CITY OF COFFEYVILLE
BOARD OF COMMISSIONERS AGENDA ITEM

MEETING DATE	11/24/2015	
RESOLUTION OR ORDINANCE NUMBER	R-15-146	
AGENDA TITLE	Neil Hotel CID (Holiday Inn Express)	
REQUESTING DEPARTMENT	Economic Development/Administration	
PRESENTER	Trisha Purdon, Assistant to the City Manager & Sarah Steel – Gilmore and Bell, P.C.	
FISCAL INFORMATION	Cost as recommended:	N/A
	Budget Line Item:	
	Balance Available	
	New Appropriation Required:	[ ] Yes [X] No
PURPOSE	To enable the Holiday Inn Express property to be established as a Community Improvement District in order to aid in financing the development and operating costs of the new hotel project. This allows the property to add up to a 2% sales tax to their customer's bill, which will then be returned to the business to cover the development and operating costs for the hotel.	

BACKGROUND	In 2009, Governor Kathleen Sebelius approved and enacted H.B. 2324, known as the Community Improvement District Act (CID Act). The CID Act permits the establishment of Community Improvement Districts which create new revenue sources to finance real estate development. This Act enables the City Commission to form a CID to finance the cost of a broad range of development including operating expenses that are incurred post-construction. The CID is unique in that it does not affect the amount of sales or ad valorem property tax that the City collects. Although this program can be set up as an up-front incentive using special assessments, CID Bond proceeds, or a full faith and credit GO bond, the City and the company has agreed that a pay-as-you-go CID sales tax is the most fair and easy method to use to disburse the CID benefits to the company. The "pay-as-you-go" financing option means that the developer advances the costs of the project up-front, and the CID fund reimburses the developer over the life of the CID. This reduces administration costs and generally results in more gross revenue over time than CID bond financing. If the CID revenues pay all eligible project costs, the City can then spend any remaining funds as though they were local sales tax receipts. The CID district can charge up to a 2% additional sales tax that is passed on to customers shopping in that district (in this case, only Holiday Inn). This sales tax will go into effect for 22 years, but may be shortened if the project costs are paid in full.
SPECIAL NOTES	This petition was initiated by Mr. Larry Patel, CEO of Neil Hotel Group.

ANALYSIS	This is a program that is regularly used for hotel projects since 2009 when the CID Act was established by the State of Kansas. This is especially key in rural communities, where the developer assumes more risk for the development than in more urban communities. This request was presented to the City from Gilmore and Bell and the owner of Neil Hotels as something that would help provide an extra level of security for their IRB bond that the Commission approved in October, 2015. There are minimal administration costs associated with a CID District. The total project costs of the Holiday Inn project are $6,200,000. If the CID generates more than this amount in the 22 year period, the funds could then be used as sales tax revenue that the City could use however it saw fit. As there is potential for a business, such as a restaurant, to locate on the corner of this parcel, Staff inquired to see if this future business could opt-out of the CID if requested. Gilmore and Bell stated that a business could request removal from the CID district at the time the parcel is subdivided from the current parcel included in the CID district.
PUBLIC INFORMATION PROCESS	
BOARD OR COMMISSION RECOMMENDATION	
STAFF RECOMMENDATION	It is staff's recommendation that the City Commission approve the petition to establish the single property as a Community Improvement District to aid in financing the costs of development and operation of the new Holiday Inn Express in Coffeyville.
REFERENCE DOCUMENTS ATTACHED	Community Improvement District Presentation Kansas CID Memo – Gilmore and Bell CID Petition CID Ordinance CID Intent Resolution CID Development Agreement

(Published in the ***Coffeyville Journal***, on November 28, 2015
and subsequently on December 5, 2015)

RESOLUTION NO.R-15-146

A RESOLUTION CALLING AND PROVIDING FOR THE GIVING OF NOTICE OF A PUBLIC HEARING ON THE ADVISABILITY OF CREATING A COMMUNITY IMPROVEMENT DISTRICT IN CITY OF COFFEYVILLE, KANSAS AND UNDERTAKING AND FINANCING OF A CERTAIN COMMUNITY IMPROVEMENT DISTRICT PROJECT THEREIN; AND PROVIDING FOR THE GIVING OF NOTICE OF SAID HEARING.

WHEREAS, K.S.A. 12-6a26 *et seq.* (the "Act") authorizes the governing body of any city or county to create community improvement districts ("Community Improvement Districts") within such jurisdiction, to undertake construct any "project," which means (1) Any project within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend: (A) Buildings, structures and facilities; (B) 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; (C) parking garages; (D) streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers; (E) parks, lawns, trees and other landscape; (F) communication and information booths, bus stops and other shelters, stations, terminals, hangers, rest rooms and kiosks; (G) paintings, murals, display cases, sculptures, fountains and other cultural amenities; (H) airports, railroads, light rail and other mass transit facilities; and (I) lakes, dams, docks, wharfs, lakes or river ports, channels and levees, waterways and drainage conduits; (2) within the district, to operate or to contract for the provision of music, news, child-care, or parking lots or garages, and buses, minibuses or other modes of transportation; (3) within the district, to provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons; (4) within the district, to provide or contract for cleaning, maintenance and other services to public or private property; (5) within the district, to produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, advertising, decoration of any public place in the district, promotion of such activity and special events and furnishing music in any public place; (6) within the district, to support business activity and economic development, including, but not limited to, the promotion of business activity, development and retention and the recruitment of developers and business; (7) within the district, to provide or support training programs for employees of businesses; and (8) to contract for or conduct economic impact, planning, marketing or other studies (collectively, "Community Improvement Project"); and

WHEREAS, the Act further authorizes said governing body, in order to pay the costs of such Community Improvement Project, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within Community Improvement Districts in any increment of .10% or .25%, not to exceed 2.0% and/or the levy of special assessments upon property within such Community Improvement Districts, and to issue bonds or utilize "pay-as-you-go financing" payable from such sales taxes and/or special assessments; and

WHEREAS, a petition (the "Petition") was filed with the City Clerk of City of Coffeyville, Kansas (the "City"), on _____, 2015, proposing the creation of a Community Improvement District, the undertaking of a Community Improvement Project therein and the imposition of a community improvement district sales tax in order to pay the costs of such Community Improvement Project; and

WHEREAS, said Petition was signed by the owners of record, whether resident or not, of all of the land area (and all of the assessed value) within the proposed Community Improvement District; and

WHEREAS, the Act provides that prior to creating the proposed Community Improvement District, the governing body shall adopt a resolution to give notice of a public hearing on the advisability of creating such Community Improvement District, its intention to levy such community improvement district sales tax and the financing of such Community Improvement Project therein, and publish notice of the hearing by publication at least once a week for two consecutive weeks in the official City newspaper and by certified mail to all property owners within the proposed Community Improvement District, the second of such publications to be at least seven days prior to the hearing and such certified mailing to be at least ten days prior to such hearing; and

WHEREAS, such published and mailed notices shall contain the following information: (a) the time and place of the hearing; (b) the general nature of the proposed Community Improvement Project; (c) the estimated cost of the proposed Community Improvement Project; (d) the proposed method of financing the costs of the Community Improvement Project; (e) the proposed amount of any community improvement district sales tax, if any; (f) the proposed amount of any special assessments and the method of assessment, if any; and (g) the map and legal description of the proposed Community improvement District; and

WHEREAS, the governing body hereby finds and determines it to be necessary to direct and order a public hearing on the advisability of creating a Community Improvement District and the undertaking and financing of Community Improvement Project therein as set forth in the Petition pursuant to the authority of the Act; and further to provide for the giving of notice of said hearing in the manner required by the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF COFFEYVILLE, KANSAS:

SECTION 1. **Petition**. The governing body hereby finds that the Petition meets the requirements of the Act.

SECTION 2. **Public Hearing**. It is hereby authorized, ordered and directed that the governing body shall hold a public hearing, in accordance the provisions of the Act, on the advisability of creating a Community improvement District, its intention impose a community improvement district sales tax in the amount of 2%, for a period of 22 years, and the undertaking and financing of Community Improvement Project therein, as set forth in the Petition, such public hearing to be held on December 8, 2015, at 6:30 p.m., or as soon therafter as the matter can be heard, at the Senior Citizens Center, 601 S. Walnut, Coffeyville, Kansas, under the authority of the Act.

SECTION 3. **Notice of Hearing**. The City Clerk is hereby authorized, ordered and directed to give notice of said public hearing by publication of this Resolution, including the Notice of Public Hearing attached hereto as ***Exhibit A*** once a week for two consecutive weeks in the official City newspaper, the second of such publications to be at least seven days prior to the date of the hearing. The City Clerk is hereby further ordered and directed to mail a copy of such Notice of Public Hearing, via certified mail, to all property owners within such proposed Community Improvement District at least ten days prior to the date of the hearing.

SECTION 4. **Effective Date** This Resolution shall be effective upon adoption by the governing body.

ADOPTED by the governing body of City of Coffeyville, Kansas, on November 24, 2015.

(Seal)

_____
Christopher V. Williams, Mayor

ATTEST:

_____
Cindy Price, City Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of Resolution No. R-15-146 of City of Coffeyville, Kansas adopted by the governing body on November 10, 2015, as the same appears of record in my office.

DATED: November 24, 2015.

_____
Cindy Price, City Clerk

EXHIBIT A

NOTICE OF PUBLIC HEARING

The governing body of City of Coffeyville, Kansas (the "City"), will meet for the purpose of holding a public hearing, as provided by K.S.A. 12-6a26 *et seq.* (the "Act") for the purpose of considering the advisability of creating a proposed community improvement district, the levy of a community improvement district sales tax therein and undertaking and financing certain hereinafter described community improvement project improvements.

Time and Place of Hearing

December 22, 2015, at 6:30 p.m., or as soon therafter as the matter can be heard, at the Senior Citizens Center, 601 S. Walnut, Coffeyville, Kansas

Boundaries of Proposed Community Improvement District

The general boundaries and location of the proposed community improvement district (the "District") is 701 Northeast Street. A map generally outlining the boundaries of the proposed District is attached as ***Schedule II*** hereto, and incorporated by reference herein.

The legal description of the District is attached as ***Schedule III*** hereto, and incorporated by reference herein.

Proposed Community improvement District Project

The general nature of the proposed community improvement district Project (the "Project") to be constructed and undertaken within the proposed District are set forth on ***Schedule I*** attached hereto and incorporated by reference herein.

Estimated Costs

The *estimated* costs of the proposed Project are approximately $6,200,000.

Proposed Method of Financing and Amount of Community Improvement District Sales Tax

The cost of the proposed Project is proposed to be financed by ”Pay-as-you-go financing,” as defined in the Act, and paid from the fund of the City identified in K.S.A. 12-6a34. It is estimated that the City will pay $1,000,000 to the developer and owner of the Project, or its successor(s) from the proceeds of the Sales Tax, which amount shall not be limited in amount by the Resolution authorizing the Project.

Proposed Sales Tax

A community improvement district sales tax (the “Sales Tax”) in the amount of 2% is proposed in the District for the purpose of financing the costs of the Project. It is proposed that the Sales Tax will expire 22 years from the date its collection begins, which is proposed to be January 1, 2017.

Special Assessments

There will be **no** special assessments on property within the boundaries of the District.

The public hearing may be adjourned from time to time. At the conclusion of the public hearing, the governing body may, by passage of an ordinance, create the District and establish the boundaries thereof, authorize the Project, approve the estimated cost of such Project, levy the community improvement district sales tax and approve the method of financing the same; ***provided***, however, that the ordinance shall become effective upon publication in the official City newspaper.

ALL PERSONS DESIRING TO BE HEARD WITH REFERENCE TO THE PROPOSED IMPROVEMENT SHALL BE HEARD AT THE PUBLIC HEARING.

DATED: November 24, 2015.

/s/Cindy Price, City Clerk

SCHEDULE I

PROPOSED COMMUNITY IMPROVEMENT DISTRICT PROJECT

(A) Within the District, construction of the following:

Construction of a hotel facility, including 78 rooms, and acquiring and installing furniture, fixtures and equipment in the buildings and structures (the "Hotel Facility").

(B) Within the District, there may be construction of any of the following to serve the Hotel Facility:

(1) sidewalks, streets, roads, interchanges, highway access roads, intersections, parking lots, traffic signs and signals, utilities, pedestrian amenities, 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;

(2) streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;

(3) parks, lawns, trees and other landscape;

(4) paintings, murals, display cases, sculptures, fountains and other cultural amenities;

(C) Within the District, and in connection with the operation of the Hotel Facility, to operate or to contract for the provision of music, news, child-care, or parking lots or garages, and buses, minibuses or other modes of transportation;

(D) Within the District, and in connection with the operation of the Hotel Facility, to provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons;

(E) Within the District, and in connection with the operation of the Hotel Facility, to provide or contract for cleaning, maintenance and other services to public or private property;

(F) Within the District, and in connection with the operation of the Hotel Facility, to produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, advertising, decoration of any public place in the district, promotion of such activity and special events and furnishing music in any public place;

(G) Within the District, and in connection with the operation of the Hotel Facility, to support business activity and economic development, including, but not limited to, the promotion of business activity, development and retention and the recruitment of developers and business;

(H) Within the District, and in connection with the operation of the Hotel Facility, to provide or support training programs for employees of businesses; and

(I) Within the District, and in connection with the operation of the Hotel Facility, to contract for or conduct economic impact, planning, marketing or other studies.

SCHEDULE II

MAP OF PROPOSED COMMUNITY IMPROVEMENT DISTRICT

SCHEDULE II

LEGAL DESCRIPTION OF PROPOSED COMMUNITY IMPROVEMENT DISTRICT

A tract of land located in a portion of Government Lot 10, of Fractional Section 31, Township 34 South, Range 17 East of the 6th Principal Meridian, Montgomery County, Kansas, said tract of land being more particularly described as follows:

Commencing at the Southwest corner of said Lot 10; thence South 88 degrees 32 minutes 02 seconds East, along the South line of said Lot 10, a distance of 632.72 feet to the East Right of Way line of Highway 166-169; thence North 28 degrees 16 minutes 47 seconds East along said East Right of Way line a distance of 44.82 feet to the POINT OF BEGINNING, said point being located on the North Right of Way line of East Eighth Street; thence continuing North 28 degrees 16 minutes 47 seconds East along said East Right of Way line a distance of 393.51 feet to the Southwest corner of a tract of land conveyed by General Warranty Deed to the City of Coffeyville as recorded in Book 541, Page 566 in the Montgomery County Register of Deeds Office; thence South 61 degrees 47 Minutes 34 seconds East along the South lien of said City of Coffeyville tract extended a distance of 387.05 feet; thence South 01 degrees 27 minutes 58 seconds West a distance of 177.04 feet to the North Right of Way line of East Eighth Street; thence North 88 degrees 32 minutes 02 seconds West along said North Right of Way line a distance of 523.16 feet to the POINT OF BEGINNING, said tract of land to convey a 20-foot wide utility easement along the North and East lines of the above description. Subject to any part thereof that may be located in highway or street Right of Way.

GILMORE & BELL, P.C.
November 19, 2015

PETITION

REQUESTING THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT

TO: The Governing Body of the City of Coffeyville, Kansas

The undersigned, being the owners of record, whether resident or not, of 100% of the land area (and 100% of the assessed value) contained within the hereinafter described proposed community improvement district to be located within the City of Coffeyville, Kansas (the "City"), do hereby request that the Governing Body of the City create such community improvement district (the "District") and authorize the community improvement district project hereinafter set forth, all in the manner provided by K.S.A. 12-6a26 *et seq.*, as amended (the "Act"). In furtherance of such request, the petitioners state as follows:

General Nature of Proposed Community Improvement District Project

The general nature of the proposed community improvement district project (the "Project") to be constructed and undertaken within the proposed District is set forth on **Exhibit A** attached hereto and incorporated by reference herein.

Estimated Costs

The estimated costs of the proposed Project are $6,200,000.

Method of Financing

The cost of the proposed Project is proposed to be financed by "Pay-as-you-go financing," as defined in the Act, and paid from the fund of the City identified in K.S.A. 12-6a34. It is estimated that the City will pay $1,000,000 to the developer and owner of the Project, or its successor(s) from the proceeds of the Sales Tax, which amount shall not be limited in amount by the Resolution authorizing the Project.

Special Assessments

There are proposed to be **no** special assessments on property within the boundaries of the District.

Sales Tax

A community improvement district sales tax (the "Sales Tax") in the amount of 2% is proposed in the District for the purpose of financing the costs of the Project. It is proposed that the Sales Tax will expire 22 years from the date its collection begins, which is proposed to be January 1, 2017.

Map and Legal Description of Proposed Community Improvement District

A map generally outlining the boundaries of the proposed District is attached as **Exhibit B** hereto, and incorporated by reference herein. The legal description of the property to be contained in the proposed District is attached as **Exhibit C** hereto, and incorporated by reference herein.

Names may not be withdrawn from this Petition by the signers hereof after the governing body commences consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

_____

Name	***Date***	***Property Owned Within Proposed Community Improvement District***
Niel Hotel, LLC _____ Larry Patel, Manager	_____	All property described in ***Exhibit C*** hereto

****

THIS PETITION was filed in my office on _____, 2015; and was examined, considered and found sufficient by the Governing Body of the City of Coffeyville, Kansas on _____, 2015.

_____
City Clerk

EXHIBIT A

GENERAL DESCRIPTION OF PROJECT

(A) Within the District, construction of the following:

Construction of a hotel facility, including 78 rooms, and acquiring and installing furniture, fixtures and equipment in the buildings and structures (the "Hotel Facility").

(B) Within the District, there may be construction of any of the following to serve the Hotel Facility:

(1) sidewalks, streets, roads, interchanges, highway access roads, intersections, parking lots, traffic signs and signals, utilities, pedestrian amenities, 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;

(2) streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;

(3) parks, lawns, trees and other landscape;

(4) paintings, murals, display cases, sculptures, fountains and other cultural amenities;

(C) Within the District, and in connection with the operation of the Hotel Facility, to operate or to contract for the provision of music, news, child-care, or parking lots or garages, and buses, minibuses or other modes of transportation;

(D) Within the District, and in connection with the operation of the Hotel Facility, to provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons;

(E) Within the District, and in connection with the operation of the Hotel Facility, to provide or contract for cleaning, maintenance and other services to public or private property;

(F) Within the District, and in connection with the operation of the Hotel Facility, to produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, advertising, decoration of any public place in the district, promotion of such activity and special events and furnishing music in any public place;

(G) Within the District, and in connection with the operation of the Hotel Facility, to support business activity and economic development, including, but not limited to, the promotion of business activity, development and retention and the recruitment of developers and business;

(H) Within the District, and in connection with the operation of the Hotel Facility, to provide or support training programs for employees of businesses; and

(I) Within the District, and in connection with the operation of the Hotel Facility, to contract for or conduct economic impact, planning, marketing or other studies.

EXHIBIT B

MAP OF PROPOSED COMMUNITY IMPROVEMENT DISTRICT

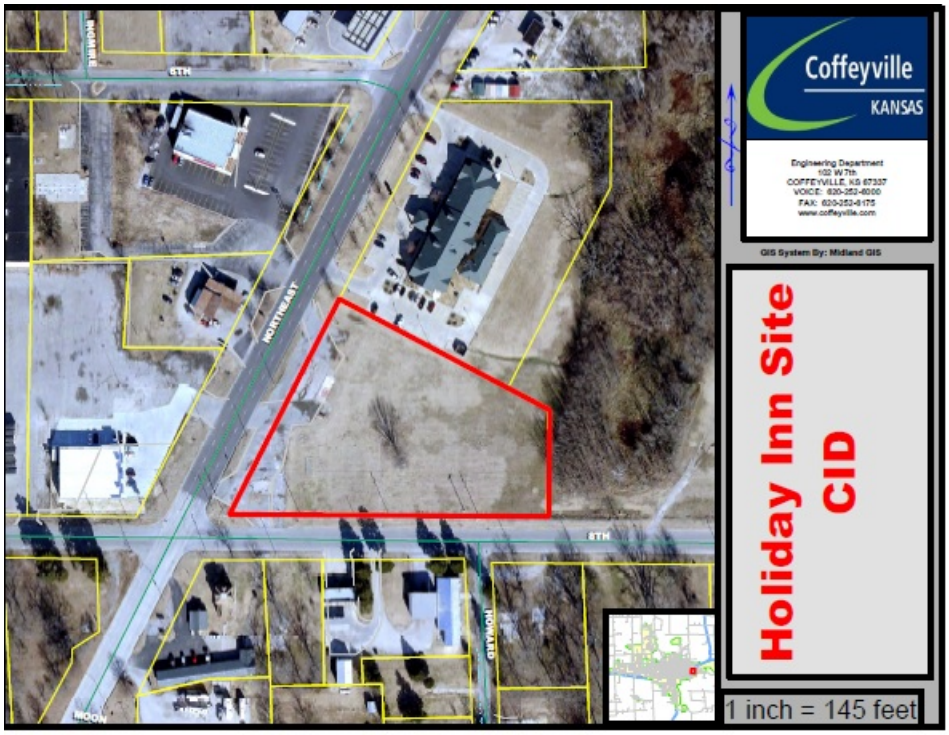

EXHIBIT C

LEGAL DESCRIPTION OF PROPOSED COMMUNITY IMPROVEMENT DISTRICT

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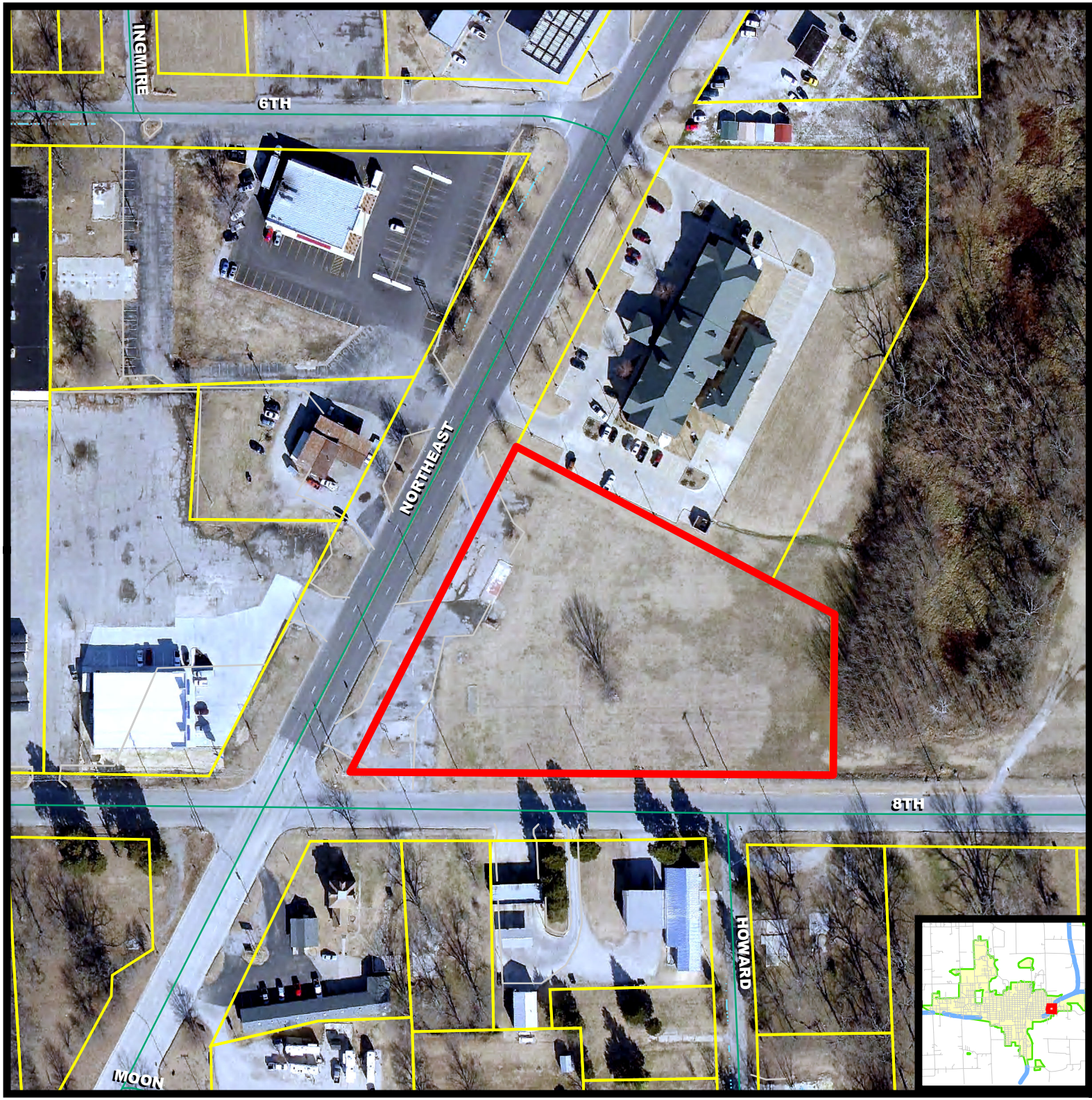

Coffeyville
KANSAS

Engineering Department
102 W 7th
COFFEYVILLE, KS 67337
VOICE: 620-252-6000
FAX: 620-252-6175
www.coffeyville.com

GIS System By: Midland GIS

Holiday Inn Site CID

1 inch = 145 feet

316-267-2091
FAX: 316-262-6523
WWW.GILMOREBELL.COM

GILMORE BELL
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
100 NORTH MAIN, SUITE 800
WICHITA, KANSAS 67202

KANSAS CITY, MISSOURI
ST. LOUIS, MISSOURI
OMAHA, NEBRASKA
LINCOLN, NEBRASKA

KANSAS COMMUNITY IMPROVEMENTS DISTRICTS

A. General

The Community Improvement District Act (the "CID Act")[1] approved by the Kansas legislature in 2009 (subsequently amended in 2010 and 2014) allows cities and counties (a "municipality") to create community improvements districts (a "CID") for the purpose of financing certain projects within their communities. These projects include buildings and structures, transportation improvements, infrastructure, parks, parking garages, transit facilities, lakes and dams and also various service functions such as security, maintenance, advertising, marketing and training ("CID Project").[2]

CID Projects must be located within the boundaries of the CID, other than infrastructure improvements which may be located outside the boundaries but contiguous to any portion of the CID if such infrastructure is related to a project within the CID or substantially for the benefit of the CID. Similar to a TDD District, the CID boundaries do not have to include all the property that is benefited from the CID Project. However, if special assessments are to be imposed within a CID and the CID does not include all benefited property, there may be state and federal tax law issues that should be closely analyzed.

B. Formation

CIDs may be formed in any municipality upon the municipality's receipt of a petition. If the CID Project is to be financed only by special assessments and ***without*** full faith and credit bonds, then the petition shall be signed by all of the owners within the proposed district and must contain:[3]

1. a description of the general nature of the CID Project;
2. a description of the estimated cost of the CID Project;
3. a description of the proposed method of financing the CID Project (special obligation bonds and/or pay-as-you-go financing);
4. a description of the proposed amount and method of levying special assessments;
5. a map or boundary description of the proposed CID; and
6. a legal description of the CID.

This special assessment only CID may be created by a municipality without notice or hearing upon adoption of a resolution or ordinance.

If the CID is to be funded with a CID sales tax, if full faith and credit bonds are to used or as an alternative to all of the owners signing the petition as described above, then the petition shall be signed by

[1] K.S.A. 12-6a26 *et seq*.
[2] K.S.A. 12-6a27
[3] K.S.A. 12-6a28.

the owners of (1) more than 55% of the land area and (2) more than 55% of the assessed value within the proposed CID.[4] The petition shall contain the following:

1. a description of the general nature of the CID Project;
2. a description of the estimated cost of the CID Project;
3. a description of the proposed method of financing the CID Project, including whether full faith and credit bonds will be issued;
4. a description of the proposed amount and method of levying special assessments, if any;
5. the proposed amount of the CID sales tax, if any;
6. a map or boundary description of the proposed CID; and
7. a legal description of the CID

After receipt of this type of petition, the governing body of the municipality must adopt a resolution calling a public hearing on the advisability of creating the CID. Notice of the public hearing must be published twice in the newspaper and sent via certified mail to all property owners within the proposed CID.[5]

After the public hearing, the governing body of the municipality may create the CID, authorize the CID Project, approve the estimated cost of the CID Project, levy the CID sales tax, approve the amount and method of any special assessments and approve the method of financing. The CID is established after the resolution or ordinance establishing the CID is published once in the newspaper.[6] If the municipality creates the CID, then the petition must be recorded in the register of deeds of the county in which the CID is located.[7]

The CID Act contains a 30 day statute of limitations for bringing suit to set aside the assessments or otherwise question the validity of the proceedings for the creation of the CID or the authorization of the project, following publication of the ordinance or resolution creating the district. There is a separate 30 day statute of limitations for bringing suit to set aside the CID sales tax, following publication of the ordinance or resolution declaring the municipality's intent to impose the CID sales tax.[8] If full faith and credit bonds are to be issued to finance all or a portion of the CID Project, then there is a 60 day protest period from the date of the public hearing on creation of the CID.[9]

C. Funding Methods

CID Projects may be financed by: (a) special assessments levied on property within the CID, (b) a special sales tax on the sale of tangible personal property at retail or the rendering or furnishing services within the CID (a "CID sales tax"), (c) any other funds appropriated by the municipality or (d) a combination thereof.

The CID sales tax may be imposed in any increment of .10% or .25%, with a maximum total sales tax rate of 2% for a maximum period of 22 years. The CID sales tax shall be collected by the Kansas Department of Revenue in the same manner as other sales taxes and then remitted by the State to the municipality. A CID sales tax may only commence on January 1, April 1, July 1 or October 1, and 90

[4] K.S.A. 12-6a29.
[5] K.S.A. 12-6a29(c).
[6] K.S.A. 12-6a29(d).
[7] K.S.A. 12-6a28(e).
[8] K.S.A. 12-6a32.
[9] K.S.A. 12-6a36(d).

days notice must be given to the Department of Revenue before a CID sales tax may commence. The State may retain 2% of the CID sales tax as an administrative fee.[10]

If special assessments are to be imposed within the CID, the municipality shall follow the procedures outlined in K.S.A. 12-6a01 *et seq.* for levying the CID special assessments. Unlike special assessments authorized pursuant to K.S.A. 12-6a01 *et seq.*, 100% of CID special assessments must be paid by property owners within the CID and no portion of the special assessments may be paid by the municipality at large, and no full and credit notes or bonds may be issued to finance CID special assessments. However, CID special assessments may be reduced or eliminated in any year that other revenues are available to pay for the CID Project or bonds.[11]

The municipality shall create a separate fund for each CID and all CID sales tax revenues, special assessment revenues and bond proceeds related to financing the CID Project shall be deposited into such fund.[12]

D. Community Improvement District Bonds or Loans

A city may use special obligation bonds,[13] full faith and credit tax bonds [14] or a loan from the Kansas transportation revolving fund[15] to finance CID Projects.

Special Obligation Bonds. Special obligation bonds are not general obligations of the municipality, nor in any event shall they give rise to a charge against a city's general credit or taxing powers or be payable out of any funds or properties other than the sources described above that the municipality chooses to allocate to repayment of the bonds. Special obligation bonds are exempt from all state taxes, except inheritance taxes, and do not count toward the municipality's bonded debt limitations.

Full Faith and Credit Bonds. Full faith and credit tax increment bonds are payable, both as to principal and interest: (1) from the CID revenue sources described above; and (2) from a pledge of the municipality's full faith and credit to use its *ad valorem* taxing authority for repayment of the bonds in the event all other authorized sources of revenue are not sufficient.

Full faith and credit tax increment bonds are general obligations of the municipality and are exempt from all state taxes, except inheritance taxes. The amount of full faith and credit community improvement district bonds issued and outstanding that exceeds three percent (3%) of the assessed valuation of the municipality must be included in the bonded debt limit of the municipality.[16]

Transportation Revolving Fund Loans. Loans from the Kansas Transportation Revolving Fund are administered by KDOT and in part from funds derived from bonds issued by the Kansas Development Finance Authority. Such loans may be secured in the same manner as bonds but shall not be subject to the bonded debt limit of the municipality or be subject to any notice and protest requirements for full faith and credit bonds.

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[10] K.S.A. 12-6a31.
[11] K.S.A. 12-6a30.
[12] K.S.A. 12-6a34.
[13] K.S.A. 12-6a35.
[14] K.S.A. 12-6a36.
[15] K.S.A. 12-6a35.
[16] K.S.A. 12-6a36(c).

E. Miscellaneous

The Department of Revenue is authorized by the CID Act to release to the trustee, escrow agent or paying agent on the special obligation bonds, the amount of the sales tax paid by each retailer within a CID. Such sales tax information must be kept confidential.

This overview provides basic information regarding Kansas Community Improvement Districts. For more information, please contact Joe L. Norton, Kevin M. Cowan, Sarah O. Steele, Kim A. Bell or Garth J. Herrmann at (316) 267-2091, or visit the Gilmore & Bell website at www.gilmorebell.com.

GILMORE & BELL, P.C.

Community Improvement District

Available to any City or County

Can finance just about anything – public or private

Easy to form and broad use of funds

CID Formation & Financing

Created by a petition of (1) owners of 55% of land area and (2) owners of 55% of assessed value of land, within the proposed CID

Can impose special assessments

Can impose up to a 2% CID sales tax

May do “pay-as-you-go” CID – bond financing not necessary

Public Hearing on CID

Publish Notice of Public Hearing twice in official newspaper

Certified mail to all property owners in CID

After Public Hearing, City may pass Ordinance creating CID

30 day statute of limitations to protest after publication of Ordinance creating CID

Collection of CID Sales Tax

Collection of CID Sales Tax may occur for 22 years from the date the State Director of Taxation begins collecting the sales tax.

CID Sales Tax is collected in same manner as other sales taxes.

Effect on Other Taxing Districts

No impact to current taxing jurisdictions – no diversion of current taxes

Only new revenues used

Can be used in conjunction with TIF or STAR Bond District