

**CITY OF PITTSBURG, KANSAS
COMMUNITY IMPROVEMENT DISTRICT
POLICY**

I. PURPOSE

The Governing Body of the City of Pittsburg, Kansas (“The Governing Body”) is authorized by the Community Improvement District Act, K.S.A. 12-6a26, *et seq.* as amended (the “CID Act”), to create community improvement districts (“CID”) to fund economic development projects and related amenities and improvements as provided for in the CID Act, to be funded from certain revenues generated within the CID.

The CID Act provides that revenues may be derived from a CID sales tax up to 2% that is charged only within the CID, or from special assessments on the property within the CID, or a combination of sales tax and special assessments.

The Governing Body has determined that it is in the best interest of the City to establish the following policies and guidelines when it considers a petition for the creation of a CID.

II. CRITERIA

It shall be the policy of the City that in addition to the statutory requirements set forth in the CID Act, the creation of a CID shall be conditioned upon the Governing Body determining that it is in the best interest of the City to do so, and that in the opinion of the Governing Body, creation of a CID should meet at a minimum one or more of the following criteria.

The creation of a CID will:

- A. Attract retail and commercial development which will enhance the economic climate and condition of the City;
- B. Attract large regional retail development which will benefit the City;
- C. Result in the construction of infrastructure beyond what the City would require or otherwise build; and
- D. Promote rejuvenation and/or redevelopment within the City.

III. PROJECT EVALUATION

It shall be the policy of the City that when reviewing a petition for creation of a CID, the Governing Body shall consider, at a minimum, the following factors in its decision to create a CID and the amount of CID project costs authorized for reimbursement or payment.

A. Redevelopment Projects.

1. The total cost of the redevelopment project;
2. The percentage of funding for capital costs and public infrastructure costs;
3. The current use(s) and condition of the property proposed for redevelopment;
4. Whether the proposed redevelopment project includes refurbishment and upgrade of existing buildings and facilities or demolition of existing structures and replacement with new buildings and facilities. Projects consisting of demolition and replacement of existing structures with new construction will be viewed more favorably than projects consisting of repair and refurbishment of existing structures;
5. Whether the redevelopment project includes proposed CID funding of costs for maintenance of structures and facilities including but not limited to replacement, maintenance, or repair of building exteriors, HVAC systems, and roofs. The Governing Body will consider whether proposed expenditures represent costs reflective of routine care of property versus material capital improvements;
6. The experience of the developer in similar redevelopment projects;
7. The location of the proposed redevelopment project;
8. The types of businesses and tenants proposed for the redevelopment project. Redevelopment projects which will bring new tenants and types of businesses to the community will be viewed more favorably than projects which will relocate existing businesses from within the City. It is expected that a tenant will be a catalyst to the overall success of the redevelopment;
9. Whether the proposed project will include relocation or closure of businesses within the City; whether the proposed project will involve relocation of businesses within the district to another location; and/or of businesses within the district to another location; and/or whether businesses in other locations within Pittsburg will be relocated to the proposed CID;
10. Whether the proposed redevelopment project will bring existing development into conformance with the current development ordinances and standards of the City. It is the expectation that new development will meet the City's current development standards. Any deviations from these standards will need to demonstrate an extreme and unique condition;

11. Whether the proposed redevelopment project includes the construction of public amenities. Projects which contain public amenities will be viewed more favorably than projects which do not include public amenities;
12. Whether public incentives in addition to CID incentives have been approved or have been requested for the proposed redevelopment project. It is the Governing Body's policy not to provide public financing where total public financing sources for a proposed redevelopment project would exceed 40% of the total project costs. The Governing Body may consider the creation of a CID which exceeds this percentage of public participation when, in the opinion of the Governing Body and at its sole discretion, the proposed CID projects would be of a unique and extraordinary benefit to the City; and
13. Any other factors deemed by the Governing Body to be relevant to consideration of a proposed redevelopment project.

B. Greenfield Development Projects.

1. The total cost of the greenfield development;
2. The amount of private funding in comparison to CID financing;
3. The percentage of funding for capital costs and public infrastructure costs;
4. The experience of the developer in similar projects;
5. The types of businesses and tenants proposed for the greenfield development project. Projects which will bring new tenants and types of businesses to the community will be viewed more favorably than those which will relocate existing businesses from within the City;
6. Whether the proposed project will include relocation of businesses in other locations within Pittsburg to space within the proposed CID;
7. Whether the proposed greenfield development project includes the construction of public amenities. Projects which contain public amenities will be viewed more favorably than those which do not include public amenities;
8. Whether the proposed greenfield development project includes the construction of infrastructure that would enhance facilities to the benefit of the public;
9. Whether other public incentives have been approved or have been requested for the proposed greenfield development project. It is the Governing Body's policy not to provide public financing where total

public financing sources for a proposed greenfield development project would exceed 40% of the total project costs. The Governing Body may consider the creation of a CID which exceeds this percentage of public participation when, in the opinion of the Governing Body and at its sole discretion, the proposed CID projects would be of a unique and extraordinary benefit to the City; and

10. Any other factors deemed by the Governing Body to be relevant to the proposed greenfield development project.

IV. ELIGIBLE CID PROJECT COSTS

It shall be the policy of the City that certain CID project costs shall be eligible for reimbursement and other costs not eligible for reimbursement in accordance with the following:

A. **Eligible CID Costs.** CID revenues may be used for reimbursement for the following project costs within the CID, including those to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip, or extend:

- 1) Buildings, structures and facilities. Projects consisting of demolition and replacement of existing structures with new constructions will be viewed more favorably than those consisting of repair and refurbishment of existing structures. The total amount of tenant improvement costs reimbursed from CID revenues should not exceed 20% of the total amount of CID reimbursement;
- 2) Sidewalks, streets, roads, interchanges, highway access roads, intersections and alleys;
- 3) Parking lots and parking garages;
- 4) Bridges, ramps, tunnels, overpasses and underpasses;
- 5) Traffic signs and signals;
- 6) Utilities;
- 7) Pedestrian amenities;
- 8) Drainage systems and storm systems;
- 9) Waters systems, sewer systems, lift stations, underground gas, heating and electrical services and connections located within or without the public right-of-way, water mains and extensions;
- 10) Streetscape improvements;

- 11) Lighting, street light fixtures, street light connections and street light facilities;
- 12) The preparation and publication of notices of hearings, resolutions, ordinances and other proceedings relating to the creation or administration of the district or the issuance of bonds therefore;
- 13) Necessary fees and expenses of consultants to the City;
- 14) Interest accrued on borrowed money during the period of construction and the amount of any required reserve fund for any bonds;
- 15) The cost of land, materials, labor, and other lawful expense incurred in planning and constructing any project;
- 16) A charge not to exceed 5% of the total cost of the project for the cost of work done by the City to reimburse the City for the services rendered in the administration and supervision of such project by its general officers; and
- 17) Other site improvements.

B. **Ineligible CID Costs.** CID revenues shall not be used to reimburse for the following project costs, notwithstanding such costs are otherwise permitted by the CID Act:

- 1) 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;
- 2) To provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons;
- 3) To provide or contract for cleaning, maintenance, and other operational services to public or private property;
- 4) To produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, marketing, advertising, decoration of any public place in the district, promotion of such activity and special events and furnishing music in any public place;
- 5) 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;
- 6) To provide or support training programs for employees of businesses;

- 7) To pay excise taxes or transportation payments required by the City;
- 8) To pay developer fees, project management fees or attorney fees incurred by the developer;
- 9) Marquees, awnings and canopies;
- 10) Parks, lawns, trees and other landscape;
- 11) Communication and information booths;
- 12) Bus stops and other shelters, stations, terminals, hangers, rest rooms and kiosks;
- 13) Paintings, murals, display cases, sculptures, fountains and other cultural amenities;
- 14) Airports, railroads, light rail and other mass transit facilities;
- 15) Lakes; dams, docks, wharfs, or river ports, channels, levies, and waterways;
- 16) To contract for or conduct economic impact, planning, marketing or other studies;
- 17) For the preparation of preliminary reports;
- 18) The preparation of plans and specifications; and
- 19) Any expense or cost that the Governing Body deems to be not in the best interest of the City.

V. FINANCING

It shall be the policy of the City that financing of eligible CID costs reimbursable in accordance with the CID Act and this policy shall be subject to the following criteria and standards:

A. **Methods of Financing.** In accordance with the CID Act, CID projects may be financed by one of the following methods. The City shall have sole determination as to the approved method of financing.

- 1) Pay-as-you-go financing based either on special assessments imposed within the CID or revenue received from a CID sales tax collected within the CID, or both; or

- 2) Special obligation bond financing payable wholly through special assessments imposed within the CID; or
- 3) Special obligation bond financing payable wholly from a CID sales tax collected within the CID; or
- 4) Special obligation bond financing payable in part through special assessments imposed within the CID and in part from a CID sales tax collected within the CID; or
- 5) A combination of the foregoing methods.

B. **Pay-as-you-go Financing.** Projects which use pay-as-you-go financing will be viewed more favorably than projects requesting issuance of special obligation bonds.

C. **Bond Financing.**

1) Special Obligation Bond Financing. The City will consider issuance of special obligation bonds, when, in the opinion of the Governing Body, the nature of the project and the impact on the community warrants use of special obligation bond financing. Issuance of special obligation bonds will be at the sole discretion of the Governing Body and subject to the following:

- a) Minimum issue size of \$1,000,000;
- b) Special Obligation Bonds must be sold to a “Qualified Institutional Buyer” or an “Accredited Investor” as defined by the Securities and Exchange Commission with a “traveling investor letter”;
- c) Special Obligation Bonds must be offered in denominations of not less than \$100,000; and
- d) The City will select a placement agent for any special obligation bond issuance by a method approved by the Governing Body.

2) General Obligation Bond Financing. It is the policy of the City that no general obligation bonds will be issued to finance a CID project.

D. **Financing Risk.** The City will not provide full faith and credit backing or other credit enhancement to any CID project or in any way put the general revenues of the City at risk to finance a CID project or reimburse eligible expenses.

VI. APPLICATION

To provide the City staff and Governing Body with sufficient information to consider a CID Petition, a CID applicant must provide the following information and documents regarding the proposed CID to the City Manager or his or her designee for review and consideration:

A. **Draft Petition.** A draft petition which includes the following information, as described in the CID Act:

- a. The general nature of the proposed project;
- b. Estimated cost of project;
- c. The proposed method of financing the project;
- d. The proposed amount and method of assessment;
- e. The proposed amount of CID sales tax;
- f. A map of the proposed district; and
- g. A legal description of the boundaries of the proposed district.

B. **Legal Description.** A legal description must be accompanied by a verification submitted in accordance with the form attached hereto as Exhibit A and an original, legible map depicting the boundaries of the district.

C. **Project Description and Site Plan.** Information supplemental to the Draft Petition including:

- 1) A description of the project, phasing, and timing of the project. The description should include information related to all improvements, public and private, with a description of the improvements to be financed with the proposed CID;
- 2) A complete and legible site plan that depicts the phases and improvements as described in accordance with the requirements of this Section VI;
- 3) A description of how the proposed CID fulfills the criteria and objectives of this policy, as outlined in Sections II and III;
- 4) A description of the tenants and/or types of tenants to be located within the proposed CID; and
- 5) A description of whether the proposed project will include relocation of businesses, including relocation of businesses within the district to another location as well as whether businesses in other locations within Pittsburgh will be relocated to space within the proposed CID.

D. **Description of Project Financing.** A description of the proposed method of financing, as outlined in Section V to include:

- 1) If the proposed CID includes a CID sales tax, the proposed percentage should be identified as well as the proposed date for the sales tax to commence. Projects proposing a CID sales tax or 1.0% or less will be viewed more favorably than projects proposing a higher sales tax percentage;
- 2) If the proposed CID revenue for the project is special assessments, the estimated amount of the assessments should be identified; and
- 3) The description of financing should also include whether pay-as-you-go or bond financing is requested.

E. **Project Sources and Uses.** A description of costs and revenue projections for the proposed CID, including the following:

- 1) A comprehensive project budget outlining project costs in as much detail as will depict the types and categories of project expenditures. The budget should be presented in a format agreed to with the City Manager or his or her designee in order to make clear the source of funds, by line item and category those items proposed to be funded with CID financing and those to be funded privately; and
- 2) Forecast of CID revenues including the assumptions used in the forecast and an annual projection of CID revenues.

F. **Description of other Public Financing.** The CID application should provide a detailed description of public financing included in the project in addition to the proposed CID.

G. **Developer Information.** Information regarding the developer as follows:

- (1) A complete description of the legal entity or entities and the principals involved in development of the property;
- (2) A summary of the background and qualifications of the CID applicant and/or the developer and development team responsible for the development project and evidence that these individuals and entities have demonstrated success in similar type projects and can operate the project for the term of the proposed CID; and
- (3) Information evidencing that the applicant has the financial ability to complete the proposed project, the sources of debt and equity for the project, and a letter from a financial institution indicating private financing can be obtained for the proposed project.

H. **Property Information.** A listing of owners and tenants as follows:

- (1) A complete list of all property owners within the proposed CID, the total land area owned by each and the assessed valuation represented by each; and
- (2) A complete list of all tenants within the proposed CID.

VII. PROCESS

It shall be the policy of the City that all requests for consideration of the creation of a CID shall be reviewed in accordance with the following process:

A. **Timing.** A complete application must be submitted at least thirty (30) days prior to a regular meeting of the Economic Development Advisory Committee (“EDAC Committee”). A recommendation for EDAC Committee review and consideration of the proposed CID project will not be made by the City Manager unless and until all application materials, as well as supplemental information requested, has been submitted to the satisfaction of the City Manager.

B. **Preliminary Review.** The City Manager or his or her designee, in consultation with City staff, bond counsel and financial advisor, will review the CID Application to determine whether the proposed CID fulfills the criteria and objectives of this policy, as outlined in Sections II and III. The City Manager or designee may request additional information to assist review of the CID application. If the City Manager determines that the proposed CID meets the criteria and objectives of the policy, the CID Application as supplemented, will be forwarded to the EDAC Committee for its preliminary consideration.

C. **EDAC Committee Review.** The EDAC Committee will review the proposed CID and if it preliminarily approves the concept, then City staff will assist the CID applicant to prepare for the Governing Body’s consideration a formal petition and a resolution to call a public hearing.

D. **Formal Petition.** The CID applicant must file with the City Clerk a formal petition for the creation of a CID based upon the concept of the proposed CID that is preliminarily approved by the EDAC Committee. The petition shall be accompanied by the petition fee as described in Section IX and contain the following:

- 1) All of the information required by the CID Act;
- 2) Acknowledgment by the applicant that the applicant will pay all out of pocket costs incurred by the City related to the City’s review of the petition, including but not limited to the City’s cost of legal counsel and financial advisors necessary to evaluate the petition;
- 3) If the CID applicant is seeking to finance the CID project in whole or in part with CID sales tax, signatures of the owners of more than 55% of the land area within the proposed district and collectively owning more than

55% by assessed value of the land area within the proposed CID. CID petitions signed by owners of 100% of the property within the district will be viewed more favorably than those reflecting only the minimum as required by the CID Act;

- 4) If the CID applicant is seeking to finance the CID project only with assessments, signatures of the owners of all the land area within the proposed CID; and
- 5) The formal petition must be submitted no less than ten (10) business days prior to the meeting at which the Resolution to set the public hearing will be considered.

E. **Public Hearing.** Upon receipt of the petition and all additional information required by this Policy, the Governing Body may order a public hearing on the creation of a CID and the imposition of a CID sales tax. The Governing Body shall give public notice and hold such hearing in the manner required by the CID Act.

F. **Funding Agreement.** Prior to or at the same time as submitting a draft CID petition, the CID applicant must enter into a funding agreement with the City whereby the applicant will reimburse the City for costs the City incurs including costs of all legal publication notices, resolutions, ordinances, and other proceedings relating to the consideration and/or creation of the proposed CID; the costs of the City's consultants, financial advisor, bond counsel and legal counsel as a result of the consideration of the proposed CID.

G. **Governing Body Findings.** After the public hearing is conducted, the Governing Body shall determine the advisability of creating a CID pursuant to the CID Act. If advisable, and an acceptable development agreement is presented as required in Section VIII below, the Governing Body may create a CID by adopting an appropriate ordinance.

VIII. DEVELOPMENT AGREEMENT

No CID ordinance will be adopted unless and until the Governing Body approves a development agreement between the City and the CID applicant and shall include, but not be limited to the provisions below. Development agreements will be negotiated on a project-by-project basis and consider all relevant factors related to the characteristics of the proposed CID.

A. **Project Description.** The agreement will include provisions regarding the proposed CID project, as described in the application as well as the approved budget for the project.

B. **Development Requirements.** Development will be required to be in conformance with all City policies, ordinances, design standards and codes. The City reserves the right to require higher development standards for improvements made within a CID including design, materials, additional amenities and other factors the Governing

Body deems in the best interest of the City. It is expected that deviations from these would only be considered in extreme and/or unique circumstances.

C. **Required Expenditure of Private Funds.** The agreement will include provisions to ensure that private funds are invested in the project prior to or along with the investment of the CID funds.

D. **Certification of Costs and Disbursement of CID Funds.** The agreement will include provisions regarding the method and manner for certification of eligible expenses and reimbursement of costs from CID funds.

E. **Timing and Performance Milestones.** The agreement will include provisions regarding project completion and the performance of certain improvements which must be completed prior to reimbursement or disbursement of CID funds.

F. **Maintenance and Use during the term of the CID.** The agreement will include provisions outlining the expectations during the term of the CID and/or the life of the bonds up to twenty-two (22) years as provided in the CID Act. These provisions will include, but are not limited to uses and use restrictions, maintenance, payment of taxes, casualty loss, and reporting.

G. **Community Participation.** The agreement will provide that recipients of CID tax incentives are required to actively participate in community organizations such as the Pittsburg Area Chamber of Commerce.

H. **Assignment Rights.** The agreement will provide that any and all assignment of rights under the development agreement shall be subject to Governing Body approval.

I. **Default Provisions.** The agreement will include a certification by the developer that it is either not delinquent in the payment of ad valorem taxes to Crawford County, Kansas, or will cure any such delinquency within a time period approved by the Governing Body. The agreement will further provide that if said ad valorem taxes are not paid in full prior to becoming delinquent during the term of the CID, such a delinquency shall constitute a default.

J. **Guaranty Requirements.** This agreement will include personal guaranties from each principal, and his or her spouse, of the developer.

IX. FEES

A. **Application Fee.** Upon submission of a CID application as set forth in Section VI, the CID applicant shall pay a non-refundable application fee of \$1,000.00 to the City.

B. **Annual Administration Fee.** For any approved CID, the City shall be paid an on-going annual administrative service fee in the sum of 1% of the total CID

revenues received by the City. The annual administrative fee may be paid from CID revenues.

X. AUTHORITY OF GOVERNING BODY

The Governing Body, by its inherent authority, reserves the right, in its sole discretion, to grant or reject any proposal or petition for creation of a CID at any time in the review process when it considers such action to be in the best interests of the City.

ADOPTED by the Governing Body of the City of Pittsburg, Kansas this 12th day of May, 2015.

APPROVED AND SIGNED by the Mayor this 12th day of May, 2015.

CITY OF PITTSBURG, KANSAS

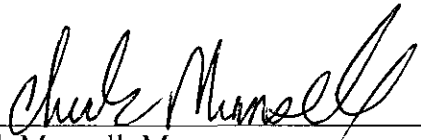
By: 
Chuck Munsell, Mayor

EXHIBIT A

VERIFICATION OF LEGAL DESCRIPTION

STATE OF KANSAS)
) ss:
COUNTY OF CRAWFORD)

I, _____, being first duly sworn upon my oath, state I am over the age of eighteen years; I am the authorized representative of _____ (the "Developer"); I have read the CID Petition dated _____, 20____; the Developer had the attached legal description prepared by a surveyor licensed in the State of Kansas and that said surveyor has stamped the legal description; I have verified the legal description for accuracy on behalf of the Developer and that the legal description is true, correct and accurate.

Subscribed and sworn to before me this ____ day of _____, 20 ____.

Notary Public

My Appointment Expires: _____