



# CITY OF TOPEKA

## POLICY AND FINANCE COMMITTEE

### CITY COUNCIL COMMITTEE MEETING MINUTES

CITY COUNCIL  
City Hall, 215 SE 7<sup>th</sup> Street, Suite 255  
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Date: March 29, 2018  
Time: 1:00 p.m.  
Location: Holliday Building, 620 SE Madison

### Attendance

Councilmembers Present: Tony Emerson, Karen Hiller, Jeff Coen.  
City Staff Present: Nickie Lee (Finance Director)

#### 1) Call to Order

Councilmember Hiller called the meeting to order.

#### 2) Approval of Minutes

Councilmember Coen made a motion to approve the minutes from the March 9, 2018 meeting. Councilmember Emerson seconded the motion. The minutes were approved 3:0.

#### 3) Brief Overview of the TIF Policy

Nickie Lee provided the committee with a few key take away notes from the March 9<sup>th</sup> meeting. The first note was establishing the goal of the policy, which is to strike the balance between encouraging development and protecting the City's assets. The development of this policy would bring the City's professional standards and best practices up to date to fall in line with other policies currently in place Community Improvement Districts (CID), and felt the same was needed for a Tax Increment Finance (TIF) policy that would provide guidance to the City's approach to these projects. The basic definition of a Tax Increment Financing project is it is a tool that the State of Kansas allows cities to use that allows development to set a base value for primarily property taxes, but can also be used for sales tax or other taxes within that district. The increments or growth that is seen in sales tax or property tax, which is seen within the course of that development is then dedicated to the developer per the terms defined by the Governing Body and the City at the inception of that project. Many cities have a TIF policy in place, which allows potential developers the chance to review preferences and ask questions prior to submitting an idea.

Nickie Lee stated a few differences to the City of Topeka's TIF policy from other city's policies included a strong preference for a pay-as-you-go projects. However, this does not mean other projects asking for funding would be rejected.

The policy also solidifies a "But For" test. This test defines that the developer may not be doing the project or may not be doing it to the extent that they have proposed if it was not for the TIF incentive.

Administrative steps are also solidified within this policy. Items like having an application, timeline and fee that were not previously listed.

The TIF policy would also provide steps for developers that would combine definitions for establishing a TIF District as well as the TIF Project Plan. With the possibility of multiple project plans or an instance where a district was established prior to the plan being submitted, this tool would enable the City as well as developers to have a clear understanding of both aspects.

Councilmember Hiller spoke to community members in attendance to reiterate the reason behind inviting public input about the proposed TIF policy. This was followed by introductions. City Manager Brent Trout, Deputy City Attorney Mary Feighny, Joseph Ledbetter with Ledbetter Thompson Law, David Petersen and Tom Petersen with Associated Commercial Brokers, Curtis Sneden with the Greater Topeka Chamber, Kevin Cowan with Gilmore & Bell P.C., Jeff White with Columbia Capital, Renee Criqui with the City of Topeka's Housing and Neighborhood Development, and Jennifer Sourk with Midwest Health introduced themselves.

#### **4) Public Input on Proposed TIF Policy**

Curtis Sneden spoke to the committee on behalf of stakeholders with the Chamber of Commerce to assist with communicating between parties. Three key developers met with Mr. Sneden; Midwest Health, AIM Strategies, and Drake Development, provided comments and asked Mr. Sneden to forward those comments to the committee. Mr. Sneden provided Nickie Lee with a red-lined copy of the draft policy that the parties above worked on. That copy will be attached to the minutes.

Councilmember Coen asked Nickie Lee to clarify what the difference was between a CID and a TIF policy.

Nickie Lee provided the following: Community Improvement District (CID) uses sales tax only. Within the development, a sales tax is included within



the City's sales tax. This 1% tax would go directly back to the developer per the development agreement. The City currently has more of this type of project. This can be used for different types of reimbursement to developers than a TIF.

A Tax Increment Financing (TIF) – Sets a base value and any increment growth would go back to the developer. On large developments, the use of CIDs and TIFs are commonly used. The example of the Wheatfield Development was provided.

Councilmember Hiller noted that the CID is a supplemental sales tax program. It does not divert new growth sales tax.

Jennifer Sourk with Midwest Health spoke to the committee to assist with defining the difference between a CID and a TIF. Ms. Sourk noted that in the specific project that she is associated with, the CID only covers “the sticks that go up in the air” are eligible expenses. Midwest has to demonstrate to the City that those expenses are there before being reimbursed. With the TIF, there is not a blanket amount that is reimbursed. It is an increment on the growth of property taxes that the City is not currently gaining. The TIF eligible expenses include infrastructure and lateral costs to the developers. Councilmember Hiller included that with a TIF district, it is interesting to see infrastructure costs be included. Ms. Sourk noted that it takes a partnership for the Wheatfield CID & TIF projects to be successful.

Jeff White with Columbia Capital Management spoke to the committee. Columbia Capital has served as an independent financial advisory firm that has served the City of Topeka for many years. They currently advise cities and counties in four states in TIF transactions. Mr. White is in support of the TIF policy. Fundamentally, the purpose of the TIF law is to provide governments with the tools to provide an incentive investment that does not permit projects with market rates of return without the benefit of the TIF, otherwise known as the “but for” test. The challenge for governments is to provide enough incentive to make these areas viable for development, but not so much incentive that the developer is overcompensated for its actual risk of doing the development at that site. Every TIF project starts with an information asymmetry. The city does not know what the correct amount of the incentive is, but the developer generally does know what level of incentive would be needed in order to generate its desired return. This information is not typically shared with the government entity. Negotiations begin at that point. Mr. White describes how a TIF is a

public/private partnership, with the city assisting the developer with achieving a market rate of return on its investment in exchange, the city generates new services and resources that did not exist prior to the project, and creates the possibility for future net new tax revenues to off-set financing for government. The challenge of funding a TIF project is that the funding is generally front loaded while the benefits are back-loaded. The statutory life of a TIF in Kansas is roughly twenty years. City governments need to be rigorous in its evaluation in realizing the benefits of the back-loaded developments. In his closing statements, Mr. White and Columbia Capital feel that the TIF policy being presented strikes the right balance that is needed to ensure success between the public and private parties.

Joseph Ledbetter addressed the committee and spoke on behalf of Tom Petersen. Mr. Ledbetter feels that more of a background needs to be provided. Questions need to be asked as to why Topeka is not seeing the economic development in the way other cities, such as Lawrence are. Mr. Ledbetter also noted that the City of Lenexa has roughly three pages of definitions included in their TIF policy. He feels this is important to have to assist with developers reading the policy. One paragraph that Mr. Ledbetter is questioning within the Topeka TIF policy is in regard to the reason would it be preferred or not preferred for someone to be using other incentive tools. This policy has not been utilized much in recent years. Mr. Ledbetter cautions the committee not to rush the process of developing the policy. Mr. Ledbetter notes that developers such as Tom Petersen would like to see more of an open door type of policy when it comes to writing the TIF policy. One definition Mr. Ledbetter inquired about is "blight" and how the City would want to define that, asking if it would be by age of buildings or a subjective standard. The city should be open to the concern of developers wanting to redevelop blighted areas. Mr. Ledbetter also wanted to point out that the reason he has been researching the Gross Domestic Product (GDP) of this counties and others in the area is that it is an objective standard. The findings have been disheartening. Topeka's GDP is less now than it was in 2004; this has been due to constant inflation of tax dollars. In conclusion, Mr. Ledbetter feels that economic development is very important and that the TIF policy is one tool.

Councilmember Hiller inquired with Mr. Ledbetter to clarify if he is asking that developments be strictly limited to blighted areas. Mr. Ledbetter responded that he did not feel it should be strictly limited to blighted areas, but that with his research into the City of Lenexa's definitions, blighted



areas were included as an opportunity for development or redevelopment if someone was interested in proceeding with a project there. To clarify, Mr. Ledbetter is looking for definitions to be included so that everyone can have an objective standard that can be interpreted the same.

Councilmember Coen inquired about the location of the two current TIF developments. Nickie Lee noted that they are College Hill at 17<sup>th</sup> and Washburn, and the Wheatfield Development at 29<sup>th</sup> and Fairlawn. The Eastgate Development that never was completed was located at 15<sup>th</sup> and Adams. Councilmember Hiller noted that she believes that there was also a TIF development of a similar name, the Eastgate Town Homes, located on Rice Road but that it has run its timeframe.

Councilmember Hiller asked for any final comments to the committee. She noted that staff has done a nice job of putting together a list of "Where As's", and asked if there was any feedback from the public as to whether or not those were helpful. Jennifer Sourk noted that the city is not seeing growth currently, however the intent of the policy are welcoming. Ms. Sourk noted that the policy should clearly define what the intentions are.

Councilmember Hiller asked if there were any other comments or questions. Councilmember Emerson inquired if having procedural definitions should be separate, or where the appropriate place would be for those to go. The original goal was to create a policy that would encompass everything in one place rather than having a policy manual and a procedural manual. Mary Feighny noted that the City could separate the two items out in a similar way that the CID policy and procedures are done. The procedure deals with the details. The policy is approved by the Governing Body and directs the City Manager to establish procedures to implement the policy.

Councilmember Hiller clarified that the Governing Body adopts the policy, however would not have a say in the procedures. Mary Feighny confirmed. She also noted that both items would be published on the City's website. Nickie Lee noted that ultimately, it is a preference of style and that the original thought was to be able to involve the Governing Body in the full aspect of the TIF policy.

Councilmember Hiller closed the agenda item discussion.

### **Committee Discussion**

Nickie Lee has May 15, 2018 as the date when the Policy and Finance Committee will update the Governing Body on the status of the TIF Policy, and noted that it may be beneficial for the committee to meet again in April.

**5) Other Items Before the Committee**

No other items.

**6) Set Future Meeting Date(s)**

Thursday, April 19, 2018 at 9:30am. The committee will look over suggestions given from the March 29<sup>th</sup> meeting.

**7) Adjourn**

Councilmember Hiller adjourned the meeting.

The video of this meeting can be viewed at: <https://youtu.be/K9GLSNDTs8Y>





**NOW, THEREFORE, THE TAX INCREMENT FINANCING REDEVELOPMENT DISTRICT POLICY FOR THE CITY OF TOPEKA, KANSAS WILL BE AS FOLLOWS:**

**SECTION ONE: GENERAL POLICY STATEMENT.**

1. It shall be the policy of the City to consider creation of a one or more TIF redevelopment districts, each hosting one or more qualifying TIF redevelopment projects.
2. It is the policy of the City to consider the judicious use of TIF for projects that demonstrate a substantial and significant public benefit by constructing public improvements in support of developments that will, by creating new jobs and retaining existing employment, eliminate blight, strengthen the employment and economic base of the City, increase property values and tax revenues, reduce poverty, create economic stability, upgrade older neighborhoods, facilitate economic self-sufficiency, promote projects that are of community wide importance, diversify the City's tax base and implement the Comprehensive Plan and/or economic development goals of the City.
3. The City will use care in the employment of TIF by thoroughly evaluating each proposed TIF redevelopment project to ensure that there is an appropriate balance between the benefits that will accrue from the approval of TIF and the corresponding costs, and that they are equitable to the City as a whole.
4. The City may unilaterally initiate the creation of a TIF redevelopment district which may contain a TIF redevelopment project plan or plans, or the City may respond to a third-party request to create such district and related project plan or plans.
5. The City will charge a TIF application and an administrative service fee as set forth in this policy.
6. It shall be the policy of the City to give priority considerations to TIF applications that request only pay-as-you-go-financing.

**SECTION TWO: POLICY GUIDELINES (TIF DISTRICTS).** The following criteria are to be used by members of the City's TIF Committee, with input from appropriate staff, to evaluate applications for the creation of a TIF redevelopment district:

1. The City seeks ~~to avoid the creation of single parcel TIF redevelopment districts, preferring instead~~ to encourage the redevelopment of larger scale projects that positively impact multiple land uses and bring economic activity to surrounding neighborhoods.
2. For third-party requests to create TIF redevelopment districts, the City will not consider creation of a TIF district unless the applicant certifies that it has the good faith intent intends to submit a Redevelopment Plan and begin negotiating a Redevelopment Agreement within a reasonable period of time sixty (60) days of following creation of the TIF district. Thereafter, the City will require satisfactory assurance that the project will be completed in a timely manner in accordance with the Redevelopment Plan and Agreement.
3. Within fifteen (15) business days of a third-party making application for the creation of a TIF redevelopment district, such third-party shall execute the City's standard Funding Agreement and deposit with the City, in immediately available funds, \$30,000 to cover the City's costs of evaluating such request which may include, but not necessarily be

**Comment [CS1]:** The City could certainly act on its preference for larger projects in any given case but this reference to avoiding them does not seem necessary. It might discourage a single parcel developer from even applying even though they have a concept which would be highly beneficial to the community.

**Comment [CS2]:** Not clear what purpose the timeline serves. It is not uncommon for developers to seek the creation of a TIF district well in advance of their readiness to commence detailed negotiations of a Redevelopment Plan. If a developer tarried-on indefinitely, the City could deactivate the TIF district.



limited to, direct costs of the City's financial and legal advisors on TIF and direct costs of outside consultants on TIF. The Funding Agreement shall provide that if the balance of such deposit declines below \$10,000 at any point in time, the applicant shall restore such balance to \$30,000 within ten (10) business days by making a subsequent deposit with the City in immediately available funds.

Should the applicant withdraw its application, the City will use its best efforts to refund any unused balance of the deposit to the applicant within ten (10) business days.

The applicant may seek reimbursement from TIF proceeds (if any) for any such City costs charged against the deposit.

**Comment [CS3]:** As is true of several provisions in this policy, this paragraph, while not problematic, strikes one as being more procedure than policy. Query whether the procedural items could be captured in a separate document which contains the rules of play, as distinct from the City's express policy on TIF developments.

**SECTION THREE: POLICY GUIDELINES (TIF PROJECT PLANS).** The following criteria are to be used by members of the City's TIF Committee, with input from appropriate staff, to evaluate applications for the creation of a TIF project plan within a TIF redevelopment district:

1. Each TIF project plan application must demonstrate that "but-for" the use of TIF, the project is not feasible and would not be completed without the proposed TIF assistance. The City ~~(through staff or its advisors and consultants; and at its sole discretion)~~ will collaborate in good faith with the applicant to conduct the but-for analysis and the applicant shall be responsible for providing all information reasonably requested by the City to conduct such analysis.

**Comment [CS4]:** Just a few adjustments are suggested. Taken as a whole, this section does not seem to send the message that Topeka is receptive to development.

The City's but-for requirement is a greater burden than the statutory burden for approval of a TIF project plan. The City shall, in its reasonable discretion, select the calculation methodology for such but-for analysis but it shall generally compare the return of the project and/or its developer taking into account TIF and other incentives against market rates of return for similar projects developed on "greenfield" sites (that is, those without the physical and legal impediments leading to the request for TIF). ~~The but-for analysis will use time value of money discounting using reasonable assumptions (at the discretion of the City).~~

**Comment [CS5]:** It seems quite possible that the City might actually want to encourage re-development of sites which also happen to bear such additional costs as environmental remediation. This comparison to market returns on greenfield sites seems to preclude that.

In order that the City's analysis can be comprehensive, the applicant is expected to disclose all incentives it intends to seek for the project simultaneously and to disclose these efforts in its application, including incentives sought~~The but-for analysis shall take into account all incentives requested by the developer~~ from any governmental or other source (such as GO Topeka), not just those benefits provided by the TIF.

**Comment [CS6]:** This would seem to be more procedural than policy. This might change over time and it would be preferable to adjust the procedures document rather than amend the stated policy.

The City will generally seek to target a level of TIF incentive sufficient to provide the applicant with a market rate of return, including the effects of the incentives, but the City, at its discretion, may choose to provide a greater rate of return to the applicant in exchange for extraordinary benefits to the public.

The City will provide priority consideration for projects where less than twenty percent (20%) of the project's costs (excluding any interest on private financing) are expected to be paid from public incentives.

2. ~~The City must be reasonably satisfied of the applicant's financial stability and ability to fulfill its obligations under the proposed Redevelopment Agreement. To this end, the City may reasonably request financial information from the application and its guarantors, if any, as a condition of the project's approval.~~
2. Each TIF project plan application must include evidence that the applicant:
- a. ~~Has a complete capital stack established with sources and uses in balance;~~
  - b. ~~Has the financial ability to complete the project, on time, as proposed;~~
  - c. ~~Has a firm, demonstrable commitment from a lending institution(s) for any private borrowing required to complete the project;~~
  - d. ~~Has the financial wherewithal to make the equity contribution to the project required to secure such borrowing(s);~~
  - e. ~~Has a reasonable basis for its project cost estimates, with preference provided to applications that include professionally-estimated project costs; and~~
  - f. ~~Has the capacity, for itself or through experienced operators, to operate the project profitably over its lifecycle.~~

The City will ~~generally agree to permit the applicant to provide~~ treat as confidential any such sensitive financial information ~~provided by the applicant or its guarantors~~ to the City's advisors or legal counsel ~~and will, if requested, enter on the City's behalf into~~ under a non-disclosure agreement; provided, however, that such advisors or legal counsel must have the right under such agreement to convey their conclusions about the applicant's ability to meet the requirements above based upon its review.

3. ~~The City places priority on TIF redevelopment districts in areas of greatest need such as any approved neighborhood revitalization area, redevelopment planning area, and/or other similar areas where significant public/private investment has been directed consistent with the infill growth policies of the comprehensive plan.~~

4. ~~The City will give preference to TIF project plan applications which request reimbursement of eligible project costs solely from the incremental real property taxes generated by the TIF project. Should an applicant request reimbursement of eligible project costs from the City's one percent (1%) general sales tax or other locally levied taxes or fees, the applicant shall demonstrate the necessity of including such other locally levied taxes or fees.~~

- 5.4 The City will give preference to TIF project plan applications that ~~do not seek one hundred percent (100%) capture of incremental real property taxes or other locally levied taxes or fees and/or that~~ provide tangible, immediate public benefits (such as constructing high-priority infrastructure at the project's cost, producing high-wage jobs, making quality jobs available in highly-distressed neighborhoods, etc.).

**Comment [CS7]:** It is suggested that the language proposed above is a more appropriate policy-level statement about a developer's solvency than are the detailed requirements set forth in section 2.

**Comment [CS8]:** This is excellent. It is exactly the sort of thing the City should be espousing at the policy level!

**Comment [CS9]:** It is suggested that the modification in paragraph 1 regarding simultaneous disclosure all incentives addresses this topic more efficiently.



180 | 6.5. The applicant will include in its TIF project plan application a uses-by-source-of-funding  
181 | schedule illustrating the project costs that will be reimbursed from TIF and any other  
182 | incentive program (public or private) for which the applicant has or plans to apply.

**Comment [CS10]:** It has been questioned whether this is actually a desirable policy position for the City to take. The overall merits of any given project should be weighed. This particular topic is just one of numerous considerations.

184 | 7.6. If businesses are to be relocated from other areas of the city to the proposed TIF project  
185 | plan area, the applicant must provide sufficient justification to indicate why the City  
186 | should subsidize such relocation.

**Comment [CS11]:** It is suggested that the City could simply espouse a preference for developments which bring in new businesses rather than requiring developers to justify the relocation of existing ones. Unclear how a developer would go about satisfying that requirement. Furthermore, the City might well benefit from a project which encourages relocation of existing business into targeted areas which are, for example, blighted or low income.

188 | 8.7. The City may reasonably request of the applicant, at the applicant's cost, a thorough,  
189 | third-party market analysis identifying: (1) the likelihood of success of the business mix  
190 | proposed for the TIF project plan area; and (2) the potential economic impacts on existing  
191 | businesses and corresponding tax revenues should the TIF project plan develop as  
192 | proposed.

194 | 9.8. The applicant and/or developer must demonstrate that all real property taxes and  
195 | assessments currently due on any real property owned by the applicant and located within  
196 | the City limits have been paid and, furthermore, that the applicant is not indebted to the  
197 | City. If the applicant is a business entity, this requirement will apply to any owner,  
198 | member, or partner. If the applicant is a corporation, this requirement will apply to any  
199 | shareholder holding a five (5) percent or greater interest.

**Comment [CS12]:** Again, not a problem but perhaps more procedural than policy?

201 | 10.9. Each TIF redevelopment project plan approved will expire not later than the 20<sup>th</sup>  
202 | anniversary of the date upon which the Topeka Governing Body takes action to approve  
203 | such project plan.

205 | **SECTION FOUR: DEVELOPMENT AGREEMENT.** Concurrent with the City's review of  
206 | an application for a TIF project plan, the City will negotiate a Development Agreement to be  
207 | considered and adopted by the Topeka Governing Body concurrent with its consideration of  
208 | approval of the TIF project plan. Among other things, the Development Agreement will provide  
209 | for:

- 211 | 1. A minimum private expense requirement for the developer and maximum permitted  
212 | reimbursement amount to the developer.
- 213 | 2. Specific developer performance requirements, corresponding to the proposed  
214 | improvements provided in the TIF project plan application.
- 215 | 3. Consequences for developer non-performance, including reductions in the amount of  
216 | incentives available, reductions in the maximum permitted reimbursement amount and/or  
217 | acceleration of the date of expiration of the TIF.
- 218 | 4. The mechanics for reimbursement of TIF-eligible expenses.
- 219 | 5. The mechanics for establishing base year values for non-ad valorem taxes captured by the  
220 | TIF.
- 221 | 6. Payment-in-lieu-of-tax requirements if applicable.
- 222 | 7. Conditions under which the applicant could request the City issue special obligation TIF  
223 | bonds on its behalf.

**Comment [CS13]:** It is suggested that, while each of the items set forth here are probably typical elements of most TIF development agreements, it may not be customary or advisable for any party to spell-out the terms of a possible contract before a particular one is even contemplated. At the very least, these appear to be details best reserved for a procedures document rather than the policy itself.

225 | **SECTION FIVE: FEES.**

226  
227 **City Cost Reserve**

228 At the point in time of an application for TIF redevelopment district is initiated by a third-party,  
229 such applicant shall deposit \$30,000 with the City (as provided in Section Two herein) to cover  
230 the City's Application Fee and its direct costs (including costs related to its outside advisors,  
231 consultants and counsel) associated with the review and evaluation of the application for a TIF  
232 redevelopment district, the review and evaluation of the application for the initial TIF project  
233 plan or plans and the negotiation of the Development Agreement.

234  
235 Should an applicant make application within an existing TIF redevelopment district for a new or  
236 modified TIF project plan, it shall similarly deposit \$30,000 with the City to cover the costs of  
237 such review.

238  
239 The City shall return any balance from this reserve upon the applicant's withdrawal of all  
240 applications then pending, or the conclusion of the approval processes.

241  
242 Costs charged to the reserve are TIF eligible costs to the extent permitted by law.

243  
244 **Application Fee**

245 The City shall charge a non-refundable application fee, paid from the City Cost Reserve, for each  
246 application as follows:

247  
248 Application to create or modify a TIF redevelopment district                      \$5,000  
249 The application fee is a TIF eligible cost.

250  
251 **TIF Administration Service Fee**

252 During the life of the TIF, the City will charge an administrative fee of two percent (2%) against  
253 the tax increment generated from the project prior to disbursement of the increment to the  
254 developer or bond trustee to cover the administrative costs incurred by the City for the  
255 administration of, and other City costs associated with each approved TIF Project. Such  
256 administrative service fee shall be in addition to the TIF application fee and any other fees  
257 associated with the TIF Project.

258  
259 **Additional Costs**

260 City bond issuance costs will be paid from proceeds of TIF bonds issued.

261  
262 **City-Initiated Developments**

263 The City reserves the right, at its sole discretion, to reduce or waive the above fees if a  
264 redevelopment project is City initiated and/or it is determined to be in the best interest of the City  
265 to do so.

266  
267 **SECTION SIX: DESIGN CRITERIA.** Development proposals under a TIF application are  
268 expected to meet the "highest development standards" as outlined by the City's adopted  
269 development policies for commercial, industrial, multi-family, and mixed use buildings, as well  
270 as all Design Guidelines adopted by the Topeka Planning Commission and Governing Body.  
271 Development proposals are expected to demonstrate innovative design with human scale that

**Comment [CS14]:** While not necessarily problematic, this Section strikes one as more at home in the City's planning policy, to which a TIF district would be subject, rather than in the TIF policy itself.



exceeds the design standards of conventional development throughout the City. A TIF project requires the use of high quality building materials, noteworthy architectural design and site design to achieve visual interest, provide human scale, place a premium on developing land in harmony with existing natural features, and enhance the value and function of adjacent properties.

All TIF projects will be required to utilize a Planned Unit Development and will include strict architectural, site, and landscape design requirements. In addition, the redevelopment plan and agreement, development review process, and zoning ordinances will establish land use controls, allowed uses and materials, traffic improvements, environmental preservation areas and other design criteria to ensure the development will achieve the highest development standards possible.

The TIF project shall be compatible with the Comprehensive Plan of the City and the availability of existing infrastructure facilities and essential public services. The compatibility of the TIF project with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services will be a consideration. The project must be environmentally acceptable to the location intended as well as the surrounding area. Preference will be given to businesses that do their own pre-treatment or do not require extensive environmental controls. The proposed use must be clean, nonpolluting, and consistent with all policies, ordinances, and codes. The applicant must provide a traffic study on any projected traffic impact increase on the City based upon future growth.

#### **SECTION SEVEN: METHOD OF FINANCING.**

The City's general policy is that development should pay for itself. As a result, the City will consider general obligation or general fund support of TIF bonds only in extraordinary cases and typically only on City-initiated projects.

1. The City will give priority considerations to TIF applications that request only pay-as-you-go financing.
2. For third-party applications, the City will generally not consider full faith and credit TIF bonds or TIF bonds with other City credit enhancements.
3. The City will consider providing the applicant with the right to seek permit issuance of "special obligation" bonds (i.e. supported solely from TIF revenues) in the City's sole discretion. The City may include in the development agreement specific conditions precedent to this right becoming available (minimum leasing commitments, minimum revenue thresholds, etc.).
4. The City's financial advisor will manage the bond issuance process on the City's behalf, including advising the City on the selection of members of the bond financing deal team (to include, but not be limited to, underwriters, trustees, feasibility consultants, etc.).
5. The City's bond counsel will serve as bond counsel on all TIF bond transactions.
6. For any bond financing, all City fees for itself, its counsel and advisors, will paid from TIF bond proceeds (or by the applicant through an equity contribution to the financing).
7. For any special obligation bond financing, the City may request up to \$50,000 to cover its staff costs involved in preparing and managing the financing. Additionally, the City will charge to the TIF fund an additional one percent (1%) annually on all TIF collections for ongoing administration of the bonds.

**Comment [CS15]:** It is suggested that these sections pertain more to the City's internal policy. They seem out of place in a policy to be read by outside developers.

318 8. If required by bond counsel, the applicant agrees to be a party to the tax compliance  
319 agreement and/or continuing disclosure agreement (if applicable) on any TIF bond  
320 transaction.  
321

322 **SECTION EIGHT: AUTHORITY OF GOVERNING BODY.** The Governing Body reserves  
323 the right to deviate from any policy, but not any procedure set forth in state law, when it  
324 considers such action to be of exceptional benefit to the City or extraordinary circumstances  
325 prevail that are in the best interests of the City.  
326

327 **SECTION NINE: EFFECTIVE DATE.** This Resolution shall take effect \_\_\_\_\_, 2018.  
328  
329

330  
331 ADOPTED and APPROVED by the Governing Body on \_\_\_\_\_, 2018.  
332

333 CITY OF TOPEKA, KANSAS  
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338 \_\_\_\_\_  
Michelle De La Isla, Mayor

339 ATTEST:  
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342 \_\_\_\_\_  
343 Brenda Younger, City Clerk