RESOLUTION NO. 9016

A RESOLUTION INTRODUCED BY CITY MANAGER BRENT TROUT
ESTABLISHING THE CITY OF TOPEKA'S POLICY FOR TAX INCREMENT
FINANCING.

WHEREAS, the City of Topeka, Kansas (the “City”) recognizes that it is essential to stimulate economic growth and development of new commercial enterprise in order to provide services, employment and tax revenues for the benefit of the community; and

WHEREAS, it is further recognized that the stimulation of balanced economic development is a joint responsibility of the private and public sectors, working closely together to create a positive business environment and induce commercial development and expansion in the City; and

WHEREAS, the economic development program goals of the City include economic diversification, broadening of the property tax base, stimulation of private investment, enhancement and support of new development, creation and quality employment opportunities, and increased per capita income; and

WHEREAS, to meet these economic development goals, the City recognizes the need to occasionally assist in the redevelopment of property located within the City by the creation of Tax Increment Financing (“TIF”) redevelopment districts; an economic development vehicle established by K.S.A. 12-1770 et seq. for the financing of qualified redevelopment projects; and

WHEREAS, the City finds it in the best interest of the public it serves to establish certain policies and guidelines for the consideration of proposals that may be presented to the City by private developers requesting TIF assistance; and

WHEREAS, all prospective TIF projects must be carefully evaluated by the City because the character of tax revenues generated by different developments can vary widely, and in most cases will impact other taxing jurisdictions in the Topeka community; and

WHEREAS, the City desires to use TIF for projects that demonstrate the highest public benefit by eliminating blight, financing desirable public improvements, strengthening the employment and economic base, increasing property values, reducing poverty, creating economic stability, upgrading older neighborhoods, facilitating economic self-sufficiency, and implementing the Comprehensive Plan and economic development goals of the City; and

WHEREAS, each TIF application submitted to the City will be evaluated on its own merits, and an evaluation of the proposal will be performed by a TIF Committee comprised of City staff and/or consultants; and

WHEREAS, all projects must demonstrate financial and economic reasons such that but for TIF assistance, conditions of blight, extenuating circumstances regarding the site, location, or other factors preclude the viability of project.
NOW, THEREFORE, THE TAX INCREMENT FINANCING REDEVELOPMENT
DISTRICT POLICY FOR THE CITY OF TOPEKA, KANSAS WILL BE AS FOLLOWS:

SECTION ONE: PREFERENCES AND REQUIREMENTS. 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 and/or project plan:

1. The City seeks to encourage the redevelopment of larger scale projects that positively
impact multiple land uses and bring economic activity to surrounding neighborhoods.

2. 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
conduct the but-for analysis and the applicant shall be responsible for providing all
information reasonably requested by the City to conduct such analysis.

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 prefer 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.

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 would prefer projects that request utilization of only incremental property taxes
generated by the TIF project, not any other taxes.

5. The City will give preference to TIF project plan applications 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.).

6. The City has a preference for development which brings new businesses. If businesses
are to be relocated from other areas of the city to the proposed TIF project plan area, the
applicant must provide sufficient justification to indicate why the City should subsidize
such relocation.

7. The City will require a negotiated minimum private expense requirement for the
developer and a maximum permitted reimbursement amount to the developer.
8. The applicant will include in its TIF project plan application a uses-by-source-of-funding schedule illustrating the project costs that will be reimbursed from TIF and any other incentive program (public or private) for which the applicant has or plans to apply.

9. 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.

The City will 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 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.

10. For third-party requests to create TIF redevelopment districts, the City will require that the applicant certify that it intends to submit a Redevelopment Plan and begin negotiating a Redevelopment Agreement within a reasonable period of time (generally sixty (60) to ninety (90) days) following creation of the TIF district.

SECTION TWO: DEVELOPMENT AGREEMENT. Concurrent with the City’s review of an application for a TIF project plan, the City will negotiate a Development Agreement to be considered and adopted by the Topeka Governing Body concurrent with its consideration of approval of the TIF project plan.

The development agreement will reflect the above preferences, all agreements and requirements to be considered by the Governing Body.

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

Each TIF redevelopment project plan approved will expire not later than the 20th anniversary of the date upon which the Topeka Governing Body takes action to approve such project plan.

SECTION THREE: FEES.

City Cost Reserve

At the point in time of an application for TIF redevelopment district is initiated by a third-party, such applicant shall deposit $30,000 with the City to cover the City’s Application Fee and its direct costs (including costs related to its outside advisors, consultants and counsel) associated with the review and evaluation of the application for a TIF redevelopment district, the review

Revised for 5/15/2018 Council Meeting
and evaluation of the application for the initial TIF project plan or plans and the negotiation of the Development Agreement. Staff may adjust the deposit if the applicant intends to or has submitted an application for consideration of establishment of a community improvement district (CID).

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

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

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

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

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

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

**Additional Costs**
City bond issuance costs will be paid from proceeds of TIF bonds issued.

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

**Payments in Lieu of Taxes (PILOT)**
Where applicable, the City may negotiate a payment in lieu of taxes requirement with the developer.

**SECTION FOUR: DESIGN CRITERIA.** Development proposals under a TIF application are expected to meet the highest design standards for commercial, industrial, multi-family, and mixed use buildings, as adopted by the Topeka Planning Commission and Governing Body. Development proposals that demonstrate innovative design that exceeds the design standards are encouraged.
SECTION FIVE: 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.

If the method of financing includes special obligation bonds, then the City’s costs of executing any bond financing, including the costs of its counsel and advisors, shall be included in the bond financing.

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

SECTION SEVEN: PROCEDURES. The City Manager shall develop procedures for administering the TIF process, including but not limited to the filing and processing TIF applications.

SECTION EIGHT: EFFECTIVE DATE. This Resolution shall take effect May 16, 2018.

ADOPTED and APPROVED by the Governing Body on May 15, 2018.

CITY OF TOPEKA, KANSAS

[Signature]
Michelle De La Isla, Mayor

ATTEST:

[Signature]
Brenda Younger, City Clerk

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