Consolidated-Salina EPN1111155

RESOLUTION NUMBER 10-6700

A RESOLUTION ADOPTING THE *COMMUNITY IMPROVEMENT DISTRICT POLICY* FOR THE CITY OF SALINA, KANSAS.

WHEREAS, a Community Improvement District ("CID") is a statutory vehicle through which a neighborhood or business area can form a district within the City of Salina to finance private projects to enhance the quality of life or the economic well-being of the district through the use of an incremental increase in sales taxes and/or bonding, with or without special assessments; and

WHEREAS, "CID" projects can accelerate new development and redevelopment throughout the community, building public infrastructure and preventing the decline of mature commercial properties; and

WHEREAS, "CID" is a market-based approach to renovation pays aesthetic and economic dividends through refreshing ailing properties and increasing the property and retail tax bases; and

WHEREAS, "CIDs" facilitate projects that benefit the community without increasing at-large taxation; and

WHEREAS, the *Community Improvement District Policy* hereby incorporated into this resolution as Exhibit "A" establishes the process that the City of Salina will employ in evaluating applications in accordance with K.S.A. §§12-6a26 – 6a36. **SO NOW THEREFORE**

BE IT RESOLVED by the Governing Body of the City of Salina, Kansas:

Section 1. The Community Improvement District Policy is hereby adopted.

Section 2. The City Commission has the sole discretion to approve petitions establishing a "CID" and retains the authority to finance projects by other methods.

Section 3. This policy is intended to provide guidelines for City Commission review.

Section 4. The City Commission reserves the right to waive provisions of this policy if a compelling reason or emergency exists and such waiver is declared to be in the public interest; however, the Commission shall not waive any statutory requirement by State law.

Section 5. This resolution shall be in full force and effect from and after its adoption.

Adopted by the Board of Commissioners and signed by the Mayor this 25th day of January 2010.

M. Luel Larson, Mayor

(SEAL)
ATTEST:

Lieu Ann Elsey, CMC, City Clerk

Community Improvement District Policy

I. PURPOSE

A Community Improvement District ("CID") is a statutory vehicle through which a neighborhood or business area can form a district within the City of Salina to finance private projects that enhance the quality of life or the economic wellbeing of the district through the use of an incremental increase in sales taxes and/or bonding, with or without special assessments. CID projects can accelerate new development and redevelopment throughout the community, building public infrastructure and preventing the decline of mature commercial properties. This market-based approach to renovation pays aesthetic and economic dividends through refreshing ailing properties and increasing the property and retail tax bases. CIDs facilitate projects that benefit the community without increasing at-large taxation.

II. LEGAL AUTHORITY

This *Community Improvement District Policy* establishes the process that the City will employ in evaluating CID applications in accordance with K.S.A. §§12-6a26 – 6a36. The City Commission has the sole discretion to approve petitions establishing a CID and retains the authority to finance projects by other methods.

This policy is intended to provide guidelines for City Commission review. The City Commission reserves the right to waive provisions of this Policy if a compelling reason or emergency exists and such waiver is declared to be in the public interest. However, the City Commission shall not waive any statutory requirement of State law.

III. DEFINITIONS

A. **Area of Change** shall mean that area designated in the attached map.

B. **Cost** shall mean all expenses necessarily incurred for
   i. The preparation of preliminary reports, plans, and specifications;
   ii. The preparation and publication of notices of hearings, resolutions, ordinances, and other proceedings relating to the creation or administration of the district or the issuance of bonds;
   iii. Fees and expenses of consultants;
   iv. Interest accrued on borrowed money during the period of construction;
   v. The amount of a reserve fund for the bonds;
   vi. The cost of land, materials, labor, and other lawful expenses incurred in planning and doing any project; and
   vii. A charge not to exceed 2% of the total cost of the project or, when bonds are issued, the principal amount of the bonds to reimburse the municipality for the services rendered in the administration and supervision of such project by its general officers. The charge shall not exceed actual expenses incurred by the municipality in support of the project.

C. **Finance Team** shall mean a staff team consisting of the City Manager's office, the City Finance Department, a third-party financial advisor (as needed), bond counsel (as needed), and/or legal counsel.

IV. PROJECT ELIGIBILITY

Projects located in the designated "Area of Change" (see attached map) are the top priorities for CID establishment, though other areas within the community are also eligible. A CID may be compatible with other development tools, such as Neighborhood Revitalization Areas ("NRA") and Special Redevelopment Areas ("SRA"), and can be used in conjunction with these incentive programs.

CID projects may include the construction or improvement of buildings and infrastructure or for the provision of services. The types of projects eligible under K.S.A. §12a6-28(m) are listed below. The City Commission may exercise its discretion in determining whether a specific project merits receiving public funding through the creation of a CID.

A. Construction and Improvement of Buildings and Infrastructure

i. Public and private buildings, structures, and facilities;
ii. Sidewalks, streets, bridges, and pedestrian amenities;
iii. Parking lots and garages;
iv. Utilities, water systems, sewer systems, and drainage systems;
v. Security equipment or facilities;
vi. Light fixtures, traffic signs, benches, trash receptacles, and awnings;
vii. Parks, lawns, trees, and landscaping;
viii. Paintings, sculptures, fountains, and other cultural amenities;
ix. Communication and information booths, bus stops, rest rooms, and kiosks;
x. Mass transit facilities; and
xi. Waterways.

B. Provision of Services

i. Personnel for security, parking lots or garages, buses, or child care;
ii. Cleaning and maintenance of public or private property;
iii. Provision of music or news;
iv. Promotion of tourism, recreation, cultural activities, and special events;
v. Promotion of business activity and economic development;
vi. Employee support and training programs; and
vii. Economic impact, planning, marketing, or other studies.

V. PROJECT FINANCING

CID financing is available in the minimum amounts of $500,000 for an Area of Change and $1,000,000 for an area outside of an Area of Change. Off-site public infrastructure enhancements beyond those typically required for development purposes may account for up to 10% of total costs, provided that they are adjacent to or nearby the project site and contribute to the success of the project. Where applicable, it is the intent of this policy that project costs be allocated between sales tax generators and non-generators as equitably as possible, though the CID boundaries need not include all property that will benefit from the project.

A. Sources of District Funding. Available sources of district funding in order of preference are as follows:

i. **Sales Taxes Without Bond Financing**. The City may levy a sales tax within a CID on the selling of tangible personal property at retail or the furnishing of services taxable under the Kansas Retailers' Sales Tax Act. The CID sales tax may not exceed 2% and must be in an increment of 0.10% or 0.25%. The sales tax must

expire not later than 22 years from the date the state director of taxation begins collecting the tax.

ii. **Sales Taxes With Bond Funding**. If bonds are issued as part of a sales tax funded CID, the tax must expire no later than the date that the bonds or refunding bonds used to finance the CID project mature, not to exceed 22 years from the date the state director of taxation begins collecting the tax.

iii. **Bonds**. Bonds shall have a term of 10 – 15 years and Bonds may be issued in the amount of $1,000,000 or more.

a. **Special Obligation Bonds**. The City may issue special obligation bonds to fund a CID project. The City may levy a special assessment and/or a sales tax within the CID to repay special obligation bonds. The decision to issue special obligation bonds shall be based on market risk. Special obligations bonds issuances shall be independent for each CID project authorized.

b. **General Obligation Bonds**. The City may issue general obligation bonds to fund a CID project that is financed at least in part by a CID sales tax. In addition, the City may also levy a special assessment within the CID to ensure repayment of the general obligation bonds. This funding is limited to projects that have a significant community impact, with a strong preference for infrastructure and projects in the downtown area. General obligation bonds may be merged with the financing of an at-large project. If so, the issuance term will assume that of the at-large project financing instrument.

1. **Petition Against Issuing Bonds**. A petition signed by 5% of qualified City voters and presented to the city clerk within 60 days of the public hearing for the creation of a Sales Tax CID shall prevent the issuance of general obligation bonds. The bonds can subsequently be issued only if approved by a majority of voters at an election.

iv. **Special Assessments**. If bonds are issued, the City must levy a special assessment to repay them. The City may levy an assessment upon the CID property owners in advance of the commencement of the project or in installments, in accordance with K.S.A. § 12-6a01 et seq., with three exceptions:

a. No assessment may be levied against the City.
b. If the special assessment is used to pay special obligation bond financing, the special assessment may be reduced to the extent that sales tax proceeds or appropriated funds cover the debt service on any bonds issued.
c. Property benefited by the project, whether within or outside of the district, need not be included in the district or subject to the district's assessment or sales tax.

v. **City General Fund**. The City may appropriate funds to support the CID project.

B. **Qualified Expenses**. Service and administrative costs, such as those listed under IV(B), "Provision of Services," generally shall account for no more than a suggested 15% of CID project costs. To qualify for reimbursement, the applicant must demonstrate how the service and administrative costs will enhance business activity and/or preserve the project's capital investment.

VI. APPLICATION PROCEDURE

This application procedure is established under the authority of the City Manager. The applicant must submit five copies of a complete application, which consists of an application, a petition, a fiscal impact statement, and applicable application and administration fees. The applicant is strongly encouraged to participate in a pre-application conference with the Finance Team to

preview the application before submitting it, in order to ensure adequate time to address any deficiencies or regulatory issues.

Any inaccuracy may render the application void and may be cause for the repeal of any development assistance previously provided by the City in reliance upon the inaccurate information.

A. **Application**. The application shall include:
   i. A legal description of the proposed boundaries of the CID;
   ii. A map of the district area with accompanying tax parcel I.D. information;
   iii. A detailed description of the project and architectural and/or engineering renderings that identify the improvements to be constructed in the CID;
   iv. A detailed breakdown of the estimated project costs;
   v. The estimated market and assessed value of the improvements;
   vi. The estimated construction timeline, including the cost of any proposed project phases; and
   vii. A statement that "but for" the CID funding, the applicant would not undertake the proposed project.
   viii. A detailed listing of all service costs proposed for CID funding, with detailed justification for addressing how these costs will enhance business activity and/or preserve the project's capital investment.

B. **CID Petition**. A valid CID petition of the Special Assessment CID or Sales Tax CID form is required. The petition shall contain a notice that signers consent to the assessments proposed in the petition and signers' names may not be withdrawn from the petition after the earlier of seven days after the filing of the petition or the date upon which the City Commission commences consideration of the petition.
   i. **Special Assessment CID**. A valid Special Assessment CID petition requires the signatures of all of the property owners within the proposed CID. A Special Assessment CID limits the financing method to a special assessment of the CID property owners.
   ii. **Sales Tax or Combination Special Assessment/Sales Tax CID**. A valid Sales Tax or Combination CID petition requires the signatures of both the property owners of more than 55% of the land area within the proposed CID and the property owners of more than 55% of the assessed land value within the proposed CID. A Sales Tax CID may use a sales tax or a combination of a sales tax and a special assessment as the financing method.

C. **Financing and Fiscal Impact**. The applicant must detail the proposed method and amount of financing, including any public financial participation requested. The applicant must financially participate in the project in an amount that is at least 25 percent of the total project cost.

D. **Required Fees**.
   i. **Initial Application Fee**. A non-refundable amount of $2,500 shall accompany the application. If the CID application is successful, the application fee will constitute a project cost and be eligible for reimbursement from CID proceeds.
   ii. **Out-of-Pocket Professional Services Fees**. In the course of evaluating a CID application, the City may incur out-of-pocket expenses for outside legal counsel, bond counsel, and third-party professional services. In order to reimburse the City for

such costs, the applicant shall enter into a funding agreement to pay the direct costs that the City incurs in reviewing the application as follows:

a. ***Separate Account.*** The applicant shall deposit a minimum of $20,000 for bonded projects or $5,000 for pay-as-you-go projects to be held by the City in a separate, segregated account of the City to be known as the "Advanced Funds Account." The City may invest the advanced funds in the same manner as other funds of the City are invested, and interest earnings shall remain in the Advanced Funds Account. If the CID application is successful, amounts paid into the Advanced Funds Account may constitute a project cost subject to the provisions of Section IV of this policy and be eligible for reimbursement from CID proceeds. Administrative costs that exceed the statutory cap of 5% of total project costs will not be reimbursed.
b. ***Use of Funds.*** The City may use the Advanced Funds for payment or reimbursement of City costs and expenses and legal and other third-party professional fees and expenses incurred by the City in connection with providing the necessary third party legal, financial, and planning assistance, including consultants, engaged by the City.
c. ***Accounting for Funds.*** The City shall submit to the applicant an itemized statement of actual payments made from the Advanced Funds Account for such City Expenses on a regular periodic basis, but no more often than monthly and no less often than quarterly.
d. ***Replenishing Funds.*** The applicant shall advance to the City the amounts set forth on such statements within thirty (30) days of receipt thereof, which shall be deposited in the Advanced Funds Account so that the balance of the Advanced Funds Account remains at $10,000. If such funds are not received, the unpaid balance shall be subject to a penalty of one and one half percent (1.5%) per month until paid, but in no event shall such penalty exceed eighteen percent (18%) per annum, and the City shall be relieved of any obligations to the applicant until paid.
e. ***Return of Advanced Funds.*** Any funds not used, and the interest on those funds, shall be returned to the applicant at the end of the project.

iv. Ongoing Administration Fee

Through the course of the project repayment period, the City may incur in-house financial administration costs. In order to reimburse the City of such costs, an ongoing administration fee may be imposed. The fee for such costs may account for a maximum of 2% of CID project costs and is included in the 15% project reimbursement limit for service and administrative costs.

VII. EVALUATION PROCESS

A. **Finance Team Review**. The Finance Team will evaluate an application against the objectives and criteria of this *Policy* by consulting with the applicant, gathering any additional information deemed necessary, and obtaining input from applicable City departments on the proposed physical plan, infrastructure needs and service costs. After reviewing the application, City staff will note outstanding regulatory, zoning, platting, permit, site plan, and land use requirements that the project must meet and make a recommendation to the City Commission. All regulatory, zoning, platting, permit, site plan, and land use conflicts must be resolved prior to City Commission action. If the Finance Team believes the application and proposed petition meets the criteria set forth in this Policy and should be recommended for approval, the Finance Team will work with the petitioner to prepare a Finance Plan and a development agreement to present to the

City Commission when it considers the petition to establish the CID. The development agreement will outline the expected timeline and activities of the project, as well as a reimbursement procedure for eligible costs.

i. **Criteria for Review**. In evaluating the proposed CID, the Finance Team shall consider:
   a. Compliance with the *Comprehensive Plan* and all land use regulations;
   b. Status of the CID as an "Area of Change" or declining commercial property;
   c. Degree of aesthetic, structural, functional and economic need of the CID;
   d. Ability of the project to improve aesthetic and economic outcomes, and to resist future decline of the District;
   e. Overall neighborhood or area impact
   f. Proportion of private financing contributed as a percentage of the total project;
   g. Fairness of the proposed funding plan allocation between sales tax generators and non-sales tax generators;
   h. Financial risk of default and financial risk to the City, including exposure of the general property tax levy and the City's credit rating;
   i. Feasibility of future CID revenues to cover the ongoing viability of the project, particularly when financing includes bonds;
   j. Site layout and architectural design;
   k. The degree to which the project enhances all aspects of building space (i.e., interior, exterior, mechanical/electrical systems, etc.) necessary to increase functionality and tenant demand;
   l. The use of landscaping and other sustainable features, with an emphasis on xeriscaping;
   m. The impact on City infrastructure systems and optional off-site infrastructure improvements;
   n. The extent to which the project will help the CID attract new customers from outside Salina;
   o. The extent to which the project will help the CID retain customers in Salina who are currently leaving the community; and
   p. The impact on customers, particularly captive customers.

B. **City Commission Review**. Upon receiving the recommendation of the Finance Team and the Finance Plan, the City Commission shall follow the statutorily-prescribed process for the establishment of a district unless otherwise specified and statutorily allowed.

   i. **Notice and Hearing Procedure**. Applicants must make their best efforts to provide notice to the landowners and tenants of landowners within the proposed CID, and will be required to provide a statement describing their efforts and the resulting response from landowners and tenants.
      a. **Special Assessment CID Petition**. After receiving a Special Assessment CID petition, the City Commission must adopt a resolution giving public notice of a hearing on the creation and financing of the proposed CID. The City must publish the resolution at least once per week for two consecutive weeks and mail the resolution to all landowners within the proposed CID at least ten days before the hearing. The second publication must be at least seven days before the hearing. After the public hearing, the City Commission may make findings as to the nature, advisability, and estimated cost of the project, the boundaries of the district, and the amount and method of assessment. After making these findings,

the City Commission may vote to create the CID, authorize the project, and levy assessments upon the CID's property owners.

b. **Sales Tax CID Petition**. After receiving a Sales Tax CID petition, the City Commission must adopt a resolution giving public notice of a hearing on the creation and financing of the proposed CID. The City must publish the resolution at least once per week for two consecutive weeks and mail the resolution to all landowners within the proposed CID at least ten days before the hearing. The applicant must make its best efforts to mail the resolution of public hearing to the tenants of landowners within the proposed CID. The second publication must be at least seven days before the hearing. After the public hearing, the City Commission may make findings as to the nature, advisability, and estimated cost of the project, the boundaries of the district, and the amount and method of assessment. After making these findings, the City Commission may vote to create the CID, authorize the project, and establish the sales tax and special assessment, if applicable.

VIII. ACTIONS UPON APPROVAL

If the City Commission establishes the CID by approving the project, funding method and related development agreement, the City shall create a separate fund for the CID. The proceeds from the sale of bonds, CID sales taxes, and any other moneys appropriated by the City shall be credited to such fund and the fund shall be used solely to pay the costs of the projects. Any money remaining in the fund after all project costs have been paid may be spent by the municipality in the same manner as local sales tax receipts.