



Sedgwick County/City of Wichita Economic Development Guidelines



TAX INCREMENT FINANCING

APPLICATION FEE

\$5,000 – Non-refundable

\$2,500 for Amendments to TIF Districts – Non-refundable

DEPOSIT FEE

The City shall require a \$10,000 deposit. The deposit shall be applied toward staff time, expenses for any mailing or publications, internal/external legal counsel. This fee shall be replenished by the applicant if at any time the fund drops below \$5,000. The applicant shall replenish the fund to the \$10,000 level within 10 days of notice that it has dropped below \$5,000. Failure to replenish the deposit may result in City staff ceasing the processing of that project. Amendments to TIF districts require a \$2,500 deposit that will require replenishment if the funds drops below \$1,000.

PURPOSE OF GUIDELINES

Tax Increment Financing (“TIF”) provides an urban development strategy for financing redevelopment in communities throughout the country. TIF creates incentives for private investment in urban redevelopment by applying the incremental growth in tax revenues resulting from private investment to achieve the overall purposes of redevelopment. TIF does not increase tax rates within a TIF district.

The following general guidelines have been developed in order to provide guidance to staff, developers and other interested parties with an understanding of the City of Wichita’s guidelines and requirements for TIF. As applicable, these guidelines shall apply to Sales Tax And Revenue (“STAR”) financing as well as TIF.

BACKGROUND

The Kansas Legislature first authorized tax increment financing in 1976 through passage of K.S.A. 12-1770 *et seq.* The act allows for the issuance of special obligation or full faith and credit tax increment bonds, or pay-as-you-go tax increment financing, for qualified redevelopment projects.

Tax Increment Financing allows for the increase in tax revenues within the redevelopment district to pay for eligible redevelopment project costs. The “tax increment” is the increase in tax revenue resulting from the difference between aggregate assessed valuation of the property in the district after redevelopment compared with the value at the time of establishment of the redevelopment district (“Base Year”). The tax increment is used to pay for the eligible project costs while the revenues attributable to the Base Year valuation continue to go to all taxing districts. TIF revenues may be used to pay principal and interest on City bonds issued to finance eligible project costs or to reimburse developers for such costs on a “pay-as-you-go” basis.



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GENERAL GUIDELINES

While TIF is an important and useful tool for revitalizing economically challenged areas of the community, it is essential that it is used appropriately to accomplish the City's economic development goals and objectives. The fundamental principal which makes public financing viable is that it is designed to encourage development which would not otherwise occur. The City is therefore required to determine that the project would not occur as proposed "but for" the assistance provided through TIF. The City may require documentation similar in form and substance as private financing institutions when asked to consider the use of TIF for a project.

The City shall consider using TIF in cases that serve to accomplish the City's targeted goals for economic development as they may change over time. These goals include projects that would result in redevelopment of underutilized areas, increase in the tax base, remove blight, revitalize targeted neighborhood areas, retain viability in Downtown and retain and expand businesses. The City may place special emphasis/priority on the use of TIF for specific categories of projects that serve to stimulate, revitalize the Wichita economy, redevelop identified properties or enhance the quality of life in the City of Wichita.

INCENTIVE OBJECTIVES

The City will use tax increment financing to accomplish these *major* objectives:

- A. Eliminate blighting influences throughout the city and/or encourage redevelopment of underutilized commercial and industrial areas in the city that result in high quality redevelopment and private investment.
- B. Increase the city's property tax base by providing high quality development.
- C. Encourage additional private development surrounding the redevelopment.
- D. Support redevelopment efforts that enhance and preserve unique urban features and amenities, including downtown, the river corridor and historic structures.
- E. To facilitate the development process and to achieve development on sites which could not otherwise be developed to its highest potential without the use of TIF.
- F. To support the implementation of City Council approved neighborhood plans.

ELIGIBLE AREAS

The City will consider the establishment of redevelopment districts pursuant to TIF statutes for areas meeting one or more of the following criteria and where the conservation, development or redevelopment of such area is found to be necessary to promote the general and economic welfare of the City:

- A. *Blighted Areas*: To qualify for establishment of a redevelopment district under this criteria, the area must meet the conditions set forth in K.S.A. 12-1770a(c), except that areas located in a 100-year flood plain will only be considered if all property in the district not needed for drainage improvements is to be removed from the flood plain by the redevelopment project.
- B. *Conservation Areas*: Areas in eminent danger of becoming blighted in which a majority of the existing structures are over 35 years old may be considered for establishment of a redevelopment district, as set forth in K.S.A. 12-1770a(d).
- C. *Enterprise Zones*: Areas within a city that were designated as an enterprise zone prior to July 1, 1992 may be considered for establishment of a redevelopment district, as set forth in K.S.A. 12-1770a(h). A map showing the location of pre-1992 Enterprise Zones in Wichita is available for viewing in the Office of Economic Development.



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- D. *Opportunity Zones*: Established in the Tax Cuts and Jobs Act of 2017, Opportunity Zones provide tax incentives for investment in designated census tracts supporting new investments and redevelopments in the community.
- E. *Minimum Size*: Generally, a redevelopment district should be large enough to make a visible difference to the character of the greater area in which it is located, once it is redeveloped. As a guideline, outside of the downtown area, redevelopment districts should be at least five (5) acres in size and at least two (2) acres within downtown.

ELIGIBLE TIF COSTS

- A. The City of Wichita will use Tax Increment Financing only when a clearly identified city development objective is served and only to the degree necessary to accomplish that development objective.
- B. Projects intending to use tax increment financing must provide a public purpose statement to identify the public benefit served by the development.
- C. Tax Increment Financing will only be used in cases where the City has the financial capacity to provide the needed public assistance, the City Council deems it fiscally prudent to provide such assistance and the developer can clearly demonstrate that the development will be able to meet its financial and public purpose commitments.
- D. Alternatives, such as “pay-as-you-go” financing and reimbursing front-end public redevelopment costs with tax increment revenues, are preferable to bond financing and are to be considered and used when appropriate.
- E. Full faith and credit TIF bonds will be used only when Special Obligation bonds are not financially feasible.
- F. Only those public improvements and public redevelopment costs directly associated with the proposed development plan or project should be financed through tax increment.
- G. Tax increment revenues shall be used primarily for public infrastructure and public improvements. Eligible expenses are defined pursuant to K.S.A. 12-1770a(o). The City approved uses include:
 - 1. Property acquisition
 - 2. relocation costs;
 - 3. site preparation, including demolition and environmental soil remediation;
 - 4. sanitary and storm sewers and lift stations;
 - 5. utility relocations and extensions;
 - 6. landscaping; lighting; paving, including parking lots;
 - 7. public streets;
 - 8. drainage conduits, channels, levees and river walk canal facilities;
 - 9. plazas and arcades;
 - 10. parking facilities, including multi-level parking structures; and
 - 11. costs associated with above uses, such as design and financing.

Excluded uses are costs related to building construction, except for multi-level public parking structures and other uses specifically authorized by statute.



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PROJECT REQUIREMENTS

- A. Tax increment financing will only be used as a final effort for funding. Developer must prove all other financing efforts have been exhausted.
- B. Projects should provide the highest possible private to public financial investment ratio. For TIF-only projects the ratio shall be 3 to 1, otherwise it shall be 2 to 1.
- C. TIF projects and development agreements will be prepared in a way to not place additional ongoing financial burden on the City, including operating costs of TIF funded improvements.
- D. The developer must provide adequate financial guarantees to ensure completion of the project, including, but not limited to: assessment agreements, letters of credit, personal guaranties, etc.
- E. Developer shall adequately demonstrate, to the City's satisfaction, an ability to complete the proposed project based on past development experience, general reputation, and credit history, among other factors including the size and scope of the proposed project. City may request, at the developer's expense, a third party analysis of the developer's capacity.
- F. An appropriate portion of the TIF proceeds should be used to pay for additional municipal facilities or public infrastructure beneficial to the TIF project. If the Developer requests infrastructure improvements benefitting the project, TIF funds will be prioritized for said improvements. The adequate proportion will be negotiated per project.
- G. Construction will commence within one year of City Council approval or development agreement will be void, unless extended by the City Council.
- H. Any developer controlled land will have deed restrictions placed to ensure use and disposition of property cannot change without approval from the City.

PROJECT QUALIFICATIONS

All TIF projects considered by the City of Wichita must meet all of the following requirements:

- A. Eligibility under state law;
- B. Project shall result in a minimum value increase of 3 times the Base Year assessed value;
- C. The developer shall demonstrate that the project is not financially feasible without the use of TIF;
- D. The project must be consistent with the City's Comprehensive Plan, Land Use Plan and Zoning Ordinances;
- E. The project shall serve a majority of the public purposes identified in Section IV.

ECONOMIC ANALYSIS AND FINANCIAL REQUIREMENTS

A. Gap Analysis

All TIF projects will be analyzed to determine the need for financial assistance. TIF projects financed on a "pay-as-you-go" will be reviewed to determine the amount and level of assistance needed.

Applicants will be required to provide City Staff with pro forma cash flow analysis and sources and uses of funds in sufficient detail to demonstrate that reasonably available conventional debt and equity financing sources will not fund the entire cost of the project and still provide the applicant a reasonable market rate of return on investment based on current market capitalization rates identified by a qualified third party.



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TIF projects financed with bonds will not be approved without a financial analysis that demonstrates the project would not otherwise be possible without the use of TIF bond financing.

B. Financial Feasibility Analysis

A financial feasibility analysis will be conducted by City Staff to determine the capacity and need for TIF financing.

C. Return On Public Investment

Return on Public Investment – Project’s return on public investment will be reviewed by the Center for Economic Development and Business Research (CEDBR) Fiscal Impact Model.

D. Equity Contribution

TIF shall not be used to supplant cash equity. Developer cash equity contribution shall be at least 15%. Tax credits will be considered equity but a minimum of 5% equity must be developer cash. Deferred developer fees will not be considered equity.

E. Developer (Personal) Guarantee

1. Developer will be required to personally guarantee 100% of the tax increment required to meet annual debt service payments on City bonds issued to finance TIF project costs. Letters of credit, bond insurance, pledged collateral or other acceptable form of credit enhancement will be required as additional security for the obligation.
2. Developer will agree to not protest the value assessed by County Appraiser’s Office during the life of the Project, unless actual values exceed projected values used in TIF analysis by at least 150%.

F. Market Study

Developer shall be able to demonstrate a market demand for a proposed project. TIF shall not be used to support purely speculative projects. City may require a third-party market study when appropriate.

G. Term

The maximum term for a TIF project, per statute, is 20 years.

H. Bond Issuance

In cases in which a bond issuance is requested, the City’s Staff will work with the developer to calculate how much revenue will be raised from the TIF district and the principal amount of bonds that can be issued based on the tax revenue stream and a 1.3 debt service coverage ratio. Proceeds from the sale of the bonds will be used to pay for eligible improvements and costs pursuant to the Statute and development agreement.

I. Background Check

The City will conduct a background check on all TIF applicants and applicants’ project partners. Applicants are required to furnish City Staff the personal and business information needed to carry out such a background check. Information generated by the background check will be treated as confidential information to the extent allowed by the KORA.



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PROCEDURES FOR TIF APPROVAL AND FUNDING

A. Project Application

A developer interested in the use of Tax Increment Financing will prepare and submit a Project Application Packet to the Office of Economic Development, along with a \$5,000 application fee and \$10,000 deposit fee. An application will contain the following information:

1. Conceptual Project Plan – A preliminary plan that outlines the scope of the project including:
 - a. A description of the proposed project, including a public purpose.
 - b. Market study of the area that demonstrates the need and feasibility of the project.
 - c. Listing of project milestones.
 - d. A financial plan with costs, proposed funding sources, and evidence of a financing gap
2. Land Use Plan – Information regarding the proposed uses or changes to the land including:
 - a. Preliminary site plan of the proposed project and/or improvements
 - b. Proposed changes to current land use and infrastructure.
 - c. Any known environmental concerns.
 - d. Visual depictions of proposed project renderings or elevations.
3. Project Team – Provide names, affiliations and roles & responsibilities of the project team.
4. Supporting documentation – Other information that will provide the City with a better understanding of the proposed redevelopment. This information will assist the City in evaluating the project and understanding the commitment of the developer.

B. City Fees

The City shall be paid a non-refundable application fee of \$5,000 as well as a \$10,000 deposit fee. The \$10,000 deposit fee shall be applied toward staff time, expenses for any mailing or publications, internal or external legal counsel. This fee shall be replenished by the applicant if at any time the fund drops below \$5,000. The applicant shall replenish the fund to the \$10,000 level within 30 days of notice that it has dropped below \$5,000.

C. Department Review

The project application will be reviewed by City Staff for eligible costs and participation consideration.

D. TIF District Creation Process

As prescribed by state law, the TIF district is established by city ordinance. The City Council will adopt a resolution to hold a public hearing for consideration of establishment of the redevelopment district. Upon conclusion of the public hearing the City Council will vote to determine if a redevelopment district should be established.

Once established, one or more redevelopment projects may be undertaken within the district, either consecutively or concurrently.



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E. Sedgwick County and School District Approval

The governing bodies of the county and school district have 30 days in which to make a determination as to whether the TIF will create an adverse impact and veto the establishment of the district. Sedgwick County has established a formal policy regarding review and approval/denial of a TIF redevelopment district.

Click here to view the [County TIF Policy](#).

REQUIREMENTS TO APPROVE TIF PROJECT

A. TIF Project Approval Process Overview

Each application for TIF assistance received by the City shall be diligently reviewed for the purpose of determining both (i) whether the proposed use of TIF meets the purpose, objectives and requirements of the City's TIF Guidelines, and (ii) the financial and experiential capacity of the developer.

Before TIF funds may be expended on a project, the governing body of the city must adopt a project plan setting out the details of the project and its financial feasibility.

Project plans are first approved by the planning commission and then adopted by city ordinance, passed by 2/3 majority vote following a public hearing.

B. Project Plan

In those instances where City staff believes the use of TIF assistance is appropriate, it shall then prepare a project plan with the developer for adoption by the City. The project plan per K.S.A 12-1772 (a)(1)(2), will contain:

1. Feasibility Study Summary, which includes:
 - i) Whether a redevelopment project's benefits in terms of tax increment revenue and other available revenues are expected to exceed or be sufficient to pay for the redevelopment costs; and
 - ii) The effect, if any, the redevelopment project costs will have on any outstanding special obligation bonds per K.S.A. 12-1774 (a)(1)(D); and
 - iii) A statement of how the taxes obtained from the project will contribute significantly to the economic development of the area.
2. A reference to the district plan per under K.S.A. 12-1771.
3. A description and map of the redevelopment area.
4. A relocation assistance plan if required.
5. A detailed description of the buildings and facilities proposed to be constructed or improved.

C. Development Agreement

The Development Agreement will outline the general obligations of the City and Developer in regards to the TIF project and identify any additional requirements specific to the project. Without limitation, all development agreements shall include:

1. An expiration term based on the size and scope of the project, which may only be extended by City Council action.
2. Development agreement will be void if construction does not commence within one year of City Council approval unless extended by the City Council.
 - i. Due to the limited term of TIF financing, any delay of construction longer than one year will affect the cash flow necessary for the success of a project.



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3. Developer will provide a “shortfall guarantee” that obligates the developer to make up the difference any year that TIF revenue is not sufficient to pay bond obligations.
4. Developer will agree to not protest the value assessed by County Appraisers during the life of the Project, unless actual values exceed projected values used in TIF analysis by at least 150%.
5. City’s obligations are conditioned on final approval of use of TIF and other City funding.
6. Conditions precedent that shall identify all actions that must occur prior to the City obligating resources to the project. The Conditions precedent shall include:
 - i. Satisfactory evidence to the City that Developer has secured the loan commitment and any other sources of financing,
 - ii. City’s satisfaction with the costs associated with the project in accordance with the City’s plans, drawings and specifications, as needed,
 - iii. All approvals from the Historic Preservation Board and all similar approvals needed for development of the Project have been obtained in writing.
7. Developer will provide to County Appraiser, on an annual basis, an economic performance report including the Net Operating Income no later than March 1 of each year.

D. Periodic Reporting

1. For the duration of the construction and development period, a progress report shall be provided by the Developer, on a regular basis as determined by the size and scope of project, giving a status on the project in the TIF Plan and include:
2. Existing development to date,
 - a. Development projected to be built within the reporting period, and
 - b. Proposed revisions to the Development Plan, if any.
3. Economic performance report to the County Appraiser on NOI no later than March 1 of each year for the previous calendar year.
4. The developer shall file a report annually for two years after the date the benefit is received or until all goals set forth in the development agreement have been met, whichever is later. Reports shall be filed with the City of Wichita no later than March 1 of each year for the previous calendar year.

E. City Council Adoption

Before TIF funds can be expended on a project, the governing body of the city must adopt a project plan setting out the details of the project and its financial feasibility. Project plans are first approved by the planning commission and then adopted by city ordinance, passed by 2/3 majority vote following a public hearing.

F. Amendment of TIF

For any amendments to the TIF Project Plan or related development agreement the Developer shall pay an amendment fee of \$2,500. The City will require a \$5,000 deposit as well to pay City costs related to the amendment. The deposit shall be applied toward staff time, expenses for any mailing or publications, internal legal counsel and certain third party consultants.

I. WAIVER OF GUIDELINES

Should the City Council determine the terms of these guidelines are inappropriate to evaluate a particular TIF application, it may, by majority vote, waive the binding effect of these guidelines in regard to that application.