the District pursuant to this Agreement.
- 8.20 **Treated Water.** Source water shall be treated by means of conventional water treatment techniques by the City. Finished, treated water shall meet all federal, state, and local regulations, as defined by the U.S. Environmental Protection Agency (EPA), and the Kansas Department of Health and Environment (KDHE). Water processed by the City's two water treatment plants shall be pumped in the City's distribution system.
- 8.30 **Water Transmission.** Water being pumped from the City's two treatment plants shall not be segregated, or otherwise delivered to specific areas of the City's distribution system. Source water from the Kaw River may be treated and delivered to the District in amounts as defined in this agreement. Differentiation between treated water originally drawn from the Kansas River and treated water originally drawn from the Clinton Reservoir shall not be made.

9.00 PRESSURE

- 9.10 **Minimum Supply Pressure.** Water shall be supplied by the City from water lines feeding the master meter location. Supply pressures at the meter location shall be at approximately 45-50 psi (pressure per square inch) and reasonably constant under normal conditions.

10.00 AREAS OF RESPONSIBILITY

- 10.10 **Point of Responsibility.** The City shall deliver water, treated in accordance with all regulatory requirements, and to the best of its abilities to the master meter location. This location shall serve as the point in which ownership shall be transferred from the City to the District.
- 10.20 **Indemnification and Liability.** The District shall at all times save and hold harmless the City from all liability, costs, damages, and expenses of any kind, for the payment of which the City may become liable to any person, firm, or corporation by reason of any claim or damages arising from the failure of the District, its employees, agents, or servants to exercise due care and diligence in the operation of the District's water distribution system.

11.00 WATER QUALITY PROTECTION

- 11.10 **System Protection.** Both the City and the District shall maintain their respective distribution systems pursuant to EPA and KDHE requirements. Systems shall be kept in a good state of repair, including all lines, meters, pumps, storage tanks, and other appropriate equipment.
- 11.20 **Disinfectant Residual.** The City shall provide adequate disinfectant residual to the master meter location in accordance with EPA and KDHE requirements. Since disinfectant residuals may dissipate from the water while in the District's distribution system, the District shall ensure adequate disinfectant residuals throughout their system. All provisions necessary for re-disinfection shall be provided at the District's expense.
- 11.30 **Contamination Protection.** Should contamination be suspected with the District's system, including positive coliform tests, rapid dissipation of disinfection residual, evidence of bacteriological or viral organisms, or other external forms of contamination, the District shall notify the City immediately. All efforts shall be made to ensure water quality integrity within respective distribution systems.

12.00 DIMINISHED CAPACITY

12.10 Emergency Failures. Diminished pressure or supply due to main breaks, power failure, flood, fires, drought, earthquake, or other such disasters shall be restored as expediently as is reasonably possible. Nothing in this Agreement shall be interpreted as providing the District with preferential treatment or special rights in relation to the orderly restoration of service to the District versus other City water supply responsibilities.

12.20 Excessive Demand. Heavy demands on the City's system may result in diminished pressure or supply to the District without prior warning or notification. All reasonable efforts shall be made by the City to restore service as expediently as possible.

13.00 RESALE

13.10 Resale Prohibited. The City shall provide treatment and transmission services to the District for water to remain in the District's area. Water sold to the District shall not be permitted to enter other established distribution systems. Water delivered to the District by the City shall be sold to District customers only. Reselling of water by District customers, without the City's prior written consent, shall be strictly prohibited.

14.00 ACCOUNTABILITY

14.10 End of Year Reporting. The District shall submit to the City an annual usage report. Reports shall include the District's records of monthly flow, peak hour demand, peak day demand, and current number of service connections. This report shall be submitted to the City by February 15th, following the reporting year.

15.00 AGREEMENT TERMS

15.10 Agreement Length. This agreement, between the City and the District, shall expire on December 31, 2013 and on such date shall be of no further force and effect.

15.20 Termination. As the City and District recognize rapidly changing technology, as well as regulations, this agreement may be terminated by either the City or the District, given thirty-six (36) months written notification.

All warranties, representations, indemnifications, covenants and agreements between the City and the District contained in this Agreement, including but not limited to the Demand Contract Charge, shall survive the termination or the expiration of this Agreement. Provided, that if termination occurs as the result

of notification thereof made by the City, then the District shall have no further liability for the Demand Contract Charge after termination.

15.30 Assignment. This agreement may not be assigned without the written consent of both the District and the City. This agreement is and shall be binding and obligatory upon the successors and assigns of the parties hereto.

15.40 Repeal of Earlier Agreements. Those certain agreements entered into on or about May 27, 1975, and June 11, 1974, between the City and the District are hereby repealed. It is the intent of the City and the District that this agreement succeed the earlier agreements.

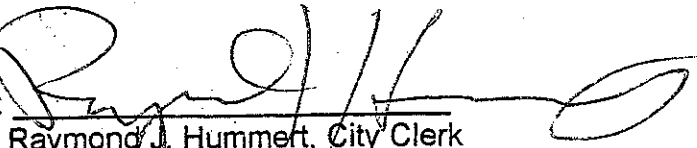
15.50 Agreement Non-severable. The provisions of this agreement are not severable. If a court of competent jurisdiction rules that any provision or term of this agreement is invalid or in violation of any local, state, or federal law, this agreement shall be null and void.

IN WITNESS WHEREOF, the parties hereto, acting under the authority of the respective governing bodies have caused this agreement to be executed in triplicate, each of which shall constitute an original.

City of Lawrence, Kansas
A Municipal Corporation


Martin A. Kennedy, Mayor

ATTEST:


Raymond J. Hummert, City Clerk

STATE OF KANSAS)
DOUGLAS COUNTY)

BE IT REMEMBERED, that on this 5th day of January, 1999, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Martin A. Kennedy, Mayor, City of Lawrence, Kansas, who is personally known to me to be the same person who executed the above Agreement, and such person duly acknowledged the execution of the same to be their free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last mentioned.



Bobbie Walshall
Notary Public

My appointment expires:

Rural Water District No. 5
Douglas County, Kansas,
A Quasi-Municipal Corporation

Alvin Fishburn
Alvin Fishburn, Chairman
ATTEST:

Delta Ikenberry
Delta Ikenberry, Secretary

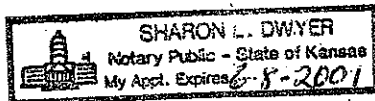
STATE OF KANSAS)
DOUGLAS COUNTY)

BE IT REMEMBERED, that on this 21st day of December, 1998, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Alvin Fishburn, Chairman, Rural Water District No. 5, Douglas County, Kansas, who is personally known to me to be the same person who executed the above Agreement, and such person duly acknowledged the execution of the same to be their free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last mentioned .


Notary Public

My appointment expires:



AGREEMENT

Sale of Treated Water Rural Water District No. 5
of Douglas County
City of Lawrence, Kansas

Based on 860 permitted service connections for 1998 under prior agreement.

APPENDIX 1 Schedule A

<u>Year</u>	<u>Maximum Allowable Service Connections</u>
1998	881 + 10 = 891
1999	913 + 10 = 923
2000	946 + 12 = 958
2001	981
2002	1005
2003	1030
2004	1055
2005	1081
2006	1108
2007	1135
2008	1163
2009	1192
2010	1221
2011	1221
2012	1221
2013	1221

Memorandum

City of Lawrence

City Manager's Office

TO: David L. Corliss, City Manager

FROM: Diane Stoddard, Assistant City Manager

CC: Cynthia Boecker, Assistant City Manager

Date: March 31, 2008

RE: Tax Increment Financing Policy and Transportation
Development District Policy

As discussed at a study session in January, many cities have adopted policies on various economic development tools. Several of the larger cities in Kansas have adopted policies regarding the establishment of tax increment financing (TIF) districts and transportation development districts (TDDs). TIF districts are a redevelopment tool that enable the incremental revenues from a development to pay for public improvements associated with the development in order to help spur development. TDDs are a tool to enable the use of either special assessments or a special sales tax to be added to an area with the owner's consent to finance certain transportation infrastructure projects.

Attached is a table outlining the key elements of both [TIF](#) and [TDD](#) policies. Also attached are some sample policies from the cities of Overland Park, Lenexa, Olathe, and Merriam. The draft TIF and TDD policies have been developed using the elements from other communities as a guide. It is important to emphasize that, rather than simply reiterate in the City policy the process requirements and other issues outlined in state statutes, generally these draft policies emphasize additional process clarifications and requirements not provided in state statutes. The state statutes will serve as a guide for the appropriate process steps.

Gary Anderson, the City's bond counsel from Gimore & Bell, has reviewed the draft policies and his comments have been incorporated in the drafts. Additionally, it is important to note that the recently approved Oread TIF project would meet all of the requirements set forth in the proposed TIF and TDD policies.

Many of the TIF and TDD policies from other communities require significant application fees and ongoing administrative fees. City staff does not believe these fees are

necessary given that the project, if approved under each policy, will have a significant benefit to the City and should be encouraged by the City.

TIF Policy Draft:

The draft policy addresses the following key elements:

Process:

- Requires submission of a written proposal
- Governing Body will decide to commence statutory process to create a redevelopment district as set forth in the TIF Act
- If the district is approved, the City and the applicant will enter into a redevelopment agreement upon approval of the redevelopment project plan

Criteria:

- City will use TIF judiciously for projects that demonstrate a substantial and significant public benefit
- Project will construct public improvements 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
- The TIF proposal must demonstrate that “but for” the use of TIF, the project would not be completed
- TIF projects involving debt issuance must provide debt coverage of at least 1.25 times the projected debt service
- Amount of TIF assistance is based on economic payoff expectations and significance of project to the community
- TIF proposals that provide for the redevelopment and stabilization of residential, commercial or industrial areas that have or will likely experience deterioration will be favored

Developer Requirements/Contribution:

- Developer must demonstrate financial ability to complete and operate the project
- Projects that have at least a 50% developer contribution toward the total project costs will be viewed more favorably

Agreement:

- A redevelopment agreement with the developer is required. A funding agreement may also be required that sets forth certain costs regarding the evaluation of the proposal that will be paid by the developer

Fees/other Costs:

- Developer may be required to enter into a funding agreement to pay for certain costs of evaluating the proposal and if the district is formed, these costs may be reimbursed to the developer as TIF eligible costs

TDD Policy Draft:

The draft policy addresses the following key elements:

Process:

- Developer submits petition in accordance with state statute
- Governing Body then follows statutory process to create a TDD

Criteria:

- TDD shall only be used either as a pay-as-you-go situation where the developer has installed all of the public improvements at no cost to the City or in situations where the City installs all or a portion of the public improvements
- The use of TDD should not alter the requirements of the City's development policy in regard to the requirements of a development to pay for public infrastructure
- At least one of the following criteria should be met:
 - Promote and support efforts to redevelop sites within the City
 - Attract unique retail and/or mixed use development which will enhance the economic climate of the city and diversify the economic base
 - Result in building transportation infrastructure beyond what the City can require or would otherwise build

Developer Requirements/Contribution:

- Developer should provide evidence that they have the financial ability to complete and operate the project
- Projects with equity or private financing contributions from the developer in excess of fifteen percent (15%) of the total TDD eligible expenses will be viewed more favorably

Agreement:

- A development agreement would be required between the City and the developer

Fees/Other Costs:

- The applicant may be required to pay costs such as outside consultant and attorney fees and such fees may be considered project costs and may be reimbursed from TDD revenues if a TDD is established

Requested Action:

City staff requests feedback on the proposed policies by the City Commission. Additionally, staff suggests that a period of at least 30 days be established for the purpose of gathering public comment regarding the draft policies.

Tax Increment Finance District Policies

City (date of policy)	Process	Criteria	Developer Contribution	Agreement	Fees
Lenexa (2006)	Per Statute and their TIF procedures: District Application form and Redevelopment Project Plan Application. Once applications are submitted, they are considered by the Finance Team and then forwarded to the Governing Body.	<ul style="list-style-type: none"> • Promote, stimulate and develop the general and economic welfare of the State and the City; promote general welfare by assisting in the development, redevelopment and revitalization of central business areas, blighted areas, conservation areas and environmentally contaminated areas; create new jobs and retain existing jobs; expand the tax base • There is a desire to promote redevelopment of locations that need assistance due to unique methods of construction, geological, environmental or other site constraints. • Capital investment is a factor • But-For principle a factor 		Agreement required with developer	\$10,000 non refundable fee to accompany district application plus \$10,000 retainer to be used for various services, such as bond counsel. With the project plan, a non-refundable amount equal to 1% of the total TIF assistance to a max of \$50K, some of which isn't collected until bonds are issued; 0.5% annual admin fee based on annual increment.

City (date of policy)	Process	Criteria	Developer Contribution	Agreement	Fees
Olathe (2007)	Application form completed and submitted to the City. District created. Redevelopment plan formulated with the applicant. Applicant and City enter into a redevelopment agreement.	Judicious use of TIF for those projects which demonstrate a substantial and significant public benefit that will create new jobs, retaining existing jobs, eliminate blight, strengthen employment base, increase property values and tax revenues, reduce poverty, create economic stability, upgrade older neighborhoods, facilitate economic self-sufficiency and implement comp plan and economic development goals of City. Care will be used to ensure benefits will accrue from use of TIF and that they are equitable to city as a whole. Criteria for evaluation: But for principle; revenues will cover debt at least 1.25 times; In general, a 10 year pay off is desirable; applicant must show financial ability to complete and operate project and that applicant will contribute at least 50% of the cost or provide performance bond for such. TIF for new or expanded industrial, manufacturing, office and retail projects are more favorable than service commercial. Projects that create jobs with wages above community average encouraged. Additional	50% toward cost required. Greater than 50% is favorable.	Redevelopment agreement between the City and the applicant upon satisfactory completion of the redevelopment plan.	Non-refundable 1% of the total TIF project cost paid out upon initial application, upon submittal of the redevelopment plan, upon adoption of an ordinance to a maximum of \$50 K. TIF Administration service fee provided in the amount of .5% of the annual increment for property tax only projects and 2.5% of the annual increment for property and sales tax TIFs

		<p>CRITERIA, continued</p> <p>consideration for projects in excess of \$20 M. Redevelopment projects viewed favorably.</p> <p>Highest development standards for design are required. TIF projects are required to use Planned Development zoning. Generally, only 50% of sales tax increment provided. If sales or guest tax is requested, the necessity must be demonstrated in writing.</p>			
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City (date of policy)	Process	Criteria	Developer Contribution	Agreement	Fees
City of Merriam (1997)	Requires proposal and initial review for proposal completeness. Next, proposal is reviewed by the Finance, Administration and Operations committee of the Governing Body for recommendation that is forwarded to the Governing Body. Cost benefit analysis is also completed.	<p>Primary objects are to promote, stimulate and develop the general and economic welfare of the state of Kansas and the City and to 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, create new jobs and retain jobs, and expand the economic base of the city.</p> <p>Requires a minimum capital investment of \$1 M.</p> <p>Application of “But For” Principle</p> <p>Governing Body to take into account if the TIF will create an unfair advantage for the applicant over existing business</p>			Requires \$1,000 application fee and reimbursement of other fees, such as bond issuance, feasibility study costs, etc.

**Article GB05-E
TAX INCREMENT FINANCING ("TIF") POLICY**

Effective Date: December 19, 2006

Sections:

GB05-E-1	OBJECTIVES
GB05-E-2	SCOPE
GB05-E-3	DEFINITIONS
GB05-E-4	PROVISIONS
GB05-E-5	PROCEDURES
GB05-E-6	STATUTORY AMENDMENTS
GB05-E-7	RESPONSIBILITY FOR ENFORCEMENT
GB05-E-8	REFERENCES

Section GB05-E-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 Lenexa, 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").

GB05-E-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.

GB05-E-3 DEFINITIONS.

For the purpose of this Policy, the words or phrases as used in this Policy shall have 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 Lenexa 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 Lenexa 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.

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 the City Administrator, the Assistant City Administrator, the City Attorney, the Finance Director, the City Planning & Development Director, the City's Financial Advisor and the City's Bond Counsel, or their designees, whose function is to review TIF applications and make recommendations for approval or denial to the Governing Body.

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 Lenexa 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. 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.

GB05-E-4 PROVISIONS.

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. Certain costs of improvements within the redevelopment district may be reimbursed to the Developer or paid through the issuance of special obligation bonds or full faith and credit bonds. 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(f), 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 Lenexa, 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 Lenexa, 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;
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. parking facilities;
14. landscaping and plantings; fountains, shelters, benches, sculptures,

lighting, decorations and similar amenities; and

15. all 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 \$5,000,000 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 Administrator 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 areas established under the authority of K.S.A. 12-1770 *et seq.*, as amended.

Special assessment districts, Transportation Development Districts (TDD), 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 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 minimum capital investment is 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.

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, permitted under K.S.A. 12-1773, 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 is 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.

GB05-E-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 City Administrator. 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.

GB05-E-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.

GB05-E-7 RESPONSIBILITY FOR ENFORCEMENT.

The City Administrator shall be responsible to the Governing Body for the enforcement of this Policy. The Assistant City Administrator, City Finance Director, City Attorney and Planning & Development Director shall assist in the implementation of this Policy.

GB05-E-8 REFERENCES.

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

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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CITY OF MERRIAM
CITY COUNCIL POLICY MANUAL

POLICY NO. 124

TAX INCREMENT FINANCING POLICY

1.01 OBJECTIVES

The purpose of this Policy is to establish the official position and procedures of the City of Merriam, 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 through 12-1780.

1.02 SCOPE

The City recognizes that the proper use of Tax Increment Financing can promote, stimulate and develop the general and economic welfare of and quality of life in the City. 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 projects 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 be under any obligation to approve a TIF Project for any applicant.

1.03 DEFINITIONS

For the purpose of this Policy, the words or phrases as used in either the Kansas Constitution, applicable State statutes, or this Policy shall have meaning or be construed as follows:

Applicant. The individual or business and its officers, employees, and agents requesting approval of the TIF Project.

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.

Blighted Area: An area of real property qualifying as such, in the opinion of the Governing Body, pursuant to K.S.A. 12-1771.

City: The City of Merriam, Kansas, and its Governing Body.

Conservation Area: An area of real property qualifying as such, in the opinion of the Governing Body, pursuant to K.S.A. 12-1771.

Feasibility Study: A comprehensive study, prepared as required under K.S.A. 12-1771, which shows the benefits derived from the TIF Project will exceed the costs and the income therefrom will be sufficient to pay for the Project.

Redevelopment Plan: A description of a TIF Project, which includes the requirements of K.S.A. 12-1772.

TIF District: An area determined to be a redevelopment district by the Governing Body pursuant to the requirements of K.S.A. 12-1771.

TIF Project: The improvements to real property for which Tax Increment Financing has been approved.

Tax Increment: The difference between the amount of *ad valorem* property taxes assessed against the TIF District prior to completion of the TIF Project and the amount of *ad valorem* property taxes assessed against the TIF District after completion of the TIF Project. For example, if the taxes assessed prior to

completion of the TIF Project were \$5,000, and the taxes assessed after completion of the TIF Project were \$50,000 annually, the "tax increment" would be \$45,000.

1.04 PROVISIONS

A. Legal Authority

Pursuant to K.S.A. 12-1771, the City may create TIF Districts in blighted areas, conservation areas, and enterprise zones created pursuant to K.S.A. 12-17,110. Certain costs of improvements within the TIF District may be reimbursed to the developer or paid through the issuance of special obligation bonds or full faith and credit bonds. 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 under the provisions of the Act if the Johnson County Board of County Commissioners or the Board of Education levying taxes on property proposed to be included in the TIF District determines that the proposed TIF District will have an adverse effect on such county or school district.

B. Eligible TIF Expenses

The Act specifies permissible TIF expenses, including:

- a. acquisition of property within the TIF Project area;
- b. payment of relocation assistance;
- c. site preparation;
- d. sanitary and storm sewers and lift stations;

- e. drainage conduits, channels and levees;
- f. street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- g. street lighting fixtures, connection and facilities;
- h. underground gas, water, heating, and electrical services and connections located within the public right-of-way;
- i. sidewalks and pedestrian underpasses or overpasses;
- j. drives and driveway approaches located within the public right-of-way
- k. water mains and extensions;
- l. plazas and arcades;
- m. parking facilities;
- n. landscaping and plantings; fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
- o. all related expenses to redevelop and finance the Redevelopment Project.

The costs of construction of buildings or other structures to be privately owned are not eligible TIF expenses.

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. 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 TIF District.

1. Special Obligation Bonds

The City may issue special obligation bonds to finance permissible expenses of the TIF District. Such bonds shall be payable, both as to principal and interest: (1) from property tax increments allocated to, and paid into a special fund of the City; (2) from revenues of the City derived from or held in connection with the undertaking and carrying out of any Project; (3) from private sources, contributions or other financial assistance from the state or federal government; (4) from the increased franchise fees and city sales tax, or (5) from any combination of these methods.

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 is payable out of any funds or properties other than those sources set forth above. Should the annual increment fall short of the amount necessary to pay the principal and interest of the special obligation bonds issued under this Policy, the remaining amount payable is the responsibility of the applicant, not the City.

If a special obligation bond issued under this Policy is offered to the public, an investment grade rating must be assigned to the issue; if the bond is privately placed, it may be issued without a rating, but must be sold to an accredited investor as that term is defined by securities industry standards.

2. Industrial Revenue Bonds

Industrial revenue bonds may be issued by the City pursuant to K.S.A. 121740 *et seq.* to benefit a developer within the TIF district. All state law benefits associated with such bonds shall be available, except that no *ad valorem* tax abatement shall be available.

D. Reimbursement Authority

Pursuant to Attorney General Opinion 96-45, TIF can be used to reimburse a developer for eligible TIF expenses as opposed to issuing bonds; this is the preferred method of granting TIF benefits. Under this method, the City agrees to reimburse the developer for eligible TIF expenses over a period of time not to exceed twenty (20) years with interest on the outstanding reimbursement amount. The reimbursement amount and interest is paid solely from 411 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 TIF expenses and interest.

E. Amount of Tax Increment Financing Available.

1. Criteria

The primary 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 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 plans. As a result, in determining the actual amount and duration of TIF to be granted, the City shall consider the factors and criteria set forth in this Policy under the Analysis of Costs and Benefits, as well as the amount and duration of previous TIF Projects supported by the City.

2. Capital Investment.

To be considered for TIF, an individual or business should be making a minimum capital investment in the City of \$1,000,000.00. The term "capital investment" means the acquisition cost of land, buildings and tangible personal property constituting capital assets for accounting purposes. The minimum amount of capital investment required for TIF Projects, as provided herein, may be waived by the City based upon the unique nature of the project as determined by the Governing Body.

F. Analysis of Costs and Benefits

Prior to granting TIF, the City shall prepare, or direct to be prepared, a cost benefit analysis examining the costs and benefits to the public of the proposed TIF Plan. The Cost-Benefit Analysis shall be performed on a model approved by the City and shall be in addition to the Feasibility Study. The cost of preparing the Cost-Benefit Analysis shall be paid by the applicant. This cost will be in addition to the application fee required under this Policy. The City shall use the Cost-Benefit Analysis to assist in its decision-making process, but the results of the analysis will not be

determinative or obligate the City to any course of action. The Cost-Benefit Analysis shall consider, but not be limited to, the following factors, as applicable:

1. The market value of the applicant's investment in real and personal property;
2. The property tax, sales tax, franchise fees, transient guest tax, and other tax and fee revenue that may result and directly benefit the City;
3. The number and average employee salary of full-time equivalent jobs that will be created;
4. The expenditures that local government will need to make to provide streets and utilities, police and fire protection, and other services as a result of the TIF Project;
5. The expenditures for police and fire protection, recreation, street maintenance, social programs, etc., for the new residents associated with the TIF Project;
6. The expenditures for public capital investments (library, streets, airport, sewer plants, etc.) for the new residents associated with the TIF Project;
7. The expenditures by the local school district(s) to provide the facilities and to educate the students of the new residents associated with the TIF Project;

8. Other public or private expenditures associated with attracting a new business;
9. The kinds of jobs created in relation to the types of skills available from the local labor market;
10. The degree to which the ultimate market for the applicant's business products and services is outside the community, recognizing that outside markets infuse "new money" to the local economy;
11. The potential of the applicant's business for future expansion and additional job creation;
12. The indirect costs and benefits the applicant's business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing;
13. The compatibility of the location of the applicant's business with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services;
14. An evaluation of the applicant's current and projected financial strength and market viability.
15. The number and average employee salary of full-time equivalent jobs that will be retained in the City, community, or State as a result of the applicant's decision to locate or remain in the City; and

16. The value added, including intangible costs and benefits such as City reputation, congestion, environment, and quality of life to the City and community as a result of the unique nature of the applicant's business.

G. Application Of "But-For" Principle

All TIF applications shall be considered in light of the "but-for" principle, i.e., the TIF 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. 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.

H. Unfair Competition

In reviewing TIF proposals, the Governing Body shall consider whether or not such financing is likely to create an unfair advantage for the applicant over any existing competing business within the City.

I. Distribution of *Ad Valorem* Taxes

All tangible taxable property located within a TIF 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 TIF expenses 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.

J. Condemnation

The use of condemnation, permitted under K.S.A. 12-1773, will be considered by the Governing Body only upon a finding that the applicant has attempted, in good faith, to acquire the property privately. In the event condemnation is approved by the Governing Body, the applicant shall be responsible for all costs associated with the proceedings, including court and litigation costs, attorney's fees and the final condemnation awards made.

K. Waiver of Requirements

The Governing Body reserves the right to grant or deny TIF for the development or redevelopment of a District under circumstances beyond the scope of this Policy, or to waive any procedural requirement. 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 procedural requirement of State law.

1.05 PROCEDURES

The following basic procedures shall govern the approval of TIF Projects within the City. All requests for Tax Increment Financing shall be considered and acted upon in accordance with this Policy.

A. Proposal

The applicant shall apply for approval of a TIF Project by filing with the City Clerk five (5) copies of a written proposal on a form provided by the Finance Department. The proposal shall include, but is not limited to: (a) a proposed comprehensive plan that identifies all 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 redevelopment project area; (b) description and map of the proposed redevelopment district; (c) description of the proposal boundaries of the redevelopment district; (d) information regarding expected capital expenditure by the applicant; and (e) a proposal for development assistance. The City Clerk shall distribute the copies to: City Administrator, City Attorney, Chief Financial Officer, City Financial Advisor, and City Bond Counsel. The City will consider full and complete proposals, and additional information as may be requested by the Governing Body. Any inaccuracy, misstatement of or error in fact may render the proposal null and void and may be cause for the repeal of any development assistance rendered through the TIF statutes granted by the City in reliance upon said information.

B. Proposal and Renewal Fees

All proposals shall be accompanied by an application fee of \$1,000. This fee is in addition to other fees which may be required by the City, including fees for the issuance of tax exempt or taxable bonds, costs incurred for preparation of the Feasibility Study as required by K.S.A. 17-1441, costs associated with the Cost and Benefit Analysis required by the City and costs incurred, if any, for review and work done by the City's Financial Advisor and Bond Counsel. Actual costs incurred for review

shall be billed by the City Clerk for payment within thirty (30) days of the review process.

C. Initial Review Procedure

On receipt of the completed proposal and the required fee, the City Administrator shall determine whether the proposal is complete and sufficient for review. If the proposal is incomplete, the City Administrator shall immediately notify the applicant of the need for such changes or additions as deemed necessary. The matter shall then be referred to the City Attorney for a decision as to whether the proposed area of redevelopment meets the requirements of a redevelopment district, as described under K.S.A. 12-1771. The City Administrator shall notify the Finance, Administration and Operations Committee of the Governing Body, if the proposal is found complete and is for a purpose, which appears to be authorized by law.

D. Review by Finance, Administration and Operations Committee

The Finance, Administration and Operations Committee ("Committee") shall review requests and applications for TIF, evaluate the proposed TIF 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, conduct preliminary discussions with the applicant, discuss terms of an agreement to be drafted by the City Attorney or his/her designee for Governing Body consideration and to recommend to the Governing Body whether the proposal should be favorably considered. In reviewing the information, the Committee may utilize the services of consultants, including but not limited to bond counsel and financial advisers. Committee records, including proposals

submitted for TIF, may be withheld from public disclosure as provided under the Kansas Open Records Act, but shall be available for public inspection when otherwise required by law.

E. Governing Body Action

1. Reviewing and Establishing the TIF District

Upon receiving the recommendation of the Committee, the Governing Body shall determine whether to reject the TIF proposal or to further consider the request. Upon a favorable vote for further consideration, the Governing Body shall take action to establish a TIF District, unless such District is already in existence. 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.

a. TIF District Resolution

The resolution shall state that the City is considering the establishment of a TIF District; additionally, it shall: (1) give notice that a public hearing will be held to consider the establishment of a redevelopment district and to 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.

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 and commit the Governing Body to the provision of TIF, nor to the establishment of a TIF District. Such resolution shall be an expression of good faith intent, but shall not in any way bind the City to establishing a TIF District.

b. Notice and Hearing

No TIF District shall be established, nor TIF granted, by the City prior to notice and a public hearing as required by K.S.A. 12-1771. Upon request, the City Clerk shall provide any public agency with a copy of the proposal and a description and map of the proposed TIF District. The applicant may, but is not required, to attend the public hearing.

c. Establishing the TIF District

Upon the conclusion of the public hearing and determination by Merriam City Attorney that the proposed area complies with K.S.A. 17-1771, the Governing Body may establish the TIF District by ordinance. Any addition of area to the TIF District or any substantial change to the comprehensive plan

shall be subject to the same procedure for public notice and hearing as is required for the establishment of the District.

2. The Redevelopment Project

The Governing Body and the Planning Commission will consider the redevelopment project as proposed. Together, they will prepare a redevelopment plan. The Planning Commission must determine that the Plan is consistent with the comprehensive general plan for the development of the City.

a. Redevelopment Plan

The redevelopment plan shall include: (1) a summary of the Feasibility Study; (2) a reference to the redevelopment district that identifies the redevelopment project area that is set forth in the comprehensive plan that is being considered; (3) a description and map of the area to be redeveloped; (4) the relocation assistance plan, as required by K.S.A. 17-7777; (5) a detailed description of the buildings and facilities proposed to be constructed or improved in such area; and (6) any other information the Governing Body deems necessary to advise the public of the intent of the Plan.

A copy of the redevelopment plan shall be delivered to the Johnson County Board of Commissioners and the Board of Education of any school district levying taxes on property within the proposed redevelopment

project area. Upon a finding by the Planning Commission that the redevelopment plan is consistent with the comprehensive general plan for the development of the City, and determination by the Governing Body that said Plan shall be further considered, the Governing Body will or may adopt a resolution.

b. Redevelopment Plan Resolution

The resolution shall state that the Governing Body is considering the adoption of the Plan. Such resolution shall: (1) give notice that a public hearing will be held to consider the adoption of the redevelopment plan and fix the date, hour and place of such public hearing; (2) describe the boundaries of the TIF District within which the redevelopment project will be located and the date of establishment of such a district; (3) describe the boundaries of the area proposed to be included within the TIF Project area; and (4) state that the redevelopment plan, including a summary of the Feasibility Study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped are available for inspection during regular office hours in the office of the City Clerk.

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.

The date fixed for the hearing shall be no less than 30 or more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

3. Hearing

At the public hearing, a representative of the City shall present the City's proposed redevelopment plan. Following the presentation of the Plan, all interested persons shall be given an opportunity to be heard. The Governing Body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

Following the public hearing, the Governing Body may adopt the redevelopment plan by ordinance passed upon a 2/3 vote. Any substantial changes to the Plan as adopted shall be subject to public hearing.

No full faith and credit bonds or special obligation bonds may be issued until the sixty- day protest period expires after the date of the public hearing.

F. Acquisition of Land

The City may proceed to acquire property within the TIF District by purchase or eminent domain (with 2/3 vote of the Governing Body) and implement the Plan. However, the City may not exercise eminent domain in conservation areas.

1.06 RESPONSIBILITY FOR ENFORCEMENT

The City Administrator shall be responsible to the Governing Body for the enforcement of this Policy. The City's Chief Financial Officer shall assist in the implementation of this Policy.

REFERENCES

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

APPROVED BY THE GOVERNING BODY ON 7/28/97

Transportation Development District Policies

City (date of policy)	Process	Criteria	Developer Contribution	Agreement	Fees
Lenexa (2006)	<p>Submit TDD application form. City Finance Team reviews for compliance with law and makes recommendation. Petition forwarded to City Council for action along with a City-developed Finance Plan.</p> <p>Bonds can be used- must include security, must be sold to qualified investors</p>	<ol style="list-style-type: none"> 1. Promote and support efforts to redevelop retail sites 2. Stimulate quality, retail development 3. Attract and promote mixed use, urban development 4. Allow for construction of transportation related infrastructure beyond what the City requires or would otherwise build 5. Project located in area that has been targeted for redevelopment or has site constraints making development more difficult or costly. 6. Recommendation of City Finance Team 7. Additional: <ul style="list-style-type: none"> • Cost • Funding- public vs. private • Developer- experience and stability • Tenants • Competition 	Not specified.	Not specified.	Applicant must pay City's fees and those of the City's consultants

City (date of policy)	Process	Criteria	Developer Contribution	Agreement	Fees
Olathe (2007)	Petition submitted along with petition fee. Upon receipt, forwarded to City's TDD Committee to review the petition and then forwarded to Governing Body for consideration.	<p>All Criteria required, adjustments to sales tax percentage/assessments may be adjusted to the extent criteria is exceeded:</p> <ol style="list-style-type: none"> 1. "But For" test- the project would not be completed but for the TDD 2. Debt service coverage ratio of at least 1.25 times the projected bonds unless purchased by bank or petitioner for sales tax bonds; 1.15 for special assessment bonds. 3. Total amount of TDD based on economic payoff. Generally, payoff is 10 years-longer if the project is of community-wide significance. 4. Developer Contribution and Cost Allocation (see next column) 5. timely project completion <p>Governing Body consideration: Economic Benefit, Location, Design Criteria, Compatibility with City plans, traffic impacts, utilization of city-owned utilities</p>	<p>Developer shall:</p> <p>Have financial ability to complete and operate the project; will be liable for private finance of at least 15% or provide performance bond; demonstrate financial nexus between public infrastructure financed by TDD and the private infrastructure financed by TDD: at least 50% of TDD eligible costs should pay for construction of major public City-specified infrastructure outside district; at least 25% should pay for infrastructure outside district, but located immediately adjacent; no more than 25% should be allocated for private costs. Projects with greater than 75% of costs dedicated to public infrastructure will be viewed more favorably.</p>	<p>Required. Each agreement includes a notice and waiver disclosing to each petitioner that the City reserves the right to create other districts with different sales tax percentages and different terms and the petitioner waives the right to request any modification based on such differences.</p>	<p>Non-refundable petition fee of \$5,000 plus bond issuance fee of .25% of the first \$10 M plus .2% of the second \$10 M plus .1% of anything over \$20 M. Minimum fee \$2000 and max fee \$100,000; annual administrative service fee of .5% of the annual TDD district and all costs associated with bond counsel, other fees</p>

City (date of policy)	Process	Criteria	Developer Contribution	Agreement	Fees
Overland Park (2004)	Applicant provides information to the City. If at least one of the criteria for creating a TDD is met, the preliminary information is forwarded to a Council Committee for preliminary consideration. If it is approved in concept, then a financial plan is devised. Then, for formal consideration, petition and finance plan go to the Governing Body for consideration.	<ol style="list-style-type: none"> 1. Attract unique retail development which will enhance economic climate of City 2. Attract large regional retail development 3. Result in building of transportation related infrastructure beyond what the City can require or would otherwise build. 4. Promote redevelopment 	Nothing specified.	Nothing specified.	Nothing specified.

TRANSPORTATION DEVELOPMENT DISTRICT (“TDD”) POLICY

Effective Date: December 19, 2006

Sections:

GB05-E-1	OBJECTIVES
GB05-E-2	SCOPE
GB05-E-3	DEFINITIONS
GB05-E-4	PROVISIONS
GB05-E-5	PROCEDURES
GB05-E-6	STATUTORY AMENDMENTS
GB05-E-7	RESPONSIBILITY FOR ENFORCEMENT
GB05-E-8	REFERENCES

GB05-E-1 OBJECTIVES.

To provide a tool for financing transportation related projects or infrastructure improvements (“Project”) as authorized by K.S.A. 12-17,140 *et seq.*, as amended, (the “Act”) to encourage and promote economic development in the City, within a defined transportation development district area (“District”) by levying and collecting special assessments and/or a transportation development district (“TDD”) sales tax up to 1% upon property in the District and to provide for the payment of all or any part of the cost of a Project out of the proceeds of such special assessments or TDD sales tax (“TDD financing”).

GB05-E-2 SCOPE.

The authority and decision to approve a petition establishing a TDD is within the sole discretion of the Governing Body and the Governing Body is under no obligation to approve any petitioned Project, nor is it relinquishing its authority to initiate Projects by whatever other financing means it deems necessary to promote the general health and welfare of the City. This policy is intended to provide a guide for the Governing Body in considering applications and outline the policies and procedures to be followed by applicants. The Governing Body reserves the right to reject any proposal or petition for creation of a TDD at any time in the review process when it considers such action to be in the best interests of the City.

GB05-E-3 DEFINITIONS.

1. “Cost” means (a) all costs necessarily incurred for the preparation of preliminary reports, the preparation of plans and specifications, the preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, necessary fees and expenses of consultants, interest accrued on borrowed money during the period of construction and the amount of a reserve fund for the bonds, together with the cost of land, materials, labor and other lawful expenses

incurred in planning and doing any project and may include a charge of not to exceed 5% of the total cost of a project or 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 such project by its general officers; and (b) in the case of property and projects already owned by the City and previously financed by the issuance of bonds, "cost" means costs authorized by K.S.A. 10-116a and amendments thereto.

2. "Finance Team" includes the City Administrator, Finance Director, and City Attorney, or their designees; City Bond Counsel and City Financial Advisor.
3. "Project" means any project or undertaking whether within or without the District, to improve, construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend any bridge, street, road, highway access road, interchange, intersection signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail or other mass transit facility or any other transportation related project or infrastructure including, but not limited to, utility relocation; sanitary and storm sewers and lift stations; drainage conduits, channels and levees; street light textures, connection and facilities; underground gas, water, heating and electrical services and connections located within or without the public right-of-way; sidewalks and pedestrian underpasses or overpasses; and water main and extensions.

GB05-E-4 PROVISIONS.

A. General Policies

1. Application. Interested parties shall submit a TDD application on a form provided by the City. The City Finance Team shall review all TDD applications for compliance with City policy and State law and make a recommendation for preliminary approval and a decision to forward a petition to the City Council for consideration and action. If the Finance Team believes the application meets the criteria set forth in this Policy and should be recommended for approval, the Finance Team will work with the petitioner(s) to prepare a petition and develop a Finance Plan to present to the Governing Body when it considers the petition to establish the District.
2. Petition. TDD proceedings shall be initiated by petition, on a form prescribed by the City and containing the information required in K.S.A. 12-17,140 *et seq.*, as amended after receiving preliminary approval from the Finance Team.

- a. A TDD petition must be submitted with signatures of 100% of the property owners of all of the land area within the proposed District. The District boundaries and the method of financing the Project shall not require that all property that is benefited by the Project, whether the benefited property is within or without the District, be included in the District or be subject to an assessment or the TDD sales tax.
 - b. TDD financing will not be approved if any signatory to a petition has a financial interest in real estate located in the City of Lenexa, Kansas with existing delinquent tax obligations. All petitioners 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 Lenexa, Kansas.
3. Term. The Governing Body shall review the financial feasibility of each District proposed for consideration and shall use this information in determining the appropriate term of the District. Any TDD sales tax shall expire no later than the date the bonds issued to finance such project or refunding bonds issued for the Project mature. TDD Bonds issued to finance the Project shall mature no more than twenty-two (22) years from date of issue, unless otherwise provided by law.

B. Criteria for Use of Transportation Development District

- 1. The decision to establish a transportation development district is within the sole discretion of the Governing Body. In determining whether or not to approve a petition to establish a District, the Governing Body will evaluate whether or not creation of a TDD is in the City's best interest, by considering one or more of the following criteria:
 - a. Promote and support efforts to redevelop retail sites to provide for reinvestment in our community;
 - b. Stimulate quality, retail development to enhance the City's diverse economic base;
 - c. Attract and promote mixed use, urban, development;
 - d. Allow for the construction of transportation related infrastructure beyond what the City requires or would otherwise build;
 - e. The Project will be located in an area that has been targeted by the Governing Body for economic development or redevelopment; or has specific site constraints making development more difficult or costly;
 - f. Recommendation of the City Finance Team;

- g. Whatever other factors the Governing Body deems relevant to its decision.
2. Additional Considerations:
- a. Cost of the proposed improvements identified in the Project;
 - b. Sources of funding, including the amount of equity funding in comparison to public financing;
 - c. Experience and stability of Developer;
 - d. Whether or not tenants are in place; and the nature and quality of the tenants;
 - e. Economic competition the development has and is expected to have in the future.

C. FINANCING

1. Source of Funds. TDD Projects may be financed by any or all of the following sources:
 - a. Special assessments imposed in the District pursuant to this Act which have been paid in full prior to the date set by the Governing Body as provided in K.S.A. 12-6a10, and amendments thereto;
 - b. Special assessments imposed in the District pursuant to the Act, to be paid in installments;
 - c. A pledge of all of the revenue received from a TDD sales tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailer's sales tax act, within a District, in any increment of .10% or .25% not to exceed 1% as authorized by K.S.A. 12-17,145, and amendments thereto ("TDD sales tax"); and
 - d. Any other funds annually appropriated by the City.
2. Special Benefit District Procedures. If special assessments are used to finance all or a portion of a Project, the City and petitioner(s) must follow the assessment procedures in the General Improvement and Assessment Law set forth in K.S.A. 12-6a01 *et. seq.* and the City's Administrative Policy and Procedures for Special Benefit Districts.
3. Finance Plan. If the Finance Team reviews the application and finds it in the City's best interest to recommend approval of the TDD to the Governing Body, the Finance Team will work with the applicant to create a Finance Plan which shall be presented to the Governing Body

for consideration along with the petition. The Finance Plan shall address the recommended method of financing and specific terms associated therewith.

4. Bonds. The City may issue TDD Bonds to finance transportation related projects or infrastructure improvements. In no event shall special assessments be levied against the City-at-large and no full faith and credit notes or bonds may be issued by the municipality to finance a Project under this Act. Guidelines for the issuance of TDD Bonds include:
- a. The maximum maturity for TDD Bonds shall be twenty-two (22) years and shall not exceed the anticipated useful life of the project.
 - b. The minimum issue size for TDD bonds issued by the City will be \$3,000,000, unless an exception is approved by the Governing Body.
 - c. TDD Bonds issued under this Policy must include security for the bonds of a sufficient amount to minimize any risk of default.
 - d. TDD Bonds issued under this Policy must be sold to qualified investors (as defined by the Securities and Exchange Commission Regulation D) in accordance with the minimum denominations as provided herein.
 - e. TDD Bonds must initially be offered in denominations of \$100,000 or greater. These denominations may be stepped down (upon consultation with the City's bond counsel and financial advisor) when one of the following are met:
 - 1. the Project being bond financed is substantially leased;
 - 2. the estimated revenue stream yields significant debt service coverage on the bonds;
 - 3. construction of the Project being bond financed is 100% complete;
 - 4. the repayment term is less than or equal to 60% of the maximum permitted repayment term;
 - 5. waiver of the minimum denomination provision by the Governing Body.
 - f. If a negotiated sale of the bonds is necessary, the City will normally select the underwriter(s) needed to structure, price, and sell the bonds through a competitive process. Exceptions

to this process may be approved by the City Administrator upon consultation with the City's bond counsel and financial advisor.

- g. At its sole discretion, the City may require that an independent feasibility study of future TDD revenues be performed, with any such cost born by the applicant if not recoverable from the TDD bond proceeds.
 - h. All pricing for negotiated sales will be performed with direct involvement by City staff and the City's financial advisor.
- 5. Annual Appropriation. The Governing Body may choose to, but is not obligated, to annually appropriate funds to secure TDD revenue bonds.
- 6. Reimbursement TDD. If available and permitted by law, Petitioner(s) may be reimbursed for a Project on a "pay as you go" basis until the Governing Body determines issuance of TDD Bonds is viable and in the City's best interest.
- 7. Project Funds. A separate fund shall be created for each District and each Project and such fund shall be identified by a suitable title. The proceeds from the sale of bonds and any other moneys appropriated by the Governing Body shall be credited to such fund and the fund shall be solely used to pay the costs of the Project.
- 8. Fees. The applicant shall be responsible for paying the City's fees and those of the City's consultants, including but not limited to the City's financial advisor and bond counsel, with respect to their work on the Project and the costs associated with the issuance of TDD Bonds. The applicant may also be required to pay a retainer or other fee simultaneous with the filing of its TDD application. The fees and/or retainer shall be set out in the City's TDD Procedures or by separate contract with the City's consultants.

GB05-E-5 PROCEDURES.

City staff shall develop internal procedures for processing TDD applications. Such procedures shall be approved, and amended as appropriate, by the City Administrator.

GB05-E-6 STATUTORY AMENDMENTS.

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

GB05-E-7 RESPONSIBILITY FOR ENFORCEMENT.

The City Administrator shall be responsible to the Governing Body for the enforcement of this Policy. The Finance Director and City Attorney shall assist in the implementation of this Policy. The Governing Body reserves the right to deviate from this Policy when it believes it is in the best interest of the City to do so, and provided such substitute provisions are in accordance with state or local law.

GB05-E-8 REFERENCES.

K.S.A. 12-17,140 *et seq.*, Supp. 2005.

RESOLUTION NO. 07-1146

A RESOLUTION ESTABLISHING POLICIES RELATING TO TRANSPORTATION DEVELOPMENT DISTRICTS IN THE CITY OF OLATHE, KANSAS; AND REPEALING CERTAIN PRIOR RESOLUTIONS

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

WHEREAS, it is further recognized that transportation development and the stimulation of balanced economic development is a joint responsibility of the private and public sectors, working closely together to create a positive business environment and to encourage industry to locate and expand in the City; and

WHEREAS, to meet these transportation and economic development goals, the City recognizes the occasional necessity of levying a transportation development district sales tax and/or special assessments in order to pay the costs of transportation infrastructure improvements; and

WHEREAS, certain transportation infrastructure improvements must be constructed to serve commercial development projects which add to and diversify the Olathe tax base as well as projects which would provide an extraordinary or particularly unique community-wide economic opportunity (each, an "Economic Development Project"); and

WHEREAS, K.S.A. 12-17,140 et seq., as amended ("the Act") authorizes the governing body of any city or county to create transportation development districts ("Transportation Districts" or "TDD") to acquire interests in property and to construct any project or undertaking relating thereto, within or without a Transportation District, to improve, construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend any bridge, street, road, highway access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail or other mass transit facility or any other transportation related project or infrastructure including, but not limited to, utility relocation, sanitary and storm sewers and lift stations, drainage conduits, channels and levees, street light fixtures, connection and facilities, underground gas, water, heating and electrical services and connections located within or without the public right-of-way, sidewalks and pedestrian underpasses or overpasses, and water main and extensions ("Transportation Project"); and

WHEREAS, the Act gives discretion to governing bodies to approve Transportation Projects which are located outside of the boundaries of Transportation Districts; and

WHEREAS, the Act further authorizes governing bodies, in order to pay the costs of such Transportation Projects, to impose a transportation district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within Transportation Districts in any increment of .10% or .25% not to exceed 1.0% and/or the levy of special assessments upon property within such transportation districts and to issue revenue bonds payable from such sales taxes and/or special assessments,

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

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") (Exhibit A) and a Petition Fee as described in Section 5(a). The completed Petition will be reviewed by the City's TDD Committee and any other staff required to review 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 Olathe. 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, including those items described in Exhibit A, 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 TDD Committee, 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 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 Committee Consideration.** The City's TDD Committee 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 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 TDD Committee and 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 Olathe 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 Olathe 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, the state Enterprise Zone, blighted areas or conservation areas as defined under K.S.A. 12-1770a, and the Downtown Core.
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 the design guidelines provided by the City's Development Services Department. 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's Development Services Department 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 a Economic Development Project requires a rezoning 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 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 TDD Committee and before consideration of the Petition by the governing body.
6. **Utilization of City-Owned Utilities.** All Transportation 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 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 TDD Committee.
- 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.

Section 6. 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 7. Sunset Date. Since the justification and necessity for creation of Transportation Development Districts may be lessened as the local economy moves towards its goals of balance and diversification and the City's transportation needs are satisfied, this policy shall automatically expire on December 31, 2007 unless it is readopted for an additional term. No such Transportation Project shall be granted following such expiration, unless this policy is readopted or repealed by adoption of a new policy.

Section 8. Previous Resolution Repealed. Resolution No. 07-1055 is hereby repealed.

Section 9. Effective Date. This Resolution shall take effect on ~~June 1, 2007~~ January 1, 2008.

ADOPTED by the governing body of the City of Olathe, Kansas this ____ day of ~~May~~ December, 2007.

Mayor

ATTEST:

City Clerk

(SEAL)

Exhibit A

**CITY OF OLATHE
TRANSPORTATION DEVELOPMENT DISTRICT
PETITION PROCEDURE**

TDD Petition Procedures

1. PETITION:

Submission. The Transportation Development District Petition form, policies, and procedures are available from the City's Strategic Financial Management Department or City Clerk's office. Not less than two (2) paper copies and one (1) electronic copy of the completed Petition should be submitted to the TDD Committee together with the required Petition fee. The completed Petition shall be submitted to the City Clerk of the City of Olathe with copies to the Director of Strategic Financial Management, City of Olathe, 201 N. Cherry St., P. O. Box 768, Olathe, Kansas 66061.

Petition Fee. Each Petition shall be accompanied with a non-refundable Petition fee made payable to the City of Olathe. The Petition fee will be used by the City to pay the costs incurred by the City in the review of the Petition. The City has established a Petition fee and has established a policy for reimbursement of additional costs as outlined in Section 5 of the TDD Policy. In the event that costs for third-party services incurred by the City exceed the fee collected, the Petitioner will reimburse the City for such additional cost prior to final consideration of the Petition by the City Council. The Petitioner shall be required to pay all additional costs such as those set forth in section 5 of the TDD Policy.

Preliminary Determination of Completeness. Upon submission, the Petition will be reviewed by the TDD Committee to determine if it is complete under the Staff Review guidelines described below. If the Petition is incomplete or if additional information is needed, the Petitioner will be notified in writing that the Petition is not complete and the reasons will be stated referring to the specific criteria that are not met, including, but not limited to, additional information required and/or financial, legal, planning, and development concerns.

Requests for Proposals. The City may initiate a Request for Proposals for a redevelopment project. The fees shown above are for both City-initiated and non-City initiated redevelopment projects. The City reserves the right to modify, reduce, or waive the above fees if a TDD project is determined to be in the best interest of the City. Upon the filing of a complete Petition 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 Transportation District.

2. STAFF REVIEW:

Review of the Petition will be conducted by the City's TDD Committee (which includes, but is not limited to, members of the City Manager's Office, Legal, Strategic Financial Management, Public Works, Development Services, Neighborhood and Human Services, and Municipal Services departments), and if necessary by other City staff, the City's Financial Advisor, Bond Counsel, and any other outside consultant deemed necessary for review of the Petition. Initial review time will be approximately 30 days from the date the completed Petition is submitted to the City. However, more or less time may be required for particular Petitions. Upon receipt of a complete Petition and after review by the City's TDD Committee, the TDD Committee shall forward a recommendation to the City Council for consideration. The recommendation of the City's TDD Committee may be approved, denied, or amended by the City Council. Petitioners will be notified of the City's TDD Committee forwarding the Petition to the City Council for

consideration at a Council study session and a regular Council meeting.

Petitions that are determined to be incomplete or do not conform to the City's TDD policy will not be forwarded to the City Council. Petitioners will be notified of the determination that the Petition will not be forwarded and should be modified before being considered in the future.

The following is a list of additional information which may be requested by the City's TDD Committee. The TDD Committee may request any or all of this information prior to consideration of a Petition for creation of a TDD by the governing body in connection with the TDD Committee's evaluation of the Petition and determination of whether the Petition is complete and conforms to the City's TDD Policy:

- A. Describe the proposed Economic Development Project and associated Transportation Project, including the size and scope, phasing and anticipated timing of the Economic Development Project and associated Transportation Project. Specifically outline residential development, if any, to be included in the Economic Development Project.
- B. State the need and justification for TDD assistance and the type and amount of assistance being requested by providing the following information:
 1. A Economic Development Project proforma containing assumptions for TDD assistance, including a revenue worksheet which estimates the sales taxes and/or special assessment revenues to be generated within the Transportation District, as well as internal rate of return with and without public assistance.
 2. An explanation of how but for TDD assistance, this Economic Development Project will be unable to proceed due to extraordinary economic conditions.
 3. Substantiation that alternative methods of financing have been thoroughly explored as well as why TDD assistance is necessary.
- C. Provide an outline of the costs associated with the development of the proposed Economic Development Project and related parcel or parcels located within the Transportation District under the criteria described in Section 3 (Developer Contribution & Cost Allocation) of the City's TDD Policy. Identify in the outline those costs proposed to be funded with TDD financing and the proposed payback time frame (provide a debt service schedule showing rates and assumptions). The information shall include interest rates and all assumptions.
- D. Discuss the condition(s) that would qualify the proposed Transportation District as an eligible area as defined within the City of Olathe TDD Policy.
- E. Discuss and document information used to describe the market feasibility of the Economic Development Project. Provide copies of any formal feasibility or comparable studies.
- F. Provide a traffic study detailing any projected traffic impact increase on the City that is based upon the Economic Development Project.
- G. Describe the impacts of the proposed Economic Development Project on existing and proposed infrastructure and services including, but not limited to: water, sanitary sewer, storm water, solid waste, and streets where not otherwise described. Please note that where available, City services shall be utilized.
- H. Identify the property within the Transportation District that is currently in the control of the Petitioner via ownership or option, and who will own the property if not the Petitioner. If under option, note the option expiration date.
- I. Attach a letter from a financial institution indicating that the Petitioner has sufficient financial resources to obtain the private financing for the Economic Development Project.
- J. State whether the property to be included in the Transportation District is currently zoned for the proposed

use. If not, describe what zoning change(s) will be required.

- K. Describe whether the proposed Economic Development Project or Transportation Project will result in the relocation of residential, commercial, industrial or public facilities. If so, discuss the nature of any anticipated relocations.
- L. Identify any proposed tenants of the Economic Development Project. Have leases been negotiated or signed? What type of lease is contemplated?
- M. Briefly describe the "economic and quality of life" benefits of the proposed Economic Development Project to the City.
- N. In no more than three pages provide relevant information on the Petitioner's background and development experience. Include resumes of key individuals assigned to the project as well as other projects completed including location and contact persons from local governments and bank references. Also include a copy of the development company's organizational structure.
- O. Identify the Petitioner's consultants involved or proposed to be involved in the project noting relevant experience on similar projects (i.e., civil engineer, land use planner, Petitioner's legal counsel, Petitioner's financial advisor).

3. DEVELOPMENT CONSIDERATION:

The City Council may desire to hold one or more study sessions before any public hearing is held. During this period the Petitioner may be required to submit additional information as requested and/or appear before the City Council to present information regarding the Petition. The City Council will make all findings and determinations required by the TDD Statute (K.S.A. 12-17,140, et. seq.).

The City Council conducts hearings and other requirements as prescribed by state law. The proposed developer prepares a Petition pursuant to Kansas law and City requirements. The cost of all studies shall be paid by the Petitioner and should be prepared by a professional consultant having a favorable reputation for the preparation of such studies. The studies shall be submitted to the City in a timely manner for review by staff prior to any City Council meetings or study sessions. Additionally, consideration of the Petition shall adhere to the requirements of the TDD Policy and may require additional studies as necessary. The City's TDD Committee reviews the Petition and submits it to the City Council with comments. The City's TDD Committee makes no assurances, promises or guarantees as to the determinations of the City Council after a Petition is forwarded to the City Council for consideration.

The City Council reviews and discusses the Petition during Council study sessions. At a regular Council meeting, the City Council considers an Ordinance making necessary findings and creating the Transportation District setting forth the boundaries thereof, authorizing the proposed Transportation Projects, approving the maximum costs thereof, levying the Transportation District sales tax, imposing any special assessments, and approving the method of financing the same. Authorization of the issuance of bonds or reimbursement of eligible costs may also be considered at this time.

After approval of all elements required to be submitted in the Petition and creation of the Transportation District, but prior to reimbursement of eligible Transportation Project improvements and/or issuance of TDD Sales Tax Revenue Bonds or TDD Special Assessment Revenue Bonds, the City and Petitioner shall prepare a Development or Redevelopment Agreement. Additional requirements and costs, as needed, may be included in the Redevelopment Agreement.

4. NOTIFICATION / PUBLICATION RESPONSIBILITIES:

Legal notices and mailings to taxing districts and property owners shall be prepared or caused to be prepared, delivered, and mailed by the City pursuant to state law. Copies of certifications of mailing, signed delivery certifications, or other proofs of notifications shall be forwarded to the City Clerk. The City shall also prepare or

cause to be prepared any Notices of Public Hearings to be published and forward to the City Clerk for publication in a timely manner as required by state law. The Petitioner is responsible for all costs associated with publications, mailings, certifications, delivery, and preparation of notices. The City shall be reimbursed for any expenses associated with Petition and the TDD formation process.

5. OTHER COSTS OR EXPENSES:

Petitioner shall reimburse the City for all reasonable documented, out-of-pocket expenses incurred in connection with the TDD including attorney's fees, financial advisor fees, and any consultant fees. Said reimbursements to the City shall be deemed "reimbursable expenditures" which may be included in the costs of issuance when TDD bonds are issued.

RESOLUTION NO. 3417

A RESOLUTION ESTABLISHING A POLICY ON THE CRITERIA FOR APPROVING ESTABLISHMENT OF A TRANSPORTATION DEVELOPMENT DISTRICT AND ESTABLISHING A PROCESS FOR CONSIDERING CREATION OF SUCH A DISTRICT.

WHEREAS, the Governing Body is responsible for encouraging and promoting the economic health of the City; and

WHEREAS, the Governing Body is authorized by K.S.A. 12-17, 140 et seq., as amended, to create a district for the purpose of financing transportation related projects or infrastructure from certain revenues generated within the district; and

WHEREAS, these revenues can be special assessments and/or a transportation development district sales tax up to 1% that are assessed or charged only within the district; and

WHEREAS, the law permits the City to issue special obligation bonds that are not general obligations of the City and are not payable from any general City revenues; and

WHEREAS, the creation of Transportation Development Districts (TDD) is a complex legal and administrative matter requiring clear direction from the Governing Body; and

WHEREAS, prior to the creation of a TDD, the owners of all of the land area within the proposed district are required to sign and submit a petition for a creation of a TDD; and

WHEREAS, the petition shall contain (1) the general nature of the proposed project, (2) the estimated cost of the project, (3) the proposed method of financing the project, (4) the proposed amount and method of assessment, (5) the proposed amount of transportation development district sales tax, and (6) a map or boundary description of the proposed district; and

WHEREAS, the City Council is required to hold a public hearing on the advisability of creating a TDD proposed to be financed in whole or in part by a transportation development district sales tax.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS, THAT:

SECTION 1. CRITERIA: It shall be the policy of the City to create a TDD if, in the opinion of the Governing Body, it is in the best interest of the City to do so, and if, in the opinion of the Governing Body, creation of such a TDD would meet one or more of the following criteria:

- a. Attract unique retail development which will enhance the economic climate of the City.
- b. Attract large regional retail development which will benefit the City.

- c. Result in the building of transportation related infrastructure beyond what the City can require or would otherwise build.
- d. Promote rejuvenation and/or redevelopment within the City.

SECTION 2. INITIATION OF THE PRELIMINARY REVIEW AND APPROVAL PROCESS: The creation of a TDD may be initiated, reviewed and preliminarily approved in the following manner:

- a. TDD Applicant must present the following preliminary information regarding the proposed TDD to the City Manager for his consideration.
 - i. Estimated Cost of the project
 - ii. Proposed method of financing the project
 - iii. Proposed amount and method of assessment
 - iv. Proposed amount of transportation development district sales tax
 - v. Map and boundary description of the proposed district
- b. The City Manager or his designee, in consultation with City staff, City bond counsel and City financial advisor, may then request additional information to assist him in his determination of whether this proposed TDD meets one or more of the criteria listed in Section 1, above. The TDD applicant must front the fees of the City's bond counsel and financial advisor.
- c. If the City Manager determines that at least one of the criteria for creating a TDD is met, then the City Manager will forward the preliminary information as amended and supplemented to the Finance, Administration, and Economic Development Committee (FAED Committee), a standing committee of the Council, for their preliminary consideration.
- d. If the FAED Committee preliminarily approves the concept of the proposed TDD, then the Committee may authorize staff to work with the TDD Applicant to proceed with the development of a finance plan.

SECTION 3. PROCESS FOR FORMAL APPROVAL OF A TDD: The following process will be used by the City for consideration of formal approval of a proposed TDD:

- a. The TDD applicant must file with the City Clerk a formal petition for the creation of a TDD based upon the concept of the proposed TDD that is preliminarily approved by the FAED Committee and based upon the finance plan subsequently developed by the City staff, City financial advisor, and the City bond counsel in consultation with the TDD applicant. The petition must be signed by the owners of record of all of the land in the proposed TDD.

- b. The City Clerk, in consultation with the Mayor and City Manager, will schedule a public hearing on the advisability of creating the TDD and financing of the project, if the petition and finance plan include a proposed transportation development district sales tax.
- c. Following the public hearing, if any, the Governing Body may direct the staff, City bond counsel, City financial advisor and investment banker to prepare an ordinance creating the TDD, authorizing the project, approving the estimated cost of the project, the boundaries of the district and the method of financing; to prepare the resolution of intent to levy a transportation development district sales tax, if any; and to prepare all other ordinances, resolutions and documents required by statute or otherwise needed for the creation of and implementation of the TDD and submit them to the FAED Committee and Governing Body for their final approval.

SECTION 4. AUTHORITY OF GOVERNING BODY: The Governing Body, by its inherent authority, reserves the right to reject any proposal or petition for creation of a TDD at any time in the review process when it considers such action to be in the best interests of the City.

SECTION 5. POLICY MANUAL: This resolution shall be included in the Governing Body Policy Manual of the City.

ADOPTED this ____ day of _____, 2004.

ATTEST:

Ed Eilert, Mayor

Marian Cook, City Clerk

APPROVED AS TO FORM:

Robert J. Watson, City Attorney

RESOLUTION NO. _____

**A RESOLUTION ESTABLISHING A POLICY OF THE CITY OF
LAWRENCE, KANSAS RELATING TO TAX INCREMENT
FINANCING DISTRICTS.**

WHEREAS, the City of Lawrence, Kansas (the "City") is committed to the high quality and balanced growth and development of the community while preserving the City's unique character and while revitalizing and redeveloping areas of the City; and

WHEREAS, economic development is a joint responsibility of the private and public sectors, working closely together creating a positive business environment and to encourage commercial development and expansion in the City; and

WHEREAS, the economic development goals of the City include the expansion of existing businesses, development of new businesses, economic development activities which are environmentally sound, diversification of the economy, and the creation of quality jobs; and

WHEREAS, to 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 redevelopment districts; an economic development tool established by K.S.A. 12-1770 et seq. (the "TIF Act") 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, all projects must demonstrate financial and economic reasons such that 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
POLICY FOR THE CITY OF LAWRENCE, KANSAS, WILL BE AS
FOLLOWS:**

SECTION ONE: PROCESS:

1. Any person wishing to request the City to create a redevelopment district within the City of Lawrence shall first submit a detailed written proposal to

the City Manager. The proposal shall include, but is not limited to: (a) a proposed comprehensive plan that identifies all 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 redevelopment project area; (b) description and map of the proposed redevelopment district; (c) description of the proposed boundaries of the redevelopment district; (d) information regarding expected capital expenditure by the applicant; and (e) a proposal for development assistance.

2. The applicant shall furnish such additional information as requested by the City Manager in order to clarify and evaluate the submittal.

3. The Governing Body shall then determine whether it desires to commence the statutory process to create a redevelopment district as set forth in the TIF Act.

4.. The applicant and City will enter into a redevelopment agreement upon satisfactory approval of the redevelopment project plan.

SECTION TWO: POLICY STATEMENT:

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.

SECTION THREE: POLICY GUIDELINES. The following criteria are to be used by the Governing Body and staff to evaluate TIF Proposals:

1. Each TIF proposal must demonstrate that "but for" the use of TIF, the project would not be completed .

2. All TIF proposals requesting the issuance of bonds or notes will be required to demonstrate that the incremental taxes and/or the economic activity 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. At the discretion of the City, Developer or bank purchased bonds may be less than 1.25 times debt service coverage. Alternatively, applicants may provide a

guarantee or other credit enhancement to cover any shortfalls in revenue in a manner that is satisfactory to the City.

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.

4. Each TIF proposal must include evidence that the applicant has the financial ability to complete and operate the project.

5. Projects that have at least 50% of the total project costs paid by the applicant will be viewed more favorably.

6. The City will require satisfactory assurance that the project will be completed in a timely manner in accordance with the redevelopment project plan and redevelopment agreement.

7. TIF proposals for residential redevelopment 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.

8. TIF proposals 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.

SECTION FOUR: PAYMENT OF CERTAIN COSTS. Upon submission of the proposal to the City Manager, the applicant shall enter into a funding agreement with the City to pay out-of-pocket costs of the City in connection with the evaluation of the applicant's proposal and the creation of the redevelopment district, the redevelopment project plan and the redevelopment agreement, including outside consultant, financial advisor and attorney fees. Consultant and attorney fees may be reimbursed to the applicant from bond proceeds or TIF revenues if a redevelopment district is established and redevelopment project plan approved, to the extent such costs are "redevelopment project costs" as defined by the TIF Act.

SECTION FIVE: REQUEST FOR PROPOSAL. The City may initiate a Request for Proposal for a redevelopment project.

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

1. Special Obligation Bond Financing;

2. Direct Reimbursement to the applicant when improvements are privately financed; or

3. Any combination of the foregoing methods.

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. Generally, the City will not issue General Obligation Bonds for TIF eligible costs. The proposed method of financing will be clearly shown in the application and the redevelopment project plan. The City has sole determination of the method of financing.

SECTION SEVEN: CERTAIN ECONOMIC ACTIVITY TAXES. Sales taxes, property taxes, or other applicable taxes may be considered for purposes of the tax increment derived from TIF economic activity taxes. Generally, the City will only make available 50% of the general City sales tax for TIF projects. 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 required.

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

SECTION NINE: 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 TEN: EFFECTIVE DATE. This Resolution shall take effect immediately.

ADOPTED by the Governing Body this _____ day of _____, 2008.

Michael Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING A POLICY OF THE CITY OF LAWRENCE, KANSAS RELATING TO TRANSPORTATION DEVELOPMENT DISTRICTS.

WHEREAS, the City of Lawrence, Kansas (the "City") is committed to the high quality and balanced growth and development of the community while preserving the City's unique character and broadened and diversifying the tax base; and

WHEREAS, the economic development goals of the City include the expansion of existing businesses, development of new businesses, economic development activities which are environmentally sound, diversification of the economy, and the creation of quality jobs; and

WHEREAS, transportation development districts are an economic development tool established by K.S.A. 12-17,140 et seq. (the "TDD Act") which can assist with the development of transportation projects which can benefit a development and the public; and

WHEREAS, the City finds it in the best interest of the public to establish certain policies and guidelines for the consideration of petitions that may be presented to the City by private developers requesting the establishment of a Transportation Development District ("TDD").

NOW, THEREFORE, THE TRANSPORTATION DEVELOPMENT DISTRICT POLICY FOR THE CITY OF LAWRENCE, KANSAS, WILL BE AS FOLLOWS:

SECTION ONE: POLICY STATEMENT: It is the policy of the City to consider the establishment of TDDs in order to promote economic development within the City. A developer may petition the City to utilize special assessments or a special sales tax to fund the transportation related projects eligible under the TDD statutes. In considering the establishment of a TDD, the Governing Body shall consider the criteria outlined in Section Two. TDD shall only be used in the following circumstances: 1) pay-as-go in situations where the developer has installed all of the public improvements at no cost to the City; or 2) in situations where the City installs all or a portion of the public improvements, and the developer provides funding through payments to the City or special assessment benefit districts, pursuant to the City's development policy. The use of TDD should not alter the requirements of the City's Development policy in regard to the requirements of a development to pay for public infrastructure.

SECTION TWO: CRITERIA: It shall be the policy of the City to create a TDD, if, in the opinion of the Governing Body, it is in the best interest of the City to do so, and if, in the opinion of the Governing Body, creation of such a TDD would meet one or more of the following criteria:

1. Promote and support efforts to redevelop sites within the City.
2. Attract unique retail and/or mixed use development which will enhance the economic climate of the City and diversify the economic base.
3. Result in the building of transportation related infrastructure beyond what the City can require or would otherwise build.

SECTION THREE: PROCESS:

1. A developer wishing to create a TDD in the City of Lawrence shall first submit a petition to the City as outlined in state statute. The petition must be signed by the owners of all of the land within the proposed district and shall include 1) the general nature of the proposed project, 2) the estimated cost of the project, 3) the proposed method of financing the project, 4) the proposed amount and method of assessment, 5) the proposed amount of TDD sales tax, and 6) a map or boundary description of the proposed district. Additionally, the developer shall provide information regarding the developer's financial capacity to complete the project and the amount the developer proposes to contribute to the project.

2. The petition must meet all of the statutory requirements and must be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the project's site plans, and to analyze the merits of the proposed TDD in the context of existing economic development and infrastructure projects.

3. The applicant shall furnish further information as needed in order to clarify the petition or to assist staff or the Governing Body with the review of the request.

4. The applicant and the Governing Body shall then follow the statutory process to create a TDD.

SECTION FOUR: DEVELOPER REQUIREMENTS:

1. The developer should provide evidence that they have the financial ability to complete and operate the project.

2. Projects with equity or private financing contributions from the developer in excess of fifteen percent (15%) of the total TDD-eligible expenses will be viewed more favorably.

3. In conjunction with an ordinance passed to create a TDD under this resolution, a development or redevelopment agreement with the developer shall also be considered. Such agreement will outline the responsibilities of the City and the developer.

SECTION FIVE: PAYMENT OF CERTAIN COSTS.

The applicant may be required to pay additional costs such as outside consultant and attorney fees. Such consultant and attorney fees shall be deemed "costs of the project", which may be included in the costs of issuance when TDD bonds are issued, or otherwise paid from TDD revenues, if a TDD is established.

SECTION NINE: 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. Additionally, the Governing Body, by its inherent authority, reserves the right to reject any proposal or petition for creation of a TDD at any time in the review process when it considers such action to be in the best interests of the City.

SECTION TEN: EFFECTIVE DATE.

This Resolution shall take effect immediately.

ADOPTED by the Governing Body this _____ day of _____, 2008.

Michael Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

MEMORANDUM

Parks & Recreation

DATE: April 8, 2008

TO: Dave Corliss, City Manager
Cynthia Boecker, Assistant City Manager

CC: Diane Stoddard, Assistant City Manager

FROM: Ernie Shaw, Interim Director Parks and Recreation

RE: Green Burials

The purpose of this memo is to discuss "Green" or Natural Burial options for the City of Lawrence. Green burial ensures the burial site remains as natural as possible in all respects. Interment of the bodies is done in a biodegradable casket, shroud or a favorite blanket. The process uses no embalming fluid and no concrete vaults.

This is a fairly new concept especially in the midwest. There are only a few approved provider sites scattered around the country, including DeFuniak Springs and Dunedin, Florida; San Jacinto County, Texas; Conyers, Georgia; Westminster, South Carolina; Newfield, New York; Limington, Maine; Santa Fe, New Mexico and San Francisco, California. Green burial sites are proposed in Denver, Colorado; Madison, Wisconsin; Blaine, Washington; and South Orrington, Maine.

We contacted Joe Schee, President of the Green Burial Council to discuss approved standards and practices for a natural burial ground. In order for the City of Lawrence to be classified as an "approved provider", we would have to meet one of three classification levels. After review and staff discussion, it was determined that we could meet all three levels of classification if that is the direction desired. Level 3 would be use of vault-less burials, no use of toxic chemicals (embalming) and use of burial containers made of biodegradable materials. Level 2 would require deed restriction/assurance to prevent the cemetery from accommodating conventional burial. Level 1 would be having a restoration specialist on staff. It was determined that our horticulture staff would be classified as such. All the approved standards and practices of the green burial council could be placed in our rules and regulations.

On March 3, we invited all three local funeral homes to a meeting to discuss the concept of the city opening a green burial cemetery. Warren-McElwain and Rumsey-Yost were present and the Lawrence Funeral Chapel was not represented. Representatives from the two funeral homes in attendance did not have a concern about this option and said that they currently have these requests and are practicing this type service with the Jewish community.

We also contacted Mack Smith, Director of the Kansas State Board of Mortuary Arts, he expressed that he does not have any concerns with the City opening a Natural or Green

Cemetery. His only comment was that the funeral homes would need to continue to follow state laws.

The City's Legal Department researched whether any state or local laws exist that would prohibit green or natural burials from occurring. They found no state laws or regulations which would prohibit the City from offering green burial options. State laws will continue to have to be observed and people exercising the option for a green or natural burial for a loved one will have to comply with the state laws governing the transporting and interring of dead human bodies, including requirements for burying a dead human body in which the death resulted from an infectious or contagious disease.

It would still be up to the funeral homes to prepare the body for the green burial and our role would not change much from our normal duties of managing the plot, opening and closing the grave site and returning the plot to its natural setting.

We have identified property at Oak Hill cemetery (see [attached](#) map) that we can coordinate with Public Works to plot. The area outlined on the map is approximately 50 X 60 feet and estimated to accommodate 54 burials which can be expanded if the need arises. The estimate for startup cost would be minimal at this site. We would need to remove some underbrush, level the area and plant some additional natural grasses and flowers. We would recommend allowing natural living trees, wild flowers or ecologically functional stones or boulders inside the natural area as grave makers.

Should the commission so direct the city to open a natural "green burial" cemetery we feel we can handle start up costs within budget and if needed phase in plantings over a few years.

Resources

The following web sites provide additional information regarding green burial:

<http://greenburialcouncil.org/memorial1.php>

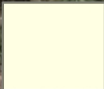
http://www.aarp.org/bulletin/yourlife/Articles/a2004-06-30-green_graveyards.html

<http://www.greenburials.org/FAQ.htm>

<http://greenburialcouncil.org/>

<http://naturalburial.coop/USA/>

1110-40



1605 CEMETERY

1600 CEMETERY

1413th St

1301

Elmwood St

City of Lawrence
Traffic Safety Commission Agenda
March 3, 2008-7:00 PM
City Commission Room, City Hall

MEMBERS: Robert Hagen, Chair; Richard Heckler, Vice-Chair; Paul Graves; David Hamby; Ken Miller; Jason Novotny; Robin Smith; Jim Woods and John Ziegelmeyer Jr.

Anyone who wishes to be notified when their item will be heard by the City Commission must provide their name and a telephone number or an e-mail address.

ITEM NO. 1: Review and approve the minutes of the Traffic Safety Commission meeting, December 3, 2007.

ITEM NO. 2: Consider request to establish a STOP sign for eastbound Cambridge Road at High Drive.

Facts:

1. Cambridge Road and High Drive are both local streets in a residential area.
2. Police Department records show there has been one (1) reported crash at this intersection during the past three (3) years.
3. The *Manual on Uniform Traffic Control Devices* states that STOP signs should be used if one or more of the following conditions exist:
 - a) Intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law;
 - b) Street entering a through highway or street;
 - c) Unsignalized intersection in a signalized area; and/or

- d) High speeds, restricted view, or crash records indicate a need for control by the STOP sign.

ACTION: Provide recommendation to the City Commission.

ITEM NO. 3:

Consider request for a marked crosswalk, a marked centerline and speed humps at the intersection of 5th Street & Tennessee Street.

Facts:

1. A centerline can be marked at this intersection, however, recent experience at other locations in town have shown little improvement.
2. A recent national crosswalk study found that marking such a crosswalk does not improve the crosswalk safety.
3. The city recently marked similar crosswalks on Harvard Road; however, those locations had shared-use paths on both sides of the crossing.
4. A speed study conducted February 14-15, 2008, found the 85th percentile speed for eastbound traffic to be 18.8mph and for northbound traffic to be 22.1mph; the speed limit by state law is 30 mph.
5. A traffic count conducted February 14-15, 2008, found approximately 250 vehicles per day at this location; approximately 115 eastbound and 135 northbound.
6. There have been no pedestrian or bicycle crashes reported at this location during the past three years.

ACTION: Provide recommendation to the City Commission.

ITEM NO. 4:

Consider request to establish a marked crosswalk at the intersection of Dakota Street & Louisiana Street.

Facts:

1. A recent national crosswalk study found that marking such a crosswalk does not improve the crosswalk safety.

2. Other crosswalks have been marked on Louisiana Street on the basis of a traffic calming study; however, each of those locations included a raised pedestrian refuge island.
3. There was one reported pedestrian crash in 2005 on Louisiana Street approximately half-way between 23rd Street and Dakota Street.

ACTION: Provide recommendation to the City Commission.

ITEM NO. 5:

Consider request from the University of Kansas to establish STOP signs at the four (4) traffic booth entrances to the campus.

Facts:

1. These four locations are totally on the University of Kansas campus; however, in order to prosecute violators, these STOP sign locations must be listed in the city code.

ACTION: Provide recommendation to the City Commission.

ITEM NO. 6:

Consider request to establish a mid-block marked crosswalk on Naismith Drive between 18th Street & 19th Street.

Facts:

1. A recent national crosswalk study found that marking such a crosswalk does not improve the crosswalk safety.
2. The City of Lawrence does not have any experience with a mid-block marked crosswalk on a four-lane roadway.
3. There have been no reported pedestrian crashes at this location during the past three years.

ACTION: Provide recommendation to the City Commission.

ITEM NO. 7:

Public Comment.

ITEM NO. 8: Commission Items.

ITEM NO. 9: Miscellaneous.

City Commission action on previous recommendations:

Concurred with the recommendation to establish an ALL-WAY STOP at the intersection of Overland Drive & Wakarusa Drive;

Concurred with the recommendation to establish NO PARKING on 4th Street adjacent to Maine Street;

Concurred with the recommendation to deny the request to establish an ALL-WAY STOP at the intersection of Folks Road & Overland Drive; and

Concurred with the recommendation to amend the city's *School Crossing Control Policy*.

City of Lawrence
Traffic Safety Commission
March 3, 2008 Minutes

MEMBERS PRESENT: Robert Hagen, Chair; Paul Graves; David Hamby; Ken Miller; Jason Novotny; Robin Smith; and Jim Woods.

MEMBERS ABSENT: Richard Heckler, Vice-Chair; John Ziegelmeyer Jr.

STAFF PRESENT: David Woosley, Public Works Department; Shoeb Uddin, Public Works Department

Past-Chair David Hamby called the meeting to order at 7:00 p.m. in the City Commission Room, City Hall, 6 E. 6th Street.

ITEM NO. 1:

Review and approve the minutes of the Traffic Safety Commission meeting, December 3, 2007.

MOTION BY COMMISSIONER MILLER, SECONDED BY COMMISSIONER WOODS, TO APPROVE THE MINUTES OF THE TRAFFIC SAFETY COMMISSION MEETING, DECEMBER 3, 2007; THE MOTION CARRIED 6-0.

ITEM NO. 2:

Consider request to establish a STOP sign for eastbound Cambridge Road at High Drive.

David Woosley presented the information provided in the staff report.

Commissioner Hamby noted that there is currently a STOP sign on the north leg; Woosley advised that the north leg is not a public street, the right-of-way was vacated and it is currently a private driveway, and the east leg is a private driveway also.

Public comment:

None.

Commissioner Miller: The crash data doesn't justify a STOP sign.

Commissioner Graves: It appears to me that none of the conditions in the *MUTCD* would be met.

MOTION BY COMMISSIONER GRAVES, SECONDED BY COMMISSIONER MILLER, TO RECOMMEND DENYING THE REQUEST TO ESTABLISH A STOP SIGN FOR EASTBOUND CAMBRIDGE ROAD AT HIGH DRIVE; THE MOTION CARRIED 6-0.

Commissioner Hagen arrived at 7:20.

ITEM NO. 3:

Consider request for a marked crosswalk, a marked centerline and speed humps at the intersection of 5th Street & Tennessee Street.

Woosley presented the information provided in the staff report and added that a recent license plate survey on February 27, found that 50% of the southbound vehicles and 65% of the northbound vehicles during the evening peak-hour were cut-through vehicles.

Public comment:

Chris Burger, 521 Tennessee Street: The path is the main way for people in the neighborhood to access a point to cross 6th Street at Kentucky Street; the intersection of 5th Street, Tennessee Street and the path is confusing; traffic turning from Tennessee to 5th regularly cross what would be the centerline while turning.

Commissioner Woods: I don't think what is being requested would help a whole lot.

Commissioner Hamby: The cut-through traffic is a little concerning to me; marking the centerline doesn't help, we found that out at 11th & Haskell.

Commissioner Graves: I agree that it doesn't appear that any of the requests fit the problem; perhaps a STOP sign on the path would be more appropriate.

Commissioner Hamby: I don't think a STOP sign would be effective; a YIELD sign may be more appropriate.

MOTION BY COMMISSIONER SMITH, SECONDED BY COMMISSIONER GRAVES, TO RECOMMEND DENYING THE REQUEST, AND INSTALLING A YIELD SIGN AND A PATH ENDS SIGN (IF APPROPRIATE) ON THE OFF-STREET PATH WHERE IT INTERSECTS TENNESSEE STREET; THE MOTION CARRIED 7-0.

ITEM NO. 4:

Consider request to establish a marked crosswalk at the intersection of Dakota Street & Louisiana Street.

Woosley presented the information provided in the staff report.

Public comment:

Carol Bowen, 403 Dakota Street: We don't expect a crosswalk to protect us from the traffic; we are asking for the crosswalk to define the area where pedestrians should be crossing; this is a major commercial area and many of us walk there.

Michael Pomes, 528 Kansas Street: I would propose that the crosswalk look like the others on Louisiana with the pedestrian refuge islands.

Commissioner Woods asked how far south of Dakota the existing crossing was; Woosley advised it was a couple of blocks.

Commissioner Hagen: Adding a crossing with islands at this location would help the one at Utah function better.

Commissioner Woods asked if there were any sidewalks on Dakota Street to the east; Woosley advised that there were not.

Commissioner Hamby: I would be concerned about putting a crosswalk there without some protection like a median refuge island.

Commissioner Woods: I'd be interested in seeing what kind of traffic we have walking in the area before we do anything.

Commissioner Hagen: Refuge islands would complete more effective traffic calming for that stretch of Louisiana which would be beneficial to other side-street traffic.

MOTION BY COMMISSIONER HAGEN, SECONDED BY COMMISSIONER SMITH, TO RECOMMEND ESTABLISHING A MARKED CROSSWALK TOGETHER WITH PEDESTRIAN REFUGE ISLANDS ON LOUISIANA STREET ADJACENT TO DAKOTA STREET; THE MOTION CARRIED 7-0.

ITEM NO. 5:

Consider request from the University of Kansas to establish STOP signs at the four (4) traffic booth entrances to the campus.

Woosley presented the information provided in the staff report and noted that in order to prosecute violators in municipal court, the STOP signs would have to be listed in the city's traffic schedules.

Public comment:

Peg Livingood, University of Kansas: Access to the campus needs to be controlled due to the volume of traffic; this step is needed to improve safety on the campus; we want to install stop signs and stop lines that meet regulations and that the public are familiar with.

Commissioner Smith: This would result in five STOP signs at Sunflower & Sunnyside; entirely too many; you could very easily have traffic backed-up into the intersection; I think they will create more congestion; these would be in effect even during non-school hours which I feel is unwarranted; having to stop on Mississippi during snow and ice conditions could be an obstacle; the STOP sign adjacent to the Chi Omega fountain is not needed because of the roundabout.

Commissioner Hamby: They are having to stop there now except during off hours.

Commissioner Woods: I think we will cause more problems than we will solve.

Commissioner Hagen: I don't see an issue on Mississippi and on Jayhawk because they are far enough away from an intersection.

MOTION BY COMMISSIONER WOODS, SECONDED BY COMMISSIONER SMITH, TO RECOMMEND DENYING THE REQUEST TO ESTABLISH STOP SIGNS AT THE FOUR TRAFFIC BOOTH ENTRANCES TO THE KANSAS UNIVERSITY CAMPUS; THE MOTION CARRIED 4-3 (Hamby: Not a good solution, but not worthwhile to turn it down; Miller: We should do what they want; Novotny: This is needed for student safety.

ITEM NO. 6:

Consider request to establish a mid-block marked crosswalk on Naismith Drive between 18th Street & 19th Street.

Woosley presented the information provided in the staff report.

Public comment:

Jim Modig, University of Kansas: This was a recommendation of the Campus Safety Advisory Board; students would be able to cross two lanes of traffic, then wait in the median area before crossing the other two lanes; student fees would pay for the construction costs; in addition, the BUS STOP would need to be moved to the north out of the crossing area.

Commissioner Hamby: Although it is only 170 feet to 18th where you would rather have a marked crosswalk, the students are currently crossing here (the grass is worn-off in the median).

Commissioner Smith: My experience is that the students simply don't abide by crosswalks; they just go, they don't even look and they are terribly dangerous; crosswalks don't seem to help them.

Commissioner Novotny: There are two big residence halls there and the students will cross there to get the bus.

Commissioner Hamby: I don't have a problem with it being used; I think it would be used; my concern is if it is appropriate there and how do we make it safe; I don't want to create a false sense of security for pedestrians.

Commissioner Hagen: I was wondering about a raised crosswalk that could also serve as a traffic calming device.

Commissioner Smith: I think you will tie-up traffic more because buses will have to stop and wait for pedestrians to cross and then stop again at the bus stop.

Commissioner Hamby: I am more leaning to support it because the students are crossing there anyway and increased signage will make it more visible.

MOTION BY COMMISSIONER HAGEN, SECONDED BY COMMISSIONER NOVOTNY, TO RECOMMEND ESTABLISHING A MID-BLOCK MARKED CROSSWALK ON NAISMITH DRIVE BETWEEN 18TH STREET & 19TH STREET; THE MOTION CARRIED 5-2 (Smith: It won't solve the problem, it will create additional traffic congestion; Woods: Three crosswalks in a block area is excessive even though it is a long block).

ITEM NO. 7:

Public Comment:

Betty Alderson, 1920 Maine Street: The island and crosswalk as recommended on Louisiana at Dakota is an excellent idea; the ones that are further north really work.

ITEM NO. 8:

Commission Items:

Commissioner Hagen asked if there was a rationale in the timing of the traffic signal at 19th Street & Iowa Street; Woosley advised that it is coordinated with other traffic signals along Iowa Street.

Commissioner Smith asked if additional protected/permissive left-turns could be installed along 23rd Street and Iowa Street; Woosley advised that is standard until left-turn crashes dictate protected only.

ITEM NO. 9:

Miscellaneous.

None.

The meeting adjourned at 8:15 P.M.

The next scheduled meeting of the Traffic Safety Commission will be Monday, April 7, 2008.

Respectfully submitted,

David E. Woosley

Transportation/Traffic Engineer

David Woosley

From: Bowen [carolb@sunflower.com]
Sent: Sunday, January 27, 2008 4:32 PM
To: David Woosley
Cc: EddieDavalos@CBMcGrew.com
Subject: PhNA request

David, As a result of the Parkhill Neighborhood Association meeting Sunday, January 27, we are requesting a crosswalk at Dakota Street across Louisiana Street. There are many pedestrians in our neighborhood who cross Louisiana Street with difficulty to shop at The Malls. We understand that a crosswalk does not guarantee safety, but it would define where we should cross. Sidewalks leading to the crosswalk would help pedestrians navigate the terrain. Our reasons are as follows:

1. Parkhill is a very pedestrian neighborhood.
2. The Malls is an activity center across the street from the neighborhood.
3. Dakota Street functions as a collector street for vehicular and pedestrian traffic.
4. There is no defined place for pedestrians to cross from Dakota Street to The Malls.
5. Sidewalks would be a plus, but our request is really focused on a crosswalk.

Thank You,

Carol Bowen
403 Dakota Street
Lawrence, KS 66046



Louisiana St

akota St



Jonathan Douglass

From: Jana Johnston [querida.jana@gmail.com]
Sent: Wednesday, May 07, 2008 3:01 PM
To: David L. Corliss
Cc: Cynthia Boecker; Diane Stoddard; Jonathan Douglass; Frank Reeb
Subject: Street Vendor codes -- Letter of proposal for amendment

To the City Manager and Commission,

I would like to start a Mehndi Art stand on Massachusetts Street for the summer season. Mehndi is an art form of India consisting of an all natural dye paste, called Henna, that is applied to the skin in fancy designs, usually on the hands and feet. The dye is made up of dried and crushed Henna plant leaves, black tea, and eucalyptus oil.

The Henna dyes the skin a red-brown color where it is applied and remains on the skin for approximately 30 days. It is a beautiful form of temporary body art and is a culturally fitting service to extend to Lawrence.

I would like to propose that the definition of 'street vendor', in code 6-1401, be amended to include 'Art Services' (such as Mehndi, Caricatures, Airbrushing, Hair Wrapping, etc.). This would also change code 6-1402 to include the granting of a street vendor license for the sale of 'Art Services'.

I would also like to propose that the licensing schedule for street vending, code 6-108.18, be amended to allow purchase of a \$150 'Seasonal' license covering a period of 4 months from the date the license is obtained; OR simply be amended to allow the \$50 month license purchase for individual months without requiring purchase of a year-long license.

Thank you for your consideration.
Jana Johnston

Memorandum

City of Lawrence

Legal Services

TO: Toni Ramirez Wheeler, Director of Legal Services

FROM: Scott J. Miller, Staff Attorney

Date: May 5, 2008

RE: [Ordinance 8214](#) – The Keeping of Live Fowl and Domesticated Hedgehogs

In the past months, citizens have contacted City staff requesting that portions of the animal control ordinances of the City of Lawrence be amended to prohibit the keeping of fowl within the City of Lawrence, and to allow the keeping of domesticated breeds of hedgehogs as pets. Each of these issues will be discussed below.

The Issues Regarding Keeping Fowl

Midge Grinstead of the Lawrence Humane Society contacted our department about her concerns regarding the keeping of chickens and other domestic fowl within the City of Lawrence. Grinstead stated that she has received information that chickens are kept within the City, which she disfavors because of the health concerns created by the keeping of domestic fowl in an urban environment.

To substantiate her concerns, Grinstead included a letter from Gail R. Hansen, the State epidemiologist and public health veterinarian from the Kansas Department of Health and Environment. The letter, which is included as an attachment to the memorandum, primarily focuses on the fact that chickens and other poultry often carry zoonotic pathogens such as enteric bacteria. Zoonotic diseases are those that transmit from animals to humans. Although other animals such as cats and dogs carry these pathogens, they exist more commonly in domestic fowl. The letter suggests this is because the birds usually do not have separate places to eat and rest away from where they pass waste products. Hansen cites a monograph from the Center for Disease Control that discusses the special concerns created by chickens in cities, specifically salmonellosis, when the animals are kept as backyard pets. It is Hansen's opinion that allowing chickens in the urban environment is contrary to the public health.

Current Law

Animal Control Law

Whether it is currently illegal to keep domestic fowl within the City is somewhat cloudy. There are two potential sources of authority regarding this issue in the City Code – animal control ordinances and the development code. Our current ordinances pertaining

to the keeping of animals within the City of Lawrence comprise Chapter III of the City Code. Looking at Chapter III's provisions, it appears that prior legislative intent may have been to phase out or eliminate the keeping of domestic fowl within the City. A portion of Section 3-104 of the City Code states:

Persons legally owning domestic fowl seventy-five (75) feet away from any dwelling other than that of the owner or tenant thereof pursuant to Section 3-105 of the 1990 Code prior to December 30, 1992, shall be allowed to continue such use, provided ownership remains with the same person on the same property. Provided, the City Commission may suspend enforcement of this subsection, or establish reasonable conditions for the enforcement thereof, for property annexed into the City after December 30, 1992.

If this was indeed the legislative intent, however, it was imperfectly executed. Section 3-104(A)(6) excludes birds from the prohibitions against keeping animals within the City. So, while the ordinance contains an exception from any domestic fowl ban for people legally keeping the fowl within the City prior to December 30, 1992 provided the fowl are kept on the same property and the property ownership remains the same, there is no clear ban on the keeping of fowl, or any other bird, within the animal control portion of the City Code. In other words, the exception is an exception to a rule that does not exist. Even if the keeping of fowl is disallowed under the Development Code, not having prohibitory language in the animal control portion of the ordinance limits the ability of animal control officers to enforce any such ban. According to Section 3-205 of the City Code, Animal control officers may only issue citations for violations of Chapter III. Therefore, they are unable to enforce a ban on the possession of domestic fowl under the Development Code.

Development Code

The Development Code is Chapter XX of the City Code. It is clear under the Development Code that the keeping of livestock is an allowed use in some base zoning districts. For example, animal husbandry is permitted in the RS40 zoning district, subject to the standards in Section 20-502. Under the Section 20-502 standards, livestock, with the exception of swine, can be kept provided the lot size is at least five acres and the animals are kept more than 100 feet from any adjoining lot line and 150 feet from any R district (presumably not including the RS40 designation of the lot the livestock are kept on). There is a limit to one head of livestock per acre of lot size, so five chickens could be kept on a five acre lot. Please note that not all RS40 lots meet these requirements. The minimum lot size for RS40 is 40,000 square feet. This is a little less than one acre.

Livestock, except for swine, is also allowed in the Urban Reserve district. Such a district is:

. . . a Special Purpose Base District primarily intended to provide a suitable classification for newly annexed land. The District is intended to avoid premature or inappropriate development that is not well served by Infrastructure or community services. It is also intended for implementation in areas where an adopted neighborhood plan or area development plan is not in place. It permits

only very low-intensity development until such time that a land use plan and Infrastructure and community services are in place.

Any lawful use of the property at the time it is annexed may be continued, including the keeping of livestock. Section 20-222(b)(2) does provide, however, that no increase in the number of livestock is permitted after annexation.

Finally, animal services such as veterinary services, grooming and kenneling are allowed in certain commercial zoning districts.

Reading all of these sections together, it can be argued that it is currently illegal under our zoning ordinances to keep domestic fowl on the vast majority of the lots in the City. Because the zoning ordinances are not enforceable by animal control, however, any such complaint would have to be investigated and enforcement activities initiated by a party authorized to do zoning enforcement.

Based upon our conversation, I do not believe that Ms. Grinstead has any objection to the keeping of chickens on or in the areas allowed under our current zoning code due to the size and relative density of the lots in question.

Proposed Ordinance

The enclosed draft ordinance amends our regulations regarding the keeping of animals to make the Chapter III prohibitions regarding fowl similar in scope to those in the Development Code. This will serve as a clear statement that residents are not generally allowed to keep domestic fowl in the City, and will be enforceable by animal control officers. This attempt to mitigate the health concerns cited by Gail Hansen is within the City's police power.

The amended ordinance covers fowl, which for the purposes of the ordinance is defined as:

[A]ny live member of the category of birds typically kept for the production of eggs, meat or feathers, whether or not that individual member is itself actually kept for the production of eggs, meat or feathers. This definition shall explicitly include all chickens, ducks, geese, turkeys, peacocks, ostriches and emus.

Pursuant to the ordinance, fowl is only allowed to be kept in zoning districts where the keeping of livestock is an explicitly allowed use under the Development Code. All other exceptions, except for those that apply to all types of animals, are eliminated.

It would also be possible to amend the ordinance to prohibit fowl from the entire City, although in that case the Development Code should probably be amended as well.

Hedgehogs as Pets

We have also received a citizen request to consider amending the animal control ordinance to allow domesticated hedgehogs as pets within the City. These hedgehogs

would be kept in a manner similar to the smaller rodents that are allowed under our current ordinance. They are not legal under the current ordinance, however, because they are not classified as rodents, being from a separate family of mammals. Domestic hedgehogs survive poorly in temperatures below 70 degrees, which makes the risk of propagation in the wild after either an accidental or purposeful release somewhat remote. Midge Grinstead was consulted regarding this issue and stated that her only substantial concern is that if hedgehogs were to be released and reproduce their population could compete with and perhaps threaten populations of some indigenous small mammals.

The ordinance, as drafted, would allow the keeping of hedgehogs. This provision could also be deleted if the Governing Body feels that the existing prohibition is better public policy. I would ask for its direction on both the hedgehog and fowl issues. If I can be of any other assistance in this matter, please feel free to let me know.

ORDINANCE NO. 8214

AN ORDINANCE AMENDING CERTAIN PORTIONS OF CHAPTER III OF THE CODE OF THE CITY OF LAWRENCE, KANSAS REGARDING THE KEEPING OF ANIMALS WITHIN THE CITY LIMITS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

Section 1. Section 3-102 of the Code of the City of Lawrence, 2008 Edition and amendments thereto, is hereby amended to read as follows:

3-102 DEFINITIONS.

As used in this Chapter:

- (A) "Domesticated" shall mean bred for and adapted to living dependently in an urban household setting.
- (B) "Humane" shall mean manner of care including, but not limited to, protection, from harm, providing of shelter with adequate protection from the elements, ventilation, sanitation, and appropriate food and potable water consistent with the requirements and habits of the animal's species, type, size, age and condition.
- (C) "Officer" shall mean City Animal Control Officer or City Police Officer.
- (D) "Own" or "Owning" shall mean to keep, maintain, possess, control, sell, trade, or buy.
- (E) "Owner" shall mean the person who owns, keeps, harbors or possesses an animal or specified animal.
- (F) "Spay" or "neuter" shall mean to render permanently incapable of producing offspring.
- (G) "Fowl" shall mean any live member of the category of birds typically kept for the production of eggs, meat or feathers, whether or not that individual member is itself actually kept for the production of eggs, meat or feathers. This definition shall explicitly include, but shall not be limited to, all chickens, ducks, geese, turkeys, peacocks, ostriches and emus.

Section 2. Section 3-104 of the Code of the City of Lawrence, 2008 Edition and amendments thereto, is hereby amended to read as follows:

3-104 ANIMALS EXCLUDED FROM PROHIBITION.

- (A) Animals excluded from prohibition are:
 - (1) Domestic dogs, except those hybridized with wild canines.
 - (2) Domestic cats, except those hybridized with wild felines.
 - (3) Domesticated rodents.
 - (4) Domesticated European ferrets.
 - (5) Rabbits, except that no more than three (3) rabbits shall be permitted in a residentially-zoned district.

- (6) Birds other than fowl and species protected by state or federal law.
 - (7) Nonvenomous snakes less than eight (8) feet in length, except that such snakes shall be required to be maintained on the owner's premises or property.
 - (8) Nonvenomous lizards.
 - (9) Turtles, except for species protected by state or federal law.
 - (10) Amphibians.
 - (11) Fish.
 - (12) Invertebrates.
 - (13) Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian.
 - (14) Any animal in the ownership of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department.
 - (15) Any animal in the ownership of a person temporarily transporting such animal through the city.
 - (16) Any animal in the ownership of a bona fide medical institution or accredited educational institution.
 - (17) Any animal exhibited for sale, show or other temporary purpose at the Douglas County Fairgrounds.
 - (18) Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals.
 - (19) Fowl, but only in zoning districts where the keeping of livestock is an explicitly allowed use under Chapter 20 of this code.
 - (20) Domesticated hedgehogs.
- (B) Persons legally owning goats, kids, sheep, rabbits or hares, horses, cows, mules or donkeys one hundred fifty (150) feet away from any building used for human habitation pursuant to Section 3-101 of the 1990 Code prior to December 30, 1992, shall be allowed to continue such use, provided ownership remains with the same person on the same property. ~~Persons legally owning domestic fowl seventy-five (75) feet away from any dwelling other than that of the owner or tenant thereof pursuant to Section 3-105 of the 1990 Code prior to December 30, 1992, shall be allowed to continue such use, provided ownership remains with the same person on the same property.~~ Provided, the City Commission may suspend enforcement of this subsection, or establish reasonable conditions for the enforcement thereof, for property annexed into the City after December 30, 1992.
- (C) The Municipal Court Judge may order the confiscation of a prohibited animal if the animal poses an immediate danger to the public or itself. Upon the conviction of a person for owning an animal as prohibited by this Chapter, the Municipal Court Judge shall order the animal confiscated and transferred to an appropriate licensed animal rehabilitation or care facility. The Municipal Court Judge may order the release of the animal to the owner provided that the animal will not be kept within the City limits.

Section 3. Severability. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

Section 4. This ordinance shall take effect and be in force effective upon its passage and publication once in the official city paper as provided by law.

PASSED by the Governing Body this _____ day of _____, 2008.

PASSED:

Michael Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

APPROVED AS TO LEGAL FORM:

Toni Ramirez Wheeler
Director of Legal Services

Memorandum

City of Lawrence/Douglas County Planning & Development Services

TO: Douglas County Board of County Commissioners
Lawrence City Commission

FROM: Sandra L. Day, AICP, Planning Staff

Date: May 14, 2008

RE: Industrial District Comparison

In response to inquiries made about city industrial zoning districts related to the proposed annexation located at the NW corner of N 1800 Road and E 900 Road staff has identified the key differences in the IG (Industrial General) and IL (Industrial Limited) zoning districts and have highlighted which specific uses may be permitted in the districts. Attached is a [comparison](#) and a [summary table](#) listing allowed uses between and within the IG and IL zoning districts. The IBP (Industrial Business Park) is included in the use table list. The purpose of this memorandum and supporting documentation is to clarify how the use groups are used by staff and to highlight the significant differences between the industrial districts.

The key difference between the two industrial districts is that "Intensive Industrial" uses are allowed in the IG district but not the IL district. Intensive Industrial uses have the following characteristics that have a potential to be detected off-site for prolonged duration of time:

- Continuous, frequent, or repetitive noises or vibrations;
- Noxious or toxic fumes, odors, or emissions;
- Electrical disturbances; or
- Night illumination into residential areas

In addition most retail uses are not allowed in the IG district, but many are allowed in the IL district.

Local examples of uses that would be found in the "Intensive Industrial" use group include Penny's Concrete, LRM Industries and Hamm Companies.

Most "industrial uses" can be categorized into General Industrial; such as Pur-o-zone, Hallmark Cards and Allen Press Manufacturing and Production Limited, or Manufacturing and Production, Technical use group. Martin Logan, M-Pact Worldwide, and Microtech are local examples of the "Manufacturing and Production, Technical" use group and would be allowed uses in either the IG or IL zoning district.

The Wholesale, Storage & Distribution: Light use group would include local examples such as O'Mally Beverage, Standard Beverage, Professional Moving and Storage, and the K-Mart distribution center and similar facilities.

Lastly, some businesses, such as Cottonwood Incorporated, provide many different functions depending on the customer but they are capable of operating warehousing, manufacturing, and product fulfillment orders. These types of uses will have to be individually evaluated and could be found to be consistent with more than one type of use category. In such instances staff has worked with a property owner to determine and define the primary activity and intensity to properly classify the use and identify the appropriate zoning district.



Industrial District Comparisons:

20-214 IBP, Industrial/Business Park District

Purpose

The IBP, Industrial/Business Park District, is intended to provide space in attractive and appropriate locations for certain low-impact employment and manufacturing uses in a planned industrial/business park setting.

- The IBP District is intended for implementation along Arterial Streets.
- Lot Access shall be taken from internal roads and not directly from the Arterial Streets, wherever possible. (Ord. 8098)

20-215 IL, Limited Industrial District

Purpose

The IL, Limited Industrial District, is primarily intended to accommodate low-impact industrial, wholesale and warehouse operations that are employment-intensive and compatible with commercial land uses.

- The IL District is intended for implementation along Collector or Arterial Streets.

20-216 IG, General Industrial District Purpose

The IG, General Industrial District, is primarily intended to accommodate moderate- and high-impact industrial uses, including large scale or specialized industrial operations requiring good transportation Access and public facilities and services. The District is generally incompatible with residential areas and low-intensity commercial areas.

- The IG District is intended for implementation along Arterial Streets.

20-1736 Industrial, Intensive

Manufacturing, processing, or assembling of materials (for uses described above in the "General Industrial" use type classification) in a manner that would create any of the commonly recognized nuisance conditions or characteristics.

20-1735 Industrial, General

Production, processing, assembling, packaging or treatment of food and non-food products; or manufacturing and/or assembly of electronic instruments and equipment and electrical devices. General Industrial uses may require Federal air quality discharge permits, but do not have nuisance conditions that are detectable from the boundaries of the subject property. Nuisance conditions can result from any of the following:

- continuous, frequent, or repetitive noises or vibrations;
- noxious or toxic fumes, odors, or emissions;
- electrical disturbances; or
- night illumination into residential areas.

Exceptions: Noise and vibrations from temporary construction; noise from vehicles or trains entering or leaving the site; noise and vibrations occurring less than 15 minutes per day; an odor detected for less than 15 minutes per day; noise detectable only as part of a composite of sounds from various off-site sources.

Findings:

The key comparison and difference between the IL and IG districts is that the IG district permits activities that could create noise, vibration and other types of spillover nuisance outside the immediate boundaries of the subject property for duration longer than 15 minutes.

Another distinction between the IG and the IL districts is that retail commercial uses are not allowed in the IG district.

KEY: A = Accessory; P = Permitted; S = Special Use; * = Standard Applies; – Use not allowed					
		IBP	IL	IG	Use Definitions
INDUSTRIAL					
Industrial Facilities	Explosive Storage	–	–	P	Storage of any quantity of explosives. Typical uses include storage in the course of manufacturing, selling, or transporting explosives, or in the course of blasting operations.
	Industrial, General (Ord. 8098) Example: Pur-O-Zone Hallmark Cards Allen Press	–	P	P	Production, processing, assembling, packaging or treatment of food and non-food products; or manufacturing and/or assembly of electronic instruments and equipment and electrical devices. General Industrial uses may require Federal air quality discharge permits, but do not have nuisance conditions that are detectable from the boundaries of the subject property. Exceptions Noise and vibrations from temporary construction; noise from vehicles or trains entering or leaving the site; noise and vibrations occurring <u>less than 15 minutes</u> per day; an odor detected for <u>less than 15 minutes</u> per day; noise detectable only as part of a composite of sounds from various off-site sources.
	Industrial, Intensive Example: Penny Ready-mix LRM Hamm	–	–	P	Manufacturing, processing, or assembling of materials (for uses described above in the "General Industrial" use type classification) in a manner that would create any of the commonly recognized nuisance conditions or characteristics. Nuisance conditions can result from any of the following: <ul style="list-style-type: none">continuous, frequent, or repetitive noises or vibrations;noxious or toxic fumes, odors, or emissions;electrical disturbances; ornight illumination into residential areas.
	Laundry Service (Ord. 8098)	–	P	P	Laundering, dry cleaning, or dyeing services other than those classified as "Personal Convenience Services." Typical uses include laundry or dry cleaning agencies, diaper services and linen supply services.
	Manufacturing & Production, Ltd.	P	P	P	Establishments generally employing fewer than 20 persons, do not involve outside storage of materials, do not require Federal air quality discharge permits, are compatible with nearby residential uses because there are few or no offensive external effects, and are primarily engaged in one of the following: On-site production of goods by hand manufacturing involving use of hand tools or light mechanical equipment. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for customers or firms. Goods are generally not displayed or sold on-site, but if so, this is a subordinate part of total sales. Typical uses include instruction studios, ceramic studios, woodworking and cabinet shops, custom jewelry manufacturing, and similar types of arts and crafts or small-scale manufacturing; or Manufacturing or assembling of electronic components, medical and dental supplies, computers, computer components, or other manufacturing establishments with similar characteristics. Goods generally are not displayed or sold on-site, but if so, this is a subordinate part of total sales. Manufacturing, processing, or packaging of small-scale food production operations with limited on-site retail sales. Typical uses
	Manufacturing & Production, Tech. Example: Martin Logan M-Pact Worldwide Microtech	P	P	P	Production, processing, assembling, or packaging of products that rely upon research and technological innovation. Typical uses include manufacturing research instruments, electronic products, and surgical and medical instruments. This use type does not include uses that require Federal air quality discharge permits.
	Research Service	P	P	P	Research of an industrial or scientific nature generally provided as a service or conducted by a public agency or private firm. Typical uses include electronics research laboratories, environmental research and development firms, agricultural and forestry research labs, and pharmaceutical research labs.
	Scrap and Salvage Operation	–	S*	S*	Storage, sale, dismantling, or other processing of used, source-separated, or waste materials not intended for reuse in their original form. Typical uses include automotive wrecking yards, junk yards, and salvage yards, but not including "Recycling Facilities."
Wholesale, Storage, & Distribution	Exterior Storage (Ord. 8098)	A*	A*	A*	Definition found in Section 20-538 Exterior Storage areas are permitted as an accessory to a principal use in specific nonresidential zoning districts to provide space for the outdoor storage of materials related to the principal use. Outdoor storage of materials not related to the business of the principal use is prohibited. Exterior Storage is defined as the outdoor storage of any and all materials related to the principal use of the lot or site, not including areas for special events, temporary outdoor events or seasonal events, transient merchant sales areas, or any other outdoor area dedicated to the sale of retail goods, regardless of the proprietor. Exterior Storage is permitted as an accessory use in the CR, CS, CC, IBP, IL, IG, GPI and H Districts to any principal use permitted in these districts. The standards for Exterior Storage areas exclude dumpsters and trash receptacles and mechanical equipment, which themselves have screening requirements in Section 20-1006.
	Heavy (Ord. 8098)	–	S	P	Open-air storage, distribution, the handling of materials and equipment or bulk storage of fuel. Typical uses include monument or stone yards, train yards, grain elevators and large-scale fuel storage.

	Light Example: O'Mally Beverage Standard Beverage	P	P	P	Wholesaling, storage, and warehousing services within enclosed Structures. Typical uses include wholesale distributors, storage warehouses and moving and storage firms.
	Mini-Warehouse (Ord. 8098)	–	P	P	Storage or warehousing service within a Building for individuals to store personal effects. Incidental uses in a mini-warehouse may include the repair and maintenance of stored materials by the tenant; but in no case shall storage spaces in a mini-warehouse facility function as an independent retail, wholesale, business, or service use. Spaces shall not be used for workshops, hobby shops, manufacturing, retail sales or similar uses. Human occupancy shall be limited to that required to transport, arrange and maintain stored materials.
OTHER					
Adaptive Reuse	Designated Historic Property	S*	S*	S*	Conversion of a designated local, State or national historic landmark Structure to another specified use, with the intent of preserving the landmark.
	Greek Housing Unit	–	–	–	
Agriculture	Agricultural Sales	–	P	P	On-site sale of feed, grain, fertilizers, pesticides and similar goods. Typical uses include nurseries, hay, feed and grain stores.
	Agriculture, Animal Husbandry	–	–	–	
	Agriculture, Crop (Ord. 8098)	P	P	P	Activities that primarily involve raising or producing field crops or other plants. Examples include farming, truck gardening, forestry, tree farming, and wholesale plant nurseries.
Communications Facilities	Amateur and Receive-Only Antennas	A*	A*	A*	20-536 – standards provided no definition Amateur Radio and Receive-Only Antennas may be installed and operated as permitted Accessory Uses, subject to the following conditions
	Broadcasting Tower	P	P	P	No definition found
	Communications Service Establishment	P*	P*	P*	Broadcasting and other information relay services accomplished through use of electronic and telephonic mechanisms. Excludes services classified as "Major Utilities and Services" and "Minor Utilities." Typical uses include recording studios, television and radio studios, telecommunication service centers and telegraph service offices.
	Telecommunications Facilities:				The fixed or permanent site, Structures, equipment, and appurtenances used to send radio frequency transmissions. Such facilities include, but are not limited to: Antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, Buildings, electronics and switching equipment.
	Telecommunicati ons Antenna	A*	A*	A*	A Telecommunications Facility for such services as cellular telephone, personal communication services, enhanced/specialized mobile radio, and commercial paging services, that is attached to a pole, tower, or other Structure including, but not limited to, a Structure that can accommodate the future installation of two or more Antenna systems.
	Telecommunicati ons Tower	S*	S*	S*	A Telecommunications Facility for such services as cellular telephone, personal communication services, enhanced/specialized mobile radio, and commercial paging services, that consists of a new tower, monopole, or other unattached Structure erected to support wireless communication Antennas and connecting appurtenances.
	Satellite Dish	A*	A*	A*	Section 20-536 – standards provided not defined: Satellite Dishes more than one meter, up to and including two meters, in diameter are a permitted Accessory Structure in all Commercial and Industrial Zoning Districts and a Special Use in all Residential Zoning Districts, and are subject to the following
Mining	Mining	–	–	S*	Mining or extraction of mineral or aggregate resources from the ground for off-site use. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil and gas drilling.
Recycling Facilities Recycling Facilities	Large Collection (Ord. 8098)	–	P	P	A center or facility for the acceptance by donation, redemption, or purchase of Recyclable Materials from the public. A Small Collection Facility may occupy a maximum area of 500 square feet. Large Collection Facilities may occupy greater land area. Both facilities may include: <ul style="list-style-type: none">Attended or unattended mobile collection units such as all weather roll-off containers, bins or boxes, which are not permanently affixed to the ground;Reverse vending machines or kiosks that may include permanent structures;Indoor facilities, ancillary to the primary activity of a business or organization
	Small Collection (Ord. 8098)	P	P	P	A center or facility for the acceptance by donation, redemption, or purchase of Recyclable Materials from the public. A Small Collection Facility may occupy a maximum area of 500 square feet. Large Collection Facilities may occupy greater land area. Both facilities may include: <ul style="list-style-type: none">Attended or unattended mobile collection units such as all weather roll-off containers, bins or boxes, which are not permanently affixed to the ground;Reverse vending machines or kiosks that may include permanent structures;Indoor facilities, ancillary to the primary activity of a business or organization
	Processing Center	–	P	P	A Building or enclosed space used for the collection and processing of Recyclable Materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. (Ord. 8098)

RESOLUTION NO. 08- 18

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY FINDING THE ANNEXATION OF SPECIFIED PROPERTY WILL NOT HINDER OR PREVENT THE PROPER GROWTH AND DEVELOPMENT OF THE AREA OR ANY OTHER INCORPORATED CITY WITHIN DOUGLAS COUNTY, KANSAS

WHEREAS, on April 15, 2008, the City of Lawrence, Kansas (the "City"), pursuant to K.S.A. 12-520c, adopted Resolution No. 6764 (the "City Resolution") requesting that the Board of County Commissioners of Douglas County, Kansas (the "Board") find and determine that the annexation of the following described property into the City of Lawrence will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Douglas County (the "County"):

The Southeast Quarter of Section 18, Township 12, Range 19 East, and all the public road right-of-way and easement adjacent thereto (the "Property").

WHEREAS, the City Clerk of the City of Lawrence certified and delivered the City Resolution to the Board on April 16, 2008.

WHEREAS, on May 14, 2008, the Board met in regular session to consider the City Resolution.

WHEREAS, upon hearing statements of all interested parties and considering all documents presented in connection with the City Resolution, a majority of the Board adopts this Resolution.

NOW THEREFORE, the Board of County Commissioners of Douglas County, Kansas, sitting in regular session this 21st day of May, 2008, does hereby resolve as follows:

1. After consideration of the documents that were presented and the statements of all interested parties, the Board makes the following findings:
 - a. The written materials and oral testimonies received by the Board prior to and during its May 14, 2008 meeting, in the aggregate, constitute sufficient information about the matter to enable the Board to adopt this Resolution.
 - b. The City and County are experiencing a shortage of available industrial space, which shortage is causing potential new industrial businesses to locate in other communities, thereby preventing the County from realizing increases in its tax base.
 - c. In December 2007, the Lawrence/Douglas County Planning Commission found that the Property was appropriate for industrial uses and recommended industrial uses to the Board of County Commissioners on a 7-2 vote.

d. On February 12, 2008, the Lawrence City Commission considered annexing the subject property and referred consideration of the annexation to the Lawrence/Douglas County Planning Commission.

e. On March 26, 2008, the Lawrence/Douglas County Planning Commission, on a 6-2 vote, recommended approval of the annexation of the Property based on the provisions of proposed Chapter Seven to *Horizon 2020*, that identify the need for expanded industrial locations to produce an additional 20,000 jobs by calendar year 2020 and based on the growth management recommendations of Chapter Four of *Horizon 2020*, that provides for annexations outside of the urban growth area.

f. On April 15, 2008, the Lawrence City Commission adopted the City Resolution, requesting the Board to make findings and determine whether the annexation of the Property would hinder or prevent the proper growth and development of the area or any other incorporated city located within the County.

g. The Property has been specifically identified as a suitable industrial site by the Lawrence/Douglas County Planning Staff, the Lawrence/Douglas County Planning Commission, the *ECO*² Commission, and in such documents as *Transportation 2030*, proposed Chapter Seven revision to *Horizon 2020*, and the draft K-10 and Farmer's Turnpike Plan. It has outstanding access to the Kansas Turnpike/I-70, K-10, U.S. 40, U.S. 59 and U.S. 56. It is located on an arterial street (County Route 438) and the terminus of the freeway that extends north beyond the terminus of K-10 (E850 Rd.) and is near an interchange of the Kansas Turnpike/I-70.

h. The reason for the proposed annexation is to construct an industrial park, which will help mitigate the shortage of available industrial space.

i. The owners of the Property, as developers, cannot reasonably identify the specific uses within the future industrial park, as such uses will be dictated by the demands of future businesses that elect to purchase or lease all or some portion of the Property; however, they do anticipate an initial warehouse distribution.

j. The potential future uses of the Property may include all uses permitted within the industrial zoning classifications and the Development Code of the City.

k. The use of the Property as an industrial park does not conflict with any other established development plan for the area.

l. The Development Code of the City, which would govern if the Property is annexed, provides greater protection to the landowners adjacent to the property than the County Zoning Regulations. For instance, the Development Code of the City provides more comprehensive regulation of items such as storm water drainage, lighting, noise, landscaping, and building setbacks.

m. The City Council of the City of Lecompton, Kansas has knowledge of the City Resolution and has not objected to the proposed annexation as hindering or preventing the City of Lecompton's proper growth and development.


n. The adverse financial impact of the proposed annexation to Lecompton Township and Douglas County Fire District No. 1 is miniscule; the approximate response time for City fire protection services is not markedly different than current response time for Douglas County Fire District No. 1.

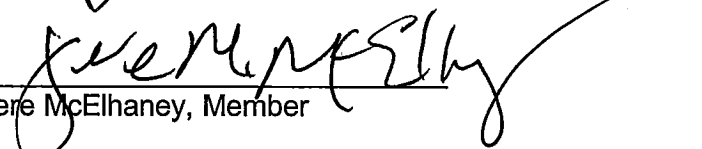
2. The Board finds and determines that the annexation of the Property by the City will not hinder or prevent the proper growth and development of the area, or that of any other incorporated city located within the County, all as provided by K.S.A. 12-520c.

3. This is a regular Resolution of the Board and is effective upon its adoption.

This Board of County Commissioners of Douglas County, Kansas adopted this Resolution on the 21st day of May, 2008.


BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS:


Bob Johnson, Chair


Jere McElhaney, Member

Dissenting 
Charles Jones, Member

ATTEST:


Jameson D. Shew, County Clerk