

CITY OF OLATHE	Policy No.:	F-9
COUNCIL POLICY STATEMENT	Date Issued:	Upon approval
General Scope: Administration	Effective Date:	1-1-24
Specific Subject: Community Improvement District Policy	Cancellation Date:	12-31-25
	Supersedes No.:	Listed Below

Purpose:

To set forth general public policy objectives of the City when considering establishment of Community Improvement Districts to finance certain Improvement Projects within the City.

Statement of Policy:

The statement of policy is hereby incorporated with Resolution No. 23-1079. Previous policies regarding Community Improvement Districts were incorporated by Resolution Nos. 21-1075, 19-1072, 17-1088, 15-1088, 13-1094, 11-1064 and 09-1106.

RESOLUTION NO. 23-1079**A RESOLUTION ESTABLISHING POLICIES RELATING TO COMMUNITY IMPROVEMENT DISTRICTS IN THE CITY OF OLATHE, KANSAS; AND REPEALING RESOLUTION NO. 21-1075.**

WHEREAS, the City of Olathe, Kansas ("the City") recognizes that community improvement is essential to stimulate economic growth and development for industries and businesses in order to provide services, employment and tax revenues for the benefit of the community; and

WHEREAS, it is further recognized that community improvement and 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 to encourage industry to locate and expand in the City; and

WHEREAS, to meet these community improvement and economic development goals, the City recognizes the occasional necessity of levying a community improvement district sales tax and/or special assessments in order to pay the costs of infrastructure improvements; and

WHEREAS, certain infrastructure and related improvements must be constructed to serve commercial development projects which add to and diversify the Olathe tax base as well as projects which would provide an extraordinary or particularly unique community-wide economic opportunity; and

WHEREAS, K.S.A. [12-6a26](#) et seq., the Community Improvement District Act (“the Act”) authorizes the governing body of any city or county to create community improvement districts (“Improvement Districts” or “CID”) that may within an Improvement District, acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend buildings, structures and facilities; 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, heating and electrical services and connections located within or without the public right-of-way, water mains and extensions and other site improvements; parking garages; streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers; parks, lawns, trees and other landscape; communication and information booths, bus stops and other shelters, stations, terminals, hangers, rest rooms and kiosks; paintings, murals, display cases, sculptures, fountains and other cultural amenities; airports, railroads, light rail and other mass transit facilities; and lakes, dams, docks, wharfs, lakes or river ports, channels and levies, waterways and drainage conduits; and 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 improvement; provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons; to provide or contract for cleaning, maintenance and other services to public or private property; 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 district, promotion of such activity and special events and furnishing music in any public place;

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; to provide or support training programs for employees of businesses; and to contract for or conduct economic impact, planning, marketing or other studies ("Improvement Project"); and

WHEREAS, the Act gives discretion to governing bodies to approve Improvement Projects which are located within of the boundaries of Improvement Districts, and Improvement Projects which may include contracting for or conducting economic impact, planning, marketing or other studies; and

WHEREAS, the Act further authorizes governing bodies, in order to pay the costs of such Improvement Projects, to impose a Community Improvement District sales tax on the selling of tangible personal property at retail or rendering or furnishing services within Improvement Districts in any increment of .10% or .25% not to exceed 2.0% and/or the levy of special assessments upon property within such Improvement Districts and to issue special and or general obligation revenue bonds payable from such sales taxes and/or special assessments;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

Section 1. Policy Statement. To meet the economic goals of the City as outlined above, it is the policy of the City to consider establishment of Community Improvement Districts, when the Governing Body deems it necessary, to finance certain Improvement Projects within the City. The City will finance Improvement Projects by (a) special assessments levied on property within the Improvement District benefited by the Improvement Project, and/or (b) an Improvement District sales tax on the sale of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas Retailers' Sales Tax Act, and amendments thereto, within the Improvement District. However, the City hereby expresses its intent to consider the issuance of full faith and credit general obligation bonds to pay for Improvement District costs if such bonds are issued to pay for public infrastructure improvements which are financed by special assessments but are not financed by an Improvement District sales tax. The City, in accordance with the Act and in addition to and notwithstanding any limitations on the aggregate amount of the retailers' sales tax contained in K.S.A. [12-187](#) through [12-197](#), may, at its sole discretion, levy a sales tax within an Improvement District in any increment from .10% or .25% up to 2%, all of which may be pledged to repay any

special obligation bonds issued to finance the Improvement Project. If special assessments are to be imposed within the Improvement District, the City will follow the assessment procedures outlined in K.S.A. [12-6a01](#) et. seq. and will adhere to Policy [PI-5](#), the City's policy on financing public improvements through special benefit districts.

Section 2. Project Eligibility. Pursuant to the Act, certain projects and activities may be paid from the proceeds of a Community Improvement District sales tax or special assessments. The City hereby identifies projects and activities identified as eligible for reimbursement under the Act which it will deem eligible and ineligible for reimbursement:

A. Eligible Projects. The following projects within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend will be eligible for reimbursement out of the proceeds of a Community Improvement District sales tax or special assessments:

1. Public buildings, structures and facilities, and not-for-profit museums;
 2. 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, heating and electrical services and connections located within or without the public right-of-way, water mains and extensions and other site improvements;
 3. Parking garages;
 4. Streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;
 5. Parks, lawns, trees and other landscape;
 6. Communication and information booths, bus stops and other shelters, stations, terminals, hangers, rest rooms and kiosks;
 7. Outdoor amenities, including but not limited to, fountains;
 8. Airports, railroads, light rail and other mass transit facilities;
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9. Lakes, dams, docks, wharfs, lakes or river ports, channels and levies, waterways and drainage conduits.

10. To provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons for public property, public buildings and outdoor spaces.

11. To provide or contract for cleaning, maintenance and other services to public property, public buildings and outdoor spaces;

12. To contract for or conduct economic impact, planning, marketing or other studies related to the district.

B. Ineligible Projects. The following projects within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend will be ineligible for reimbursement out of the proceeds of a Community Improvement District sales tax or special assessments:

1. Private buildings, structures and facilities, other than not-for-profit museums;

2. Indoor cultural amenities, including but not limited to, paintings, murals and display cases, which are not located in a private not-for-profit museum;

3. 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;

4. To provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons inside private buildings;

5. To provide or contract for cleaning, maintenance and other services to private property;

6. 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 district, promotion of such activity and special events and furnishing music in any public place;

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7. 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;
 8. To provide or support training programs for employees of businesses.
 9. Public Art, as such term is defined in Chapter [2.82](#) of the Olathe Municipal Code.

Section 3. Procedure. Pursuant to the Act, the City will consider creation of a CID after receipt of a completed CID Petition (“Petition”) (Exhibit A) and a Petition Fee as described in Section 6(a). The completed Petition will be reviewed by the City’s Economic Development Committee and any other staff required for review of the Petition prior to consideration of a complete and valid Petition by the Governing Body.

To form an Improvement District, the following procedure is established:

A. **Petition Procedure.** A valid Petition proposing the creation of an Improvement District, the making of Improvement Projects relating thereto and the imposition of a Community Improvement District sales tax or special assessments in order to pay the costs of such Improvement Projects must be filed with the City Clerk of the City of Olathe.

1. **Petition Sufficiency.** The Petition must be signed by the owners of more than fifty-five percent (55%) of the land area within the proposed district, and signed by owners collectively owning more than fifty-five percent (55%) by assessed value of the land area within the proposed district, if the petitioners are seeking financing in whole or in part by a proposed Community Improvement District sales tax. The Petition must be signed by the owners of record, whether resident or not, of all of the land area within the proposed Improvement District if the petitioners are (1) seeking financing only by assessment and (2) not seeking the issuance of full faith and credit bonds pursuant to the Act.

2. **Petition Submittal Requirements.** The Petition must be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the Improvement Project’s site plans, and to analyze the merits of the proposed Improvement District in the context of existing economic development and infrastructure projects. The Petition must contain a description of the following:

- a. the general nature of the Improvement Project;
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- b. the estimated cost of the Improvement Project, supplemented by a preliminary budget describing each element of the Improvement Project proposed to be paid for by Improvement District sales tax or assessments;
 - c. the proposed method of financing the Improvement Project;
 - d. the proposed amount and method of assessment, if any;
 - e. the proposed amount of any Improvement District sales tax, if any;
 - f. a map and legal description of the proposed Improvement District.

B. Supplemental Information. The City reserves the right to request any additional information to supplement the Petition, including those items described in Exhibit A, prior to consideration by the Governing Body.

C. District Financed Only by Special Assessments. Upon filing of a Petition for an Improvement District financed only by special assessments, the Governing Body may proceed without notice or a hearing to make findings by ordinance as to the nature, advisability and maximum cost of the project, the boundaries of the Improvement District and the amount and method of assessment. Upon making such findings the Governing Body may authorize the Improvement Project in accordance with such findings as to the advisability of the Improvement Project, except no assessments may be levied against the municipality at large. The assessments may be reduced or eliminated once the City has received sufficient funds to pay the debt service on any bonds issued for the Improvement Project which would have been paid out of such annual installment. The ordinance will be effective upon publication once in the official City newspaper.

D. Public Hearing Procedure. After review of a completed Petition by the Economic Development Committee, and prior to creating any Improvement District (except an Improvement District financed only by special assessments, for which no public hearing is required) the Governing Body will, by resolution, direct and order a public hearing on the advisability of creating such Improvement District and the construction of such Improvement Projects therein, and to give notice of the hearing by publication at least once each week for two (2) consecutive weeks in the official City Newspaper and by certified mail to all property owners within the proposed Improvement District, the second publication to be at least seven (7) days prior to the hearing and such certified mail sent at least ten (10)

days prior to such hearing. The notice of public hearing will contain the following information:

1. the time and place of the hearing;
2. the general nature of the proposed Improvement Project;
3. the estimated cost of the proposed Improvement Project;
4. the proposed method of financing the costs of the Improvement Project;
5. the proposed amount of the Community Improvement District sales tax, if any;
6. the proposed amount and method of assessment, if any; and
7. a map and legal description of the proposed Improvement District.

E. **Governing Body Findings.** After the Public Hearing is conducted on the proposed Improvement District, the Governing Body will determine the advisability of creating an Improvement District setting forth the boundaries thereof, authorizing the proposed Improvement Projects, approving the maximum costs thereof, levy the Improvement District sales tax, imposing any special assessments and approving the method of financing the same. Such determinations will be made by adoption of an ordinance.

F. **Project Account.** The City will create a separate account for each Improvement District and Improvement Project, and all Improvement District sales tax and or special assessment revenues will be deposited into such account.

Section 4. Criteria and Adjustments. It is the intention of the Governing Body that all Improvement Projects related to proposed Improvement Districts meet the criteria detailed below. Failure to meet the standards set forth below may result in rejection of the Petition or a decrease in the proposed CID sales tax percentage or proposed special assessments. Adjustments may be made to increase the proposed CID sales tax or proposed special assessments intended to be provided as an extra incentive to exceed certain economic development criteria. However, in no instance will adjustments to the proposed CID sales tax or special assessments exceed the maximum allowable CID sales tax or special assessments which may be levied pursuant to the Act.

A. **Improvement Development District Committee Consideration.** The City's Economic Development Committee and any other staff required to review Petitions will utilize the following criteria to evaluate Petitions:

1. **"But For" Test.** Each Petition should demonstrate that "but for" the creation of a CID and use of Improvement District sales tax and/or the levy of special assessments, the Improvement Project is not feasible and would not be completed without the proposed CID assistance. The Petitioner must provide adequate information for the Committee to evaluate whether the proposed project satisfies this test, including, but not limited to, a project pro forma showing expenditures, revenues, and anticipated return on investment both with and without the CID assistance.

2. **Debt Service Coverage Ratio for Special Obligation Community Improvement District Sales Tax Revenue Bonds.** All Petitions requesting the imposition of a CID sales tax and the issuance of special obligation bonds should demonstrate that the CID sales taxes expected to be generated will be sufficient to provide enough security to pay off the bonds. The CID sales taxes generated should provide a debt service coverage ratio of at least 1.25 times the projected debt service on the special obligation bonds or notes. A debt service coverage ratio greater than 1.25 times may be necessary to market any notes or bonds that are public offerings. Petitioner or bank purchased bonds may be less than 1.25 times debt service coverage.

3. **Debt Service Coverage Ratio for Special Obligation Community Improvement District Special Assessment Revenue Bonds.** All Petitions requesting the imposition of CID special assessments and the issuance of special obligation bonds or temporary notes should demonstrate that the CID special assessments expected to be levied will be sufficient to provide enough security to pay off the bonds. The CID special assessments should generate enough revenue to provide a debt service coverage ratio of at least 1.25 times the projected debt service on the special obligation bonds or notes. A debt service coverage ratio greater than 1.25 times may be necessary to market any notes or bonds that are public offerings. Petitioner or bank purchased bonds may be less than 1.25 times debt service coverage.

4. **Projected Payoff.** The total amount of CID assistance provided for projects will be based on the economic payoff expectations of the Improvement Project and the Improvement Project's significance to the community. In general, the goal for

Improvement Projects (including any associated CID special assessments) would be a 10-year payoff. Longer periods may be considered up to the maximum statutory payoff period of 22 years from creation of the Improvement District if a determination is made that the Improvement Project is of community-wide significance.

5. Developer Contribution & Cost Allocation. Each Petition should include evidence that the Petitioner will do the following:

- a. Have the financial ability to complete and operate the Improvement Project,
- b. Will be liable for, or contribute equity or private financing of at least fifty percent (50%) of the total cost of the Improvement Project or provide a performance bond, letter of credit, or other appropriate security for the completion of the Improvement Project (Improvement Projects with equity or private financing contributions from the developer in excess of fifty percent (50%) will be viewed more favorably),
- c. Demonstrate a financial nexus between the public and private improvements financed by the CID assistance. Preference will be given to projects in which at least 50% of the CID-eligible costs will pay for construction of public buildings, structures, and facilities, including but not limited to, major public City-specified infrastructure or City-owned facilities within the Improvement District which must be improved to serve the Improvement Project and which would not otherwise require improvement but for the Improvement Project.

6. Project Completion. The City will require satisfactory assurance that the Improvement Project will be completed in a timely manner in accordance with the Development Agreement described in Section 5.

B. Governing Body Consideration. The Governing Body may consider the following factors when creating a CID pursuant to the Act:

- 1. Existence of Economic Benefit.** Strong consideration will be given to Improvement Projects which add to and diversify the Olathe tax base as well as Improvement Projects which would provide an extraordinary or particularly unique community-wide economic opportunity. Evaluation criteria to be used in determining economic benefit to the community may include, but not be limited to, consideration of the amount of
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capital investment and a determination of whether the proposed Improvement Project enables the development and location of new products, services and amenities in the City rather than the relocation of existing City businesses.

2. **Location.** The Governing Body will give strong consideration for an Improvement District that will be located in a targeted area for economic development or redevelopment, has specific site constraints making development more difficult or costly, or is considered in need of rehabilitation in some way. Targeted areas for economic development or redevelopment may include, but not be limited to, the state Enterprise Zone, blighted areas or conservation areas as defined under K.S.A. [12-1770a](#), and the Downtown Core.

3. **Design Criteria.** The City will require higher standards for the design of improvements and materials used in making improvements within an Improvement District than the minimum requirements set forth in the design guidelines adopted by the Planning Commission and City Council in the Unified Development Ordinance (UDO). Preference will be given to businesses that practice sustainable design practices, including but not limited to, energy efficient construction, use of recycled materials, use of native and drought-resistant landscaping, and conservation of natural hydrological systems through utilization of tree preservation and green infrastructure design. The proposed use must be clean, nonpolluting and consistent with all City policies, ordinances, and codes. The Improvement Project's site plans and building elevations and the Improvement Project's plans are subject to final approval by the City's Planning Services Division to ensure that they are similar to and consistent with the preliminary plans and elevations submitted.

4. **Compatibility with Adopted City Plans.** All Improvement Projects should be consistent with the City's Comprehensive Plan, street improvement plans, and any special established corridor plans. The City will consult these plans for consistency prior to the City approving any proposed Improvement District. When evaluating proposed Improvement Districts, the City will consider (1) the compatibility of the location of the proposed Improvement Project(s); (2) the compatibility of the proposed land uses with land use, capital improvement, and other relevant plans of the City; and (3) the availability of existing infrastructure facilities and essential public services. Preference will be given to projects which enhance pedestrian, bicycle, or public transit options. If an Improvement Project requires a rezoning in addition to any rezoning

required within the Improvement District, the Petitioner must demonstrate the Improvement Project's compatibility with land use, capital improvement, and other relevant plans of the City.

5. **Traffic Impacts.** All Improvement Projects will conform to the City's Access Management Plan and any other plans and/or policies which would automatically trigger the issuance of a Traffic Impact Study or any other study. All additional studies must be submitted with the Petition for consideration by the Economic Development Committee and before consideration of the Petition by the Governing Body.

6. **Utilization of City-Owned Utilities.** All Improvement Districts within the boundaries of City-owned utility service areas (including the City's water, sewer, and solid waste services) must use City-owned utilities. Exceptions will only be made when it is demonstrated in writing that City-owned utilities cannot feasibly provide acceptable service to the Improvement District.

7. **Community Benefit.** Petitioners will agree to actively participate in the civic, charitable, educational, philanthropic, and economic development of the City of Olathe. Accordingly, during the entire term of the development or redevelopment agreement the petitioner will (1) at all times be a dues-paying member in good standing with both the Olathe Chamber of Commerce and the Olathe Economic Development Council and (2) make an annual donation to the Olathe Community Foundation in an amount to be determined in the sole discretion of the owner, but no less than \$3,000 annually.

8. **Delinquent Tax Obligations.** Community Improvement District financing will not be approved if any signatory to a petition has a financial interest in an existing development with delinquent tax obligations for any property located within the city. All petitioners for new development under this policy will be required to certify, under oath, that they have no financial interest in any property with delinquent special assessments, ad valorem taxes, or other federal or state tax liens anywhere within the state of Kansas.

9. **Non-Litigation.** The Governing Body may not consider an application for creation of an Improvement District if the applicant, its principals or officers, or any related, affiliated, or parent company of the applicant, is currently engaged in or has threatened a suit, action, or proceeding against the City.

Section 5. Development or Redevelopment Agreement. Any Improvement District approved by ordinance pursuant to this Resolution will be accompanied by a development or redevelopment agreement (“Agreement”) between the Petitioner and/or lessee and the City. The Agreement will be subject to approval by the Governing Body prior to reimbursement of eligible Improvement Project costs either on a pay-as-you-go basis or by issuance of CID Sales Tax Revenue Bonds or CID Special Assessment Revenue Bonds, and prior to construction of the Improvement Project. However, in no event will the City create a CID and levy a CID sales tax for more than one (1) year without an Agreement, unless a longer term for negotiation of the Agreement is approved by the Governing Body. If no such term is approved by the Governing Body, the Governing Body may, at its sole discretion, dissolve the CID by ordinance and utilize any CID revenues for eligible purposes under the Act. The City will review information provided by the Petitioner, lessee, county, or state to determine compliance with the Agreement. Each Agreement will contain a notice and waiver disclosing to each Petitioner that the City reserves the right to create future Improvement Districts on comparable projects with different Improvement District sales tax rates or different amounts of special assessments than those approved for such project. The aforementioned notice and waiver will include a provision that the Petitioner waives any right to request a modification or amendment of such Improvement District sales tax rate or amount of special assessments based upon such differences.

All costs of preparation of the Agreement, publication of legal notices and all other related Petition costs will be paid by the Petitioner.

Section 6. Fees. The Governing Body hereby establishes the following fees:

A. **Petition Fee.** A non-refundable Petition Fee of \$5,000 will accompany all Petitions and will be paid prior to consideration of all Petitions for the creation of an Improvement District by the Economic Development Committee. Should an Improvement District be created, the petition fee will be credited toward the City’s Administrative Service Fee paid by Petitioner.

B. **Advance Funds Deposit.** An Advance Funds Deposit of \$10,000 will be made to the City prior to consideration of all Petitions for the creation of an Improvement District by the Governing Body to cover the costs of 3rd party advisors (including, but not limited to, bond counsel and financial advisors) engaged by the City to review the Petition and related documents on behalf of the City. Such Advance Funds Deposit will be replenished by the Petitioner if requested by the City prior to creation of an Improvement District. Should an

Improvement District be created, the Advance Funds Deposit [will](#) be credited toward the City's Administrative Service Fee paid by Petitioner. Should any of the Advance Funds Deposit not be utilized to pay the City's advisors as described herein, such amount will be refunded to Petitioner.

C. **Bond Issuance Fee.** The City will receive an issuance fee of (i) 25 basis points (.25%) of the first \$10 million par amount of Improvement District sales tax revenue bonds being issued, plus (ii) 20 basis points (.20%) of the par amount of the second \$10 million of bonds being issued, plus (iii) 10 basis points (.10%) of the par amount in excess of \$20 million of bonds being issued for each series of bonds to be paid by the proceeds of a CID sales tax or special assessments. In no event will the issuance fee be less than \$2,000 or more than \$150,000. The fee will be due and payable at the time the bonds are issued. The City will not charge the issuance fee for any amount of any bond issue that refunds a prior bond issue.

D. **Administrative Service Fee.** In addition to the fees listed above, the Petitioner will pay to the City, at the time prescribed in the Agreement, an Administrative Service Fee of five percent (5%) of the total cost of the CID project, minus the Petition Fee, for the cost of work done by the City to reimburse the City for the services rendered by the City in the administration and supervision of the project. Such Administrative Service Fees may be paid from the Improvement District sales tax generated from the project, special assessments, bond proceeds, or from a direct billing to the Petitioner. The payment method of the administrative service fee will be determined on a case-by-case basis under the terms of the Agreement.

E. **Additional Costs.** The Petitioner will reimburse the City for all costs associated with the analysis of a proposed Improvement District, including costs of all legal publication notices, resolutions, ordinances, and other proceedings relating to the creation or administration of the district or the issuance of bonds therefore, the City's necessary bond counsel and any other legal fees, financial advisor fees, any consultant fees, any interest which may accrue on money borrowed by the City during the period of construction and the amount of a reserve fund for the bonds, and all other miscellaneous costs.

F. **Public Art.** Prior to reimbursement of any CID-eligible project costs, Improvement Projects will comply with all applicable provisions of Olathe Municipal Code Section [2.82](#) (and any amendments thereto) which pertain to Public Art associated with Development

Incentives. No costs incurred as a result of compliance with said Chapter [2.82](#) may be reimbursed by CID funds.

Section 7. Authority of Governing Body. 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 8. Sunset Date. Since the justification and necessity for creation of Improvement Development Districts may be lessened as the local economy moves towards its goals of balance and diversification and the City's improvement needs are satisfied, this policy will automatically expire on December 31, 2025, unless it is readopted for an additional term. No such Improvement Project shall be granted following such expiration, unless this policy is readopted or repealed by adoption of a new policy.

Section 9. Previous Resolution Repealed. Resolution No. 21-1075 is hereby repealed.

Section 10. Effective Date. This Resolution shall take effect on January 1, 2024.

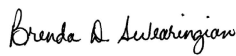
ADOPTED by the Governing Body of the City of Olathe, Kansas this 5th day of December, 2023.

SIGNED by the Mayor this 6th day of December, 2023.


John W Bacon (Dec 6, 2023 09:32 CST)

John W. Bacon, Mayor

ATTEST:




Brenda Swearingin, City Clerk



(SEAL)

APPROVED AS TO FORM:



Ron Shaver, City Attorney

EXHIBIT A

CITY OF OLATHE

COMMUNITY IMPROVEMENT DISTRICT

PETITION PROCEDURE

CID Petition Procedures

1. PETITION:

Submission. The Community Improvement District Petition form, policies, and procedures are available from the City's Resource Management Department or City Clerk's office. Not less than two (2) paper copies and one (1) electronic copy of the completed Petition should be submitted to the Economic Development Committee together with the required Petition fee. The completed Petition may be submitted to the City Clerk of the City of Olathe with copies to the Director of Resource Management, City of Olathe, 100 E. Santa Fe, P. O. Box 768, Olathe, Kansas 66061.

Petition Fee. Each Petition must be accompanied with a non-refundable Petition fee made payable to the City of Olathe. The Petition fee will be used by the City to pay the costs incurred by the City in the review of the Petition. The City has established a Petition fee and has established a policy for reimbursement of additional costs as outlined in Section 6 of the CID Policy. In the event that costs for third-party services incurred by the City exceed the fee collected, the Petitioner will reimburse the City for such additional cost prior to final consideration of the Petition by the City Council. The Petitioner will be required to pay all additional costs such as those set forth in Section 6 of the CID Policy.

Preliminary Determination of Completeness. Upon submission, the Petition will be reviewed by the Economic Development Committee to determine if it is complete under the staff review guidelines described below. If the Petition is incomplete or if additional information is needed, the Petitioner will be notified in writing that the Petition is not complete and the reasons will be stated referring to the specific criteria that are not met, including, but not limited to, additional information required and/or financial, legal, planning, and development concerns.

Requests for Proposals. The City may initiate a Request for Proposals for a redevelopment project. The fees shown above are for both City-initiated and non-City initiated redevelopment

projects. The City reserves the right to modify, reduce, or waive the above fees if such consideration for a CID project is determined to be in the best interest of the City. Upon the filing of a complete Petition that is non-City initiated, the City reserves the right to cause a public notice to be inserted in a newspaper of general circulation in the City or on the City's website requesting proposals for development in the proposed Improvement District.

2. STAFF REVIEW:

Review of the Petition will be conducted by the City's Economic Development Committee (which includes, but is not limited to, members of the City Manager's Office, Legal, Resource Management, and Public Works departments), and if necessary by other City staff, the City's Financial Advisor, Bond Counsel, and any other outside consultant deemed necessary for review of the Petition. Initial review time will be approximately thirty (30) days from the date the completed Petition is submitted to the City. However, more or less time may be required for particular Petitions. Upon receipt of a complete Petition and after review by the City's Economic Development Committee, the Economic Development Committee will forward a recommendation to the City Council for consideration. The recommendation of the City's Economic Development Committee is advisory and may be approved, denied, or amended by the City Council. Petitioners will be notified of the City's Economic Development Committee forwarding the Petition to the City Council for consideration at a Council study session and a regular Council meeting.

Petitions that are determined to be incomplete or do not conform to the City's CID policy will not be forwarded to the City Council. Petitioners will be notified of the determination that the Petition will not be forwarded and should be modified before being considered in the future.

The following is a list of additional information which may be requested by the City's Economic Development Committee. The Economic Development Committee may request any or all of this information prior to consideration of a Petition for creation of a CID by the Governing Body in connection with the Economic Development Committee's evaluation of the Petition and determination of whether the Petition is complete and conforms to the City's CID Policy:

- A. Describe the proposed Improvement Project, including the size and scope, phasing and anticipated timing of the Improvement Project. Specifically outline City facilities and residential development, if any, to be included in the Improvement Project.
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B. State the need and justification for CID assistance and the type and amount of assistance being requested by providing the following information:

1. A project proforma containing assumptions for CID assistance, including a revenue worksheet which estimates the sales taxes and/or special assessment revenues to be generated within the Improvement District, as well as internal rate of return, both with and without public assistance.
2. An explanation of how but for CID assistance, this Improvement Project will be unable to proceed due to extraordinary economic conditions.
3. Substantiation that alternative methods of financing have been thoroughly explored as well as why CID assistance is necessary.

C. Provide an outline of the costs associated with the development of the proposed Improvement Project and related parcel or parcels located within the Improvement District under the criteria described in Section 4 (Developer Contribution & Cost Allocation) of the City's CID Policy. Identify in the outline those costs proposed to be funded with CID financing and the proposed payback time frame (provide a debt service schedule showing rates and assumptions). The information must include interest rates and all assumptions.

D. Discuss the condition(s) that would qualify the proposed Improvement District as an eligible area as defined within the City of Olathe CID Policy.

E. Discuss and document information used to describe the market feasibility of the Improvement Project. Provide copies of any formal feasibility or comparable studies.

F. Provide a traffic study detailing any projected traffic impact increase on the City that is based upon the Improvement Project.

G. Describe the impacts of the proposed Improvement Project on existing and proposed infrastructure and services including, but not limited to: water, sanitary sewer, storm water, solid waste, and streets where not otherwise described. Please note that where available, City services must be utilized.

H. Identify the property within the Improvement District that is currently in the control of the Petitioner(s) via ownership or option, and who will own the property if not the Petitioner(s). If under option, note the option expiration date.

- I. Attach a letter from a financial institution indicating that the Petitioner(s) has sufficient financial resources to obtain the private financing for the Improvement Project.
- J. State whether the property to be included in the Improvement District is currently zoned for the proposed use. If not, describe what zoning change(s) will be required.
- K. Describe whether the proposed Improvement Project will result in the relocation of residential, commercial, industrial or public facilities. If so, discuss the nature of any anticipated relocations.
- L. Identify any proposed commercial and or governmental tenants of the Improvement Project. Have leases been negotiated or signed? What type of lease is contemplated?
- M. Briefly describe the "economic and quality of life" benefits of the proposed Improvement Project to the City.
- N. Provide any and all relevant information on the Petitioner's background and development experience as it relates to the proposed Improvement Project. Include resumes of and contact information for key individuals assigned to the project as well as other projects completed including location and contact persons from local governments and bank references. Also include a copy of the development company's organizational structure.
- O. Identify and provide contact information for the Petitioner's consultants involved or proposed to be involved in the project noting relevant experience on similar projects (i.e., civil engineer, land use planner, Petitioner's legal counsel, Petitioner's financial advisor).

3. DEVELOPMENT CONSIDERATION:

The City Council may desire to hold one or more study sessions before any public hearing is held. During this period the Petitioner may be required to submit additional information as requested and/or appear before the City Council to present information regarding the Petition. The City Council will make all findings and determinations required by the CID Act.

The City Council conducts hearings and other requirements as prescribed by state law. The proposed developer prepares a Petition pursuant to Kansas law and City requirements. The cost of all studies will be paid by the Petitioner and should be prepared by a professional consultant having a favorable reputation for the preparation of such studies. The studies must

be submitted to the City in a timely manner for review by staff prior to any City Council meetings or study sessions. Additionally, consideration of the Petition will adhere to the requirements of the CID Policy and may require additional studies as necessary. The City's Economic Development Committee reviews the Petition and submits it to the City Council with comments. The City's Economic Development Committee makes no assurances, promises or guarantees as to the determinations of the City Council after a Petition is forwarded to the City Council for consideration.

The City Council reviews and discusses the Petition during Council study sessions. At a regular Council meeting, the City Council considers an Ordinance making necessary findings and creating the Improvement District setting forth the boundaries thereof, authorizing the proposed Improvement Projects, approving the estimated costs thereof, levying the Community Improvement District sales tax, imposing any special assessments, and approving the method of financing the same. Authorization of the issuance of bonds or reimbursement of eligible costs may also be considered at this time.

After approval of all elements required to be submitted in the Petition and creation of the Improvement District, but prior to reimbursement of eligible improvements and/or issuance of CID Sales Tax Revenue Bonds or CID Special Assessment Revenue Bonds, the City and Petitioner will prepare a Development or Redevelopment Agreement. Additional requirements and costs, as needed, may be included in the Redevelopment Agreement.

4. NOTIFICATION / PUBLICATION RESPONSIBILITIES:

Legal notices and mailings to taxing districts and property owners will be prepared or caused to be prepared, delivered, and mailed by the City pursuant to state law. Copies of certifications of mailing, signed delivery certifications, or other proofs of notifications will be forwarded to the City Clerk. The City will also prepare or cause to be prepared any Notices of Public Hearings to be published and forward to the City Clerk for publication in a timely manner as required by state law. The Petitioner is responsible for all costs associated with publications, mailings, certifications, delivery, and preparation of notices. The City will be reimbursed for any expenses associated with Petition and the CID formation process.

5. OTHER COSTS OR EXPENSES:

Petitioner will reimburse the City for all reasonable documented, out-of-pocket expenses incurred in connection with the CID including attorney's fees, financial advisor fees, and any

consultant fees. Said reimbursements to the City may be deemed “reimbursable expenditures” which may be included in the costs of issuance when CID bonds are issued.

Disclaimer: The City Clerk’s Office has the official version of the Olathe City Council Policies. Users should contact the City Clerk’s Office for resolutions passed subsequent to the resolution cited here.

[City Website: www.olatheks.org](http://www.olatheks.org)

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