



## CITY OF SHAWNEE POLICY STATEMENT

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### BACKGROUND

It is the policy of the Governing Body that the City would only enter into a public private redevelopment project when there is a resulting public good. Upon entering into a public/private partnership the City would reasonably expect to make a significant difference in achieving economic growth and development, to expand and diversify the tax base and the creation of new jobs within the City.

### PURPOSE

The creation of a Bioscience Development District will contribute to the development of bioscience within the State of Kansas and will promote the general and economic welfare of bioscience projects. This Policy establishes the procedures of the City of Shawnee, Kansas, for considering applications for Tax Increment Financing ("TIF") used for bioscience purposes in accordance with the provisions of K.S.A. 12-1770 et seq. and any amendments thereto (the "Act").

### POLICY

#### A. Legal Authority.

Pursuant to state law, the City may create a bioscience development, with the approval of the Bioscience Authority. Certain costs of improvements within the bioscience district may be reimbursed to the Developer or paid through the issuance of special obligation bonds or full faith and credit bonds. Funds to pay the reimbursement or to retire the bonds are generated by the tax increment and other sources that may be pledged by the City. This authority is discretionary and the City may provide for tax increment financing in an amount and for purposes more restrictive than that authorized by statute. No privately owned property shall be acquired and redeveloped if the Johnson County Board of County Commissioners or the Board of Education levying taxes on property proposed to be included in the Bioscience Development District determines, in the manner prescribed by K.S.A. 12-1771(f), that the proposed Bioscience Development District will have an adverse effect on such County or School District.

#### B. Eligible Bioscience Development Project Costs

Permissible bioscience development project (TIF Project) costs or expenses, include but are not limited to:

1. acquisition of property within the bioscience project area;
2. payment of relocation assistance;



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3. site preparation including utility relocations;
4. sanitary and storm sewers and lift stations;
5. drainage conduits, channels, levees and river walk canal facilities;
6. street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
7. street lighting fixtures, connection and facilities;
8. underground gas, water, heating, and electrical services and connections located within the public right-of-way;
9. sidewalks and pedestrian underpasses or overpasses;
10. drives and driveway approaches located within the public right-of-way;
11. water mains and extensions;
12. plazas and arcades;
13. parking facilities;
14. landscaping and plantings; fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
15. all related expenses to redevelop and finance the bioscience development project.

The bioscience development project costs shall not include costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a Developer.

### C. Bond Authority

The City may use proceeds of special obligation bonds or full faith and credit tax increment bonds to finance the undertaking of a bioscience project, as provided in K.S.A. 12-1774. The maximum maturity of any such special obligation bonds or full faith and credit tax increment bonds shall be twenty (20) years. The City may also issue industrial revenue bonds or private activity bonds to benefit a Developer located within a Bioscience Development District.

#### 1. Special Obligation Bonds

The City may issue special obligation bonds to finance permissible expenses of a bioscience development project. Such bonds may be payable, both as to principal and interest: (a) from property tax increments allocated to, and paid into a special fund of the City; (b) from revenues of the City derived from or held in connection with the



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undertaking and carrying out of any bioscience development project; (c) from private sources, contributions or other financial assistance from the state or federal government; (d) from the increased franchise fees and city sales tax, or (e) from any combination of these methods.

Special obligation bonds are not general obligations of the City, nor in any event shall they give rise to a charge against its general credit or taxing powers or be payable out of any funds or properties other than those sources set forth above. Except in the case of a City initiated bioscience development project or a tax exempt project, should the annual increment fall short of the amount necessary to pay the principal and interest of the special obligation bonds issued under this Policy, the remaining amount payable is the responsibility of the Applicant, not the City.

If the special obligation bonds issued under this Policy are offered to the public, the security for the bonds must be sufficient to minimize any risk of default. If the bonds are privately placed, they may be issued without a rating, but must be sold to an accredited investor or qualified institutional buyers as those terms are defined by securities industry standards.

### 2. Full Faith and Credit Bonds

The City may also issue full faith and credit tax increment bonds to finance a bioscience development project. Any resolution establishing a public hearing on a bioscience development project plan for which the City intends or may intend to issue full faith and credit tax increment bonds shall state the City's intent to issue full faith and credit tax increment bonds. These bonds are payable, both as to principal and interest: (a) from the revenue sources identified for special obligation bonds; and (b) from a pledge of the City's full faith and credit to use its ad valorem taxing authority for repayment thereof in the event all other authorized sources of revenue are not sufficient.

#### a. Bonds for Only Public Improvements

Typically, the proceeds of full faith and credit tax increment bonds are only used to pay for public improvements or public projects which would otherwise be eligible to be paid for with the proceeds of City general obligation bonds.



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In accordance with K.S.A. 12-1774(b)(5), full faith and credit tax increment bonds used for improvements eligible to be paid for with the proceeds of City general obligation bonds are general obligations of the City and shall be exempt from all state taxes except inheritance taxes, and the amount of full faith and credit tax increment bonds issued and outstanding which exceed three percent (3%) of the assessed valuation of the City shall be within the bonded limit of the City.

**b. Bonds for Private Improvements**

The Governing Body in its sole discretion may approve the issuance of full faith and credit tax increment bonds for private improvements or private projects. The interest on such bonds may be included in federal income taxes.

**3. Industrial Revenue Bonds**

Industrial revenue bonds may be issued by the City pursuant to K.S.A. 12-1740, et seq. to benefit a Developer within the Bioscience Development District. All state law benefits associated with such bonds shall be available, except that pursuant to K.S.A. 79-201a Second, as amended, no ad valorem tax abatement shall be available for property which is located in a bioscience development project area established under the authority of K.S.A. 12-1770 et seq., as amended.

**D. Reimbursement Authority**

The tax increment may be used to reimburse a Developer for eligible development project plan costs as opposed to issuing bonds. Under this method, the City may agree to reimburse the Developer for eligible development project costs over a period of time not to exceed twenty (20) years from the date of development project plan approval in accordance with the terms set forth in the Disposition and Development Agreement. The reimbursement amount is paid solely from all or a portion of the Tax Increment, and the Developer takes the risk that the portion of the increment pledged for reimbursement will be insufficient to retire the eligible bioscience development project costs. This reimbursement method is preferred by the City over the use of bond financing as the method to reimburse Developers for eligible bioscience development project costs.

**E. Amount of Tax Increment Financing Available.**



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### 1. Criteria.

The general objectives of the City in granting TIF for economic development are: (a) promote, stimulate and develop the general and economic welfare of the State of Kansas and the City; (b) promote the general welfare of the citizens of Kansas and the City through contributing to in the development of bioscience within the State of Kansas; (c) create new jobs and retain existing jobs; and (d) expand the economic and tax base of the City. The specific objectives of the City to be considered when reviewing a proposed Bioscience Development District include but are not limited to promoting development of the bioscience development of locations that need assistance due to unique methods of construction, geological, environmental, or other site constraints. The City recognizes that a simple system of determining the amount of TIF to be granted in order to reach these objectives may not always be equitable if applied uniformly to different kinds of bioscience development project plans. As a result, in determining the actual amount and duration of TIF to be granted, the City shall review each application on a case by case basis and consider the factors and criteria set forth in this Policy including where applicable, a Feasibility Study as required by state law, as well as the amount and duration of previous TIF Projects supported by the City.

### 2. Capital Investment.

Although no minimum capital investment is required by the City, the amount of capital investment made by an Applicant is a factor to be considered by the City in determining whether or not to authorize a bioscience development project plan.

### 3. Application Of "But-For" Principle.

The Governing Body does not encourage the subsidy of private businesses with public funds, the indirect consequence of TIF, unless some measurable public good results, as determined by the City, and the public subsidization can reasonably be expected to make a significant difference in achieving one or more objectives of the City.

All TIF applications shall be considered in light of the "but-for" principle, i.e., tax increment financing must make such a difference in the decision of the Applicant that the Project would not be economically feasible "but for" the availability of TIF. In



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evaluating the economic feasibility, the staff shall consider factors that include, but are not limited to:

- a. the extraordinary or unique costs associated with developing the project;
- b. the Applicant's financial investment in the project;
- c. the property, sales and other tax and fee revenue that may result from the project;
- d. the credit worthiness and experience of the Applicant; and
- e. the value added, including intangible costs and benefits received by the City and other taxing jurisdictions, as a result of the proposed project.
- f. Distribution of Ad Valorem Taxes.

All tangible taxable property located within a Bioscience Development District shall be assessed and taxed for ad valorem tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all ad valorem taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected.

Some or all of the increment in ad valorem property taxes resulting from a Bioscience Development District may be apportioned by the City to a special fund for the payment of the eligible bioscience development project costs of the TIF Project, including reimbursement or the payment of principal and interest on any special obligation bonds or full faith and credit tax increment bonds issued.

### G. Condemnation.

The City does not encourage the use of condemnation in association with projects. However, the use of condemnation, permitted under K.S.A. 12-1773, may be considered by the Governing Body, but only upon a finding that the Applicant has attempted, in good faith, to acquire the property privately. Although expenses associated with condemnation is an eligible bioscience development project cost under state law, in the event condemnation is approved by the Governing Body, the Applicant may be required to be responsible for all costs associated with the proceedings, including court and litigation costs, attorney's fees and the final condemnation awards made. In creating a Bioscience Development District, eminent domain shall not be used to acquire agricultural land.



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### H. Waiver of Requirements.

The Governing Body reserves the right to grant or deny tax increment financing for the development or bioscience development of a Bioscience Development District 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.

### DEFINITIONS

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 or business and its officers, employees, and agents requesting approval of a redevelopment district or redevelopment project plan associated with any proposed TIF Project. May also be referred to as Developer.

Associated Therewith: As used with respect to tangible personal property shall mean being located within, upon, or adjacent to buildings or added improvements to buildings.

Base Year Assessed Valuation: The assessed valuation of all real property within the boundaries of a bioscience district on the date the bioscience district was established.

Bioscience: The use of compositions, methods and organisms in cellular and molecular research, development and manufacturing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, agriculture, industrial environmental and homeland security applications of bioscience and future developments in the biosciences. Bioscience includes biotechnology and life sciences.

Bioscience Development Area: An area that (i) is or shall be owned, operated or leased by, or otherwise under the control of the Kansas bioscience authority; (ii) is or shall be used and maintained by a bioscience company; or (iii) includes a bioscience facility.



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Bioscience Development District: The specific area, created under K.S.A. 12-1771, and amendments thereto, where one or more bioscience development projects may be undertaken.

Bioscience Development Project: An approved project to implement a project plan in a Bioscience Development District.

Bioscience Development Project Plan: The plan adopted by the authority for a bioscience development project pursuant to K.S.A. 12-1772, and amendments thereto, in a Bioscience Development District.

Bioscience Facility: Real property and all improvements thereof used to conduct bioscience research, including, without limitation, laboratory space, incubator space, office space and any and all facilities directly related and necessary to the operation of a bioscience facility.

Bioscience Project Area: An area designated by the authority within a Bioscience Development District.

Biotechnology: Those fields focusing on technological developments in such area as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics and future developments associated with biotechnology.

Board: The board of directors of the Kansas bioscience authority.

Capital Investment: The acquisition cost of land, buildings and tangible personal property constituting capital assets for accounting purposes.

Disposition And Development Agreement: A written agreement between the City and a Developer for the construction of a bioscience project. Such agreement shall address issues involved in the bioscience project, including, but not limited to the following: Schedule of construction; acquisition of land; eligible TIF expenses; scope of the 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.

