

CITY OF LEAWOOD GOVERNING BODY MEETING AGENDA

Council Chamber
4800 Town Center Drive
Leawood, KS 66211

GOVERNING BODY WORK SESSION

Monday, August 3, 2020 6:00 P.M.

(This agenda is subject to changes, additions or deletions at the discretion of the City Council)

**Mayor Peggy
Dunn**

Councilmembers

<u>Ward One</u>	<u>Ward Two</u>	<u>Ward Three</u>	<u>Ward Four</u>
Debra Filla Andrew Osman	Jim Rawlings Mary Larson	Chuck Sipple Lisa Harrison	Julie Cain James Azeltine

Review the City's Economic Development Policies

To reduce the likelihood of the spread of COVID-19 the Leawood Governing Body Work Session is being conducted remotely using the Zoom media format and some of the members of the Governing Body may appear remotely. Public comments will not be accepted during this meeting. City Hall is closed to public access during this meeting, however, the meeting will be livestreamed on YouTube and the public can access the livestream by clicking on www.leawood.org.

ADJOURN

(This agenda is subject to changes, additions or deletions at the discretion of the City Council)

Regular meetings of the Leawood City Council are held the first and third Mondays of each month beginning at 7:30 PM. Copies of the agenda are available at the Office of the City Clerk on the Friday prior to the meeting. Leawood operates under a Council/Mayor form of government, with a separately elected mayor and 8 council persons. Council members are elected on a non-partisan basis from 4 wards. The Council develops policies and provides direction for the professional city administration.

If you require any accommodation (i.e. qualified interpreter, hearing assistance, etc.) in order to attend this meeting, please notify this office at 913.339.6700 or at CityClerk@leawood.org no later than 96 hours prior to the scheduled commencement of the meeting.

APPENDICES



- **Industrial Revenue Bonds, 1982 (Resolution #598)**
- **Commercial Tax Increment Financed Projects, 1996 (Resolution #1317)**
- **Special Benefit District Assessment Policy (Resolution #3761)**
- **Transportation Development District Policy (Included in the Debt Management Policy)**
- **Community Improvement District Policy (Resolution #4570)**



Resolution No. 598- Industrial Revenue Bonds (1982)

A RESOLUTION ESTABLISHING A POLICY FOR CONSIDERING AND ISSUING
INDUSTRIAL REVENUE BONDS.

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

WHEREAS, the Governing Body is authorized by Kansas law to issue industrial revenue bonds to further that objective; and

WHEREAS, the consideration and issuance of industrial revenue bonds is a complex legal and administrative matter requiring clear direction from the Governing Body.

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

SECTION 1. INDUSTRIAL REVENUE BOND POLICY. It shall be the policy of the City to consider requests from qualified applicants to issue Industrial revenue bonds for purposes allowed by law and to issue such bonds when, in the opinion of the Governing Body, it is in the best interest of the City to do so, and providing that the proposed use and applicant therefore meet the criteria set forth in this policy.

SECTION 2. INDUSTRIAL REVENUE BOND OBJECTIVES. In reviewing requests to issue industrial revenue bonds, the Governing Body shall be guided by whether such an issue would help the City achieve the following objectives:

- a. Attract firms and businesses, which will substantially enhance the economic climate of the City and increase or maintain the job market therein.
- b. Promote Leawood as a center for Institutional or Corporate Headquarters and Regional Offices for major local, regional, and national firms.

SECTION 3. REVIEW CRITERIA. The following criteria will be used by the Governing Body to judge the desirability and feasibility of proposals:

- a. Industrial revenue bonds will be discouraged when the effect would be to grant the applicant an unfair advantage within the local market structure.
- b. Consideration will be given to proposals for the construction or rejuvenation of shopping center developments, but will not be given to individual retail establishments.
- c. The proposed use must be clean, in keeping with the character of Leawood, non-polluting, and consistent with all planning and community development policies, ordinances, and codes.



- d. The proposed use must have a positive Impact on the community and not threaten public facilities, streets, or other public Improvements.
- e. The applicant must have a sound financial base Indicated by a Dun and Bradstreet rating or other Index of financial strength, and show that the bonds will be marketable either by producing evidence that they will be underwritten by a registered securities dealer or will be sold in a private sale.

SECTION 4. APPROVAL. CONDITIONS. Prior to approval for issuance of industrial revenue bonds, the Governing Body must be satisfied that the objectives and criteria for review established in this policy have been met. Further, all proposals approved shall be subject to the following conditions:

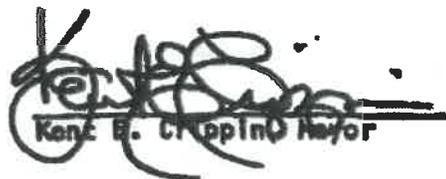
- a. There will be no tax abatement during the term of the bonds. The project is subject to all appropriate property tax levies during the term of the bonds. Lessee shall agree to pay all utility connections, user and service charges.
- b. The applicant shall pay to the City at the prescribed time a service fee of \$1,500 per million dollars of Issue or \$1,500, whichever is greater, the first year of the issue and \$1,500 per year for the remaining years of the repayment period to cover administration and other City costs. Such service fee shall be In addition to any payment by the applicant to reimburse the City for costs associated with the review of the proposal as outlined in Section 4(g).
- c. Industrial revenue bonds may be used to finance the purchase of land, land improvements, and production related machinery and/or equipment with an asset life span at least equal to the term of the lease. Industrial revenue bonds will not be used to finance the purchase of personal property, except production related machinery and/or equipment, as defined in K.S.A. 79—102, as amended.
- d. The City will carefully examine the bond repayment schedule and will require that the applicant have at least 20 percent unreserved equity in the project. Equity participation does not include professional or consulting fees.
- e. Industrial revenue bonds will not be used to refinance existing debt. This does not include the payment of an existing mortgage on real estate In order to purchase it for the proposed project.
- f. The applicant must occupy 80 percent of the facility's usable floor area unless specific arrangements to the contrary are approved by the Governing Body. Such arrangements would include commitments to purchase or lease space. For applications involving two or more applicants, one of the applicants must occupy 80 percent of the facility's usable floor area.



- g. The applicant must agree to and reimburse the City for costs of any legal, financial, or administrative research or work done in reviewing the proposal, writing the leases and other necessary legal documents, and researching the qualification and financial soundness of the proposal and applicant, as well as any costs associated with presentation of the notice of bond sale with the Kansas Board of Tax Appeals as required by law. The City bond counsel will prepare related documents. The City or its designee will perform a financial evaluation of the applicant.
- h. The applicant agrees to immediate annexation of the property involved if it is not within the City's corporate limits. In addition, the applicant shall comply with all laws of the City zoning and building regulations.
- i. The City will request a Sales Tax Exemption Certificate for the project under conditions established by the State of Kansas.
- j. The Resolution of Intent shall be effective for a period of one year from date of issue. An extension may be granted by the Governing Body. The applicant is responsible for all related costs if the bonds are not issued.
- k. An Industrial revenue bond application must be submitted at least twenty (20) days in advance of the Governing Body's consideration of any such proposal.

SECTION 5. AUTHORITY OF GOVERNING BODY. The Governing Body, by its inherent authority, reserves the right to reject any proposal for issuance of industrial revenue bonds when it considers such action to be in the best interest of the City.

Adopted this 7th day of September 1982.



Kent E. Crapping Mayor

ATTEST:

/S/ J. Oberlander
J. Oberlander, City Clerk

APPROVED AS TO FORM:

/S/ Larry Winn, III
Larry Winn, III, City Attorney



II. NATURE OF IMPROVEMENTS

Industrial revenue bonds may be used to finance the purchase of land, land Improvements, and production related machinery and/or equipment with an asset life span at least equal to the term of the lease. Industrial revenue bonds will not be used to finance the purchase of personal property, except production related machinery and/or equipment, as defined in K.S.A. 79—102, as amended.

- 1. Amount requested for purchase of land: \$ _____
- 2. Amount requested for land Improvements (bldgs.) \$ _____
- 3. Amount requested for machinery and equipment _____
- 4. Is the proposed project an expansion or replacement of another existing facility? _____
- 5. Is the applicant presently located in the City of Leawood? _____

III. PROPOSED USE

- 1. Location of proposed facility _____
- 2. Current zoning district of proposed location _____
- 3. What business is proposed by the applicant? _____
- 4. List products or services to be rendered

- 5. Will the applicant be in direct competition with other local firms? _____
- 6. The applicant must occupy 80 percent of the facility’s usable floor space unless specific arrangements to the contrary are approved by the Governing Body. Such arrangements would include commitments to purchase or lease space. For application involving two or more applicants, one of the applicants must occupy 80 percent of the facility’s usable floor space. What percent of usable floor space will be occupied by the applicant?

Remarks:

IV. OWNERSHIP AND MANAGEMENT

- 1. Describe the organizational structure of the firm (proprietorship, partnership, subsidiary, corporation, etc.)



Note relationship to parent company

V. FINANCIAL RESPONSIBILITY

1. How many years has the applicant been in business?
2. What is the equity the proposed applicant is to have in the project?
3. Describe the form of the equity: _____
4. What is the applicant firm’s Dun & Bradstreet rating? _____
5. Will the applicant pledge any other assets to secure the revenue bonds? If so, please explain:

VI. MEASURE OF ECONOMIC GROWTH AND BENEFIT

1. What percentage of sales will be sold locally? _____
2. What is the estimated amount of merchandise and services purchased locally, per year?

3. How many people will the project employ? _____

VII. GENERAL CONDITIONS

The following conditions are understood and agreed to pursuant to Resolution No. 598.

1. There will be no tax abatement during the term of the bonds. The property is subject to all appropriate property tax levies during the term of the bonds. Lessee shall agree to pay all utility connections, user and service charges.
2. The applicant shall pay to the City at the prescribed time a service fee of \$1,500 per million dollars of issue or \$1,500, whichever is greater, the first year of the Issue and \$1,500 per year for the remaining years of the repayment period to cover administration and other City costs. Such service fee shall be in addition to any payment by the applicant to reimburse the City for costs associated with the review of the proposal.
3. Industrial revenue bonds will not be used to refinance existing debt. This does not include the payment of an existing mortgage on real estate in order to purchase it for the proposed project.



4. The applicant must agree to and reimburse the City for the cost of any legal, financial, or administrative research or work done in reviewing the proposal, writing the leases and other necessary legal documents and researching the qualifications and financial soundness of the proposal and applicant as well as any costs associated with presentation of the notice of bond sale with the Kansas Securities Commissioner as required by law. The City bond counsel will perform a financial evaluation of the applicant.
5. The applicant agrees to immediate annexation of the property Involved If It is not within the City's corporate limits. In addition, the applicant shall comply with all laws of the City and all requirements established by the City as stated in zoning and building regulations.
6. The City will request a Sales Tax Exemption Certificate for the project under conditions established by the State of Kansas.
7. The Resolution of Intent shall be effective for a period of one year from date of Issue. An extension may be granted by the Governing Body. The applicant is responsible for all related costs if the bonds are not issued.

VIII. REVIEW PROCESS

1. In order to facilitate the timely processing of the application, please attach as part of the proposal the following Items:
 - a. Copy of the firm's financial audits for the past two years.
 - b. Firm's most recent annual financial report.
 - c. Interim financial statements, to date, for the current fiscal year.
2. An Industrial revenue bond application must be submitted at least twenty (20) days in advance of the Governing Body's consideration of any proposal.

Signature

Title

Date

**Resolution No. 1317 – Commercial Tax Increment Financed Projects, 1996**

A RESOLUTION ESTABLISHING A POLICY FOR CONSIDERING AND APPROVING COMMERCIAL TAX INCREMENT FINANCED PROJECTS.

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

WHEREAS, the Governing Body is authorized by Kansas law (K.S.A. 12-1770 et seq.) to issue special obligation bonds for the financing of redevelopment projects; and

WHEREAS, the consideration and approval of tax increment financed projects is a complex legal and administrative matter requiring clear direction for the Governing Body;

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

SECTION 1. COMMERCIAL TAX INCREMENT FINANCING POLICY

It shall be the policy of the City to consider requests from qualified applicants to approve tax increment financing for purposes allowed by law and to approve such financing when, in the opinion of the Governing Body, it is in the best interest of the City to do so, and providing that the proposed use and applicant meet the criteria set forth in this policy.

This policy authorizes the City to issue special obligation bonds for the financing of redevelopment projects. Any tax increment as defined by K.S.A. 12-1770 et seq. resulting from a redevelopment district undertaken in accordance with this policy shall be apportioned to a special fund for the payment of the cost of redevelopment project, including the payment of principal and interest on said special obligation bonds.

Any financial risk involved in a tax increment financed project authorized under this policy will be the sole responsibility of the applicant, not the City of Leawood. No general obligations of the City, including full faith and credit tax increment bonds authorized under K.S.A. 12-1770 et seq., shall be considered as part of this policy.

SECTION 2. TAX INCREMENT FINANCING OBJECTIVES.

In reviewing requests to approve commercial tax increment financed projects, the Governing Body shall be guided by whether such a project will substantially meet the challenges outlined within the City of Leawood's Economic Development Strategic Plan, including:

- a) Preserve the City's unique character and distinctive atmosphere
- b) Insure the diversity of the City's economic base
- c) Lessen the City's dependence on property tax as a revenue source



- d) Revitalize the City's existing business climate

SECTION 3. REVIEW CRITERIA

The following criteria will be used by the Governing Body to judge the desirability and feasibility of proposals:

- a) Tax increment financing will be discouraged when the effect would be to grant the applicant an unfair advantage within the local market structure.
- b) Consideration will be given to projects that promote Leawood as a center for major local, regional and national firms.
- c) The proposed use must be in keeping with the character of Leawood, complementing the City's high standards and quality of life, non-polluting and consistent with all planning and development requirements, policies, ordinances and codes.
- d) The proposed use must have a positive impact on the community and not threaten public facilities, streets or other public improvements.
- e) Consideration will be given to redevelopment projects in areas zoned CP-1, CP-2 and/or PI. Proposed projects must promote property investment and urban renewal within existing commercial developments.

SECTION 4. APPROVAL CONDITIONS

Prior to the approval of tax increment financing, the Governing Body must be satisfied that the objectives and criteria for review established in the policy have been met. Further, all proposals shall be subject to the following conditions:

- a) The proceeds of special obligation bonds issued under this policy may be used implement the redevelopment plan as outlined in the K.S.A. 12-1773(b) and amendments thereto. As defined by law, none of the proceeds from the sale of such bonds that shall be used for the construction of buildings or other structures to be owned by the applicant.
- b) Any special obligation bond issued under this policy will utilize a maturity schedule payable over a period as short as financially practical.
- c) With regard to any special obligation bond issued under this policy, if the bond is offered to the public, an investment grade rating must be assigned to the issue; if the bond is privately placed, it may be issued without a rating, but must be sold to an accredited investor as that term is defined by securities industry standards.



- d) As outlined in K.S.A. 12-1774, should the City issue a special obligation bond to finance the undertaking of a redevelopment project in accordance with state law and this policy, such special obligation bonds shall be made payable, both as to principal and interest, from:
- i.) Property tax increment allocated to and paid into a special fund of the city;
 - ii.) Revenues of the City derived from or held in connection with the undertaking and carrying out the redevelopment project;
 - iii.) Any private sources, contributions or financial assistance from the state or federal government;
 - iv.) A pledge of a portion or all increased revenue received by the city from franchise fees collected from utilities and other businesses using public right-of-way within the development district;
 - v.) A pledge or portion or all of the revenue received by the City from sales taxes;
 - vi.) Or any combination of these methods.
- e) Should the annual increment fall short of the amount necessary to pay the principal and interest of the special obligation bonds issued under this policy, the remaining amount payable is the responsibility of the applicant, not the City.
- f) Annual monitoring to insure that the criteria for review established in this policy continue to be met will be required. Should monitoring indicate that the criteria established in this policy are not being met, the tax increment financing of the project will default and the repayment of the special obligation bond will become the responsibility of the applicant.
- g) The applicant shall pay to the Leawood Economic Development Council an economic development fee equal to ten percent (10%) of the tax increment for the first two years of the TIF project.
- Said fee will be required in lieu of a performance bond to insure the successfulness of the project. Should the developer cease to operate and/or abandon the project, said funds will be used to assist in redeveloping the property.
- h) The applicant must agree to and reimburse the City for all costs related to the issuing of the bond, including any legal, financial or administrative research, any costs related to the feasibility study required by Kansas law, and work done in reviewing the proposal, writing the leases or other necessary documents and researching the qualification and financial soundness of the proposal and



application, as well as any costs associated with presentation of the notice of bond also with the Kansas Board of Tax Appeals are required by law. The city's Bond Counsel will prepare related documents. The city or its designee will perform a financial evaluation of the application.

- i) The applicant shall comply with all laws of the City as well as zoning and building regulations.
- j) The City will request a Sales Tax Exemption Certificate for the project under conditions established by the State of Kansas.
- k) The Resolution of Internet shall be effective for a period of one year from the date of issue. An extension may be granted by the Governing Body. The Applicant is responsible for all related costs if the bonds are not issued.
- l) An application for a tax increment financed project must be submitted at least twenty (20) days in advance of the Governing Body's consideration of such proposal.

SECTION 5. AUTHORITY OF GOVERNING BODY.

The Governing Body, by its inherent authority, reserves the right to reject any tax increment financing proposal when it considers such action to be in the best interest of the City.

Passed by the Governing Body this, the 5th day of August, 1996.

Approved by the Mayor this, the 5th day of August 1996.

(SEAL)

/S/ Marcia Rinehart
Marcia Rinehart, Mayor

Attest:

/S/ Martha Heizer
Martha Heizer, City Clerk



Special Benefit District Assessment Policy

OBJECTIVES

- To provide for public improvements such as streets, stormwater management, etc., associated with the real estate development within the City through the use of Special Benefit District Assessment financing for projects with 100% of the property owners requesting the district to be formed.
- To provide adequate assurance to the City for the repayment of any bonds issued for the benefit district property.

SCOPE

Property owner or developer wishing to seek financial help from the City to develop within the City.

PROVISIONS

Following Governing Body approval of the Final Development Plan for a proposed project, the City of Leawood may facilitate new development by providing for the installation of public improvements upon submission of a valid petition (approved by City staff) of the requisite property owners, the required financial commitment, and acceptance by the Governing Body as required by law. Said commitment is considered to be provided whenever the City has been furnished by all requisite property owners with a financial guarantee (irrevocable Letter of Credit in such form and by such issuer to be acceptable to the City) equal to 35% of the estimated total cost of the improvements in the Benefit District or equal to five [5] years of estimated principal and interest payments, whichever is greater on any long term debt issued under K.S.A. § 12-6(a)01 et seq.

The acceptance of Letters of Credit will be that the issuing Bank for a Letter of Credit must be rated with at least three stars by Bankrate.com. The Letter of Credit must then be confirmed from the Federal Home Loan Bank of either Kansas or Missouri.

The issuance of Special Benefit District debt will be considered only for projects when the estimated cost of improvements totals \$1.0 million or more.

The required funding or financial guarantee shall be provided prior to the City approving any benefit district by resolution of intent or by resolution authorizing the improvement. At the time any bonds are issued, if the actual cost is less than the estimated cost, then the financial guarantee may be reduced accordingly. The financial guarantee shall be applied annually to satisfy the principal and interest costs of bonded public improvements of the District should any applicable special assessments not be paid when due.

The financial guarantee may be released upon request of the developer when certificates of occupancy are issued for at least 35% of the square footage of the most recent final development plan approved by the City Council. The City Council, by resolution, may release or reduce the funding or financial guarantee after five [5] consecutive years of timely payments of all property taxes and/or special assessments imposed within the approved Benefit District.



Special Benefit District Assessment financing will not be approved if the petitioner(s) has a financial interest in an existing development that has delinquent property taxes and/or special assessments.

Installation of public improvements with special assessment financing may be authorized by the Governing Body without a financial commitment when deemed to be in the public interest and when one or more of the following conditions exist:

1. Improvements are initiated by action of the Governing Body [and not by petition].
2. The majority of land in the Benefit District is in public ownership.
3. The Benefit District is in multiple ownership and a majority of the land therein is developed with residences or other municipal buildings.

Pursuant to the City's Debt Policy, the Special Benefit District Debt will be financed with a 10-year level payment amortization term, however, upon approval by the Governing Body, Benefit District debt may be extended up to a 15-year term. In no event will Special Benefit District debt be issued when the cost of the improvements to be financed is less than \$1 million.

In general, all public improvement projects associated with any approved Special Benefit District [SBD] will be bid by the Public Works Department and administered by the City.

If a funding or financial guarantee must be drawn upon to pay any delinquent special assessment(s), then such amount drawn will be applied to any parcel(s) in the approved Benefit District that have not made a timely payment, in accordance with the Johnson County Treasurer's Office. If the funding or financial guarantee amount is insufficient to cover the total delinquencies in the approved Benefit District, then the amount will be applied on a prorated basis and recertified to the County.

PROCEDURES

Petition form and petition instruction are attached hereto and made a part of the Policy Statement.

RESPONSIBILITY FOR ENFORCEMENT

The City Administrator shall be responsible to the Governing Body for the enforcement of the Special Assessment Policy. The Finance Director shall assist in the implementation of this Policy.

REFERENCES

Adopted by Resolution No. 694 [03-18-1985]
Revised by Resolution No. 1518 [04-03-2000]
Revised by Resolution No. 1615 [06-18-2001]
Revised by Resolution No. 2072 [09-02-2003]
Revised by Resolution No. 2222 [05-03-2004]
Revised by Resolution No. 2299 [10-18-2004]
Revised by Resolution No. 3257 [09-08-2009]
Revised by Resolution No. 3761 [03-05-2012]



Transportation Development Districts

The policy regarding Transportation Development Districts [TDD] is addressed in the City's Debt Management Policy. The sections relating to TDD debt issuance is reflected below. For more information, please see the section titled "Debt Management Policy" in this document.

Section 11: Transportation Development Districts. The formation of a Transportation Development District [TDD] will be considered by the Governing Body on a case by case basis. The Governing Body will only consider pay-as-you-go [PAYGO] financing funded through a sales tax and/or special property tax assessment. However, bonded indebtedness may be considered by the Governing Body in the case of burying or relocating utility lines. A TDD Project will be initiated by petition pursuant to the TDD Act. The Developer shall comply with all of the statutory requirements of a TDD project. The Developer shall also be responsible for providing a description of the improvements to be financed, a timetable for such improvements to be completed and an itemized listing and estimated total cost of said improvements with the TDD petition. The Governing Body reserves the right to approve any or part of any petition submitted including which costs may be reimbursed, provided, however that in no event shall interest costs be subject to reimbursement from TDD revenues on a pay-as-you-go project. All costs subject to reimbursement from TDD proceeds shall be certified by the City and/or an outside consultant retained by the City prior to any reimbursement payment being made.

Section 17: Length of Debt. Debt will be structured for the shortest period consistent with a fair allocation of costs to current and future beneficiaries or users (Guidelines: - 15 years for General Obligations Debt; 20 years for land, parks and buildings; and 15 to 20 years for Revenue Bonds). Benefit District Debt has a 10 year length; however, upon special approval by the Governing Body, benefit district debt may be extended up to a 15 year term. Transportation Development District [TDD] has a 10-year length however, upon special approval by the Governing Body; this debt may be extended up to a maximum of 22 years, in accordance with Kansas State Statute. The term will commence with the imposition of the tax.

The City's Debt Management Policy,

REFERENCES:

Adopted by Resolution No. 1518 [April 3, 2000]
Revised by Resolution No. 2221 [May 3, 2004]
Revised by Resolution No. 2789 [May 5, 2007]
Revised by Resolution No. 3334 [February 1, 2010]
Revised by Resolution No. 3553 [March 7, 2011]
Revised by Resolution No. 3931 [November 19, 2012]
Revised by Resolution No. 4173 [February 17, 2014]



Community Improvement District Policy

RESOLUTION NO. 4570

A RESOLUTION AMENDING THE CITY OF LEAWOOD'S COMMUNITY IMPROVEMENT DISTRICT ["CID"] POLICY AND REPEALING RESOLUTION NO. 3930.

WHEREAS, the Kansas Community Improvement District Act, K.S.A. 12-6a26 et seq. [the "Act"] authorizes the governing body of any city to create community improvement districts ("Improvement Districts" or "CIDs") to enable public financing of all or a portion of certain projects or infrastructure improvements in order to encourage and promote economic development, tourism and community investment within a CID; and

WHEREAS, the Act further authorizes governing bodies, in order to pay the costs of such Projects (as defined herein), to impose a sales tax over and above the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, on the selling of tangible personal property at retail or rendering or furnishing services within Improvement Districts in any increment of .10% or .25%, not to exceed 2.0%, to levy special assessments upon property within such Improvement Districts, to issue special and or general obligation revenue bonds payable from such CID sales taxes and/or special assessments, or to reimburse the cost of the Project pursuant to Pay-As-You-Go financing (collectively, "CID Financing").

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

Section 1. Objectives.

The primary objective of this policy is to establish CID guidelines to enable public financing of all or a portion of a Project. A Project should provide a benefit to the public, strengthen economic development, reduce blight, or upgrade older real estate through exterior redevelopment or rehabilitation. Public financing



may be achieved by levying and collecting a sales tax in any increment of .10% or .25%, not to exceed 1.0% (“CID Sales Tax”).

Section 2. Scope.

This policy will apply when an owner or developer of land (“Petitioner”) submits a proper petition (“CID Petition”) and application to create a CID and/or utilize CID financing to fund approved Projects. The authority and decision to approve a CID Petition is within the sole discretion of the Governing Body. This policy is intended to provide guidelines only, and the Governing Body reserves its right to deviate from this Policy when it deems it to be in the best interest of the City.

The City of Leawood may consider establishment of CIDs, when the Governing Body deems it appropriate for certain Projects. In such case, Projects shall be financed by a CID Sales Tax on the sale of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas Retailers’ Sales Tax Act, and amendments thereto, within the CID. The City, in accordance with the Act and in addition to and notwithstanding any limitations on the aggregate amount of the retailers’ sales tax contained in K.S.A. 12-187 through 12-197, may, at its sole discretion, levy a CID Sales Tax within the CID area, all of which may be pledged for pay-as-you-go financing of the verified costs of approved Projects.

Section 3. Definitions.

“Cost” means the definition set out in K.S.A. 12-6a27(f) as amended except as further set forth in this policy. The term Cost does not include: (a) costs incurred prior to CID establishment, (b) a developer’s attorney’s fees, financial advisor fees, real estate commissions, developer fees and fees paid to consultants representing developers, and (c) interest costs. The term “Cost” may include engineering and architectural fees, environmental and geotechnical consultant fees and other similar due diligence expenses associated with a Project. Costs approved for reimbursement associated with an established CID must be as approved by the Governing Body in a development agreement entered into by and between the Petitioners and the City.

“Pay-As-You-Go” means a method of financing in which the costs of a Project are financed without notes or bonds, and the approved and verified costs of a Project are reimbursed after Project completion or



completion of a phase of the Project as monies are deposited in the CID Fund (defined herein), all as approved by the Governing Body in an agreement between the Petitioner and the City [Development Agreement].

“Project” may include projects deemed eligible under this policy and that are otherwise eligible under the Act. The City reserves the right to exclude otherwise eligible Projects under the Act; determine eligible and ineligible projects, and determine the amount of funding for a Project on a case by case basis.

Section 4. Criteria.

The Governing Body may consider establishment of a CID when it determines it is in the City’s best interest and provided that it meets one or more of the following criteria:

1. The Project would attract and promote mixed use development.
2. The CID area has unique site constraints making development more difficult and costly.
3. The Project would substantially promote economic development.
4. The Project would incorporate higher standards for the design and construction of improvements than the minimum requirements under the Leawood Development Ordinance.
5. The Project encourages redevelopment, renovation or rehabilitation of commercial properties.
6. The Project incorporates the construction of public infrastructure.

Section 5. Project Eligibility.

The City of Leawood has determined that CID Financing is appropriate for redevelopment or renovation of existing developments that were built at least twenty (20) years prior to the date of the petition. The 20 year period shall be measured from the date of the first building permit issued for building construction in the development. The following Projects pertaining to such developments, if otherwise qualified under the Act, may be eligible for CID Financing under this policy:

A. Projects within the CID area to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, restore, replace, renew, repair, install, relocate, furnish, equip or extend:

1. The exterior of buildings, structures, marquees and facilities;
2. Sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, tunnels, traffic signs and signals, utilities, pedestrian or bicycle amenities, public transit options, drainage systems, water systems, storm systems, sewer systems, lift stations, underground gas, and water mains and extensions;
3. Parking garages;
4. Streetscape, exterior lighting, street light fixtures, street light connections, street light facilities, and exterior benches, walls and barriers;
5. Parks, lawns, trees and other landscape;
6. Awnings and canopies;
7. Bus stops and other outdoor shelters; and



8. Outdoor cultural amenities, including but not limited to, sculptures and fountains.
- B. Within the District, to operate or to contract for the provision of parking lots or garages.
- C. The following project types are not eligible for CID financing:
 1. Roof installation, maintenance or repair;
 2. HVAC installation, maintenance or repair; or
 3. General maintenance items.

Section 6. Procedure.

The City shall consider creation of a CID for improvements shown on an approved Preliminary Development Plan after receipt of a completed CID application and petition ("CID Petition) and a fee in the amount of \$500. The completed CID Petition and application will be reviewed by the City's staff, including the City Administrator, City Attorney and Finance Director.

A. Application.

At submission of the application to the City for establishment of a CID, the Petitioner shall also provide the following information:

1. Evidence in a form satisfactory to the City of the Petitioner's financial ability to complete the proposed project in a timely manner.
2. Documentation substantiating the Petitioner's sources of funding, including the amount/percentage of equity funding.
3. Submission of a pro forma with project feasibility analysis.
4. Payment of all required fees and compliance with all procedural requirements of the Act and the City's CID Policy.
5. Copy of approved Preliminary Development Plan.
6. Draft of a Development Agreement to be executed contemporaneous with establishment of the CID.

B. Application Process.

The City's staff will first review the application and any supplemental information requested by the City Administrator. The review will determine whether the proposed CID fulfills the criteria and objectives of this policy. If the City Administrator determines that the proposed CID meets the criteria and objectives of the policy, a Governing Body work session will be scheduled to review the CID application for preliminary consideration. If the application is favorably considered, then the Governing Body may direct staff to work with the applicant to prepare a formal petition and resolution to call a public hearing.

**C. Petition.**

The procedure for Governing Body consideration will be in compliance with the Act and this policy and shall meet the following minimum requirements:

1. **Petition Sufficiency.** It is a goal of the Council that the CID Petition be signed by the owners of 100% of the property within the proposed district. However, if the Petitioner submits evidence that 100% participation cannot be achieved due to extenuating circumstances then the Governing Body may, in its sole discretion, choose to accept the Petition with less than 100% participation. In no case shall the signatures submitted be less than a minimum of owners of more than fifty-five percent (55%) of the land area within the proposed district, and owners collectively owning more than fifty-five percent (55%) by assessed value of the land area within the proposed district as required by the Act.
2. **Petition Submittal Requirements.** The CID Petition must contain a description of the following:
 - a. The general nature of the Project;
 - b. The estimated cost of the Project, supplemented by a preliminary budget describing each element of the Project proposed to be paid for by CID Sales Tax;
 - c. The proposed method of financing the Project;
 - d. A statement that there will be no assessments;
 - e. The proposed amount of any CID sales tax; and
 - f. A map and legal description of the proposed District.
3. **Public Hearing Procedure.** The City may, at any time, request such additional information as it deems necessary and appropriate. The CID Petition and Resolution calling for a public hearing will be placed on a Governing Body agenda, after approval of a final development plan for the property [and may be heard on the same agenda].

After review of a completed CID Petition and accompanying information by the City staff, the Governing Body shall, by resolution, direct and order a public hearing on the advisability of creating such Improvement District and the construction of such Projects therein. Such resolution shall direct that notice of the hearing be given by publication at least once each week for two (2)



consecutive weeks in the official City Newspaper and by certified mail to all property owners within the proposed Improvement District, with the second publication to be at least seven (7) days prior to the hearing and such certified mail sent at least ten (10) days prior to such hearing. The notice of public hearing shall contain the following information:

1. The time and place of the hearing;
2. The general nature of the proposed Improvement Project;
3. The estimated cost of the proposed Improvement Project;
4. The proposed method of financing the costs of the Project;
5. The proposed amount of the CID Sales Tax;
6. Notation that there will be no assessments; and
7. A map and legal description of the proposed Improvement District.

A copy of the notice shall also be made available on the City's website.

4. **Governing Body Findings.** After the Public Hearing is conducted on the proposed CID, the Governing Body shall determine the advisability of creating an Improvement District in accordance with section 7 below, setting forth the boundaries thereof, authorizing the proposed Projects, approving the maximum Costs thereof and approving the method of financing the same. Such determinations will be made by adoption of an ordinance. Any approved CID Sales Tax will be approved by separate ordinance.

Section 7. Consideration.

The Governing Body shall review and evaluate each CID Petition on its merits which may include, but not be limited to the following factors:

1. The Petitioner's history of timely payment of property taxes.
2. Whether the CID meets the criteria stated herein.
3. The total development costs and investment, including estimated Project costs for which public financing and CID financing is sought;
4. Sources of funding, including the amount of equity funding in comparison to CID financing;
5. Similar experience and financial stability of developer or owner;
6. Whether or not tenants for the Project are in place and the nature and quality of the tenants;
7. Economic competition the Project has and is expected to have in the future;
8. The amount and purpose of the funding request, including the percentage of funding for capital costs and public infrastructure costs;
9. Strong consideration will be given to Projects which add to and diversify the Leawood tax base as well as Projects which would provide an extraordinary or particularly unique community-wide economic opportunity. Evaluation criteria to be used in determining economic benefit to the community shall include, but shall not be limited to, consideration of the amount of capital investment and a determination of whether the proposed Project enables



- the development and location of new products, services and amenities in the City rather than the relocation of existing City businesses.
10. The Governing Body will give strong consideration for a CID that will be located in a targeted area for economic development or redevelopment, has specific site constraints making development more difficult or costly, or is considered in need of rehabilitation in some way.
 11. The City may require higher standards for the design of improvements and materials used in making improvements within a CID. Preference will be given to businesses that practice sustainable design practices, including but not limited to, energy efficient construction, use of recycled materials, use of native and drought-resistant landscaping, and conservation of natural hydrological systems. The proposed use must be clean, nonpolluting and consistent with all City policies, ordinances, and codes. The Governing Body may require additional stipulations or revisions to the approved Final Development Plan.
 12. All Projects should be consistent with the City's Comprehensive Plan, street improvement plans, approved Preliminary Development Plans and any special established corridor plans. The City will consult these plans for consistency prior to the City approving any proposed CID. Preference will be given to Projects which enhance pedestrian, bicycle, or public transit options. If a Project requires a rezoning in addition to any rezoning required within the CID, the Petitioner shall demonstrate the Project's compatibility with land use, capital improvement, and other relevant plans of the City.
 13. Preference will be given to those projects which bring the existing development into compliance with the City's current Leawood Development Ordinance.

Section 8. Term.

The Governing Body shall review the financial feasibility of each CID and shall use this information in determining the appropriate term of the CID which may be less than the duration allowed by the Act. The CID Sales Tax shall expire on a date approved by the City, but no later than 22 years from the date the state Director of Taxation begins collecting such tax or when the pay-as-you-go costs have been paid, whichever comes first.

Section 9. Financing.

The cost of all or a portion of any approved and authorized Project shall be financed by pay-as-you-go financing based on CID Sales Tax within the Improvement District.

After review and prior to presentation of the CID Petition to the Governing Body, the staff will work with the Petitioner on a Development Agreement which shall be presented to the Governing Body for consideration, contemporaneous with the CID Petition. The Development Agreement must be executed prior to or simultaneously with the creation of the CID and shall address the recommended method of financing, approved Projects and approved Costs, the feasibility of the Project, and other terms the City deems appropriate.

**Section 10. Project Funds.**

A separate fund shall be created for each CID (“CID Fund”) and such fund shall be identified by a suitable title. CID sales Tax receipts shall be credited to such fund. The CID Fund shall be solely used to pay the approved and verified Costs of the Project. Reimbursement of approved Costs may only be made after a certificate of completion of the Project or phase of the Project has been issued by the City.

In the event moneys remain in the CID Fund after the expiration of the CID Sales Tax, such moneys shall continue to be used solely to pay the Cost of the Project. Upon payment of all Project Costs, the City has the authority to terminate the CID and spend any moneys remaining in such fund for the purposes which local sales tax receipts may be spent.

Section 11. Fees.

When submitting its application, the Petitioner shall pay a non-refundable application fee in the amount of \$500 to cover City expenses associated with reviewing and processing the CID Petition. The City may also require the Petitioner to submit a retainer or enter into a funding agreement to finance costs incurred by the City for additional legal, financial and/or planning consultants; for direct out-of-pocket expenses and for other costs relating to services rendered for the City to review, evaluate, process and consider the CID Petition.

The Petitioner shall also be responsible for paying an annual administrative fee to cover the cost of monitoring and administering the CID in an amount not to exceed 2.5% of the total approved amount of CID revenues received by the City from the State Department of Revenue each year which shall be deducted from the Project Funds each year.

Section 12. Criteria and Adjustments.

A. **Projected Payoff.** The total amount of CID assistance provided for projects will be based on the economic payoff expectations of the Project and the Project’s significance to the community. In general, the goal for Projects would be a 10-year payoff. Longer periods may be considered up to the maximum statutory payoff period of 22 years from creation of the Improvement District if a determination is made that the Project is of community-wide significance.



B. Developer Contribution & Cost Allocation. Each Petition should include evidence that the Petitioner or someone on Petitioner’s behalf will do the following:

1. Have the financial ability to complete and operate the Project,
2. Will meet at least one of the following private financing thresholds: (a) provide private financing of at least twenty-five percent (25%) of the total cost of the Project [exterior improvements]; or (b) provide private financing of at least fifty percent (50%) of all work being done on a redevelopment project, including interior renovation. Projects with equity or private financing contributions from the developer in excess of the percent required above will be viewed more favorably,

C. Project Completion. The City will require satisfactory assurance that the Project will be completed in a timely manner in accordance with the Development Agreement.

Section 13: Resolution no. 3930 is hereby repealed.

Section 14: This resolution shall become effective upon passage.

PASSED by the Governing Body this 15th day of February, 2016.

APPROVED by the Mayor this 15th day of February, 2016.

/s/ Peggy J. Dunn
Peggy J. Dunn, Mayor

[SEAL]

ATTEST:

/s/ Debra Harper
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

/s/ Patricia A. Bennett
Patricia A. Bennett, City Attorney

REFERENCES

Adopted by Resolution No. 3816 [06-04-2012]

Revised by Resolution No. 3930 [11-19-2012]

Revised by Resolution No. 4570 [02-15-2016]

Economic Development Tools Detailed Summary Matrix

Tool	Statutory Authority or Limitation	Revenue Basis				Maximum Duration	Structure (Bond, PayGo, Reimb.)	Restrictions (show blight, tourism, etc.)	Limits (within District, etc.)	Allowable Costs	Allowable Fees	Use With Other Tools Y/N	Authority, Permission & Actions (veto power; % of property owners)
		Prop Tax Y/N	Sales Y/N	Assessments Y/N	Fee Y/N								
Special Benefit District (SBD) - GO backed	12-6a01 et seq.	N	N	Y	N	max 20 years, but gen 10-15 yrs	Bonds - secured by City GO authority so City pays assessments if not paid by owner until the property is foreclosed upon. Very favorable rate.	must be a public improvement City holds contract with engineer and contractor.	public improvements in definable area benefitted by the improvements	publicly owned improvements - generally streets, public parking lots and stormwater improvements	fee not to exceed 5% of total improvement cost or amount to reimb City for its costs of admin and superv.	Y - combine with any other financing tool	no veto; petition requires 100% if not all property benefitted is included. Otherwise, City can "force" a district upon petition of 51% or more property owners
<u>City Resolution #3761 (2012)</u>				Y		10 years unless GB approves 15	Secured by financial guarantee = to 35% fo estimated total cost or 5 yrs of est. principal+interest payments	Projects bid by PW, administered by City; improvements more than \$1mil					100% property owners
Community Improvement District (CID) Financing	12-6a26 et seq.	Y	Y - up to 2% in increments of .10 or .25	Y	N	max 20 years for special assessments; CID sales tax expires 22 years from date state begins collecting	Bonds; reimb; paygo		Improvements must be within the CID - <u>except</u> "costs for infrastructure located outside the district but contiguous to any portion of the district and such infrastructure is related to a project within the district or substantially for the benefit of the district." (2014 addition)	wide range of capital improvements and operational costs including projects to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, and equip bldgs, structures, facilities, parking facilities, parks, airports, light rail and other mass transit; and a variety of infrastructure improvements; provide for cleaning, maintenance, security, childcare and other services; to promote tourism, recreational, cultural and special events; to support business activity and economic development, to provide support training programs for business employees; and to conduct economic impact, planning, marketing or other studies.	5% of total cost of project or cost to reimburse for admin and superv work by municipality's general officers	Y - combine with IRBs, TDDs or TIFs.	petition of 55% of land area within proposed CID and owners of more than 55% of assessed value of land area within proposed CID; or petition of 100% of owners if assessments only
<u>City Reso #4570 (2016)</u>			Y - up to 1% in increments of .10 or			10 year goal	PayGo	Redevelopment/renovation of existing developments built at least 20 years prior to petition date (show blight, tourism, etc.)	Specifically lists allowed and excluded projects	K.S.A. 12-6a27(f) + engin&arch fees, enviro/geotech consultant fees	\$500 fee + any other fees; also annual admin fee max 2.5%		100% unless extenuating circumstances (no less than 55%) - GB must address specific factors

Economic Development Tools Detailed Summary Matrix

Tool	Statutory Authority or Limitation	Revenue Basis				Maximum Duration	Structure (Bond, PayGo, Reimb.)	Restrictions (show blight, tourism, etc.)	Limits (within District, etc.)	Allowable Costs	Allowable Fees	Use With Other Tools Y/N	Authority, Permission & Actions (veto power; % of property owners)
		Prop Tax Y/N	Sales Y/N	Assessments Y/N	Fee Y/N								
Transportation Development District (TDD)	12-17,140 <i>et seq.</i>	Y	Y- up to 1% in increments of .10 or .25	Y	N	max 22 years	Bonds	Transportation related projects Follows procedures in 12-6a01 <i>et seq.</i>	improvements inside or outside the TDD	Bridge, street, road, highway access road, interchange or intersection improvements; signing; signalization; parking lot; mass transit facility improvements; rest area, water port; airport, railroad, streetscape or any other transportation related project or infrastructure, including utility relocation; sanitary and storm sewers; drainage conduits; channels and levees; street light fixtures; underground gas, water, heating and electrical services and connections within and outside row; sidewalks and pedestrian under and overpasses; water main extensions and facades to existing bldgs.	fee not to exceed 5% of total improvement cost or amount to reimb City for its costs of admin and superv.	Y - combine with IRBs, TIFs, SBD or CID's.	Petition of 100% of property owners (regardless of sales tax or assessments) Notice and public hearing if using sales tax
<u>City Reso #4173 (2014)</u>			Y	Y		10 yrs unless otherwise approved by GB up to 22 years	PayGo only - but bonding maybe if undergrounding						Same
Industrial Revenue Bonds (IRBs)	12-1740 <i>et seq.</i> and 12-3801 <i>et seq.</i>	N	N	N	N	no limit	Bonds - secured by lease payments and a pledge of the facility financed with bonds (can also include credit enhancements)	n/a	n/a	*facilities for agriculture, commercial, hospital, industrial, natural resources, recreational dev, and manuf.*	fee to cover admin. costs & origination fee to be used exclusively for eco devo	Y - TIFs; TDD's or CID's	no veto
Property Tax Abatement (with IRBs)	12-1740 <i>et seq.</i> ; 12-147-148	Y	N	N	N	10 years	Bonds	Apply "but for" test and cost/benefit analysis (city policy); execute PILOT Agmt [payment in lieu of tax]	abatement only applies to real and personal property acquired with bond proceeds	*facilities for agric, commercial, hospital, industrial, natural resources, recreational dev, and manuf.*	fee to cover administrative costs and origination fee to be used exclusively for eco devo	Y- TDD's or CID's but no TIF	no veto but notice to County and school districts
<u>City Resolution #598 (1982)</u>								Applicant must occupy 80% of usable floor area unless GB approves otherwise.		purchase of land, land improvements, and production-related machinery/equipment	\$1500/million, then \$1500/year + costs of review	No property tax abatement but sales tax	

Economic Development Tools Detailed Summary Matrix

Tool	Statutory Authority or Limitation	Revenue Basis				Maximum Duration	Structure (Bond, PayGo, Reimb.)	Restrictions (show blight, tourism, etc.)	Limits (within District, etc.)	Allowable Costs	Allowable Fees	Use With Other Tools Y/N	Authority, Permission & Actions (veto power; % of property owners)
		Prop Tax Y/N	Sales Y/N	Assessments Y/N	Fee Y/N								
Tax Increment Financing (TIF)	12-1770 et seq.	Y	N	N	N	20 years from approval of each project plan	Bonds; reimb; paygo	eligible areas include blighted area, conservation area, enterprise zone (pre 7-1-92), intermodal transportation area, major tourism area (auto racetrack with not less than \$1M improvements), major commercial entertainment and tourism area or bioscience area	improvements must be identified in the Project Plan and within TIF District, but can be outside the Project Plan area	property acq, payment of relocation assistance, site prep, sanitary and storm sewers, drainage improvements, street improvements, utility services within the public row, sidewalks, driveway approaches within row, water improvements, plazas and arcades, parking facilities, landscaping and all related expenses to redevelop a project. Generally, cannot be used for bldgs and structures owned or leased by developer; if bonded, excludes other soft	City discretion	Y- combine with CID; TIF, SBD and IRB, but no abatement.	County and School District can veto or they can agree to modified plan (i.e. don't capture all increment)
<u>City Resolution #1317 (1996)</u>		Y	Y				Special Obligation bonds	Not to be used for construction of buildings or other structures to be owned by applicant.		Eco Devo Fee 10% of tax increment for 2 years	City to apply for sales tax exemption.		