

CITY OF WICHITA COMMUNITY IMPROVEMENT DISTRICT POLICY

PURPOSE AND BACKGROUND

In 2009, the Kansas Legislature enacted the Community Improvement District Act (the “CID Act”), pursuant to which municipalities may create districts in which certain special taxes imposed and the revenue used to fund certain public and private improvements and the payment of certain ongoing operating costs within the geographic bounds of the specified district. The creation of a Community Improvement District (“CID”) is a particularly useful tool of economic development in that it can help facilitate beneficial private development and redevelopment without negatively impacting the tax base of the approving municipality.

It is the policy of the City of Wichita to utilize the provisions of the CID Act to assist private developers by providing financing for commercial, industrial and mixed-use projects that meet the local eligibility criteria outlined below, subject to certain special local policy limitations outlined below. A CID can exist for a maximum of 22 years.

LOCAL ELIGIBILITY CRITERIA

It shall be the policy of the City to create a CID if, in the opinion of the City Council, the petition satisfies all statutory requirements of the CID Act and if creation of such CID would meet the following criteria:

- (1) The CID will attract development which would enhance the economic climate of the City or otherwise benefit the City or its residents.
- (2) The CID will result in the construction of public or private property improvements and infrastructure, or the provision of ongoing services, that would otherwise not be financially feasible.
- (3) The CID will promote redevelopment or rejuvenation of properties within the City which would otherwise be unlikely to happen. Special consideration will be given to projects located in the Neighborhood Revitalization Area, the Central Business District or an area for which a neighborhood plan, a corridor plan or a redevelopment plan have been adopted by the City of Wichita.
- (4) The CID will be used to assist the development of commercial, industrial and mixed-use projects, and for common area amenities in residential developments that are called for in the Parks, Recreation and Open Space (PROS) Plan.
- (5) The CID will not be used for projects in which construction has begun prior to approval by the City or that are incompatible or

inconsistent with a neighborhood plan including any of the following: sexually oriented businesses, community correctional facilities, half-way houses, drug or alcohol rehabilitation facilities, new or used car lots, multi-game, casino-style gambling facilities, and commercial billboard siting.

- (6) The CID will support projects with total costs of not less than \$2,000,000 for bonded projects or \$500,000 for pay-as-you go.

CID PETITION PROCESS

A CID is formed by the petition of landowners within the proposed CID. According to the CID Act, a petition to create a CID must be signed by the owners of at least 55% of the total land area and total assessed property value within the proposed district. However, it is the policy of the City of Wichita that only petitions signed by 100% of property owners will be accepted. Upon receipt of the petition, the City Council may approve the CID. In cases in which no special sales tax is requested (i.e. only special property tax assessments are requested), the City Council may create the requested CID without notice or a public hearing. If a special sales tax is requested, the City Council must give notice and hold a public hearing pursuant to the CID Act.

A CID petition must contain:

1. the general nature of the proposed CID project;
2. a statement of the public purpose being served by the use of CID financing;
3. the estimated cost of the proposed CID project including maximum amount of CID funding to be paid prior to termination of CID, based on 125% of the total estimated amount of CID revenue during the 22-year term of the CID;
4. the proposed method of financing the project (special assessments or special sales tax);
5. the proposed amount and method of assessment;
6. the proposed method of financing (pay-as-you-go or special obligation bonds);
7. a map of the proposed CID; and
8. the legal description of the boundaries of the proposed CID.

SOURCES OF FUNDING FOR CID IMPROVEMENTS

Landowners or developers seeking to form a CID may request to draw upon one of the following two revenue sources, or a combination of both, to fund eligible improvements:

- (1) Special property tax assessments on the property within the district, or
- (2) A special sales tax of up to 2% on all taxable sales within the district.

Upon the creation of a CID by the City Council, revenue generated by these sources is available to pay for eligible improvements and costs. This can occur in one of two ways: a bond issuance or a pay-as-you-go dedicated account.

Bond Issuance – In cases in which a bond issuance is requested, the City’s Urban Development Office will work with the landowners within the CID to calculate how much revenue will be raised from the CID revenues (the special property tax and/or special sales tax levied within the CID) and the principal amount of bonds that can be issued based on the CID revenue stream and a minimum 1.2 debt service coverage ratio. The City may then issue bonds in that amount and use the CID revenue to retire the debt. The proceeds from the sale of the bonds will be used on eligible improvements and costs pursuant to the development agreement. While the CID Act permits the issuance of either full-faith and credit general obligation bonds or special obligation bonds, payable solely from the CID revenue, it is the policy of the City of Wichita to issue only special obligation CID bonds.

Pay-As-You-Go Account – As an alternative to a bond issuance, the landowners within the CID may request the establishment of a pay-as-you-go account. This account will be a dedicated account into which the CID revenues will be deposited and will be available to be used as funds accrue to pay eligible costs.

Funds used to pay eligible CID costs, whether from bond proceeds or a pay-as-you-go account, will be held by the City or a third-party trustee, and disbursed to pay actual costs pursuant to a development agreement. Preference will be given to projects that use pay-as-you-go financing.

ELIGIBLE CID COSTS

The CID Act provides an exclusive list of eligible improvements and costs that may be paid for with CID funding. CID funds may be used to acquire, plan, design, engineer, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip, extend or finance:

- (1) Buildings, structures, and facilities;
- (2) Site improvements, including without limit sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, pedestrian amenities, abandoned cemeteries, drainage systems, water systems, storm systems, sewer systems, lift stations, underground gas, heating and electrical services and connections located within or without the public right-of-way, and water mains and extensions;
- (3) Parking garages;
- (4) Streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;
- (5) Parks, lawns, trees and other landscaping;
- (6) Communication and information booths, bus stops and other shelters, stations, terminals, hangars, rest rooms and kiosks;
- (7) Paintings, murals, display cases sculptures, fountains and other cultural amenities;
- (8) Airports, railroads, light rail and other mass transit facilities; and
- (9) Lakes, dams, docks, wharfs, lakes or river ports, channels and levies, waterways and drainage conduits.

The CID Act also permits the use of CID funds to pay ongoing operating expenses, including security, entertainment, public events, business promotion, employee training, and market studies; however, it is the policy of the City of Wichita that CID funds may only be used to pay eligible operating costs up to the maximum amount identified in the petition and may not be used for operating costs in residential developments. CID funds may be used to reimburse capital costs incurred not earlier than one year prior to City Council action initiating the establishment of a CID, and City administrative costs and costs of issuance.

PROCESS FOR CREATING A CID

All of the projects will be subject to the notice and hearing process.

- Approval Process
 - The City Council shall adopt a resolution giving notice of a public hearing to consider the advisability of creating the CID.
 - Such resolution shall be published once each week for two consecutive weeks in the City's official newspaper and shall be sent by certified mail to all owners and occupants of property within the proposed district.
 - The second publication of such resolution shall occur at least seven (7) days prior to the date of the hearing and the certified mailed notice shall be sent at least ten (10) days prior to the hearing.
 - Such resolution shall contain the following information:
 - Time and place of the hearing;
 - General nature of the proposed district;
 - Estimated cost of the project;
 - Proposed method of financing the project, including, if applicable, the issuance of full-faith and credit bonds;
 - The proposed amount of the CID sales tax, if any;
 - The proposed amount and method of assessment, if any;
 - A map of the proposed district; and
 - A legal description of the proposed district.
 - Following the hearing, the City Council may by majority vote approve the CID by ordinance.
 - The ordinance shall:
 - Authorize the project;
 - Approve the estimated costs of the project;
 - Contain a legal description and map of the proposed district;
 - Levy the CID sales tax, if any;
 - Approve the maximum amount and method of assessment, if any; and
 - Approve the method of financing.
 - Such ordinance shall become effective upon publication once in the newspaper.
 - The ordinance shall also be submitted for recording in the office of the register of deeds of the county in which the district is located.

PRELIMINARY REVIEW MEETING

Prior to consideration by the City Council, parties intending to request the creation of a CID must submit a draft version of the intended petition to the City Manager, the Director of Urban Development and any other City Staff designated by the City Manager. Such draft petition need not be signed by any landowners within the proposed district until such time as it is formally submitted for consideration by the City Council. Within ten (10) days after the submission of any such draft petition, the City Manager, Director of Urban Development and other City Staff designated by the City Manager, shall hold a pre-petition meeting with the party submitting such petition to evaluate the sufficiency thereof and gather information needed to determine the eligibility of the project.

DEVELOPMENT AGREEMENT REQUIRED

Concurrently with, or prior to, the creation of a CID by the City Council, the City and the petitioner shall enter into a Development Agreement governing the conduct of the respective parties in relation to the proposed CID. The Development Agreement will include a site plan and elevation drawings or renderings of the CID project, and a Sources and Uses of Funds table that identifies the various sources of public and private project funds and how they will be used.

Among all other provisions, the Development Agreement will set forth the method and manner for disbursement of CID funds by the City, including the proceeds of bonds paid with CID funds, to pay for eligible project costs pursuant to acceptable documentation that such costs have been incurred. The assignment of Development Agreement rights shall be limited to a collateral assignment of all rights to a lender with written notice to the City, or assignment of all rights to any third party assignee with the written consent of the City or City Representative, at the discretion of the City. The assignment of rights shall not impair the City's right to determine the eligibility of CID costs nor require the City to subdivide any CID funds due to the developer.

In addition, the agreement shall provide for rapid repayment of the bonds and termination of the tax. City administrative fees and costs of issuance shall be paid from CID funds. For "pay-as-you-go" CID projects, the agreement will set forth the method and manner of disbursement of CID funds to the developers and shall include provisions for the termination of the CID taxes when developers have been fully reimbursed for eligible CID costs.

"GAP" FINANCING REQUIREMENT

CID projects financed with special obligation bonds will not be approved without a financial analysis that demonstrates that the project would not otherwise be possible without the use of CID funding ("gap" analysis). CID projects financed on a "pay-as-you-go" basis do not require a "gap" analysis. Any applicant requesting use of special obligation bonds will be required to provide City Staff with pro forma cash flow analyses and sources and uses of funds in sufficient detail to demonstrate that reasonably available conventional debt and equity financing sources will not fund the entire cost of the project and still provide the applicant a reasonable market rate

of return on investment. “Gap” financing, including CID and any other public financing, should not exceed 30% of the total project cost.

BACKGROUND CHECK

The City will conduct a background check on all CID applicants and applicants’ project partners. Applicants are required to furnish City Staff the personal and business information needed to carry out such a background check. Such information will be treated as confidential information to the maximum extent allowed by the KORA.

PROJECT MANAGEMENT AND DEVELOPMENT FEES

CID funds may not be used to pay development fees. Project management fees may be financed through CID revenues only if the need for such financing is established through analysis of financial information showing that private funding is not available to pay such costs based on a market rate of return on investment. If allowed, project management fees paid through CID revenues must be documented as actual costs incurred.

CITY ADMINISTRATIVE FEES

The City shall be paid a non-refundable application fee of \$5,000 with the formal submittal of any CID petition. For any approved CID, the City shall be paid an on-going administrative service fee, in an amount equal to 5% of the total CID revenues received by the City. The \$5,000 application fee shall serve as a credit against the 5% on-going administrative service fee.

STANDARD DESIGN GUIDELINES GOVERN

All property improvements commenced under an approved CID shall be subject to City regulations, standards, and policies, including, but not limited to: zoning and subdivision regulations, building codes, the City code, and any applicable design guidelines currently in place or hereafter approved. In addition, project plans and renderings shall be reviewed by the City’s Design Council and any suggestions provided by that body will be incorporated into the design of the project unless expressly overruled by the City Manager.

FINANCIAL REPORTING

Developer will provide a certified annual accounting to the City on the amount and use of CID funds used to pay CID costs, by June 1 of the following year. City reserves the right to audit the use of CID financing at its discretion and expense.

PUBLIC DISCLOSURE

The City shall establish and maintain a special website, linked to the City’s official website, which lists all approved CIDs existing within the City and provides a description of the CID, including a map of its location, the amount of CID taxes and the intended use of CID funding.

In addition, developers will be responsible for signs being posted adjacent to the main entrance of every retail establishment within the CID where a special sales tax is charged. The signs must be at least 24 square inches in size and contain the words: "THIS PROJECT MADE POSSIBLE BY COMMUNITY IMPROVEMENT DISTRICT FINANCING" using type face of at least 18 points in size, and "FOR MORE INFORMATION GO TO WWW.WICHITA.GOV/CID" using type face of at least 12 points in size. Continuing failure to comply with this requirement will result in termination of CID reimbursement payments.

TERMINATION OF CIDS

Subject to provisions contained in development agreements, the City shall take appropriate action to terminate CIDs when all eligible project costs have been fully paid, including the principal and interest on any special obligation CID bonds or in the case of pay-as-you-go projects, the maximum CID funding amount provided in the petition.

WAIVER OF POLICY

Should the City Council determine the terms of this policy inappropriate to evaluate a particular CID application, it may, by majority vote, waive the binding effect of this policy in regard to that application.