

To Prospective Industrial Revenue Bond Applicant:

The City of De Soto is excited that you have taken an interest in Industrial Revenue Bond financing through the City. There is a broad range of financial benefits that may be available through this type of financing. The City believes such financing is a valuable tool in assisting economic development.

The City has put together a packet of material which provides information about procedures, fee schedules, applications, and City policies. This information is available in both hard copy or available via email. Patrick Guilfoyle, City Administrator; Patrick Reavey, City Attorney; Sara Ritter, Economic Development Council Executive Director; Gary Anderson of Gilmore & Bell, Bond Counsel, and Jeff White of Columbia Capital Management, Financial Advisor, form the City's Finance team. They are all very knowledgeable and will be happy to answer any questions you have regarding Industrial Revenue Bond financing through the City.

Sincerely,

CITY OF DE SOTO

David R. Anderson
Mayor

**CITY OF DE SOTO
INDUSTRIAL REVENUE BOND APPLICATION**

Version date: June, 2006

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SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:

- Applicant’s Certified Financial Audits or compilations (Last three years)
- Applicant’s most recent annual/quarterly financial report
- Applicant’s interim financial statement (Year to Date)
- Current financial statement for personal guarantors (if applicable)

** To be completed only if requesting a tax abatement

Return six copies of the application and three copies of the Supplement, along with the application fee, to:

City Clerk
32905 W. 84th Street
De Soto, Kansas 66018
PH: (913) 583-1182 ext 110
FX: (913) 583-3123

INDUSTRIAL REVENUE BOND PROCEDURE

Below is a list of the basic steps necessary to complete the typical Industrial Revenue Bond issue. The City reserves the right to request additional information deemed necessary to consider whether to approve an Industrial Revenue Bond issue. This list assumes proper zoning is in place at the time of making application. This is not intended to be a comprehensive list of all items but is merely intended to provide an overview of the process.

1. Applicant contacts the City Administrator to request a pre-application conference with the City's Finance Team. (Optional)
2. Applicant obtains an application form from the City Administrator. Applicant submits six copies of the application, three copies of the supplement, and a non-refundable \$2,000.00 application fee (made payable to the City) to the City Clerk. If a tax abatement is requested, an additional application fee of \$10,000 will apply. The \$10,000 fee will serve as an escrow amount to be used by the City toward bond counsel, financial advisor, and other professional fees incurred. The City reserves the right to request additional escrow monies to replenish the initial \$10,000. Any unused portion of the \$10,000 at the conclusion of the project will be returned to Applicant. Following receipt of the foregoing, the City Administrator will distribute the copies of the application to the City's Finance Team.
3. City's Finance Team reviews application and, if necessary, requests other appropriate information.
4. The City's Finance Team may take its report on the proposed bonds to the City Council or to a Council Committee.
5. Applicant completes Borrower's Questionnaire provided by Bond Counsel and submits it to Bond Counsel, if applicable.
6. Finance Team meets with applicant at applicant's proposed or existing project location for an on-site tour, if applicable.
7. Finance Team recommends to the Governing Body whether or not the application should be favorably considered; and if so, the Governing Body adopts a Resolution of Intent authorizing the issuance of bonds and the City publishes notice of public hearing (publish two weeks before the public hearing), if applicable.
8. Governing Body holds public hearing, if applicable.
9. Bond Counsel files City's application for State allocation of Industrial Revenue Bonds, if applicable.
10. Bond Counsel drafts documents necessary for transaction including, ordinance,

lease, trust indenture, etc. Underwriter or underwriter's counsel drafts official statement and bond purchase agreements, if applicable.

11. Underwriter orders CUSIP numbers for bonds, if applicable.
12. At least seven days prior to issuance of bonds, Bond Counsel files City's information statement with the Kansas Board of Tax Appeals.
13. Bond Counsel, underwriter's counsel, and others distribute final drafts of documents.
14. Applicant or applicant's underwriter markets bonds.
15. Governing Body passes ordinance authorizing the issuance of the bonds.
16. City publishes ordinance authorizing the issuance of the bonds.
17. Applicant's underwriter prints final official statement, if applicable.
18. Bond Counsel drafts closing documents and the underwriter arranges closing details, including delivery of bonds and payment.
21. All parties close transaction including making all necessary UCC filings, recordings and transfers, and applicant pays \$1,000.00 closing fee to City and any fees due to other professionals.
22. Bond Counsel files City's certificate evidencing closing with the State.
23. Bond Counsel files Form 8038 with Internal Revenue Service, if applicable.

The Governing Body meets on the first and third Thursday of the month. The above procedure normally requires 90 days, an additional 30 - 45 days is required if a tax abatement is requested, assuming the application is timely filed for consideration at the appropriate meetings. The time required may be more or less depending on the complexity of the transaction, availability of participants, and other factors. Additional procedures, fees and time will be required if an abatement is being requested and considered.

**FEE SCHEDULE – BOND COUNSEL
CITY OF DE SOTO, KANSAS
INDUSTRIAL REVENUE BONDS**

City Bond Counsel fees are the responsibility of the applicant. Below is the schedule, which will be followed for most fixed rate, new money issues. Variations either upward or downward may be appropriate depending on the nature and complexity of the financing, the facilities to be financed, and other matters. The fee for issues involving a refunding, multimodal features, or multiple series is normally higher than the fee indicated on the schedule and will be specified when the structure for the transaction is determined. The preparation of an official statement or other offering material is not included in the following fees:

<u>Principal Amount</u>	<u>Fee</u>
\$1,000,000 to \$5,000,000	\$25,000 + \$3.00 per \$1,000 over \$1,000,000
\$5,000,000 to \$10,000,000	\$37,000 + \$2.00 per \$1,000 over \$5,000,000
\$10,000,000 to \$50,000,000	\$47,000 + \$1.00 per \$1,000 over \$10,000,000
Over \$50,000,000	\$87,000 + 0.75 per \$1,000 over \$50,000,000

In addition to the fees set forth on the above schedule, reimbursement is also required for out-of-pocket expenses incurred in connection with each transaction, such as travel expenses, postage, photocopying, long distance calls, facsimile transmissions, and similar items.

Responsibilities of Bond Counsel include the following:

- a. Negotiations with respect to and preparation of the following documents:
Trust Indentures,
Lease Agreement,
Ordinances, resolutions and other proceedings of the City;
Closing certificates of the City, the Trustee, and Company;
- b. Preparation of typed bonds or supervision of printed bonds;
- c. Preparation and examination of the bond transcripts;
- d. Assisting with the necessary filings and recordings with appropriate county, state, and federal agencies;
- e. Rendering an approving legal opinion on the validity of the bonds and the documents referred to in paragraph (a) hereof which will include, if applicable, a statement that under existing law, the interest on the bonds is exempt from federal and Kansas income taxation with certain customary

exceptions; and

- f. Attending such conferences and meetings, including the closing, as may be necessary in connection with the transaction.

**FEE SCHEDULE – FINANCIAL ADVISOR
CITY OF DE SOTO, KANSAS
INDUSTRIAL REVENUE BONDS**

The applicant will be responsible for the City Financial Advisor’s fees. Financial Advisor services shall be rendered according to the following schedule per applicant/transaction, plus reimbursement for reasonable out-of-pocket expenses whether or not the transaction closes.

Principal/Managing Director	\$175/hr
Vice Presidents	\$175/hr
Analyst	\$75/hr
Support/Other	\$75/hr

The City's Financial Advisor will provide financial advice to the City on all private activity conduit financing and will assist the City in preparing bond and note issues for marketing and, in doing so, will perform these services customarily performed by financial advisors for comparable public authorities. Without limiting the generality of the foregoing, such services shall include:

- a. Consult with the City relative to its role of assisting acceptable borrower through the issuance of debt for capital projects;
- b. Advise the City and participating borrowers relative to their particular financing needs;
- c. Consult and communicate with the City’s staff, Bond Counsel, and other financing participants in regard to the terms and provisions of anticipated financing;
- d. Assist the City in determining the credit quality of any borrowers and developing the financial safeguards in the structure of any transaction;
- e. Assist in developing new borrower financing programs, as requested by the City;
- f. Collect and review of pertinent financial information and other data relating to the City and the borrower;
- g. Review documentation, as needed, for bond issues including official statements, loan agreements, indentures, and other appropriate documents;
- h. Review materials and data for the rating agencies and attend meetings with such agencies, if requested;
- i. Review and oversee the method and procedures utilized in the sale of the securities by the borrowers, evaluation for the City of the process and pricing;
- j. Serve as the City’s liaison to the private activity borrowing community;

- k. Attend City and Borrower's meetings, as appropriate; and
- l. Deliver to the City, if requested by the City, at the closing for a bond issue with respect to which the Financial Advisor rendered assistance, a written statement of the extent to which it has participated in the financing and a statement that nothing has come to its attention which would lead it to believe that there was a material misstatement or omission in any offering materials.
- m. If a property tax abatement is requested, the Financial Advisor will perform a cost benefit analysis on City approved software. Currently the City utilizes software sponsored by the Kansas League of Municipalities. (The cost benefit report will cost approximately \$3,500 to \$5,500, depending upon how many variations the City desires. The applicant will have submitted \$10,000 for applications requesting abatements, which extra amount pays for this report and expenses of others.

CITY ATTORNEY FEE SCHEDULE

The City Attorney is responsible for reviewing and commenting on all draft documents regarding the issuance of the bonds and providing City Council with legal advice on matters not within the purview of Bond Counsel. Such functions by the City Attorney are outside the City Attorney's regular duties to the City and, therefore, will be charged to the Applicant at the rate of \$160 per hour, regardless of whether or not the transaction closes.

Application for the Issuance of Industrial Revenue Bonds

*(If more space is required for answers, please attach separate sheets to this application, carefully identifying the coordinating responses).

I. APPLICANT INFORMATION

1. _____
 Name _____ SIC Code _____ Submission Date

2. _____
 Address _____ Phone Number _____ Fax #

3. _____
 Contact person/title _____ Phone Number _____ Fax #

4. Names and addresses of other contacts:
_____ E-mail Address

Name/title	Address	Phone/Fax	Email

5. a. Describe the organizational structure of the firm:

_____	Not-for-profit 501(c)(3)	_____	Limited Liability Company
_____	Partnership	_____	Sole Proprietorship
_____	Corporation*	_____	Other (explain) _____

*Public or Private (if public submit most recent quarterly SEC filing)

b. State organized, incorporated or formed in: _____

6. Names and addresses of the principal owners, officers and directors:

Name	Title
Address	

7. Employment: List employment in the metropolitan area by location

Locations	Number of Employees
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

List employment at the proposed location

Existing employees _____

New hires _____

Classification of employees by year (i.e., professional, technical, laborers, clerical etc.)

Class	Year 1 of Occupancy	Year 2 of Occupancy	Year 3 Occupancy
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

II. PROJECT INFORMATION

1. Briefly describe project for which bonds are requested.

2. Project location (legal description and street address, if available):

3. For its Project, Applicant will:
- _____ occupy an existing building
 - _____ expand/rehabilitate an existing building
 - _____ construct a new building
 - _____ finance equipment
 - _____ purchase land
4. Reason Applicant requires a new/expanded facility or equipment: _____

5. Size of the proposed facility (square footage, acreage and market value):

6. Name of Architect and Contractor, if designated (name, address and phone):

7. Type of building construction proposed: _____
8. Current zoning: _____
9. Anticipated date of construction start and date of completion: _____
10. Name of company performing the environmental audit (contact name, address, phone):

11. What percentage of the facility will be occupied by the Applicant? _____
- If less than 100%, please specify other occupants and corresponding percentage of each occupant:
- | | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
12. What business activity is proposed by the Applicant at this location?

13. List the products or services to be rendered. (Include details of the nature and scope of the operation of the business): _____

14. Describe other economic benefits to the City's economy if the transaction is completed. Include any notable characteristics of the Applicant:

III. NEW BOND ISSUE

1. Anticipated sources and uses of project financing:

Sources:

Bond Proceeds	\$ _____
Interest on Earnings on Bond Proceeds	_____
Cash	_____
Other (specify) _____	_____
TOTAL =	\$ _____

Uses:

Land	\$ _____
Construction Costs	_____
Machinery/Equipment	_____
Underwriters Discount or Fee	_____
Cost of Issuance	_____
Other (specify) _____	_____
TOTAL =	\$ _____

2. Proposed debt service schedule and structure (attach proposed debt repayment schedule.):

- a) Closing date _____
- b) Number of years to amortize the bond issue _____
- c) Security for the bonds (check all that apply and attach separate sheet describing the security in detail):
 - pledge of collateral _____
 - corporate/personal guarantees _____
 - debt service reserve fund _____
 - credit enhancements _____
 - other _____

IV. REFUNDING/REFINANCING
(Complete only if applicable, otherwise skip to Section V)

1. Form of refunding proposed:

- a) Advance refunding _____
- b) Current refunding _____

2. Current principal outstanding \$ _____

3. Proposed principal of Refunding Issue: \$ _____

4. Purpose of refunding:

- a) Interest savings (attach proposed savings schedule) _____
- b) Extend or shorten repayment (attach debt service schedule) _____

c) Change indenture covenants (attach sheet specifying changes) _____

d) Other (specify) _____

5. Earliest date outstanding bonds may be redeemed: _____

6. List proposed security of the refunding issue (check all that apply and attach separate sheet describing the security in detail):

a) pledge of collateral _____

b) corporate/personal guarantees _____

c) debt service reserve fund _____

d) credit enhancements _____

e) other _____

7. Anticipated sources and uses of Refunding Bond Proceeds:

Sources:

Bond Proceeds \$ _____

Interest on Earnings on Bond Proceeds _____

Cash _____

Other (specify) _____

TOTAL = \$ _____

Uses:

Redemption Fund \$ _____

Underwriters Discount or Fee _____

Cost of Issuance _____

Other (specify) _____

TOTAL = \$ _____

8. Describe any material changes that have occurred to the company since the original bond issue (i.e. new products or services, increase or decrease in employment, changes in business activity, sales revenue, net worth, profitability, new locations, etc.).

V. MARKETING OF THE BONDS

1. Indicate the proposed marketing arrangement:

- _____ Retail public offering
- _____ Institutional offering
- _____ Private placement
- _____ Applicant purchases issue (indicate _____ %)
- _____ Other (specify) _____

2. _____
Applicant's Underwriter (or Purchaser) Phone/Fax Number

Contact Person Address Email Address

3. _____
Applicant's Law Firm Phone/Fax Number

Attorney's Name Address Email Address

4. Is the transaction going to be rated? Yes _____ No _____

If yes, who is going to provide rating? What is the expected rating?

5. a. Proposed date of issue: _____

b. Proposed date of offering: _____

c. Proposed date of closing: _____

VI. OTHER INFORMATION

1. Describe any pending or threatened litigation: _____

2. Specify other data or information pertinent to the proposed project or project financing:

PROJECT DATA FORM
(To be completed by the Applicant)

The following pages are the “input” screens that are used in the most recent version of the Kansas League of Municipalities sponsored cost-benefit software. These inputs only need to be filled out if the applicant is requesting a property tax abatement.

The applicant is encouraged to discuss the needed inputs with the City’s Financial Advisor, who will be running the software program for the City’s Finance team. Applicants should be realistic in the projections of future outcomes and applicant may be required to provide evidence justifying projections.

Firm and its Employees

Name of Firm: _____

Description of the firm’s project location or expansion in the community:

Primary SIC tax code: _____

Market value of the firm's initial new or additional investment in:

Land	\$ _____
Building and improvements	\$ _____
Furniture, fixtures and equipment	\$ _____

Projected expansions:

Expansion 2:

Year of expansion	_____
Additional investments in:	
Land	\$ _____
Building and improvements	\$ _____
Furniture, fixtures and equipment	\$ _____

Expansion 3:

Year of expansion	_____
Additional investments in:	
Land	\$ _____
Building and improvements	\$ _____
Furniture, fixtures and equipment	\$ _____

PROJECT DATA FORM

Expansion 4:

Year of expansion _____

Additional investments in:

Land \$ _____

Building and improvements \$ _____

Furniture, fixtures and equipment \$ _____

New or additional sales of the firm:

Year

1 \$ _____

2 \$ _____

3 \$ _____

4 \$ _____

5 \$ _____

6 \$ _____

7 \$ _____

8 \$ _____

9 \$ _____

10 \$ _____

Percent of sales subject to sales tax in the:

City _____ %

County _____ %

State _____ %

Annual net taxable income, as a percent of sales, on which _____ % state corporate income taxes will be computed:

Annual purchases of the firm at the project locations:

Year

1 \$ _____

2 \$ _____

3 \$ _____

4 \$ _____

5 \$ _____

6 \$ _____

7 \$ _____

8 \$ _____

9 \$ _____

10 \$ _____

PROJECT DATA FORM

Percent of purchases subject to sales tax in the:

City _____ %
 County _____ %
 State _____ %

Annual utilities that will be used by the firm:

Water \$ _____
 Wastewater \$ _____
 Telephone \$ _____
 Electricity \$ _____
 Gas \$ _____
 Garbage \$ _____
 Cable \$ _____
 Other: \$ _____
 \$ _____
 \$ _____

Number of new employees to be hired each year at the project site:

Year	
1	_____
2	_____
3	_____
4	_____
5	_____
6	_____
7	_____
8	_____
9	_____
10	_____

Of the new hires listed above, estimate number of new employees moving to the county each year.

Number of new employees moving to the county each year:

Year	From out-of-state	Total
1	_____	_____
2	_____	_____
3	_____	_____
4	_____	_____
5	_____	_____
6	_____	_____
7	_____	_____
8	_____	_____
9	_____	_____
10	_____	_____

PROJECT DATA FORM

Average annual salaries of employees:

Year	
1	\$ _____
2	\$ _____
3	\$ _____
4	\$ _____
5	\$ _____
6	\$ _____
7	\$ _____
8	\$ _____
9	\$ _____
10	\$ _____

Household size of a typical new worker _____

Number of school age children in the household of a typical new worker _____

Initial construction or expansion:

Cost of construction at the firm's new or expanded facility: \$ _____

If construction is by an outside contractor, estimated percent profit on the cost of construction: _____%

Amount of taxable construction materials purchased in

Kansas	\$ _____
the County	\$ _____
the City	\$ _____

Total construction salaries \$ _____

Amount paid to an average construction worker during the construction period \$ _____

Household size of an average construction worker _____

Number of construction workers _____

PROJECT DATA FORM

Expansion 2:

Cost of construction at the firm's new or expanded facility: \$ _____

If construction is by an outside contractor, estimated percent profit on the cost of construction: _____ %

Amount of taxable construction materials purchased in

 Kansas \$ _____

 the County \$ _____

 the City \$ _____

Total construction salaries \$ _____

Amount paid to an average construction worker during the construction period \$ _____

Household size of an average construction worker _____

Number of construction workers _____

Expansion 3:

Cost of construction at the firm's new or expanded facility: \$ _____

If construction is by an outside contractor, estimated percent profit on the cost of construction: _____ %

Amount of taxable construction materials purchased in

 Kansas \$ _____

 the County \$ _____

 the City \$ _____

Total construction salaries \$ _____

Amount paid to an average construction worker during the construction period \$ _____

Household size of an average construction worker _____

Number of construction workers _____

PROJECT DATA FORM

Expansion 4:

Cost of construction at the firm's new or expanded facility: \$ _____

If construction is by an outside contractor, estimated percent profit on the cost of construction: _____ %

Amount of taxable construction materials purchased in

Kansas \$ _____
the County \$ _____
the City \$ _____

Total construction salaries \$ _____

Amount paid to an average construction worker during the construction period \$ _____

Household size of an average construction worker _____

Number of construction workers _____

Number of out-of-town visitors expected at the firm (who stay at least 1 overnight):

Year	
1	_____
2	_____
3	_____
4	_____
5	_____
6	_____
7	_____
8	_____
9	_____
10	_____

Number of days that each visitor will stay in the area: _____

Number of nights that a typical visitor will stay in a local hotel or motel:

In the City _____
Anywhere in the county _____

VIII. APPLICANT'S AGREEMENT

In consideration for the City's acceptance, processing, and consideration of this Application, Applicant agrees, represents, and warrants as follows:

Applicant agrees and understands that a non-refundable application fee to the City of De Soto of \$2,000.00, which is due and payable at the time of making application, is required. If a tax abatement is requested, applicant agrees and understands that an additional fee to the City of De Soto of \$10,000.00 is due and payable at the time of making application. As stated herein above, the \$10,000 fee will serve as an escrow amount to be used by the City toward bond counsel, financial advisor, and other professional fees incurred. The City reserves the right to request additional escrow monies to replenish the initial \$10,000. Any unused portion of the \$10,000 at the conclusion of the project will be returned to Applicant. Applicant further agrees and understands that Applicant shall be responsible for paying, in addition to the non-refundable application fee, all expenses incurred by the City for professional services pertaining to this application and Applicant's project including, but not limited to, City Bond Counsel, City Attorney, and City Financial Advisor fees and Cost Benefit model fees (Cost/Benefit analysis only required for abatement requests), regardless of whether or not the project is approved or a closing on the sale of the contemplated bonds takes place. Applicant represents and warrants that all statements of fact contained in this application are true to Applicant's best knowledge and belief. Applicant has a continuing obligation to supplement its application when any new information is acquired. Applicant represents that it has reviewed the City's Industrial Revenue Bond policy and agrees to be bound by the procedures described herein.

Partial completion of this application is permitted, however, prior to the adoption of the bond ordinance, the remaining supplementary information to complete this application must be furnished. Moreover, additional information may be required by City Bond Counsel and Financial Advisor.

It is understood and agreed the information required in this application or any other information will be disclosed to the Finance Team and may be disclosed to the public.

DATED this _____ day of _____, _____

Applicant's Signature

Title

(This page is intentionally left blank.)

**ARTICLE B – INDUSTRIAL REVENUE BOND POLICY
(Private Activity Bond)**

Section:	1	Objectives
	2	Scope
	3	Definitions
	4	Provisions
	5	Procedures
	6	Responsibility for Enforcement
	7	Statutory Amendments
	8	References

1 OBJECTIVES.

- A. General: The De Soto Governing Body shall evaluate all applications for Industrial Revenue Bonds (“IRBs”) for the purposes allowed by law. The Governing Body shall approve the issuance of such bonds when, in the opinion of the Governing Body, the project being financed in whole or in part by the proceeds of such bonds is reasonably expected to promote, stimulate, and develop the general economic welfare of the City through the promotion and advancement of physical and mental health, industrial, commercial, agricultural, natural resources, and of recreational development in the City, and is deemed to be in the best interest of the City. Such bonds should also be used to encourage and assist in the location of new business and industry in the City and the expansion, relocation or retention of existing business, industry and health development, and to promote the economic stability of the City by providing greater employment opportunities, diversification of industry, and improved physical and mental health, thus promoting the general welfare of the citizens of the City.

- B. Specific: This policy is meant to be a guide for the Governing Body in reviewing applications for IRBs.

2 SCOPE.

In reviewing requests to issue IRBs, the Governing Body shall be guided by whether such an issue would help the City achieve some or all of the following objectives:

- A. A substantial increase in the number of jobs in the City;
- B. Diversification of the local economy;
- C. A positive impact on the City or a particular area of the City where economic assistance is needed;
- D. Enhance the economic climate of the City and increase or maintain the job market within the City;
- E. Expansion of the type of job skills available to the job market in the City or utilization of key skills of locally unemployed persons;
- F. Increasing the property tax base of both residential and commercial properties to further support expanding cost of municipal services provided by the City.
- G. Enhance the credit worthiness of the City with a broader tax base, thus enhancing the City's ability to have its borrowings at a reduced interest cost to its residents and taxpayers;
- H. Promote the development of older parts of the City, especially the downtown area and Lexington Avenue.
- I. Promote the completion of Commerce Park and other industrial parks in the City and encourage the development of new industrial enterprises in the City:
- J. Promote development of targeted industries. Such industries include life science/life science support, manufacturing (medical equipment and supplies manufacturing), food processing equipment/commercial equipment merchant wholesalers, administrative service centers/back office, corporate office and research centers.
- K. Encourage issues that do not have a serious detrimental effect on an existing business or industry in the City; and
- L. Accomplish any other needs of the City.

3 DEFINITIONS.

The following words when used in connection with this policy shall have the meanings ascribed to them herein:

APPLICANT: Any person, firm, or entity making application to receive Industrial Revenue Bonds

CITY: City of De Soto, Johnson County, Kansas.

CITY BOND COUNSEL: That firm or individual designated by resolution of the City to handle bond matters and issues related to bond matters.

CITY FINANCIAL ADVISOR: That firm or individual designated by resolution of the City to handle financial matters and issues related to financial matters.

FINANCE TEAM: Administrator, or designee; City Attorney, or designee; City Bond Counsel; and City Financial Advisor.

PROJECT: The purpose for which the IRBs are being requested and expended.

4 PROVISIONS.

Approval of IRBs issued by the Governing Body shall be subject to the following conditions:

- A. The applicant must have a sound financial base. The City's Financial Advisor shall make recommendations to the Governing Body as to an applicant's financial stability.
- B. The applicant must provide reasonable assurance that the bonds are secure and marketable and that the bond issue complies with applicable state and federal law.
- C. The City may require some type of credit enhancement such as a letter of credit, bond insurance, personal guarantees, pledges of other collateral, a bond reserve account, or a combination thereof.
- D. Unless otherwise approved by the City Council, the City requires the use of its designated Bond Counsel and its designated Financial Advisor. The City reserves the right to approve the selection of other participants including, but not limited to, the underwriter and trustee/fiscal agent. The City, at its discretion, may retain additional independent advisors to assist the City in analyzing the merits of the application and in making a determination of its approval at the applicant's expense, such as: economic specialist, environmental specialist, certified public accountant, etc.
- E. The applicant must pay for or reimburse the City the cost of legal, financial, and administrative work performed in connection with the bond issue as determined by the City. Further, the City may retain special legal counsel in the transaction. In that event, the special legal counsel fee shall be negotiated between the special

legal counsel and the applicant. The applicant must pay all costs related to the issue incurred by the City throughout the life of the bonds, including, but not limited to the City's actual costs of administering and supervising the issue, the cost of any special legal counsel, and any costs in the events of default, transfer of ownership, transfer of bonds, re-marketing issues, and any other assistance required in regard to the project which is subject to IRBs. Any costs incurred will be directly billed to the applicant for reimbursement.

- F. The proceeds from any IRBs issued shall be used for the purpose of paying all or part of the cost of purchasing, acquiring, constructing, reconstructing, improving, equipping, furnishing, repairing, enlarging or remodeling facilities for agricultural, commercial, hospital, industrial, natural resources, recreational development, and manufacturing purposes.
- G. If the project is not within the City limits, the applicant must petition for annexation of the land on which the project is located prior to the issuance of the bonds, unless the applicant proposes multiple site locations within the State of Kansas.
- H. The proposed use must be clean, nonpolluting, and consistent with all planning and community development policies, ordinances, and codes. Applicant shall be responsible for performing at least a Phase I environmental audit. At its discretion, the City may require applicant to perform additional environmental audits beyond Phase I. Applicant shall be responsible for taking any and all remedial action necessary as required by the City or any other governmental entity. The City, at its discretion, may also require environmental audits for refunding bond issues.
- I. Prior to making application, the project for which IRBs are requested must be appropriately zoned.
- J. Unless the Governing Body determines otherwise, all IRBs must be a level amortization and maturity of the bonds is not to exceed the useful life of the asset.
- K. The City has adopted a Tax Abatement Policy for Economic Development which sets forth the policies and procedures associated with tax abatement. Any request for an abatement must be made pursuant to the City's Tax Abatement Policy.
- L. The decision to grant or deny any IRB application lies within the sole discretion of the Governing Body. Nothing in this policy obligates the City to approve any IRB application. Further, the Governing Body reserves the right to grant or deny any IRB application under circumstances beyond the scope of this policy, or to waive any procedural requirement. However, no such action or

waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest. The Governing Body shall not waive any procedural requirement of state law.

5 PROCEDURES.

Procedure and Fees Regarding the Issuance of Industrial Revenue Bonds:

- A. Potential applicants may request a pre-application meeting with the City's Finance Team to explore applicant's interest prior to formally submitting an application at no cost to the applicant.
- B. The procedure and fee for the issuance of IRBs of the City shall be substantially as follows:
 - 1. The prospective applicant shall submit six (6) completed copies of the application form and three (3) copies of the Financial Supplement to the City Clerk.
 - 2. A nonrefundable application fee of \$2,000.00 shall be submitted with the application. If a tax abatement is requested, an additional application fee of \$10,000.00 will apply, which fee will serve as an escrow amount to be used by the City toward bond counsel; financial advisor; and other professional fees incurred. The City reserves the right to request additional escrow monies to replenish the initial \$10,000. Any unused portion of the \$10,000 at the conclusion of the project will be returned to Applicant. The balance of the Financial Advisor fee, if any, and Bond Counsel fee is due and payable as provided in the application form. A closing fee to the City of \$1,000.00 shall be remitted on or prior to the day of closing. All application and closing fees shall be used for administering IRB applications. The application and closing fees shall be in addition to any costs set forth in 4-E.
 - 3. Applicant shall be responsible for the payment of other professional fees such as Bond Counsel and Financial Advisor, according to the current fee schedule.
 - 4. On receipt of the completed application form and the required fee, the Administrator shall determine: (a) whether the application is complete and sufficient for review; and (b) whether the applicant is eligible for IRBs under the Kansas Constitution, this policy or any other applicable laws. If the application is incomplete, the

Administrator shall immediately notify the applicant, noting the need for such changes or additions as deemed necessary. If questions arise as to whether the applicant is legally eligible for IRBs, the matter shall be referred to the City Attorney, who shall consult with the applicant. The Administrator shall notify the Finance Team, if the application is found complete, and is for a purpose which appears to be authorized by law.

5. There is hereby created a Finance Team composed of the City Administrator or designee, the City Attorney or designee, counsel from the City's designated bond counsel firm, a representative from the City's designated financial advisor firm, and a representative from the City's Economic Development Commission. The purpose of the Finance Team is to receive and review requests and applications for IRBs, to gather and review such additional information as may be deemed necessary to determine if the applicant meets the objectives of this policy, and to recommend to the Governing Body as to whether or not the application should be favorably considered. In reviewing its information, the Finance Team may utilize the services of consultants, including but not limited to bond counsel and financial advisers. Finance Team records, including applications for IRBs, may be withheld from public disclosure as provided under the Kansas Open Records Act, but shall be available for public inspection when otherwise required by law.
6. At its discretion, the Finance Team may present the IRB application to the City Council Finance and Administration Committee for additional discussion and analysis.
7. Upon receiving the recommendation of the Finance Team, and if applicable, the recommendation of the Finance and Administration Committee, the Governing Body shall determine whether to reject the IRB request or to further consider the request.
8. No elected or appointed officer, employee or committee of the City, and no chamber of commerce, board, development council, or other public or private body or individual, shall be authorized to speak for and commit the Governing Body to the issuing of IRBs.
9. A resolution of intent to issue the proposed IRBs shall be issued by the Governing Body and shall be effective for a period of one year from the date of issue. An extension may be granted by the Governing Body. The applicant is

responsible for all related costs regardless of whether or not the bonds are issued.

10. At least seven days prior to the issuance of any IRBs, the City's Bond Counsel shall file the statutorily required statement with the Kansas State Board of Tax Appeals.
11. After holding a public hearing on the proposed IRBs, if required by state or federal law, the Governing Body may adopt an ordinance authorizing the issuance of the proposed IRBs. All details pertaining to the issuance of the IRBs and the terms and conditions thereof shall be determined by ordinance.

6 RESPONSIBILITY FOR ENFORCEMENT.

The City Administrator shall be responsible to the Governing Body for the enforcement of this policy. The Administrator shall assist in the implementation of this policy.

7 STATUTORY AMENDMENTS.

Any amendment to any statute cited herein or used as a source of authority for the development of the City's Industrial Revenue Bond Policy shall apply without modification or amendment to the Industrial Revenue Bond Policy.

8 REFERENCES.

K.S.A. 12-1740 through 12-1749d
Revised May, 2006

ARTICLE D - TAX ABATEMENT POLICY FOR ECONOMIC DEVELOPMENT

Sections:	1	Objectives
	2	Scope
	3	Legal Authority
	4	Level of Abatement
	5	Definitions
	6	Provisions
	7	Procedures
	8	Responsibility for Enforcement
	9	References

1 OBJECTIVES.

The purpose of this policy is to establish the official position and procedures of the City of De Soto, Kansas, for considering applications for property tax abatements for real and personal property used for economic development purposes in accordance with the provisions of Section 13, Article 11 of the Kansas Constitution, or when associated with the issuance of Industrial Revenue Bonds pursuant to State law.

2 SCOPE.

The authority and decision to grant a tax abatement is vested solely with the De Soto Governing Body. This policy is intended to provide a guide to the Governing Body in considering applications. The decision to grant a tax abatement is discretionary and shall be considered on a case-by-case basis. **The De Soto Governing Body is under no obligation to approve any requested abatement and reserves the right to deviate from the policies and criteria contained herein** if, in the opinion of the Governing Body, circumstances exist to warrant such deviation.

3 LEGAL AUTHORITY.

The City may abate certain property from ad valorem and/or personal property taxes for a maximum of 10 calendar years pursuant to Article 11, Section 13, of the Constitution of the State (the "Constitutional Tax Exemption"). Such abatement and this Policy are subject to the further limitations or prohibitions as are or may be enacted by the legislature of the State in accordance with the laws of the State. Such abatement is also discretionary with the City, and the City may provide for abatements in an amount and for a time period that is less than the maximum amounts and times permitted by the Constitutional Tax Exemption. Pursuant to Article

12, Section 5 of the Constitution of the State (“Constitutional Home Rule”), the City may (1) require applicants to provide information to assist the City Governing Body and the City’s consultants in analyzing the economic and non-economic benefits and burdens to the City, (2) condition the granting of an abatement on the agreement by the applicant to make PILOT (Payment In-Lieu of Taxes) payments under the provisions of K.S.A. 12-147 and 12-148 and to meet performance standards, and (3) require the applicant to pay all costs and expenses of the City and its consultants associated with the consideration of the application for the abatement and, if applicable, the renewal of the abatement, including, but not limited to, the City’s initial application fee, the escrow fee, renewal fee, publication costs and reasonable fees and expenses of the City Attorney, the City’s Bond Counsel, and the City’s Financial Advisor.

4 LEVEL OF ABATEMENT.

Pursuant to the legal authority set forth herein above, a tax abatement, standing alone, would exempt the business from all real and personal property taxes. However, in all cases, a PILOT Agreement between the City and the applicant will be required. The PILOT Agreement is the mechanism whereby the City establishes the level of abatement and any performance standards (e.g. levels of payroll and numbers of employees). In all cases, the PILOT Agreement will require that the average wage per employment category meets or exceeds the average in the Kansas City Metropolitan Area as determined annually by the Kansas Department of Human Resources Wage Survey. The PILOT Agreement will establish a PILOT payment required of the business on an annual basis. The PILOT payment usually is a certain percentage of the taxes the applicant would have paid without the abatement. While the amount of such payments will be completely discretionary with the Governing Body and determined on a case-by-case basis, in most cases the amount of the PILOT payment will be at least 50% of the taxes that would have been paid without the abatement. Any request for a PILOT payment that is less than the 50% will be considered against the following criteria:

1. Whether the applicant has presented compelling evidence that the business will experience future and sustained growth beyond the abatement period.
2. Whether the business being brought to the City will stimulate and create substantial City sales taxes.
3. Whether the business fulfills a City-wide need identified by the Governing Body.

4. Whether the business will attract other highly desirable commercial or retail development to the City.

A slightly enhanced reduction in a PILOT payment may be considered by the Governing Body for existing City businesses as retention of existing businesses is a priority of the Governing Body.

5 DEFINITIONS.

This article contains terms of a general nature which apply to the entire chapter unless a subsequent article provides specific definitions unique to that article.

ABATEMENT: The difference between the amount of ad valorem property taxes an affected business would pay if there were no City-granted abatement and the amount required to be paid in lieu of taxes or charges. For example, if the taxes required with no abatement were \$5,000, and the required PILOT was \$3,000, the “abatement” would be \$2,000.

APPLICANT: Includes the business, property owner or owners, their officers, employees, and agents requesting an abatement.

ECONOMIC DEVELOPMENT PURPOSES: For purposes of an abatement pursuant to the Kansas Constitution, this term shall mean the establishment of a new business or the expansion of an existing business, engaged in manufacturing articles of commerce, conducting research and development, or storing goods or commodities which are sold or traded in interstate commerce, which results in additional employment. For purposes of an abatement associated with an IRB, this term shall also include service industry businesses and any other business which provides substantial unique opportunities or significant community benefits.

FINANCE TEAM: A committee comprised of the City Administrator; Administrator; City Attorney; EDC Executive Director, City Bond Counsel; City Financial Advisor and the Mayor.

FINANCE AND ADMINISTRATION COMMITTEE: A committee appointed by the Mayor to review applications for a Tax Abatement which committee may consist of officers, employees or agents of the City or of other local government units or members of the community. The Committee should include a representative from Unified School District #232.

6 PROVISIONS.

- A. Criteria for Granting Tax Abatement: Each application for property tax abatement shall be evaluated in accordance with the following criteria:
1. Maintain Existing Tax Base: Granting of the application shall not result in the City, County, school district or any other taxing jurisdiction affected by the abatement, receiving less tax revenue from the abated property than was received prior to the abatement.
 2. Existence of Economic Benefit: There is a clear demonstration of public purpose and economic benefit to the City through the advancement of the Governing Body's economic goals which can be established by, but are not limited to, such things as additional quality jobs; increased private capital investment; expanded tax base; importing new wealth into the City; exporting goods from the City; spurring economic development in targeted City locations; and encouraging development of targeted businesses desirable to enhance the City's local economy.
 3. "But For" Principle: The abatement should make such a difference in determining the decision of the business to locate, expand or remain in the City that the business would not otherwise be established, expanded or retained without the availability of the abatement.
 4. Unfair Competition: The abatement should not, in the determination of the Governing Body, create an unfair advantage for one business over another competing business within the City unless there is a substantial overriding benefit to the City as a whole.
 5. Employment: The applicant pays all employees in the abated project an average wage per employment category that meet or exceeds the average in the Kansas City Metropolitan Area as determined annually by the Kansas Department of Human Resources Wage Survey or demonstrates why job creation should not be a factor for consideration.
 6. Targeted Industries and/or Areas: The project must be a targeted industry and/or located in an area targeted by the

Governing Body for economic development or redevelopment; or has specific site constraints making development more difficult or costly. The current targeted industries include life science/life science support, manufacturing (medical equipment and supplies manufacturing), logistic services/wholesale (packaging and distribution), food processing equipment/commercial equipment merchant wholesalers, administrative service centers/back office, corporate office and research centers. Targeted areas include Commerce Park, Lexington Avenue and the downtown area.

7. Capital Investment: An applicant establishing a new business should be making a minimum investment in the City of at least \$5,000,000. An applicant expanding an existing business, defined to be any business that has a significant physical presence within the City as an owner or tenant, should be making a capital investment in the City of at least \$1,000,000,. The term capital investment shall apply to the acquisition cost of land and building improvements, but shall not include tangible personal property constituting capital assets for accounting purposes.
8. Cost Benefit Analysis: A cost/benefit analysis shall be performed on a model approved by the City. The result of the analysis should indicate that the benefit of the establishment, expansion or relocation of the applicant's business, even with the proposed abatement, outweighs the cost to the City and other affected taxing jurisdictions.
9. Community Involvement: The Governing Body places a high priority on the City's businesses being involved in the community and community groups. In considering an application for tax abatement, the Governing Body will expect a commitment from the applicant to become involved in the community and to encourage its employees to do the same. The Governing Body may request that commitments to become involved in the community be memorialized in the PILOT Agreement between the City and applicant.
10. Impact Contributions: An applicant's willingness to assist the City in addressing impacts of the business locating, or expanding, in the City -- and agreeing to address such issues in the PILOT Agreement -- will be considered by the Governing Body when determining whether to grant a

tax abatement to the applicant. Examples include, but are not limited to, specialized fire prevention equipment, additional traffic control devices or measures, and increased maintenance of infrastructure in proximity to the business.

- B. Duration and Amount of Abatement: Application of the criteria set forth herein will be considered in determining whether an abatement should be given to the applicant and if so, the length and amount of abatement granted. In no event shall an abatement exceed ten (10) years.
- C. Special Assessments: A tax abatement shall not affect the liability of such property for any special assessments levied or to be levied against such property.
- D. Pirating: The City discourages applications for tax abatements which deliberately encourage and cause the pirating of business from one Kansas community to another. The City intends to avoid participation in “bidding wars” between cities or areas competing for the location of new businesses or expansion of existing businesses through attempts to offer the largest tax abatement or other public inducement, which is detrimental to the State’s economy and the public interest.
- E. Preliminary Review: Prior to submittal of a formal application, a business may inquire as to eligibility for a tax abatement and the anticipated amount based on preliminary information that may be requested by the City. The City Finance Team (“Staff”) will review the information submitted and respond to the business regarding apparent eligibility and potential amount of abatement that may be granted. The Finance Team may utilize the services of other consultants such as the De Soto Economic Development Director, in reviewing and evaluating the information submitted by the applicant. THE RESPONSE FROM STAFF SHALL IN NO WAY REPRESENT DEFINITIVE FINDINGS OR BE SEEN AS AN EXPRESSION OF INTENT OR OBLIGATION OF THE GOVERNING BODY TO FAVORABLY CONSIDER OR APPROVE A FORMAL REQUEST FOR TAX ABATEMENT. Information submitted and Staff response shall be deemed to be proprietary business information if requested in writing by the applicant and, in such event, shall be kept confidential and not discussed in an open meeting unless consented to by the business or otherwise required by law.

7 **PROCEDURES.**

- A. Formal Application: An applicant may request a tax abatement by filing, with the City Clerk, six (6) copies of a written application on a form provided by the City and accompanied by a non-refundable fee of \$2,000.00 for new businesses and \$1,000 for existing businesses. An additional application fee of \$10,000.00 will apply, which fee will serve as an escrow amount to be used by the City toward bond counsel; financial advisor; and other professional fees incurred. The City reserves the right to request additional escrow monies to replenish the initial \$10,000. Any unused portion of the \$10,000 at the conclusion of the project will be returned to Applicant. The \$2,000 application fee is in addition to other fees which may be required by the City, including fees for a preliminary review; the issuance of tax exempt or taxable bonds; costs incurred for preparation of the required Cost/Benefit Analysis; and costs incurred, if any, for review and work done by the City's Financial Advisor and Bond Counsel. The City will only consider complete applications. All applications and records pertaining to a formal tax abatement request shall be subject to the provisions of the Kansas Open Records Act.
- B. Initial Review: Each application for tax abatement shall generally adhere to the following procedures:
1. Upon receipt of the completed application and filing fee, the City's Finance Team shall review the application; gather additional information as may be necessary to evaluate the application; prepare or cause to be prepared a cost benefit analysis report; conduct discussions with the applicant; discuss terms of a PILOT agreement to be drafted by Bond Counsel and the City Attorney for Governing Body consideration; and recommend to the Governing Body as to whether or not the application should be favorably considered.
 2. If after reviewing the Finance Team's recommendation the Governing Body determines further consideration of the application is warranted, the Governing Body shall schedule a public hearing to consider granting a tax abatement and notify the appropriate taxing jurisdictions of the hearing. The Governing Body may issue a resolution of intent, setting forth in general terms its proposed plans for granting a tax abatement and any conditions thereto. The resolution of intent shall be an expression of good faith intent, but shall not in any way bind the City to the granting of an abatement.

3. Prior to granting a tax abatement, the Governing Body shall hold a public hearing on the granting of such abatement. The City Clerk shall notify, in writing, the Board of County Commissioners, the Chairman of the Board of Trustees of Johnson County Community College, and the Board of Education for the school district affected by the proposed abatement about the public hearing and the proposed tax abatement. At the conclusion of the hearing, the Governing Body shall take action on the abatement application. Such action may include approval or denial of an abatement or continuation to a date certain for further consideration and action. Approval shall be in the form of an ordinance and shall specify the length and amount of abatement. The Governing Body shall also require the abatement be conditioned upon execution of an agreement related to the PILOT. The PILOT may include, but not be limited to, provisions requiring specified performance as a condition for granting and maintaining the abatement; and the time within which construction on the abated property must begin and be completed.
4. If approved, the applicant receiving the abatement (“business”) shall file the initial exemption application with the County Appraiser after review by the City at the time and in the form required by state statute. The business shall also be responsible for filing the annual claim for exemption as required by state statute. The annual claim must include a signed statement from the City Clerk that the property continues to meet the terms and conditions of the abatement. This statement will be provided based upon an annual review of the abatement by the City’s Administrator.
5. No tax abatement granted by the City shall be transferred as a result of a change in the majority ownership of the business. Any new owner shall file a new application for a property tax abatement. In addition, the City shall be notified by the business of any substantive change in the use of a property receiving a tax abatement at any time during the term of the abatement.
6. Approval by the City of an abatement is not a warranty or representation that the Kansas Board of Tax Appeals will approve the abatement.

- C. Annual Review: Each tax abatement granted shall be subject to an annual review for the purpose of monitoring the business and determining if the business continues to meet eligibility criteria and remains in compliance with any established terms or conditions, including those set forth in the PILOT agreement, if applicable.
1. The application for annual review shall be filed on an annual basis with the City Clerk no later than January 15 of each year for the term of the exemption. The filing fee shall be \$1,000 per year and is non-refundable.
 2. The City Administrator shall review the application and, unless ineligibility or noncompliance is evident, shall direct the City Clerk to issue a certificate of compliance. Notice of the issuance shall be provided to the Governing Body. If the City Administrator has questions or concerns regarding continuing eligibility or compliance, he shall submit a report to the Governing Body for their determination of compliance.
 3. If a certificate of compliance is issued by the City, it shall be the business' responsibility to claim the appropriate tax abatement by submitting the appropriate forms to the County Appraiser by March 1. The claim form shall include a written statement, signed by the City Clerk, that the property continues to meet all terms and conditions established as a condition of granting the abatement.
 4. The Governing Body reserves the right to revoke a previously approved tax abatement as a result of a fraudulent or inaccurate application; failure to submit the annual review application and supporting information; failure to meet qualifying criteria; failure to comply with established terms or conditions; or failure to comply with an approved PILOT agreement.

8 RESPONSIBILITY FOR ENFORCEMENT.

The City Administrator shall be responsible to the Governing Body for the enforcement of this Tax Abatement Policy. The City Administrator shall assist in the implementation of this Policy.

9 REFERENCES.

Section 13 of Article 11 of the Kansas Constitution as limited by K.S.A. 79-251 through 79-253; K.S.A. 12-147 and 12-148; K.S.A. 12-1740 through 12-1749d; K.S.A. 79-201, 79-201a, 79-210, 79-213 and 79-214; and K.S.A. 45-221.