

**CITY OF SHAWNEE**  
POLICY STATEMENT

<b>SUBJECT:</b>	<b>POLICY CODE NO.</b>	<b>EFFECTIVE DATE</b>	<b>REVISED DATE</b>	<b>PAGE</b>
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PURPOSE

The proper use of a Transportation Development District (“TDD”) can promote, stimulate and develop the general and economic welfare of and quality of life in the City. This Policy establishes the procedures of the City of Shawnee, Kansas, for considering applications for Transportation Development Districts used for economic development in accordance with the provisions of K.S.A. 12-17,140 et seq. and any amendments thereto (the “Act”).

LEGAL AUTHORITY

The authority and decision to approve the establishment of a TDD is within the sole discretion of the Governing Body. The Governing Body is under no obligation to approve any petitioned Project, nor does it 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 applications and outlines the policies and procedures to be followed by applicants. The Governing Body reserves the right to reject any proposal for petition for creation of a TDD 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 TDD request via the application for public financial participation provided by the City. The City Finance Team shall review all TDD applications for compliance with City policy and State law and make a recommendation for preliminary approval and a decision to forward an application to the City Council for consideration and action. If the Finance Team believes the application meets the criteria set forth in this Policy and should be recommended for approval, the Finance Team will work with the petitioner(s) to prepare a petition and develop a Finance Plan to present to the Governing Body when it considers the petition to establish the District.
- b. Petition. TDD proceedings shall be initiated by petition, on a form prescribed by the City and containing the information required in K.S.A. 12-17,140 et seq., as amended after receiving preliminary approval from the Finance Team. A TDD petition must be submitted with signatures of 100% of the property owners of all of the land area within the proposed District. The District boundaries and the method of financing the Project shall not require that all property that is benefited by the Project, whether the



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benefited property is within or without the District, be included in the District or be subject to an assessment or the TDD sales tax.

- c. Term. The Governing Body shall review the financial feasibility of each District proposed for consideration and shall use this information in determining the appropriate term of the District. Any TDD sales tax shall expire no later than the date the bonds issued to finance such project or refunding bonds issued for the Project mature. TDD Bonds issued to finance the Project shall mature no more than twenty-two (22) years from date of issue, unless otherwise provided by law.

2. Criteria for Use of Transportation Development District

- a. The decision to establish a transportation development district is within the sole discretion of the Governing Body. In determining whether or not to approve a petition to establish a District, the Governing Body will evaluate whether or not creation of a TDD is in the City's best interest, by considering one or more of the following criteria:

- (1) Promote and support efforts to redevelop retail sites to provide for reinvestment in our community;
- (2) Stimulate quality, retail development to enhance the City's economic base;
- (3) Attract and promote mixed use, urban, development;
- (4) Allow for the construction of transportation related infrastructure beyond what the City requires or would otherwise build;
- (5) The Project 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;
- (6) Recommendation of the City Finance Team; or
- (7) Whatever other factors the Governing Body deems relevant to its decision.

b. Additional Considerations:

- (1) Cost of the proposed improvements identified in the Project;
- (2) Sources of funding, including the amount of equity funding in the companion to public funding;
- (3) Experience and stability of Developer;
- (4) Whether or not tenants are in place; and the nature and quality of the tenants; and



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- (5) Economic competition the Project has and is expected to have in the future.

### FINANCING

1. Source of Funds. TDD Projects may be financed by any or all of the following sources:
  - a. Special assessments imposed in the District pursuant to this Act which have been paid in full prior to the date set by the Governing Body as provided in K.S.A. 12-6a10, and amendments thereto;
  - b. Special assessments imposed in the District pursuant to the Act, to be paid in installments;
  - c. A pledge of all of the revenue received from a TDD 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 District, in any increment of .10% or .25% not to exceed 1% as authorized by K.S.A. 12-17,145, and amendments thereto ("TDD sales tax"); or
  - d. Any other funds annually appropriated by the City.
2. Special Benefit District Procedures. If special assessments are used to finance all or a portion of a Project, the City and petitioner(s) must follow the assessment procedures in the General Improvement and Assessment Law set forth in K.S.A. 12-6a01 et. seq. and the City's Administrative Policy and Procedures for Special Benefit Districts.
3. Finance Plan. If the Finance Team reviews the application and finds it in the City's best interest to recommend approval of the TDD to the Governing Body, the Finance Team will work with the applicant to create a Finance Plan which 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.
4. Bonds.
  - a. The City may issue TDD Bonds to finance transportation-related projects or infrastructure improvements. In no event shall special assessments be levied against



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the City-at-large and no full faith and credit notes or bonds may be issued by the municipality to finance a Project under this Act. Guidelines for the issuance of TDD Bonds include:

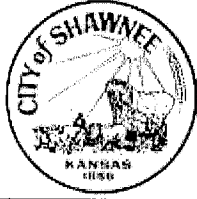
- (1) The maximum maturity for TDD Bonds shall be twenty-two (22) years and shall not exceed the anticipated useful life of the project; and
  - (2) The minimum issue size for TDD bonds issued by the City will be \$3,000,000, unless an exception is approved by the Governing Body.
- b. TDD Bonds issued 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 rules.
- c. TDD Bonds issued under this Policy must be sold to qualified investors (as defined by the Securities and Exchange Commission Regulation D) in accordance with the minimum denominations as provided therein.
- d. TDD Bonds must initially be offered in denominations of \$100,000 or greater. These denominations may be stepped down (upon consultation with the City's bond counsel and financial advisor) when one of the following are met:
- (1) The Project being bond financed is substantially leased;
  - (2) The estimated revenue stream yields significant debt service coverage on the bonds;
  - (3) Construction of the Project being bond financed is 100% complete;
  - (4) The repayment term is less than or equal to 60% of the maximum permitted repayment term; and
  - (5) Waiver of the minimum denomination provision by the Governing Body.
- e. 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.



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- f. At its sole discretion, the City may require that an independent feasibility study of future TDD revenues be performed, with any such cost born by the applicant if not recoverable from the TDD bond proceeds.
- 5. Annual Appropriation. The Governing Body may choose to, but is not obligated, to annually appropriate funds to secure TDD revenue bonds.
- 6. Reimbursement TDD. If available and permitted by law, Petitioner(s) may be reimbursed for a Project on a "pay as you go" basis until the Governing Body determines issuance of TDD Bonds is viable and in the City's best interest.
- 7. Project Funds. A separate fund shall be created for each District and each Project and such fund shall be identified by a suitable title. The proceeds from the sale of bonds 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 Project.
- 8. Fees Associated with TDD
  - a. Initial Application Fee. A non-refundable amount of \$5,000 shall accompany the TDD 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 TDD. The Applicant shall enter into a funding agreement in order to pay 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 the amount of \$20,000 (the Fund) in order to ensure the prompt and timely payment of the above charges. The City shall use the Fund to pay for City Bond Counsel, Financial Advisor and other professional consultants' fees and apply the hourly fees incurred by the City's professional consultants for work on this Project against the Fund.



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9. Disposition and Development Agreement

- a. Prior to beginning development of the TDD (including the issuance of bonds), and generally simultaneous with the approval of a plan, the Developer shall execute a Development Agreement as approved by the Governing Body.

WAIVER OF REQUIREMENTS

The Governing Body reserves the right to grant or deny a Transportation Development District (TDD) 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 TDD Project. May also be referred to as Developer.

DISPOSITION AND DEVELOPMENT AGREEMENT: A written agreement between the City and a Developer for the completion of a 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 TDD 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.

FINANCE TEAM: A Committee comprised of the City Manager, the City Attorney, the Finance Director, the Planning Director, the City's Financial Advisor and the City's Bond Counsel, or their designees, whose function is to review TDD applications and make recommendations for approval or denial to the Governing Body.



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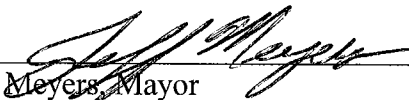
PROJECT: Any project or undertaking whether within or without the District, to improve, construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend any bridge, street, road, highway access road, interchange, intersection signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail or other mass transit facility or any other transportation related project or infrastructure including, but not limited to, utility relocation; sanitary and storm sewers and lift stations; drainage conduits, channels and levees; street light textures, connection and facilities; underground gas, water, heating and electrical services and connections located within or without the public right-of-way; sidewalks and pedestrian underpasses or overpasses; and water main and extensions.

APPROVAL AND REVISION DATES

April 14, 2008

OTHER REFERENCES

March 18, 2008, Public Works & Safety Committee Minutes, Agenda Item 3  
April 14, 2008, City Council Minutes, Agenda Item 16

  
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Jeff Meyers, Mayor

  
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Vicki Charlesworth, City Clerk