



Concepts and Mechanics

Kansas Community Improvement Districts

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Mission Statement

Springsted provides high quality, independent financial and management advisory services to public and non-profit organizations, and works with them in the long-term process of building their communities on a fiscally sound and well-managed basis.

1. Introduction

A Community Improvement District (CID) is an economic development tool designed to finance public or private facilities, improvements or services within a city or county. In many ways, CIDs are similar to home associations – providing shared improvements and services. The complete Community Improvement District Act was adopted by the Legislature and signed by the Governor in 2009 as part of House Bill 2324 and became effective July 1, 2009.

2. Eligible Public Facilities, Improvements and Services

Within its boundaries, a CID may fund all phases of the redevelopment/development process¹ associated with the following improvements².

- Buildings
- Transportation improvements
- Utility improvements
- Parking facilities
- Streetscape improvements including lighting
- Parks
- Mass transit facilities
- Cultural amenities
- Lakes, dams & ports

CIDs may also directly provide or contract for on-going services including:

- Recreation and entertainment
- Child care
- Operation of transit and parking facilities
- Security
- Cleaning and maintenance
- Tourism promotion
- Economic development
- Business training

¹ Acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend

² Buildings, structures and facilities; 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, water mains and extensions and other site improvements; parking garages, streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers; parks lawns, trees and other landscape; communication and information booths, bus stops and other shelters, stations, terminals, hangers, rest rooms and kiosks; paintings murals, display cases, sculptures, fountains and other cultural amenities; 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

In addition to the improvements and services referenced above, permitted costs include: preparation of reports, plans and specifications; preparation and publication of official documents; fees and expenses of consultants; interest accrued on money borrowed during construction; and establishing bond reserve funds. Cities and counties may also charge an administrative fee of up to 5% of the total project cost.

All CID projects must be located within the physical boundaries of the district. A CID does not have to contain all properties that benefit from the projects. Properties within the CID boundaries do not have to benefit equally from the projects and a property owner's financial participation in the project cost is not required to be in proportion to the financial benefit received.

3. Funding Alternatives

Community Improvement Districts may be financed through one or more of the following:

- Property tax special assessments;
- A Community Improvement District Sales Tax; or
- Any other funds appropriated by the city or county.

Property tax special assessments are administered under the same laws governing special improvement districts (K.S.A. 12-6a01); except that no assessments may be levied against the city or county at large. Additional tax law analysis may be necessary if special assessments are utilized and not all benefited properties are within the district.

A Community Improvement District sales tax is in addition to any current city, county, state, and special purpose district sales taxes. CID sales taxes may be imposed in increments of .10% or .25% up to a maximum of 2%. The state collects and distributes CID sales taxes in the same manner as all other products and services covered under the Kansas retailer's sales tax act. The State Treasurer is authorized to retain 2% of the CID sales taxes collected to defray the State's administrative expenses. CID sales taxes are received quarterly by municipalities and must be deposited into a special purpose fund. Initiation of a CID sales tax may begin only on the first day of January, April, July or October and the Department of Revenue must be given 90 days notice. The Department of Revenue is authorized to release to the bond trustee, escrow agent or paying agent the amount of sales tax paid by each retailer within the Community Improvement District with the restriction that such information be kept confidential.

The maximum term of a CID special assessment or sales tax is 22 years.

CID projects may be funded on a pay-as-you-go basis¹ or through the issuance of bonds. If bonds are utilized, the type of bond – special obligation or full faith and credit – is determined by the proposed revenue source and type of petition submitted by the property owners.

Special obligation bonds are payable solely from CID project revenues. As such, they are not secured by the municipality's general credit or taxing powers. CID special obligation bonds are not subject to the state statutory debt limit.

Full faith and credit bonds are payable first from CID project revenues, and second from a pledge of the municipality's ad valorem taxing authority in the event all other authorized sources of revenue are not sufficient. CID full faith and credit bonds may be secured by both a special assessment and a sales tax. In such a case, the yearly special assessment may be reduced by sales tax revenue available to pay debt service. The amount of full faith and credit CID bonds that exceeds 3% of the municipality's assessed valuation applies toward the statutory debt limit.

¹ In a pay-as-you-go project, the developer's eligible costs are reimbursed as special assessment or sales tax revenues are received

The interest earned from CID related bonds is exempt from federal income tax and state taxes, except inheritance taxes. Whether special obligation or full faith and credit, bonds issued for CIDs are not required to be sold at public sale and cannot exceed a term of 22 years.

4. District Creation

No Public Hearing 100% Agreement to Special Assessments without Full Faith and Credit Bonds	Public Hearing Required Any of the Following: Less than 100% Agreement to Special Assessments, Sales Tax, Full Faith Credit Bonds
<p>Petition submitted signed by owners of <u>all</u> land within the district. Petition contains:</p> <ul style="list-style-type: none"> • General nature of the CID project; • Estimated cost; • Proposed method of financing (pay-as-you-go or special obligation bonds); • Amount and methods of levying special assessments; • Map or boundary description; and • Legal description 	<p>Petition submitted signed by owners of: (1) more than 55% of the land area; and (2) more than 55% of the assessed value within the district. Petition contains:</p> <ul style="list-style-type: none"> • General nature of the CID project; • Estimated cost; • Proposed method of financing; • Amount and methods of levying special assessments, if applicable; • Amount of CID sales tax, if applicable; • Map or boundary description; and • Legal description
<p>No notice or public hearing required</p>	<p>Governing body adopts a resolution calling for public hearing. Notice published twice in the newspaper and sent via certified mail to all property owners within the proposed district</p>
<p>Governing Body adopts by simple majority an ordinance or resolution authorizing the district and district financing</p>	<p>Public hearing held</p>
<p>Publication of ordinance/resolution</p>	<p>Governing body adopts by simple majority an ordinance or resolution authorizing the district and district financing</p>
<p>Ordinance/resolution recorded with county register of deeds</p>	<p>Publication of ordinance/resolution</p>
	<p>Ordinance/resolution recorded with county register of deeds</p>

If full faith and credit bonds are to be issued to finance all or a part of the CID project, there is a 60-day protest period from the date of the public hearing. To be valid, the protest petition must contain signatures of 5% of qualified voters. No court challenge may be filed to question the validity of a CID or CID sales tax more than 30 days after publication of the authorizing ordinance or resolution.

5. Discussion

Community Improvement Districts represent a powerful new economic development tool for Kansas Municipalities. Based on our experience with CIDs in other states, Springsted expects this tool to be quickly embraced by the development community. In all likelihood, CIDs will routinely be paired with tax increment financing districts to increase the sources available for projects and proposed to fund non-infrastructure costs – principally incentives for retail tenants in the form of free or reduced cost land. It is likely that some developers will pursue CIDs in lieu of TIF districts, as the CID statute does not contain the county and school district vetos contained in the TIF statute.

As the popularity of CIDs increases, we would expect the use of transportation development districts to diminish.

While the utility of CIDs to developers is apparent, this tool will also be assistance to municipalities. A CID sales tax and/or special assessment may represent the revenue source necessary to make difficult projects possible. In these cases, the CID may be initiated by the municipality.

It is unlikely that CIDs will replace standard special assessment districts organized under K.S.A. 12-6a01 because the petition standards for CIDs is more restrictive.

Municipalities are encouraged to be proactive in managing the use of CIDs. Engagement of the community in formal economic development planning and establishment of a policy governing the use of CIDs will communicate to developers your jurisdiction's wants and needs and the means by which you are willing to finance projects.

City's Perspective

Advantages

- Allows the municipality to realize new development which might not otherwise occur.
- Additional projects may be added to the municipality's capital improvement program by creating a new revenue source.
- Can be dovetailed with tax increment financing districts and transportation development districts to increase project funding capacity.
- Relatively simple to implement.
- Sales tax increases are somewhat invisible to citizens and are generally more readily accepted than property tax increases.
- Perceived as inherently fair and effective because the assessment or sales tax is visibly connected to an improvement that improves the quality of life.
- May be one of the most equitable methods to finance improvements benefiting more than one area or development.

Disadvantages

- Higher sales tax rate may encourage consumers to frequent stores outside of the Community Improvement District and/or outside of the community.
- No disincentive to pirating business from within community or from nearby communities.
- May be perceived as subsidizing a project that would have been built anyway.
- City or county enters into the development business (policy question).
- If special obligation bonds are used, risk of default on if project revenues do not meet projections. While a special obligation default would not hinder the municipality's ability to issue its general obligation debt, it would make it more difficult and expensive to issue future development revenue bonds. If full faith and credit bonds are used, municipality should identify in advance the source of revenue available to pay bond debt service should project revenues be insufficient.
- Existing businesses may perceive creation of the Community Improvement District as favoring one business over another.

Developer's Perspective**Advantages**

- Development can proceed because the CID provides funding for improvements that the project could not afford otherwise.
- Costs of the improvements are paid by consumers rather than the businesses.
- Engages the city or county as a partner in the development – creating a vested interest in its success.

Disadvantages

- Extends the development process due to governmental procedural, notice and bidding requirements.
- Surrenders control of a part of the overall project to the city or county.
- Higher visibility and scrutiny of the project may encourage opposition and make recruitment of tenants more difficult.
- Gives the city or county greater leverage when negotiating the scope, quality and timing of the development.

6. Assessing Project Feasibility and the Necessity for Public Financial Participation

Springsted recommends CID projects be assessed in the same manner as other public/private partnerships by:

- ***Comparing the project to community aspirations.*** Is the project supportive of previously established plans and goals? Incenting development that conflicts with community priorities, no matter how attractive the project, will create real and intangible costs in the long-term.
- ***Determining the developer's financial and managerial capacity to perform.*** Has the developer successfully completed projects of similar scope and quality? Does the developer possess or have access to the financial resources necessary to provide the necessary up-front capital?
- ***Assessing the project's feasibility.*** This step is critical in that the revenue source is directly tied to the success of the project. Developers should supply documentation identifying businesses that have committed to locate within the district. Armed with this information and detailed project cost estimates, realistic feasibility studies can be prepared. The city or county may require the developer to enter into a development agreement and provide specific performance guarantees in order to assure that project revenues are sufficient to pay bond debt service.
- ***Assessing the need for public funding.*** Inclusion of a CID special assessment and/or sales tax in a private project increases the developer's profit. The developer's business plan should be analyzed to determine if the project could fund the needed improvements without or with a lesser amount of public participation.

Once a District is created, indices (such as actual vs. forecasted revenues) should be monitored and reported on a regular basis to assure the project is performing as anticipated. Frequent review will allow proactive measures to be taken should problems arise.

For additional information, please contact us at 1-800-236-3033 or advisors@springsted.com.