



*City of Lawrence*

**CITY OF LAWRENCE, KANSAS,  
ECONOMIC DEVELOPMENT  
POLICY**

(Adopted by Resolution No. 7184)

**JANUARY 15, 2017**

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## **PART 1: GENERAL POLICY STATEMENTS**

### **1.1 INTRODUCTION**

The purpose of the “City of Lawrence, Kansas, Economic Development Policy” is to establish the City’s official policy governing economic development incentives in the City.

### **1.2 GENERAL OBJECTIVE**

*Horizon 2020, the Comprehensive Plan for Lawrence and Unincorporated Douglas County*, identifies three goals for the City’s economic development: employment growth, tax base growth, and income growth.

Under Kansas law, various economic development incentives are available to assist the City in achieving its economic development goals. This document establishes the City’s policies, procedures, and standards, governing the fair, effective, and judicious use of the various economic development incentives, in order for the City to meet its economic development goals in the most expeditious manner possible.

Because of its numerous assets and its unique character, the City strives to strike a balance between planning for future growth and retaining those aspects of the City that differentiate it from other growing suburban areas. Because that is the case, the City may not offer every economic development incentive that is available under state law; nor, may it offer economic development incentives to every entity that may be eligible for such under state law. Rather, the City endeavors to employ economic development incentives to target those businesses and to revitalize and redevelop those areas that meet the City’s economic development goals and objectives, as established by this policy, and that advance the interests and enhance the quality of life of the residents of this community.

### **1.3 ECONOMIC DEVELOPMENT OBJECTIVES**

1.3.1 To achieve its economic development goals and objectives, the City works in cooperation and as partners with Douglas County and the Lawrence Chamber of Commerce. That cooperation and partnership enables the community to maximize its resources, by avoiding unnecessary duplication of efforts and by capitalizing on economies of scale, and to develop a consensus, through communication and coordination of efforts, regarding those kinds of economic development projects that would best advance the interests and enhance the quality of life of the entire community.

To those ends, the partners share a commitment:

- (a) to encourage existing businesses to expand;
- (b) to assist new business start-ups;

- (c) to recruit new businesses from outside Lawrence, from outside Douglas County, from outside Kansas, and from outside the United States;
- (d) to encourage high-technology and research-based businesses;
- (e) to encourage training and development of the area's work force; and
- (f) to retain and attract businesses that are "good corporate citizens," and that, through their leadership and support of local civic and philanthropic organizations, will best advance the interests and enhance the quality of life of the entire community.

1.3.2 The City's specific role in the economic partnership includes, but is not limited to:

- (a) providing land, zoning, and infrastructure that may be necessary to help achieve the goals and objectives of this policy;
- (b) providing clear policies, procedures, and standards, timely review of applications, and City Staff assistance that may be necessary to achieve the goals and objectives of this policy; and
- (c) providing assistance and, in some cases, economic development incentives necessary to attract jobs and investment in the community consistent with the goals and objectives of this policy.

1.3.3 All partners agree that they should be selective as to the kinds of businesses recruited, attracted, and assisted. *Horizon 2020, the Comprehensive Plan for Lawrence and Unincorporated Douglas County*, specifies that businesses within the following industries should be the primary focus of the partners' economic development efforts:

- (a) Life Sciences/Research;
- (b) Information Technology;
- (c) Aviation and Aerospace;
- (d) Value-added Agriculture; and
- (e) Light Manufacturing and Distribution.

#### **1.4 ECONOMIC DEVELOPMENT INCENTIVES**

When appropriate, the City may deploy one or more economic development incentives to achieve the goals and objectives of this policy. Depending on the project, the City may deploy one or more of the economic development incentives available to it. These include, but are not limited to:

- (a) Industrial Revenue Bonds (IRBs) (*see* Part 2);
- (b) Property Tax Abatements (*see* Part 3);
- (c) Neighborhood Revitalization Areas (NRAs) (*see* Part 4);
- (d) Tax Increment Financing of Redevelopment Districts (TIFs) (*see* Part 5);
- (e) Transportation Development Districts (TDDs) (*see* Part 6)
- (f) Community Improvement Districts (CIDs) (*see* Part 7);
- (g) Loans or Grants;
- (h) Creation of Benefit Districts; and/or
- (i) Construction or Installation of Infrastructure.

## **1.5 GENERAL PROCEDURAL GUIDELINES**

Although the specific procedures for the various economic development incentives will differ from incentive to incentive -- please see the appropriate policy for the economic development incentive being sought for the applicable procedure -- each application or petition for an economic development incentive will generally follow the same steps, as outlined below.

### **1.5.1 Pre-application.**

1.5.1.1 Because of the unique nature of each project and each economic development incentive, an applicant or petitioner seeking an economic development incentive is strongly encouraged in the first instance, prior to submitting an application, petition, or other documentation in support of the project or any concurrent request for economic development incentive, to contact the City Manager's Office to discuss the project, any additional information that the City may require, and the procedural steps for the particular project.

1.5.1.2 Application forms may be downloaded from the City website, or are available from the City Manager's Office. City Staff are available to answer questions or provide assistance.

1.5.1.3 Prior to submission of a completed and finalized application or petition requesting an economic development incentive, the applicant or petitioner is encouraged to send a draft version to City Staff for review. The purpose of the preliminary review is to screen the application or petition to ensure that it meets State and City eligibility requirements and to ensure that the application or petition is otherwise complete.

1.5.1.4 If the proposed project does not meet State or City eligibility requirements or otherwise is not complete, City Staff will discuss that fact with the applicant or petitioner.

1.5.2 **Applications/Petitions.**

1.5.2.1 While the application or petition requirements for each economic development incentive will differ from incentive to incentive -- please see the appropriate policy for the economic development incentive being sought for its specific requirements -- each application or petition requesting an economic development incentive shall require, at the very least, the following:

- (a) a description of the project, including but not limited to location, type (*e.g.*, remodel, new construction, redevelopment, historical preservation, *etc.*), proposed uses (*e.g.*, mixed use, residential, commercial, industrial, *etc.*), size, planning approvals achieved, planning approvals yet to be achieved, and any additional information that would describe the proposed project (*e.g.*, renderings, floor plans, graphics, *etc.*);
- (b) A summary of the benefits accruing to the City and the community if the proposed project proceeds to completion;
- (c) A statement describing the type, amount, and duration of the economic development incentive or incentives being requested and an explanation as to why incentive is needed for the proposed project to proceed;
- (d) A proposed timeline for completion of the proposed project;
- (e) A statement establishing the financial and professional wherewithal of the applicant to complete the proposed project; and
- (f) Certification, under oath, by all applicants or petitioners that they have no financial interest in any real property, anywhere within the state of Kansas, with delinquent special assessments, *ad valorem* taxes, or federal or state tax liens, and that they are not currently delinquent or in default on any debts, responsibilities, or other obligations owed to the City.

1.5.2.2 The applicant or petitioner may seek assistance from City Staff to ensure that the application or petition is completed and finalized prior to submitting it to the City for final decision.

1.5.2.3 The completed application or petition, once it is finalized, shall be submitted to the City Manager's Office.

1.5.3 **Receipt and Referral.**

1.5.3.1 Upon receipt of a completed and finalized application or petition, the City Manager will forward it to the Governing Body for initial consideration. As soon as may be practicable, the City Manager, with the advice of the Mayor, shall place the application or petition on the agenda of a Governing Body's public meeting. At the public meeting, the Governing Body will consider whether to receive the application or petition and whether to refer it to the Public Incentives Review Committee (PIRC) for its review and recommendation.

1.5.3.2 The Governing Body may, at its discretion, (a) receive any application or petition and refer the same to PIRC for review and recommendation or (b) decline to receive any application or petition (which effectively denies the request for economic development incentives).

1.5.4 **Analysis and Due Diligence.**

1.5.4.1 If the application or petition is referred to PIRC for its review and recommendation, City Staff will work with the applicant or petitioner to gather any additional information necessary to process the application or petition and to perform any necessary analysis, including one or more of the following:

- (a) Performing a benefit/cost analysis and, if required by this policy or the direction of the Governing Body, arranging for additional analysis.
- (b) Composing a technical report that summarizes results of the benefit/cost analysis and any other analyses.
- (c) Preparing draft agreements, ordinances, resolutions, notices, and other documents, as may be required by state law, local law, or this policy.
- (d) Coordinating the processing of the application or petition, including scheduling notices, meetings, hearings, and other necessary actions relevant to the economic development incentive being sought.

1.5.4.2 If the applicant or petitioner requests an economic development incentive that would require direct financing from the City, *i.e.*, anything other than pay-as-you-go financing, then the City may require additional due diligence.

1.5.4.3 In performing analyses and due diligence, the City will utilize the City's resources or other professional services, as deemed appropriate and necessary by the City Manager.

1.5.4.4 Results of any benefit/cost analysis and any other analysis performed hereunder will first be shared with the applicant or petitioner, as soon as may be practicable, before presentation of such analyses to PIRC.

1.5.4.5 In cases where sensitive financial information is involved, the City will, at the cost of the applicant, hire a third party to review such information and prepare a report, analyzing the application or petition and setting forth any opinions that he or she has regarding the applicant's or petitioner's financial wherewithal to complete the proposed project. The third party may also make recommendations to the City regarding appropriate steps the City may consider in order to secure any investment it may make.

1.5.5 **PIRC Review**

1.5.5.1 After the Governing Body has received and referred to PIRC an application or petition and after City Staff, or any third party hired for that purpose, has completed any analyses or other due diligence required thereby, the City Manager shall, as soon thereafter as may be practicable, establish a time when PIRC shall, at a public meeting, review the application or petition.

1.5.5.2 PIRC shall, at a public meeting, review the application or petition. PIRC shall receive City Staff's analyses and due diligence, if any, shall hear from the applicant or petitioner, may receive public comment, and shall elicit additional information as may be necessary and relevant to its review of the application or petition.

1.5.5.3 At the conclusion of the PIRC public meeting, applying the criteria set forth in this policy, PIRC shall, by a majority vote, make a recommendation to be forwarded to the Governing Body. PIRC's recommendation, the minutes of the PIRC meeting, and any documentary evidence adduced at the hearing shall be forwarded to the Governing Body for its final decision.

1.5.6 **Final Decision.**

1.5.6.1 Upon receipt of PIRC's recommendation, and as soon thereafter as may be practicable, the City Manager, with the advice of the Mayor, shall schedule the application or petition for a public hearing, at a public meeting of the Governing Body, for final decision.

1.5.6.2 At the public hearing on the application or petition, the Governing Body shall receive the recommendation and package of materials from PIRC, shall hear from City Staff, shall hear from the applicant or petitioner, shall receive public comment, and shall elicit additional information as may be necessary and relevant to the application or petition. The Governing Body may, as necessary, defer the matter from time to time in order to gather more information or to perform more analysis or due diligence in order to make its final decision.

1.5.6.3 At the conclusion of the public hearing, based on the information presented to it, any other relevant factors, and the relevant criteria, the Governing Body may, at its discretion, by a majority vote, approve the application or petition, approve the application or petition with conditions, approve the application or petition with modifications, or disapprove the application or petition.



1.5.6.4 The decision of the Governing Body shall be the final decision of the City.

1.5.7 **Implementation and Administration.**

1.5.7.1 If the Governing Body approves an application or petition, approves an application or petition with conditions, or approves an application or petition with modifications, then the City Manager's Office thereafter shall be responsible for implementing and administering the economic development incentive.

1.5.7.2 If an economic development incentive is granted, the applicant or petitioner shall enter into a Performance Agreement (*see* Section 1.6, below), with the City. The City Manager's Office shall be responsible for ensuring that the Performance Agreement is in compliance with this policy and is executed by the parties.

1.5.7.3 When an economic development incentive is granted, the City Manager's Office shall be responsible for all tracking, compliance, and reporting requirements.

**1.6 PERFORMANCE AGREEMENTS**

1.6.1 Every economic development incentive granted by the City shall be accompanied by a Performance Agreement between the applicant or petitioner and the City.

1.6.2 Each Performance Agreement shall be subject to periodic review by City Staff and determination by the Governing Body that the applicant or petitioner is in compliance with the Performance Agreement and that the conditions qualifying the applicant or petitioner for the economic development incentive continue to exist. *See* Section 1.7, below.

1.6.3 Each Performance Agreement shall include audit language that will permit the City, upon request, to review the books, records, sales tax returns, invoices, or other relevant information, of the applicant or petitioner, or any lessee, assignee, or successor of the applicant or petitioner, to determine continuing compliance with the Performance Agreement.

1.6.4 Each Performance Agreement shall include a notice and waiver, whereby the City shall reserve the right to grant future economic development incentives on comparable projects in amounts different than that granted the applicant or petitioner. Such shall include language whereby the applicant or petitioner waives any right to request modification or amendment of such economic development incentive as a result of such difference.

1.6.5 Where the project is required to designate and set aside dwelling units as affordable housing, in accordance with Section 1.7.3, below, the Performance Agreement shall include language whereby the applicant or petitioner shall agree to verify, at no cost to the City, compliance with the City's affordable housing policies and standards.

1.6.6 Each Performance Agreement shall include clawback language whereby, if certain conditions qualifying the applicant or petitioner for economic development incentives are not met, *e.g.*, the applicant or petitioner fails to provide the minimum capital investment, the applicant or petitioner fails to meet City land development requirements, the applicant or petitioner fails to provide required affordable housing, *etc.*, then the City shall have the right to clawback certain economic incentives granted and shall have the authority to eliminate or reduce the amount of the economic development incentive going forward.

1.6.7 Each Performance Agreement shall include language whereby the City will have the authority, upon any material breach of the Performance Agreement or any other agreement, or upon any fraudulent or illegal act of the applicant or petitioner, or any lessee, assignee or successor of the applicant or petitioner, to modify or terminate the Performance Agreement or the economic development incentive.

## **1.7 COMPLIANCE**

1.7.1 Annually, City Staff shall be responsible for reviewing the performance of each recipient of an economic development incentive. The purpose of the review is to verify compliance with the Performance Agreement and to gather other information that may be relevant to the recipient and to its compliance with any conditions of the economic development incentive. The compliance review may include a site visit and may include a request to audit the books, payroll records, or other records of the recipient to ensure compliance.

1.7.2 Annually, each recipient of an economic development incentive shall certify, by affidavit, that the recipient is in compliance with the Performance Agreement, applicable state law, the City economic development policy, applicable local law, and any and all conditions placed on the award of the economic development incentive. Such certification for any property tax abatement shall be signed, notarized, and returned to the City no later than January 15 of each year. All other such certifications shall be due in accordance with the terms of the Performance Agreement. Tardiness in returning the certification shall be noted in City Staff's annual incentives report.

1.7.3 Using the information gathered and the certification of each recipient, City Staff will compile and prepare an annual incentives report, showing statistics and other relevant information for each economic development incentive granted by the City. The report will be completed May 1 and will thereafter be made available to PIRC. If City Staff or PIRC finds that any recipient of an economic development incentive is not in substantial compliance with the Performance Agreement or any other condition of the economic development incentive, City Staff shall notify the recipient before forwarding the report and any recommendation to the Governing Body.

1.7.4 Any person wishing to appeal a finding of non-compliance or a recommendation of PIRC, shall, within 14 days of notification or of PIRC's recommendation, file with the City Manager's Office a written appeal. The appeal must be writing and must establish (1) why the determination of City Staff or PIRC is in error or (2) why the recipient failed to meet the performance targets, how it will meet them in the future, and why its economic development incentive should not be altered.

1.7.5 The City Commission will review the recommendations of PIRC and hear any appeal therefrom, and shall, based on the evidence before it, make any decision it deems necessary under the Performance Agreement to adjust, modify, or terminate any economic development incentive.

## **1.8 GENERAL POLICY STATEMENTS**

### **1.8.1 Benefit/Cost Model**

1.8.1.1 When, in determining whether to grant certain economic development incentives, a benefit/cost analysis is required, the City shall consider the following nonexclusive factors:

- (a) whether the proposed project will increase the appraised valuation of the property or properties;
- (b) whether the proposed project will increase tax revenues;
- (c) whether the proposed project will create new jobs (including the number of new jobs and the salaries and benefits accruing to those new jobs);
- (d) whether the proposed project will, through secondary or "multiplier" effects, create additional new jobs (including the associated tax revenues from such new jobs and new residents);
- (e) whether the proposed project will require the City to make capital expenditures to expand public services, *e.g.*, additional parks or police stations, to accommodate the proposed project and new residents;
- (f) whether the proposed project will require the City to make regular operating expenditures for public services, *e.g.*, fire protection or street maintenance, to accommodate the proposed project and new residents;
- (g) whether the proposed project will require the School District to provide new or expanded facilities to accommodate the proposed project and new residents; or
- (h) whether the proposed project will require the City or any other local taxing subdivision of the state to expend public funds to accommodate the proposed project and new residents.

1.8.1.2 In addition to the foregoing nonexclusive factors, in performing the benefit/cost analysis the City may also consider one or more of the following nonexclusive factors:

- (a) the degree to which the proposed project improves the diversification of the City's economy;
- (b) the kinds of job the proposed project will create in relation to the kinds of skills available in the local labor market;
- (c) the degree to which the ultimate market for the proposed project's products or services reside outside the community, recognizing that outside markets bring "new money" to the local economy;
- (d) the potential of the proposed project to expand and create additional jobs in the future;
- (e) the beneficial impact the proposed project may have on the City, resulting from its creation of other new jobs and businesses, from its use of local products or other materials and substances in manufacturing, or from its creation of niche businesses, such as those in the bioscience arena;
- (f) the beneficial impact the proposed project may have on the environmental quality of the region or, through its products or services, nationally, as well as any efforts the proposed project makes to promote sustainability or to mitigate environmental harm.
- (g) the beneficial impact the proposed project will have on a particular area of the City, including designated enterprise zones and areas of needed revitalization or redevelopment; or
- (h) the compatibility of the location of the proposed project with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services.

## 1.8.2 "But for" Analysis

1.8.2.1 For those applications or petitions requesting an economic development incentive, where the proposed project is unrelated to primary job creation and does not, as a primary component of the project, provide affordable housing, or where it is required by the particular economic development incentive being sought, the applicant or petitioner shall submit to the City, together with the application or petition, a "but for" analysis demonstrating the need for the economic development incentive and the purpose for which it will be used. **The analysis should establish that, "but for" the economic development incentive, the proposed project would not proceed.**

1.8.2.2 As part of its “but for” analysis, the applicant or petitioner shall also submit to the City a *pro forma* cash flow analysis, showing the sources of funds and the proposed uses of those funds in sufficient detail to demonstrate, to the satisfaction of the City, that reasonably available conventional debt and equity financing sources will not fund the entire cost of the project and still provide the applicant or petitioner a reasonable market rate of return on the investment in the proposed project.

1.8.3 **Affordable Housing**

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1.8.3.1 It is the policy of the City that no application or petition requesting an economic development incentive, where the proposed project contemplates the development or redevelopment of four (4) or more residential dwelling units, shall be considered or approved by the Governing Body, unless the proposed project designates and sets aside, as affordable housing, a certain number of dwelling units, in accordance with the following table:

Affordable Housing Parameters	
# Residential Dwelling Units	% of Residential Dwelling Units Designated and Set Aside as Affordable Housing
4 to 49 units	Not less than 10%, with a minimum of at least one unit
50 or more units	Not less than 15%, with a minimum of at least eight units

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In cases where the set aside percentage calculation returns a fraction of a unit, the number of units required to be set aside for affordable housing shall be rounded up to the nearest whole unit.

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1.8.3.2 It is the policy of the City that any residential dwelling unit, that is designated and set aside as affordable housing and that is made available for lease, shall meet the below requirements.

**Maximum Rent Requirement**— It is the policy of the City that rent for affordable rental housing units will not exceed the maximum Fair Market Rent (FMR) as established annually by the Lawrence Douglas County Housing Authority (LDCHA).

**Tenant Eligibility Requirement**—It is the policy of the City that tenants qualify as eligible for occupying an affordable housing unit, based on the HUD Area Median Income (AMI) as established annually for the Lawrence, KS MSA in the “HUD HOME Income Limits – Lawrence, KS MSA” and based on the below schedule.

Affordable Housing (AH) Eligibility Schedule			
Tenant Household Status	Timeline for Certification	Tenant Household Income at Certification	Eligibility Status
Potential AH Tenant Household	Prior to lease signing*	Household Income < 60% AMI	AH Eligible

Existing AH Eligible Tenant Household	Annually: Recertification to be performed December 1-15 of most recent year	Household Income < 100% AMI	<b>AH Eligible</b>
		100% AMI < Household Income	<p><b>AH Eligible-Over-Income:</b> Tenant household is AH eligible for one additional year. At the end of one year at Over-Income status, tenant household is no longer AH eligible.</p> <p><b>Over-Income Notice to Tenant:</b> Landlord must provide tenant household written "Over-Income" notice addressing one of the following options that will occur at the end of the following year.</p> <ol style="list-style-type: none"> <li>1) If a comparable unit is designated as AH and made available to another qualified AH tenant household, the existing Over-Income household can remain in the original unit, but original unit is not AH eligible and rent goes to market rate.</li> <li>2) If a comparable unit is not available to designate as AH, the landlord must give Over-Income household notice that the lease will not be renewed. AH unit then becomes available for a new AH eligible household at lease expiration.</li> </ol>

Affordable Housing Occupancy and Proration of NRA Rebate/Reimbursement. If an affordable housing unit is not rented to an eligible tenant household for the majority (no less than 7 months) of the calendar year, the unit's annual NRA rebate/reimbursement may be subject to proration based on the percentage of time the unit was not occupied by an eligible household.

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Compliance Earned and Proration of Rebate

Section 8 vouchers for affordable rental housing units cannot be denied for affordable rental housing units.

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1.8.3.3 It is the policy of the City that any residential dwelling unit, that is designated and set aside as affordable housing and that is made available for purchase, shall be affordable for those qualifying at 80% or below HUD area median income (AMI) for the most recent available year. All housing costs (i.e. HOA or other fees, Principal and Interest, utilities, etc. must not exceed 30% of household income. Source: HUD HOME Income Limits – Lawrence, KS MSA "Low Income")

1.8.3.4 In order to benefit those most in need of affordable housing, it is the policy of the City to give preference to those projects assisting income levels below 60% of the HUD AMI for the most recent available year. It is also the policy of the City to give preference to those projects providing residential dwelling units that contain more than one bedroom.

1.8.3.5 The City ~~encourages~~ requires any applicant or petitioner to work with ~~local not-for-profit agencies~~ the Lawrence Douglas County Housing Authority (LDCHA) for ~~screen and verify~~ income verification and eligibility certification ~~eligibility~~ the income of persons seeking to lease or purchase dwelling units designated and set aside as affordable housing, hereunder, in order to ensure compliance with the Performance Agreement and the City's affordable housing policies and standards.

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1.8.3.6 It is the policy of the City that those dwelling units designated and set aside as affordable housing include base finishes approximating that of market value dwelling units within the same project, if any. All dwelling units shall meet or exceed all City Code requirements.

1.8.3.7 It is the policy of the City that, in addition to the Performance Agreement, all affordable housing polices and standards shall apply during the term of the incentive period. The City strongly encourages the applicant or petitioner to maintain any dwelling unit, designated and set aside as affordable housing hereunder, as affordable housing, even after the expiration or termination of any economic development incentive period.

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1.8.3.8 Residential projects designated under a federal affordable housing program (e.g. Low Income Housing Tax Credits) are considered to be in compliance with the City's affordable housing policy, as long as the project remains eligible and active in the federal program.

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#### 1.8.4 **Transparency**

It is the policy of the City, when considering any application or petition requesting an economic development incentive, to emphasize transparency, while balancing the potential need for some applicant or petitioner information to remain confidential. The City shall encourage public participation and comment.

#### 1.8.5 **Merits of the Project**

It is the policy of the City that, when considering any application or petition requesting an economic development incentive, the Governing Body shall base its final decision on the merits of the proposed project, without regard to the identity of any person or entity proposing or opposing the proposed project.

#### 1.8.6 **Tax Deficiencies or Defaults**

It is the policy of the City that no economic development incentive will be granted to any applicant or petitioner who owns any financial interest in any real property, anywhere within the state of Kansas, with delinquent special assessments, delinquent *ad valorem* taxes, or federal or state tax liens, or who is currently delinquent or in default on any debts, responsibilities, or other obligations owed to the City.

- 1.8.7 **No General Obligation Bonds**  
It is the policy of the City that, in the course of granting economic development incentives, it will not – except in the most extraordinary of circumstances – use general obligation bonds to finance the proposed project.
- 1.8.8 **No Unfair Advantage**  
It is the policy of the City to deny any application or petition requesting economic development incentives where, in the judgment of the Governing Body, the economic development incentive, if granted, will provide a business with an unfair competitive advantage over another existing business that competes in the same local market for the same consumers.
- 1.8.9 **Anti-piracy**  
It is the policy of the City to avoid competing with other Kansas municipalities for the relocation of existing Kansas businesses by engaging in “bidding wars,” either by offering larger economic development incentive packages or other public inducements, which “bidding wars” are hereby declared deleterious to the state’s economy and to the public interest. It the policy of the City to discourage any application or petition requesting economic development incentives that would cause the “pirating” of a business from another Kansas community. This policy shall not preclude the City, however, from considering any application or petition for economic development incentives where the business seeks expansion rather than relocation, where the business has already made a decision to relocate or expand, or where the business is seriously considering moving out of state.
- 1.8.10 **Infill and Redevelopment**  
It is the policy of the City, when considering any application or petition requesting an economic development incentive, to give preference to those proposed projects seeking to provide infill development or the redevelopment of existing properties.
- 1.8.11 **Universal Design Standards**  
It is the policy of the City, when considering any application or petition requesting an economic development incentive, to give preference to those proposed projects employing universal design standards that enable accessibility for all persons.
- 1.8.12 **Energy Efficiency**  
It is the policy of the City, when considering any application or petition requesting an economic development incentive, to give preference to those proposed projects employing energy efficient designs.
- 1.8.13 **Transfer of Ownership**  
The owner or lessee of any real property that receives any economic development incentive from the City shall obtain from the City written consent before (a) transferring majority ownership of the real property or (b) transferring majority ownership in the owner or lessee of the real property, unless such transfer is to an affiliate or related entity.



1.8.14 **Authority of Governing Body**

The Governing Body reserves the right to deviate from any policy – but not any procedure – herein stated, but only when it considers such action to be of exceptional benefit to the City or where such extraordinary circumstances prevail that such deviation is in the best interest of the City.

1.8.15 **Prospective Application**

The “City of Lawrence, Kansas, Economic Policy” shall apply prospectively only and shall not be applied retroactively. Any existing economic development incentive shall be governed by the policy and procedures in existence at the time of the inception of that particular economic development incentive.

1.8.16 **Periodic Review**

The “City of Lawrence, Kansas, Economic Policy” shall be subject to periodic review to ensure compliance with state law and current practices of the City and may, from time to time, be amended by a Resolution of the Governing Body to comply with state law or current practices of the City or to alter its terms.

## **PART 2: INDUSTRIAL REVENUE BONDS**

### **2.1 IRBs POLICY STATEMENT**

In the Economic Development Revenue Bonds Act of 1961, codified as amended at K.S.A. 12-1740 *et seq.* ("the Act"), the Kansas legislature created industrial revenue bonds (IRBs) as an economic development tool for cities to stimulate economic prosperity and to promote economic stability, by providing greater employment opportunities and diversification of industry. Accordingly, the City may consider and, from time to time, issue IRBs when a proposed project furthers the economic goals and objects of the City, as outlined in this policy and in *Horizon 202, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County.*

### **2.2 IRBs APPLICATION**

2.2.1 Any entity requesting the City to issue IRBs as an economic development incentive for any proposed project shall file with the City Manager's Office an application in accordance with Section 1.5.2, *supra*, which shall include all information requested therein. In addition to those requirements, the application shall also include the following:

- (a) unless otherwise waived, *see* Section 2.3.3, below the application fee as established in Section 2.3.1 and 2.3.2, below.

### **2.3 IRBs APPLICATION FEE**

2.3.1 Together with the application, the applicant shall submit to the City a nonrefundable initial fee of \$1,000.00, the purpose of which is to recapture the City's costs of processing the application.

2.3.2 If it appears to the City that the costs of processing the application requesting the City to issue IRBs will exceed \$1,000.00, then the City may also require the applicant to enter into a funding agreement with the City, whereby the applicant agrees to finance the City's actual costs of processing the application requesting the City to issue IRBs.

### **2.4 IRBs PROCEDURE**

2.4.1 Upon receipt of an application requesting the City to issue IRBs, City Staff will conduct a preliminary review of the application to ensure that it meets all eligibility requirements of the Act and this policy. If it does not, City Staff will communicate that fact to the applicant.

2.4.2 If the application meets the eligibility requirements of the Act and the policy, then the City will follow the procedures required by the Act and those procedures established at Section 1.5, above.

## **2.5 IRBs REVIEW CRITERIA**

- 2.5.1 In considering whether to approve an application for an IRB, the Governing Body shall determine if the proposed project achieves one or more of the following public benefits:
- (a) The project meets the economic development goals and objectives of the City, as outlined in this policy and in *Horizon 2020, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County*;
  - (b) The project enhances Downtown Lawrence;
  - (c) The project promotes infill through the development of vacant lots, the rehabilitation of deteriorated properties, or the adaptive reuse of historic properties;
  - (d) The project incorporates environmentally sustainable elements into the design and operation of the facility; or
  - (e) The project provides other benefits to the City or meets other goals of the City, particularly those set forth in *Horizon 2020, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County*.
- 2.5.2 When considered in conjunction with a property tax abatement, it is the policy of the City to view more favorably those applications requesting the City to issue IRBs where the proposed project is projected to result in a positive benefit/cost ratio of 1.25 or greater, over a 15-year period, as determined by application of the benefit/cost model described in more detail in Section 1.8.1, above.
- 2.5.3 It is the policy of the City to view more favorably those applications requesting the City to issue IRBs, where the project generates revenues from outside this community and enhances the quality of life for residents of this community. The City does not favor those applications requesting the City to issue IRBs, where the project primarily will compete with existing businesses. *See also* Section 1.8.8, above.
- 2.5.4 It is the policy of the City to view more favorably proposed projects involving targeted business as set forth at Section 1.3.3, above.
- 2.5.5 It is the policy of the City to decline to issue IRBs for projects that are largely retail or residential in nature, except that:
- (a) the City may consider the issuance of IRBs for proposed projects that are primarily retail in nature, if the applicant demonstrates that the proposed project is exceptional and that it is likely to add to the City's retail base by attracting additional retail sales to the community or by capturing retail sales that are leaking from the community to other markets.

- (b) the City may consider the issuance of IRBs for proposed projects that are primarily residential in nature, if the primary purpose of the proposed project is to provide affordable housing, multi-family dwellings, senior living, or a mixed-use development.

2.5.6 If the proposed project requesting the City to issue IRBs includes any residential dwelling units, then the proposed project must comply with the City's policy regarding economic development incentives and affordable housing as set forth in Section 1.8.3, above.

## **2.6 IRBs FINAL DECISION**

2.6.1 After reviewing the recommendation of PIRC, considering the criteria set forth in the preceding section, and the goals and objectives of this policy, the Governing Body shall have the discretion to approve the application requesting the City to issue IRBs or to disapprove the application.

2.6.2 If the Governing Body approves the application, the applicant shall, in accordance with Section 1.6, above, execute a Performance Agreement.

2.6.3 The decision of the Governing Body shall be the final decision of the City.

## **2.7 IRBs ISSUANCE OF BONDS**

2.7.1 Once the Governing Body has approved an application requesting the City to issue IRBs, City Staff will coordinate with the applicant and bond counsel regarding the issuance of the IRBs. During the process, bond counsel will assist the City and the applicant with the preparation of those documents and those filings necessary for the City to issue IRBs.

2.7.2 The City encourages applicants to work with the City and the City's bond counsel. In the event that the applicant engages other bond counsel, the City shall have the discretion to require its bond counsel to be involved in the transaction or to review the documents prepared and filed regarding the issuance of the IRBs. If the applicant fails to cooperate with the City, the City retains the right to revoke the approval of the City's issuance of the IRBs.

## **2.8 IRBs SALES TAX EXEMPTION**

Labor and materials that are used in the construction of any project, as well as any equipment purchased therefor, and that are purchased with IRBs proceeds are generally exempt from State and local sales tax.

**2.9 IRBs ORIGINATION FEES**

2.9.1 Unless otherwise exempted by Section 2.9.2, any applicant requesting the City to issue IRBs for the purpose of realizing the IRBs sales tax exemption, as described in Section 2.8, shall pay to the City, based on the par amount of the bonds being issued and in accordance with the table that follows, an origination fee. Origination fees are due at the time of the bond closing.

IRB Origination Fee	
Rate	Amounts*
0.004	First \$10M or up to \$10M
\$40,000 + 0.002	2nd \$10M
\$60,000 + 0.001	Over \$20M

\*Maximum fee is \$100,000

2.9.2 Where the applicant is a federally registered not-for-profit organization, where the proposed project will create primary jobs, or where the primary purpose of the proposed project is to create affordable housing, the City may waive a portion or all of the origination fee required hereunder.

**2.10 IRBs AND PROPERTY TAX ABATEMENTS**

Applicants that request a property tax abatement in conjunction with the City's issuance of IRBs shall also follow the procedures established at the City's Property Tax Abatement Policy, *see* Part 3, in addition to those procedures set forth herein and in Part 1.

**2.11 IRBs AND COMPLIANCE**

To ensure compliance with the Performance Agreement and any other condition of approval of the City's issuance of the IRBs established by the Governing Body, the applicant shall comply with the provisions of Section 1.7, above.

**2.12 IRBs GENERAL POLICY STATEMENTS**

The General Policy Statements set forth in Part 1 of this Policy shall apply, where relevant, to all applications requesting the City to issue IRBs.

## **PART 3: PROPERTY TAX ABATEMENTS**

### **3.1 PROPERTY TAX ABATEMENT POLICY STATEMENT**

To meet the economic goals and objectives of the City, as outlined in this policy, it shall be the policy of the City to consider and, from time to time, to grant property tax abatements to applicants that meet the criteria of Kan. Const. Art. 11, § 13, or have received IRBs. In such cases, it shall be the policy of the City to consider granting a 50% real property tax abatement for those portions of a proposed project that qualify for a property tax abatement under state law, so long as it meets the criteria set forth at Section 3.5. Applicants may receive additional property tax abatements, beyond the 50% "baseline" abatement, if they meet one or more of the additional criteria set forth at Section 3.8.

### **3.2 PROPERTY TAX ABATEMENT APPLICATION**

3.2.1 Any applicant requesting from the City a property tax abatements as an economic development incentive for any proposed project shall file with the City Manager's Office an application in accordance with Section 1.5.2, above, which application shall include all information requested therein. In addition to those requirements, the application shall also include the following:

- (a) a statement that the proposed project will be environmentally sound; and
- (b) the application fee as established in Section 3.3.1.

### **3.3 PROPERTY TAX ABATEMENT APPLICATION FEE**

3.3.1 Together with the application for a property tax abatement, the applicant shall submit to the City a nonrefundable initial fee of \$500.00, the purpose of which is to recapture the City's costs of processing the application.

3.3.2 If it appears to the City that the costs of processing an application for a property tax abatement will exceed \$500.00, then the City may also require the applicant to enter into a funding agreement with the City, whereby the applicant agrees to finance the City's actual costs of processing the application for the property tax abatement.

### **3.4 PROPERTY TAX ABATEMENT PROCEDURE**

3.4.1 Upon receipt of an application for a property tax abatement, City Staff will conduct a preliminary review of the application to ensure that it meets the eligibility requirements of the State and this policy. If it does not, City Staff will communicate that fact to the applicant.

3.4.2 If the application meets the eligibility requirements of the State and this policy, then the City will follow the procedure established at Section 1.5, above

### **3.5 PROPERTY TAX ABATEMENT REVIEW CRITERIA**

3.5.1 The City shall only grant a property tax abatement to those entities that meet requirements of State law and where the proposed project meets each of the following criteria:

- (a) for each employee employed on the premises of real property for which the applicant receives a property tax abatement, the applicant must pay an average wage to that employee, for his or her employment category, that meets or exceeds the average wage for that employment category in the community, as determined annually by the Kansas Department of Human Resources Wage Survey;
- (b) for each eligible employee, the applicant must meet the "wage floor" threshold as defined in Section 3.6.1;
- (c) for each eligible employee, the applicant must meet the "health insurance floor" threshold as defined in Section 3.6.2; and
- (d) the proposed project is projected to result in a positive benefit/cost ratio of 1.25 or greater, over a 15-year period, as determined by application of the benefit/cost model described in more detail in Section 1.8.1, above.

### **3.6 PROPERTY TAX ABATEMENT WAGE FLOOR AND HEALTH INSURANCE FLOOR**

#### **3.6.1 Wage Floor**

The wage floor may be met by paying a wage equal to one hundred thirty percent (130%) of the federal poverty threshold for a family of three persons, as established by the United States Department of Health and Human Services. The wage floor shall be adjusted annually and the City shall notify, in writing, those businesses that are affected by any change to the wage floor. The amount of the wage floor for the current year shall be available to those requesting it from the Office of the City Manager.

#### **3.6.2 Health Insurance Floor**

The health insurance floor may be met a follows:

- (a) the applicant makes available, pursuant to the applicant's policy, to each eligible employee an employer-sponsored individual health insurance policy, for which the employer provides a minimum of seventy percent (70%) of the cost of such individual health insurance policy; or
- (b) the employer pays to each eligible employee a wage which is at least \$1.50 per hour in excess of the wage floor.

### 3.6.3

#### **Eligible Employees**

Any person employed by the recipient of a property tax abatement, employed on the premises of the real property for which the property tax abatement was granted, shall be deemed, for the purposes of the wage floor and health insurance floor, an eligible employee, except the following:

- (a) employees employed in a *bona fide* or certified job training program (which can only be used once for each employee and which program can last no more than sixty calendar days).
- (b) temporary employees who work less than 100 hours per calendar year.
- (c) employees who are designated student seasonal workers and who work less than ninety calendar days per year;
- (d) employees of not-for-profit organizations.
- (e) subcontractors, whose work is only incidental to the primary purpose of the business.
- (f) suppliers, raw goods/material suppliers, landscape companies, construction contractors and subcontractors, and delivery persons.
- (g) employees covered by a collective bargaining agreement that provides wages and health insurance benefits greater than the requirements herein.

### 3.6.4

#### **Recordkeeping**

#### 3.6.4.1

In order to ensure compliance with the wage floor and health insurance floors set forth herein, employers shall maintain payroll records for all employees and shall retain them for a period of three years. The records shall contain, at least, the following:

- (a) the name and address of each employee;
- (b) the employee's job title and job classification;
- (c) the number of hours worked each day;
- (d) the gross wages of the employee and any deductions therefrom;
- (e) health insurance payments made by the employer and the employee; and
- (f) any additional information necessary to establish that the employee is not an eligible employee subject to the wage floor and health insurance floor of this section.



3.6.4.2 Upon reasonable request of the City, any recipient of a property tax abatement shall grant to the City, or any agent of the City, in accordance with the Performance Agreement, access to its payroll records to audit and to ensure compliance with the City wage floor and health insurance floor policy. Failure of the employer to comply with a request to audit shall be grounds to modify or terminate the property tax abatement.

**3.7. PROPERTY TAX ABATEMENT FINAL DECISION**

3.7.1 After reviewing the recommendation of PIRC, considering the criteria set forth in the preceding sections, and the goals and objectives of this policy, the Governing Body shall have the discretion to approve the application for a property tax abatement or to disapprove the application.

3.7.2 In accordance with Section 3.8, the Governing Body shall also have the discretion to establish the amount and duration, not to exceed ten years, of any property tax abatement. However, the property tax abatement shall not reduce the property tax revenues that would otherwise be received by local taxing jurisdictions during the life of the property tax abatement.

3.7.3 If the Governing Body approves the application for a property tax abatement, the applicant shall, in accordance with Section 1.6, above, execute a Performance Agreement.

3.7.4 The decision of the Governing Body shall be the final decision of the City.

**3.8. PROPERTY TAX ABATEMENT AMOUNT AND DURATION**

The City's "baseline amount" of a property tax abatement shall be a 50% property tax abatement for a period of ten years. In determining the amount of a particular property tax abatement and its duration, the Governing Body should use, as a guideline, the following schedule:

3.8.1 A property tax abatement of a maximum of 50% for ten years, where the proposed project involves an investment greater than \$7,000,000, in adjusted 2009 dollars, and provides a minimum of 30 new jobs that meet the requirements of Section 3.5.1(a)-(c) and Section 3.6.

3.8.2 A property tax abatement of a maximum of 50% for ten years, where the applicant has been on the Douglas County tax rolls for more than three years, the proposed project involves an investment is greater than \$5,000,000, in adjusted 2008 dollars, and provides a minimum of 20 new jobs that meet the requirements of Section 3.5.1(a)-(c) and Section 3.6.

3.8.3 Proposed projects that meet one or more of the additional criteria may receive a property tax abatement in excess of 50%:

- (a) a project proposed by any business that has been on the Douglas County property tax rolls for at least three years may receive, over the baseline amount, an additional 10% property tax abatement.
- (b) a project proposed by any business that makes a capital investment of more than \$10,000,000, in adjusted 2009 dollars, may receive, over the baseline amount, an additional 5% property tax abatement.
- (c) a project proposed to be constructed in compliance with Leadership in Energy and Environmental Design (LEED) criteria may receive, over the baseline amount, an additional 5% property tax abatement for "Certified" or "Silver" certification and an additional 10% property tax abatement for "Gold" or "Platinum" certification.
- (d) a project proposed, where the site presents unique constraints or presents unique construction challenges that make development of the site more difficult and costly, may receive, over the baseline amount, an additional 5% property tax abatement.
- (e) a proposed project that will serve as a catalyst for future projects in a targeted industry, *see* Section 1.3.3, above, or other desirable developments, that would advance the interest and enhance the quality of life of the community, may receive, over the baseline amount, an additional 5% property tax abatement.
- (f) a project proposed in a targeted development location, such as Downtown Lawrence, Lawrence VenturePark, any other desirous location designated by the Governing Body, or on a site where infrastructure is already in place, may receive, over the baseline amount, an additional 5% property tax abatement.
- (g) a proposed project that provides exceptional wages, given the current market conditions, industry norms in Douglas County, or other relevant business factors, may receive, over the baseline amount, an additional 10% property tax abatement.

3.8.4 The property tax abatement enhancements of this section are cumulative.

- (a) For example, an applicant that has been on the Douglas County tax rolls for more than 3 years, that invests \$15,000,000 in a proposed project, and that proposed project receives LEED "Gold" certification would qualify for a property tax abatement of 75%: the baseline amount of 50%, plus 10% for being local, plus 5% for an investing more than \$10,000,000, plus 10% for LEED "Gold" certification.

**3.9 PROPERTY TAX ABATEMENT COMMENCEMENT**

The property tax abatement period for any project considered under the authority of Kan. Const. Art 11, §13 shall commence in the calendar year succeeding the calendar year in which the project, for which the property tax abatement is awarded, commences operation. The property tax abatement term for IRBs projects under K.S.A. 12-1740, *et seq.*, shall commence the calendar year succeeding the calendar year in which the IRBs are issued.

**3.10 PROPERTY TAX ABATEMENT ADMINISTRATION FEES**

3.10.1 In addition to the property tax abatement application fee under Section 3.3.1 or any other additional fees required by Section 3.3.2, any business which has been granted a property tax abatement shall pay an annual administration fee to the City in the amount of \$200.00, which amount shall offset the City’s costs in administering the property tax abatement, monitoring compliance, recordkeeping, and reporting.

**3.11 PROPERTY TAX ABATEMENT PAYMENTS IN LIEU OF TAXES (PILOT)**

Any entity receiving a property tax abatement may be required to make a minimum payment in lieu of taxes (PILOT). The PILOT shall equal the amount of property tax that was paid or that was payable to the various taxing jurisdictions for the most recent year prior to the purchase of the property or the construction of the project. The purpose of the PILOT is to ensure that the taxing jurisdictions receive the same amount of taxes that they received prior to the commencement of the property tax abatement.

**3.12 PROPERTY TAX ABATEMENT COMPLIANCE**

3.12.1 Each entity receiving a property tax abatement shall certify no later than January 15 of each year that, in addition to being in compliance with those items identified in Section 1.7, above, it is in compliance with Section 3.5.1(a)-(c) and Section 3.6.

3.12.2 In addition to that set forth in Section 1.7, above, the property tax abatement for any year will be based on the City’s analysis of the applicant’s compliance in the preceding year in accordance with the following chart:

% compliance with annual target	Amount of incentive to be received
90-100%	100%
80-89%	85%
70-79%	75%
Below 70%	No incentive

**3.13 PROPERTY TAX ABATEMENT GENERAL POLICY STATEMENTS**

The General Policy Statements set forth in Part 1 of this Policy shall apply, where relevant, to all applications for a property tax abatement.

## **PART 4: NEIGHBORHOOD REVITALIZATION AREAS (NRAs)**

### **4.1 NRA POLICY STATEMENT**

In the Neighborhood Revitalization Act of 1994, codified as amended at K.S.A. 12-17,114 *et seq.*, the Kansas legislature created the Neighborhood Revitalization Area (NRA) as an economic development tool to revitalize certain areas or neighborhoods of cities. It is the policy of the City to consider the establishment of NRAs in order to promote reinvestment and revitalization of areas, neighborhoods, and properties, where such reinvestment and revitalization have a positive economic impact on the City, as a whole. In determining whether to establish an NRA, the City shall consider the criteria set forth in this policy.

### **4.2 NRA APPLICATION**

4.2.1 Any entity requesting an NRA as an economic development incentive shall submit to the City Manager's Office a complete and finalized application in accordance with Section 1.5.2, above, which shall include all information required therein. In addition to those requirements, any application for establishment of an NRA shall also include the following:

- (a) the information required by K.S.A. 12-17,117, as amended, for the establishment of a NRA plan; and
- (b) the application fee as established in Section 4.3, below;
- (c) any other information required by the City to process the application.

4.2.2 If the proposed NRA proposes a project that is unrelated to primary job creation and does not, as a primary component of the project, provide affordable housing, the applicant shall, together with the application, also provide the "but for" analysis required by Section 1.8.2, above.

### **4.3 NRA APPLICATION FEE**

4.3.1 Together with the application, the applicant shall submit to the City an initial nonrefundable fee of \$500.00, the purpose of which is to recapture the City's costs of processing the application.

4.3.2 If it appears to the City that the costs of processing an application for establishment of an NRA will exceed \$500.00, including but not limited to the hiring of third party consultants, then the City may also require the applicant to enter into a funding agreement with the City, whereby the applicant agrees to finance the City's actual costs of processing the application for establishment of the NRA.

#### **4.4 NRA PROCEDURE**

4.4.1 Upon receipt of an application requesting an NRA, City Staff will conduct a preliminary review of the application to ensure that it meets the eligibility requirements of this policy. If it does not, City Staff will communicate that fact to the applicant.

4.4.2 If the application meets the eligibility requirements of this policy, then the City will follow the procedure established at Section 1.5, above.

#### **4.5 NRA REVIEW CRITERIA**

4.5.1 Upon receipt of any recommendation from PIRC regarding an NRA, the Governing Body shall, in accordance with state law, at a public meeting, conduct a public hearing to determine (a) whether to create an NRA and (b) whether to approve the applicant's NRA Plan. In making those decisions, the Governing Body shall consider whether the proposed NRA meets statutory criteria and the City criteria.

##### **4.5.2 Statutory Criteria**

The Governing Body may, at its discretion, establish an NRA if, in the opinion of the Governing Body, the rehabilitation, conservation, or redevelopment of the area, neighborhood, or property is necessary to protect the public health, safety, or welfare, and if the area, neighborhood, or property may be described as one of the following:

- (a) an area in which there is a predominance of buildings or improvements which by reason of dilapidation, deterioration, obsolescence, inadequate provisions of ventilation, light, air or open spaces, high density of population and overcrowding, the existence of conditions which endanger life or property by fire and other causes or a combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and which is detrimental to the public health, safety, or welfare;
- (b) an area in which by reason of the presence of a substantial number of deteriorated or deteriorating structures, defective or inadequate streets, incompatible land use relationships, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the actual value of the land, conditions which endanger life or property by fire and other causes, or a combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is detrimental to the public health, safety or welfare in its present condition and use; or

- (c) an area in which there is a predominance of buildings or improvements which by reason of age, history, architecture or significance should be preserved or restored to productive use.

#### 4.5.3 **City Criteria**

Additionally, the Governing Body shall consider whether the proposed NRA meets one or more of the following criteria:

- (a) The proposed NRA will promote redevelopment that will enhance Downtown Lawrence;
- (b) The proposed NRA will promote redevelopment activities for areas, neighborhoods, or properties that are significantly underutilized or vacant;
- (c) The proposed NRA will attract unique retail and/or mixed use development that will enhance the economic climate of the City, diversify the economic base, and achieve the goals and objectives of this policy.
- (d) The proposed NRA will enhance the vitality of any neighborhood within the City;
- (e) The proposed NRA will enhance the community's sustainability, by fostering projects and development that embrace energy efficiency, multi-modal transportation options, or other elements of sustainable design.

4.5.4 If the proposed NRA includes any residential dwelling units, then the project must comply with the City's policy regarding economic development incentives and affordable housing as set forth in Section 1.8.3, *supra*.

4.5.5 If the proposed NRA is unrelated to primary job creation and does not, as a primary component of the project, provide affordable housing, the Governing Body shall consider the "but for" analysis provided by the applicant in accordance with section 4.2.2, *supra*, and shall not establish an NRA unless the applicant demonstrates, to the City's satisfaction, that the project would not proceed "but for" the establishment of the NRA.

#### **4.6 NRA FINAL DECISION**

4.6.1 After reviewing the recommendation of PIRC, considering the criteria set forth in the preceding section, and the goals and objectives of this policy, the Governing Body shall have the discretion to approve the application and establish the NRA or to disapprove the application and decline to establish the NRA.

4.6.2 If the Governing Body approves the application, the applicant shall, in accordance with Section 1.6 of this Policy, execute a Performance Agreement.

4.6.3 The decision of the Governing Body shall be the final decision of the City.

**4.7 NRA REBATE**

If the Governing Body approves an application seeking the establishment of an NRA, it shall, based on the merits of the project, the analysis performed, the recommendations of any third party consultant, and the evidence adduced at the hearing, determine the amount of any *ad valorem* property tax rebate (**note** that this is a tax rebate and not a tax abatement) and the duration of any tax rebate period.

**4.8 NRA APPROVAL AND OTHER TAXING JURISDICTIONS**

The applicant must be mindful that Douglas County and Unified School District No. 497 are also important parties related to any NRA request. When an NRA is considered, the City will work with Douglas County and the School District to seek concurrence, but cannot guarantee concurrence, regarding the establishment of an NRA.

**4.9 NRA AND COMPLIANCE**

To ensure compliance with the Performance Agreement and any other condition of approval of the NRA established by the Governing Body, the applicant shall comply with the provisions of Section 1.7, above.

**4.10 NRA GENERAL POLICY STATEMENTS**

The General Policy Statements set forth in Part 1 of this Policy shall apply, where relevant, to all applications for an NRA.

## **PART 5: TAX INCREMENT FINANCING (TIFs)**

### **5.1 TIF POLICY STATEMENT**

- 5.1.1 In the Development and Redevelopment of Areas in and Around Cities Act of 1976, codified as amended at K.S.A. 12-1770 *et seq.* ("the Act"), the Kansas legislature created tax increment financing for redevelopment districts (TIF) as an economic development tool for cities to promote, stimulate, and expand their economy and to assist in the development and redevelopment of properties. It is the policy of the City to consider the judicious use of TIFs for qualifying redevelopment projects.
- 5.1.2 It is the policy of the City to consider the judicious use of TIF for those proposed projects that demonstrate a substantial and significant public benefit. A proposed project demonstrates substantial and significant public benefit if it creates new jobs or retains existing jobs, eliminates blight, strengthens the employment and economic base of the City, increases property values, increases tax revenues, reduces poverty, provides affordable housing, upgrades older neighborhoods, facilitates economic self-sufficiency, promotes projects that are of community-wide importance, implements the comprehensive plan of the City, or furthers the economic goals and objectives of the City, as set forth in this policy.

### **5.2 TIF APPLICATION**

- 5.2.1 Any entity requesting a TIF shall submit to the City Manager's Office a complete and finalized application in accordance with Section 1.5.2, above, which shall include all information required therein. In addition to those requirements, any application for a TIF shall also include the following:
- (a) any and all information required by K.S.A. 12-1771 and K.S.A. 12-1772, as amended;
  - (b) certification of the applicant that it has the financial, professional, and legal wherewithal to complete and operate the proposed project;
  - (c) a "but for" analysis in accordance with section 1.8.2, *supra*;
  - (d) the application fee as established by section 5.3; and
  - (e) any other information required by the City to process the application.

### **5.3 TIF APPLICATION FEES**

- 5.3.1 Together with the application, the applicant shall submit to the City an initial nonrefundable fee, not to exceed \$1,000.00, the purpose of which is to recapture the City's costs of processing the TIF application.



5.3.2 If it appears to the City that the costs of processing an application for a TIF will exceed \$1,000.00, including but not limited to the hiring of third party consultants, then the City may also require the applicant to enter into a funding agreement with the City, whereby the applicant agrees to finance the City's actual costs of processing the application for the TIF.

5.3.3 To the extent that the City creates the TIF, and to the extent that they are considered "redevelopment project costs" under the Act, any fees or costs charged to the applicant under this section may, to the extent allowed by the Act, be reimbursed to the applicant from bond proceeds or TIF revenues.

#### **5.4 TIF PROCEDURE**

5.4.1 Upon receipt of an application for a TIF, City Staff will conduct a preliminary review of the application to ensure that it meets the eligibility requirements of this policy. If it does not, City Staff will communicate that fact to the applicant.

5.4.2 If the application meets the eligibility requirements of this policy, then the City will follow the procedures established by the Act, *see* K.S.A. 12-1770 *et seq.*, and this policy at Section 1.5, above, in addressing the application.

#### **5.5 TIF REVIEW CRITERIA**

5.5.1 With every application for a TIF, the Governing Body shall consider the "but for" analysis provided by the applicant, and shall not create the TIF unless the applicant establishes that the proposed project would not proceed "but for" the TIF. The Governing Body shall consider the applicant's "but for" analysis at the same time that it considers the feasibility study required by the Act.

5.5.2 In reviewing the "but for" analysis and the feasibility study, in deciding whether to approve or disapprove an application for a TIF, the Governing Body shall consider the proposed market returns for the proposal, including the nature of the project, the location of the project, and other factors, as they may be relevant.

5.5.3 No TIF application that seeks financing through the issuance of special obligation bonds shall be granted unless the applicant demonstrates that the incremental taxes expected to be generated will be sufficient to provide a debt coverage factor of at least 1.25 times the expected debt service on the special obligation bonds. Debt service coverage greater than 1.25 times the projected debt service on the special obligation bonds may be necessary to market bonds that are limited to public offerings. The City may, at its discretion permit a debt coverage factor of less than 1.25 for developer- or bank-purchased bonds.

5.5.4 It is the policy of the City to view more favorably those projects where the applicant pays for at least 50% of the total redevelopment project costs, as defined by the Act, and other related costs.

5.5.5 It is the policy of the City to base the amount of TIF assistance on the economic payoff expectations of the project and the significance to the community.

5.5.6 It is the policy of the City to consider TIF applications for residential development where the proposed project proposes to remove blight, revitalize or upgrade older development neighborhoods, or provide affordable housing.

5.5.7 It is the policy of the City to view more favorably TIF applications that propose the redevelopment of existing residential neighborhoods or commercial and industrial areas.

5.5.8 If the proposed TIF includes any residential dwelling units, then the project must comply with the City's policy regarding economic development incentives and affordable housing as set forth in Section 1.8.3, above.

## **5.6 TIF FINAL DECISION**

5.6.1 After reviewing the recommendation of PIRC, considering the criteria set forth in the preceding section, and the goals and objectives of this policy, the Governing Body shall have the discretion to approve the application for a TIF or to disapprove the application.

5.6.2 If the Governing Body approves the application, the applicant shall, in accordance with Section 1.6, above, execute a Performance Agreement.

5.6.3 The decision of the Governing Body shall be the final decision of the City.

## **5.7 TIF ASSISTANCE**

If the Governing Body approves an application requesting the establishment of a TIF, it shall, based on the merits of the project, the analysis performed, the recommendations of any third party consultant, and the evidence adduced at the hearing, determine the amount of TIF assistance to reimburse the applicant for eligible redevelopment costs, if any, and the duration of any reimbursement period.

## **5.8 TIF METHODS OF FINANCING**

5.8.1 An application for a TIF may request that TIF assistance be provided in one of the following forms;

- (a) Special Obligation Bond Financing;
- (b) Pay-as-you-go Financing, with direct reimbursement to the applicant for eligible redevelopment project costs; or
- (c) A pledge of tax increment financing revenues to pay the private financing of eligible redevelopment projects costs.

5.8.2 The City shall retain the sole authority to determine which method of financing will be used for any project. In deciding which method to use, the prevailing factor shall be the total cost and the security for the special obligation bonds, if any.

5.8.3 The City will **not** provide credit enhancements for any special obligation bonds; however, the City views favorably credit enhancements provide by the applicant.

5.8.4 It is the policy of the City to view more favorably those projects that propose pay-as-you-go financing.

**5.9 TIF REVENUES**

5.9.1 Any special obligation bonds issued by the City may be made payable, both as to principal and interest, from those sources or a pledge of those sources listed at K.S.A. 12-1774, as amended.

5.9.2 It is the policy of the City to give preference to those TIF projects that seek reimbursement of eligible redevelopment project costs solely from the incremental real property taxes generated by the TIF project.

5.9.3 TIF projects may also receive reimbursement of eligible redevelopment costs from incremental sales taxes and transient guest tax. Generally, it is the policy of the not to make any more than 50% of the incremental sales and transient guest taxes available for a TIF redevelopment project. For STAR Bond projects that meet state required criteria, additional revenues may be required.

5.9.4 Any Development Agreement or Redevelopment Agreement, or the Performance Agreement required by section 5.6.2, shall set forth the amount to be reimbursed for eligible redevelopment costs, the method by which TIF revenues shall be used to reimburse the applicant for eligible redevelopment costs, the term for which such reimbursements will be made, and the parties' attendant rights and obligations thereunder.

5.9.5 If the parties enter into a separate Development Agreement or Redevelopment Agreement, it shall, in accordance with section 5.6, above, be made part and parcel of the Performance Agreement.

**5.10 TIF ADMINISTRATION SERVICE FEES**

If a TIF is established, the following TIF administration service fees shall be paid to the City from the tax increment generated from the project, prior to disbursement of any increment to the applicant or to the bond trustee, to cover administrative and associated costs of the City. Such administration costs shall be in addition to the TIF application fee and other fees associated with the project. Those fees shall be as follows:

- (a) Where the applicant only seeks reimbursement of the property tax increment, the administrative service fee shall be 0.5% of the annual increment;
- (b) In all other cases, the administrative service fee shall be 2.5% of the annual increment.

**5.11 TIF AND COMPLIANCE**

To ensure compliance with the Performance Agreement and any other condition of approval of the TIF established by the Governing Body, the applicant shall comply with the provisions of Section 1.7, above.

**5.12 TIF GENERAL POLICY STATEMENTS**

The General Policy Statements set forth in Part 1 of this Policy shall apply, where relevant, to all applications requesting a TIF.

## **PART 6: TRANSPORTATION DEVELOPMENT DISTRICTS (TDDs)**

### **6.1 TDD POLICY STATEMENT**

- 6.1.1 In the Transportation Development District Act of 2003, codified as amended at K.S.A. 2015 Supp. 12-17,140 *et seq.* ("the Act"), the Kansas legislature created transportation development districts (TDDs) as an economic development tool whereby cities may make special assessments or create special sales tax districts in order to promote transportation related development. It is the policy of the City to consider petitions seeking the establishment of TDDs in order to promote economic development within the City.
- 6.1.2 It is the policy of the City that no TDD shall be created, except: (a) where the petitioner constructs or installs all of the improvements at no cost to the City -- on a "pay-as-you-go" financing basis -- and agrees to be reimbursed later for certain public improvement costs from special assessments levied and collected within the TDD, from revenues received from TDD sales tax collected within the TDD, or from a combination of both sources; or (b) where the City constructs or finances the construction or installation of all or a portion of the improvements through the issuance of special obligation bonds, which bonds shall be made payable from special assessments levied and collected within the TDD, from revenues received from TDD sales tax collected within the TDD, or from a combination of both sources.
- 6.1.3 It is the policy of the City, when establishing a TDD, to give consideration to multi-modal transportation needs.

### **6.2 TDD PETITION**

- 6.2.1 Any entity requesting a TDD shall submit to the City Manager's Office a complete, finalized, and valid petition in accordance with Section 1.5.2, above, which shall include all information required therein. In addition to those requirements, any petition for a TDD shall also include the following:
- (a) the petition shall be signed by all owners of record of real property located within the proposed TDD;
  - (b) a valid petition containing that information required by K.S.A. 2015 Supp. 12-17,142, as amended;
  - (c) a statement disclosing the petitioner's financial commitment to the project;
  - (d) the initial fee as established by section 6.3; and
  - (e) any other information required by the City to process the petition.

6.2.2 If the proposed TDD proposes a project that is unrelated to primary job creation and does not, as a primary component of the project, provide affordable housing, the applicant shall, together with the application, also provide the “but for” analysis required by Section 1.8.2, above.

### **6.3 TDD INITIAL FEES**

6.3.1 Together with the petition, the petitioner shall submit to the City a nonrefundable initial fee of \$2,500.00, the purpose of which is to recapture the City’s costs of processing the petition for a TDD.

6.3.2 If it appears to the City that the costs of processing an petition for a TDD will exceed \$2,500.00, including but not limited to the hiring of third party consultants, then the City may also require the applicant to enter into a funding agreement with the City, whereby the applicant agrees to finance the City’s actual costs of processing the application for the TDD.

### **6.4 TDD PROCEDURE**

6.4.1 Upon receipt of a petition for a TDD, City Staff will conduct a preliminary review of the petition to ensure that it meets all requirements of the Act and to ensure that it meets the eligibility requirements of this policy. If it does not, City Staff will communicate that fact to the petitioner.

6.4.2 If the petition meets the requirements of the Act and this policy, then the City will follow the procedures established by the Act, *see* K.S.A. 12-1770 *et seq.*, and this Policy at Section 1.5, above, in considering the petition.

### **6.5 TDD REVIEW CRITERIA**

6.5.1 In determining whether to create a TDD, the following criteria shall be considered:

- (a) whether creation of the TDD is in the best interest of the City;
- (b) whether creation of the TDD is consistent with this policy; and
- (c) whether the creation of the TDD will meet one or more of the following goals:
  - (i) The TDD will promote and support efforts to redevelop sites within the City; or
  - (ii) The TDD will attract unique retail and/or mixed use development, which will substantially enhance the economic climate of the City and diversify the economic base.

6.5.2 No TDD petition that seeks financing through the issuance of special obligation bonds shall be granted unless the petitioner demonstrates that the TDD sales tax expected to be generated will be sufficient to provide a debt coverage factor of at least 1.25 times the expected debt service on the special obligation bonds. Debt service coverage greater than 1.25 times the projected debt service on the special obligation bonds may be necessary to market bonds that are limited to public offerings. The City may, at its discretion permit a debt coverage factor of less than 1.25 for developer or bank purchased bonds.

6.5.3 It is the policy of the City to view more favorably those projects where the petitioner uses equity or private financing to finance in excess of 15% of the total TDD eligible expenses.

6.5.4 If the proposed TDD includes any residential dwelling units, then the project must comply with the City's policy regarding economic development incentives and affordable housing as set forth in Section 1.8.3, above.

## **6.6 TDD FINAL DECISION**

6.6.1 After reviewing the recommendation of PIRC, considering the criteria set forth in the preceding section, and the goals and objectives of this policy, the Governing Body shall have the discretion to approve the petition for a TDD or to disapprove the petition for a TDD.

6.6.2 If the Governing Body approves the petition, the petitioner shall, in accordance with Section 1.6 of this Policy, execute a Performance Agreement.

6.6.3 The decision of the Governing Body shall be the final decision of the City.

## **6.7 TDD METHODS OF FINANCING**

6.7.1 The City may finance a TDD in one or more of the following ways:

- (a) The petitioner pays for all costs of development ("pay-as-you-go" financing), and then is later reimbursed by the City for certain public improvement costs from TDD revenues generated from special assessments levied and collected within the TDD, from TDD sales tax collected within the TDD sales tax district, or from both.
- (b) The City issues Special Obligation bonds financing the TDD, where the bonds are made payable through the pledge of revenues to be generated from special assessments levied and collected within the TDD.
- (c) The City issues a Special Obligation bond financing the TDD, where the bonds are made payable, in part, through a pledge of special assessments levied and collected within the TDD and, in part, through a pledge of TDD sales tax collected within the TDD sales tax district.

6.7.2 The City shall retain the sole authority to determine which method of financing will be used for any project. In deciding which method to use, the prevailing factor shall be the total cost and the security for the special obligation bonds, if any.

6.7.3 The City will **not** provide credit enhancements for any special obligation bonds; however, the City views favorably credit enhancements provide by the applicant.

6.7.4 It is the policy of the City to view more favorably those projects that propose financing through pay-as-you-go financing or special assessments.

## **6.8 TDD REVENUES**

6.8.1 Any special obligation bonds issued by the City may be made payable, both as to principal and interest, from those sources or a pledge of those sources listed at K.S.A. 2015 Supp. 12-17,147, as amended.

6.8.2 Any Development Agreement or Redevelopment Agreement, or the Performance Agreement required by Section 5.6.2 shall set forth the amount to be reimbursed for eligible redevelopment costs, the method by which TDD revenues shall be used to reimburse the applicant for eligible TDD costs, the term for which such reimbursements will be made, and the parties' attendant rights and obligations thereunder.

## **6.9 TDD ADMINISTRATIVE SERVICE FEES**

If a TDD is established, 0.5% of the annual TDD revenues generated shall be paid to the City as administrative and associated costs. Such payment shall be made prior to the disbursement of TDD funds to the petitioner or to the bond trustee. The TDD administrative fee shall be in addition to the TDD application fee and other fees associated with the project.

## **6.10 TDD SIGNAGE**

Upon establishment of a TDD sales tax district, each business within the TDD sales tax district shall display prominently at each public entrance, for the duration of time that the TDD sales tax is collected, a sign that contains, at a minimum, the following: "This project made possible by Transportation Development District Financing. Additional Transportation Development District sales tax of \_\_\_% collected here." The sign shall be a minimum size of 8.5 inches by 11 inches. The font size of the printed message shall be at least 30 pt.

## **6.11 TDD AND COMPLIANCE**

To ensure compliance with the Performance Agreement and any other condition of approval of the TDD established by the Governing Body, the applicant shall comply with the provisions of Section 1.7, above.



**6.12 TDD GENERAL POLICY STATEMENTS**

The General Policy Statements set forth in Part 1 of this Policy shall apply, where relevant, to all petitions for TDD.

## **PART 7: COMMUNITY IMPROVEMENT DISTRICTS (CIDs)**

### **7.1 CID POLICY STATEMENT**

- 7.1.1 In the Community Improvement District Act of 2009, codified as amended at K.S.A. 2015 Supp. 12-6a26 *et seq.* ("the Act"), the Kansas legislature created community improvement districts as an economic development tool to assist cities with economic development, by providing a means, through the imposition of special assessments and/or a CID sales tax within the CID, *inter alia*, to finance certain public and private improvements within the CID. It is the policy of the City to consider petitions seeking the establishment of CIDs in order to promote economic development within the City.
- 7.1.2 It is the policy of the City that no CID shall be created, except: (a) where the petitioner(s) construct(s) or install(s) all of the improvements at no cost to the City -- on a "pay-as-you-go" financing basis -- and agrees to be reimbursed later for certain public improvement costs from special assessments levied and collected within the CID, from revenues received from CID sales tax collected within the CID, or from a combination of both sources; or (b) where the City constructs or finances the construction or installation of all or a portion of the improvements through the issuance of special obligation bonds, which bonds shall be made payable from special assessments levied and collected within the CID, from revenues received from CID sales tax collected within the CID, or from a combination of both sources.
- 7.1.3 It is the policy of the City that no CID shall be created unless the proposed project involves redevelopment or infill development.
- 7.1.4 It is also the policy of the City that CID revenue shall only be used to finance public improvements. However, at the discretion of the Governing Body, the City may, as exceptions to the foregoing, authorize:
- (a) the expenditure of CID revenues to finance certain private external building or site improvements that benefit the City and that are beyond that which the City normally requires in similar projects, *e.g.*, enhanced landscaping, enhanced architectural features, extra public amenities, *etc.* In those cases, the CID revenue shall finance only those portions of the external building or site improvements that are beyond that which the City normally requires in similar projects.
  - (b) the expenditure of CID revenues to finance the entire project, or any portion of the project, if the project involves certain amenities and facilities that promote and support the culture of the community or tourism, or both, even if they are wholly or partially private improvements.

## **7.2 CID PETITION**

7.2.1 Any entity requesting a CID shall submit to the City Manager's Office a complete and finalized petition in accordance with Section 1.5.2, above, which shall include all information required therein. In addition to those requirements, any petition for a CID shall also include the following:

- (a) a valid petition containing that information required by K.S.A. 2015 Supp. 12-6a28, as amended, or K.S.A. 2015 Supp. 12-6a29, as amended, whichever is relevant to the CID being requested;
- (b) a verification that the petitioner has the financial, professional, and legal wherewithal to complete and operate the proposed project;
- (c) a statement disclosing the petitioner's financial commitment to the project;
- (d) the application fee as established by section 7.3; and
- (e) any other information required by the City to process the petition.

7.2.2 If the proposed CID proposes a project that is unrelated to primary job creation and does not, as a primary component of the project, provide affordable housing, the applicant shall, together with the application, also provide the "but for" analysis required by Section 1.8.2, above.

7.2.3 If the petition seeks to finance the proposed project, in whole or in part, through the City's issuance of special obligation bonds, then the petition shall also include, in a form satisfactory to the City, proof of the petitioner's financial wherewithal to complete the proposed project in a timely manner. In such cases, the petitioner shall disclose the amount of the financial commitment that the petitioner will be contributing to the proposed project. It is the policy of the City to give preference to those projects where private financing contributes more than fifteen percent (15%) of the financing for the proposed project.

7.2.4 If the petition seeks to finance all or a portion of the public improvement costs, either through special assessments or the creation of a CID sales tax district, the petition shall include signatures of one hundred percent (100%) of the owners of record of real property located within the CID.

## **7.3 CID INITIAL FEES**

7.3.1 Together with the petition, the petitioner shall submit to the City a nonrefundable initial fee of \$2,500.00, the purpose of which is to recapture the City's costs of processing the application requesting a CID.

7.3.2 If it appears to the City that the costs of processing a petition for a CID will exceed \$2,500.00, including but not limited to the hiring of third party consultants, then the City may also require the applicant to enter into a funding agreement with the City, whereby the applicant agrees to finance the City's actual costs of processing the application requesting a CID.

#### **7.4 CID PROCEDURE**

7.4.1 Upon receipt of an application requesting a CID, City Staff will conduct a preliminary review of the petition to ensure that it meets all requirements of the Act and to ensure that it meets the requirements of this policy. If it does not, City Staff will communicate that fact to the petitioner.

7.4.2 If the petition meets the requirements of the Act and this policy, then the City will follow the procedures established by the Act, *see* K.S.A. 2015 Supp. 12-6a26, *et seq.*, and this Policy at Section 1.5, above.

#### **7.5 CID REVIEW CRITERIA**

7.5.1 The Governing Body may, at its discretion, create a CID if it finds that:

- (a) it is in the best interest of the City to do so;
- (b) the petition seeking the CID complies with the Act and the City's policy, as set forth in this Resolution; and
- (c) the petition seeking the CID meets one or more of the following goals:
  - (i) The proposed project will attract unique commercial, office, industrial, and/or mixed use development that will enhance the economic climate of the City and diversify its economic base.
  - (ii) The proposed project will encourage retail projects that enhance the retail base, either by attracting new sales or by capturing sales that are leaking to other markets.
  - (iii) The proposed project will create facilities that promote the cultural, historical, or artistic elements of the City or region, will encourage tourism, and will enhance the quality of life.
  - (iv) The proposed project will assist in the development of infrastructure and new real property beyond that which the City can require to be developed or that which would otherwise be developed.

7.5.2 No CID petition that seeks financing through the issuance of special obligation bonds shall be granted unless the petitioner demonstrates that the CID sales tax expected to be generated will be sufficient to provide a debt coverage factor of at least 1.25 times the expected debt service on the special obligation bonds. Debt service coverage greater than 1.25 times the projected debt service on the special obligation bonds may be necessary to market bonds that are limited to public offerings. The City may, at its discretion permit a debt coverage factor of less than 1.25 for developer or bank purchased bonds.

7.5.3 It is the policy of the City to view more favorably those projects where the petitioner uses equity or private financing to finance in excess of 15% of the total CID eligible expenses.

7.5.4 If the proposed CID includes any residential dwelling units, then the project must comply with the City's policy regarding economic development incentives and affordable housing as set forth in Section 1.8.3, supra.

## **7.6 CID FINAL DECISION**

7.6.1 After reviewing the recommendation of PIRC, considering the criteria set forth in the preceding section, and the goals and objectives of this policy, the Governing Body shall have the discretion to approve the petition for a CID or to disapprove the petition for a CID.

7.6.2 If the Governing Body approves the petition, the petitioner shall, in accordance with Section 1.6 of this Policy, execute a Performance Agreement.

7.6.3 The decision of the Governing Body shall be the final decision of the City.

## **7.7 CID METHODS OF FINANCING**

7.7.1 The City may finance a CID in one or more of the following ways:

- (a) The petitioner pays for all costs of development ("pay-as-you-go financing"), and then is later reimbursed by the City for certain public improvement costs, from CID revenues generated from special assessments levied and collected within the CID, from CID sales tax collected within the CID sales tax district, or from both.
- (b) The City issues Special Obligation bonds financing the CID, where the bonds are made payable through the pledge of revenues to be generated from special assessments levied and collected within the CID.
- (c) The City issues a Special Obligation bond financing the CID, where the bonds are made payable, in part, through a pledge of special assessments levied and collected within the CID and, in part, through a pledge of CID sales tax collected within the CID sales tax district.

- 7.7.2 Any CID sales tax district that is created as the financing mechanism or as part of the financing mechanism of a CID shall comply with the requirements of the Act.
- 7.7.3 The City will not provide credit enhancements for Special Obligation bonds. However, it is the policy of the City to view favorably any credit enhancement for Special Obligation bonds provided by the petitioner.
- 7.7.4 The City highly encourages and it is the policy of the City to give preference to private financing of improvements.
- 7.7.5 In accordance with section 1.8.7, above, the City shall not issue General Obligation bonds for CID-eligible costs. However, the City may, at the discretion of the Governing Body, consider the issuance of General Obligation bonds for City-approved public improvements if it deems it appropriate.
- 7.7.6 Although the petitioner must set forth the proposed method of financing in the petition seeking the creation of a CID, the City reserves right to determine the method of financing for any CID that it creates.

**7.8 CID REVENUES**

- 7.8.1 Any special obligation bonds issued by the City may be made payable, both as to principal and interest, from those sources or a pledge of those sources listed at K.S.A. 2015 Supp. 12-17,147, as amended.
- 7.8.2 The Performance Agreement required by Section 1.6 and Section 7.6.2 shall set forth the amount to be reimbursed for eligible redevelopment costs, the method by which CID revenues shall be used to reimburse the applicant for eligible CID costs the term, not to exceed 20 years, for which such reimbursements will be made, and the parties' attendant rights and obligations thereunder.

**7.9 CID CAPS**

- 7.9.1 When it creates any CID, the City shall also establish a maximum dollar amount of CID revenue that may be reimbursed to the petitioner(s) ("CID Cap"). It is the policy of the City that the amount of the CID Cap will be the funding gap identified in the "but for" analysis provided by the petitioner(s). Once the CID Cap has been reimbursed to the petitioner(s), then any CID sales tax shall cease and no more special assessments will be levied or collected, regardless of the term of the CID.
- 7.9.2 The City recognizes that the term and the method of financing shall vary from project to project. It is the policy of the City that neither the CID Cap nor the term of the CID shall exceed the funding gap identified in the "but for" analysis provided by the petitioner(s).

**7.10 CID ADMINISTRATIVE SERVICE FEES**

- 7.10.1 For all projects involving “pay-as-you-go” financing and reimbursement through the assessment of CID sales tax collected with the CID sales tax district, it is the policy of the City to negotiate any annual administrative fee between the City and the petitioner to cover the City’s administrative costs.
- 7.10.2 For all other projects, the petitioner shall pay 0.5% of the funds reimbursed to the petitioner, or any successor in interest, each year for the life of the CID to cover the City’s administrative costs.
- 7.10.3 All administrative costs paid by the petitioner(s) may be deemed costs of the project, to the extent such is permitted by the Act and is approved by the Governing Body.

**7.11 CID SIGNAGE**

Upon establishment of a CID sales tax district, each business within the CID sales tax district shall display prominently at each public entrance, for the duration of time that the CID sales tax is collected, a sign that contains, at a minimum, the following: “This project made possible by Transportation Development District Financing. Additional Community Improvement District sales tax of \_\_\_% collected here.” The sign shall be a minimum size of 8.5 inches by 11 inches. The font size of the printed message shall be at least 30 pt.

**7.12 CID AND COMPLIANCE**

To ensure compliance with the Performance Agreement and any other condition of approval of the CID established by the Governing Body, the applicant shall comply with the provisions of Section 1.7, *supra*.

**7.13 CID GENERAL POLICY STATEMENTS**

The General Policy Statements set forth in Part I of this Policy shall apply, where relevant, to all applications for CID.