

POLICY AND PROCEDURES FOR TAX EXEMPTIONS AND INCENTIVES FOR ECONOMIC DEVELOPMENT

Section 1. OBJECTIVES.

- (A) **Purpose.** The proper use of a public financial assistance policy can promote, stimulate and develop the general and economic welfare of and quality of life in the City of Louisburg, Kansas (the "City" or "Louisburg"). This Policy establishes the procedures of the City, for considering Applications for Tax Increment Finance (TIF) Districts, Transportation Development Districts (TDD), Community Improvement Districts (CID), Industrial Revenue Bonds (IRB), and Constitutional Abatement used for economic development, including development and tourism and cultural activities, in accordance with the provisions of Kansas State Law.

It is the overall objective of these policies and procedures to support and approve public financing requests for those private investment opportunities that achieve the highest public benefit to Louisburg at the lowest public cost. The Louisburg City Council (the "Council") may evaluate all requests for the City to provide financial resources for the purposes allowed by law when, in the opinion of the Council, the Project being financed in whole or in part with those resources is reasonably expected to promote, stimulate and develop the welfare of the City through the promotion and advancement of physical health and welfare, industrial, commercial, agricultural, natural resources and recreational development in the City; to encourage and assist in the location of new business and industry in the City and the expansion, relocation or retention of existing business, industry and health development, and the necessary infrastructure related to those investments.

The Council retains the discretion to evaluate Projects on a case by case basis and to be flexible in the amount and form of the public resources provided to the extent allowed under the applicable statutes.

- (B) **Employment Objectives.** Louisburg may have a different perspective than other cities on pirating or cannibalizing jobs or industries, certainly those that are within the County and possibly even within the region. Therefore, some information regarding the location and service market of the Applicant or ultimate benefiting business should be provided for City consideration.

Louisburg/Council reserves the right to make distinctions in the amount of financial assistance to provide each entity based on certain aspects of that business entity, specifically, the number of jobs and wages of those jobs. Louisburg will generally favor new job growth. New jobs will be defined as the number of net jobs created in the city.

- Section 2. **SCOPE.** The authority and decision to approve assistance is within the sole discretion of the Council. The Council is under no obligation to approve a request, nor does the City relinquish its authority to initiate Projects by whatever other financing means it deems necessary to promote the general health and welfare of the City. This policy is intended to provide a guide for the Council in considering Applications and outline the policies and procedures to be followed by Applicants. The Council reserves the right to reject any request for public financial assistance at any time in the review process when it considers such action to be in the best interest of the City. Approval of the public financial participation based on the information presented does not constitute an implied or other approval of a site plan, special use permit, plat, rezoning or other

land development requirement. All proposals for development are subject to land use approvals by the appropriate body.

The policy for considering Applications for Tax Increment Finance Districts used for economic development is in accordance with the provisions of TIF Project authorized pursuant to K.S.A. 12-1770 et seq. (the "TIF Act").

The policy for considering Applications for Transportation Development Districts used for economic development is in accordance with the provisions of K.S.A. 12-17,140 et seq. and any amendments thereto (the "TDD Act").

The policy for considering Applications for Community Improvement Districts used for economic development is in accordance with the provisions of K.S.A. 12-6a26 through K.S.A. 12-6a36, inclusive (the "CID Act").

The policy for considering Applications for Industrial Revenue Bonds used for economic development is in accordance with K.S.A. 12-1740 to 12-1749d, inclusive (the "IRB Act").

The policy for considering Applications for Constitutional Abatement used for economic development is in accordance with Article 11, Section 13 of the Constitution of the State of Kansas and K.S.A. 79-213 and 79-251.

Section 3. DEFINITIONS. For the purpose of this Policy, the words or phrases as used in this Policy shall have meaning or be construed as follows, unless otherwise defined by State Statute.

- (A) **Abatement.** Annual amount of ad valorem property taxes waived.
- (B) **Applicant.** The individual(s) or business(es) and its officers, employees, and agents requesting approval of the Application for public financial participation.
- (C) **Bonds.** The TDD/CID Bonds shall be special obligation bonds. If the City Council deems an extraordinary case exists, general obligation bonds may be issued. The debt service on special obligation bonds will be paid from the special assessments or sales tax described above or from any other funds pledged to the payment of the bonds, or a combination of any of the foregoing, and the City will not be obligated to pay principal and interest on the bonds if there is a shortfall in special assessment or sales tax collections. Special bonds issued to finance a Project must mature in no more than 22 years. Special obligation bonds will not count against statutory limitations on bonded indebtedness. Bonds issued pursuant to the Act do not need to be sold at public sale. The interest on all bonds issued pursuant to the Act is exempt from all State taxes except inheritance taxes.
- (D) **CID Project.** Any Project or undertaking whether within or without the CID, to;
 1. acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend:
 - a. buildings, structures and facilities;
 - b. 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, heading and electrical services and connections located within or without the public right-of-way, water mains and extensions, and other site improvements;
 - c. parking garages;

- d. streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;
 - e. parks, lawns, trees and other landscape;
 - f. communication and information booths, bus stops and other shelters, stations, terminals, hangars, rest rooms and kiosks;
 - g. paintings, murals, display cases, sculptures, fountains and other cultural amenities;
 - h. airports, railroads, light rail and other mass transit facilities;
 - i. lakes, dams, docks, wharfs, lake or river ports, channels and levies, waterways and drainage conduits.
2. Within the CID, to operate or to contract for the provision of music, news, child care, or parking lots or garages, and buses, minibuses or other modes of transportation.
 3. Within the CID, to provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons.
 4. Within the CID, to provide or contract for cleaning, maintenance and other services to public or private property.
 5. Within the CID, to produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, advertising, decoration of any public place in the CID, promotion of such activity and special events and furnishing music in any public place.
 6. Within the CID, to support business activity and economic development, including but not limited to, the promotion of business activity, development and retention and the recruitment of developers and business.
 7. Within the CID, to provide or support training programs for employees of businesses.
 8. Within the CID, to contract for or conduct economic impact, planning, marketing or other studies.
- (E) **Development Agreement.** A written agreement between the City and an Applicant for the completion of a development or redevelopment Project. Such agreement shall address issues involved in the Project, including but not limited to the following: Schedule of construction; acquisition of land; eligible expenses; scope of 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.
- (F) **Enterprise Fund.** A fund established by a governmental entity to account for operations of an enterprise activity. Enterprise funds generally are segregated as to purpose and use from other funds and accounts of the governmental entity with the intent that revenues generated by the enterprise activity and deposited to the enterprise fund will be devoted principally to funding all operations of the enterprise activity, including payment of debt service on securities issued to finance such activity. In some cases, however, the governmental entity may be permitted to use moneys in an enterprise fund for other purposes and to use other funds to pay costs otherwise payable from the enterprise fund.
- (G) **Finance Team.** A Committee comprised of city staff as designated appropriate by the City Administrator, the Mayor or designee, the City's financial advisor and the City's bond counsel, or their designees, whose function is to review public financial participation applications and make recommendations for approval or denial to the Council.
- (H) **New Jobs.** The number of net jobs created within the City of Louisburg.
- (I) **Payment in Lieu of Tax.** An annual payment by the Applicant to the taxing jurisdictions, which is paid in the place of property tax.

- (J) **STAR Project:** A Sales Tax and Revenue Bond (STAR) Project is a project whereby STAR Bonds are issued to finance Redevelopment Project Costs if the Secretary of Commerce makes a finding that the Project will create a major tourism area, is the restoration of an historic theater, has been designated as a "special bond project," or is a major motorsports complex. The incentive was established by K.S.A. 12-17,166. Additional restrictions are placed on Redevelopment Project Costs financed with proceeds of STAR Bonds, specifically excluding elimination of financing of personal property, and are required to have prior approval of the Secretary. For cities located within metropolitan statistical areas, a "special bond project" is defined as a redevelopment project with: (1) at least \$50 million capital investment and (2) \$50 million in projected gross annual sales revenues. For cities that are not within a metropolitan statistical area, the Secretary of Commerce must make a finding that the special bond project would be of regional or statewide importance. A special bond project may not include a gambling casino. STAR Bonds are tax increment revenue ("TIF") bonds that have access to an additional source of revenue state sales and use tax revenues. All of the requirements of the TIF Act must also be complied with for a STAR Bond project, including creation of a District and approval of a Plan. The feasibility study required for a STAR Bond project must determine the effect on any other STAR Bond projects in Kansas. In addition, a marketing study must be undertaken to determine the impact of the STAR Bond project on similar businesses within the redevelopment project area. In order to use the state sales tax generated by the special bond project as a revenue stream to repay the STAR Bonds, the issuing city must commit to also pledge 100% of the city and county sales taxes that the city receives within the redevelopment project area to pay the STAR Bonds.
- (K) **State Director of Taxation and Disbursement of CID Sales Tax Funds.** The State Director of Taxation shall cause a CID sales tax to be collected upon receipt of a certified copy of the resolution authorizing the levy of the sales tax. Sales taxes collected are remitted by the Secretary of Revenue to the State Treasurer for deposit in the State Treasury. The State Treasurer credits 2% of all taxes collected to the CID sales tax administration fund (but not to exceed \$60,000 in any fiscal year) for administration and enforcement costs. The remainder of the sales tax collected is deposited in the CID sales tax fund. All funds in the CID sales tax fund are remitted at least quarterly to the County for disbursement to compensate for Project costs.
- (L) **TDD Project.** Any Project or undertaking whether within or without the TDD, to improve, construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend any bridge, street, road, highway access road, interchange, intersection signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail or other mass transit facility or any other transportation related Project or infrastructure including, but not limited to, utility relocation; sanitary and storm sewers and lift stations; drainage conduits, channels and levees; street light fixtures, connection and facilities; underground gas, water, heating and electrical services and connections located within or without the public right-of-way; sidewalks and pedestrian underpasses or overpasses; and water main and extensions.
- (M) **TIF Project:** A TIF Project is authorized pursuant to K.S.A. 12-1770 et seq. (the "Act") and authorizes cities to create redevelopment districts, acquire certain property and to issue special obligation bonds and/or full faith and credit tax increment bonds for the financing of redevelopment projects. Any city proposing to undertake one or more redevelopment projects (the "Project") must create a redevelopment district (the "District") by adoption of an ordinance, which District may contain multiple redevelopment project areas. The District must be located in an eligible area, which is a blighted area, a conservation area, enterprise zones established prior to July 1, 1992 located within cities, a historic theater, a major

tourism area or a major commercial entertainment and tourism area or bioscience development area as determined by the secretary of commerce. The District may also include property outside of the city with the consent of the county commission. The city is required to conduct a public hearing on the creation of the District. At the conclusion of such public hearing, the governing body of the city may create the District, by ordinance adopted by a majority vote. No privately owned property shall be acquired and redeveloped under the provisions of the Act if the board of county commissioners or the board of education levying taxes on property proposed to be included in the District determines that the proposed District will have an adverse effect on such county or school district. The city must also prepare a redevelopment project plan (the "Plan") in consultation with the planning commission of the city. The Plan must contain, among other items, a summary of the comprehensive feasibility study showing the benefits derived from the Project will exceed the costs and that the income therefrom will be sufficient to pay for the Project, a description of the buildings and facilities proposed to be constructed or improved and a relocation assistance plan for property owners within the District.

Section 4.

TRANSPORTATION DEVELOPMENT DISTRICTS (TDD) POLICY

- (A) **Application.** Interested parties shall submit a TDD request via the Application for public financial participation provided by the City. City staff shall review all TDD Applications for compliance with City policy and Kansas (the "State") law and make a recommendation for preliminary approval and a decision to forward an Application to the City Council for consideration and action. If the Finance Team believes the Application meets the criteria set forth in this Policy and should be recommended for approval, the Finance Team will work with the petitioner(s) to prepare a petition and develop a Finance Plan to present to the Council when it considers the petition to establish the District.
- (B) **Petition.** TDD proceedings shall be initiated by petition, on a form prescribed by the City and containing the information required in K.S.A. 12-17,140 *et seq.*, as amended after receiving preliminary approval from the Finance Team. A TDD petition must be submitted with signatures of 100% of the property owners of all of the land area within the proposed District.
- (C) **Boundaries.** The District boundaries and the method of financing the Project shall not require that all property that is benefited by the Project, whether or not the benefited property is within the District, be included in the District or be subject to an assessment or the TDD sales tax.
- (D) **Term.** The Council shall review the financial feasibility of each District proposed for consideration and shall use this information in determining the appropriate term of the District. Any TDD sales tax shall expire no later than the date the bonds issued to finance such Project or refunding bonds issued for the Project mature. TDD Bonds issued to finance the Project shall mature no more than twenty-two (22) years from date of issue, unless otherwise provided by law.
- (E) **Criteria for Use of Transportation Development District.** The decision to establish a transportation development district is within the sole discretion of the Council. In determining whether or not to approve a petition to establish a District, the Council will evaluate whether or not creation of a TDD is in the City's best interest, by considering one or more of the following criteria:
 - 1. Promote and support efforts to redevelop retail sites to provide for reinvestment in the city;
 - 2. Stimulate quality, retail development to enhance the City's economic base;
 - 3. Attract and promote mixed use, urban development;
 - 4. Allow for the construction of transportation related infrastructure beyond what the City requires or would otherwise build;

5. The Project will be located in an area that has been targeted by the Council for economic development or redevelopment; or has specific site constraints making development more difficult or costly;
 6. Recommendation of the Finance Team;
 7. Whatever other factors the Council deems relevant to its decision.
- (F) **Conformance to Local Requirements, Including:**
1. Compliance with uses anticipated in the Comprehensive Plan;
 2. High degree of architectural design and site layout;
 3. Enhanced use of landscaping, water quality best management practices and other sustainable features;
 4. Design of infrastructure to meet public and/or private standards.
- (G) **Additional Considerations**
1. Cost of the proposed improvements identified in the Project;
 2. Sources of funding, including the amount of equity funding in comparison to public funding;
 3. Payment risk mitigation mechanisms offered by the Applicant;
 4. Experience and stability of the Developer;
 5. Whether or not tenants are in place, and the nature and quality of the tenants;
 6. Economic competition the Project has and is expected to have in the future; and
 7. Impact to current businesses within the City.

Section 5.

COMMUNITY IMPROVEMENT DISTRICT (CID) POLICY

- (A) **Application.** Interested parties shall submit a CID request via the Application for public financial participation provided by the City. City staff shall review all CID Applications for compliance with City policy and Kansas (the "State") law and make a recommendation for preliminary approval and a decision to forward a petition to the Council for consideration and action. A proposed petition shall accompany each Application for a CID. If the Finance Team believes the Application and proposed petition meets the criteria set forth in this Policy and should be recommended for approval, the Finance Team will work with the petitioner(s) to develop a Finance Plan to present to the Council when it considers the petition to establish the CID.
- (B) **Petition.** A valid CID petition must be submitted with signatures of either of the following:
1. 100% of the property owners of all of the land area within the proposed Special Assessment CID who seek financing solely by assessment. If all landowners petition for a CID, then the City may proceed with its creation by a majority vote of the Council and assessments without notice or public hearing; or
 2. Property owners representing more than 55% of the land area of the proposed Sales Tax CID and also signed by property owners collectively owning more than 55% of the assessed value of the land within the proposed CID. If this petition method is utilized, then the City will be required to adopt a resolution giving public notice of a hearing on the advisability of the creation and financing of a CID. The Council may adopt a resolution by a majority vote to authorize the Project and create the CID.
- (C) **Boundaries.** The CID boundaries and the method of financing for the project shall not require that all property that is benefited by the Project, whether or not the benefited property is within the CID, be included in the CID or be subject to an assessment or the CID sales tax.
- (D) **Term.** The Council shall review the financial feasibility of each CID proposed for consideration and shall use this information in determining the appropriate term of financing for Projects within the CID. Any CID sales tax shall expire no later than the date the bonds issued to finance such Project, or refunding bonds issued for the Project, mature. In the event pay-as-you-go financing is utilized, CID sales tax shall expire twenty-two (22) years from the date the State Director of Taxation

begins collecting such tax or when the bonds or pay-as-you-go costs have been paid. CID Bonds shall mature no more than twenty-two (22) years from date of issue.

- (E) **Public Hearing.** No Council public hearing consideration will occur unless all information is provided at least fifteen (15) business days prior to any such scheduled meeting. All fees and requirements of a funding agreement must also be met before Council consideration.
- (F) **Criteria for Use of Community Improvement District.** The decision to establish a CID is within the sole discretion of the Council. In determining whether or not to approve a petition to establish a CID, the Council will evaluate whether or not the creation of a CID is in the City's best interest, by considering one or more of the following criteria:
 - 1. Promotes and supports efforts to develop or redevelop commercial sites to provide for reinvestment in the city;
 - 2. Stimulates quality, retail development to enhance the City's economic base;
 - 3. Allows for the construction of infrastructure, including the construction of infrastructure beyond what the City would require or otherwise build;
 - 4. The Projects will be located in an area that has been targeted by the Council for economic development or redevelopment; or has specific site constraints making development more difficult or costly;
 - 5. The impact on other infrastructure systems, to include the cost of core system extensions to areas not adjacent to existing systems;
 - 6. The financial risk to the City and any other government units of the financing proposal, to include exposure of the general property tax levy, enterprise funds positions and credit rating;
 - 7. Recommendation of the Finance Team;
 - 8. Other factors the Council deems relevant to its decision.
- (G) **Conformance to Local Requirements, Including:**
 - 1. Compliance with uses anticipated in the Comprehensive Plan;
 - 2. High degree of architectural design and site layout;
 - 3. Enhanced use of landscaping, water quality best management practices and other sustainable features;
 - 4. Design of infrastructure to meet public and/or private standards.
- (H) **Additional Considerations:**
 - 1. Cost of the proposed improvements identified in the CID;
 - 2. Sources of funding, including the amount of equity funding in comparison to public funding;
 - 3. Payment risk mitigation mechanisms offered by the Applicant;
 - 4. Experience and stability of the proposed developer;
 - 5. Whether or not tenants are in place, and the nature and quality of the tenants;
 - 6. Economic competition the Projects within the CID has and is expected to have in the future; and
 - 7. Impact to current businesses within the City.

Section 6. TDD & CID FINANCING METHODS

- (A) **TDD Sources of Funds.** TDD Projects may be financed by any or all of the following sources:
 - 1. Special assessments imposed in the District pursuant to the TDD Act which have been paid in full prior to the date set by the Council as provided in the General Improvement and Assessment Law, K.S.A. 12-6a01, and amendments thereto;
 - 2. Special assessments imposed in the District pursuant to the TDD Act, to be paid in installments;
 - 3. A pledge of all of the revenue received from a TDD sales tax on the selling of tangible personal property at retail, or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailer's sales tax act, within a

- District, in any increment of .10% or .25% not to exceed 1% as authorized by K.S.A. 12-17,145, and amendments thereto (“TDD sales tax”); and
4. Any other funds annually appropriated by the Council.
- (B) **CID Source of Funds.** Eligible CID Projects may be financed by any single, a combination, or all of the following sources:
1. CID Special Assessments imposed on property in the CID pursuant to the CID Act which have been paid in full prior to the date set by the Council as provided in the General Improvement and Assessment Law, K.S.A. 12-6a01, *et. seq.* Two exceptions to the General Improvement and Assessment Law are provided:
 - a. No assessments can be levied against the City-at-large; and
 - b. If a Project is also financed by a pledge of sales tax revenues or annually appropriated funds of the City, the amount of each annual special assessment may be reduced or eliminated to the extent that sufficient taxes and/or funds have been received to pay the debt service on any bonds issued pursuant to the Act.
 2. A pledge of all of the revenue received from a CID Sales Tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailer's sales tax act, within a CID, in any increment of .10% or .25%, not to exceed 2% (the “CID Sales Tax”), as authorized by the Act; or
 3. Any other funds annually appropriated by the Council.
- (C) **Finance Plan.** If the Finance Team reviews the Application and the petition and finds it in the City's best interest to recommend creation of the TDD or CID to the Council, the Finance Team will work with the Applicant to create a Finance Plan which shall be presented to the Council for consideration along with the petition. The Finance Plan shall address the recommended method of financing and specific terms associated therewith.
- (D) **Bonds.**
1. The City may issue TDD or CID Bonds to finance a Project. Guidelines for the issuance of TDD/CID Bonds include:
 - a. If bonds are issued, the sales tax imposed to pay the bonds shall expire no later than the date the bonds mature, unless being used to fund on-going operations;
 - b. If pay-as-you-go financing is utilized, the sales tax imposed shall expire 22 years from the date the State Director of Taxation begins collecting the tax or when all Project costs have been paid; and
 2. Bonds issued under this Policy must include security for the bonds of a sufficient amount to minimize any risk of default and be allowed by State and Federal Tax laws.
 3. Bonds must initially be offered in denominations of \$100,000 or greater. These minimum denominations may be reduced (upon consultation with the City's bond counsel and financial advisor) when one or more of the following are met:
 - a. The Projects being bond financed are substantially leased;
 - b. The estimated revenue stream yields significant debt service coverage on the bonds;
 - c. Construction of the Projects being bond financed is 100% complete;
 - d. The repayment term is less than or equal to 60% of the maximum permitted repayment term; and/or
 - e. Waiver of the minimum denomination provision by the Council.
 4. If a negotiated sale of the bonds is necessary, the City will normally select the underwriter(s) needed to structure, price, and sell the bonds through a competitive process. Exceptions to this process may be approved by the City Administrator upon consultation with the City's bond counsel and financial advisor. City staff and the City's financial advisor will be directly involved in all negotiated sale pricing.

5. At its sole discretion, the City may require that an independent feasibility study of future TDD/CID revenues be performed, with any such cost born by the Applicant if not otherwise reimbursed from Bond Proceeds.

- (E) **Annual Appropriation.** The Council may choose, but is not obligated, to annually appropriate funds to secure TDD/CID revenue bonds. In the event this security option is put forth, the financing plan shall specifically address the risk mitigation steps to ensure an extremely low probability of the City having to use its general revenues for debt service. Furthermore, provisions should be made to reimburse the City for any payments made by the City for any TDD / CID revenue bonds unless the Council specifically exempts any replenishment or reimbursement provision.
- (F) **Reimbursement TDD/CID.** Petitioner(s) may be reimbursed for Projects within the TDD/CID on a "pay-as-you-go" basis until the Council determines issuance of bonds is viable and in the City's best interest.
- (G) **Funds.** Funds and accounts shall be established in conformance with applicable regulations.
- (H) **Development Agreement.**
 - 1. Prior to beginning development of the Project (including the issuance of bonds), the Applicant shall execute a Development Agreement as approved by the Council.

Section 7. INDUSTRIAL REVENUE BONDS (IRB)

- (A) **Goals.** The primary goal of IRB financing is to promote and stimulate economic development in the City by providing a financing tool which does not constitute a debt obligation of the City.
- (B) **Eligibility.** Only those Projects which qualify under Kansas Law will be eligible for IRB financing. IRB financing will generally be discouraged when the effect would be to grant an unfair financial advantage to one firm over other firms within the local market structure.

A housing Project will only be considered for IRB financing if such Project will either set aside a minimum of half of the units for individuals earning 50% or less of the median area income, or set aside a minimum of three-fourths of the units for individuals earning 60% or less of the median area income as defined in State tax credit guidelines for affordable housing Projects.
- (C) **Review Criteria.** The following criteria and factors shall be used in evaluating Applications for IRB financing:
 - 1. Quality job creation and wages;
 - 2. Capital investment;
 - 3. Diversification of the local economy;
 - 4. The extent to which the Project would meet an identified need in the county.
- (D) **Tax Abatements.** Tax abatements authorized in conjunction with IRBs must follow the policies and procedures set forth in the Tax Abatement Policy set forth in section 2.508 hereof.
- (E) **Sales Tax Exemptions.** Labor and materials used in construction as well as equipment purchased with IRB proceeds are typically exempted from State and local sales tax. Payments-in-lieu of sales tax may be required and negotiated between the City and the Applicant.
- (F) **Bond Counsel.** Applicants will be encouraged to utilize the City's designated bond counsel. In the event that other bond counsel is selected, the City may require its bond counsel to be involved in the transaction in a review capacity, depending upon the amount of the transaction and the Project involved. Bond counsel fees and other fees associated with the transaction shall be paid by the Applicant.

Section 8. TAX ABATEMENT POLICY

- (A) **Eligibility.** Only those firms which qualify under Kansas law will be eligible for an abatement. Abatements for a business that would compete directly with existing businesses will not be encouraged unless the competing business has received or been offered similar incentives, or unless there is an overriding benefit to the City as a whole.
- (B) **Review Criteria.** The following criteria and factors shall be used in evaluating Applications for tax abatements:
1. Net benefit to the taxing districts as shown in the Cost-Benefit Analysis;
 2. Quality job creation and wages;
 3. Capital investment;
 4. Diversification of the local economy;
 5. The extent to which the Project would meet an identified need in the City.
- (C) **Transfers.** No abatement granted by the City shall be transferred as a result of change in ownership of the exempted property. Any new owner shall file a new Application for abatement. Further, the City shall be notified by the business of any substantive change in the use of the tax exempt property.
- (D) **Special Assessments.** Special assessments are not eligible for exemption under this policy.
- (E) **Cost-Benefit Analysis.** The Finance Review Team will complete a cost-benefit analysis. This analysis will provide the economic impact upon the impacted taxing districts taking into account the public costs (tax abatement and other) and the public benefits (property tax base, sales tax base and other spin-off benefits). Generally, such a cost-benefit analysis will examine a ten-year timeframe, however such timeframe may be shorter or longer depending upon the term requested and the term of any other economic incentives contemplated for the Applicant.
- (F) **Notice to Taxing Jurisdictions/Public Hearing.** Prior to the granting of any tax abatement, the County Clerk shall notify in writing the impacted taxing districts about the public hearing and the proposed abatement at least seven days prior to the public hearing but as early as possible, and provide the taxing jurisdictions with a copy of the cost-benefit analysis and background materials. The impacted taxing districts will be encouraged to provide input to the City regarding the impact of the proposed abatement on the property tax base as well as other issues.
- (G) **Resolution and Performance Provisions.** After the public hearing, the Council may adopt a resolution specifying the annual abatement and the length of the abatement. The resolution will require two readings. The resolution shall outline annual job creation and investment targets which the Applicant must meet for all or a portion of the abatement to continue. The resolution shall also outline the method for decreasing the abatement if the annual job creation targets are not met.
- (H) **Payment in Lieu of Taxes (PILOT) Agreement.** In order to grant an Abatement, a PILOT Agreement between the City and the Applicant will be required. The PILOT Agreement is the mechanism whereby the City establishes the level of Abatement (by setting the payment in lieu of taxes) and any performance standards (e.g. levels of payroll, investment and numbers of employees). The PILOT Agreement will establish a PILOT payment required of the business on an annual basis. The PILOT payment usually is a certain percentage of the taxes the Applicant would have paid without the Abatement. The PILOT Agreement may include a clawback provision as addressed below.
- (I) **Clawback Provisions.** A clawback provision allows the Council to modify or eliminate the tax exemption if they find that the business is not in compliance with the provisions of the PILOT. The tax exemption may be modified or eliminated as the Council deems appropriate, and the County Appraiser and Board of Tax Appeals shall be notified of such action. Provisions requiring specified performance as a condition for granting and maintaining the Abatement may be

considered as part of the agreement; and the time within which construction on the abated property must begin and be completed.

- (J) **Submission of Application to the Kansas Board of Tax Appeals.** After the Applicant has completed and submitted all necessary documentation to the County Clerk, the County Clerk will forward all necessary documentation to the County Appraiser's Office, which will be filed with the Kansas Board of Tax Appeals. The Board's decision to grant an Abatement is subject to the final determination of the Kansas Board of Tax Appeals.
- (K) **Annual Certification.** After the first year of the abatement and by February 1 each year thereafter, the Finance Team will review the abatement to certify that use of the property is still in accordance with Kansas law and that all other provisions of the abatement are being met. The Applicant will be required to complete and submit all necessary documentation to the County Clerk for annual submission to the County Appraiser's Office and the Kansas Board of Tax Appeals. It is the Applicant's obligation to see that the appropriate annual information is filed for the abatement to continue.
- (L) **Annual Report to the Board.** Prior to December 31 of each calendar year, the County staff shall prepare an annual report for the Board to review. Such report will include the status of all outstanding tax abatements and achievement of job creation targets.
- (M) **Documents.** All documents related to tax abatements, including the annual certifications, will be kept on file with the County Clerk.
- (N) **Duration and Amount of Abatement.** Application of the criteria set forth below will be considered in determining whether abatement should be awarded, and, if so, the length and amount of abatement granted. The following charts shall serve as a guide for the number of years for abatement and the amount of the abatement:

Amount of Capital Improvements for New Businesses	Years Eligible for Abatement
\$1,000,000 - \$1,999,999	5
\$2,000,000 - \$2,999,999	6
\$3,000,000 - \$3,999,999	7
\$4,000,000 - \$4,999,999	8
\$5,000,000 plus	10

Amount of Capital Improvements for Existing Businesses	Years Eligible for Abatement
\$250,000 - \$999,999	5
\$1,000,000 - \$1,999,999	7
\$2,000,000 - \$2,999,999	8
\$3,000,000 plus	10

% of Abatement for New Business	Number of Net New Employees to the City	% of County Average Salary
25%	10 – 20	101% - 150%
50%	21 – 50	101% - 150%
	10 – 20	151% - 200%
75%	51 or more	101% - 150%
	21 or more	151% - 200%

	10 – 20	201% or more
100%	21 or more	201% or more

% of Abatement for Existing Business	Number of Net New Employees to the City	% of State Average Salary
25%	5 - 10	101% - 150%
50%	10 - 20	101% - 150%
	5 - 10	151% - 200%
75%	21 plus	101% - 150%
	11 - 21	151% - 200%
	5 - 10	201% or more
100%	11 or more	201% or more

Section 9. MIAMI COUNTY INCENTIVE FUND (MCIF)

While the City of Louisburg, Kansas neither controls nor contributes to it, Miami County, Kansas maintains a source of flexible funds to be used in the pursuit of economic development Projects which may, or may not, be available to provide assistance for projects in the City. This flexible fund has the benefit of being available to address minor shortfalls in economic development Projects without the cumbersome statutory initiation and authorization costs. In addition, the fund might be used to assist Miami County with the necessary professional analysis for those economic development efforts initiated by the County but do not yet have a private investor or developer. Examples of these types of costs could be market studies, preliminary engineering costs estimates, environmental analysis, real estate purchase options and similar expenses. All requests or Applications for assistance shall be considered and acted upon in accordance with the policy created by Miami County, Kansas. These procedures are established under the authority of the Miami County Board of County Commissioners and any applications for assistance from the Miami County Incentive Fund shall be submitted to Miami County, Kansas.

TAX INCREMENT FINANCING POLICY (TIF) AND STAR PROJECTS

Section 1. INTRODUCTION

Tax increment financing is a tool that enables governments to fund infrastructure, land acquisition, and other public investments in private redevelopment projects. The use of tax increment financing does not authorize any action not otherwise permitted; it merely allows the sponsoring government to divert taxes levied by it and other governments to pay for those actions. It presumes that if it were not for the public investments being made, the redevelopments and resulting tax increments being diverted to the projects would not otherwise occur.

Kansas state statutes permit only cities to create redevelopment districts and to divert taxes levied by the overlapping taxing districts to the city's Project. Cities must conduct public hearings and adopt ordinances with descriptions of proposed redevelopment districts. After a city passes such an ordinance, the county has 30 days to deny the creation of the redevelopment district. Upon finding that creation of a redevelopment district could cause adverse effects to the county, the board of county commissioners may deny the proposal, and in such case the City may not proceed with tax increments as a funding tool for the Project. Miami County, Kansas maintains a policy which outlines the criteria to be used by Board of County Commissioners in the determination of

adverse impacts of redevelopment districts on which the County's decision to approve prospective TIF Districts shall be made. The policy of the County will govern consideration by the County of all TIF districts proposed by every city located in Miami County.

For purposes of this Article 6 Tax increment Financing Policy (TIF) section, all references to TIF shall also include STAR projects. All of the requirements of the TIF Act must also be complied with for a STAR Bond project, including creation of a District and approval of a Plan. A STAR Project is a project whereby STAR Bonds are issued to finance Redevelopment Project Costs if the Secretary of Commerce makes a finding that the Project will create a major tourism area, is the restoration of an historic theater, has been designated as a "special bond project," or is a major motorsports complex.

Section 2. PURPOSE OF POLICY

This Tax Increment Policy has been approved by the City for the following purposes:

1. To guide staff in forming recommendations regarding the approval of TIF districts;
2. To provide a framework within which staff and the City can evaluate proposed uses of tax increment financing; and
3. To inform the public of the City's position on the use of tax increment financing and the process through which decisions regarding the use of the tool are made.

Section 3. POLICY STATEMENT

It is the policy of the City to support efforts to eliminate blight and promote redevelopment of substandard areas by allowing the diversion of tax revenues to TIF districts when such actions are shown to create no adverse effect.

Section 4. ADVERSE EFFECT TO CITY OR COUNTY

Adverse effect to the City may be cause for disapproval of a TIF district and shall be evaluated by the following criteria:

1. Considering the service demands placed on the City, the potential redirection of tax revenue would hinder effective future delivery of City public services.
2. Proposed Project is economically feasible without City funding support.
3. Proposed private equity funding is insufficient.
4. Costs to City government are greater than benefits to City government.
5. Sufficient data or notification was not provided for City staff to adequately review the proposal for a TIF district.
6. Disapproval by the Board of County Commissioners of Miami County, Kansas

Section 5. MINIMUM DATA REQUIREMENTS

The proposal for a TIF district shall describe how it would fulfill the basic statutory requirements, follow statutory procedures, and cite specifically applicable statutory references for the creation of TIF districts. K.S.A. §12-1771 *et. seq.* defines the conditions under which a TIF district may be created. Current statutory conditions require the property to be included in the TIF district be blighted; be in need of conservation to avoid becoming blighted; or be a major tourism area, a major commercial entertainment and tourism area, an inter-modal transportation area, a bioscience development area, or an enterprise zone as pursuant to K.S.A. §12-17,107 through 12-17,113 prior to its repeal. Definitions of each of these conditions are specified in state law. To enable analysis and consideration, the following data elements must be received by the City at the earliest possible time, and in no event later than the date of the consideration by the Board of County Commissioners and City's adoption of an ordinance creating a TIF district:

1. Brief description of the Applicant (business – nature of business; non-business – nature of entity or group)

2. Provide status and phasing for obtaining site control for the entire Project area (status such as fee simple, purchase agreement, purchase option, option expiration, etc.).
 3. Names and addresses of the owners, and/or officers and directors of the entity requesting the TIF assistance (Applicant).
 4. Legal description, address, parcel ID's, the existing assessed valuation of the real estate in the proposed district listing land and building values separately; map or boundary description and legal description of TIF area(s), and a map depicting the existing parcels of real estate.
 5. A list of names and addresses of the owners of record of real estate within the district.
 6. The existing zoning or rezoning classifications and district boundaries, and the existing and proposed land uses within the area. Description of plans for improving or expanding municipal services within the TIF district including, but not limited to, buildings and facilities, sanitary and storm sewers and lift stations, drainage conduits, channels and levies, refuse collection, road and street maintenance, street lighting and fixtures, underground gas, water, heating, and electrical services and connections in the right-of-way, sidewalks and pedestrian underpasses and overpasses, drives and driveway approaches within the right-of-way, water mains and extensions, plazas and arcades, parking facilities, landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations, and similar amenities.
 7. A description of the need for any relocation of residential, commercial, or industrial facilities.
 8. A detailed description of the proposed Projects for which the TIF district is to be created, including a description of public and/or private improvements, building(s) including square footage, materials, proposed use, etc. and a site plan.
 9. A Project pro forma showing detailed sources and uses of Project funding and identifying the shortfall between anticipated private funding and Project costs. Include the status of all sources of financing including private equity. The identified gap between sources and uses without public participation should match the requested participation.
 10. A preliminary tax increment funding analysis showing how the public funding will be provided for the proposed Project reflecting requested amounts. Evidence that the anticipated private funding can be acquired, such as a letter of intent from a financial institution.
11. A market feasibility assessment showing whether the marketplace needs and will support the planned Project with a preference for an independent study conducted by a consultant retained by the City and independent of the developer.

Section 6. ECONOMIC ANALYSIS AND RISK ASSESSMENT PROCESS

(A) Proposed uses of tax increment financing will be subject to rigorous economic analysis and risk assessment. The Finance Team will be responsible for overseeing the analysis and assessment process.

(B) The analysis and assessment of all proposed uses of tax increment financing will address the following questions as part of the standard format for reports to the Board:

1. What is the public purpose of the financial assistance to the Project?
2. Why is there a financial need for public investment and/or subsidy?
3. What is the total cost of the Project?
4. What are the proposed levels of public participation and of private equity participation by the developer?

(C) The results of the economic analysis and risk assessment will be presented to the Council at the time of the request for approval of the proposed use of tax increment financing. The report will identify any elements of the proposed Project that are not in conformance with this Tax Increment Policy.

Section 7. EVALUATION CRITERIA.

The following items will be taken into consideration in the evaluation of any development proposal requesting tax increment assistance.

- (A) **Need For Public Assistance.** In all cases, it is required that the need for tax increment financing to pay for public improvements be demonstrated and documented by the city to the satisfaction of the Finance Team. To the extent it is not part of the Minimum Data Requirements listed above all such documentation, including development budgets, cash flow projections, market studies and other financial and market information, must be submitted upon request. **Amount of Tax Increment Financing versus Private Investment.** All TIF district proposals should seek to maximize the amount of private investment per dollar of tax increment financing. Tax increment financing as percentages of total development costs and private equity funding will be determined for each Project (or discrete portion of a Project receiving a subsidy) and compared to other development projects or subprojects of similar scope and magnitude whenever possible.
- (B) **Term of Tax Increment Financing.** The term of the tax increment financing shall be kept to a minimum. The proposed term of any tax increment financing shall be fully documented and explained to the Council.
- (C) **Development Benefits and Costs.** The direct and indirect benefits of the development proposal shall be determined and quantified to the degree possible. Benefits shall include, but are not limited to, employment benefits (number of jobs retained or created, percentage of jobs held by City residents, wage and salary information, etc.), tax base benefits (estimated market value of new development, new property taxes generated, etc.), housing benefits (number of new rental or ownership units, number of affordable units, etc.), and other benefits relating to transportation, parking, blight remediation, environmental cleanup and historic preservation. Based on the market study, projections should be provided reflecting the potential impact the Applicant's project would have on existing firms offering competing products. Costs of the development proposal to the City shall also be identified to the degree possible. Such costs shall include, but are not limited to, additional required infrastructure, required local contributions by the County, and the impact on the County's budget if tax increment financing is used. The timeframe used for these cost estimates should equal the timeframe of the Project finance plan.

Section 8. APPLICATION.

- (A) Interested parties shall submit a TIF request via the Application for public financial participation provided by the City. City staff shall review all TIF Applications for compliance with City policy and Kansas (the "State") law and make a recommendation for preliminary approval and a decision to forward a petition to the Council for consideration and action. If the Finance Team believes the Application and proposed petition meets the criteria set forth in this Policy and should be recommended for approval, the Finance Team will work with the petitioner(s) to develop a Finance Plan to present to the Council when it considers the petition to establish the TIF.
- (B) Term. The Council shall review the financial feasibility of each TIF proposed for consideration and shall use this information in determining the appropriate term of financing for Projects within the TIF. TIF Bonds shall mature no more than twenty (20) years from date of issue.
- (D) Public Hearing. No Council public hearing consideration will occur unless all information is provided at least fifteen (15) business days prior to any such scheduled meeting. All fees and requirements of a funding agreement must also be met before Council consideration.
- (E) Criteria for Use of TIF District. The decision to establish a TIF is within the sole discretion of the Council. In determining whether or not to approve a request or petition to establish a TIF, the Council will evaluate whether or not the creation of a TIF is in the City's best interest, by considering one or more of the following criteria:
 - 1. Promotes and supports efforts to develop or redevelop commercial sites to provide for reinvestment in the city;
 - 2. Stimulates quality, retail development to enhance the City's economic base;

3. Allows for the construction of infrastructure, including the construction of infrastructure beyond what the City would require or otherwise build;
 4. The Projects will be located in an area that has been targeted by the Council for economic development or redevelopment; or has specific site constraints making development more difficult or costly;
 5. The impact on other infrastructure systems, to include the cost of core system extensions to areas not adjacent to existing systems;
 6. The financial risk to the City and any other government units of the financing proposal, to include exposure of the general property tax levy, enterprise funds positions and credit rating;
 7. Recommendation of the Finance Team;
 8. Other factors the Council deems relevant to its decision.
- (F) Conformance to Local Requirements, Including:
1. Compliance with uses anticipated in the Comprehensive Plan;
 2. High degree of architectural design and site layout;
 3. Enhanced use of landscaping, water quality best management practices and other sustainable features;
 4. Design of infrastructure to meet public and/or private standards.
- (G) Additional Considerations:
1. Cost of the proposed improvements identified in the TIF;
 2. Sources of funding, including the amount of equity funding in comparison to public funding;
 3. Payment risk mitigation mechanisms offered by the Applicant;
 4. Experience and stability of the proposed developer;
 5. Whether or not tenants are in place, and the nature and quality of the tenants;
 6. Economic competition the Projects within the TIF has and is expected to have in the future; and
 7. Impact to current businesses within the City.

Section 9. TIF FINANCING METHODS

- (A) TIF Sources of Funds. TIF Projects may be financed by any or all of the following sources: In any Plan the primary revenue source for repayment of debt is the tax increment generated from the redevelopment of the Project within the District. The Act provides that such increment is that portion of ad valorem taxes collected on real property (land and improvements thereon) within the District that is in excess of the amount produced from such property attributable to the assessed valuation of such property prior to the date the District was established. Ad valorem taxes collected on assessed valuation in existence on the date of establishment of the District will continue to be distributed to all taxing districts in the same manner as all other property taxes. For Districts created after July 1, 1997, the state school finance levy will be excluded from the tax increment. The increased increment in city sales tax, transient guest tax and city franchise fees within the District may also be captured. For major tourism areas and major commercial entertainment and tourism areas, state sales tax revenue are available in certain circumstances. The additional tax increment shall be captured, placed in a special fund and applied only for the purposes of paying the costs of the Project, including repayment of any authorized indebtedness associated with the Project. When such bonds and the interest thereon shall have been paid, the increment shall be apportioned to all taxing jurisdictions as before the creation of the District; provided however, if the Project has not been completed, the increment shall continue to be captured for the special fund until the Project is completed, not to exceed 20 years after date of approval of the Plan.
- (B) Finance Plan. If the Finance Team reviews the Application and the petition and finds it in the City's best interest to recommend creation of the TIF to the Council, the Finance Team will work with the Applicant to create a Finance Plan which shall be presented to the Council for consideration along with the petition. The Finance Plan shall address the recommended method of financing and specific terms associated therewith.
- (C) Bonds.
1. The City may issue TIF Bonds to finance a Project.

2. Bonds issued under this Policy must include security for the bonds of a sufficient amount to minimize any risk of default and be allowed by State and Federal Tax laws.
 3. Bonds must initially be offered in denominations of \$100,000 or greater. These minimum denominations may be reduced (upon consultation with the City's bond counsel and financial advisor) when one or more of the following are met:
 - a. The Projects being bond financed are substantially leased;
 - b. The estimated revenue stream yields significant debt service coverage on the bonds;
 - c. Construction of the Projects being bond financed is 100% complete;
 - d. The repayment term is less than or equal to 60% of the maximum permitted repayment term; and/or
 - e. Waiver of the minimum denomination provision by the Council.
 4. If a negotiated sale of the bonds is necessary, the City will normally select the underwriter(s) needed to structure, price, and sell the bonds through a competitive process. Exceptions to this process may be approved by the City Administrator upon consultation with the City's bond counsel and financial advisor. City staff and the City's financial advisor will be directly involved in all negotiated sale pricing.
 5. At its sole discretion, the City may require that an independent feasibility study of future TIF revenues be performed, with any such cost born by the Applicant if not otherwise reimbursed from Bond Proceeds.
- (D) Annual Appropriation. The Council may choose, but is not obligated, to annually appropriate funds to secure TIF revenue bonds. In the event this security option is put forth, the financing plan shall specifically address the risk mitigation steps to ensure an extremely low probability of the City having to use its general revenues for debt service. Furthermore, provisions should be made to reimburse the City for any payments made by the City for any TIF revenue bonds unless the Council specifically exempts any replenishment or reimbursement provision.
- (F) Reimbursement TIF. The Developer may be reimbursed for Projects within the TIF on a "pay-as-you-go" basis until the Council determines issuance of bonds is viable and in the City's best interest.
- (G) Funds. Funds and accounts shall be established in conformance with applicable regulations.
- (H) Development Agreement.
1. Prior to beginning development of the Project (including the issuance of bonds), the Applicant shall execute a Development Agreement as approved by the Council.