



## COMMUNITY IMPROVEMENT DISTRICT POLICY

Approved 11/21/2011

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### 1.01 PURPOSE

The proper use of a Community Improvement District (“CID”) can help promote and develop the general and economic welfare of and quality of life in the City of Roeland Park, Kansas (the “City”). This Policy establishes the procedures of the City, for considering applications for Community Improvement Districts used for economic development, including community development and tourism and cultural activities, in accordance with the provisions of K.S.A. 12-6a26 through K.S.A. 12-6a36, inclusive (the “Act”).

### 1.02 LEGAL AUTHORITY

The establishment of a CID is within the sole discretion of the Governing Body of the City. The Governing Body is under no obligation to approve a petition or form a CID, 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 Governing Body in considering petitions, and outlines the policies and procedures to be followed by applicants. The Governing Body reserves the right to reject a 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.

#### 1. General Policies

- a. Application. Interested parties shall submit a CID request by petition in a form designated by the City. The City Staff shall review all CID applications for compliance with this policy and Kansas (the “State”) law and decide whether or not to forward the petition to the City Council for consideration and action. If City Staff believes the petition meets the criteria set forth in this Policy and should be recommended for approval, City Staff will work with the petitioner(s) to develop a Finance Plan to present to the Governing Body when it considers the petition.
- b. Petition. A valid CID petition must be submitted with signatures of either of the following:
  - i. 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 Governing Body and assessments without notice or public hearing; or
- ii. By 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. After hearing, the Governing Body may adopt an ordinance by a majority vote to authorize the project and create the CID.
  - iii. If the CID is both a Special Assessment CID and a Sales Tax CID, then 100% of the property owners must sign petition.
- c. Term. The Governing Body shall review the financial feasibility of each CID and shall determine the appropriate term of financing for projects within the CID. Any CID sales tax shall expire at the earlier of twenty-two (22) years from the date the state director of taxation begins collecting such tax or when all pay-as-you-go costs have been reimbursed.
- d. No Council or public hearing consideration will occur unless all information is provided at least ten (10) business days prior to the scheduled meeting. All fees and requirements of a funding agreement must also be met before Governing Body consideration.

## 2. Criteria for Use of Community Improvement District

- a. The decision to establish a CID is within the sole discretion of the Governing Body. In determining whether or not to approve a petition to establish a CID, the Governing Body will evaluate whether or not creation of a CID is in the City's best interest, by considering one or more of the following criteria:
  - i. CIDs will generally be required by the City as an incentive tool before the City will consider creation of a tax increment financing district or similar incentives and any such tax increment financing or other incentives will generally only be used to fund the shortfall from the CID.
  - ii. Promotes and supports efforts to develop or redevelop commercial sites to provide for reinvestment in our community;
  - iii. Stimulates quality, retail development to enhance the City's economic base;
  - iv. Attracts and promotes mixed use, including residential, urban development;

- v. Allows for the construction of infrastructure including the construction of infrastructure beyond what the City would require or otherwise build;
  - vi. The projects will be located in an area that has been targeted by the Governing Body for economic development or redevelopment; or has specific site constraints making development more difficult or costly;
  - vii. The impact on other infrastructure systems, to include the cost of core system extensions to areas not adjacent to existing systems;
  - viii. 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;
  - ix. Recommendation of the City Staff; or
  - x. Whatever other factors the Governing Body deems relevant.
- b. Conformance to local requirements including:
- i. Compliance with uses anticipated in the Comprehensive Plan.
  - ii. High degree of architectural design and site layout.
  - iii. Enhanced use of landscaping, water quality BMP's and other sustainable features.
  - iv. Design of infrastructure to meet public and/or private standards.
- c. Additional Considerations:
- i. Costs of the proposed improvements identified in the CID;
  - ii. Sources of funding, including the amount of private equity funding in comparison to public funding;
  - iii. Payment risk mitigation mechanisms offered by the applicant;
  - iv. Experience and stability of the proposed developer;
  - v. Whether or not tenants are committed by lease or other document, and the nature of the tenants;
  - vi. Economic competition the projects within the CID has and is expected to have in the future; and
  - vii. Impact to current businesses within the City.

### **1.03 FINANCING**

1. Source of Funds. Eligible CID projects may be financed by any single, a combination, or all of the following sources:
  - a. The City is authorized to levy and collect CID Special Assessments imposed on property in the CID pursuant to the Act which have been paid in full prior to the date set by the Governing Body as provided in the General Improvement and Assessment Law, K.S.A. 12-6a10, *et. seq.* Two exceptions to the General Improvement and Assessment Law are:
    - i. No assessments can be levied against the City-at-large, and
    - ii. 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.
  - b. 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
  - c. Any other funds annually appropriated by the Governing Body.
2. Finance Plan. If the City Staff reviews the petition and finds it in the City's best interest to recommend creation of the CID to the Governing Body, City Staff will work with the applicant to create a Finance Plan that shall be presented to the Governing Body for consideration along with the petition. The Finance Plan shall address the recommended method of financing and specific terms associated therewith.
3. Method of Financing. The governing body will consider creation of a CID where (1) the costs of CID improvements will be financed on a pay-as-you-go basis from CID sales tax revenues or (2) the costs of CID improvements consisting only of public infrastructure improvements will be financed from CID special assessments. In the instance where public infrastructure CID improvements will be financed from CID special assessments, the City will consider the issuance of special obligation CID special assessment bonds. The City will not issue special obligation or general obligation bonds for CID improvements, other than the limited circumstances set forth in this section. The proposed method of financing will be clearly shown in the petition.
4. Project Funds. A separate fund shall be created for each CID and each project and such fund shall be identified by a suitable title. The proceeds from the CID sales taxes and any other moneys appropriated by the Governing Body shall be credited to such fund and the fund shall be solely used to pay the costs of the projects.
5. Fees Associated with CID.

- a. Initial Application Fee. A non-refundable fee in the amount of \$5,000 shall accompany the CID application.
- b. Funding Agreement. The City will retain administrative and professional staff, outside counsel and consultants, and incur expenses which it, in its sole discretion, deems necessary to consider the CID. The applicant shall enter into a funding agreement in order to reimburse the City for: its fees and expenses; the time of its administrative and professional staff, as the City may from time to time deem appropriate; all charges for the City's outside counsel, including the fees of the City Attorney, and consultants; and all other expenses incurred by the City. The funding agreement shall call for the applicant to establish a fund in an amount of not less than \$20,000.00 in order to ensure the prompt and timely payment of the above charges.
- c. Annual Administrative Service Fee. An amount equal to 5% of the annual taxes reimbursed to applicant or its successor in interest.

Each CID petition shall be accompanied by the application fee. This fee is in addition to other fees which may be required by the City, costs incurred for preparation of studies as required by this Policy, and costs incurred, if any, for review and work done by the City's Financial Advisor and Bond Counsel. In addition, any applicant that receives approval shall pay an annual administration service fee. All fees shall be due and payable as provided for herein or as otherwise set forth in an approved Development Agreement.

7. Development Agreement.

Prior to beginning development of the CID, the Owner shall execute a Predevelopment Agreement or Development Agreement as approved by the Governing Body.

#### **1.04 PROCEDURES**

The following procedures shall govern the approval of each CID within the City. These provisions may be waived or modified by the City Administrator, if such waiver or modification is in the best interest of the City and does not conflict with any statutory or procedural requirement of state law.

1. CID Application Process. An applicant requesting that the City create a CID shall first submit a petition to the City and shall contain all of the required signatures of property owners as set forth in the Community Improvement District Act.

The petition shall include, but is not limited to:

- a. Legal description of the proposed boundaries of the CID;
- b. Map of the district area with accompanying tax parcel I.D. information;
- c. A detailed description that identifies the proposed buildings, facilities and other improvements to be constructed in the CID, including the estimated fair market

and assessed value of the improvements and the estimated date in which construction of the improvements will be commenced and completed; and

- d. Current and proposed taxable retail sales within the CID.
- e. An agreement by the applicant to 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.

In addition to the information required above:

- (a) an Application for Economic Incentives and Supplemental Questionnaire,
- (b) a site plan for all public and private improvements to be located within the proposed CID, and
- (c) a business plan evidencing that the applicant has the financial ability to complete the proposed project in a timely manner and operate the project for the term of the proposed CID.

The applicant shall furnish such additional information as requested by the City in order to clarify the petition or to assist staff or the Governing Body with the evaluation of the petition.

2. General Petition Procedure. The City will only consider full and complete applications. The applicant will also be responsible for providing whatever additional information requested by City Staff or the Governing Body as necessary for assisting the City in making its recommendation or decision on the application and the petition. Any inaccuracy, misstatement or error in fact may render the application null and void and may be cause for the repeal of any development assistance ultimately provided by the City through the Act in reliance upon said information.

### **1.05 GOVERNING BODY ACTIONS**

No elected or appointed officer, employee or committee of the City shall be authorized to speak for or commit the Governing Body to the establishment of a CID.

Upon receiving the recommendation of City Staff, the Governing Body shall determine whether to reject the petition or to further consider the request. Upon a favorable vote for further consideration, the Governing Body shall follow the statutorily prescribed process for the establishment of a district. This process shall be an expression of good faith intent, but shall not in any way bind the City to establishing a district.

Approval of the creation of a CID 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 application. All proposals for development are subject to land use approvals by the appropriate body.

### **1.06 WAIVER OF REQUIREMENTS**

The Governing Body reserves the right to grant or deny a CID under circumstances beyond the scope of this Policy or to waive provisions herein. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest. The Governing Body shall not waive any statutory requirement of State law.

### **1.07 DEFINITIONS AND DESCRIPTIONS**

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.

**APPLICANT**: The individual(s) or business(es) and its officers, employees, and agents requesting approval of the creation of a CID.

**DEVELOPMENT AGREEMENT**: A written agreement between the City and a Developer 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 CID 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, including the City withholding CID funds until all taxes are current and all code violations have been remedied.

**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;
- (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) To contract for or conduct economic impact, planning, marketing or other studies.

*Council Review- City council will review this policy no later than 5 years from last adoption.*

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Adrienne Foster, Mayor

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Debra L. Mootz , City Clerk

**REFERENCES**

K.S.A. 12-6a26 through K.S.A. 12-6a36

**APPROVED BY THE GOVERNING BODY ON \_\_\_\_\_**





6. The name, address and telephone numbers of two banking or credit references:

1. \_\_\_\_\_

2. \_\_\_\_\_

7. Names and addresses of all persons or firms that will be listed as owner(s) of the property to receive incentives:

_____	_____
Name	Address

_____	_____
Name	Address

_____	_____
Name	Address

_____	_____
Name	Address

8. Provide a brief history of your company, including the types of developments completed (for commercial developments, please list names of retailers and service firms):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Describe in general terms the legal structure of your business. Specifically indicate how your business is organized (i.e., corporation, partnership, etc.), where the entity is domiciled, ownership, subsidiaries or affiliates and any other information necessary to understand how you are legally organized.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Enclose a copy of your audited financial statements for the past five (5) years.

11. Attach to this application the names, locations and contacts of other governments from which you have received or applied for economic incentives, including but not limited to Tax Increment Financing (TIF), Transportation Development District (TDD) bonds, STAR bonds, tax abatements and/or industrial revenue bonds if applicable.

\_\_\_\_ check here if **NOT** applicable.

## II. NATURE OF THE IMPROVEMENTS

1. Location of improvements:

\_\_\_\_\_

2. Land to be purchased:

\_\_\_\_\_

sq. feet or acres \_\_\_\_\_

value/purchase price: \_\_\_\_\_

3. New construction or modification:

sq. feet: \_\_\_\_\_ Cost: \$ \_\_\_\_\_

Identify Construction:

\_\_\_\_\_  
\_\_\_\_\_

4. New Machinery and Equipment subject to personal property taxes (include approximate purchase dates and estimated useful life):

Description: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Cost: \$ \_\_\_\_\_

5. Please state the reason for the establishment of the new facility or the expansion or replacement of the existing facility:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. What are the approximate starting and completion dates for the project? The completion date is defined as the date you will be ready to utilize the new or expanded facility.

\_\_\_\_\_

Start Date

\_\_\_\_\_

Completion Date

### III. PROPOSED USE AND ECONOMIC BENEFIT

1. What type of new or expanded business activity does the applicant propose?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. List the type of retail or service firm to be located in the proposed development (include details of the nature and scope of the operation of the business):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. What percentage of the facility will the applicant occupy? \_\_\_\_\_%

4. Do any of the proposed retailers or service firms have a product or process that may pose or create an environmental hazard when it is sold, destroyed or discarded?

\_\_\_\_\_

5. Please list all new employees and proposed wages, excluding fringe benefits, by the job titles included in the Annual Wage Survey prepared by the Kansas Department of Labor, if possible.

Category	Job Title	Salary Range	# New Employees	# of Transfers	Avg. Annual Salary	Date Hired
<b>Full-time Employees</b>						
Management						
Professional						
Technical						
Clerical						
Production/Assembly						
Category	Job Title	Salary Range	# New Employees	# of Transfers	Avg. Annual Salary	Date Hired
<b>Part-time employees</b>						

6. What are the employer's share of fringe benefits including health insurance but excluding vacation, holidays, and sick leave, as a percentage of annual salary by employee category. Also indicate the percentage of health insurance cost paid by the employer.

Category	Fringe Benefit %	Health Insurance (% Paid by Employer)
Management		
Professional		
Technical		
Clerical		
Production/Assembly		

Note: Percentage varies with salary level if all employees receive the same benefit package.

7. Briefly describe your medical, vacation, sick leave and retirement benefits. (Attach any appropriate benefit summary publications if applicable)

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8. Provide a breakdown of your annual operating expenses. Indicate the percentage of total annual operation expenses that will be spent locally within Jonson County for each item. For firms expanding their facilities and operations in Johnson County, indicate the current annual operating expenses and provide a projection for the incremental expenses after the expansion. For firms planning to newly locate in Johnson County an accurate projection of future annual operational expenses need to be provided.

Type of Expense	Actual <sup>1</sup>	Project Total <sup>2</sup>	% Spent in Johnson County	
	\$ Amount	\$ Amount	Actual %	Projected Total %
Professional services (legal, accounting, advertising, etc.)				
Business services (training, maintenance)				
cleaning services				
transportation				
office supplies				
material and goods				
other (specify)				

**Annual Operational Expenses<sup>3</sup>**

**Actual Expenses**

**Subtotal \$** \_\_\_\_\_

<sup>1</sup> For existing facility, if applicable.

<sup>2</sup> After construction or expansion of new facility.

<sup>3</sup> Do not report labor costs, debt service, purchase of equipment subject to personal property tax.

**IV. TAX ABATEMENT INFORMATION (Not applicable to Retail Development).**

A. Amount or percentage of tax abatement requested and duration:

\_\_\_\_\_

B. In-lieu-of-tax payments offered and duration:

\_\_\_\_\_

C. Why tax abatement is a critical factor in determining whether the proposed project is to be completed? \_\_\_\_\_

\_\_\_\_\_

## V. OTHER INCENTIVE INFORMATION

### Annual Operational Expenses<sup>3</sup>

Type of Expense	Actual (\$ amount)	Projected Total (\$ amount)
Telephone		
Electricity		
Gas		
Water		
Waste Water		
Garbage		
Cable		
Other		

### Actual Expenses

Subtotal \$ \_\_\_\_\_

1. State all incentives being requested within this application:

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2. Provide reasons why economic incentives are necessary for the project:

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3. What improvements or services will need to be provided by the City or County to accommodate this improvement?

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## VI. GENERAL CONDITIONS

The following general conditions are understood and agreed to by the firm receiving economic incentives from the City of ROELAND PARK:

1. The applicant must agree to and reimburse the City for the costs of any legal, financial, or administrative research and work done in reviewing the proposal, preparing other necessary legal documents, and researching the qualifications of the applicant.
2. Development Agreement. Prior to beginning development of the CID, the Owner shall execute a Predevelopment Agreement or Development Agreement as approved by the Governing Body.
3. Prior to issuance of the economic incentives, the applicant's proposal and information may require approval from the Kansas Department of Commerce and/or other state agencies.
4. The applicant agrees to provide additional information considered necessary by the City Administrator to make a recommendation to the City Council on granting the economic incentives.
5. Initial Application Fee. A non-refundable fee in the amount of \$5,000 shall accompany the CID application.
6. Funding Agreement. The City will retain administrative and professional staff, outside counsel and consultants, and incur expenses which it, in its sole discretion, deems necessary to consider the CID. The applicant shall enter into a funding agreement in order to reimburse the City for: its fees and expenses; the time of its administrative and professional staff, as the City may from time to time deem appropriate; all charges for the City's outside counsel, including the fees of the City Attorney, and consultants; and all other expenses incurred by the City. The funding agreement shall call for the applicant to establish a fund in an amount of not less than \$20,000.00 in order to ensure the prompt and timely payment of the above charges.
7. Annual Administrative Service Fee. An amount equal to 5% of the annual taxes reimbursed to applicant or its successor in interest.

**I (we) verify that the above information and assurances made are complete and correct to the best of my (our) knowledge.**

\_\_\_\_\_  
Signature (print name) Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature (print name) Date

\_\_\_\_\_  
Title