

CITY OF BEL AIRE
TAX INCREMENT FINANCING POLICY
Adopted: November 2, 2009 **Revised: 7/16/2012 & 7/5/2022**

The City of Bel Aire, under the authority conferred by KSA 12-1770 et. seq., will consider the use of tax increment financing (TIF) to encourage and facilitate the development and/or redevelopment of areas within its corporate City limits or within its growth area.

Background:

The Kansas Legislature first authorized Tax Increment Financing in 1976 via 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 development or redevelopment projects.

Tax Increment Financing allows for the increase in property tax revenues within the district to pay for eligible development project costs. The “tax increment” is the increase in property tax revenue resulting from the difference between the assessed valuation of the property in the district after development or redevelopment compared with the value at the time of establishment of the district (Base Year). The tax increment is used to pay for the eligible project costs while 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 the eligible project costs or reimburse the developers for such costs on a “pay-as-you-go” basis.

Incentive Objectives:

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

- Eliminate blighted areas.
- Encourage redeveloped or development of underutilized commercial areas.
- Increase the city’s property tax base by providing high quality development.
- Encourage additional private development.
- Support development efforts that enhance urban features and amenities.
- Facilitate development on sites that otherwise development has little potential without use of TIF.

Projects intending to use tax increment financing must provide a public purpose statement to identify the public benefit served by the development. Alternatives, such as “pay-as-you-go” financing and reimbursing front-end public development costs with TIF revenues, are preferable to bond financing and are to be consider and used when appropriate. Only those public improvement costs directly associated with the proposed development plan or project should be financed through TIF. Eligible expenses defined pursuant to K.S.A. 12-770a(o) include:

- Property acquisition
- Relocation costs
- Site preparation, including demolition and environmental soil remediation
- Sanitary and storm sewers and lift stations
- Utility relocations and extensions

- Landscaping, lighting, paving, including parking lots
- Public streets
- Drainage conduits, channels and levees
- Plazas, parks and public gathering spaces
- Parking facilities include multi-level structures
- 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.

Project Requirements:

- Tax Increment Financing will be only used as a final effort for funding.
- Projects should provide the highest possible private financing investment ratio. For TIF projects, ratio shall be 3 – 1.
- TIF projects and development agreements will be prepared in a way to not place additional ongoing financial burden on the City.
- The developer must provide adequate financial guarantees to ensure completion of the project, including but not limited to, assessment agreements, letters of credit and personal guaranties, etc.
- 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. City may request, at the developers' expense, a third-party analysis of the developer's capacity.
- An appropriate apportionment of the TIF proceeds should be used to pay for additional municipal facilities or public infrastructure beneficial to the TIF project. TIF funds will be prioritized for said improvements. The adequate portion will be negotiated per project.
- Construction will commence within one year of the City Council approval or development agreement will be void, unless extended by the City Council
- Any developer-controlled land will have deed restrictions placed to ensure any disposition of property cannot change without approval from the City.

Economic Analysis and Financial Requirements:

- 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 uses of funds in sufficient detail to demonstrate that reasonably available conventional debt and quality financial sources will not fund the entire cost of the project and still operate with reasonable market rate return on investment based on current market capitalization rates identified by a qualified third party.
- Financial Feasibility Analysis will be conducted by City staff to determine the capacity and need for TIF financing.
- Projects return on public investment will be reviewed by the Center for Economic Development and Business Research (CEDBR) fiscal impact model.

- 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 5% equity must be developer cash. Deferred developer fees will not be considered.
- Developer will be required to personally guarantee 100% of the TIF annual debt service payments on the City bonds issued to finance the TIF project costs. Letters of credit, bond insurance, pledged collateral or other acceptable forms of credit will be required as additional security obligation.
- Developer agrees not to protest the value assessed by the County Appraiser's Office during the life of the Project, unless actual values exceeded project values used in the TIF analyses by at least 150%
- Developer shall be able to demonstrate a market demand for a project. TIF shall not be used to support purely speculative projects. City may require a third-party market study when appropriate.
- Maximum term shall be 20 years.
- In cases where bond issuance is requested, the City's staff will work with developer to calculate how much revenue will be raised for 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.
- The city will conduct a background check on all TIF applications and all partners. Applicants are required to [provide City staff with the personal and business information needed to carryout such a background check. Information for a background check will be treated as confidential information to the extend allowed by KORA.

Application Fee:

- \$5,000 – Non-Refundable
- \$2,500 for Amendments to TIF Districts – Non-Refundable

Project Application:

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

- A preliminary plan that outlines the scope of the project.
- A description of the project including public purpose.
- Market study of the area that demonstrates the need and feasibility of the project.
- Listing of project milestones.
- Financial plan with costs, proposed funding sources and financial gap.
- Information regarding the proposed uses or changes of the land.
- Preliminary site plan of the proposed project.
- Proposed changes to current land use and infrastructure.
- Any known environmental concerns.
- Visual depictions of the proposed project, renderings and elevations.
- Project team, names, affiliations, rolls of each team member and responsibilities.
- Other information that will provide the city with a better understanding of the proposed development.

Fees:

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

TIF Creation Process:

The first step required in the TIF process shall be the adoption of a resolution by the City Council. This resolution shall provide for the following:

1. Notify the public that a hearing will be held to consider the establishment of a district. The notification shall fix the time and place of the hearing.
2. Describe the proposed boundaries of the district.
3. Describe the district plan and that such plan includes a map, both of which are available for inspection at a designated time and place (i.e. City Hall, M-F, 8-5).
4. State that the City Council will consider findings necessary for the establishment of a development district.

Upon the completion of the public hearing, the City Council may pass an ordinance which shall:

1. Make findings that the district proposed to be developed is an eligible area and the development or redevelopment of the area is necessary to promote the general and economic welfare of the City.
2. Contain the district plan as approved, which will identify all of the proposed development project areas and identify in general only, all of the buildings and facilities that are proposed to be constructed or improved.
3. Contain the legal description of the district, legally establish the district, and identify the boundaries of the district. No area shall be included within the boundaries of the final development district that were not included in the original, published notice.

Under KSA 12-1771(d), the City may not acquire any privately owned property subject to ad valorem taxes in the event either the school board or the county commission finds that the impact of the proposed TIF district will have an “adverse effect” on their respective governmental entities. In the event either the school board or the county commission adopts a resolution finding their entities will experience an adverse effect, the City Council shall adopt an ordinance within 30 days of receiving said resolution from either governing body terminating the TIF district.

Provided that neither the school board nor the county commission finds an adverse effect of the proposed TIF district on their operations, the city will proceed to the development of the project plan. The project plan shall be delivered to the county commissioners and the school board. The project plan shall include:

1. A summary of the feasibility study done as defined in KSA 12-1770(a), and amendments thereto, which will be an open record.
2. A reference to the district plan established under KSA 12-1771 that identifies the development project are that is set forth in the project plan being considered.
3. A description and map of the development area.
4. The relocation assistance plan required by KSA 12-1777.
5. A detailed description of the buildings and facilities proposed to be constructed or improved in such area.
6. Any other information the City Council deems necessary to advise the public of the intent of the project plan.

The Bel Aire Planning Commission shall review the project plan to ensure it is consistent with the City's comprehensive plan. Provided the project plan is consistent with the City's comprehensive plan, the City Council shall adopt a resolution stating that the City is considering the adoption of the project plan. This resolution shall:

1. Notify the public that a public hearing will be held to consider the adoption of the project plan and fix the time and place of the hearing.
2. Describe the boundaries of the development district, the date of the district's establishment, and the project's boundaries.
3. State the project plan, including a summary of the feasibility study, relocation assistance plan, and financial guarantees of the developer and a description and map of the area to be developed are available for inspection during regular office hours at City Hall.
4. Notify, if necessary, that the City intends to issue debt backed by the full faith and credit of the City.

The City may choose to issue special obligation bonds to pay for the improvements in the district, pledging a variety of revenue sources authorized by KSA 12-1774(a)(1). If the City Council elects not to issue full faith and credit bonds to finance the improvements in the district and instead elects to issue special obligation bonds, then such special obligation bonds shall not be general obligations of the City and shall not, in any event, give rise to a charge against its general credit or taxing powers, or be payable out of any funds or properties, other than those so pledged.

The City may also issue industrial revenue bonds in accordance with 12-1740 et. seq. and amendments thereto, as well as the City of Bel Aire's Industrial Revenue Bond policy. IRB's may be used for the purchase, construction, reconstruction, equipping, maintenance and repair of buildings and facilities within a development district established under 12-1770 et. seq.

Following this second public hearing, the City Council may adopt the project plan by ordinance. A two-thirds supermajority vote is required under KSA 12-1772(e). The project must be completed within 20 years from the adoption of this project plan.

Once the project plan is adopted, the City may begin acquiring property and transfer, sell or lease this property to a developer in accordance with the development project plan and under such other conditions as may be agreed upon.

Development Agreement:

The development agreement will outline general obligations of the City and Developer in regards to TIF project and identify any additional requirements specific to the project. The agreement shall include:

1. Expiration term based on size and scope of the project, which may be extended by the City Council.
2. Shall be void if construction does not commence within one year of the City Council approval, unless extended by the Council
3. Developer shall provide shortfall guarantees that obligates the developer to make up the difference any year that a TIF revenue is not sufficient to pay bond obligations.
4. Developer will agree to not protest the value assessed by the County appraisal during life of the project unless actual values exceed 150% of the values projected in the TIF analysis.
5. City obligations are condition upon final approval of the TIF and other city funding.
6. Satisfactory evidence to the City that developer has secured the loan commitment and any other courses of financing
7. City satisfaction with costs associated with the project in accordance with City plans, drawings and specifications.

Periodic Reporting:

For the duration of 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 the project, giving a status on the project TIF plan and existing development to date.

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 well as 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 third party consultants.

Waiver of Guidelines:

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

Adopted this _____ day of _____, 2022 by the Bel Aire City Council.

Jim Benage, Mayor

Attest:

Melissa Krehbiel, City Clerk

APPLICATION FOR TAX INCREMENT FINANCING

CITY OF BEL AIRE, KANSAS APPLICATION FOR TAX INCREMENT FINANCING FOR ECONOMIC DEVELOPMENT PURPOSES

The attached sheets, if any, are submitted as a part of this application.

Part I. Applicant Identification

Name of Applicant firm: _____

Contact Person (Name and Title): _____

Address: _____

Street or P.O. Box

City

State

Zip

Telephone Number: _____

Names and percent of ownership of all principal owners and officers of the Applicant

Firm: _____

If applicant is a tenant, identify property owner(s):

Name(s): _____

Mailing Address: _____

Street or P.O. Box

City

State

Zip

Telephone Number: _____

Part II. Property Identification

List only property for which will be include in the TIF district.

- _____ Land. Attach legal description of property and plat showing location of buildings, added improvements to buildings, or both.
- _____ Building(s). Attach description.
- _____ Added improvements to buildings. Attach description and estimated cost.
- _____ Tangible personal property. Attach list of each item with identifying nomenclature and cost. Proof of purchase after August 5, 1986 must be provided for each item on list.

Part III. Business Information

Type of business organization: _____
(i.e. corporation, subsidiary, partnership, sole proprietorship, etc.)

Date and place business organized or incorporated: _____

Name and parent company, if applicable: _____

Type of business: _____

Line or lines or products manufactured or research and development conducted, or goods or commodities stored in buildings, for which tax exemption is requested.

Percentage of building occupied by applicant business qualifying for tax abatement: ____%

List principal competition of the business within the City.

Name and location of firms: _____

Describe nature of competition: _____

Business is... (Please check one) ☐ New ☐ Existing

Part V. Description of Public Benefits

Please attach a narrative description, of not to exceed two pages of the public benefits which you believe will occur if the requested exemption is granted.

Part VI - Financial Responsibility

Attach a description of the businesses' financial situation. This may include a financial statement, audit and other relevant information to assess the stability of the business. Indicate whether there is any pending or threatening litigation affecting the viability of the business.

Part VII. Certification of Applicant

I, _____, hereby certify that the foregoing attached information is true and correct to the best of my knowledge.

Further, it is understood that additional information may be requested by the City to assist the Governing Body in its consideration of this matter.

Date _____

Signed _____
Name

Title

Part VIII. Acknowledgment of Receipt

Receipt of \$5,000.00 fee is hereby acknowledged:

Date: _____ City Manager: _____

PROJECT APPLICATION (CITY OF BEL AIRE, KS)

Name of Corporation/Partnership _____

Date of Request _____

Address _____

Primary Contact _____

Address _____

Phone _____ Fax _____ E-mail _____

A. APPLICANT INFORMATION

B. Name and addresses of all persons or corporations who would be obligated as either applicant or personal guarantors of subsidy:

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

C. Name and addresses of the principal officers and directors of the applicant:

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

D. Applicant's Attorney

Name _____

Phone Number _____

E. Applicant's Financial Advisor

Name _____

Phone Number _____

F. Applicant's Accountant

Name _____

Phone Number _____

G. Requested Subsidy:

Category:	Source/Type/Description:	Requested Amount
Tax Increment Financing		\$
Tax Abatement		\$
Industrial Revenue Bonds		\$
Other – Land Write-Down		\$
Other – Special Assessments		\$
Other – Public Improvements		\$
TOTAL REQUEST		\$

H. Complete Project Sources and Uses:**Sources:**

Private Bank Loan	\$
Private Equity	\$
State/Local Loan/Grant Funds	\$
Tax Increment/Tax Abatement	\$
Other (specify_____)	\$
Total Sources:	\$

Uses:

Land Acquisition	\$
Building Construction/Reconstruction	\$
Machinery/Equipment	\$
Site Improvements	\$
Installation of Public Utilities	\$
Parking Improvements	\$
Legal/Financial Costs	\$
Surveying/Platting/Permitting	\$
Other (specify_____)	\$
Total Uses:	\$

I. Use of Subsidy:

Amount requested for purchase of land:	\$
Amount requested for building:	\$
Amount requested for equipment:	\$
Amount requested for site improvements:	\$
Amount requested for public utilities:	\$
Working capital:	\$
Other (specify):_____	\$

TOTAL REQUEST \$

J. Project Details:

1. Include the following project details on a separate sheet:

- # of housing units, type of housing units, size of housing units, etc
- breakdown of commercial square footage, i.e., office, retail, manufacturing, industrial, hospitality, entertainment, etc
- cost per square footage of construction of each type of housing unit and each type of commercial use
- commencement and completion for each project component, include site improvements and public infrastructure
- dates for sale or lease of units, occupancy start, and full occupancy, etc
- estimated appraised value of project when complete, separated by use
- describe how the property will be subdivided by uses
- estimated taxable sales per s.f. of retail, hospitality, etc.

2. Name and address of Contractor

Name and address of Architect:

3. What type of equipment will be financed, if any?

4. If the applicant will be in direct competition with local firms,

(a) name of firms:

(b) describe nature of the competition:

K. Project Operations:

1. Provide the following operating assumptions on a separate sheet:

- For property to be leased, provide the estimated lease rates by type, lease type, lease term, etc. (separate commercial uses from residential uses)
- For property to be sold, provide the estimated gross sales price (and per unit or per s.f. measure) and cost of sales (separate commercial from residential uses)
- Include detail of annual operating expenditures, separate commercial from residential uses
- Prepare pro-forma statements through ten (10) years of operation beginning from initial construction, including revenue projections, operating expense projections, and a debt amortization schedule. Include hypothetical sale in the 10th year.
- Prepare pro-forma statements with and without the requested subsidy

L. Subsidy Analysis:

1. Detail the need for the subsidy, the benefit to the applicant of the subsidy _____

2. Has additional financing, whether internally generated or through other loans, been arranged? (If yes, explain on an attached sheet) _____

3. Has the applicant investigated conventional financing? What are the proposed terms? _____

M. Proposed Location/Timing of Construction:

1. Location of the project: _____

2. What percentage of the building will be occupied by the applicant? _____

3. Is the project properly zoned? _____

4. If a zoning change is pending, cite application number and present status. If application has not been made, briefly describe what change will be needed and plans for submitting application: _____

5. If unusual demands for water or sewer services or police or fire protection will be made, specify the demands: _____

N. Ownership and Management:

1. Describe the development company, ownership, affiliated/partner companies (identify membership entities):

2. What portion of the project is being financed from other affiliate or partner funds?

\$

Please Explain

3. Will portions of the project be sold to other entities? If so, please explain

4. Describe all threatened or pending/outstanding litigation and legal claims or regulatory issues:

Disclosure items:

Has the applicant or any affiliated party defaulted on a real estate obligation?

Has the applicant or any affiliated party declared bankruptcy?

Has the applicant or any affiliated party had judgments recorded against them?

If the answer is yes to any of the above, please explain.

O. Job Creation Detail:**Type of Job****No. of this Type****Average Annual Wage**

Professional

Technical

Clerical

General Labor

Other: (specify_____)

What is the total Annual Payroll?

P. Financial Capacity:

1. Provide copies of applicant's financial statements (balance sheets and income statements) for the past three years certified as correct by the owner or an authorized officer (or audited) and current (year to date)
2. Provide current (year to date) and three years historical financial statements (balance sheets and income statements) for the affiliated/partner entities, to demonstrate financial capacity
3. Provide last three years income tax returns for development principals, if applicable.
4. Audited financials are required, and if not available, provide an explanation.
5. Letter from the primary lender(s) stating the amount of conventional financing available for the project

Q. References and Relevant Experience:

1. Provide names and locations of recent comparable projects
2. Provide private, public, and non-profit sector references from comparable projects. Please include names of government contacts with which the developer worked, if applicable.
3. Include three relevant experiences.

I, _____, hereby certify that the foregoing attached information is true and correct to the best of my knowledge.

Further, it is understood that additional information may be requested by the City to assist the Governing Body in its consideration of this matter. A non-refundable application fee of \$5,000.00 will be paid upon submission of application.

Date _____

Signed _____
Name

Title

Receipt is hereby acknowledged:

Date: _____

City Manager: _____