



Unified Government of Wyandotte County
and Kansas City, Kansas

Industrial Revenue Bond Policy

Commission Resolution:
2021-736

Adopted: 04/08/2021

I. **Authority:**

The Mayor and the Board of Commissioners are responsible for legislation, policy formulation, and overall direction setting of the government. This includes the approval of financial policies which establish and direct the operations of Unified Government (UG). The County Administrator is responsible for carrying out the policy directives of the UG Board of Commissioners and managing the day-to-day operations of the executive departments, including the Finance Department. This policy shall be administered on behalf of the County Administrator by the Chief Financial Officer and the Budget Director.

II. **Purpose:**

This Industrial Revenue Bond (IRB) policy is designed to create a positive business environment to stimulate economic growth and development in order to encourage capital investment, employment opportunities, and quality services for the benefit of the community. The objectives are described below:

- Attract and retain quality businesses for the community
- Add and retain employment opportunities for Residents
- Attract major projects to impact local tax base
- Diversify the local economy
- Remove blight
- Create opportunities in distressed areas of the community
- Ensure equal opportunities for minority, women, and locally owned businesses
- Reward quality environmental design

III. **Eligibility**

- A. **Existence of Economic Benefit.** The Project must add to the local economy. Evaluation criteria to be used in determining benefit to the community shall include but shall not be limited to the following: the amount of capital investment; whether the project produces value-added products and services; number of jobs created and associated payroll; and whether the project provides a positive fiscal and/or economic impact.
- B. **Type of Business.** The Project shall be of a nature that is desirable and stimulates the local economy and improves the quality of life for its citizens. Additional considerations may include whether the Project has the effect of supporting or spurring other development and whether a Project would help achieve successful completion of an existing commercial or industrial park or the development of a new commercial or industrial enterprise.

- C. **Compatibility with Adopted Plans.** All Projects shall be consistent with the Unified Government Comprehensive Plan, any applicable corridor plans, and other plans of the Unified Government which may be relevant to the Project. When evaluating proposed Projects, the Unified Government will consider a variety of factors to determine compliance, including compatibility of the location of the business with land use and development plans of the Unified Government and the availability of existing infrastructure facilities and essential public services.
- D. **Excluded Businesses.** In addition to the uses of property prohibited by K.S.A. 79-201 (a) *Second*, the following uses shall not be eligible for an Industrial Revenue Bond: car wash, retail, fast food, day care, private school, veterinary clinic, storage facility, and branch bank offices. The Unified Government may, at its sole discretion, waive any of these prohibitions if the applicant demonstrates compelling and unique circumstances regarding its Project.
- E. **Maintain Existing Tax Base.** To facilitate new development, the Unified Government shall assist new industries that invest in new buildings and building expansion. However, the amount of property taxes or special assessments on the existing land and facilities shall under no circumstances be reduced for new development Projects.
- F. **Transfer of Ownership.** The owner or lessee of any property that is all or partially exempt from ad valorem taxes as the result of the Unified Government having granted the exemption shall obtain the Unified Government written consent before transferring majority ownership of the property unless the transfer is to an affiliate or a related entity.

IV. Scope:

This Policy shall apply to the City of Kansas City, Kansas ("City").

V. Definitions and Acronyms:

For purposes of this Industrial Revenue Bond policy, when used in this policy, the following words shall have the following meanings. Additional definitions may be added in exhibits to this Policy.

ABATEMENT: The difference between the amount of ad valorem property taxes an entity would pay if there were no abatement granted and the amount required to be paid as payments in lieu of taxes. For example, if the taxes required with no abatement were \$5,000, and the required in lieu payments were \$3,000, the "abatement" would be \$2,000.

APPLICANT: Any person, firm, or entity making application to receive private activity conduit financing and/or requesting tax abatement.

BOND COUNSEL: That firm or individual designated by the Unified Government to handle legal and financial matters and issues associated with the issuance of temporary notes and bonds by the Unified Government.

CAPITAL INVESTMENT: Capital investment shall include expenditures for land, buildings, or personal property subject to ad valorem taxation.

ECONOMIC DEVELOPMENT EXEMPTION or EDX: 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 commodities which are sold or traded in interstate commerce.

EXISTING BUSINESS: A business shall be an “Existing Business” if it has had facilities and operations in Wyandotte County for a period of not less than one year. All other businesses shall be “New Businesses.”

INCENTIVE: Economic development tool(s) designed to entice preferred types of development to meet community goals. Incentives are generally, but not exclusively, an exemption, abatement, or redirection of future tax revenue that will be generated as a result of the Project.

INCREMENT: The difference between the amount of ad valorem property taxes before and after a project has occurred. For example, if a parcel was being taxed at \$1,000 before a development occurred, and \$4,000 after a development occurred, there would be \$3,000 of increment.

ENVIRONMENTAL CERTIFICATION: A reputable third party green building certification program that offers validation of a Project’s green features and verifies that the building is operating exactly the way it was designed to.

LOCAL BUSINESS ENTERPRISE or LBE: A business headquartered or that maintains a major branch that performs the significant functions of the business in Wyandotte County, or businesses of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and whose day-to-day management is under the control of an individual residing in Wyandotte County, Kansas.

MINORITY BUSINESS ENTERPRISE or MBE: A business of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and whose day-to-day management is under the control of one or more minority individuals and which business is certified as a Minority Business Enterprise under Article V of Chapter 18 of the Unified Government Code. A “minority individual” is as defined in Article V of Chapter 18 of the Unified Government Code.

NEW BUSINESS: Any business which is not an Existing Business.

PRIVATE ACTIVITY BONDS or BONDS: The financing or refinancing of Projects, including but not limited to buildings, equipment, furniture and fixtures, and related capital items by bonds or other debt obligations issued by the Unified Government where the Projects are owned by or leased to a private entity and the debt service on such bonds or other obligations is paid or secured by a private entity.

PROJECT: The purpose for which issuance of the Private Activity Bonds/or an EDX abatement is being requested.

RESIDENT: An individual residing in Wyandotte County, Kansas.

WOMEN BUSINESS ENTERPRISE or WBE: A business of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and whose day-to-day management is under the control of one or more women who are citizens or lawful permanent residents of the United States and which business is certified as a Woman Business Enterprise under Article V of Chapter 18 of the Unified Government Code.

VI. Policy:

It shall be the policy of the Unified Government that economic development Projects pay their fair share of property tax, special improvement district assessments, and cost of utility services. Economic development Projects shall have a positive financial impact on the community, and the Unified Government reserves the right to approve the cost-benefit analysis model used to determine the financial impact. The Board of Commissioners shall consider the following factors when granting property tax incentives pursuant to Section 13 of Article 11 of the Kansas Constitution and K.S.A. 12-1740 *et seq.* and 79-201a.

Initiation of IRB

1. Developer Initiated

- i. Developer has interest to redevelop an area
- ii. Asks City for Incentives
- iii. City may issue an RFP to redevelop the proposed area

2. City Initiated

- i. City issues RFP to redevelop an eligible area
- ii. Offers IRB and/or other incentives to facilitate interest

Level of Abatement

To meet the economic goals of the community, it shall be the policy of the Unified Government to typically provide a 45% real property tax exemption for portions of a Project that qualify for tax exemption under Kansas law so long as the Project meets the criteria established by the Unified Government. Depending how the tax exemption is structured over the term, tax abatement for a Project may exceed an overall average of 45%.

A project may, at the UG's discretion, receive increased levels of tax exemption if the project meets bonus provisions described below and/or demonstrates a clear financial need to make the project feasible.

It shall be the policy of the Unified Government that, regardless of the percentage amount of bonus provisions an applicant may be eligible for, the maximum percentage of abatement provided for any Project shall not exceed 75% for 10 years.

The Unified Government may, at its sole discretion, deviate from these directives if the applicant demonstrates compelling and unique circumstances regarding its Project.

- A. **Major Projects Bonus.** It is the goal to strengthen the local economy through the growth of the local tax base. Major Projects produce a long-term tax benefit to the community; therefore, a major Project may be eligible for an additional exemption percentage. Depending upon the Project's capital investment, an increase in the exemption may be considered as follows:
 - a. Capital Investment of \$10,000,000 to \$24,999,999 may receive a bonus of up to 5%
 - b. Capital Investment of \$25,000,000 to \$49,999,999 may receive a bonus of up to 10%
 - c. Capital Investment of \$50,000,000 and above may receive a bonus of up to 15%
- B. **Target Area Bonus.** It is a goal to encourage development / redevelopment in distressed areas of the community. Strong consideration will be given for a business that will be located in a targeted area for economic development or redevelopment. An abatement adjustment of up to 10% may be considered for Projects that locate in the targeted area. The Target Area is defined in Exhibit A of this document.
- C. **Targeted Industries.** It is a goal to attract and retain certain targeted industries for the community due to their long-term economic impact. An abatement adjustment of 5% to 15% may be considered for Projects that are in targeted industries. The current targeted industries generally include global and regional headquarters, grocery stores, class A office, high technology, advanced manufacturing, logistics, e-commerce, and bioscience-

related businesses and development. The attached list of Targeted Industries and associated abatement bonuses are defined in Exhibit B of this document.

- D. **Residency Bonus:** It is a goal to create new employment opportunities for community Residents. An abatement adjustment from 5% to 10% will be considered depending on the percentage of Wyandotte County Residents employed by the company receiving tax abatements; the required percentage of Wyandotte County Residents and the associated abatement percentage are attached in Exhibit C of this document. Existing Businesses which apply for abatement will be examined for the amount of existing Wyandotte County Residents currently employed in operations, as well as commitment for new hires related to the Project receiving exemption. The Unified Government may choose to certify resident employment numbers, and the company receiving tax exemption must comply if they are to receive this bonus provision.
- E. **Minority, Women, and Locally Owned Businesses Bonus:** It is a goal to give opportunities for the utilization of Minority, Women, and Locally Owned Business where available and applicable. A bonus of 5% to 10% may be given depending on the participation of MBE, WBE, and LBE in the construction of the Project receiving tax abatement; the attached list of MBE, WBE, LBE percentages and associated abatement bonuses are defined in Exhibit D of this document. It is the intent that the designated percentages for each of MBE, WBE, LBE categories are achieved, but an adjustment may be made for a designated level of cumulative participation by MBEs, WBEs, and LBEs.
- F. **Environmental Design Bonus.** It is a goal to create quality and sustainable developments / structures throughout the City. The City, at its sole discretion, may require higher design standards for the design of buildings and materials used for Projects receiving property tax abatement. An abatement adjustment will be given to businesses whose new construction proposes quality environmental design for the project. This abatement adjustment shall range from 5% to 10% given the level of Certification.
- G. **Transit Bonus.** Applicants who have located on major public transportation corridors, made significant investment into transportation for their workers, or have otherwise demonstrated a commitment to utilizing and enhancing public transportation as a result of this project may receive a 5% bonus.
- H. **Childcare Bonus.** Companies who have made investments and/or unique accommodations for their employees' access to childcare, either on site or via a stipend, may receive a 5% bonus.

Term of Abatement

The abatement period for a Project approved under this Policy will be determined by the amount of new Capital Investment in the City. Capital Investment shall include expenditures for land, building, or personal property subject to ad valorem taxation.

- A. **Existing Businesses.** The normal term of abatement for each Project where the applicant is an Existing Business is determined according to the following schedule, unless a different term is established by the Board of Commissioners:

Capital Investment

Normal Term

\$3,999,999 or less
\$4,000,000 or greater

5 years
10 years

- B. **New Businesses.** The normal term of abatement for each Project where the applicant is a New Business is determined according to the following schedule, unless a different term is established by the Board of Commissioners:

Capital Investment

Normal Term

\$5,999,999 or less
\$6,000,000 and greater

5 years
10 years

- C. **Commencement of Abatement.** The abatement term for Projects under authority of Section 13 of Article 11 of the Kansas Constitution shall begin in the calendar year after the calendar year in which the business commences its operations or the calendar year in which expansion of an Existing Business is completed, as the case requires. The abatement term for Projects under authority of K.S.A. 12-1740 through 12-1749 and 79-201a shall begin in the calendar year after the calendar year in which the Private Activity Bonds are issued. Projects which include multiple phases shall have an expiration date for the commencement of the term of the abatement for all phases as determined by the Board of Commissioners at the time of the adoption of the Resolution of Intent.

VII. Performance Agreement:

- A. **Continued Compliance.** Any tax exemption/abatement granted pursuant to this Policy shall be accompanied by a performance agreement between the applicant and/or lessee and the Unified Government. Any tax exemption is subject to annual review and determination by the Unified Government County Administrator that the conditions qualifying the business for the exemption or abatement continue to exist. The Unified Government at any time may review information provided by the company, lessee, or State of Kansas, or may request additional information to determine compliance with the performance agreement. If the Board of Commissioners finds that the business or Project is not in compliance, then the tax exemption may be modified pursuant to the performance agreement or eliminated as the Board of Commissioners deems appropriate. The County Appraiser and the Board of Tax Appeals shall be notified of such action. Each performance agreement shall contain a notice and waiver disclosing to each applicant that the Unified Government reserves the right to grant future tax exemptions on comparable Projects in amounts different than the exemption granted to such applicant. Such notice and waiver shall include a provision that the applicant waives any right to request a modification or amendment of such exemption or abatement based upon such differences
- B. **Clawbacks.** Each performance agreement for a Project shall provide that the percentage of property tax abatement shall be scaled back to the term provided for in this Policy if, within three years after the issuance of the Private Activity Bonds, the applicant has not incurred the required Capital Investment. Additionally, if any of the

terms of the performance agreement at not met, the Unified Government reserves the right to alter or terminate the tax abatement at their discretion.

- C. **Utilization of UG Services.** The performance agreement shall require that the company receiving the property tax abatement (or any other user of the property) utilize solid waste services provided by the Unified Government. This requirement shall not apply to any user if the user demonstrates that solid waste services provided by the Unified Government are not adequate to serve such user's reasonable needs.

VIII. Procedure.

The Unified Government will consider granting a tax abatement/exemption pursuant to this Policy after receipt of a complete application from the applicant in a form prescribed by the Unified Government together with the application fee. The application shall be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the Project's preliminary site plans and building elevations, to prepare a fiscal impact analysis, and to contact the school district within which the property proposed for exemption is located. The Project's site plans and building elevations are subject to final approval to ensure that they are similar to the preliminary plans and elevations submitted.

Based on each application and such additional information as may be requested by the Unified Government, the Unified Government shall prepare or cause to be prepared a fiscal impact analysis of the proposed exemption on the City, County, and State of Kansas, which analysis shall be used by the Board of Commissioners in considering the request for abatement.

Prior to formal action on each Resolution of Intent, the Board of Commissioners shall conduct a public hearing thereon, to be scheduled at least seven days after publication of notice.

IX. Authority of UG Commission:

The Board of Commissioners reserves the right to deviate from this Policy, but not any procedure set forth in this Policy or any other procedural requirements of State law, when it considers such action to be of exceptional benefit to the Unified Government or extraordinary circumstances prevail that the Commission believes such deviation is in the best interests of the Unified Government.

X. Appendices:

- Businesses that are delinquent in payment of any non-protested taxes or other payments (state, federal, local).
- Businesses that have filed for or have publicly announced their intention to file for bankruptcy, unless certain requirements are met.
- Businesses that are relocating jobs from Johnson, Miami, or Wyandotte counties in Kansas to Jackson, Platte, Clay or Cass counties in Missouri. However, net new jobs created above a qualified company's base employment may be eligible for benefits.
- Note: Headquarters, administrative, or research and development offices of otherwise excluded businesses may be eligible if the predominant function of such offices is to serve a multistate territory.

NAICS Code	Industry	Bonus Abatement Percentage
3111	Animal Food Manufacturing	5%
3251	Basic Chemical Manufacturing	5%
3253	Pesticide, Fertilizer, and other Ag Chemical Mfg	5%
3254	Pharmaceutical and Medicine Manufacturing	5%
3341	Computer and Peripheral Equipment Manufacturing	5%
3342	Communication Equipment Manufacturing	5%
3343	Audio and Video Equipment Manufacturing	5%
3344	Semiconductor and Other Electronic Component Manufacturing	5%
3345	Navigational Measuring, Electromedical, and Control Instruments Manufacturing	5%
3359	Other Electrical Equipment and Component Manufacturing if researching developing or manufacturing power system technology for the following: <ul style="list-style-type: none"> • Aerospace; • Space; • Defense; • Hybrid vehicles; or • Implantable or wearable medical devices 	5%
3364	Aerospace Product and Parts Manufacturing	5%
3391	Medical Equipment and Supplies Mfg	5%
5171	Wired Technology Carriers	5%
5179	Other Telecommunications	5%
5181	Internet Service Providers and Web Search Portals	5%
5182	Data Processing, Hosting, and Related Services	5%

5416	Management, Scientific, and Technical Consulting Services	5%
5417	Scientific Research and Development Services	5%
6113	Colleges, Universities and Professional Schools	5%
54171	Research & Development in Physical, Engineering and Life Sciences	5%
325193	Ethyl Alcohol Manufacturing	5%
325199	All Other Basic Organic Chemical Manufacturing	5%
325411	Medicinal and Botanical Manufacturing	5%
325412	Pharmaceutical Preparation Manufacturing	5%
325414	Biological Product (except Diagnostic) Manufacturing	5%
334510	Electromedical and Electrotherapeutic Apparatus Mfg	5%
334516	Analytical Laboratory Instrument Manufacturing	5%
334517	Irradiation Apparatus Manufacturing	5%
339111	Laboratory Apparatus and Furniture Mfg	5%
339112	Surgical and Medical Instrument Manufacturing	5%
339113	Surgical Appliance and Supplies Mfg	5%
339114	Dental Equipment and Supplies Mfg	5%
541380	Testing Laboratories	5%
541711	Research and Development in Biotechnology	5%
621511	Medical Laboratories	5%
621512	Diagnostic Imaging Centers	5%
622110	General Medical and Surgical Hospitals	5%

Quality office developments shall receive up to a 15% bonus depending on quality design and material used.

***Target Industries included in Exhibit B are excluded from Minimum Employment Requirements.

Exhibit C

Residency Bonus

<i>Percentage of Residency Hires</i>	<i>Abatement Bonus Percentage</i>	<i>Minimum Employment</i>
25% Wyandotte County Residents Employed at time of IRB Application	5% Abatement Bonus	
50% Wyandotte County Residents Employed at time of IRB Application	10% Abatement Bonus	
25% Wyandotte County Residents Employed – Subject to Certification	5% Abatement Bonus	35 New Hires
50% Wyandotte County Residents Employed – Subject to Certification	10% Abatement Bonus	70 New Hires

Exhibit D

Minority, Women, and Locally Owned Business Bonus

MBE / WBE / LBE Participation Percentage	Abatement Bonus Percentage
LBE – 15% MBE – 10% WBE – 5% Combined Total – 25%	5% Abatement Bonus
LBE -20% MBE – 15% WBE – 10% Combined Total – 35%	10% Abatement Bonus

Exhibit E

Fee Schedule

The following fees are hereby established:

- A. **Application Fee.** For Existing Businesses, a non-refundable application fee of \$1,000 shall accompany all applications for the issuance of Private Activity Bonds or for EDX abatement. For New Businesses, a non-refundable application fee of \$2,000 shall accompany all applications for the issuance of Private Activity Bonds or for EDX abatement.
- B. **Issuance Fee.** For Projects requesting tax abatement, applicants shall pay an issuance fee of (i) .400 of the first \$10 million par amount of Bonds being issued or the amount of EDX abatement being requested, plus (ii) .250 of the par amount in excess of \$10 million but less than \$25 million of Bonds being issued or the amount of EDX abatement being requested. (iii) .125 of the par amount in excess of \$25 million of Bonds being issued. The fee shall be due and payable at the time the Bonds are issued.
- C. **Additional Costs.** The applicant shall reimburse the Unified Government for all costs associated with all legal publication notices, application fees to the Court of Tax Appeals, the Unified Government's Bond Counsel fees, and all other miscellaneous costs.
- D. **Monitoring Fee.** The Unified Government will require an annual compliance review of all Projects receiving tax abatement either from the issuance of Private Activity Bonds or by EDX. The business will be required to submit an annual monitoring fee of \$1,000 for activities required to insure compliance.