



COMMUNITY IMPROVEMENT DISTRICT

FEES

Application Fee

\$5,000 – Non-refundable for new CID petitions
\$2,500 – Non-refundable for CID amendments

City Administrative Fees

For any approved CID, the City shall be paid an on-going administrative service fee, in an amount equal to 5% of the total CID revenues received by the City.

CID Origination Fee

The City and Developer will negotiate an Origination Fee that will be collected in one of the two ways listed below or a combination of the two, at the City's discretion:

- A. District Improvements/maintenance: The City will retain on an annual basis an amount equal to no less than 10% and no more than 25% of the CID revenue collected. Funds will be used for improvements and/or maintenance to public assets within the District.
- B. At Large: The fee will be deposited in a dedicated fund within the City and utilized to support the Land Bank in securing and maintaining additional Land Bank properties. The Developer will have the option to make payment upon approval of the CID or in equal annual payments for the term of the CID.

DEPOSIT

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

CID amendments will require a \$2,500 deposit and be required to be replenished when the balance falls below \$1,000.

PURPOSE AND BACKGROUND

In 2009, the Kansas Legislature enacted the Community Improvement District Act (the "CID Act"), pursuant to which municipalities may create districts in which certain special taxes imposed and the revenue used to fund certain public and private improvements and the payment of certain ongoing operating costs within the geographic bounds of the specified district. The creation of a Community Improvement District ("CID") is a particularly useful tool of economic development in that it can help facilitate beneficial private development and redevelopment without negatively impacting the tax base of the approving municipality.



It is the intention of the City to utilize the provisions of the CID Act to assist private developers by providing financing for commercial, industrial and mixed-use projects that meet the local eligibility criteria outlined below, subject to certain special local standard limitations outlined below. A CID can exist for a maximum of 22 years.

LOCAL ELIGIBILITY CRITERIA

It shall be the intention of the City to create a CID if, in the opinion of the City Council, the petition satisfies all statutory requirements of the CID Act and if creation of such CID would meet the following criteria:

- A. The CID will attract development which would enhance the economic climate of the City, act as a catalyst for future development or otherwise benefit the City or its residents.
- B. The CID will result in the construction of public or private property improvements and infrastructure, or the provision of ongoing services, that would otherwise not be financially feasible.
- C. The CID will promote redevelopment or rejuvenation of properties within the City which would otherwise be unlikely to happen.
- D. The CID will be used to assist the development of commercial, industrial and mixed-use projects, and for common area amenities in residential developments that are called for in the Parks, Recreation and Open Space (PROS) Plan.
- E. The CID will not be used for projects that consist solely or primarily of operating costs; or projects in which construction has begun prior to approval by the City; or projects that are inconsistent with a neighborhood plan; or projects that include any of the following: sexually oriented businesses, community correctional facilities, half-way houses, drug or alcohol rehabilitation facilities, new or used car lots, multi-game, casino-style gambling facilities, and commercial billboard siting.
- F. The CID will support projects with total costs of not less than \$5,000,000 for projects where bonds are issued up front. This does not apply to pay-as-you-go projects.
- G. Minimum private to public capital investment ratio of 3 to 1 for CID-only projects, otherwise it shall be 2 to 1. For projects that involve multiple phases of private capital investment but up-front public capital investment that benefits all phases of development, the amount of private investment for a phase of development must be at least twice the proportion of public capital investment that directly benefits that phase of development.
- H. Restaurant chains will not be considered for CIDs in Greenfield projects
- I. Staff may consider market demand and saturation when evaluating the project.



CID PETITION PROCESS

A CID is formed by the petition of landowners within the proposed CID. According to the CID Act, a petition to create a CID must be signed by the owners of at least 55% of the total land area and total assessed property value within the proposed district. However, it is the standard of Park City that only petitions signed by 100% of property owners will be accepted. Upon receipt of the petition, the City Council may approve the CID. In cases in which no special sales tax is requested (i.e., only special property tax assessments are requested), the City Council may create the requested CID without notice or a public hearing. If a special sales tax is requested, the City Council must give notice and hold a public hearing pursuant to the CID Act. The City shall be paid a non-refundable application fee of \$5,000 with the formal submittal of any CID petition.

A CID petition must contain:

1. the general nature of the proposed CID project;
2. a statement of the public purpose being served by the use of CID financing;
3. the estimated cost of the proposed CID project including maximum amount of CID funding to be paid prior to termination of CID, based on 125% of the total estimated amount of CID revenue during the term of the CID or otherwise determined by the CID Cost Cap defined below;
4. the proposed method of financing the project (special assessments or special sales tax);
5. the proposed amount and method of assessment;
6. the proposed method of financing (pay-as-you-go or special obligation bonds);
7. a map of the proposed CID; and
8. the legal description of the boundaries of the proposed CID.

SOURCES OF FUNDING FOR CID IMPROVEMENTS

Landowners or developers seeking to form a CID may request to draw upon one of the following two revenue sources, or a combination of both, to fund eligible improvements:

- A. Special property tax assessments on the property within the district, or
- B. A special sales tax of up to 2% on all taxable sales within the district. The level of sales tax a project may receive will be determined by the project size:
 1. Projects under \$5,000,000 may receive up to 1%
 2. Projects \$5,000,000 to \$10,000,000 may receive up to 1.5%
 3. Projects over \$10,000,000 may receive up to 2%

Upon the creation of a CID by the City Council, revenue generated by these sources is available to pay for eligible improvements and costs. This can occur in one of two ways: a bond issuance or a pay-as-you-go dedicated account.



CID Cost Cap – The maximum eligible project costs amount will be negotiated per project on a case-by-case basis to establish a “CID Cost Cap”. Projects will be evaluated to minimize the sales tax rate, CID term and maximum reimbursement. But shall not exceed 125% of the total estimated amount of CID revenue during the term of the CID.

Bond Issuance – In cases in which a bond issuance is requested, the City’s Bond Counsel will work with the landowners within the CID to calculate how much revenue will be raised from the CID revenues (the special property tax and/or special sales tax levied within the CID) and the principal amount of bonds that can be issued based on the CID revenue stream and a minimum 1.2 debt service coverage ratio. The City may then issue bonds in that amount and use the CID revenue to retire the debt. The proceeds from the sale of the bonds will be used on eligible improvements and costs pursuant to the development agreement.

While the CID Act permits the issuance of either full-faith and credit general obligation bonds or special obligation bonds, payable solely from the CID revenue, it is the standard of Park City to issue only special obligation CID bonds. For projects desiring to request full-faith and credit bonds to assist in financing, the City will use special consideration and will review on a case-by-case basis. Developer must present a case that justifies City issuance of full-faith and credit bonds.

Pay-As-You-Go Account – As an alternative to a bond issuance, the landowners within the CID may request the establishment of a pay-as-you-go account. This account will be a dedicated account into which the CID revenues will be deposited and will be available to be used as funds accrue to pay eligible costs.

Funds used to pay eligible CID costs, whether from bond proceeds or a pay-as-you-go account, will be held by the City or a third-party trustee, and disbursed to pay actual costs pursuant to a development agreement. Preference will be given to projects that use pay-as-you-go financing.

ELIGIBLE CID COSTS

The CID Act provides an exclusive list of eligible improvements and costs that may be paid for with CID funding. CID funds may be used to plan, design, engineer, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip, extend or finance:

- (1) Land acquisition may be an eligible cost
- (2) Buildings, structures, and facilities;
- (3) Site improvements, including without limit sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, pedestrian amenities, abandoned cemeteries, drainage systems, water systems, storm systems, sewer systems, lift stations, underground gas, heating and electrical services and connections located within or without the public right-of-way, and water mains and extensions;
- (4) Parking;
- (5) Streetscape, lighting, streetlight fixtures, streetlight connections, streetlight facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;



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- (6) Parks, lawns, trees and other landscaping;
 - (7) Communication and information booths, bus stops and other shelters, stations, terminals, hangars, rest rooms and kiosks;
 - (8) Paintings, murals, display cases sculptures, fountains and other cultural amenities visible to the public from public rights of way;
 - (9) Airports, railroads, light rail and other mass transit facilities; and lakes, dams, docks, wharfs, lakes or river ports, channels and levies, waterways and drainage conduits.

The Act also permits the use of CID funds to pay ongoing operating expenses, including security, entertainment, public events, business promotion, employee training, and market studies; however, it is the standard of Park City that CID funds may only be used to pay eligible operating costs up to the maximum amount identified in the petition and may not be used for operating costs in residential developments.

PROCESS FOR CREATING A CID

All of the projects will be subject to the notice and hearing process.

PRELIMINARY REVIEW MEETING

Prior to consideration by the City Council, parties intending to request the creation of a CID shall submit a draft CID packet to the City Administrator. Such draft CID packet shall include a draft CID petition, site plans, elevations and a project pro-forma. The draft petition need not be signed by any landowners within the proposed district until such time as it is formally submitted for consideration by the City Council. Following the submission of a draft CID packet, the City Administrator will hold a pre-petition meeting with the submitting party to evaluate the sufficiency thereof and gather information needed to determine the eligibility of the project.

“GAP” FINANCING REQUIREMENT

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

Projects financed with special obligation bonds will not be approved without a financial analysis that demonstrates 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.

BACKGROUND CHECK

Developer will pay a \$250 City administrative fee and external vendor vetting fee on all parties requesting Community Improvement Districts. Third-party fees will be determined by the number of individuals and their related operating entities. Applicants are required to furnish City Staff the personal and business information needed to carry out such a background check. Such information will be treated as confidential information to the maximum extent allowed by the KORA.



A. Approval Process

1. The City Council may adopt a resolution giving notice of a public hearing to consider the advisability of creating the CID.
 - i) Such resolution shall be published once each week for two consecutive weeks in the City's official newspaper and shall be sent by certified mail to all owners and occupants of property within the proposed district.
 - ii) The second publication of such resolution shall occur at least seven (7) days prior to the date of the hearing and the certified mailed notice shall be sent at least ten (10) days prior to the hearing.
 - iii) Such resolution shall contain the following information:
 - (1) Time and place of the hearing;
 - (2) General nature of the proposed district;
 - (3) Estimated cost of the project;
 - (4) Proposed method of financing the project, including, if applicable, the issuance of full-faith and credit bonds;
 - (5) The proposed amount of the CID sales tax, if any;
 - (6) The proposed amount and method of assessment, if any;
 - (7) A map of the proposed district; and
 - (8) A legal description of the proposed district.
2. Following the hearing, the City Council may by majority vote approve the CID by ordinance.
 - i) The ordinance shall:
 - (1) Authorize the project;
 - (2) Approve the estimated costs of the project;
 - (3) Contain a legal description and map of the proposed district;
 - (4) Levy the CID sales tax, if any;
 - (5) Approve the maximum amount and method of assessment, if any; and
 - (6) Approve the method of financing.
 - ii) Such ordinance shall become effective upon publication once in the newspaper.
 - iii) The ordinance shall also be submitted for recording in the office of the register of deeds of the county in which the district is located.



DEVELOPMENT AGREEMENT REQUIRED

Concurrently with, or prior to, the creation of a CID by the City Council, the City and the petitioner shall enter into a Development Agreement governing the conduct of the respective parties in relation to the proposed CID. The Development Agreement will include the following:

- A. Site plan and elevation drawings or renderings of the CID project
- B. Sources and Uses of Funds table that identifies the various sources of public and private project funds and how they will be used
- C. Milestones and benchmarks for the performance of the Developer.
- D. Milestones shall include specific timelines for the construction and/or demolition within the District.
- E. Failure to reach established milestones can result in the elimination or reduction in the CID.
- F. Set forth the method and manner for disbursement of CID funds by the City, including the proceeds of bonds paid with CID funds.

The assignment of Development Agreement rights shall be limited to a collateral assignment of all rights to a lender with written notice to the City, or assignment of all rights to any third-party assignee with the written consent of the City or City Representative, at the discretion of the City. The assignment of rights shall not impair the City's right to determine the eligibility of CID costs nor require the City to subdivide any CID funds due to the developer.

In addition, the agreement shall provide for rapid repayment of the bonds and termination of the tax. City administrative fees and costs of issuance shall be paid from CID funds. For "pay-as-you-go" CID projects, the agreement will set forth the method and manner of disbursement of CID funds to the developers and shall include provisions for the termination of the CID taxes when developers have been fully reimbursed for eligible CID costs.

Financial Reporting – For projects that utilize CID bonds or for pay-as-you-go CIDs that use funds to pay ongoing operating expenses, the Developer will provide a certified annual accounting to the City on the amount and use of CID funds used to pay CID costs, by June 1 of the following year. City reserves the right to audit the use of CID financing at its discretion and expense.

Prioritization of Hard Costs – CID use will prioritize the funding of project hard costs. Hard costs include demolition, site improvements and actual construction of foundation, framing and equipment. CID funds may not be used to pay development fees or project management fees.

RELOCATION RESTRICTIONS

The relocation of existing businesses or tenants will not be permitted, unless the tenant will otherwise cease operations in the City or County. Projects will be evaluated to establish a reasonable distance radius around the development that restricts the relocation as well as a time period for which the restrictions will exist.

STANDARD DESIGN GUIDELINES GOVERN

CID will be used as a tool to encourage design and construction of a project at a level higher than required per City policies and ordinances. All property improvements commenced under an approved CID shall be subject to City regulations, standards, and policies, including, but not



limited to: zoning and subdivision regulations, building codes, the City code, and any applicable design guidelines currently in place or hereafter approved. Approval of CID for a project will not be considered approval of the aforementioned or other City regulations. In addition, project plans and renderings shall be reviewed by the City's staff and any suggestions provided by that body will be incorporated into the design of the project unless expressly overruled by the City Manager.

PUBLIC DISCLOSURE

The City shall establish and maintain a special website, linked to the City's official website, which lists all approved CIDs existing within the City and provides a description of the CID, including a map of its location, the amount of CID taxes and the intended use of CID funding.

TERMINATION AND AMENDMENT OF CIDs

Subject to provisions contained in development agreements, the City shall take appropriate action to terminate or reduce CIDs when the project does not meet established performance measures such as milestones. Once all eligible project costs have been fully paid, including the principal and interest on any special obligation CID bonds or in the case of pay-as-you-go projects, the maximum CID funding amount provided in the petition the City will take the appropriate action to terminate the CID.

Should the Developer request an amendment to the CID or related development agreement the applicant 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.

WAIVER OF GUIDELINES

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