

RESOLUTION NO. 2018-008

A RESOLUTION ESTABLISHING A CITY OF PAOLA, KANSAS POLICY AND PROCEDURES FOR TAX INCREMENT AND STAR BOND REDEVELOPMENT PROJECTS.

WHEREAS, the City of Paola, 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 creating a positive business environment and to 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 of employment opportunities, and increased per capita income; and

WHEREAS, to meet these economic development goals, the City recognizes the need to encourage the redevelopment of property located in the City by creating redevelopment districts and financing for qualified redevelopment projects, as provided by the Kansas tax increment financing statutes (K.S.A. §12-177 et seq.) and STAR Bond financing statutes (K.S.A. §12-17,166); and

WHEREAS, the City finds it in the best interest of the public to establish certain policies and guidelines for the consideration of proposals that may be presented to the City by private developers requesting tax increment financing (“TIF”) assistance; and

WHEREAS, by adopting this policy the City has determined that the use of TIF should be reserved for projects which further an important and clearly definable public interest of the City; and

WHEREAS, by adopting this policy the City intends to set forth a flexible framework for evaluating requests for TIF assistance; and

WHEREAS, the use of TIF by the City is an important economic development tool to stimulate the local economy and improve the quality of life for its citizens; and

WHEREAS, the use of TIF represents an important tool for encouraging the development of projects the City finds and determines are desirable and in the public interest; and,

WHEREAS, all prospective TIF projects must be carefully evaluated by the City because the character of tax revenues generated by different types of development can vary widely, along with impact on other taxing jurisdictions in the Paola community; and

WHEREAS, the City desires to use TIF for those projects which 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 economic development goals of the City; and

WHEREAS, the staff of the City is to pursue discussions about this policy with other taxing jurisdictions impacted by TIF financing in 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 the Economic Development Finance Team (comprised of the City Manager, city staff appointed by the City Manager, the City's Financial Advisor, the City's Bond Counsel, and a minimum of four community representatives appointed by the City Manager) and,

WHEREAS, approved TIF financed projects should be those that would not be viable without TIF assistance because of conditions of blight, unusual circumstances existing on the redevelopment site that hinder development, or other factors that make development more difficult; and

WHEREAS, the Tax Increment Financing Application Procedures and Application Form (submitted with this Resolution) are approved and the City Manager is authorized and directed to implement the procedures and policies set forth in this Resolution and in the Application Procedures and Application Form, and to make such clarifications as the City Manager deems advisable and in the best interest of the City:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PAOLA, KANSAS AS FOLLOWS:

TAX INCREMENT FINANCING POLICY (TIF) AND STAR PROJECTS

Section 1. INTRODUCTION:

Tax increment financing is a tool that enables governments to fund infrastructure, land acquisition, and other public investments in private redevelopment projects. The use of tax increment financing does not authorize any action not otherwise permitted; it merely allows the sponsoring government to divert taxes levied by it and other governments to pay for those actions. It presumes that if it were not for the public investments being made, the redevelopments and resulting tax increments being diverted to the projects would not otherwise occur.

Kansas state statutes permit only cities to create redevelopment districts and to divert taxes levied by the overlapping taxing districts to the city's Project. Cities must conduct public hearings and adopt ordinances with descriptions of proposed redevelopment districts. After a city passes such an ordinance, the county has 30 days to deny the creation of the redevelopment district. Upon finding that creation of a redevelopment district could cause adverse effects to the county, the board of county commissioners may deny the proposal, and in such case the City may not proceed with tax increments as a funding tool for the Project. Miami County, Kansas maintains a policy which outlines the criteria to be used by Board of County Commissioners in the determination of adverse impacts of redevelopment districts on which the County's decision to approve prospective TIF Districts shall be made. The policy of the County will govern consideration by the County of all TIF districts proposed by every city located in Miami County.

For purposes of this Article 6 Tax increment Financing Policy (TIF) section, all references to TIF shall also include STAR projects. All of the requirements of the TIF Act must also be complied with for a STAR Bond project, including creation of a District and approval of a Plan. A STAR Project is a project whereby STAR Bonds are issued to finance Redevelopment Project Costs if the Secretary of Commerce makes a finding that the Project will create a major tourism

area, is the restoration of an historic theater, has been designated as a "special bond project," or is a major motorsports complex.

Section 2. PURPOSE OF POLICY:

This Tax Increment Policy has been approved by the City for the following purposes:

1. To guide staff in forming recommendations regarding the approval of TIF districts;
2. To provide a framework within which staff and the City can evaluate proposed uses of tax increment financing; and
3. To inform the public of the City's position on the use of tax increment financing and the process through which decisions regarding the use of the tool are made.

Section 3. POLICY STATEMENT:

It is the policy of the City to support efforts to eliminate blight and promote redevelopment of substandard areas by allowing the diversion of tax revenues to TIF districts when such actions are shown to create no adverse effect.

Section 4. ADVERSE EFFECT TO CITY OR COUNTY:

Adverse effect to the City may be cause for disapproval of a TIF district and shall be evaluated by the following criteria:

1. Considering the service demands placed on the City, the potential redirection of tax revenue would hinder effective future delivery of City public services.
2. Proposed Project is economically feasible without City funding support.
3. Proposed private equity funding is insufficient.
4. Costs to City government are greater than benefits to City government.
5. Sufficient data or notification was not provided for City staff to adequately review the proposal for a TIF district.
6. Disapproval by the Board of County Commissioners of Miami County, Kansas.

Section 5. MINIMUM DATA REQUIREMENTS:

The proposal for a TIF district shall describe how it would fulfill the basic statutory requirements, follow statutory procedures, and cite specifically applicable statutory references for the creation of TIF districts. K.S.A. §12-1771 *et. seq.* defines the conditions under which a TIF district may be created. Current statutory conditions require the property to be included in the TIF district be blighted; be in need of conservation to avoid becoming blighted; or be a major tourism area, a major commercial entertainment and tourism area, an inter-modal transportation area, a bioscience development area, or an enterprise zone as pursuant to K.S.A. §12-17,107 through 12-17,113 prior to its repeal. Definitions of each of these conditions are specified in state law. To enable analysis and consideration, the following data elements must be received by the City at the earliest possible time, and in no event later than the date of the consideration by the Board of County Commissioners and City's adoption of an ordinance creating a TIF district:

1. Brief description of the Applicant (business – nature of business; non-business – nature of entity or group)
2. Provide status and phasing for obtaining site control for the entire Project area (status such as fee simple, purchase agreement, purchase option, option expiration, etc.).

3. Names and addresses of the owners, and/or officers and directors of the entity requesting the TIF assistance (Applicant).
4. Legal description, address, parcel ID's, the existing assessed valuation of the real estate in the proposed district listing land and building values separately; map or boundary description and legal description of TIF area(s), and a map depicting the existing parcels of real estate.
5. A list of names and addresses of the owners of record of real estate within the district.
6. The existing zoning or rezoning classifications and district boundaries, and the existing and proposed land uses within the area. Description of plans for improving or expanding municipal services within the TIF district including, but not limited to, buildings and facilities, sanitary and storm sewers and lift stations, drainage conduits, channels and levies, refuse collection, road and street maintenance, street lighting and fixtures, underground gas, water, heating, and electrical services and connections in the right-of-way, sidewalks and pedestrian underpasses and overpasses, drives and driveway approaches within the right-of-way, water mains and extensions, plazas and arcades, parking facilities, landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations, and similar amenities.
7. A description of the need for any relocation of residential, commercial, or industrial facilities.
8. A detailed description of the proposed Projects for which the TIF district is to be created, including a description of public and/or private improvements, building(s) including square footage, materials, proposed use, etc. and a site plan.
9. A Project pro forma showing detailed sources and uses of Project funding and identifying the shortfall between anticipated private funding and Project costs. Include the status of all sources of financing including private equity. The identified gap between sources and uses without public participation should match the requested participation.
10. A preliminary tax increment funding analysis showing how the public funding will be provided for the proposed Project reflecting requested amounts. Evidence that the anticipated private funding can be acquired, such as a letter of intent from a financial institution.
11. A market feasibility assessment showing whether the marketplace needs and will support the planned project with a preference for an independent study conducted by a consultant retained by the City and independent of the developer.

Section 6. ECONOMIC ANALYSIS AND RISK ASSESSMENT PROCESS:

1. Proposed uses of tax increment financing will be subject to rigorous economic analysis and risk assessment. The Finance Team will be responsible for overseeing the analysis and assessment process.
2. The analysis and assessment of all proposed uses of tax increment financing will address the following questions as part of the standard format for reports to the Board:
 - 2.1. What is the public purpose of the financial assistance to the Project?
 - 2.2. Why is there a financial need for public investment and/or subsidy?
 - 2.3. What is the total cost of the Project?
 - 2.4. What are the proposed levels of public participation and of private equity participation by the developer?
3. The results of the economic analysis and risk assessment will be presented to the Council at the time of the request for approval of the proposed use of tax increment financing. The report will identify any elements of the proposed Project that are not in conformance with this Tax Increment Policy.

Section 7. EVALUATION CRITERIA:

The following items will be taken into consideration in the evaluation of any development proposal requesting tax increment assistance:

1. **Need For Public Assistance.** In all cases, it is required that the need for tax increment financing to pay for public improvements be demonstrated and documented by the city to the satisfaction of the Finance Team. To the extent it is not part of the Minimum Data Requirements listed above all such documentation, including development budgets, cash flow projections, market studies and other financial and market information, must be submitted upon request.
2. **Amount of Tax Increment Financing versus Private Investment.** All TIF district proposals should seek to maximize the amount of private investment per dollar of tax increment financing. Tax increment financing as percentages of total development costs and private equity funding will be determined for each Project (or discrete portion of a Project receiving a subsidy) and compared to other development projects or subprojects of similar scope and magnitude whenever possible.
3. **Term of Tax Increment Financing.** The term of the tax increment financing shall be kept to a minimum. The proposed term of any tax increment financing shall be fully documented and explained to the Council.
4. **Development Benefits and Costs.** The direct and indirect benefits of the development proposal shall be determined and quantified to the degree possible. Benefits shall include, but are not limited to, employment benefits (number of jobs retained or created, percentage of jobs held by City residents, wage and salary information, etc.), tax base benefits (estimated market value of new development, new property taxes generated, etc.), housing benefits (number of new rental or ownership units, number of affordable units, etc.), and other benefits relating to transportation, parking, blight remediation, environmental cleanup and historic preservation. Based on the market study, projections should be provided reflecting the potential impact the Applicant's project would have on existing firms offering competing products. Costs of the development proposal to the City shall also be identified to the degree possible. Such costs shall include, but are not limited to, additional required infrastructure, required local contributions by the County, and the impact on the County's budget if tax increment financing is used. The timeframe used for these cost estimates should equal the timeframe of the Project finance plan.

Section 8. APPLICATION:

1. Interested parties shall submit a TIF request via the Application for public financial participation provided by the City. City staff shall review all TIF Applications for compliance with City policy and Kansas (the "State") law and make a recommendation for preliminary approval and a decision to forward a petition to the Council for consideration and action. If the Finance Team believes the Application and proposed petition meets the criteria set forth in this Policy and should be recommended for approval, the Finance Team will work with the petitioner(s) to develop a Finance Plan to present to the Council when it considers the petition to establish the TIF.
2. Term. The Council shall review the financial feasibility of each TIF proposed for consideration and shall use this information in determining the appropriate term of financing for Projects within the TIF. TIF Bonds shall mature no more than twenty (20) years from date of issue.

3. Public Hearing. No Council public hearing consideration will occur unless all information is provided at least fifteen (15) business days prior to any such scheduled meeting. All fees and requirements of a funding agreement must also be met before Council consideration.
4. Criteria for Use of TIF District. The decision to establish a TIF is within the sole discretion of the Council. In determining whether or not to approve a request or petition to establish a TIF, the Council will evaluate whether or not the creation of a TIF is in the City's best interest, by considering one or more of the following criteria:
 - 4.1. Promotes and supports efforts to develop or redevelop commercial sites to provide for reinvestment in the city;
 - 4.2. Stimulates quality, retail development to enhance the City's economic base;
 - 4.3. Allows for the construction of infrastructure, including the construction of infrastructure beyond what the City would require or otherwise build;
 - 4.4. The Projects will be located in an area that has been targeted by the Council for economic development or redevelopment; or has specific site constraints making development more difficult or costly;
 - 4.5. The impact on other infrastructure systems, to include the cost of core system extensions to areas not adjacent to existing systems;
 - 4.6. 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;
 - 4.7. Recommendation of the Finance Team;
 - 4.8. Other factors the Council deems relevant to its decision.
5. Conformance to Local Requirements, Including:
 - 5.1. Compliance with uses anticipated in the Comprehensive Plan;
 - 5.2. High degree of architectural design and site layout;
 - 5.3. Enhanced use of landscaping, water quality best management practices and other sustainable features;
 - 5.4. Design of infrastructure to meet public and/or private standards.
6. Additional Considerations:
 - 6.1. Cost of the proposed improvements identified in the TIF;
 - 6.2. Sources of funding, including the amount of equity funding in comparison to public funding;
 - 6.3. Payment risk mitigation mechanisms offered by the Applicant;
 - 6.4. Experience and stability of the proposed developer;
 - 6.5. Whether or not tenants are in place, and the nature and quality of the tenants;
 - 6.6. Economic competition the Projects within the TIF has and is expected to have in the future; and
 - 6.7. Impact to current businesses within the City.

Section 9. TIF FINANCING METHODS:

1. TIF Sources of Funds. TIF Projects may be financed by any or all of the following sources: In any Plan the primary revenue source for repayment of debt is the tax increment generated from the redevelopment of the Project within the District. The Act provides that such increment is that portion of ad valorem taxes collected on real property (land and improvements thereon) within the District that is in excess of the amount produced from such property attributable to the assessed valuation of such property prior to the date the District was established. Ad valorem taxes collected on assessed valuation in existence on the date of establishment of the District will continue to be distributed to all taxing districts in the same manner as all other property taxes. For Districts created after July 1, 1997, the

state school finance levy will be excluded from the tax increment. The increased increment in city sales tax, transient guest tax and city franchise fees within the District may also be captured. For major tourism areas and major commercial entertainment and tourism areas, state sales tax revenue are available in certain circumstances. The additional tax increment shall be captured, placed in a special fund and applied only for the purposes of paying the costs of the Project, including repayment of any authorized indebtedness associated with the Project. When such bonds and the interest thereon shall have been paid, the increment shall be apportioned to all taxing jurisdictions as before the creation of the District; provided however, if the Project has not been completed, the increment shall continue to be captured for the special fund until the Project is completed, not to exceed 20 years after date of approval of the Plan.

2. Finance Plan. If the Finance Team reviews the Application and the petition and finds it in the City's best interest to recommend creation of the TIF to the Council, the Finance Team will work with the Applicant to create a Finance Plan which shall be presented to the Council for consideration along with the petition. The Finance Plan shall address the recommended method of financing and specific terms associated therewith.
3. Bonds.
 - 3.1. The City may issue TIF Bonds to finance a Project.
 - 3.2. Bonds issued under this Policy must include security for the bonds of a sufficient amount to minimize any risk of default and be allowed by State and Federal Tax laws.
 - 3.3. Bonds must initially be offered in denominations of \$100,000 or greater. These minimum denominations may be reduced (upon consultation with the City's bond counsel and financial advisor) when one or more of the following are met:
 - 3.3.1. The Projects being bond financed are substantially leased;
 - 3.3.2. The estimated revenue stream yields significant debt service coverage on the bonds;
 - 3.3.3. Construction of the Projects being bond financed is 100% complete;
 - 3.3.4. The repayment term is less than or equal to 60% of the maximum permitted repayment term; and/or
 - 3.3.5. Waiver of the minimum denomination provision by the Council.
 - 3.4. If a negotiated sale of the bonds is necessary, the City will normally select the underwriter(s) needed to structure, price, and sell the bonds through a competitive process. Exceptions to this process may be approved by the City Manager upon consultation with the City's bond counsel and financial advisor. City staff and the City's financial advisor will be directly involved in all negotiated sale pricing.
 - 3.5. At its sole discretion, the City may require that an independent feasibility study of future TIF revenues be performed, with any such cost born by the Applicant if not otherwise reimbursed from Bond Proceeds.
4. Annual Appropriation. The Council may choose, but is not obligated, to annually appropriate funds to secure TIF revenue bonds. In the event this security option is put forth, the financing plan shall specifically address the risk mitigation steps to ensure an extremely low probability of the City having to use its general revenues for debt service. Furthermore, provisions should be made to reimburse the City for any payments made by the City for any TIF revenue bonds unless the Council specifically exempts any replenishment or reimbursement provision.
5. Reimbursement TIF. The Developer may be reimbursed for Projects within the TIF on a "pay-as-you-go" basis until the Council determines issuance of bonds is viable and in the City's best interest.

6. Funds. Funds and accounts shall be established in conformance with applicable regulations.
7. Development Agreement.
 - 7.1. Prior to beginning development of the Project (including the issuance of bonds), the Applicant shall execute a Development Agreement as approved by the Council.

Section 10. FEES:

1. Applicants shall pay a non-refundable TIF application and service fee of One Thousand Dollars (\$1,000.00) to be paid with the submission of application.
2. The City may at its discretion require the applicant to pay an administration service fee to the City. The fee, if required, shall be in addition to the application fee and shall be applied to the reimbursement of the City's administrative costs for the approved TIF district. The administration service fee shall be based on actual costs incurred by the City for administration costs but shall not exceed Two Thousand-Five Hundred Dollars (\$2,500.00) in any one year.
3. The City may waive or reduce the fees established by this resolution if it is determined to be in the City's best interests.

Section 11. OTHER CONDITIONS:

1. The City reserves the right to modify or waive any or all of these policy provisions in accordance with the approved redevelopment plan and/or redevelopment agreement.
2. The Governing Body reserves the right to deviate from any policy, but not any procedure set forth in this resolution or any other procedural requirements of 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 12. EFFECTIVE DATE:

1. This resolution shall take effect immediately after it is adopted by the Governing Body and executed by the Mayor.

ADOPTED by the Governing Body this 9th day of October, 2018.

CITY OF PAOLA, KANSAS

[seal]

By _____
Artie Stuteville, Mayor

ATTEST:

By _____
Dan Droste, City Clerk