

1 **RESOLUTION NO. 9625**

2
3 A RESOLUTION introduced by City Manager Dr. Robert M. Perez amending
4 City of Topeka's policy for Community Improvement Districts
5 and rescinding Resolution No. 8392.
6

7 NOW, THEREFORE, BE IT RESOLVED THAT THE COMMUNITY
8 IMPROVEMENT DISTRICT POLICY FOR THE CITY OF TOPEKA, KANSAS WILL BE
9 AS FOLLOWS:

10 **CITY OF TOPEKA**
11 **COMMUNITY IMPROVEMENT DISTRICT ("CID") POLICY**
12

13 **SECTION I. OBJECTIVES.**
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15 The proper use of a Community Improvement District (CID) should promote, stimulate
16 and develop the general and economic welfare of and quality of life in the City of
17 Topeka. A CID involves public financing of all or a portion of a "Project" as defined in
18 the Community Improvement District Act ("Act") within a prescribed area (the District). A
19 CID Project should provide public benefit such as strengthening economic development
20 and employment opportunities; enhancing tourism; upgrading older real estate through
21 redevelopment or rehabilitation; or promoting sustainability. Public financing is
22 achieved by levying and collecting special assessments and/or a CID sales tax upon
23 property in the District.
24

25 **SECTION II. SCOPE.**
26

27 An applicant may petition the City to utilize CID financing to fund Projects eligible under
28 the Act. The authority and decision to approve a petition establishing a CID for a
29 Project is within the sole discretion of the Governing Body. However, Projects in which
30 the total project costs are less than \$1 million dollars will not be considered. The
31 Governing Body is under no obligation to approve any petitioned Project. This Policy is
32 intended to provide a guide in considering applications. The Governing Body reserves
33 the right to deviate from this Policy when it believes it is in the City's best interest.
34

35 **SECTION III. DEFINITIONS.**
36

- 37 A. "CID Sales Tax" means a retailers' sales tax over and above the aggregate
38 amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, and
39 amendments thereto, on the selling of tangible personal property at retail or
40 rendering or furnishing services taxable pursuant to the provisions of the Kansas
41 retailer's sales tax act, within a District, in any increment of .10% or .25% not to
42 exceed 2% as authorized by the Act, pledging such revenue to pay the bonds
43 issued for the Project or to reimburse the cost of the Project pursuant to pay-as-
44 you-go financing.

- 45 B. "Cost" means the definition set out in K.S.A. 12-6a27, as amended. The City, on
46 a case by case basis, may consider costs incurred within 12 months prior to
47 District establishment, provided the costs were incurred after July 1, 2009. The
48 City reserves the right to exclude otherwise eligible costs under the Act. The
49 approved project costs shall be described in detail in a Development Agreement.
- 50 C. "Owner" means the owner or owners of record, whether resident or not, of real
51 property within the District. The applicant shall be an owner.
- 52 D. "Pay-As-You-Go" means a method of financing in which the costs of a Project
53 are financed privately, and the approved costs of such Project are reimbursed
54 after Project completion as monies are deposited in the District fund.
- 55 E. "Project" may include any item eligible under the Act, as described in K.S.A. 12-
56 6a27, as amended, but the City reserves the right to exclude otherwise eligible
57 Projects under the Act; determine eligible and ineligible projects; and determine
58 the amount of funding for a Project on a case by case basis. These terms and
59 approvals shall be set out in a Development Agreement.
- 60 F. "Review Committee" includes the Assistant City Manager, Deputy City Manager,
61 Chief Financial Officer, Director of Public Works, Director of Planning &
62 Development, and the City Attorney, or their designees. The Committee may
63 also include City staff and individuals designated by the City Manager, including
64 but not limited to the Utilities Director, City's bond counsel and City financial
65 advisor.

66
67 **SECTION IV. PROVISIONS.**
68

- 69 A. Criteria. The Governing Body shall consider establishment of a CID when it
70 determines it is in the best interest of the City and provided the Project meets
71 one or more of the following criteria:
72
- 73 1. Creates facilities which promote the cultural, historical, or artistic elements
74 of the City and enhance tourism and quality of life.
75
 - 76 2. Attracts unique commercial, office, industrial, and/or mixed use
77 development which will enhance the economic climate of the City and
78 diversify the economic base.
79
 - 80 3. Substantially promotes economic development, investment or
81 reinvestment in the community.
82
 - 83 4. Encourages retail projects that enhance the retail base by either attracting
84 new sales or capturing sales moving to other markets.
85
 - 86 5. Provides for the construction of facilities that promote tourism or enhance
87 the quality of life within the City.

- 88
89 6. Upgrades older commercial real estate through redevelopment and/ or
90 rehabilitation.
91

92 B. Applicant Responsibility. The application process shall include an application
93 form and the petition required by the Act. As part of the process, the applicant
94 shall complete the following prior to submission of the petition to the Governing
95 Body:
96

- 97 1. Provide evidence in a form satisfactory to the City of the applicant's
98 financial ability to complete the proposed project in a timely manner.
99
- 100 2. Provide documentation substantiating the applicant's sources of funding,
101 including the amount/percentage of equity funding.
102
- 103 3. Submit a financial analysis demonstrating that the projected revenue is
104 sufficient to pay the costs of the project, including bond debt service. The
105 Review Committee may secure an independent feasibility study, the costs
106 of which shall be borne by the applicant. Additionally, the Chief Financial
107 Officer may secure an independent feasibility or 'but-for' analysis, the
108 costs of which shall be borne by the applicant. As authorized under the
109 Kansas Open Records Act, the City will treat as confidential any such
110 sensitive financial information provided by the applicant or its guarantors
111 to the City's Chief Financial Officer, other city advisors or legal counsel,
112 and will, if requested, enter on the City's behalf into a non-disclosure
113 agreement; provided, however, that such advisors or legal counsel must
114 have the right under such agreement to convey their conclusions about
115 the applicant's ability to meet the requirements above based upon its
116 review.
117
- 118 4. Pay all required fees and comply with all procedural requirements of the
119 Act and the City's CID Policy.
120
- 121 5. Execute a Development Agreement contemporaneous with presentation
122 of the CID petition to the governing body.
123
- 124 6. If a CID Sales Tax is first levied or modified after [insert date], the
125 applicant shall ensure that each retailer responsible for collecting the CID
126 Sales Tax complies with the following requirements:
127
- 128 (a) Upon establishment of a CID sales tax district, each business within
129 the CID sales tax district shall display prominently at each public
130 entrance, for the duration of time that the CID sales tax is collected,
131 a sign that contains, at a minimum, the following: "This project
132 made possible by Community Improvement District Financing.
133 Additional Community Improvement District sales tax of ____%
134 collected here."
135
- (b) The sign shall be a minimum size of four (4) inches square.

- 136 (c) The font size of the printed message shall be at least 18 pt.
137
- 138 7. Provide additional information requested by one or more members of the
139 Review Committee to permit the members to assess the need for the
140 amount and timing of the CID subsidy requested.
141
- 142 8. Provide certification that neither the developer entity nor any of its
143 shareholders/partners/members is delinquent on its property tax or special
144 assessment payments on any property it owns or controls in Shawnee
145 County;
146
- 147 C. Review Committee Consideration. The Review Committee shall review each
148 application and petition and make a recommendation to the Governing Body. In
149 determining whether to recommend approval of a CID petition and the method of
150 financing, the Review Committee may consider all of the following:
151
- 152 1. Whether creation of a CID meets one or more of the criteria set forth in
153 Section IV(A);
154
- 155 2. The total development costs and investment, including estimated Project
156 costs for which public financing is sought;
157
- 158 3. Sources of funding, including the amount of equity funding in comparison
159 to public financing;
160
- 161 4. Experience and financial stability of Developer;
162
- 163 5. Whether tenants for the Project are in place and the nature and quality of
164 the tenants;
- 165 6. Financial viability of the Project, including potential competition;
- 166 7. The amount and purpose of the funding request, including the percentage
167 of funding for capital costs; operational costs; and public costs; Whether
168 the requested CID funding is necessary to incentivize the project “but-for”
169 analysis;
- 170 8. If bonds are requested, the projected debt service coverage ratio of 1.25
171 from projected revenues; any additional security pledged by the
172 Developer; and the marketability of the bonds; and
- 173 9. Whatever other factors or considerations the Review Committee believes
174 the Governing Body would find relevant to its decision.
- 175 D. Governing Body Review. The Governing Body shall review the financial viability
176 of each CID and shall use this information in determining whether to grant the
177 Petition and, if granted, the appropriate term of the CID, which may be less than
178 the duration allowed by the Act.

179 1. In the event pay-as-you-go financing is utilized, the CID sales tax shall
180 expire on a date approved by the City, but no later than twenty-two (22)
181 years from the date the state director of taxation begins collecting such tax
182 or when the pay-as-you-go costs have been paid.

183 2. CID Bonds issued to finance the Project shall mature on a date approved
184 by the City, but no later than twenty-two (22) years from date of issue,
185 unless otherwise provided by law.

186 3. In no event shall any CID sales tax extend later than the date the bonds
187 issued to finance such project or refunding bonds issued for the Project
188 mature.

189 E. Financing.

190 1. Source of Funds. The cost of all or a portion of any authorized CID
191 Project may be financed by any or all of the following sources:

192 a. Pay-As-You-Go financing based either on a special assessment or
193 a CID sales tax within the District, or both;

194 b. Special Obligation Bond financing payable wholly through special
195 assessments within the CID;

196 c. Special Obligation Bond financing payable in part through special
197 assessments within the CID and in part through a CID sales tax;

198 d. General Obligations Bonds;

199 e. Any other funds appropriated by the City; or

200 f. A combination of the foregoing methods.

201 2. Development Agreement. If after review of the application, the Review
202 Committee determines to recommend approval of the CID to the
203 Governing Body, the City Attorney will negotiate a Development
204 Agreement (the "Development Agreement") which shall be presented to
205 the Governing Body for consideration contemporaneous with the Petition.
206 The Development Agreement shall address the recommended method of
207 financing, approved Project(s) and approved Costs; the feasibility of the
208 Project, the steps to be taken to minimize the risk of default; and any other
209 terms the Committee deems appropriate.

210 3. Bonds. The City encourages the use of private financing ("Pay-As-You-
211 Go") with reimbursement to the applicant for eligible, approved costs
212 associated with a CID Project, but the City may consider the issuance of
213 Bonds. Any determination to issue Bonds is within the sole discretion of
214 the Governing Body.

215 a. CID Bonds. The City may issue special obligation notes or bonds
216 ("CID Bonds") (collectively, "Bonds") to finance one or more
217 Projects. In no event shall special assessments be levied against
218 the City. The City will not provide credit enhancements for CID
219 Bonds; however, credit enhancement provided by an applicant will
220 be viewed favorably.

221 b. G.O. Bonds. The City discourages the use of full faith and credit
222 notes or bonds (G.O. Bonds) to finance a Project under this Act, but
223 may consider such action for that portion of a CID Project that is
224 exclusively for public improvements.

225 Prior to the issuance of any Bonds, the applicant must receive a
226 Certificate of Completion from the City. In addition, the applicant must
227 agree to certain disclosures required by the City and the Bond
228 underwriters and ensure that if necessary, such disclosure requirements
229 are included in all subsequent tenant leases and land sales within the
230 District.

231 4. Project Funds. A separate fund shall be created for each District and such
232 fund shall be identified by a suitable title (the "Fund"). CID sales tax
233 receipts, special assessments paid to the City under this Act, the proceeds
234 from the sale of Bonds, and any other moneys appropriated by the
235 Governing Body for the purpose of paying Project Costs, including the
236 principal and interest on the bonds issued pursuant to this Act shall be
237 credited to such Fund.

238 a. The Fund shall be solely used to pay the Costs of the Project either
239 through the issuance of Bonds or Pay-As-You-Go financing, and
240 shall be limited to approved costs included in the ordinance
241 authorizing the Project or in the Development Agreement.

242 b. Reimbursement of approved Costs may only be made after a
243 Certificate of Completion has been issued by the City.

244 c. In the event moneys remain in the Fund after the expiration of the
245 CID sales tax, such moneys shall continue to be used solely to pay
246 the Cost of the Project. Upon payment of all Project Costs and
247 principal and interest on any bonds issued for such District, the City
248 has the authority to terminate the CID and spend any moneys
249 remaining in such Fund for the purposes for which local sales tax
250 receipts may be spent.

251 5. Fees. When submitting its application the applicant shall pay a non-
252 refundable application fee to cover City expenses associated with
253 reviewing and processing the CID request. The City shall also require the
254 applicant to reimburse all costs incurred by the City for additional legal,
255 financial, planning and engineering consultants, for direct out-of-pocket

expenses, and for other costs relating to services rendered for the City to review, evaluate, process and consider the petition for a CID. If bonds are requested and subsequently approved by the City the applicant shall also be responsible for all costs of issuance associated therewith. The applicant shall also be responsible for paying an annual administrative fee to cover the cost of monitoring and administering the CID. Fee amounts shall be set out in the CID Procedures as described in Section

SECTION V. PROCEDURES.

City staff shall develop procedures for processing CID applications and filing CID petitions, in addition to such other matters such as the establishment of fees. Such procedures shall be approved, and amended as appropriate, by the City Manager.

SECTION VI. STATUTORY AMENDMENTS; CONFLICT WITH STATE LAW.

Any amendment to the Act or any statute cited herein or used as a source of authority for development of the City's CID Policy shall apply without the need to modify or amend this Policy. If any part of this policy conflicts with state law, the latter shall control.

SECTION VII. EFFECTIVE DATE.

This CID Policy shall take effect upon passage by the Governing Body.

SECTION VIII. RESPONSIBILITY FOR ENFORCEMENT.

The City Manager shall be responsible for the enforcement of this Policy.

NOW, THEREFORE BE IT FURTHER RESOLVED that Resolution No. 8392 is hereby rescinded.

ADOPTED and APPROVED by the Governing Body on February 18, 2025.

CITY OF TOPEKA, KANSAS

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk