



CITY OF SHAWNEE POLICY STATEMENT

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PURPOSE

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

LEGAL AUTHORITY

Pursuant to state law, the City may create redevelopment districts in blighted areas, conservation areas, enterprise zones created pursuant to K.S.A. 12-17,110 prior to July 1, 1992, and certain other eligible areas. Certain costs of improvements within the redevelopment district may be reimbursed to the Developer or paid through the issuance of special obligation bonds or full faith and credit bonds. Funds to pay the reimbursement or to retire the bonds are generated by the tax increment and other sources that may be pledged by the City.

This authority is discretionary and the City may provide for tax increment financing in an amount and for purposes more restrictive than that authorized by statute. No privately owned property shall be acquired and redeveloped if the Johnson County Board of County Commissioners or the Board of Education levying taxes on property proposed to be included in the redevelopment district determines, in the manner prescribed by the Act that the proposed redevelopment district will have an adverse effect on such county or school district.

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

1. Acquisition of property within the redevelopment project area;
2. Payment of relocation assistance;
3. Site preparation including utility relocations;
4. Sanitary and storm sewers and lift stations;
5. Drainage conduits, channels, levees and river walk canal facilities;
6. Street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
7. Street lighting fixtures, connection and facilities;
8. Underground gas, water, heating, and electrical services and connections located within the public right-of-way;
9. Sidewalks and pedestrian underpasses or overpasses;
10. Drives and driveway approaches located within the public right-of-way;



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11. Water mains and extensions;
12. Plazas and arcades;
13. Major multi-sport athletic complex;
14. Museum facility;
15. Parking facilities, including multilevel parking facilities;
16. Incubator project equipment;
17. Intermodal public infrastructure;
18. Landscaping and plantings; fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
19. All related expenses to redevelop and finance the redevelopment project.

Redevelopment project costs shall not include costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a Developer, except for multi-level parking facilities.

FINANCING

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

1. Special Obligation Bonds.

- a. The City may issue special obligation bonds to finance permissible expenses of a redevelopment project. Principal and interest on such bonds may be payable:
 - (1) From tax increments allocated to, and paid into a special fund of the City;
 - (2) From revenues of the City derived from or held in connection with the undertaking and carrying out of any redevelopment project;
 - (3) From private sources, contributions or other financial assistance from the state or federal government;
 - (4) From revenue received by the City from any transient guest or local sales and use taxes;
 - (5) From the increased franchise fees and city sales tax; or



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(6) From any combination of these methods.

- b. Special obligation bonds are not general obligations of the City, nor in any event shall they give rise to a charge against its general credit or taxing powers or be payable out of any funds or properties other than those sources set forth above. 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.
- c. If the special obligation bonds issued under this Policy are offered to the public, the security for the bonds must be sufficient to minimize any risk of default. If the bonds are privately placed, they may be issued without a rating, but must be sold to an accredited investor or qualified institutional buyers as those terms are defined by securities industry standards.

2. Full Faith and Credit Bonds.

- a. The City may also issue full faith and credit bonds to finance a redevelopment project. Any resolution establishing a public hearing on a redevelopment project plan for which the City intends or may intend to issue full faith and credit tax increment bonds, shall state the City's intent to issue full faith and credit tax increment bonds. These bonds are payable, both as to principal and interest:
 - (1) From the revenue sources identified for special obligation bonds; and
 - (2) From a pledge of the City's full faith and credit to use its ad valorem taxing authority for repayment thereof in the event all other authorized sources of revenue are not sufficient.
- b. Except in extraordinary circumstances in the sole discretion of the Governing Body, the proceeds of full faith and credit tax increment bonds shall only be used to pay for public improvements or public projects which would otherwise be eligible to be paid for with the proceeds of City general obligation bonds.
- c. In accordance with K.S.A. 12-1774(b)(5), full faith and credit tax increment bonds are general obligations of the City and shall be exempt from all state taxes.



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3. Reimbursement Authority.

- a. Pursuant to Attorney General Opinion 96-45, tax increment can be used to reimburse a Developer for eligible redevelopment project plan costs as opposed to issuing bonds. Under this method, the City may agree to reimburse the Developer for eligible redevelopment project costs over a period of time not to exceed twenty (20) years from the date of redevelopment project plan approval in accordance with the terms set forth in the Redevelopment Agreement. The reimbursement amount is paid solely from all or a portion of the tax increment, and the Developer takes the risk that the portion of the increment pledged for reimbursement will be insufficient to retire the eligible redevelopment project costs. This reimbursement method is preferred by the City over the use of bond financing as the method to reimburse developers for eligible redevelopment project costs.

EVALUATION OF TIF APPLICATIONS

1. Objectives.

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



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Study as required by state law, as well as the amount and duration of previous TIF projects supported by the City.

2. Capital Investment. Although no minimum capital investment is required by the City, the amount of capital investment made by an applicant is a factor to be considered by the City in determining whether or not to authorize a redevelopment project plan.
3. Application Of "But-For" Principle. All TIF applications shall be considered in light of the "but-for" principle, i.e., tax increment financing must make such a difference in the decision of the Applicant that the project would not be economically feasible "but for" the availability of TIF. In evaluating the economic feasibility, the staff shall consider factors that include, but are not limited to:
 - a. The extraordinary or unique costs associated with developing the project;
 - b. The applicant's financial investment in the project;
 - c. The property, sales and other tax and fee revenue that may result from the project;
 - d. The credit worthiness and experience of the applicant; and
 - e. The value added, including intangible costs and benefits received by the City and other taxing jurisdictions, as a result of the proposed project.
4. Private Subsidies. The Governing Body does not encourage the subsidy of private businesses with public funds, the indirect consequence of TIF, unless some measurable public good results, as determined by the City, and the public subsidization can reasonably be expected to make a significant difference in achieving one or more objectives of the City.

PROCEDURES

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

1. Application Process. The Applicant shall make application for a redevelopment district and/or project plan by completing and filing the application for public financial participation provided by the City. The application shall include, but is not limited to:



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- a. Legal description of the proposed boundaries of the redevelopment district/project area;
 - b. Map of the redevelopment district/project plan area with accompanying tax parcel ID information;
 - c. A district/project plan that identifies all the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and other improvements that are proposed to be constructed or improved in each redevelopment project area;
 - d. If applicable, accompanied by a study from qualified personnel establishing the information necessary to establish blight or conservation area findings as the basis for establishing the redevelopment district area;
 - e. Information regarding expected capital expenditures by the Applicant;
 - f. An itemization of development assistance requested;
 - g. Summary of the proposed financing plan, including sources and uses of funds;

 - h. A detailed description that identifies the proposed buildings, facilities and other improvements to be constructed in the redevelopment project area, including the estimated fair market and assessed value of the improvements and the estimated date in which construction of the improvements will be commenced and completed;
 - i. The proposed relocation plan required by K.S.A. 12-1777, and amendments thereto, if any relocation will be required under the project plan.
 - j. The applicable application fee.
2. General Application Procedure. The Finance Director shall distribute the application to the Finance Team. The City will only consider full and complete applications. Applicant will also be responsible for providing whatever additional information requested by staff or the Governing Body as necessary for assisting the City in making its recommendation or decision on the application. Any inaccuracy, misstatement or error in fact may render the application null and void and may be cause for the repeal of any development assistance ultimately provided by the City through the TIF statutes in reliance upon said information.
3. Application and Administration Fees. Redevelopment district/project plan applications shall be accompanied by an application fee. This fee is in addition to other fees which may be required by the City, including fees for the issuance of tax-exempt or taxable bonds, costs incurred for preparation of the Feasibility Study as required by the Act and this Policy, and costs incurred, if any, for review and work done by the City's Financial Advisor, Bond Counsel, and City Attorney. In addition, any applicant that receives redevelopment



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project plan approval and subsequent TIF assistance shall pay an annual administration service fee. All fees shall be due and payable as provided for herein or as otherwise set forth in an approved Redevelopment Agreement.

- a. Fees Associated with Redevelopment District/Project Plan process, or a new Project Plan within an existing District:
 - (1) Initial Application Fee. A non-refundable amount of \$5,000 shall accompany the application.
 - b. Fees Associated with completed Redevelopment Project Plan:
 - (1) Annual Administrative Service Fee. An amount equal to 0.5% of the annual increment reimbursed to applicant or its successor in interest.
 - c. Funding Agreement. The City will retain administrative and professional staff, outside counsel and consultants, and incur expenses which it, in its sole discretion, deems necessary to consider the Redevelopment District and/or Redevelopment Project Plan. The Applicant shall enter into a funding agreement in order to pay the City for its fees and expenses; the time of its administrative and professional staff, as the City may from time to time deem appropriate; including charges for the City's outside counsel, fees of the City Attorney and consultants; and all other expenses incurred by the City. The funding agreement shall call for the Applicant to establish a fund in the amount of no less than \$20,000 (the Fund) in order to insure the prompt and timely payment of the above charges. The City shall use the Fund to pay for City Bond Counsel, Financial Advisor and other professional consultants' fees and apply the fees incurred by the City's professional consultants for work on the Redevelopment application(s).
4. Initial Review Procedure. On receipt of the completed application and the required fee, the Finance Director shall determine whether the proposal is complete and sufficient for review. If the proposal is incomplete, the Finance Director shall immediately notify the Applicant of the need for such changes or additions as deemed necessary. Upon receipt of a completed application and the applicable fee, the Finance Director shall forward the application to the Finance Team for review.
 5. Finance Team Review. The Finance Team shall review applications for TIF assistance. In



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

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

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

GOVERNING BODY ACTIONS

No elected or appointed officer, employee or committee of the City, and no Chamber of Commerce Board, Economic Development Council Board, or other public or private body or individual, shall be authorized to speak for or commit the Governing Body to the establishment of a redevelopment district or the approval of a redevelopment project plan.

Reviewing and Establishing the Redevelopment District/Project Plan. Upon receiving the recommendation of the Finance Team, the Governing Body shall determine whether to reject the application for creation of a redevelopment district and/or project plan or to further consider the request. Upon a favorable vote for further consideration, the Governing Body shall follow the statutorily-prescribed process for the establishment of a redevelopment district or approval of a



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project plan. This process shall be an expression of good faith intent, but shall not in any way bind the City to establishing a redevelopment district or approval of a project plan.

OTHER PROVISIONS

1. Redevelopment Agreement. Prior to beginning development of the redevelopment project (including the issuance of bonds), and generally simultaneous with the approval of a redevelopment project plan, the Developer shall execute a Redevelopment Agreement as approved by the Governing Body.
2. Acquisition of Land. The City does not encourage the use of condemnation in association with projects. However, the use of condemnation, permitted under K.S.A. 12-1773, may be considered by the Governing Body, but only upon a finding that the Applicant has attempted, in good faith, to acquire the property privately. Although expenses associated with condemnation are eligible redevelopment project costs under state law, in the event condemnation is approved by the Governing Body, the Applicant may be required to be responsible for all costs associated with the proceedings, including court and litigation costs, attorney's fees and the final condemnation awards made.
3. Waiver of Requirements. The Governing Body reserves the right to grant or deny tax increment financing for the development or redevelopment of a redevelopment district under circumstances beyond the scope of this Policy or to waive provisions herein. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest. The Governing Body shall not waive any statutory requirement of State law.

DEFINITIONS

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

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

Base Year Assessed Valuation: The assessed valuation of all real property within the boundaries of a redevelopment district on the date the redevelopment district was established.



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Blighted Area: An area of real property which:

1. Because of the presence of a majority of the following factors, substantially impairs or arrests the development and growth of Shawnee or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use:
 - a. A substantial number of deteriorated or deteriorating structures;
 - b. Predominance of defective or inadequate street layout;
 - c. Unsanitary or unsafe conditions;
 - d. Deterioration of site improvements;
 - e. Tax or special assessment delinquency exceeding the fair value of the real property;
 - f. Defective or unusual conditions of title including but not limited to cloudy or defective titles, multiple or unknown ownership interests to the property;
 - g. Improper subdivision or obsolete platting or land uses;
 - h. The existence of conditions which endanger life or property by fire and other causes; or
 - i. Conditions which create economic obsolescence; or
2. Has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation, feasibility study and remediation or other similar state or federal action;
3. A majority of the property is in a 100-year floodplain; or
4. Previously was found by resolution of the Governing Body to be a slum or a blighted area under K.S.A. 17-4742, et seq., and amendments thereto.

Capital Investment: The acquisition cost of land, buildings and tangible personal property constituting capital assets for accounting purposes.

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

1. Dilapidation, obsolescence or deterioration of the structures;



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2. Illegal use of individual structures;
3. The presence of structures below minimum code standards;
4. Building abandonment;
5. Excessive vacancies;
6. Overcrowding of structures and community facilities; or
7. Inadequate utilities and infrastructure.

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

Finance Team: A Committee comprised of the City Manager, the City Attorney, the Finance Director, the City Planning Director, the Shawnee Economic Development Council Executive Director, the City's Financial Advisor and the City's Bond Counsel, or their designees, whose function is to review TIF applications and make recommendations for approval or denial to the Governing Body.

Real Property Taxes: Includes all taxes levied on an ad valorem basis upon land and improvements thereon.

Redevelopment District: The specific area declared to be an eligible area in which Shawnee may develop one or more redevelopment projects. This is sometimes referred to as a TIF District.

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

Redevelopment Project: The approved project to implement a project plan for the development of the established redevelopment district and for which a redevelopment project plan is approved and a disposition and development agreement is executed. Any



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redevelopment project must be completed within 20 years from the date of approval of the redevelopment project plan. This is sometimes referred to as a TIF Project.

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

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

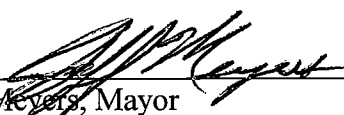
Taxing Subdivision: Includes the county, the city, the unified school districts and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district.

APPROVAL AND REVISION DATES


February 27, 2006
April 14, 2008
February 24, 2014

OTHER REFERENCES

February 7, 2006, Finance & Administration Committee Minutes, Agenda Item 4
February 27, 2006, City Council Minutes, Agenda Item 8
March 18, 2008, Public Works & Safety Committee Minutes, Agenda Item 2
April 14, 2008, City Council Minutes, Agenda Item 17
February 24, 2014, City Council Minutes, Agenda Item H3



Jeff Meyers, Mayor



Vicki Charlesworth, City Clerk