City of Arkansas City Financing of Public Improvements Policy

1) **Purpose**
   a) This policy establishes the process and guidelines for the apportionment of costs for public improvements related to residential and non-residential developments, the use of financial guaranties, Letters of Credit (LOCs), and alternative financing methods in Arkansas City, Kansas. The goal is to make the policy regionally competitive and aligned with the City's growth and development objectives.

2) **General Requirements for Public Improvement Projects**
   a) Public improvements necessary for a development project will be financed by special assessments, alternative financing methods, or through City-participated funding programs. Financial guaranties shall be required from developers/owners to ensure the completion of public improvements, with flexibility in terms to support project feasibility. The City will offer incentives in the form of reduced financial guaranties for smaller, lower-risk projects to reduce the financial burden on developers/owners. Special assessment financing will not be approved if the developer has a financial interest in an existing development that has delinquent special assessment taxes.

3) **Initiation of Public Improvement Projects**
   a) The City encourages new development by permitting developer/owners to petition, pursuant to K.S.A. 12-6a01 *et. seq.*, for installation of public improvements including but not limited to, streets, sidewalks, storm drains, water lines, and sanitary sewers; provided, that the developer/owner, as a condition precedent to initiation of any such improvement, makes any advance payment required therefor pursuant to this Policy and furnishes financial guaranty satisfactory to the City for payment of special assessments to be levied in connection with such improvements.

4) **Waiver of Financial Guaranty**
   a) The governing body may authorize the installation of public improvements without a financial commitment under the following conditions:
      i) Improvements ordered by resolution.
      ii) The majority of land in the benefit district is publicly owned.
      iii) The benefit district has multiple ownership and is primarily developed.
      iv) Expanded Criteria: Waivers may also be considered for projects that:
         (1) Provide significant housing or economic development benefits in underserved areas.
         (2) Align with the City's strategic goals, such as affordable housing or job creation.
         (3) Meet clear, measurable benchmarks (e.g., creation of X jobs, construction of Y affordable housing units).

5) **Project Scheduling**
   a) The number of projects financed each year will be determined by the City's annual debt policy and fiscal budget constraints. Priority may be given to developments that address urgent needs such as affordable housing or job creation. Projects that align with key City goals may be fast-tracked through an expedited approval process.

6) **Term of Special Assessments**
   a) Special assessments will be spread over a standard term of 15 years.

b) Developers may request an alternate term on a sliding scale up to the legal maximum if it does not adversely affect the City or property owners. Extended terms will be considered for projects involving significant infrastructure costs, slower-moving developments, or those contributing substantially to affordable housing and economic development.

7) Apportionment of Public Improvement Costs

a) Public improvement costs may be divided between the developer/owner and the City, with specific provisions based on the nature of the project. The following categories apply:

i) Streets:

(1) Must conform at a minimum to the standards for Streets set out in Subdivision Regulations Section 4-301 or subject to approval by the City Engineer.
(2) New Local Streets: The benefit district will bear 100% of the cost for local streets that serve their development, including curbs, gutters and related storm drains as applicable.
(3) Collector Streets: The benefit district will bear 100% of the portion of project costs, including curbs, gutters and related storm drains, equal to the costs of a local street and that portion of project costs attributable to construction of required turning lanes. All other costs, including the costs of additional width or thickness needed to meet City standards and specifications, shall be assessed to the City-at-large.
(4) Arterial Streets: The benefit district will be responsible for costs associated with local access of arterial streets, while the City-at-large will contribute to costs that cover additional traffic lanes or improvements required for greater traffic volumes.
(5) Commercial Streets: When an improvement district consists wholly or primarily of commercial property, 100% of the cost of all public streets located within or required to support such development shall be charged against the benefit district.
(6) Improvements benefiting specific property: 100% of the cost of such improvements, including but not limited to curb cuts, driveways, frontage roads, special turn lanes, shall be charged against property within the benefit district.

ii) Sidewalks:

(1) Must conform at a minimum to the standards for sidewalks set out in Subdivision Regulations Section 7-201m, the Americans with Disabilities Act (ADA), or subject to approval by the City Engineer.
(2) Sidewalks on New Local Streets: 100% assessed to the benefit district.
(3) New Collector Streets: 100% of standard sidewalk cost assessed to the benefit district; additional costs shall be assessed to the City-at-large.
(4) Non-Residential Sidewalks: 100% assessed to the benefit district.
(5) Petition-initiated sidewalk improvements: 100% of standard sidewalk cost assessed to the benefit district; additional costs shall be assessed to the City-at-large.
(6) Governing body-initiated sidewalk improvements: 100% assessed to the City-at-large.

iii) **Storm Drainage**:

(1) Must conform at a minimum to the standards for storm drainage set out in Subdivision Regulations Section 7-201h or subject to approval by the City

Engineer.
(2) Developed areas with prior benefit district: 50% assessed to the benefit district, and 50% assessed to the City-at-large.
(3) Developed areas without prior benefit district: 100% assessed to the benefit district.
(4) Undeveloped areas: 100% assessed to the benefit district.

iv) **Sanitary Sewer**:
(1) Must conform to the standards for sanitary sewer set out in Subdivision Regulations Section 7-201d or subject to approval by the City Engineer.
(2) New residential: 100% assessed to the benefit district.
(3) Existing residential areas: 100% assessed to the benefit district.
(4) Non-residential: 100% assessed to the benefit district.
(5) Larger sewer mains: Benefit district pays equivalent of an 8-inch line; City pays remainder.
(6) Service lines: Paid 100% by benefited property.

v) **Water**:
(1) Must conform to the standards for water set out in Subdivision Regulations Section 7-201c or subject to approval by the City Engineer.
(2) Residential areas: 100% assessed to the benefit district.
(3) Non-residential areas: 100% assessed to the benefit district.
(4) Larger water lines: Benefit district pays equivalent of an 8-inch line; City pays remainder.
(5) Water service lines: Paid 100% by benefited property.

vi) **Traffic Control Signals and Signage**:
(1) Private drive or non-residential entrance: 100% assessed to the benefit district.
(2) Public residential entrance: 100% to City.

8) Public-Private Partnerships (P3s)

a) P3s are encouraged for large-scale developments, allowing the City to co-invest in infrastructure that aligns with community goals, such as mixed-use developments, affordable housing, and job creation. City financial participation will be decided on a case-by-case basis based on individual project financial analysis, but will generally be reserved for projects that:
i) Meet affordable housing goals.
ii) Bring significant economic development.
iii) Serve as a catalyst for growth in priority zones.

9) City Participation in Project Costs

a) In addition to the apportionment set forth in Section 8, the City may participate in up to 50% of project costs on a case-by-case basis, considering factors like redevelopment areas, economic and housing diversity, and transportation options. Higher participation may be offered for projects aligned with City priorities or those in strategic growth zones.

10) Benefit District Creation After Original District

a) Properties requesting connection to improvements outside the original benefit district must pay a benefit fee equivalent to what would have been assessed originally. The fee will either reduce assessments or be allocated to the City’s bond and interest fund.

11) Letter of Credit (LOC) Requirement for Residential and Commercial Development

a) To ensure the completion of all required public improvements related to development projects, the City requires developers/owners to provide an Irrevocable Letter of Credit (LOC) or alternative financial guaranties. The LOC requirement is tiered and designed with flexibility to reduce upfront financial strain on developers/owners based on project size and risk. Alternative financial guaranties, such as performance bonds, escrow accounts, or phased financial commitments, may also be considered at the City's discretion. This section outlines the criteria used to determine the size and phase of development for public improvement projects, which will dictate the financial guarantees required.

i) Amount of Letter of Credit (LOC):

(1) The developer shall provide an LOC equal to 10%-35% of the estimated cost of public improvements, depending on the size, phase, and risk of the development. The estimated costs of public improvements shall include engineering design, construction, inspection, temporary note interest, and administration.

(a) **Small-scale projects:**

(i) Residential developments of fewer than 20 units or commercial developments under 10,000 sq. ft.

(ii) Typically involves low infrastructure demands, such as minimal road extensions or utility installations.

(iii) LOC Requirement: 15% of the estimated cost of public improvements.

(b) **Medium-scale projects:**

(i) Residential developments between 20-100 units or commercial developments between 10,000-50,000 sq. ft.

(ii) Requires moderate public improvements like new roadways, sidewalks, and storm drainage.

(iii) LOC Requirement: 25% of the estimated cost of public improvements.

(c) Large-scale projects:

(i) Residential developments over 100 units or commercial developments exceeding 50,000 sq. ft.

(ii) Involves substantial public infrastructure upgrades such as major road extensions, utility improvements, or multi-phase construction.

(iii) LOC Requirement: 35% of the estimated cost of public improvements.

(d) **High-Risk Projects**:

(i) Projects involving specialized infrastructure (e.g., industrial zones, mixed-use developments, or projects in environmentally sensitive areas) may require up to 40% LOC if determined by the City Commission based on project complexity.

(2) Financial guarantees may be reduced upon request to the appropriate percentage indicated above based on the final Statement of Cost for the project, once complete.

ii) LOC Duration and Renewal:

(1) The LOC must remain valid until the City has inspected and accepted all required public improvements and occupancy thresholds have been met. The LOC shall have an initial term of at least one year and must automatically renew annually until released by the City.

iii) Release of the LOC:

(1) To support developers/owners and balance project feasibility with public

protection, the City will apply the following conditions for the release of the LOC:
(a) 50% Occupancy: Upon the issuance of occupancy permits for 50% of the development, the City will authorize a reduction of the LOC by up to 50%.
(b) 75% Occupancy: Upon the issuance of occupancy permits for 75% of the development, the City will authorize full release of the LOC.

iv) **Conditions for Drawing on the LOC:**
(1) If the developer/owner fails to complete public improvements per the approved plans within the specified time frame, the City may draw on the LOC. The City will provide written notice to the developer with an opportunity to address deficiencies.
(2) In the event that any special assessment is not paid when due, the LOC will be applied on July 1 of each year by the City to satisfy the principal and interest costs and any additional costs occasioned by the delinquent payment of the bonded public improvements.

12) Alternative Financing

a) Cowley County Financing

i) Developments in the extraterritorial jurisdiction of Arkansas City may request the use of Cowley County's bonding authority, with conditions such as annexation agreements and connections to City services.

b) Other Alternative Financing

i) Developers are encouraged to submit proposals for alternative financing methods within the city limits. These will be reviewed with clear criteria, ensuring predictability for developers. Public-private partnerships are encouraged for qualifying projects.
ii) The city will also consider fee reductions or deferrals for qualifying projects, such as affordable housing developments or economic development projects, with fees deferred until key project milestones (e.g., occupancy thresholds) are met.

13) Applicability

a) This policy applies to all projects without posted financial guaranties at the time of adoption.

14) Exceptions

a) Exceptions may be granted by the governing body under specific conditions, with written requests submitted prior to final plat or site plan approval. Developers may propose alternative solutions to financial guaranties or special assessments where appropriate. Exceptions will be guided by clear, published criteria.
b) Nothing herein shall be construed to limit the authority of the City to take any action it deems appropriate, either consistent with Kansas law or in the exercise of its constitutional home rule powers, respecting the financing of public improvements.

15) Modifications

a) The City reserves the right to modify this policy at any time.

16) Definitions

a) For the purposes of this policy, the following terms shall have the meanings ascribed to them below:

i) **Apportionment of Costs**: The process of distributing the financial responsibility for public improvements between developers, property owners, and the City, based on the type of improvement and its benefit to the community or development.

ii) **Benefit District**: A geographic area, consisting of properties that will benefit from public improvements, where the cost of such improvements is assessed to the property owners within the district.

iii) **Financial Guaranty**: A financial commitment provided by the developer, in the form of a Letter of Credit (LOC) or other acceptable methods, ensuring the completion of public improvements related to a development project.

iv) **Letter of Credit (LOC):** A financial instrument issued by a bank on behalf of a developer, which guarantees that the City will receive funds to complete public improvements if the developer fails to fulfill their obligations. The City of Arkansas City shall be the beneficiary of the LOC.

v) **Special Assessments**: Charges imposed on property owners within a benefit district to finance public improvements that directly benefit their properties, typically repaid over a specified term through annual payments.

vi) **Public Improvements**: Infrastructure projects such as streets, sidewalks, storm drainage, water lines, sanitary sewer systems, and traffic control signals that are necessary for the development and serve the public interest.

vii) **Phasing of Development**: The process by which a development is completed in stages, with each phase involving separate construction, financial guaranties, and acceptance by the City, based on the approved development plan.

viii) **Waiver of Financial Guaranty**: A provision that allows the City Commission to exempt certain development projects from the requirement of providing financial guaranties or Letters of Credit, under specific conditions.

ix) **Alternative Financing Methods**: Financing mechanisms other than traditional special assessments or city-issued bonds, such as private financing proposals or the use of Cowley County's bonding authority, to fund public improvements.

x) **Occupancy Permit**: A document issued by the City confirming that a building or development meets all relevant codes and regulations and is safe for occupancy. The issuance of these permits may trigger the reduction or release of a financial guaranty.

xi) **Infrastructure Costs**: The expenses associated with the engineering design, construction, inspection, temporary note interest, and administration of public improvements required for the development, including streets, utilities, drainage, and other essential services.

xii) **Strategic City Goals**: Prioritized objectives identified by the City, such as affordable housing, economic development, infrastructure expansion, or community improvement, that guide the evaluation and approval of development projects.

xiii) **Subdivision Regulations**: The City’s established rules and guidelines for the division of land into lots, including the minimum standards for public improvements such as streets, sidewalks, water, and sewer systems, as referenced in this policy.

xiv) **Annexation Agreement**: A legal agreement between a developer and the City, requiring the developer to annex property into the city limits in exchange for access to City services or alternative financing options for public improvements.