

RESOLUTION NO. 2766

A RESOLUTION RESCINDING RESOLUTION NO. 2597 AND ESTABLISHING A POLICY ON THE CRITERIA FOR CONSIDERING AND ISSUING ECONOMIC DEVELOPMENT REVENUE BONDS.

WHEREAS, the Governing Body is responsible for encouraging and promoting the economic health of the City; and

WHEREAS, the Governing Body is authorized by Kansas law to issue economic development revenue bonds (EDRBs) to further that objective; and

WHEREAS, the consideration and issuance of EDRBs is a complex legal and administrative matter requiring clear direction from the Governing Body.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS, THAT:

SECTION 1. ECONOMIC DEVELOPMENT REVENUE BOND POLICY: It shall be the policy of the City to consider a request from a beneficiary of EDRBs (applicant business) to issue EDRBs for purposes allowed by law and to issue such bonds when, in the opinion of the Governing Body, it is in the best interest of the City to do so, and providing that the proposed use and applicant business therefor meet the criteria set forth in this policy.

SECTION 2. ECONOMIC DEVELOPMENT REVENUE AND BOND OBJECTIVES: In reviewing requests to issue EDRBs, the Governing Body shall be guided by whether such an issue would help the City achieve the following objectives;

- a. Promote Overland Park as a center for corporate headquarters and regional office for major local, regional and national firms.
- b. Attract firms and businesses which will substantially enhance the economic climate of the City and increase or maintain the job market therein.
- c. Promote the successful completion of existing industrial parks in Overland Park and encourage the development of new industrial enterprises in the City.
- d. Promote the rejuvenation and/or redevelopment of older parts of the City.
- e. Promote the provision of quality, affordable housing facilities for the elderly.

SECTION 3. REVIEW CRITERIA: The following criteria will be used by the Governing Body to judge the desirability and feasibility of proposals:

- a. The proposal must be that EDRBs be issued 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 projects.
- b. The proposal must not have a serious detrimental effect on an existing business or industry in the City. EDRBs will be discouraged when the effect would be to grant the applicant business an unfair advantage within the local market structure.
- c. The proposed use must be clean, in keeping with the character of Overland Park, nonpolluting and consistent with all planning and community development policies, ordinances and codes.
- d. The proposed use must have a positive impact on the community and not overload or threaten public facilities, streets or other public improvements.
- e. The applicant business must have a sound financial base indicated by a Dun and Bradstreet rating or other index of financial strength and show that the bonds will be marketable either by producing evidence that they will be underwritten by a registered securities dealer or will be sold in a private sale.

SECTION 4. APPROVAL CONDITIONS: Prior to approval for issuance of the EDRBs, the Governing Body must be satisfied that the objectives and criteria for review established in this policy have been met. Further, all proposals approved shall be subject to the following conditions:

- a. The City will review applications and decide whether to grant tax exemption incentives in accordance with state law and as set forth in Resolution No. 2765, which establishes policy and procedures for tax exemption incentives for issuance of EDRBs.
- b. The applicant business shall agree to pay all utility connections, user and service charges.
- c. The applicant business shall pay to the City at the prescribed time a service fee of \$1,500 per million dollars of issue or \$1,500, whichever is greater, the

first year of the issue and \$1,500 per year for the remaining years of the repayment period to cover administration and other City costs. Such service fee shall be in addition to any payment by the applicant business to reimburse the City for costs associated with the review of the proposal as outlined in Section 4(i) of this Resolution and the application fee and cost benefit analysis report for tax exemption incentives required under Resolution No. 2765.

- d. EDRBs may be used to finance the purchase of real property and tangible personal property associated with the project.
- e. The City will not accept proposals:
 - 1. For the establishment of a new business or industry if the request is for a bond issuance of less than \$5,000,000 principal amount.
 - 2. For the expansion, relocation, or retention of existing business or industry if the request is for a bond issuance of less than \$2,500,000 principal amount.
- f. The City will carefully examine the bond repayment schedule and will require that the applicant business have at least 20 percent unreserved equity in the project. Equity participation does not include professional or consulting fees.
- g. EDRBs will not be used to refinance existing debt. This does not include the payment of an existing mortgage on real estate in order to purchase it for the proposed project.
- h. Except in zoning districts PB-1 and PB-2 and Special Use Permits for housing for the elderly, the following shall apply: (1) the applicant business must occupy 60 percent of the facility's usable floor area; (2) for applications involving two or more applicant businesses, one of the businesses must occupy 60 percent of the facility's usable floor area.
- i. The applicant business must agree to and reimburse the City the costs for any legal, financial or administrative research or work done in reviewing the proposal, writing the leases and other necessary legal documents and researching the qualifications and financial soundness of the proposal and applicant business, as well as any costs associated with presentation of the notice of bond sale with the State Board of Tax Appeals as required by law. The City bond

counsel will prepare related bond documents. The City post auditor will perform a financial evaluation of the applicant business.

- j. The applicant business agrees to immediate annexation of the property involved if it is not within the City's corporate limits. In addition, the applicant business shall comply with all laws of the City and all requirements established by the City as stated in zoning and building regulations.
- k. The City will request a Sales Tax Exemption Certificate for the project under conditions established by the State of Kansas.
- l. The Resolution of Intent shall be effective for a period of one year from date of issue. An extension may be granted by the Governing Body. The applicant business is responsible for all related costs if the bonds are not issued.
- m. An economic development revenue bond application must be submitted at least three weeks in advance of the Finance, Administration and Economic Development Committee's consideration of any such proposal.

SECTION 5. Prior to issuance of EDRBs, the Governing Body shall conduct a public hearing on the granting of any proposed tax exemption as required by Section 11, Resolution No. 2765.

SECTION 6. AUTHORITY OF GOVERNING BODY: The Governing Body, by its inherent authority, reserves the right to reject any proposal for issuance of EDRBs when it considers such action to be in the best interests of the City.

SECTION 7. POLICY MANUAL: This resolution shall be included in the Governing Body Policy Manual of the City.

SECTION 8. Resolution No. 2597 is hereby rescinded.

ADOPTED this 1st day of May, 1995.

CITY OF

ATTEST:

Norma Moffet, City Clerk

APPROVED AS TO FORM.

Ed Eilert, Mayor

John S. Anderson
Senior Assistant City Attorney