



City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
<https://www.topeka.org>

Governing Body Agenda

November 14, 2017
6:00 PM

214 SE 8th Street
Topeka, Kansas 66603

Mayor: Larry E. Wolgast

Councilmembers

Karen A. Hiller	District No. 1	Brendan Jensen	District No. 6
Sandra Clear	District No. 2	Elaine Schwartz	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Coen	District No. 8
Tony Emerson	District No. 4	Richard Harmon	District No. 9
Michelle De La Isla	District No. 5		

City Manager: Brent Trout

Addressing the Governing Body: No person shall address the Governing Body during a Governing Body Meeting, unless they have notified the City Clerk at (785)368-3940 or by email at cclerk@topeka.org by 5:00 P.M. on the day of any Governing Body Meeting or sign up to speak at the meeting by 6:00 P.M. This limitation shall not apply to items added during the course of a meeting. The Governing Body does not take action with respect to any subject not on the agenda unless added to the agenda by a two-thirds vote of the Governing Body.

Persons addressing the Governing Body will be limited to four (4) consecutive minutes on a particular agenda item. Debate, question/answer dialogue or discussion between Governing Body members will not be counted towards the four (4) minute time limitation. The Chair may extend time with the unanimous consent of the Governing Body or by an affirmative vote of five (5) Governing Body members may extend the four (4) minute limitation. The requirement to notify the City Clerk will not apply towards public hearings required by State and Federal law.

To make arrangements for special accommodations please call 785-368-3940. A 48-hour advance notice is preferred.

The Federal Communications Commission (FCC) has adopted use of the 711 dialing code for access to Telecommunications Relay Services (TRS). TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities. To reach the City Clerk's office using the TRS, please dial 711.

(Agendas are available on Thursday afternoon in the City Clerk's office, 215 SE 7th -Room 166 and on the City's web site at <https://www.topeka.org>)

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. MAYORAL PROCLAMATIONS:

2. PRESENTATIONS:

"Financial Quarterly Report"

"Planning Quarterly Report"

3. ROLL CALL:

4. APPOINTMENTS:

A. Board Appointment - Topeka Housing Authority Board of Commissioners

BOARD APPOINTMENT recommending the reappointment of Shaye Downing to the Topeka Housing Authority Board of Commissioners to fill a term ending January 1, 2022. *(Council District No. 7)*

B. Board Appointment - Topeka Public Building Commission

BOARD APPOINTMENT recommending the appointment of Frank Burnam to the Topeka Public Building Commission for a term ending November 15, 2021. *(Council District No. 4)*

5. CONSENT AGENDA:

A. Resolution - Designating Depositories

A RESOLUTION introduced by City Manager Brent Trout, naming banks and savings institutions that are designated as depositories for all City of Topeka accounts and authorizing signatories and rescinding City of Topeka Resolution No. 8849.

(Approval is necessary due to changes in staff and working titles to complete daily duties.)

B. Resolution - State of Kansas Municipal Investment Pool

A RESOLUTION introduced by City Manager Brent Trout, concerning the City of Topeka's participation in the State of Kansas Municipal Investment Pool and rescinding City of Topeka Resolution No. 8850.

(Approval is necessary to amend changes in staff and working titles.)

C. Settlement Proposal - Stephen Thompson

APPROVAL of a proposed settlement agreement and release of all potential claims, including EEOC Charge No. 563-2017-01687 for payment of \$25,000.

(Approval would allow for settlement of all potential claims against the City without litigation.)

D. MINUTES of the regular meeting of October 17, 2017, and Special Meeting of November 6, 2017

E. APPLICATIONS:

6. ACTION ITEMS:

A. Resolution - Doorstep, Inc. (CU17/1)

RESOLUTION introduced by City Manager Brent Trout, in accordance with Section 18.60.010 of the Topeka Municipal Code, amending a Conditional Use Permit (SP60/2) that allowed specifically for the sales of orthopedic appliances to allow “retail sales that is subordinate and in association with the principal use of the office building” on property located at 1119 SW 10th Avenue and presently zoned “O&I-2” Office and Institutional District, all being within the City of Topeka, Shawnee County, Kansas. (CU17/1) (Council District No. 1)

Voting Option Requirements: (1) Approve Planning Commission's recommendation 6 votes required (2) Reject or Amend Planning Commission's recommendation 7 votes required; or (3) Remand back to Planning Commission 6 votes required

(Approval would allow Doorstep, Inc. to use a 1,768 square foot portion of the building for its retail thrift store.)

B. Ordinance - Mr. David Bussard (Z17/04)

ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinance by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 2655 SW Wanamaker Road FROM "O&I-1" Office and Institutional District TO "C-2" Commercial District. (Z17/04) (Council District No.8)

Voting Option Requirements: (1) Approve Planning Commission's recommendation 6 votes required (2) Reject or Amend Planning Commission's recommendation 7 votes required; or (3) Remand back to Planning Commission 6 votes required

(Approval would provide for the expansion of the existing office building and allow for a larger business ground sign at the southeast corner of the site to accommodate an increased number of tenant office spaces. The sign will measure approximately 15 feet in height and 110 feet in area).

C. Ordinance - Franklin E. Webb (Z17/5)

ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 5127 SW Wanamaker Road from “RR-1” Residential Reserve District and “C-2” Commercial District ALL TO “R-1” Single-Family Dwelling District. (Z17/5) (Council District No. 7)

Voting Option Requirements: (1) Approve Planning Commission's recommendation 6 votes required (2) Reject or Amend Planning Commission's recommendation 7 votes required; or (3) Remand back to Planning Commission 6 votes required

(Approval would allow the property owner to construct one new, single-family residence on the 38-acre parcel.)

D. Labor Agreement - AFSCME - Development Services and Planning

APPROVAL of a three year labor agreement between the City of Topeka and Local 1294 Missouri/Kansas State Council 61, American Federation of State, County and Municipal

Employees (AFSCME), AFL-CIO.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval would provide guidelines for management and employees in the bargaining unit. Term of agreement is from 2017 through 2019.)

E. Set the Public Hearing Date - 2017 Budget Amendment

AUTHORIZING a public hearing for December 5, 2017, for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2017 Operating Budget.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval authorizes publication of the Notice of Public Hearing for December 5, 2017, in the November 20, 2017, edition of the Topeka Metro Newspaper.)

F. Public Hearing and Ordinance - Wheatfield Village Project Plan

PUBLIC HEARING and ORDINANCE introduced by City Manager Brent Trout, adopting a Redevelopment Project Plan for the Wheatfield Village Redevelopment District pursuant to K.S.A. 12-1770 et seq., as amended.

Voting Requirement: Two-thirds vote of the Governing Body (7).

(Approval would adopt the Project Plan for redevelopment of the northwest corner of SW 29th Street and SW Fairlawn Road - Wheatfield Village.)

G. Ordinance - Wheatfield Village Planned Unit Development Master Plan (PUD 17/02)

ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at the northwest corner of SW 29th Street and SW Fairlawn Road in the City of Topeka, Kansas, FROM "C-4" Commercial District TO "PUD" Planned Unit Development District (C-4 and M-3 use groups). (PUD 17/02) (Council District No.8)

Voting Option Requirements: (1)Approve Planning Commission's recommendation 6 votes required (2) Reject or Amend Planning Commission's recommendation 7 votes required; or (3) Remand back to Planning Commission 6 votes required

(Approval would allow for a mixed-use re-development of a 14.7 acre property that includes restaurants, movie theater, hotel and a multi-family apartment complex.)

H. Ordinance - Wheatfield Village Community Improvement District (CID)

ORDINANCE introduced by City Manager Brent Trout, establishing a Community Improvement District for the Wheatfield Village District at 29th and Southwest Fairlawn Road and levying a CID sales tax of two percent (2%) within the CID.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval would establish a community improvement district at the northwest corner of SW 29th Street and SW Fairlawn Road and impose a 2% retailers sales tax on retail sales or services within the district.)

7. NON-ACTION ITEMS:

A. Discussion - Downtown Parking Plan Recommendations

DISCUSSION related to the Downtown Parking Master Plan recommendations.

8. ANNOUNCEMENTS:

PRELIMINARY AGENDA

(The City Clerk will provide a brief summary of items on the next scheduled Council meeting agenda. Also during this time, the City Manager and Governing Body Members may offer comments regarding City business and announce upcoming events.)

9. PUBLIC COMMENT:

10. EXECUTIVE SESSION:

Executive Sessions are closed meetings held in accordance with the provisions of the Kansas Open Meetings Act.

(Executive sessions will be scheduled as needed and may include topics such as personnel matters, considerations of acquisition of property for public purposes, potential or pending litigation in which the city has an interest, employer-employee negotiations and any other matter provided for in K.S.A. 75-4319.)

11. ADJOURNMENT:



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Mayor Larry Wolgast DOCUMENT #:
SECOND PARTY/SUBJECT: Topeka Housing PROJECT #:
Authority Board of
Commissioners
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the reappointment of Shaye Downing to the Topeka Housing Authority Board of Commissioners to fill a term ending January 1, 2022. *(Council District No. 7)*

VOTING REQUIREMENTS:

Mayor does not vote.

POLICY ISSUE:

The Topeka Housing Authority Advisory Board plans and studies the public housing needs of the City and to make recommendations to City officials.

STAFF RECOMMENDATION:

Mayor Wolgast recommends the Governing Body move to approve the reappointment of Ms. Downing.

BACKGROUND:

The board shall consist of five members appointed by the Mayor; one of which must be a client of the housing authority. Members shall serve four-year terms on volunteer basis. Council nominations are not required.

BUDGETARY IMPACT:

There is a no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

Description

S. Downing THA Application 2017

Profile

Shaye

First Name

Downing

Last Name

sdowning@sloanlawfirm.com

Email Address

3329 SW 46th St.

Street Address

Suite or Apt

Topeka

City

KS

State

66610

Postal Code

Are you a resident of the City of Topeka?☒ Yes ☐ No**What district do you live in? ***☒ District 7Check for your district here -> <https://www.topeka.org/citycouncil>

Business: (785) 357-6311

Primary Phone

Mobile: (785) 318-1002

Alternate Phone

Which Boards would you like to apply for?

Topeka Housing Authority Advisory Board: Submitted

Sloan Law Firm

Employer

Partner/Attorney

Job Title

Are you a registered voter?☒ Yes ☐ No

Are you currently a full or part-time employee of the City of Topeka?

☐ Yes ☒ No

If yes, please advise in which department you work:

Are you or any immediate family member related to any city governmental official or employee?

☐ Yes ☐ No

If yes, please advise who and how you are related:

Are you or have you been a party to any civil litigation involving the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Are you delinquent in payment of any taxes, fees, fines or special assessments owed to the State of Kansas, Shawnee County or the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Please state why you are interested in serving on this board or commission:

I've been an active member of the board and have found it to be rewarding. I requested the appointment initially because I was the recipient of public housing assistance in the past. At that time, and certainly even more so now, I think I provide a valuable and useful insight. In addition, I believe that I have made a difference and would like to be part of its continued success.

Interests & Experiences

Please describe your education, experience and expertise including any honors or awards, civic, cultural, charitable or professional organization memberships that relate to the position you are seeking.

University of Kansas- B.A. Psychology; B.A. Sociology (2002) University of Kansas, School of Law- J.D. (2005) Currently a board member of the Topeka Housing Authority and T.H.A.,Inc.

Upload a Resume

Please attach any additional information you believe may be helpful in considering your application.

Voluntary Self Identification

Ethnicity

☒ African American

Gender

☒ Female

Acknowledgements and Verification

Purpose of information being submitted.

☒ I Agree

The information I am submitting is true and correct.

☒ I Agree

Electronic Signature

☒ I Agree

Notification to applicants for City Board/Commissions

Please be advised that your application and any documents that you attach are public records and, as such, are available to the public, upon request, pursuant to the Kansas Open Records Act.

If you are appointed to the position, your application and resume will be included in the governing body meeting agenda which is posted online.

<http://topeka.novusagenda.com/agendapublic/>



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Mayor Larry Wolgast DOCUMENT #:
SECOND PARTY/SUBJECT: Topeka Public Building Commission PROJECT #:
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Frank Burnam to the Topeka Public Building Commission for a term ending November 15, 2021. *(Council District No. 4)*

VOTING REQUIREMENTS:

The Mayor does not vote.

POLICY ISSUE:

Not applicable.

STAFF RECOMMENDATION:

Mayor Wolgast is recommending the appointment of Frank Burnam for a term that would end November 15, 2021. Mr. Burnam resides within the City.

BACKGROUND:

KSA 12-1757. This is a statutory board wherein the Mayor recommends and the Council has final approval. The Topeka Public Building Commission was created pursuant to KSA 12-1757 et seq., and shall have the powers granted according to the provisions of the statute, not inconsistent with the provisions contained within the Topeka City Code. The Commission is to be comprised of members nominated from USD 501, the Kansas Secretary of Administration, the Shawnee County Commissioners as well as four members nominated by the Mayor; only the nominees from the Mayor require residency within the city limits.

BUDGETARY IMPACT:

Not applicable.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

F. Burnam TPBC Application 2017

Profile

First NameLast Name

Email Address

Street AddressSuite or Apt

CityStatePostal Code

Are you a resident of the City of Topeka?

☐ Yes ☐ No

What district do you live in?

Primary PhoneAlternate Phone

Which Boards would you like to apply for?

EmployerJob Title

Are you a registered voter?

☐ Yes ☐ No

Are you currently a full or part-time employee of the City of Topeka?

☐ Yes ☐ No

If yes, please advise in which department you work

Are you or any immediate family member related to any city governmental official or employee?

☐ Yes ☐ No

If yes, please advise who and how you are related:

Are you or have you been a party to any civil litigation involving the City of Topeka?

☐ Yes ☐ No

If yes, please explain:

Are you delinquent in payment of any taxes, fees, fines or special assessments owed to the State of Kansas, Shawnee County or the City of Topeka?

☐ Yes ☐ No

If yes, please explain:

Interests & Experiences

Please state why you are interested in serving on this board or commission:

Please describe your education, experience and expertise including any honors or awards,

civic, cultural, charitable or professional organization memberships that relate to the position you are seeking.

Upload a Resume

Please attach any additional information you believe may be helpful in considering your application.

Question applies to multiple boards.

List any professional licenses you hold in Kansas and advise if they are current. (We reserve the right to request a copy of your license prior to approval of your appointment.)

Voluntary Self Identification

Ethnicity

Gender

Acknowledgements and Verification

Purpose of information being submitted.

☐ I Agree

The information I am submitting is true and correct.

☐ I Agree

Electronic Signature

☐ I Agree



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Nickie Lee, Director of Finance DOCUMENT #:
SECOND PARTY/SUBJECT: Bank Depositories and Signature PROJECT #:
Requirements
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Brent Trout, naming banks and savings institutions that are designated as depositories for all City of Topeka accounts and authorizing signatories and rescinding City of Topeka Resolution No. 8849.

(Approval is necessary due to changes in staff and working titles to complete daily duties.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

Approval would name certain banks and saving institutions as designated depositories for all City of Topeka accounts and authorizing signatories.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Approval is necessary to allow staff members to complete daily duties. The following named banks and savings institutions are designated to be depositories which can accept deposits from any and all accounts of the City:

Alliance Bank	Heritage Bank
Bank of America Merrill Lynch	Intrust Bank
Capital City Bank	Kaw Valley Bank

Capitol Federal Savings
Central National Bank
Communityd Bank
CoreFirst Bank & Trust
Denison State Bank
Equity Bank
Fidelity State Bank

Landmark National Bank
Lyndon State Bank
Silver Lake Bank
Sunflower Bank
UMB Bank
US Bank
Vision Bank

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Depository Resolution

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by City Manager Brent Trout naming banks and savings
4 institutions that are designated as depositories for all City of Topeka
5 accounts and authorizing signatories and rescinding City of Topeka
6 Resolution No. 8849.
7

8 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS that the
9 following named banks and savings institutions are hereby designated to be depositories
10 which can accept deposits from any and all accounts of the City:

Alliance Bank	Heritage Bank
Bank of America Merrill Lynch	Intrust Bank
Capital City Bank	Kaw Valley Bank
Capitol Federal Savings	Landmark National Bank
Central National Bank	Lyndon State Bank
Community Bank	Silver Lake Bank
CoreFirst Bank & Trust	Sunflower Bank
Denison State Bank	UMB Bank
Equity Bank	US Bank
Fidelity State Bank	Vision Bank

11 BE IT FURTHER RESOLVED that the above-named banks and savings institutions
12 may accept all checks, drafts, bills of exchange, or other orders for the payment of money
13 when drawn on or addressed to any of the banks and savings institutions, if the *facsimile*
14 signatures of both the following persons are imprinted thereon:

15 City Manager: Brent Trout

16 Finance: Nicole Lee

17 BE IT FURTHER RESOLVED that any of the above-named banks and savings
18 institutions may accept *manually* drafted checks, drafts, bills of exchange, or other orders
19 for payment of money, when drawn on any of the banks and savings institutions, with the
20 proper dual signatures. The dual signatures will come from the persons listed below and
21 *require at least one signature* being the Director of Finance or Accounting Officer
22

23 Title City Manager Name Brent Trout
24 Title Finance Director Name Nicole Lee
25 Title Chief Accounting Officer Name Simon Martinez
26 Title Accountant III Name Rachelle Mathews
27 Title Accountant II Name Amanda Meyer

28

29 BE IT FURTHER RESOLVED that checks, drafts or other instruments for payment of
30 money drawn to the order of the City of Topeka shall, when properly endorsed, be
31 accepted by the banks and savings institutions for deposit only to the credit of the City of
32 Topeka.

33 BE IT FURTHER RESOLVED that Resolution No. 8849 is rescinded and that the
34 foregoing powers and authority outlined herein are to be continued until written notice or
35 revocation has been given to the banks and savings institutions by the City of Topeka.

36 This Resolution shall become effective after it is adopted and approved by the City
37 Council.

38 ADOPTED and APPROVED by City Council _____.

39 CITY OF TOPEKA, KANSAS
40
41
42

43 _____
44 Larry E. Wolgast, Mayor

45 ATTEST:

46
47
48
49 _____
50 Brenda Younger, City Clerk



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214 SE 8th Street
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November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Nickie Lee, Director of Finance
DOCUMENT #:
SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Brent Trout, concerning the City of Topeka's participation in the State of Kansas Municipal Investment Pool and rescinding City of Topeka Resolution No. 8850.

(Approval is necessary to amend changes in staff and working titles.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

Approval would update the resolution to reflect changes in staff members.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

The revisions are necessary due to changes in staff members and working titles.

BUDGETARY IMPACT:

No budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO. _____

2
3 A RESOLUTION introduced by City Manager Brent Trout concerning the City of Topeka's
4 participation in the State of Kansas Municipal Investment Pool and
5 rescinding City of Topeka Resolution No. 8850.
6

7 WHEREAS, the City of Topeka is a municipality, as defined in K.S.A. 12-1675a,
8 hereinafter referred to as "Participant," and from time to time has funds on hand in excess
9 of current needs; and

10 WHEREAS, it is in the best interests of Participant and its inhabitants to invest funds
11 in investments that yield a favorable rate of return while providing the necessary liquidity
12 and protection of the principal; and

13 WHEREAS, the Pooled Money Investment Board, hereinafter referred to as "PMIB,"
14 operates the Municipal Investment Pool, hereinafter referred to as "MIP," a public funds
15 investment pool, pursuant to K.S.A. 12-1677a, and amendments thereto; and

16 WHEREAS, the MIP is a permitted investment of the City under K.S.A. 12-1675.

17 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
18 TOPEKA, KANSAS:

19 1. That Participant approves the establishment of an account in its name in the
20 MIP for the purpose of transmitting funds for investment, subject to the MIP Participation
21 Policy adopted by the PMIB, and Participant acknowledges it has received a current copy
22 of such Participation Policy. Participant's taxpayer identification number assigned by the
23 Internal Revenue Service is 48-6028701.

24 2. That the following individuals are officers or employees of Participant and are
25 each hereby authorized to transfer funds for investment in the MIP, to withdraw funds from
26 time to time, to issue letters of instruction, and to take all other actions deemed necessary
27 or appropriate for the investment of funds upon submission of dual signatures. The dual

signatures will come from the persons listed below and requires at least one signature by the Director of Finance, City Controller/Treasurer or Accounting Manager:

Title Director of Finance Name Nicole Lee

Title Chief Accounting Officer Name Simon Martinez

Title Accountant III Name Rachelle Mathews

Title Accountant II Name Amanda Meyer

3. That notices required by the PMIB's Municipal Investment Pool Participant Policy shall be provided to:

Finance Department
215 SE 7th, Room 358
Topeka, Kansas 66603
785-368-2544
785-368-3975 (fax)

4. That this Resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant and until the PMIB receives a copy of any such amendment or revocation, the PMIB is entitled to rely on same.

BE IT FURTHER RESOLVED that the City of Topeka Resolution No. 8850 is hereby rescinded.

ADOPTED and APPROVED by City Council on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk



City of Topeka
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214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Shelly Starr, Chief of Litigation
DOCUMENT #:
SECOND PARTY/SUBJECT: Stephen Thompson
PROJECT #:
CATEGORY/SUBCATEGORY 011 Lawsuits / 002 Federal Court
CIP PROJECT: No
ACTION OF COUNCIL:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of a proposed settlement agreement and release of all potential claims, including EEOC Charge No. 563-2017-01687 for payment of \$25,000.

(Approval would allow for settlement of all potential claims against the City without litigation.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body

POLICY ISSUE:

The recommendation to settle is based on the desire to limit the potential liability and cost of defense. The Governing Body must approve any settlement over \$10,000.

STAFF RECOMMENDATION:

Staff recommends approval of the settlement proposal.

BACKGROUND:

Mr. Thompson was employed by the City as a police officer. He alleges discrimination and other claims based on his employment and separation.

BUDGETARY IMPACT:

\$25,000

SOURCE OF FUNDING:

Special Liability



City of Topeka
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November 14, 2017

DATE:	November 14, 2017		
CONTACT PERSON:	Bill Fiander	DOCUMENT #:	CU17/1
SECOND PARTY/SUBJECT:	Doorstep, Inc.	PROJECT #:	
CATEGORY/SUBCATEGORY			
CIP PROJECT:	No		
ACTION OF COUNCIL:	JOURNAL #:		
	PAGE #:		

DOCUMENT DESCRIPTION:

RESOLUTION introduced by City Manager Brent Trout, in accordance with Section 18.60.010 of the Topeka Municipal Code, amending a Conditional Use Permit (SP60/2) that allowed specifically for the sales of orthopedic appliances to allow “retail sales that is subordinate and in association with the principal use of the office building” on property located at 1119 SW 10th Avenue and presently zoned “O&I-2” Office and Institutional District, all being within the City of Topeka, Shawnee County, Kansas. (CU17/1) (Council District No. 1)

Voting Option Requirements: (1) Approve Planning Commission's recommendation 6 votes required (2) Reject or Amend Planning Commission's recommendation 7 votes required; or (3) Remand back to Planning Commission 6 votes required

(Approval would allow Doorstep, Inc. to use a 1,768 square foot portion of the building for its retail thrift store.)

VOTING REQUIREMENTS:

The Governing Body has the following options to consider:

(1) Adopt the recommendation of the Planning Commission by a majority vote (6) of the Governing Body.

(2) Reject or amend the Planning Commission's recommendation by a two-thirds majority vote (7) of the Governing Body.

(3) Return such recommendation to the Planning Commission by majority vote (6) of the Governing body with a statement specifying the basis of the decision to approve or deny the request.

POLICY ISSUE:

The recommended conditions of approval address the following issues:

- Limiting the portion of the building used for retail by size and area in a manner that will not lead to the commercialization of SW 10th Avenue.
- How operations are managed to prevent donated and unwanted items from accumulating outdoors.

The use of the building for its thrift store operations is restricted as described in the applicant's statement of operations. The adaptive re-use of this building as limited by the Conditional Use Permit is consistent with the land use policies and principles of the Tennessee Town Neighborhood Plan.

STAFF RECOMMENDATION:

Staff is recommending the Governing Body move to approve the resolution.

BACKGROUND:

The request is for a 0.31 acre tract located at 1119 SW 10th Avenue currently zoned "O and I-2" Office and Institutional District. The amendment would allow Doorstep, Inc. to re-locate its retail thrift store (Dovetail Shoppe) into a portion of the building at 1119 SW 10th Avenue. The Dovetail Shoppe is currently located at 1196 SW Washburn Avenue. Doorstep will continue to use the remainder and majority of the building at 1119 SW 10th for its offices and services.

The applicant held a Neighborhood Information Meeting on September 25, 2017. The key issues expressed during the meeting related to operational characteristics and exterior lighting concerns. The Tennessee Town Neighborhood Improvement Association has expressed support for the proposal. The Planning Commission and Planning Department recommend approval.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable

ATTACHMENTS:

Description

Resolution
Staff Report
Aerial map
Zoning Map
Doorstep Inc., Statement of Operations
Future Land Use Map
Neighborhood Information meeting minutes
Tennessee Town Letter of Support
Planning Commission Minutes

RESOLUTION _____

CONDITIONAL USE PERMIT

A RESOLUTION introduced by City Manager Brent Trout, in accordance with Section 18.60.010 of the Topeka Municipal Code (TMC), amending a Conditional Use Permit (#SP60/2) that allowed specifically for the sales of orthopedic appliances to allow “retail sales that is subordinate and in association with the principal use of the office building” on property located at 1119 SW 10th Avenue and presently zoned “O&I-2” Office and Institutional District, all being within the City of Topeka, Shawnee County, Kansas. **(CU17/1) (Council District #1)**

BE IT RESOLVED by the Governing Body of the City of Topeka, Kansas, that the application under the provisions of TMC 18.60.010, amending a Conditional Use Permit (#SP60/2) that allowed for orthopedic retail sales to allow “retail sales that is subordinate and in association with the principal use of the office building” on property located at 1119 SW 10th Avenue and presently zoned “O&I-2” Office and Institutional District, all being within the City of Topeka, Shawnee County, Kansas and legally described as:

All of Lots 161, 163, 165, 167, Young’s Addition, City of Topeka, Shawnee County, Kansas

be, and the same is hereby approved, **subject to:**

1. **“Use and development of the site in accordance with the approved Resolution and compliance with the Operational Statement submitted with the application for Doorstep, Inc.”**
2. **“Retail sales shall remain subordinate, incidental and associated with the principal use of an office.”**
3. **“Case file #CU17/1 by: Doorstep, Inc. amends and replaces the Special Use Permit for #SU60/2 By: Petro Surgical.”**
4. **“Submittal and approval of a parking lot striping plan to the Planning Department for approval at the time of the building permit application.”**
5. **“Items that are donated and dropped off overnight shall be moved indoors within the following day and not allowed to accumulate outside.”**

ADOPTED AND APPROVED by the Governing Body of the City of Topeka,

_____, 2017.

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

Staff Report – Conditional Use Permit Topeka Planning Department

PLANNING COMMISSION DATE: Monday, October 16, 2017

APPLICATION INFORMATION

APPLICATION CASE
NUMBER/NAME:

CU17/1 By: Doorstep Inc.

REQUESTED ACTION /
CURRENT ZONING:

An amendment to a Conditional Use Permit (Case #SP60/2- Special Use Permit for Orthopedic Appliance Sales) to allow “retail sales only that is subordinate and in association with the principal use of the office building” on property presently zoned “O&I-2” Office and Institutional District.

APPLICANT / PROPERTY
OWNER:

Doorstep, Inc.

APPLICANT
REPRESENTATIVE:

Lisa Cain, Doorstep, Inc.

PROPERTY ADDRESS &
PARCEL ID:

1119 SW 10th Avenue (SW 10th/Buchanan)

PHOTO:



PARCEL SIZE:

0.31 acres

STAFF PLANNER:

Annie Driver, AICP, Planner II

RECOMMENDATION:

APPROVAL subject to conditions in the staff report

RECOMMENDED MOTION:

I move to recommend **APPROVAL** to the Governing Body the amendment to the Conditional Use Permit CU17/1 and thereby replacing SP60/2 by: Petro Surgical based upon the findings and analysis listed below in the staff report and subject to the conditions.

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

Doorstep currently operates a thrift retail store (Dove Tail Shoppe) located at 1196 SW Washburn. This amendment allows Doorstep to re-locate the Dove Tail Shoppe into a 1,768 sq. ft. portion of their building at 1119 SW 10th Avenue. This change will allow Doorstep to combine all their services and the thrift store into a single location, which is more efficient for staff and volunteers.

Staff determined the Special Use Permit on the property that was approved in 1960 (specifically allowing only for sales of Orthopedic Appliances) could be amended to allow for other retail uses as long as the retail is subordinate in nature to the use of the principal building as an office. Special Use Permits do not expire, but remain with the land. These SUPs converted to CUPs in 1992 with the comprehensive zoning update that changed the zoning districts.

Doorstep currently provides services and assistance to people living in poverty or experiencing crisis. Types of services Doorstep offers at the subject property include: food and clothing bank, rent and utility assistance, prescription and dental vouchers, transportation assistance.

DEVELOPMENT / CASE HISTORY:

1960 – The City granted a Special Use Permit (SUP) to allow a Orthopedic office and clinic, including the retail sales of orthopedic appliances (SP60/2 By: Petro Surgical). The orthopedic clinic remained in the building until at least 1988.

1965 – Rezoned from “C” Two Family Dwelling District to “E” Multiple Family Dwelling District (Z65/61). “E” zoning converted to “O&I-2” in 1992 with a comprehensive zoning code amendment that changed the zoning districts. Doorstep purchased the building in 1993 and began using this building as their offices.

ZONING AND CHARACTER OF SURROUNDING AREA:

In the vicinity of the property, the frontage along SW 10th Avenue is comprised of office & institutional uses and multiple-family and single-family dwellings. Additionally, the area is characterized by large single –family residences that have been converted and re-used for offices or multi-family residential uses, as well as large institutional uses (i.e. churches, schools).

North: “O&I-2” – Church and offices; Office building

West: “O&I-2” - Church

East: “O&I-2” – Apartment building

South: “R-2” Single Family Dwelling District with SUP for Parking Lot- Surface Parking in association with building at 1119 SW 10th Avenue.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

BUILDING SETBACKS:

There are no changes proposed to the exterior of the building.

OFF-STREET PARKING:

Another Special Use Permit (SP60/30) was approved in 1960 to allow the property south of the alley located at 1012 SW Buchanan and zoned "R-2" Single – Family Dwelling District to be used as a parking lot in association with the office building on the subject property.

The owner is required to add four additional parking stalls in this parking lot to account for changing the use of a 1,768 sq. ft. portion of their building from office to retail. They have sufficient space in the lot to provide these four additional stalls by relocating the trash dumpster. A parking lot striping plan should be provided to the Planning Department with the building permit application.

The nine cutback parking stalls along SW Buchanan that are in front of the building were added around 1966 and are considered public parking. This parking may not be reserved for the sole use of any particular property owner, but may be used by this owner as long as the parking is available.

LANDSCAPING:

There are no exterior changes proposed that will require landscaping.

SIGNAGE:

"O&I-2" zoning allows wall signs not exceeding 40 sq. ft. per sign face and monument signs not exceeding 50 sq. ft. and 5 ft. in height

The applicant has one existing ground sign and a wall sign on the south building face. They propose wall signs on the north and west facades.

OPERATING CHARACTERISTICS:

Retail sales: Thursday, Friday, and Saturday from 10 am to 4 pm. The CUP allows the applicant to potentially extend retail sales hours up to five days per week until 7:00 pm, but this is not yet their intention.

Office hours: Monday – Friday from 8:00 am to 3:00 pm

Operate the Dove Tail Shoppe (thrift store) in a 1,768 sq. ft. space on the main floor of the building which amounts to approximately 12% of the total floor area of the building.

PUBLIC FACILITIES

TRANSPORTATION:

The property is located along SW 10th Avenue (minor arterial) and SW Buchanan Street (local street).

The property is located along Topeka Metro bus route #10 that runs on SW 10th Avenue.

UTILITIES:

The property is connected to City sanitary sewer and water. Utilities are not affected by this revision.

OTHER FACTORS

SUBDIVISION PLAT:

Lots 161, 163, 165, and 167, Young's Addition

FLOOD HAZARDS, STREAM BUFFERS:

N/A

HISTORIC PROPERTIES:

N/A

NEIGHBORHOOD INFORMATION MEETING:

The applicant conducted a neighborhood meeting on Monday, September 25, 2017 at 5:30 pm at the Doorstep office, 1119 SW 10th. There were two attendees at the meeting. Key concerns expressed were related to the operating characteristics and exterior lighting. Attendees also raised questions about the future re-use of the existing Dove Tail Shoppe. The applicant's report to the City is attached.

The Tennessee Town NIA has expressed support for the rezoning request as indicated in the attached letter.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

Public Works /Engineering:

No issues.

Water Pollution Control:

No issues.

Fire Department:

No issues.

Development Services:

No issues. A building permit is required for a change of occupancy. A plan showing re-striping of the parking lot will be submitted at that time.

KEY DATES

SUBMITTAL:	September 1, 2017
NEIGHBORHOOD INFORMATION MEETING:	September 25, 2017
LEGAL NOTICE PUBLICATION:	September 20, 2017
PROPERTY OWNER NOTICE MAILED:	September 22, 2017

STAFF ANALYSIS

EVALUATION CRITERIA: In considering an application for a Conditional Use Permit, the Planning Commission and Governing Body will review the request following standards in Topeka Municipal Code Section 18.245(4)(ix) in order to protect the integrity and character of the zoning district in which the proposed use is located and to minimize adverse effects on surrounding properties and neighborhood. In addition, all Conditional Use Permit applications are evaluated in accordance with the standards established in the Section 18.215.030 for land use compatibility, site development, operating characteristics, and consistency with the Comprehensive Plan.

- The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies:** The subject property lies within an area designated “*Professional Services/Residential*” in the Tennessee Town Neighborhood Plan (adopted 2001). This designation comprises the primary image corridor of SW 10th Avenue. The mixing of uses is allowed within this designation that includes neighborhood commercial, office, institutional, and residential. Adaptive re-use of existing residential buildings is encouraged rather than promoting new strip commercial development. The proposed amendment to the Conditional Use Permit is in conformance to this designation since it allows re-use of the existing building for limited commercial use rather than rezoning the entire property under a straight commercial zoning district, which would be more likely to encourage the future stripping out of commercial uses along SW 10th Avenue. The amendment is also in conformance to the DRAFT Tennessee Town Neighborhood Plan, which does not change this future land use designation from the 2001 plan.
- The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, sitting, open space and floor-to area ratio:** SW 10th Avenue is classified as a minor arterial street. The neighborhood fronting along SW 10th Avenue is characterized by the conversions of single-family dwellings to office or multiple – family residential re-uses. Large institutional uses, such as First Church of the Nazarene, Mater Dei Catholic Church and school, Lutheran church headquarters and office, USD 501 parking lots, and Topeka High School front along SW 10th Avenue. The interior of the neighborhood (Tennessee Town) is developed primarily as a single-family neighborhood on smaller lots. The land use pattern of this neighborhood consists of residences with front doors and porches facing the street and driveways located from the rear off the alley.
- The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses:** The proposed retail use is in harmony with the zoning and land uses of nearby properties. The zoning and uses of properties nearby is characterized by “O&I-2”, “M-3” and “R-2” zoning. Offices are located directly north of SW10th Avenue from the subject property. An apartment conversion (zoned “O&I-2”) is adjacent with this property on its east side. The parking lot for the subject office use is located on “R-2” zoned property directly to the south. The nature and intensity of the retail use is limited by the Conditional Use Permit and, therefore, will be inconspicuous.

4. **The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations:** The zoning is not changing from “O&I-2” Office and Institutional District. A Conditional Use Permit approved for the property in 1960 already allows for retail sales strictly limited to orthopedic supplies. The CUP amendment merely broadens the owner’s ability for retail, but still allows retail only as incidental, accessory and subordinate to the office building.
5. **The length of time the property has remained vacant as zoned:** The existing building has remained on the property since 1960 when it was zoned and used as medical clinic that included retail sales until the late 1980s. Doorstep began using the building as an office in 1993 and has used the building for this purpose since that time.
6. **The extent to which the approval of the application would detrimentally affect nearby properties:** Approval should have limited detrimental effects on nearby properties as there are no changes proposed to the exterior of the buildings. Doorstep is converting an interior 1,768 sq. ft. portion of the office for retail. Consolidating operations will improve efficiency for how Doorstep collects and manages its donated items to keep donations and unwanted items from piling up outside the building. The CUP limits the hours of operations for retail sales in such a manner to have minor impacts on adjacent properties and neighborhood. The retail allowed by the CUP is clearly incidental and subordinate to the office use since it will only comprise 12% of the entire building area. The applicant has added exterior lighting to the building and alley to address concerns from the neighborhood. Signage is limited to that which is allowed under the current “O&I-2” zoning district.
7. **The extent to which the proposed use would substantially harm the value of nearby properties:** Approval of the request will have very limited or no significant impact on the value of surrounding properties as there are no changes proposed to the exterior of the building. All improvements to the building are interior. The CUP amendment should not harm the value of nearby properties since it places a limit on how much of the building may be used for retail. If the retail use is expanded, a rezoning would likely be required under a commercial zoning district or PUD zoning.
8. **The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property:** The amendment has no significant impact on the road network. The site has an off-street parking lot south of the alley that was approved under a Special Use Permit in 1960. This satisfies the building’s off-street parking requirements for an office use. The applicant will re-stripe this parking lot to add four stalls based on the increased parking requirement that staff determined was necessary in order to change the use of the 1,768 sq. ft. area from office to retail. The subject property also has nine cutback parking stalls along Buchanan that may be used as long as they are available. If SW Buchanan is widened or improved in the future, the City may remove these stalls if necessary.
9. **The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm:** There is none anticipated since there is no increase in building area or paving being added to the parking lot. All changes are interior.
10. **The economic impact of the proposed use on the community:** The revision to the CUP allows Doorstep to more efficiently provide needed services to the neighborhood and community, which in turn has a positive impact on the City.
11. **The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application:** The hardship imposed upon the individual landowner by denial of the application is the subject property currently holds a permit allowing retail sales, but is so narrow in scope it is not suitable to fit needs of this owner or future owners

and thereby significantly restricts the adaptive re-use of the building. Amending the Conditional Use Permit allows Doorstep to more efficiently and effectively serve the community, which is a gain to the public, health, safety, and welfare.

RECOMMENDATION

The project demonstrates compliance with standards for evaluation as provided for in TMC 18.215.030 Conditional Use Permits for Land Use Compatibility, Site Development, Operating Characteristics, and consistency with the Comprehensive Plan.

STAFF RECOMMENDATION: Based upon the above findings and analysis, Planning staff recommends **APPROVAL** of this proposal, **subject to:**

1. Use and development of the site in accordance with the approved Resolution and compliance with the Operational Statement submitted with the application for Doorstep, Inc.
2. "Retail sales shall remain subordinate, incidental and associated with the principal use of an office."
3. "Case file #CU17/1 by: Doorstep, Inc. amends and replaces the Special Use Permit for #SU60/2 By: Petro Surgical."
4. "Submittal of a parking lot striping plan to the Planning Department for approval at the time of the building permit application."
5. "Items that are donated and dropped off overnight shall be moved indoors within the following day and not allowed to accumulate outside."

PLANNING COMMISSION MOTION: I move to recommend **APPROVAL** to the Governing Body the amendment to the Conditional Use Permit CU17/1I based upon the findings and analysis listed in the staff report and subject to the conditions.

ATTACHMENTS:

Statement of Operations
Aerial Map
Zoning Map
Future Land Use Map
NIM report and Sign-In sheet
NIA letter



**CU17/1 By: Doorstep, Inc.
Aerial Map**



CU17/1 By: Doorstep, Inc. Zoning Map



Doorstep, Inc.

Information for an Amendment to Current Conditional Use Permit

Statement of Operations:

Doorstep, Inc. began in 1966 with 6 local churches coming together to help the people in their neighborhood, on their doorsteps. Today we are supported by 55 interfaith member congregations. We provide help with emergency assistance for people living in poverty or experiencing a crisis in their lives. Services offered are: food and clothing banks, rent and utility assistance, prescription and dental vouchers and local transportation in the form of gas vouchers and city bus tickets to get to work or medical appointments. Our office hours are Monday – Friday from 8am – 3pm. Client service hours are Monday – Friday 9am – 1:45pm. Doorstep has been at our current location, 1119 SW 10th Avenue, since 1993.

Doorstep, Inc. would like to move our thrift store, the Dovetail Shoppe, currently located at 1196 SW Washburn, into the north end of our building located at 1119 SW 10th Avenue. The space to be occupied by the Dovetail Shoppe is 1,768 square feet on the main floor. Our goal is to get all of our programs, staff and volunteers in one location, and increase visibility for the Dovetail Shoppe. The current location does not allow us to price the items in the thrift store. Moving it to our main building and changing the conditional use permit would allow us to price items in the Shoppe for sale. Money made at the thrift store is funneled back into services and needs at Doorstep. The retail space would amount to 12% of the total square footage of the building with the remainder being used for non-profit services and storage.

Currently the Shoppe is open Thursday, Friday and Saturday from 10am – 4pm. This would remain the same to start, but would not expand past five days a week or later than a 7pm closing time.

To be current with parking spaces for adding retail, if we are approved, we will have the parking lot on the south side of the building restriped to add an additional 4 spaces. We currently have open space in this lot that is not striped, and would be available for these spaces. This would make us compliant with adding a retail space to our building.

Signage for the Shoppe and Doorstep would be included on the current yard sign, meeting the City's guidelines. In order to promote the Dovetail Shoppe and Doorstep, we will need to have a sign indicating hours on each side of the building (north, south and west).

Regarding the Shoppe space in the building we will not be making any structural changes to the space. No changes will be made to the exterior of the building. There is an automatic door on the west side of the building for wheelchair/handicap use. The bathrooms on the main floor have been made ADA compliant several years ago.



CU17/1- Future Land Use Map (Neighborhood plans)

Doorstep, Inc



Doorstep, Inc.
Neighborhood Information Meeting
September 25, 2017

Sign In / Attendance Sheet ~ Annie Driver, City Planning Dept. was present.

Name	Address	Email
Toni Dugan	1035 SW Buchanan	Toni.wash@att.net
Ruby Carson	1031 SW Buchanan	Rubycarson883@gmail.com
Jim McCollough	Doorstep – Board President	
Cathy Butler	Doorstep – Board Member	
Jackie Buchanan	Doorstep – Board Member	
Judy Neher	Doorstep – Board Member	
Ron Miller	Staff, Doorstep	
Carrie Allen	Staff, Doorstep	
Lisa Cain	Staff, Doorstep	

Notes / Questions from the meeting

Q: How would this affect our properties?

Annie: City staff will look at how it affects the neighborhood and it will be in the staff report. The report will be available after October 6th. The purpose of this meeting is to express any concerns you might have about Doorstep moving the thrift shop here.

Q: My concern is how the donations are handled because people leave stuff outside and others rummage through it and it becomes an eye sore.

Staff: We don't have much control over that. We have a sign posted saying not to leave items after hours. We recently added extra lighting outside to hopefully help, and we would get a bigger dumpster to help accommodate the trash. We want our property to be clean and look nice, we always try to take care of it as soon as possible. Having Dovetail here would allow for extra volunteers and days here to stay on top of it.

Q: Letter said this is part of a grant...

Staff: No that is for Tennessee Town. Their meeting is tomorrow night.

Q: Who came up with this idea?

Staff: Doorstep Staff. We are trying to bring all of our services, volunteers and staff together under one roof to be more efficient.

Doorstep Neighborhood Meeting

Q: Is the building big enough to accommodate it?

Staff: Yes, it is about the same size as Dovetail now, but we have extra storage in the basement so we gain a little bit.

Q: During the week days when furniture or big items are left that we don't want, how we will handle that so there isn't a big trash pile?

Staff: We will get a bigger dumpster to accommodate the trash. Also, staff will be here 6 days a week and will take care of it right away.

Q: Can you get metal bins for donations after hours? Like the planet aid ones?

Staff: The people that dump after hours are likely to not use the bins. We do want to keep things clean and presentable so it is something we can look into.

Q: Do you think in time you will still have enough space?

Staff: Yes, the space at Dovetail has always been the same size. When we get full we pass things on, have a sale, or stop taking new donations for a while. It will be the same process here.

Comment: We think it is a great idea to move Dovetail here. You just may need to make a few tweaks as you go. Doorstep offers great and much needed services for the community. What do you think the community can offer you?

Staff: Let us know about problems or issues that occur after hours. We recently became aware that our dusk to dawn light was out from a neighbor and that people liked to hang out around our building after dark. We had no idea, and took action right away to add more lighting outside. We would like for our neighbors to continue to notify us, especially after hours because we aren't here and don't know what goes on.



Tennessee Town Neighborhood Improvement Association

1195 SW Buchanan

Topeka, KS 66604

Web: tenntownnia.weebly.com

E-Mail: tenntown@yahoo.com

Nextdoor.com:

https://tennesseetown.nextdoor.com/news_feed/

Twitter: @tenntown

September 12, 2017

Topeka Planning Commission
c/o City of Topeka Planning Department
620 SE Madison
Topeka, KS 66607

Dear Planning Commission Members:

This letter comes to you as a result of a long-standing partnership the Tennessee Town Neighborhood Improvement Association (NIA) has with Doorstep, Inc., whose programming has been helping low-income Topeka residents since 1966, some of them situated in Tennessee Town.

Doorstep, Inc.'s application for a Conditional Use Permit at its 1119 SW 10th Avenue location to enable it to relocate its current services at Dovetail, 1196 SW Washburn, to its 10th Avenue location will enable it to more efficiently deliver services as the program's staff and volunteers will work at a single location.

At the Tennessee Town NIA September 11, 2017, general membership meeting the following was moved and seconded: "The Tennessee Town NIA endorses Doorstep, Inc.'s application for a Conditional Use Permit to move its services at Dovetail to its 1119 SW 10th location." The motion was approved.

Please let us know if you have any questions moving forward.

Thank you for your time and assistance.

Michael Bell

Patrick DeLapp

Sandra Lassiter

Michael Bell

Patrick DeLapp

Sandra Lassiter

Tennessee Town NIA President

Tennessee Town NIA Vice-President

Tennessee Town NIA Secretary-Treasurer

cc: Bill Fiander, Director, Topeka Planning Department
Annie Driver, Case Planner, Topeka Planning Department
Patrick DeLapp, Tennessee Town NIA Vice-President
Sandra Lassiter, Tennessee Town NIA Secretary-Treasurer



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION
MINUTES

Monday, October 16, 2017

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Wiley Kannarr (Chair), Brian Armstrong, Ariane Messina, Dennis Haugh, Rosa Cavazos, Katrina Ringler, Carole Jordan, Matt Werner, Marc Fried (9)

Members Absent:

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; Annie Driver, Planner II; John Neunuebel, Planner II; Kris Wagers, Administrative Officer; Mary Feighny, Legal; Dan Warner, Planner III; Tim Esparza, Planner I

CU17/1 by Doorstep, Inc. requesting an amendment to a Conditional Use Permit (Special Permit #60/2) allowing for "Sales of Orthopedic Appliances" to allow "Retail sales subordinate to and in association with the principal use of the office building" on property located at 1119 SW 10th Avenue and currently zoned "O&I-2" Office and Institutional District.(Driver)

Ms. Driver presented the staff report and staff recommendation for approval of the proposed Conditional Use Permit subject to the five (5) conditions listed in the Staff Report.

Lisa Cain, Executive Director for Doorstep, Inc. came forward to speak for Doorstep. She gave some information about Doorstep, Inc. and their services. She explained that Doorstep's intention is to move the Dovetail Shoppe into the building at 1119 SW 10th. This will allow for all of Doorstep to be under one roof, thus saving money and staff time.

Mr. Kannarr asked Ms. Cain if Doorstep is in agreement with the conditions in the staff report and she stated that yes, they are.

Mr. Kannarr declared the **public hearing open**.

Mr. Ben Swinnen, owner of the LLC that owns the building to the east of Doorstep's building on 10th street, came forward to speak. Mr. Swinnen stated that he does not take issue with the application for amendment but he does feel that the conditions as listed in the staff report are vague. He stated that limiting the use of the building for retail sales to 12% is not in the conditions, nor is limiting sales to 3 days a week. He asks that the conditions be clarified so the impact on the neighborhood is limited. He expressed concern about donations being left outside on the porch. He noted that while condition #5 states that donated items shall be moved indoors within the following day, Doorstep is not staffed on Sundays so he's concerned that they will not move items indoors until Mondays.

Mr. Swinnen concluded by stating that he desires the conditions to be clarified to reflect the promises on one side and expectations on the other. He noted that he believes Doorstep does fabulous work in the community and he has no principal objection to their request.

DRAFT

Michael Bell, President of the Tennessee Town NIA, came forward representing the NIA. He stated that Doorstep is located in the Tennessee Town NIA, and at the July Tennessee Town NIA meeting a vote was taken to support Doorsteps application.

With nobody else coming forward to speak, Chairman Kannarr declared the **public hearing closed**.

Chairman Kannarr asked staff what the protection is in terms of specificity for concerns expressed by Mr. Swinnen. Ms. Driver stated that staff believed naming 12% as the maximum retail sales use was more confining than it needs to be. Mr. Fiander pointed out that Doorstep's Statement of Operations is attached to the CUP. This statement includes specificity for hours of operation and square footage for retail. The CUP gives administrative flexibility to approve up to 10% variance in retail square footage.

Mr. Werner asked what relief could be offered in regard to Mr. Swinnen's concern about donated items being allowed to accumulate on Sundays when Doorstep is not staffed. Mr. Fiander stated that condition #5 in the staff report speaks for itself. He stated that if Doorstep does not intend to bring donations in on Sundays, they should say so now as this is the intent of the condition. Following additional discussion, Ms. Feighny pointed out that the burden of making sure the conditions are met rests upon Doorstep, and failing comply could put the CUP in jeopardy. This gives a strong impetus to Doorstep to comply with the conditions listed in the staff report and with their Statement of Operations.

Motion by Mr. Werner to recommend to the Governing Body approval of the amendment to the Conditional Use Permit CU17/11, subject to the conditions; **second by Mr. Fried. APPROVAL** (9-0-0)



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Bill Fiander **DOCUMENT #:**
SECOND PARTY/SUBJECT: David Bussard **PROJECT #:**
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 007 Zoning
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinance by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 2655 SW Wanamaker Road FROM "O&I-1" Office and Institutional District TO "C-2" Commercial District. (Z17/04) (Council District No.8)

Voting Option Requirements: (1) Approve Planning Commission's recommendation 6 votes required (2) Reject or Amend Planning Commission's recommendation 7 votes required; or (3) Remand back to Planning Commission 6 votes required

(Approval would provide for the expansion of the existing office building and allow for a larger business ground sign at the southeast corner of the site to accommodate an increased number of tenant office spaces. The sign will measure approximately 15 feet in height and 110 feet in area).

VOTING REQUIREMENTS:

The Governing Body has the following options to consider:

(1) Adopt the recommendation of the Planning Commission by a majority vote (6) of the Governing Body.

(2) Reject or amend the Planning Commission's recommendation by a two-thirds majority vote (7) of the Governing Body.

(3) Return such recommendation to the Planning Commission by majority vote (6) of the Governing body with a statement specifying the basis of the decision to approve or deny the request.

POLICY ISSUE:

The key issues regarding the proposed zoning relate to:

- The potential for the C-2 zoning to encourage strip retail development along this segment of Wanamaker.
- A change in zoning from an office district (O and I-1) to a commercial district (C-2) for the purpose of allowing for a larger sign.

The change to C-2 zoning in this instance will not likely lead to strip retail development because the site contains an existing office building which is being expanded and is not easily converted for retail use.

Vehicular access is from 27th street and not from Wanamaker. The adjacent land to the north is zoned C-2, and the adjacent land to the south is zoned C-4 even though the land uses are office buildings.

The owner has indicated he intends to increase the height of his sign by 2 to 4 feet and the size of the sign by less than 50 square feet (for a total of approximately 15 feet in height and 110 feet in area). The ground sign for the adjacent property to the north is much larger than the owner's current sign. In the future, updated sign code standards that are based on use and property/building proportions should be more effective at accommodating a well-designed aesthetic for the community than changing zoning districts. The proposed change in zoning is consistent with the zoning of this corridor and is in conformance with the City of Topeka Land use and Growth Management Plan 2040 (LUGMP).

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

The request to rezone property located at 2655 SW Wanamaker Road (1.4 acres) from "O and I-1" Office and Institutional District to "C-2" Commercial District. The zoning change will provide for the expansion of the existing office building and allow for a larger business sign (a ground sign at the southeast corner of the site) to accommodate an increased number of tenant office spaces. Current zoning of O and I-1 on the site provides for a maximum building ground floor area of 7,500 square feet, while proposed zoning of C-2 provides for up to 50,000 square feet of ground floor area. The applicant plans to expand the existing building from 12,422 square feet to 17,942 square feet.

The applicant conducted a Neighborhood Information Meeting on September 21, 2017. Two people representing a church located to the southeast of the property attended the meeting and expressed no concerns with the proposed zone change. Other than staff and the applicant, nobody addressed the Planning Commission at the October 16, 2017 meeting. The Planning Commission recommended approval as well as the Planning Department based on the findings and analysis in the attached staff report.

BUDGETARY IMPACT:

There would be no budget impact to the City.

SOURCE OF FUNDING:

Not applicable

ATTACHMENTS:

Description

Ordinance

Staff Report

Aerial Map

Zoning Map

Future Land Use Map (LUGMP 2040)

Neighborhood Information Meeting Summary and Sign-In Sheet

Meeting Minutes of Planning Commission

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 2655 SW Wanamaker Road from "O&I-1" Office and Institutional District to "C-2" Commercial District. **(Z17/04) (Council District No. 8)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), be, and the same is hereby amended for the following described property, approximately 1.4 acres in size, as located at 2655 SW Wanamaker Road:

Lot 1, Block A, Villa West Subdivision No.2, in the City of Topeka, Shawnee County, Kansas.

FROM "O&I-1" Office and Institutional District **TO** "C-2" Commercial District.

Section 2. This Ordinance Number shall be fixed upon the "District Map."

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka, _____,

2017

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified X

STAFF REPORT – ZONING CASE
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: OCTOBER 16, 2017

**APPLICATION CASE NUMBER /
NAME:**

Z17/04 - David A. Bussard

**REQUESTED ACTION / CURRENT
ZONING:**

Zoning reclassification **FROM** “O&I-1” Office and Institutional District **TO** “C-2” Commercial District

APPLICANT / PROPERTY OWNER:

Mr. David A. Bussard

APPLICANT REPRESENTATIVE:

Mr. David A. Bussard

PROPERTY LOCATION / PARCEL ID:

2655 SW Wanamaker Road / Parcel I.D: 1430804004062000

PARCEL SIZE:

1.4 acres

CASE PLANNER:

John Neunuebel, Planner II

RECOMMENDATION:

Approval

RECOMMENDED MOTION:

Based on the findings and analysis in the staff report I move to recommend **APPROVAL** to the Governing Body of the reclassification of the subject property from “O&I-1” Office and Institutional District to “C-2” Commercial District.

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

The change in zoning to C-2 will provide for the expansion of an existing office building and provide for a larger replacement sign to accommodate an increased number of tenant office spaces. (The current zoning of O&I-1 limits the ground floor area of a building to 7,500 sq.ft. and size of sign to a maximum of 50 sq.ft per sign face.)

DEVELOPMENT / CASE HISTORY:

The subject property had been zoned R-1 Single-Family Residential until 1981 when zoning was changed to “G-PBC” Commercial Planned Business Center. In 1990 another zone change for the site resulted in zoning of “D & O” Dwelling and Office District, which later converted to current designation of “O&I-1” Office and Institutional. The existing building was constructed in 1990 as a bank and was subsequently converted into multiple tenant office spaces by the present owner. (Although the existing building is 12,422 sq.ft in size and the “O&I-1” zoning district includes a maximum building size of 7,500 sq.ft, the existing building is considered a legal non-conforming use since the city’s zoning code did not stipulate a maximum building size for the

subject site when its previous zoning designation was “D & O” Dwelling and Office District.)

In October 1989, under Case #89-29, the Board of Zoning Appeals approved a variance request for a 22 feet high free-standing pylon sign (ground sign) that exceeded the standards for height and size for the D&O zoning district applicable at that time.

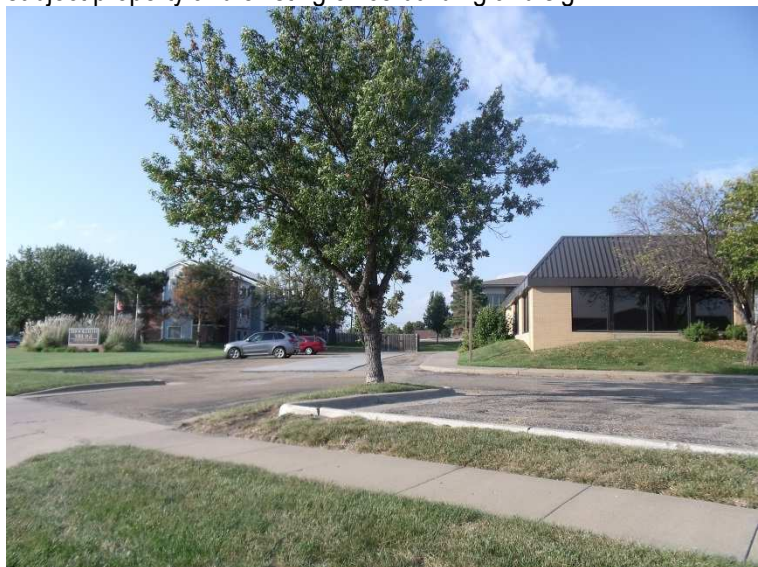
ZONING AND CHARACTER OF SURROUNDING PROPERTIES:

The adjacent land to the north is zoned C-2 Commercial with an office building. The land to the east across Wanamaker Road is zoned R-1 Single-Family Residential with two churches on separate properties. To the south across 27th Street is an office building with C-4 Commercial zoning. The adjacent land to the west is zoned PUD (Planned Unit Development) for multi-family residential development.

PHOTOS:



At 27 Street facing north along west side of Wanamaker Road with subject property and existing office building and sign.



Facing north along west side of subject property with existing office building on right and multi-family residential building on left



Facing east along north side of subject property with formerly used bank drive-thru canopy of subject building on right and neighboring office building on property to the north on left.

DEVELOPMENT STANDARDS AND POLICIES

PURPOSE, USE STANDARDS:

The purpose of the proposed C-2 zoning district is to “provide for those commercial activities which serve a major segment of the total community population. In addition to a variety of retail goods and services, these centers may typically feature a number of large traffic generators that require access from major thoroughfares. The extent and range of activities permitted are in the moderate to medium intensity range with a ground floor area limitation and a prohibition on outside sales and storage of supplies, materials, products, and equipment.” (TMC 18.145.010)

A relatively broad range of land uses are permitted within the C-2 district. Civic/cultural uses include: artist studio; clubs or lodges; museums and libraries; government services; indoor and outdoor recreation; and religious assembly. Office/commercial uses include: banks; funeral homes; hotels; packaged liquor sales; pharmacies; and office/professional office. (TMC 18.60 Land Use Matrix)

DIMENSIONAL STANDARDS:

Current zoning for the subject site of O&I-1 provides for a maximum building ground floor size of 7,500 sq.ft, while proposed zoning of C-2 provides for a maximum building ground floor size of 50,000 square feet. (Should the proposed zone change be approved, the applicant is anticipating an expanded building encompassing total ground floor size of 17,942 sq.ft.)

In regard to allowable signage; the current zoning of O&I-1 provides for a monument-type signs limited to a maximum of 50 sq.ft. per sign face with a maximum height of 5 feet, while proposed zoning of C-2 provides for signs with a maximum of 200 sq.ft. per sign face with a maximum height of 35 feet.

OFF-STREET PARKING:

In the C-2 District off-street parking is required per the standards in TMC 18.240.030. Number of required parking spaces is regulated by use and not by Zoning District; therefore, the change in zoning has no direct effect on parking requirements.

LANDSCAPING:

In the C-2 District landscaping is required for new construction and building and parking lot expansions, although the change in zoning has no direct effect on landscaping requirements. Landscaping will be reviewed as part of the anticipated permitting process for expansion of the existing building.

OTHER DESIGN GUIDELINES AND CONSIDERATIONS:

There are no explicit design standards applicable to the C-2 district although, depending on the scope of the project, site plan review and landscape requirements apply.

COMPREHENSIVE PLANS:

The Topeka Land Use and Growth Management Plan 2040 (LUGMP) includes the subject site on the Future Land Use Map as 'Existing Strip Commercial Area.' (Future Land Use Exhibit for subject area as attachment.) Such areas are so designated because they have been identified as requiring special redevelopment consideration in order to lessen detrimental effects along arterial roadways of 'strip commercial' development. Inasmuch as the existing structure on the site is utilized as commercial office space and the anticipated expansion of the building will accommodate additional office space, the intent of minimizing commercial strip development in the future within the subject area would be achieved. The proposed zone change from O&I-1 to C-2 to provide for the expansion of an existing office building adheres to the Topeka LUGMP 2040.

TRANSPORTATION/ AND ACCESS:

Two existing driveways off 27th Street provide access into the existing parking lot, with no direct access provided from Wanamaker Road. The subject site includes existing sidewalks along both Wannamaker Road and 27th Street pursuant to requirements of the Topeka Pedestrian Master Plan.

OTHER FACTORS

SUBDIVISION PLAT:

The subject property is included within Villa West Subdivision #10 as Lot 1 within Block A.

FLOOD HAZARDS, STREAM BUFFERS:

None

UTILITIES:

The site is served by a full range of utilities and services.

TRANSPORTATION/TRAFFIC:

SW Wanamaker Road adjacent to the subject property is categorized as a minor arterial, and SW 27th Street is a local street.

HISTORIC PROPERTIES:

None

**NEIGHBORHOOD INFORMATION
MEETING / STAKEHOLDER
FEEDBACK:**

The owner/applicant conducted a neighborhood information meeting on September 21, 2017. (Meeting attendance and summary attached.) Two people representing a church located on the opposite side of Wanamaker Road to the southeast of the property attended the meeting and inquired of the subject application and zone-change process, and expressed no concerns with the proposed zone change.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:	None
WATER POLLUTION CONTROL:	None
FIRE:	None
DEVELOPMENT SERVICES:	None
Other:	None

KEY DATES

APPLICATION SUBMITTAL:	August 29, 2017
NEIGHBORHOOD INFORMATION MEETING:	September 21, 2017
LEGAL NOTICE PUBLICATION:	September 25, 2017
ADJOINING PROPERTY OWNER NOTICES MAILED:	September 21, 2017

STAFF ANALYSIS

CHARACTER OF NEIGHBORHOOD: Based on the existing conditions of the subject site and surrounding properties the proposed C-2 zoning is compatible with the existing and desired future character of the neighborhood. The parcel to the north is also zoned C-2 with an existing office building, while the parcel located to the south across 27th Street is zoned C-4, also with an existing office building. Uses permitted by the proposed C-2 zoning are generally compatible with the single-family and institutional use to the east across Wanamaker Road, as well as with the adjoining multi-family residential area to the west.

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property is not vacant but instead includes a number of tenants, with the building owner proposing expansion of the building to accommodate one or more additional tenants.

CONFORMANCE TO COMPREHENSIVE PLAN: The Topeka Land Use and Growth Management Plan 2040 (LUGMP) includes the subject site on the Future Land Use Map as 'Existing Strip Commercial Area.' Such areas are so designated because they have been identified as requiring special redevelopment consideration in order to lessen detrimental effects along arterial roadways of 'strip commercial' development. Inasmuch as the existing structure on the site is utilized as commercial office space and the anticipated expansion of the building will accommodate additional

office space, the intent of minimizing commercial strip development in the future within the subject area would be achieved. The proposed zone change from O&I-1 to C-2 to provide for the expansion of an existing office building adheres to the City of Topeka LUGMP 2040.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED:

The owner is requesting a change in zoning to accommodate a building expansion and an enlargement of the existing ground sign. Although the property and the existing building are suitable for the uses to which it is restricted under the current O&I-1 zoning, the dimensional requirements of the current zoning do not provide for an expansion of the existing building. A change in zoning to O&I-2 would also accommodate the owner's desired building expansion, but O&I-2 zoning would not provide for an enlargement of the ground sign. A change in zoning to C-2 Commercial will allow a substantial enlargement of the ground sign to include identification of additional building tenants.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The change in zoning and the planned expansion of the existing building will not have a negative effect on nearby properties inasmuch as office uses are appropriate transitional uses when located in proximity to higher-density residential uses as is the case with the subject site. Although there is a potential for converting from the existing office use to retail or other commercial use should the requested zone change be approved, most commercial uses have a significantly more stringent off-street parking requirement of at least 1 parking space per 200 sf of floor area, compared to 1 space per 300 to 400 sf required for office use, and thus commercial uses are not likely because of the difficulty of providing required off-street parking. Furthermore, the configuration of the existing building originally as a bank and more recently as individual tenant office spaces does not seemingly lend itself well to use as commercial retail space.

The change in zoning to C-2 Commercial also provides for a substantial increase in business signage. O&I-1 and O&I-2 zoning restrict ground signs to a height of 5 feet and an area of 50 sf per side. Under C-2 zoning, ground signs are permitted to a maximum height of 35 feet and size of 200 square feet per side. The existing ground sign, approved by a variance from the Topeka Board of Zoning Appeals in 1989, is approximately 12 feet high and 60 sf in area per face. The owner has stated his intention of increasing the height of the sign by 2 to 4 feet and the size of the sign by less than 50 square feet. An increase in signage that fully utilizes what is permitted in C-2 zoning is potentially out of character with nearby properties, and Planning staff typically do not advise a change in zoning from an O&I classification to a C classification for the purpose of increasing the height, size, or quantity of signs. However, the ground sign for the adjacent property to the north is much larger than the owner's current sign and, considering the owner's intentions and what will be needed for the office use, the anticipated signage will have no detrimental effect on nearby properties.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: Approval of the proposed zoning change will allow for the expansion of an existing building by providing additional office spaces in response to market demand for such office spaces within the area.

AVAILABILITY OF PUBLIC SERVICES: Adjacent public streets are adequate to serve the development, and all essential public utilities, services and facilities are presently available.

STAFF RECOMMENDATION:

RECOMMENDATION: Based on the above findings and analysis Planning Staff recommends approval of the zoning reclassification **FROM** "O&I-1" Office and Institutional District **TO** "C-2" Commercial District as proposed.

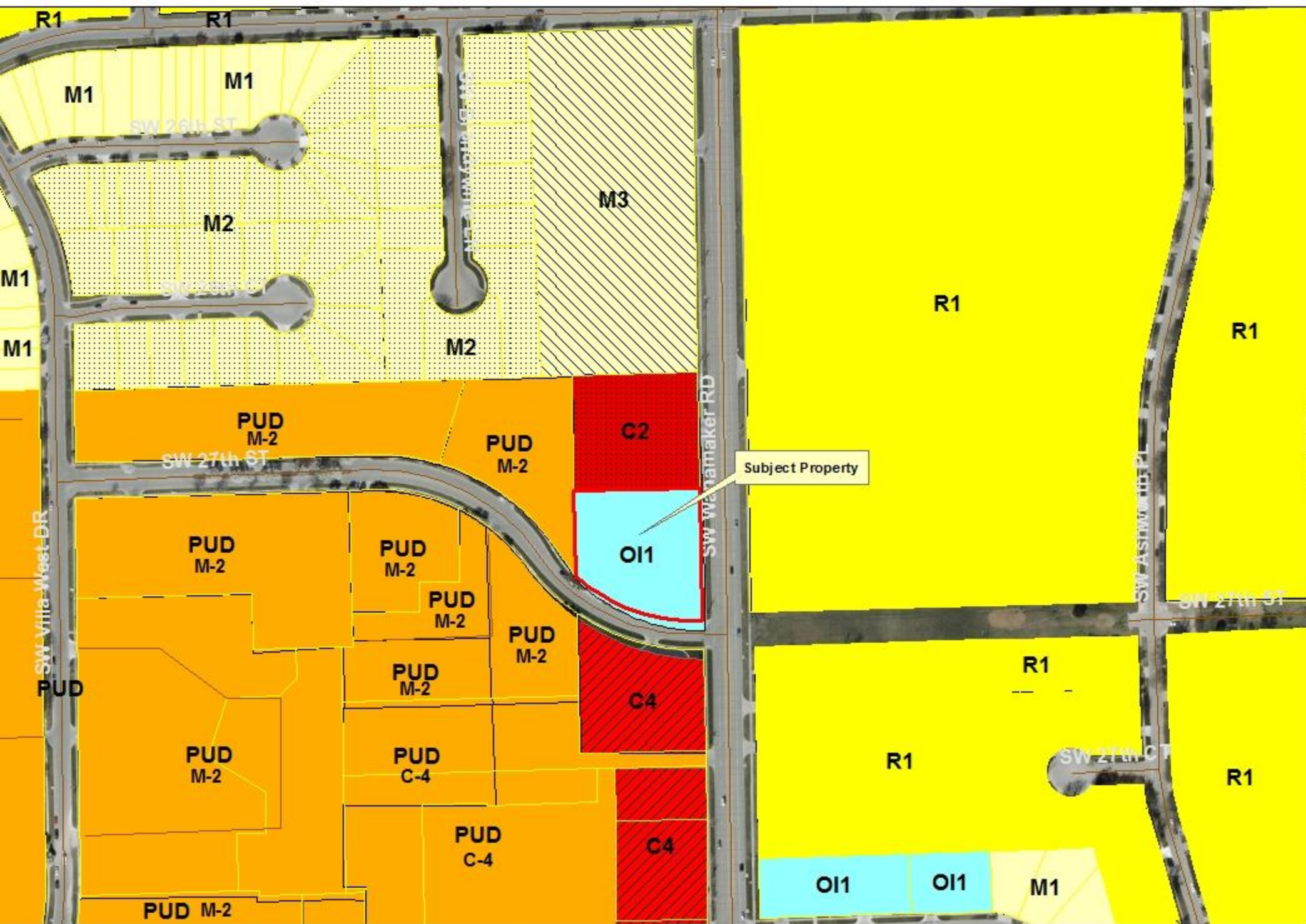
RECOMMENDED MOTION: Based on the findings and analysis in the staff report I move to recommend **APPROVAL** to the Governing Body of the reclassification of the property from "O&I-1" Office and Institutional District to "C-2" Commercial District.

Attachments:

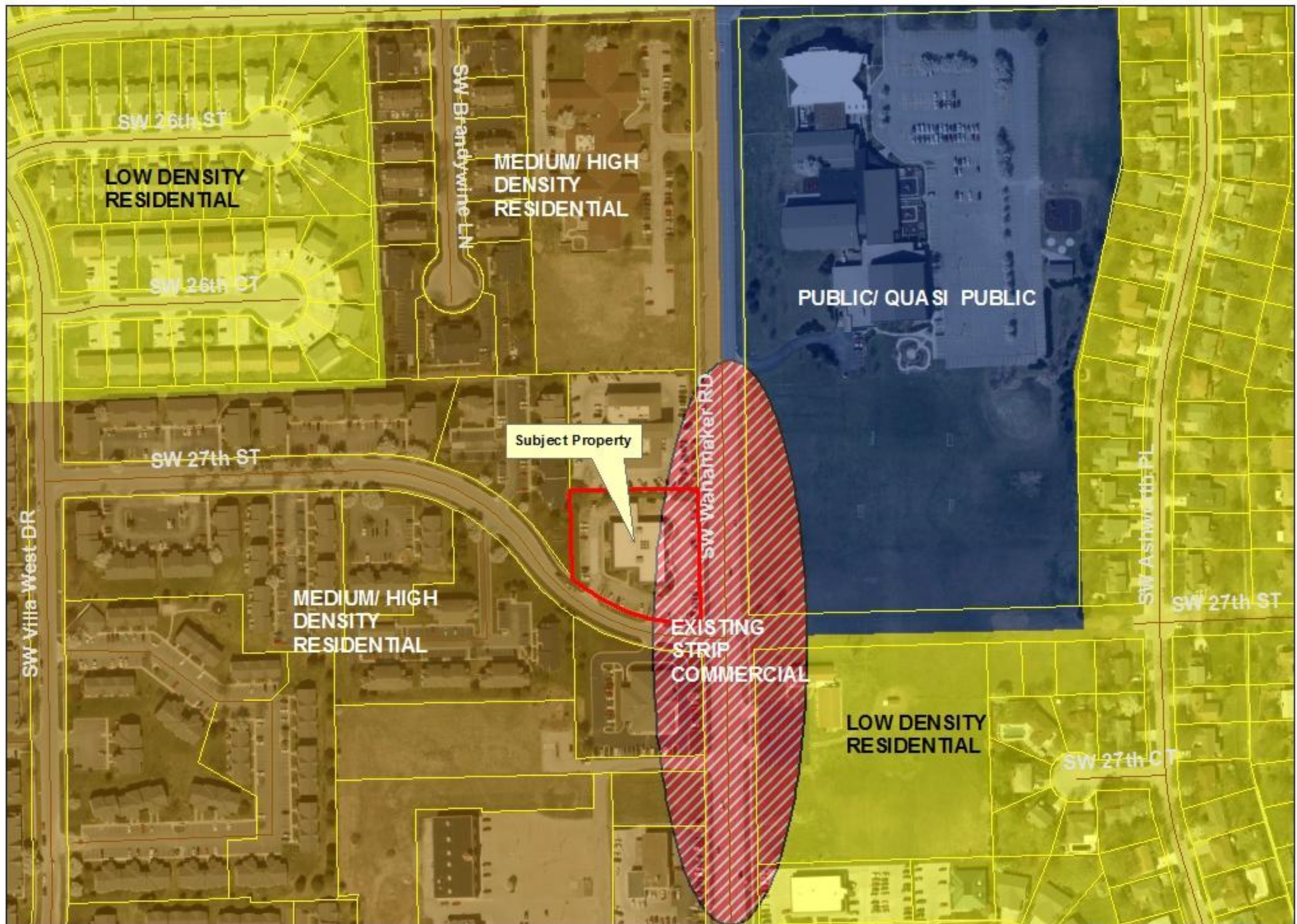
- Aerial Map
- Zoning Map
- Future Land Use Map (LUGMP 2040)
- Neighborhood Information Meeting Notes & Attendance



Z17/04 - Aerial Map
David Bussard



Z17/04 - Zoning Map
David Bussard



Z17/04 - Future Land Use Map (LUGMP 2040)
David Bussard

Bussard Office Building
Neighborhood Information Meeting
2655 Southwest Wanamaker Road

October 3, 2017

Attendance: Owner David Bussard

1 Neighbors, two representatives for Wanamaker Baptist Church

1 Representative from Architect One

2 Representative from the City of Topeka Planning Department

Meeting started at 5:30 pm.

Mr. Mike Hall, representative of the City of Topeka Planning Department, started with the purpose of the Neighborhood Information Meeting. And stated that this project will be discussed October 16th at the Planning meeting.

Mr. David Bussard , Commission representative of Bussard Office Building, made the introductions to the audience of the representatives in attendance. He then explains the reason why this project needed a meeting and why the plan was changing. Changes to be made are an addition to the north side of the building and an extension of sign on the southeast corner of the property.

All had their questions answered and were supportive of the project changes.

Respectfully,

David Bussard
Bussard Office Building
Building Owner

Neighborhood Information Meeting

Sign in Sheet

Neighborhood Information Meeting

Sign in Sheet

Proposed Zone Change for Property Located at Northwest Corner of SW Wanamaker Rd and SW 27th St

Date: September 21, 2017 at 5:30 PM

Meeting Location: Subject Property at 2655 Wanamaker Road

[illegible]



CITY OF TOPEKA

TOPEKA PLANNING COMMISSION

MINUTES

Monday, October 16, 2017

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Wiley Kannarr (Chair), Brian Armstrong, Ariane Messina, Dennis Haugh, Rosa Cavazos, Katrina Ringler, Carole Jordan, Matt Werner, Marc Fried (9)

Members Absent:

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; Annie Driver, Planner II; John Neunuebel, Planner II; Kris Wagers, Administrative Officer; Mary Feighny, Legal; Dan Warner, Planner III; Tim Esparza, Planner I

Z17/04 by David Bussard requesting to amend the District Zoning Classification from "O&I-1" Office and Institutional District to "C-2" Commercial District on a 1.4 acre property located at 2655 SW Wanamaker Road to provide for expanded office building and larger sign. (Neunuebel)

Mr. Neunuebel presented the staff report and staff recommendation for approval of the proposed amendment to the district zoning classification.

Following administrative questions from commissioners, Scott Gales of Architect One came forward representing the applicant. He explained that the current square footage of the building exceeds that allowed by the current zoning and the current sign exceeds the allowable size. He went on to state that the application for re-zoning came about because of the success of the property and the opportunity to add square footage to rent for office space. Mr. Gales stated that the property is better suited for C-2 zoning in part because of the zoning of surrounding properties. He then gave some information about the planned modernization of the current building which will be part of the addition.

With no questions from commissioners, Mr. Kannarr declared the **public hearing open**. None came to speak and Mr. Kannarr declared the **public hearing closed**.

Motion by Ms. Jordan to recommend approval to the Governing Body of the reclassification of the property from O&I-1 Office and Institutional District to C-2 Commercial District; **Second by Mr. Werner**.
APPROVAL (9-0-0)

DRAFT



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Bill Fiander **DOCUMENT #:** Z17/5
SECOND PARTY/SUBJECT: Franklin E. Webb **PROJECT #:**
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 007 Zoning
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 5127 SW Wanamaker Road from "RR-1" Residential Reserve District and "C-2" Commercial District ALL TO "R-1" Single-Family Dwelling District. (Z17/5) (Council District No. 7)

Voting Option Requirements: (1) Approve Planning Commission's recommendation 6 votes required (2) Reject or Amend Planning Commission's recommendation 7 votes required; or (3) Remand back to Planning Commission 6 votes required

(Approval would allow the property owner to construct one new, single-family residence on the 38-acre parcel.)

VOTING REQUIREMENTS:

The Governing Body has the following options to consider:

(1) Adopt the recommendation of the Planning Commission by a majority vote (6) of the Governing Body.

(2) Reject or amend the Planning Commission's recommendation by a two-thirds majority vote (7) of the Governing Body.

(3) Return such recommendation to the Planning Commission by majority vote (6) of the Governing body with a statement specifying the basis of the decision to approve or deny the request.

POLICY ISSUE:

The rezoning will enable the property to develop consistent with the availability of infrastructure to the area.

The 18-acre zoning change was approved in 2009 for speculative commercial development that never occurred. The property was annexed and rezoned far in advance of having all urban services to support commercial development at the intersection.

The request is consistent with the land use policies and principles of the Land Use and Growth Management Plan - 2040.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

The request for a zoning change from "RR-1" Residential Reserve District and "C-2" Commercial District all to "R-1" Single Family Dwelling District on a 38-acre property located at 5127 SW Wanamaker Road.

The applicant proposes to demolish the existing residence along with accessory buildings and construct one new, single family residence and continue to use the remaining property as pasture for livestock. There is no plan in the near term to subdivide the 38-acre property. A single family residence is not a permitted use under the current C-2 zoning. Grazing of livestock, and agricultural use, may continue as a legal nonconforming use under the proposed R-1 zoning.

The applicant conducted a Neighborhood Information Meeting on September 26, 2017. The primary discussion at the meeting centered around the neighborhood's opposition to the previous commercial rezoning requests in 2008.

Other than staff and the applicant no one addressed the Planning Commission at the October 16, 2017 meeting. The Planning Commission and the Planning Department recommend approval.

BUDGETARY IMPACT:

There will be no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable

ATTACHMENTS:

Description

Ordinance

Staff Report

Aerial Map

Zoning Map

Future Land Use Map

Neighborhood Information Meeting Report

Neighborhood Information Meeting Attendance Sheet

Planning Commission Minutes

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Brent Trout, City Manager amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), by providing for certain changes in zoning on property located at 5127 SW Wanamaker Road from "RR-1" Residential Reserve District and "C-2" Commercial District ALL TO "R-1" Single-Family Dwelling District. **(Z17/5) (Council District No. 7)**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), be and the same is hereby amended, by reclassifying the follow described property:

**The Southeast Quarter of the Southeast Quarter of Section 29, Township 12 South,
Ranger 15 East of the 6th P.M., Shawnee County, Kansas.**

from "RR-1" Residential Reserve District and "C-2" Commercial District ALL TO "R-1" Single-Family Dwelling District

Section 2. This Ordinance Number shall be fixed upon the "District Map".

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Topeka,

_____, 2017.

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____

Not To Be Codified _____

 X

STAFF REPORT – ZONING CASE

TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday, October 16, 2017

APPLICATION INFORMATION:

APPLICATION CASE NUMBER / NAME: Z17/5 By: Franklin E. Webb

REQUESTED ACTION / CURRENT ZONING: Zoning change from “RR-1” Residential Reserve District and “C-2” Commercial District **ALL TO** “R-1” Single Family Dwelling District

APPLICANT / PROPERTY OWNER: Franklin E. Webb

APPLICANT REPRESENTATIVE: Annette Harper, Coldwell Bank, Griffith, & Blair
Mark Boyd, Schmidt, Beck, and Boyd Engineering LLC

PROPERTY LOCATION / PARCEL ID: 5127 SW Wanamaker Road (Northwest intersection of SW 53rd and Wanamaker)/ PID: 1492904001013000

PARCEL SIZE: 38 acre parcel (“C-2” comprises 18.36 acres and “RR-1” comprises 19.64 acres of the subject property)

STAFF PLANNER: Annie Driver, AICP, Planner II

RECOMMENDATION: **APPROVAL**

RECOMMENDED MOTION: Based on the findings and analysis listed below in the staff report, I move to recommend to the Governing Body **APPROVAL** of the reclassification of the subject property from “RR-1” Residential Reserve District and “C-2” Commercial District **ALL TO** “R-1” Single Family Dwelling District

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY: To allow the buyer to demolish the existing residence along with accessory buildings and construct a new single-family residence on the entire 38 acre property, as well as continue to use the remaining property as pasture for livestock.

DEVELOPMENT / CASE HISTORY: The subject property has historically been used for a rural residence and surrounding pasture and other agricultural uses. The property was annexed in 2007 near the same time as Lauren’s Bay Estates to the north when there was an interest to develop a commercial center at this corner.

There have been several past zoning actions on the property responding to requests for commercial zoning (“C-4” zoning and “C-2” zoning actions), which were either disapproved by City Council or withdrawn prior to proceeding to City Council. The most recent case in 2009 (case #Z09/2) was approved by the City Council and rezoned 18.36 acres of the 38 acre property from “RR-1” Residential Reserve District to “C-2” Commercial District. The property has been marketed for commercial use with no buyers for nearly 10 years since the rezoning.

PHOTO:



Existing residence

**ZONING AND CHARACTER OF
SURROUNDING PROPERTIES:**

South: Zoning - “RR-1” Residential Reserve District/Land use – rural residential lots (Shawnee County)

North: Zoning - “R-1” Single-Family Dwelling District and “RR-1” Residential Reserve District/Land use – vacant residential platted lots (Lauren’s Bay Estates); rural residential lots (Shawnee County/City limits)

West: Zoning – “RR-1” Residential Reserve District/Land use – rural residential lots and agriculture land (Shawnee County)

East: Zoning - RR-1” Residential Reserve District/Land use –USD 437 administration office and bus depot; Jay Scheidler Elementary (Shawnee County)

**DEVELOPMENT STANDARDS
AND GUIDELINES**

PURPOSE, USE STANDARDS:

The intent of the “R-1” Single Family Dwelling District is to *“provide for the use of detached single-family dwellings together with specified accessory uses. . . It is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses.”*

Permitted uses in “R-1” include: Single – family dwellings, Group homes, Residential Care Facilities, Schools, Religious Assembly, Parks/Common open spaces. “Agriculture” is not typically permitted in

"R-1 zoning. However, the continued use of the property as pasture for livestock and agriculture is considered a legal non-conforming use since that use has continued on the land since annexed in 2007.

TMC 18.55 defines "Agriculture" as *"Land devoted to the production of plants, animals, fish, or horticultural products, including but not limited to: forages, grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef, cattle, sheep, swine and horses; aquaculture; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental and greenhouse products. Land devoted to agricultural use shall not include those lands which are used for recreational purposes; suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition."*

DIMENSIONAL STANDARDS:

Setbacks: Side – 7'; Rear/Front – 30'

Building height is restricted to 42 ft. in "R-1" zoning.

COMPREHENSIVE PLANS:

Land Use and Growth Management Plan – 2040- Mixed Use Node

TRANSPORTATION/MTPO PLANS:

A Bicycle Route #6- South Loop Bikeway is planned along SW Wanamaker and east bound on SW 53rd Street. Wanamaker Road has sidewalks along both sides.

OTHER FACTORS

SUBDIVISION PLAT:

The property is not platted. Development of the property for one, single family residence meets the platting exemption criteria. A plat is required if connection to City sewer or water service is required.

**FLOOD HAZARDS, STREAM
BUFFERS:**

A Type II stream buffer crosses the southeastern corner of the property. The City stream buffer regulations will apply to any development in the stream buffer setback area.

UTILITIES:

The existing residence is served by Rural Water District #3 and an existing septic tank and lateral field for sewer. A permit from the County Health Agency is required to replace the septic system and lateral field. At this time, connecting to sanitary sewer is not economically feasible for the one house since the closest gravity sewer main is 1700 ft. north or they need to install a pump station and connect to the force main on the U.S.D. 437 property across Wanamaker Road.

TRANSPORTATION/TRAFFIC:

No issues

HISTORIC PROPERTIES: N/A

NEIGHBORHOOD INFORMATION MEETING

The applicant conducted a neighborhood information meeting on Tuesday, September 26, 2017 at the Rural Water District #3 office located at 4926 SW Wanamaker Road. Six surrounding residents attended the meeting. The discussion at the meeting focused primarily on the history of the neighborhood's opposition to the previous rezoning actions. Questions arose about the continued use of agriculture in a "R-1" zoning district. The applicant's report is attached.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING: Connection to sewer is not required for the single-family dwelling. The owner will be required to connect when sewer becomes available to the property.

WATER POLLUTION CONTROL: None at this time

FIRE: None at this time

DEVELOPMENT SERVICES: A building permit is required.

KEY DATES

SUBMITTAL: September 1, 2017

NEIGHBORHOOD INFORMATION MEETING: September 26, 2017

LEGAL NOTICE PUBLICATION: September 20, 2017

PROPERTY OWNER NOTICE MAILED: September 22, 2017

STAFF ANALYSIS

CHARACTER OF NEIGHBORHOOD: The proposed "R-1" zoning is compatible with the surrounding neighborhood character. The character of the neighborhood is comprised of rural residences located on 3 acre or larger lots and agricultural land to the south, east, and west. Lauren's Bay Estates and adjoining subdivisions (including Lauren's Bay Estates No. 2, Villas Sub, Villas Sub 2 and 3, and Lauren's Bay Subdivision) were platted in or around 2008 and lie to the northwest of the subject property and have been slow to develop since that time. Approximately 427 (plus or minus) platted lots remain undeveloped within these subdivisions. U.S.D. 437 Auburn – Washburn School District offices and Jay Scheidler Elementary School lie adjacent to the property on the east side of SW Wanamaker.

ZONING AND USES OF PROPERTY NEARBY: The proposed "R-1" zoning is consistent with the zoning to the north and is compatible with other surrounding zoning. The zoning of nearby properties is "RR-1" Residential Reserve District

and used for agriculture, pasture, or rural residential land uses. Lauren's Bay Estates lies to the north and is zoned "R-1" Single-Family Dwelling District. Unified School District #437 administration office and bus depot and Jay Scheidler Elementary school west of the property across SW Wanamaker Road and are also zoned "RR-1" Residential Reserve District.

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property has historically been used for rural residential, agriculture, and pasture land. The existing single-family residence was constructed in 1988 with the remaining land used for agriculture purposes. The subject property was annexed in 2007 when there was intent from a developer to construct a commercial center at the intersection. There has been little interest from a commercial developer in the 10 years since the annexation occurred.

CONFORMANCE TO COMPREHENSIVE PLAN: The Land Use and Growth Management Plan-2040 (LUGMP) designates the area as a *Mixed Use Node*. *Mixed Use Nodes* are defined in the plan as those areas that exhibit two or fewer corners which are zoned or developed in a commercial manner. The Mixed Use category is intended to incorporate neighborhood commercial, office, and residential developments in a compact manner. "Small" Mixed Use nodes are considered areas where developments should not exceed 1-10 acres. The City's policies regarding infrastructure availability and infill development have changed since 2007 when the property was annexed with the 2015 update to the Land Use and Growth Management Plan – 2040. The LUGMP focuses on compact and mixed use development that lowers municipal infrastructure service costs. City sewer and water are not available. The subject property was annexed and zoned far in advance of having all urban services to support the development and under today's land use policies would be considered a premature rezoning.

In the future, neighborhood commercial uses may still be supported at this intersection since it is at the corner of two arterial streets, but that development should be rezoned when the area is ready to support it and a development would likely need to be much smaller in scale and include adjacent residential uses. The rezoning will not inhibit future use of the property for these purposes as it is largely reserved for agriculture uses and no further subdivisions are proposed. Therefore, the proposed rezoning request is supported by the Comprehensive Plan.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED: The subject property is not yet suitable for uses to which it has been restricted or entitled since the property is not yet served by City sewer or water. The City's policies regarding infrastructure availability and infill development have changed since 2007 when the property was annexed with the 2015 update to the Land Use and Growth Management Plan – 2040. The LUGMP stresses mixed uses, compact and infill development in areas that have the infrastructure required to support urban development. Since extension of the gravity sanitary sewer from the north or adding a pump station would be a significant cost, the area is not yet suited to support commercial development on this 18.36 acre tract. SW 53rd Street is not built to support urban development, an 18.36 site with "C-2" zoning allows for regional scale commercial shopping centers.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The change in zoning to "R-1" Single Family Dwelling District to allow one, single-family residence will have no negative near-term impact on surrounding properties as it is currently developed for a single-family residence.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: The hardship imposed upon the individual landowner is evident since it has been zoned commercial for eight years without commercial prospects. Leaving the property zoned commercial when the intent is now to construct a new dwelling presents a hardship on the owner since they may be taxed as a commercial property. The gain to the public health, safety and welfare would be to eliminate the potential for a large commercial development on this site within an area that is not yet served with the entire range of services that is needed to support that development.

AVAILABILITY OF PUBLIC SERVICES: City of Topeka sanitary sewer or water is not available to serve the property. Serving the property would require an extension of the gravity sewer main from Lauren's Bay Estates at least 1700 ft. away or the installation of a pump station on this property in order to connect to the force main east of Wanamaker located at the USD 437 property. It is not economically feasible to extend sewer for one single family residence. The Shawnee County Health Agency will need to approve a permit for a new septic and lateral field if the location is altered. Water service to the property is supplied by Rural Water District #3.

RECOMMENDATION:

STAFF RECOMMENDATION: Based on the above findings and analysis the Planning Department recommends **APPROVAL** of the zoning reclassification from "RR-1" Residential Reserve District and "C-2" Commercial District **ALL TO "R-1" Single Family Dwelling District.**

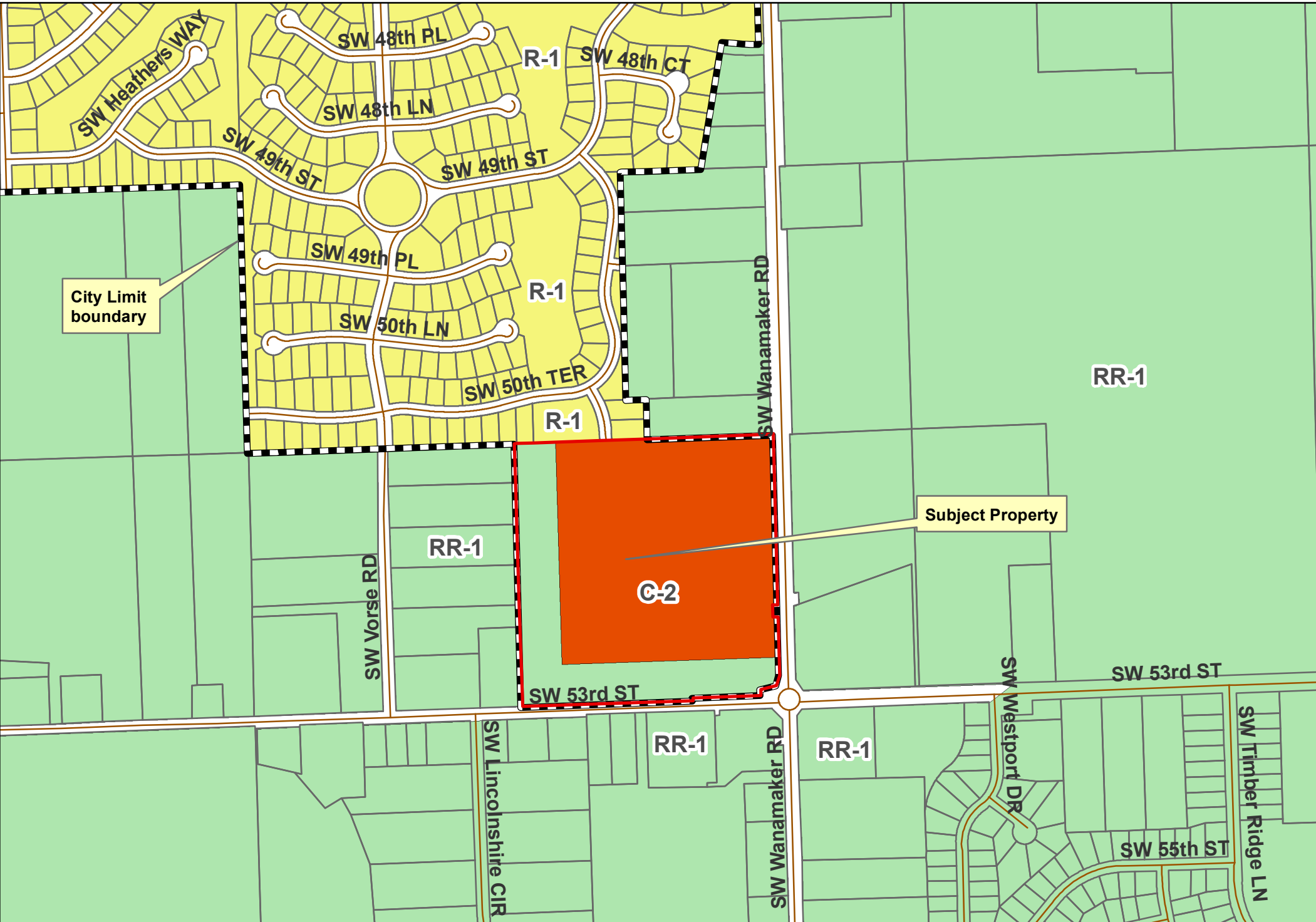
PLANNING COMMISSION MOTION: Based on the findings and analysis listed in the staff report, I move to recommend to the Governing Body **APPROVAL** of the reclassification of the subject property from "RR-1" Residential Reserve District and "C-2" Commercial District **ALL TO "R-1" Single Family Dwelling District.**

Attachments:

- Aerial Map
- Zoning Map
- Future Land Use Map
- NIM Report and Attendance

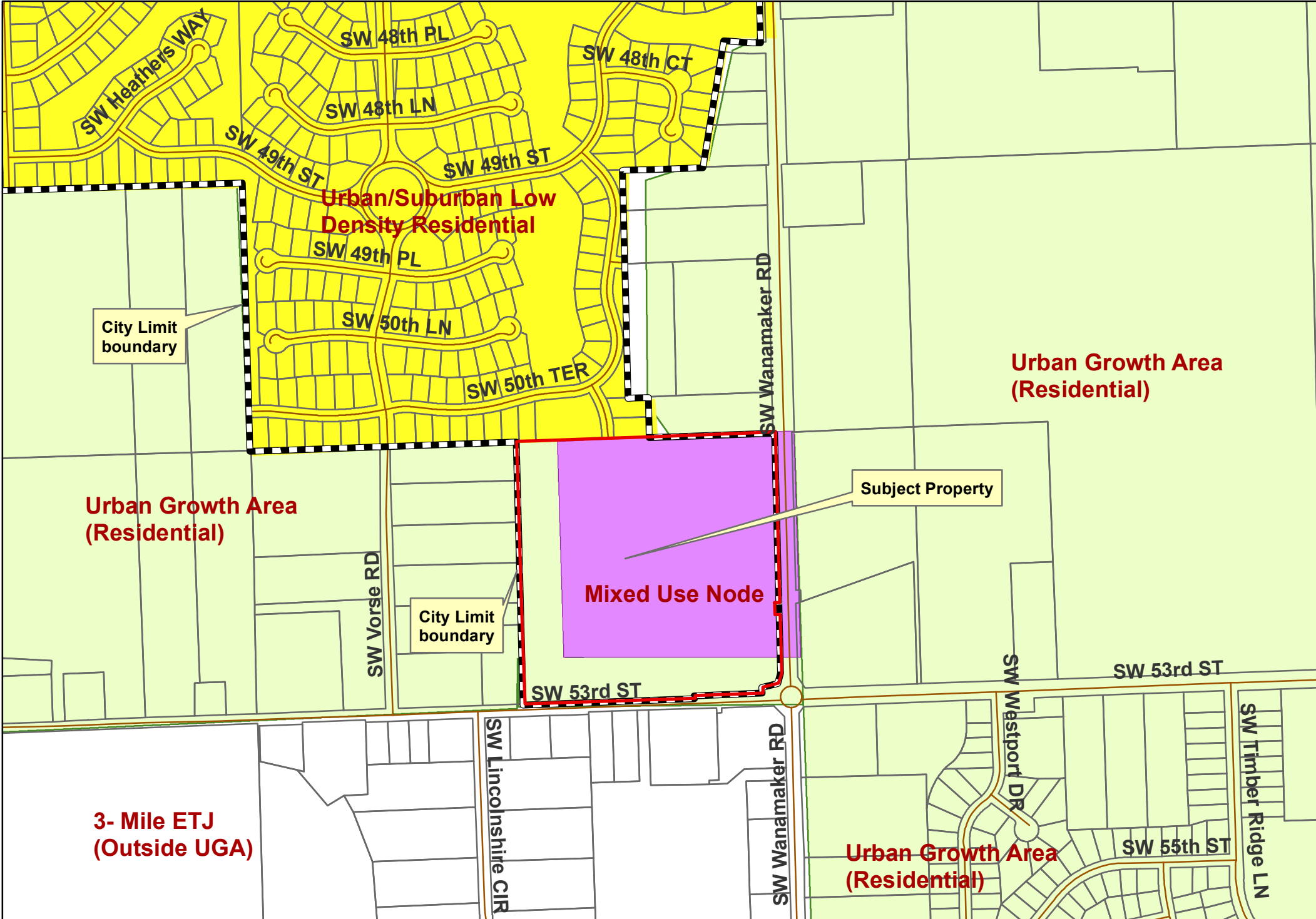


Z17/5 By: Franklin E. Webb
Aerial Map



Z17/5 By: Franklin E. Webb
Zoning Map





Z17/5 By: Franklin E. Webb
Future Land Use Map (LUGMP 2040)

Date: September 27, 2017
To: City of Topeka Planning Department
From: SBB Engineering, LLC
Mark Boyd
Re: Rezoning of 5127 SW Wanamaker Rd – Franklin E. Webb
Neighborhood Meeting Minutes

To whom it may concern:

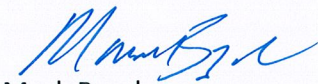
On September 26, 2017 at 5:30 P.M., we held a publicized meeting for the above referenced case. There were 12 people present for the meeting. An attendance sheet is attached with names and addresses. Others in attendance were Annie Driver and Bill Fiander with the Topeka Planning Department, Annette Harper, applicant's representative, and Mark Boyd with SBB Engineering.

We gave a brief history of the property and how it came to be zoned commercial, then explained the rezoning request to residential use, then the process the zoning application takes as it is heard by the Topeka Planning Commission and Topeka City Council.

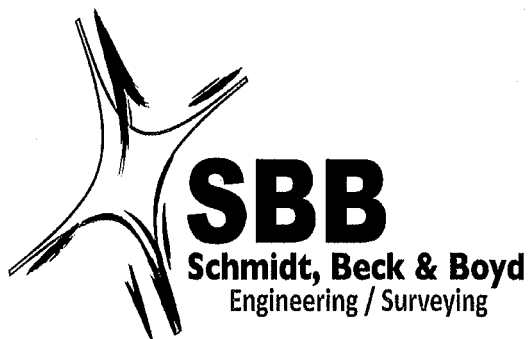
The attendees all lived nearby and had questions regarding intended use. None had concerns with the property being used as a single residence and seemed visibly relieved that the property would revert back to residential use. The majority of the discussion revolved around the history of the site and previous re-zoning cases which resulted in the commercial zoning. No other concerns were raised.

The contract buyer's representative was present to address questions or concerns.

Respectfully submitted,



Mark Boyd
SBB Engineering, LLC



Neighborhood Information Meeting

Sign-In Sheet

Franklin Webb Rezoning

*9/26/2017
5:30 pm*

NAME	ADDRESS	PHONE	EMAIL
<i>Mark Boyd</i>	<i>SBB Engineering</i>	<i>215-8630</i>	<i>mark.boyd@sbbeng.com</i>
<i>John & Phyllis Petersen</i>	<i>5230 SW Lineoish</i>	<i>862-2463</i>	<i>Johnkayak@cox.net</i>
<i>Carrie Forshee</i>	<i>5232 SW Vorse Rd.</i>	<i>230-1812</i>	<i>cforshee@cox.net</i>
<i>Garry Forshee</i>	<i>" " "</i>	<i>862-7987</i>	<i>gmforshee@cox.net</i>
<i>Fay Harmon Peters</i>	<i>6133 SW 53rd</i>	<i>213-2796</i>	<i>Todsbobq@gmail.com</i>
<i>James Hoffmeister</i>	<i>6150 SW 53</i>	<i>862-1823</i>	
<i>Dan Koon</i>	<i>7400 SW 24th Terr</i>	<i>231-7785</i>	
<i>Carol Torrence</i>	<i>6221 SW 53</i>	<i>224-6205</i>	<i>ctorrence@cox.net</i>
<i>Ted Landry</i>	<i>16021 SW 53rd</i>	<i>608-2453</i>	<i>LDSTED63@cox.net</i>
<i>Steve/Grace Alejo</i>	<i>5240 SW Vorse</i>	<i>231-0372</i>	<i>428na88@cox.net</i>

Schmidt, Beck & Boyd Engineering, LLC

785.215.8630 | 785.215.8634 (F) | Pomeroy Building, 1415 SW Topeka Blvd. | Topeka, KS 66612



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION
MINUTES

Monday, October 16, 2017

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Wiley Kannarr (Chair), Brian Armstrong, Ariane Messina, Dennis Haugh, Rosa Cavazos, Katrina Ringler, Carole Jordan, Matt Werner, Marc Fried (9)

Members Absent:

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; Annie Driver, Planner II; John Neunuebel, Planner II; Kris Wagers, Administrative Officer; Mary Feighny, Legal; Dan Warner, Planner III; Tim Esparza, Planner I

Z17/05 by Franklin E. Webb requesting to amend the District Zoning Classification from “RR-1” Residential Reserve District and “C-2” Commercial District to “R-1” Single Family Dwelling District on a 38 acre property located at the northwest intersection of SW Wanamaker Road and SW 53rd Street. (Driver)

Ms. Driver presented the staff report and staff recommendation for approval of the proposed amendment to district zoning classification.

Following administrative questions from commissioners, Marc Boyd of SBB Engineering came forward representing the applicant. Mr. Boyd stated that he was available for questions. With no questions from commissioners, Chairman Kannarr declared the **public hearing open**. None came to speak and Mr. Kannarr declared the **public hearing closed**.

Motion by Mr. Haugh to recommend to the Governing Body approval of the reclassification of the subject property from RR-1 Residential Reserve District and C-2 Commercial District all to R-1 Single Family Dwelling District; **second by Mr. Armstrong. APPROVAL** (9-0-0)

DRAFT



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Jacque Russell, Human Resources Director DOCUMENT #:
SECOND PARTY/SUBJECT: AFSCME - Development PROJECT #:
Services/Planning
CATEGORY/SUBCATEGORY 007 Contracts and Amendments / 020 Employee Agreements
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of a three year labor agreement between the City of Topeka and Local 1294 Missouri/Kansas State Council 61, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval would provide guidelines for management and employees in the bargaining unit. Term of agreement is from 2017 through 2019.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

Pursuant to Topeka Municipal Code Section 2 .25.020(a) approval of employee agreements between the City and a recognized employee organization is approved by the Governing Body and signed by the City Manager.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the agreement.

BACKGROUND:

A tentative agreement has been reached and ratified by bargaining unit members. A summary of all amendments is attached. The amendment provides for a 1.75% increase to the wage schedule for 2017 and a 2% increase in 2018. The wage article will be reopened for negotiation of 2019 wages.

BUDGETARY IMPACT:

The proposed agreement includes an allowance for individuals meeting the appropriate parameters, an overall "Meets Expectations" or better, to receive a \$0.05 longevity pay increase. Additionally, there is a 1.75% increase to the overall pay matrix for 2017 (retroactive to January 1, 2017), and a 2.00% increase to the overall pay matrix for 2018. Note that during the current fiscal year, one Plan Reviewer FTE was added*.

The table below illustrates a basic comparison between the existing agreement and the proposed agreement and provides the estimated levy impact if the agreement were to be financed solely with a property tax increase:

	2017	2018
Wages:	\$579,767	\$632,546
Benefits:	\$118,099	\$127,331
TOTAL:	\$697,866	\$759,877
Increase from Prior Year -\$62,011		
Percent Increase from Prior Year - 8.89%		
<i>0.057 Levy Increase Equivalent</i>		

SOURCE OF FUNDING:

General Fund and Water Fund

ATTACHMENTS:**Description**

Summary of Amendments

Financial Memo

Collective Bargaining Agreement

SUMMARY OF AFSCME DEVELOPMENT SERVICES/PLANNING AMENDMENTS

Article 6, § 2: Discipline. *Adds provision including conviction of certain crimes to list of offenses which may warrant immediate discharge or suspension.*

Article 11, § 3: Recall. *Adds 3 year maximum to be on recall eligibility list.*

Article 15, § 15: Group Health Insurance. *Revised to reference separate agreement for healthcare cost share.*

Article 16, § 2: Wages. *Across the board increase of 1.75% in 2017 and 2% in 2018. Article will be reopened for 2019 wages.*

Article 16, § 4: Certification & Advancement. *Clarifies mandatory and voluntary certifications requirements.*

Article 20: Termination and Amendments. *Establishes a 3 year contract effective 2017 through 2019 and reiterates reopener for 2019 wages.*



MEMORANDUM

Administrative and Financial Services Office

To: Honorable Mayor Larry Wolgast
Members of the Topeka City Council
Doug Gerber, Interim City Manager

From: Nickie Lee, Director of Administrative and Financial Services

Date: October 10, 2017

Subject: Fiscal Effects of Proposed Development Services Agreement

Pursuant to KSA 75-4331, the chief financial officer of the City is required to provide to the governing body an analysis of the fiscal effects on the City of proposed agreements between the City and recognized employee organizations. As part of this analysis, we are required to identify the potential impact on the City's aggregate tax levy and its operating expense limitations.

This bargaining unit, AFSCME—Development Services, is concentrated in two departments, the Utilities Department and the Planning Services Department. Additionally, the bargaining unit is spread across two separate funds, the General Fund and the Water Fund.

The proposed agreement includes an allowance for individuals meeting the appropriate parameters, an overall "Meets Expectations" or better, to receive a \$0.05 longevity pay increase. Additionally, there is a 1.75% increase to the overall pay matrix for 2017 (retroactive to January 1, 2017), and a 2.00% increase to the overall pay matrix for 2018. Note that during the current fiscal year, one Plan Reviewer FTE was added*. The table below illustrates a basic comparison between the existing agreement and the proposed agreement and provides the estimated levy impact if the agreement were to be financed solely with a property tax increase:

2017 and 2018 Wage Agreement Estimates

	2017	2018
Wages	\$ 579,767	\$ 632,546
Benefits	\$ 118,099	\$ 127,331
Total:	\$ 697,866	\$ 759,877
Increase from Prior Year		\$ 62,011
% Increase from Prior Year		8.89%

0.057 Levy Increase Equivalent

**Note 2017 assumes the position filled for the remainder of the year. Increase would be 1.83% without the position.*

I have reviewed the economic terms of the AFSCME-Development Services agreement pending before the City Council and have compared its costs to both the expected costs of the status quo ante agreement in the recommended budget for Fiscal Year 2016. Based upon this review of the agreement, we believe that the FY16 proposed budget has sufficient resources to accommodate the agreement as presented.

Please let me know if there are questions or concerns about this analysis.

CONTRACT # _____

AGREEMENT

between

CITY OF TOPEKA

**DEVELOPMENT SERVICES DIVISION
and
PLANNING DEPARTMENT**

and

**LOCAL 1294
COUNCIL 61, AFSCME, AFL-CIO**

JANUARY 2017 – December 2019

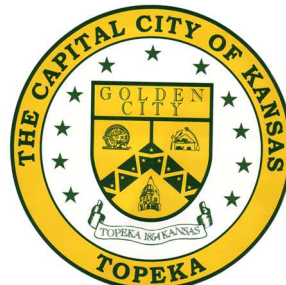


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ARTICLE 1

PREAMBLE

Section 1. Purpose of Agreement.

This Agreement, entered into by and between the Governing Body of the City of Topeka, Kansas, hereinafter referred to as the “Employer,” “Management,” or “City,” and Local 1294, Missouri/Kansas State Council 61, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, hereinafter referred to as the “Union,” constitutes an implementation of the provisions of K.S.A. 75-4321, *et seq.*, as amended, in order to provide for orderly and constructive employment relations in the interest of the public, the Employer, and the affected employees.

This Agreement has as its purpose the promotion of harmonious relations between the Employer and the Union, the formation of an equitable and peaceful procedure for the resolution of differences, and the establishment of rates of pay and other conditions of employment.

Section 2. Non-Discrimination.

The Employer and the Union recognize their responsibilities under Federal, State and Local laws relating to fair employment practices and appropriate labor legislation and reaffirm their commitment to the moral principles involved in the area of civil rights.

The parties agree that there shall be no discrimination because of race, creed, gender, sexual orientation, familial status, religion, color, age, disability, national origin or ancestry, or affiliation or non-affiliation with any labor organization. The provisions of this Agreement shall apply to all employees covered by the Agreement without discrimination.

The parties recognize that the interest of the community and job security of the employees depend on the Employer's success in establishing and maintaining efficient, expeditious, and economical public services to the community.

Section 3. Employees Covered.

This Agreement shall be restricted to the employees within the collective bargaining unit as defined in the State of Kansas Public Employee Relations Board (PERB), Case 75-UDC-4-1981, which include Building, Mechanical, Electrical, Plumbing, and Cross-Connection Inspectors and Plan Reviewers in the Development Services Division and Zoning Inspectors in the Planning Department, City of Topeka.

Section 4. Employee Rights.

Public employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing, for the purpose of meeting and conferring with public employers or their designated representatives with respect to grievances and conditions of employment. In accordance with existing state laws, public employees also shall have the right to refuse to join or participate in the activities of employee organizations.

Section 5. City Ordinances.

The parties agree that all ordinances now in force or hereafter enacted by the Governing Body of the City of Topeka which are not in conflict with any provision of this Agreement shall apply to them. Any additional benefits and/or rights granted to other City employees by ordinances will also be granted and applied to employees of the bargaining unit covered by this Agreement.

Section 6. Drug Testing.

In order to do their parts to assure a work environment free from the effects of drugs and alcohol, all covered employees agree to be generally bound by the City's policy governing the use of such substances, including reasonable suspicion testing and appropriate discipline for being under the influence.

For the purposes of adherence to this commitment, the pertinent pending Administrative Rule and Regulation as to be codified in Article II, Section 14 of the City Personnel Code, to the extent not otherwise provided, shall be treated as modified in the following three respects: (1) Section 6.A.1 regarding reasonable suspicion testing to stipulate that employees covered by this Agreement be verbally advised of the basis for the testing prior to its administration and provided any documentation supporting the requirement prior to any hearing on the matter; (2) Section 10.A.1 regarding split specimens to stipulate that bargaining unit members may, in the event of a primary specimen positive, themselves request secondary testing which, if a different result is produced, will be at City expense; and (3) Section 12.A regarding compensation for time spent at the Designated Testing Agency to stipulate that Inspectors and Reviewers under this contract be paid as hours worked for City-directed testing that occurs outside their normal duty schedules.

Any changes to the Alcohol and Controlled Substance policy as referenced above made after the date of execution of this Agreement shall not be binding on covered employees until the Union, pursuant to notification and comment, gives its express written consent and approval through a letter or memorandum of understanding.

ARTICLE 2
RECOGNITION AND UNION SECURITY

Section 1. Recognition.

The Employer recognizes AFSCME Council 61, Local 1294, as the certified representative of all permanent, full-time employees in the following primary job classifications in the Development Services Division or the Planning Department:

Building Inspector

Mechanical, Electrical, Plumbing Inspector

Zoning Inspector

Cross Connection Inspector

Plan Reviewer

The City agrees to advise the Union in advance of any changes in or additions to the above primary or other created classifications, consisting of similar duties to those currently being performed, and to meet and confer with the Union concerning the terms and conditions of employment of any employee within the above or newly created classifications.

If any employees in the above positions are detailed for short or long-term assignments to operational areas outside the Development Services Division or Planning Department, they may for that period of time be under other supervisory and budgetary authorities. Accordingly, whenever the term “or designee” is used in this Agreement following reference to the two principal Directors of the listed classifications, it shall be construed to include such other City Division or Department Heads as may be delegated and noticed to the employee and the Union.

The Employer will strive to limit assigning the work of this bargaining unit to non-bargaining unit employees. Conversely, the Employer will strive to limit assigning members of this bargaining unit to do work of the other certified bargaining units.

Section 2. Commercial Plan Reviews.

Commercial plan reviews will be limited to the Primary classification.

Section 3. Residential Multi-Trade Inspectors.

A. Eligibility. Inspectors with primary certifications of Building, Mechanical, Plumbing, or Electrical are eligible for the status of Residential Multi-Trade Inspector (RMTI). Applicants for the program will be ranked by their secondary discipline certification dates. Management reserves the right to limit the number of Residential Multi-Trade Inspectors.

B. Training Manuals. A training manual for each such residential discipline (Building, Mechanical, Plumbing, and Electrical) shall be developed as a cooperative effort between Management and Inspection Staff. Once available, such training manuals shall be utilized by all Inspectors who wish to obtain RMTI status.

C. Requirements. Upon completion of all parameters within the training manual; the passing of a residential certification test; and fulfillment of a period of field training (as determined by the Development Services Director) in one additional residential discipline, an inspector can be classified as an RMTI and entitled to the increased compensation specified in the wage schedule in Article 16, Section 2, "Inspector Plus Multi-Trade."

D. Limitations. Residential Multi-Trade Inspectors shall be limited to one secondary discipline, either Building, Mechanical, Plumbing, or Electrical. Achieving the status of RMTI through an additional certification in one of these recognized disciplines will be considered a

secondary classification. The RMTI discipline applies to residential applications under 2,500 square feet.

E. Additional Certification. In addition to one secondary residential certification, an employee may be classified as a Multi-Trade Inspector in the Mobile Home or Elevator area by passing a certification test and/or completing field training in one of those extra disciplines. There shall be no more than two (2) individuals in either such supplemental category, however.

F. Probation. All RMTI appointments shall be subject to probationary periods of no less than six (6) months (1,040 hours) and, if extended, no more than nine (9) months (1,560 hours). At the end of the probationary period, an evaluation will be performed. If the inspector is rated “satisfactory,” he/she will be classified as an RMTI. The employee may grieve his/her failure to successfully complete the RMTI probationary period.

G. Withdrawal. An Inspector may withdraw from the RMTI Program with a ninety (90)-day written notice to Management, although such notice may be shortened or waived by mutual agreement.

Section 4. Unit Placement of Newly Created Job Classifications.

The City agrees to submit a listing to the Union of any new classification created by the City for consideration of bargaining unit placement. The listing shall include job or position descriptions and classification specifications. The Union shall be granted a period of thirty (30) days from receipt of the new classification to notify the City of its belief that such classification should appropriately be placed within the established bargaining unit governed by this Agreement. The parties shall meet to seek agreement on the placement of the classification within the Unit. Any dispute concerning placement of a new classification shall be submitted to PERB. Management shall not be prohibited from filling the position during the dispute

resolution procedure undertaken through PERB, provided the thirty (30) day period set forth above has passed.

Section 5. Union Representation.

The Employer agrees to consult only with duly authorized Union representative(s) concerning matters affecting working conditions and/or grievances of bargaining unit members to the extent that such conferences do not abrogate or in any manner diminish the right of Management to conduct business in the public interest and a bargaining unit member has not otherwise declined Union representation.

The Union agrees to represent all employees in the aforesaid bargaining unit covered by this Agreement fairly and without discrimination in the negotiation, implementation, and administration of the terms of this Agreement.

Section 6. Union Dues Deduction.

The Employer agrees to deduct the Union membership assessments, dues and/or representation fees once each month from the pay of those employees who personally request in writing such deductions be made. The written authorization for the above deductions shall be delivered and received in the Department of Financial Services no later than thirty (30) days prior to the date that said deductions are to be made. The amounts to be deducted shall be certified to the Employer by the Council 61 office. The aggregate deductions of all employees shall be remitted together with an itemized statement to the official Treasurer of the Union by the end of the succeeding month after such deductions are made by the City.

An itemized statement shall consist of a listing of every employee for which current Union deductions are withheld. The City shall be entitled to a fee of ten cents (\$.10) per

deduction per employee per month for this service, plus sixty cents (\$.60) for the processing of any change, payable by the Union and deducted by the City from the aggregate for the deductions of all employees' monies turned over to the Treasurer of the Union each month. For the purpose of administering this provision, "change" shall mean in the amount of a deduction or in the addition or removal of someone from the check-off computer printout.

The above shall not limit the right of any employee to cancel his or her membership in the Union. On the anniversary date of his/her initial authorization, or in the event that the employee is promoted out of or transfers from the bargaining unit, the employee may put in writing the desire to cancel a dues deduction. A copy of this request, sent to both the Financial Services Director and the Council 61 office, shall state that the employee no longer desires deductions for Union membership and wishes to have his/her name struck from the list of employees authorizing deductions from their pay, effective the month following receipt.

All withholding and benefit deductions shall be made before the Union check-off is taken from the employee's wages. In the event no wages are left in any pay period to meet the Union check-off, the City is not obligated to process the deduction. Neither is it responsible for retroactive check-offs when the employee's pay becomes sufficient to cover them. If an employee is on Workers' Compensation, Family and Medical Leave, leave of absence, or any other temporary unpaid leave for any reason, the City is not responsible for that individual's Union check-off.

The Union will hold the City harmless from any and all claims, demands, suits, and other forms of liability resulting from the Union's use of funds collected by the City for the purpose of complying with the above provisions.

Section 7. Orientation of New Employees.

The City will provide the Union with the names and position/classification titles of relevant new Development Services Division or Planning Department employees. The City shall provide each affected new employee with a copy of the collective bargaining agreement then in force. Management will cooperate in permitting newly hired employee(s) to attend private on-the-job orientation sessions of approximately fifteen (15) minutes with their Union stewards during the new employee's first two (2) weeks of employment.

Section 8. Bulletin Boards.

The official Division and Department bulletin boards may be made available to the appropriate Union official for the purpose of posting Union approved notices of Union meetings, results of Union elections, and Union activities. Such notices shall be initialed by a Union officer.

Section 9. Visits by Union Representatives.

Accredited representatives of AFSCME, whether local union, district council, or international, will be given permission by the Development Services Director or Planning Department Director, as applicable, or their designees, to visit with employees during normal work hours to conduct Union business, provided it is at a mutually agreeable time that does not interfere with operational requirements.

ARTICLE 3

DEFINITIONS

As used in this Agreement, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise:

- A. "Full-time employee" is one who works 40 hours per week on a regular basis.
- B. "Part-time employee" is one who works less than 40 hours per week on a regular basis.
- C. "Benefit-eligible employee" is one who, from the first day of employment with the City of Topeka, is entitled to health and life insurance, deferred compensation, cafeteria benefit, sick leave, and other comparable benefits not requiring fulfillment of a probationary period.
- D. "Permanent employee" is one who has successfully completed any applicable initial probationary period such that he/she is entitled to a personal leave day; the use of vacation time; certain other benefits; and dismissal only for cause.
- E. "Probationary employee" is one who is serving either an original period of evaluation, usually six (6) months (1,040 hours), subject to a further extension of three (3) months (520 hours), following initial hiring or an interim period of evaluation, usually three (3) months (520 hours), also subject to an additional extension of three (3) months (520 hours), following a promotion or transfer, as set forth in Article 9, Sections 2 and 4, respectively.
- F. "Overtime" means all hours in excess of forty (40) worked during a one-week period, which hours are compensable at one and one-half (1½) times an employee's regular rate of pay.
- G. "Immediate Family" means an employee's spouse, child, step-child, parent, step-parent, grandparent, grandchild, sibling, spouse's parent, spouse's grandparent, spouse's sibling,

son-in-law, daughter-in-law, or family member of the immediate household permanently residing under the same roof.

H. “Certification” is the official sanction given by a state or national testing agency to an individual Inspector or Plan Reviewer to indicate that the required level of expertise has been achieved in a particular professional category.

I. “Discipline” in other than an administrative remedial action sense is the term applied to the situation in which an employee with certification in a given field is also working in that capacity.

ARTICLE 4

MANAGEMENT RIGHTS

The parties to this Agreement recognize that specific areas of responsibility must be reserved to Management if the public service mission of the City is to function effectively. Unless specifically modified by a provision of this Agreement, Management is reserved the right to:

- a) Direct the work of its employees;
- b) Hire, promote, demote, transfer, assign, and retain employees in positions within the City;
- c) Discipline, including suspension or discharge, employees for just cause;
- d) Maintain the efficiency of governmental operations;
- e) Relieve employees from duties because of lack of work or other legitimate reasons;
- f) Take actions as may be necessary to carry out the mission of the City in emergencies; and
- g) Determine the methods, means, and personnel by which operations are to be carried on, including approving all phases of the inspection and plan review processes from the application for permit to certificate of occupancy stage.

All other rights and responsibilities of Management not specifically set forth in and/or modified by this Agreement shall remain the function of Management, provided they are not used to undermine the Union.

ARTICLE 5
GRIEVANCE PROCEDURE

Section 1. Basic Ground Rules.

- A. Definition: A grievance is an alleged violation, or inconsistency in the administration and/or interpretation, of this Agreement, applicable City Code, or Administrative Rules and Regulations.
- B. Failure to Respond: In the event the grieving party fails to respond within the prescribed time sequences, the matter shall be considered resolved on the basis of Management's last determination. In the event Management does not respond within prescribed time sequences, the grievance shall automatically proceed to the next step of the grievance process unless mutually agreed otherwise by the parties.
- C. Applicability: This process shall apply to all permanent employees covered by this Agreement. Both parties agree to keep the grievance process free of meritless claims.
- D. Representation: The Union shall be the exclusive representative of all employees in the bargaining unit for the purposes of presenting to and discussing with the City grievances arising from their employment, unless representation has not been sought.
- E. Union Grievances: Union officers or stewards who are members of the bargaining unit shall have the right to initiate a grievance when they believe any provision of this Agreement to have been violated or when the Employer's

interpretation of the terms and provisions of this is different from the Union's. Only the Union or the City may proceed with a grievance beyond Step 3.

- F. Written Documentation. All grievance matters shall be filed on AFSCME forms provided, and assigned numbers, by the Human Resources Department. All grievances must specify the contractual or City code provision or rule or regulation allegedly violated; the problem, including names, dates, places, and quotes; why the response by Management or supervision did not reasonably resolve the issue; and the requested remedial action, with justification. Incomplete grievances shall be returned to the grieving party by the responding party with a statement pointing out the inadequacies, after which the filing party shall have an additional five (5) working days to make corrections and resubmit the grievance.
- G. Notice of Intent to Arbitrate. Such notices shall be presented to the Human Resources Department in writing within the prescribed time sequences, also on the appropriate grievance forms. The Human Resources Director shall request a list of five (5) names of arbitrators from the Federal Mediation and Conciliation Service. Selection of an arbitrator shall be made by alternately striking names until one name remains. The party striking the first name shall be determined by a coin toss.
- H. Expedited Arbitration. Pre- and/or post-hearing briefs may be waived by the parties; hearings will be informal; and the arbitrator shall be asked to render a decision within thirty (30) calendar days following completion of the hearing.

Section 2. Policy/Rights.

It shall be the policy of the City to prevent the conditions which may cause a grievance and to deal promptly, fairly, objectively, and in good faith with grievances which may occur.

Eligible employees shall have the right, without being subjected to restraint, interference, discrimination, reprisal, or harassment of any form, to utilize the grievance procedure when in his/her opinion an action taken against him/her was without just cause.

The grieving employee and one (1) representative, if requested, will be granted time during normal duty hours at each step of the grievance procedure to meet and facilitate discussions and conferences with City supervisors and/or administrators relating to the resolution of a specific grievance.

All steps of the grievance procedure shall be followed by all parties in good faith and pursuant to the prescribed time frames, unless mutually agreed otherwise by the parties. It shall be the policy of the City of Topeka to give individual employees an opportunity to discuss grievances with supervision in order to find mutually satisfactory solutions as rapidly as possible.

Section 3. Grievance Procedure.

A. Steps.

1. A grievance must be taken to the supervisor having control over the problem within five (5) working days following knowledge of the problem. If possible, the grievance shall be settled at this level through discussions with the involved parties. If discussions do not resolve the issue, the matter shall be reduced to writing by the employee or the employee's representative within five (5) working days following

completion of discussions and submitted to the next higher level supervisor within this same five (5)-day time frame.

2. The Development Services Division or Planning Department Director, whichever is appropriate, shall, within two (2) calendar weeks of receiving a formal grievance, meet with the grievant and Union representative, if applicable, to discuss and review all of the pertinent facts and render a written response within five (5) working days of that meeting. The employee shall then have up to five (5) working days following receipt of that response to either accept the answer or refer the matter to the next step, which is Step Three for a Development Services Division employee or Step Four for a Planning Department employee.
3. In the event Step Two does not resolve the matter, a Development Services Division employee may forward the matter to the Public Works Department Head or designee, who shall, within two (2) calendar weeks of receipt, meet with the employee and Union representative, if applicable, to discuss, investigate, and attempt to resolve the matter, rendering his/her written decision within five (5) working days following that meeting. The grievant or Union shall have ten (10) working days following receipt of that decision to either accept the answer or refer the matter to the next step. NOTE: This Step is not relevant to a Planning Department employee because comparable Department-level consideration will already have occurred at Step Two.
4. In the event Step Two (in the case of a Planning Department employee) or Step Three (for a Development Services Division employee) does not

resolve the problem, the Union may forward the matter to the Human Resources Director, who shall, within two (2) calendar weeks of receipt, meet with the employee and Union representative to discuss, review, and attempt to resolve the matter. That Management official shall then render a written opinion in the matter not later than ten (10) working days following the meeting.

5. Following receipt of the Human Resources Director's answer in the matter, the Union shall have up to thirty (30) calendar days to either accept the recommendation; request further discussion of the matter; ask for an extension; or issue a notice of intent to arbitrate. Such notice shall be sent to the Human Resources Director, who shall proceed to make appropriate arrangements for selecting an arbitrator.

The arbitration proceedings shall be conducted by an arbitrator who has been selected as provided in Section 1.G above. Should the first list of arbitrators be found to be unacceptable, either party may request that a second list of arbitrators be obtained. Once selected, the arbitrator shall set the hearing for the earliest possible date.

Expenses of the arbitrator's services shall be borne equally by both parties to the proceeding. When an employee of the bargaining unit is subpoenaed by either party in an arbitration case, that employee may appear without loss of pay if he/she appears during his/her regularly scheduled hours of work. If either party desires a certified transcript of the proceedings from a court reporter, it may cause such a record to be made,

providing it pays for the cost of the record and makes copies available with charge to the other party and without charge to the arbitrator.

The arbitrator shall consider all factors relevant to a dispute, including attempted resolutions at preceding steps of the grievance process. The arbitrator shall issue a decision in the case as set forth in Section 1.H above.

- B. Expedited Grievance Procedure. In the event of a proposed or actual termination, the Union may, within ten (10) working days following notification, by-pass Steps 1, 2, and 3 and file the grievance directly with the Human Resources Director as indicated in Step 4.

Section 4. Scope of Arbitrator's Authority.

The arbitrator shall be limited to the evidence presented by the parties, with his or her powers being confined to the interpretation of this Agreement and applicable Code or rule or regulation. The arbitrator shall not add to, subtract from, modify, ignore, or amend any of the provisions.

The parties will attempt to stipulate to the issues prior to the arbitration. If stipulation to the issues is unattainable, each party shall prepare an issues statement.

A decision by an arbitrator shall be final and binding.

The arbitrator shall decide:

- a) Arbitrability of the issue(s) pursuant to this Agreement; and
- b) The merits of the case, based on application or interpretation of the provisions of this Agreement or applicable Code, rule, or regulation; the arguments and documentation related to the case; and all the pertinent facts.

Section 5. Union Stewards.

Union representatives who are City employees elected or appointed by the Union to represent their co-workers may be permitted by the Development Services or Planning Director or designee to investigate and process grievances during working hours without loss of pay, not to exceed thirty (30) minutes per grievance unless additional time is granted.

Investigating Union representatives must secure approval from their immediate supervisors to be absent from a work assignment before investigating a grievance on City time.

ARTICLE 6
DISCIPLINE AND DISCHARGE

Section 1. General Policy.

Every employee is expected to make a positive contribution to the workplace. The Employer shall point out deficiencies in work at the time they occur or as soon as practicable following knowledge thereof, striving to make suggestions and corrections in a constructive, helpful manner. The concept of progressive discipline shall apply for offenses not normally considered serious enough to warrant immediate suspension or discharge. When disciplinary action or other corrective measures are warranted for just cause, they may include the following, though not necessarily in the order listed:

A. Caution Counseling -- Verbal discussion documented as to issue addressed, initialed by both the supervisor and the employee, and placed in the employee's personnel file.

B. Written reprimand -- Signed by the supervisor and the employee to acknowledge receipt thereof and witnessed by a Union member (if present pursuant to employee request).

C. Suspension -- Notice in writing of a removal from pay status for a specified period of time.

D. Discharge -- Notice in writing of termination of employment with the City of Topeka for an offense or combination or recurrence of offenses serious enough to warrant such.

In the event an employee refuses to sign to acknowledge receipt of the copy of the action, it shall be noted by the supervisor and initialed by the Union representative, if applicable.

Employee Assistance measures may be utilized if deemed appropriate by Management.
(See Article 11, Section 3).

Section 2. Grounds for Suspension or Discharge.

Compliance with Divisional and Departmental rules is necessary for operational safety and efficiency and for maintaining sound relationships with employees. Below is a listing of offenses, not all-inclusive, which are of such a serious nature as to warrant immediate discharge or suspension and for which the Employer shall have the right to terminate or suspend an employee immediately and without prior notice.

- 1) Knowingly refusing to perform work assignments.
- 2) Leaving work assignment and/or City property without permission.
- 3) Possession of or access to any type of firearm or explosive in a City building while on or off-duty. (Note: Firearm possession shall be subject to any current applicable statutes of the State of Kansas and City of Topeka ordinances now in force or which may be enacted during the life of this contract dealing with the Personal and Family Protection Act.)
- 4) Removal of any City property from City premises for the employee's personal use and/or the disposal of such property without the written approval of the Development Services Division or Planning Department Head or their designees.
- 5) Knowingly falsifying information to the City.
- 6) Fighting, including striking a fellow employee or a supervisor, or threatening a fellow employee or supervisor with apparent intent to cause bodily harm.
- 7) Soliciting or performing work during working hours of the type performed by the Employer other than for the City.
- 8) Consumption of alcohol during working hours; possession or use of illegal drugs during working hours; or reporting for work in a condition unable to perform duties because of being under the influence of either.

- 9) Willful and/or reckless neglect of duty.
- 10) Failure to return to the job after an approved leave of absence or other permitted departure.
- 11) The use of abusive language or unacceptable treatment of a citizen or City employee, including verbal and non-verbal sexual or racial harassment.
- 12) Conviction of a crime involving dishonesty or a threat or act of violence.

The preceding list does not limit Management's right to take appropriate corrective or disciplinary actions for other offenses as needed. Related and mitigating factors will be considered when determining the action to take. Employees may request the presence of a Union representative at disciplinary proceedings.

A permanent employee may be removed for just cause. Any employee so removed shall be given a written explanation of the reason therefor and removed from the payroll immediately.

Section 3. Manner of Discipline.

If the Employer has reason to administer a pre-determined discipline to an employee, it shall be done in private in a manner that will not embarrass the employee before other employees or the public.

Section 4. Notification of Disciplinary Action.

For all proposed disciplinary actions other than a Caution Counseling, the Employer shall notify the employee involved at least forty-eight (48) hours in advance of any meeting on the matter that a corrective measure is being contemplated and why. With that notification, employees shall be informed of their rights to Union representation if they so choose. It is the responsibility of the employee, however, to make that request of the Union. The employee may

waive either the forty-eight (48) hour waiting period or Union representation or both, but must do so in writing. If neither is waived, the employee and Union representative shall be given the opportunity at the ensuing meeting to rebut or clarify the reasons for such possible discipline.

Section 5. Caution Counseling.

In the case of a Caution Counseling, the supervisor must inform the employee that he/she is receiving a positive reminder about the normal expectations for performance or behavior in a particular area. The employee shall be given the reasons for such reminder, along with suggestions for improvement and an awareness that recurrences of the action being addressed could lead to a Written Reprimand. For that purpose, the general subject of the discussion shall be noted as provided in Section 1.A. above.

Section 6. Disciplinary Records.

Caution Counselings or Written Reprimands shall be removed from an employee's personnel file on completion of twelve months of continuous service free from additional disciplinary actions for matters of a similar nature. Suspensions administered as a third stage progressive measure shall be removed from an employee's personnel file on completion of twenty-four months -- and immediate suspensions (those with no prior basis) on completion of thirty-six months -- of continuous service free from additional disciplinary actions for violations of a similar nature. For the purposes of this section, time periods shall begin running from the date of the underlying incident, unless there is a prolonged delay resulting from investigative requirements outside the control of the City, in which cases they will be from the date the discipline is actually imposed.

Section 7. Form and Measure of Disciplinary Action.

A. In the event disciplinary action other than Caution Counseling is taken against an employee, the Employer shall promptly furnish the employee and the Union (if representation has been requested) a clear and concise statement in writing of the disciplinary action and reasons therefor. Once the measure of discipline is determined and imposed, the Employer shall not increase it for the particular act of misconduct which arose from the same facts and circumstances. An employee shall be entitled to the presence of a Union representative at any phase of a disciplinary action, even if previously waived.

B. At the employee's discretion, a written rebuttal or explanation may be submitted to the Director of Human Resources (DHR) or designee within ten (10) working days of a final disciplinary action, with a request that the document be attached to the official Notice of Discipline (NOD) form. The DHR or designee shall then have five (5) working days to determine whether the filing is acceptable as is or needs to be revised to remove any inappropriate statements.

After advising the employee and/or his/her Union representative, as applicable, of any changes necessary to make the commentary suitable for inclusion (i.e., without any negative or personal remarks or extraneous information unrelated to the specific matter being addressed), the final document may be resubmitted within another five (5) working days. Once the rebuttal/explanation is approved for association with the NOD and placed in the employee's personnel file, neither may be used independent of the other. In no case shall the rebuttal change the effect of the discipline.

ARTICLE 7

HOURS OF WORK

Section 1. Regular Hours.

The normal work week for full-time bargaining unit members shall be forty (40) hours, exclusive of lunch periods. Normally, the forty (40) hours will consist of five (5) eight (8) hour days; however, variations to the schedule may be allowed pursuant to Divisional or Departmental operating needs. Full-time employees will generally work eight (8) hours per day Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., unless otherwise specified and approved by their immediate supervisors.

If employees do not complete their duties within the normal forty (40) hour week and work extra hours, overtime compensation shall be made. Overtime work shall only be allowed if it is specifically approved by the Development Services Division or Planning Department Director, whichever is applicable, or his/her designee. Upon mutual agreement between any individual employee and his or her supervisor, flexible hours may be established. Copies of such agreements, if formalized in writing, shall be given to the Union and the affected employee.

If an employee is attending a seminar at City expense, any time beyond a normal eight (8) hour day spent due to travel and/or length of seminar will not be considered for compensation unless approved by the employee's supervisor, consistent with the provisions of the Fair Labor Standards Act.

Section 2. Lunch Period.

Employees shall be granted a lunch period, not to exceed one hour, as near the middle of the daily work shift as practicable. The lunch period shall be without pay. The Employer will

make every effort to not schedule appointments during this non-paid lunch period, recognizing that inspectors will on their own continue to work with contractors/developers to resolve problems and conflicts. Employees who do work through their lunch hours may take an adjusted lunch hour or, with supervisory approval, be compensated for the extra time worked. However, during any emergency, as determined by the Development Services Division or Planning Department Director or his/her designee, employees may be required to work without interruption through lunch breaks until such time as the emergency ends. If a lunch period is shortened or canceled, that time will be credited to the employee's hours of work for that week.

Section 3. Rest Periods.

Employee work schedules will provide, where practicable, for a fifteen (15) minute rest period during each one-half ($\frac{1}{2}$) shift, provided such rest period shall include any associated travel time to and from a break location reasonably close to the scheduled travel itinerary of the employee.

Section 4. Overtime Compensation.

The rate of pay for any hours worked over the normal forty (40) hour week shall be one and one-half ($1\frac{1}{2}$) times the employee's regular hourly rate of pay. In order to be considered as valid overtime, the work must be approved by the employee's supervisor or his/her designee.

For the purposes of this Section, any earned and authorized paid leave shall be considered as time worked toward a total of forty (40) hours in a week.

Section 5. Distribution of Overtime Work.

An employee may be required by the Development Services Division or Planning Department Director, as applicable, to work overtime. This overtime shall be assigned to the person(s) who normally performs the duties whenever possible.

An employee found to be misusing or manipulating work assignments, schedules, or time off provisions in order to generate an overtime assignment to himself/herself or to another employee shall be subject to disciplinary action.

Section 6. End of Day Appointments.

Employees shall not be required to commence inspections within thirty (30) minutes of the employee's scheduled quitting time unless the Development Services Division or Planning Department Director or his/her designee determines that such inspection shall of necessity be done at that time.

Section 7. Call Back.

Any employee called back to work for the purpose of conducting an inspection outside of his/her regularly scheduled shift shall be compensated at the employee's normal hourly rate for a minimum of two (2) hours or the actual number of hours worked, whichever is greater.

If the time attributable to call-back causes an employee to exceed the forty (40) hour weekly threshold for overtime, compensation for such shall be at time and a half, as provided by Section 4 of this Article. The two (2)-hour minimum shall apply to each call within a twenty-four (24) hour period for which there has been at least a three (3) hour separation from the last one. Such twenty-four (24) hour period shall begin at 8:00 a.m. one day and end at 8:00 a.m. the next.

ARTICLE 8

SENIORITY

Section 1. Definition.

Seniority shall be determined by an employee's time in any of the following categories:

- A. City Seniority - Total length of uninterrupted service following initial date of hire with the City.
- B. Division Seniority - Total length of uninterrupted service following the date of assignment to the Development Services Division.
- C. Department Seniority - Total length of uninterrupted service following the date of assignment to the Planning Department.
- D. Classification Seniority - Total length of uninterrupted service following the date of assignment to a primary job classification within the Development Services Division or Planning Department.

An employee serving on Original/Initial Probation shall accrue seniority, but not have it credited until the successful completion of such probation. Employees shall continue to accrue seniority for time spent on Military Leave, leave as a result of an on-the-job injury, or as provided elsewhere in this Agreement.

In the event two (2) or more employees have the same Classification Seniority, then Division or Department Seniority, whichever is applicable, shall determine the most senior. If employees have the same Classification and Division or Department Seniority, whichever is applicable, then City Seniority shall determine the most senior. If employees have the same Classification, Division or Department, and City Seniority, then they will draw numbers to determine who shall be considered the most senior.

Section 2. Loss of Seniority.

An employee's seniority accumulation shall stop if the employee:

1. Is discharged for just cause (unless reversed through the grievance procedure or other legal proceeding);
2. Retires; or
3. Quits or resigns. Any employee who voluntarily resigns on good terms and returns to work in the same organizational entity, i.e. the Development Services Division or Planning Department, which he or she left within one hundred twenty (120) days of quitting or resigning shall be given credit for all seniority previously earned. An employee shall not, however, accrue seniority during the period in which he/she was not receiving direct compensation from the City.

Section 3. Seniority Lists.

The Development Services Division and Planning Department Heads shall maintain up-to-date seniority lists of all employees, which lists shall contain the names of all employees with their dates of hire, the date each entered the respective Division or Department, and date each entered his or her classification.

Every six (6) months, the City shall update and post the seniority lists on the official bulletin boards. The City and the Union shall be allowed thirty (30) days to correct any errors on the seniority lists as posted.

ARTICLE 9
PROBATIONARY EMPLOYEES

Section 1. Definition.

Probation is an integral part of the selection/screening process and shall be utilized for closely observing the employee's work and bringing about changes and improvements where necessary.

Section 2. Initial Probation.

Each employee, following initial employment with the City, shall serve a minimum original probationary period of approximately six (6) months, as determined by an hourly threshold of one thousand forty (1,040). All overtime hours worked in pay status shall be included in the probationary period. This probationary period may be extended, for just cause, by the Employer for up to three (3) months (520 hours) if the performance demonstrated by the employee does not conclusively illustrate reasonable ability to complete the expected duties and if the action to extend the probationary period is taken at least fourteen (14) calendar days prior to the end of the six (6) month probationary period. Such an extension shall be requested by the Development Services or Planning Department Director, as applicable, and reviewed by the Human Resources Director, who will make a recommendation for a final decision by the respective Department Head. Although an employee still on probation is not yet a member of the bargaining unit for representation purposes, a courtesy notification of any extension shall be provided to the Union.

Section 3. Promotional Probation.

All promotional appointments and transfers into the bargaining unit of individuals who have served an initial hiring probation elsewhere in the City shall be subject to a promotional/transfer probationary period of not less than three (3) months (520 hours) nor more than six (6) months (1,040 hours) as determined by the Employer.

An employee who fails to meet the requirements of the promotional probation shall be reinstated to his/her former position held prior to the promotional appointment if the position is available. The employee may grieve his/her failure to successfully complete the promotional probationary period. The applicable provisions of the City Code shall govern in the event an employee who has transferred into the bargaining unit fails to successfully complete his/her promotional probationary period.

ARTICLE 10

VACANCIES-TRANSFERS-PROMOTIONS

Section 1. Definitions.

- A. Vacancy. means any position not filled by either a probationary or permanent employee.
- B. Transfer. For the purposes of this Article, a transfer is the lateral movement of an employee in the same pay range to a position within a different or the same classification in the same pay range.
- C. Promotion. For the purposes of this Article, a promotion is the advancement of an employee by the Development Services or Planning Director or his/her designee to a higher paying classification within the same operational entity on a permanent basis.

Section 2. Posting.

All vacancies to be filled by Management shall be posted on Union bulletin boards for a period of ten (10) working days prior to filling the vacancy. The posting notice will contain the position number, hours of work, days off, and any other information as necessary. Vacancy announcements shall not be required for vacancies where the Employer allows a transfer or demotion to avoid a layoff situation. If a vacancy is not filled within fourteen (14) days following the posted open bidding period, it may be re-opened for bids. The Development Services or Planning Director, as applicable, shall notify the Union of a decision not to fill a vacancy at the time such decision is made.

Section 3. Voluntary Position Assignments.

Classification seniority will be used in making position assignments of employees in the same classification in the bargaining unit as outlined below:

- A. The preference of employees for particular position assignments will be considered, based on seniority, as vacancies occur, provided the employees are capable of carrying out the job responsibilities of the positions requested in a satisfactory manner. If an employee is not certified in the area of expertise required for the position, he/she will be treated the same as a "new hire" for that position.
- B. The employee will make a request for a transfer in writing to the Development Services Division or Planning Department Head or designee, as applicable. If the transfer is approved, the employee may not request another transfer for at least six months.
- C. Assignment changes under this section shall not require a probation period for those individuals who have the minimum certification(s) and related experience for the new position.
- D. Management and the Union shall mutually agree that the pay level at which the transferee is being placed is appropriate.

Section 4. Promotion.

Development Services Division or Planning Department seniority and qualifications, as applicable, will be used in determining those employees who will be selected for promotion. The decision as to the qualifications shall be determined by the Employer. The promotion will be awarded to the qualified employee with the most Development Services Division or Planning Department (whichever applies) seniority unless the Employer can show that a junior employee

is demonstrably superior to the senior employee. The employee will make application for promotion in writing to the Development Services Division or Planning Department Head or designee with a copy to the Human Resources Office.

In the event an employee is not appointed to a vacancy, the employee may request written reason(s) for the denial.

Section 5. Work Performed Out of Classification.

- A. An employee who, for a period greater than ten (10) consecutive working days, -is assigned duties not contained in his/her official position description but rather within the position description of a higher classification, shall be compensated at the beginning rate for the higher classification, provided such rate is greater than the normal rate of the employee. The employee shall be compensated at the next higher step of the classification in which he/she is performing the out-of-class work, as necessary to bring about an increase, in the event the beginning rate is less than the employee's normal rate of pay.
- B. The wage rate of an employee working out-of-class in a lower pay classification shall not have his/her wage rate reduced.
- C. An employee promoted to a classification in which he/she has worked out-of-class for a period of thirty consecutive days or more within one year of the date of the promotion shall be given credit for such time toward his/her probationary period resulting from the promotion, provided, however, that no credit shall exceed five hundred twenty (520) hours.
- D. An employee assigned to work out-of-class shall meet the qualifications for the classification to which the employee is temporarily assigned.

ARTICLE 11
LAYOFF PROCEDURE

Section 1. Layoff Determination.

A layoff shall be defined as a reduction of staff or the elimination of any classification or position to meet budgetary constraints without compromising the delivery of essential services as determined by the Public Works or Planning Department Head or his/her designee.

In the event a reduction-in-force is deemed necessary, employees shall be laid off as follows:

- A. Temporary employees shall be laid off first, followed by benefit-eligible employees on part-time schedules, followed by benefit-eligible full-time employees.
- B. The laying off of benefit-eligible, full-time employees will occur in the following order, but in no event will a primary classification be left vacant:
 - 1. The first three (3) position(s) to be affected by layoff will be selected based on bargaining unit seniority;
 - 2. When the three (3) positions with the least seniority are vacant and further layoffs are necessary, the Public Works or Planning Department Head or his/her designee shall designate the classification(s) where the layoffs will occur. Such layoffs will be by inverse seniority within the primary classification(s) as referenced in Article 2 Recognition and Union Security.
 - 3. The layoff basis will return to Development Services Division or Planning Department seniority when all positions affected are no longer vacant.

Section 2. Required Notice.

Employees who are to be laid off shall be given formal written notice at least ten (10) work days in advance of the date of the layoff. If sufficient notice is not given, the Employer shall in lieu thereof give fifteen (15) work days in pay to the affected individual. Provisions of the Worker Adjustment and Retraining Notification Act shall apply. The Union shall be given a copy of the layoff notice. Names of the employees to be laid off shall not be made public until given to the employees and the Union.

Section 3. Recall.

An employee who has been, or anticipates being, laid off may be placed on an eligibility roster by the Human Resources Director for a position for which the individual is fully qualified. Persons on such a reemployment roster will receive first consideration in case of call-backs to work in the same or similar capacity, provided they have requested such consideration in writing and are available at the time of any recall. Persons shall remain on the eligibility roster for a maximum of three (3) years.

Section 4. Severance Pay.

An employee who is scheduled for lay-off shall receive severance pay pursuant to the provisions of the Personnel Code governing lay-off, recall, and severance pay.

Section 5. Layoff Options.

The Public Works or Planning Department Head or his/her designee shall recommend to the City Manager alternative cutback areas (to any anticipated layoff of employees). Nothing in

this Agreement shall prohibit the City Manager and Human Resources Director from entering into an arrangement with the Union to minimize the effect of general layoffs by:

- a) Reducing the total number of working hours of employees;
- b) Reducing the level of payment to current classifications;
- c) Implementing a rotational furlough system; or
- d) Utilizing other scheduling variations which may cause minimal impact on services rendered to the public.

ARTICLE 12

GENERAL PROVISIONS

Section 1. Decorum and Fitness.

All employees in the bargaining unit shall exhibit a positive, professional attitude and demeanor to one another, to administrators, and to the general public. This shall be interpreted to include being cordial, polite, and respectful; practicing good hygiene; and maintaining a neat and clean appearance.

Section 2. Driver's License Requirement.

Any bargaining unit member in a driving capacity with the City shall maintain a valid Kansas driver's or chauffeur's license in order to continue in that position. If the employee has a driving record either on or off duty which indicates a propensity for accidents and/or violations of the law, that employee may be removed from a driving capacity, possibly resulting in the reduction of the employee's class and pay or complete removal from City employment.

Section 3. Employee Assistance Program.

The City and Union agree to cooperate in encouraging employees who are in need of counseling and/or assistance in such areas as alcoholism, drug abuse, financial and/or legal difficulties, family problems, and similar areas to undergo a program directed to their rehabilitation. An employee may be required to seek appropriate remedial counseling if the Development Services Division or Planning Department Director believes there is a need for such counseling or the City Health Care Provider (CHCP) determines that the employee's personal behavior and/or activity is interfering with job performance. Referrals for assistance

may be arranged confidentially through either the CHCP, Human Resources Director, Development Services or Planning Director, or the Union Representative or designee.

Section 4. Personnel Records.

An Employee's official personnel file shall be maintained by the Human Resources Department. A copy of any adverse or disciplinary action shall be provided to the employee at the time such action is initiated. An employee shall have access to his/her personnel file provided he/she has arranged in advance with the Human Resources Department for such review. If during duty hours the employee shall arrange with his/her supervisor to be away from normal work duties. Access to employee personnel files shall be limited to the employee, Union, and Management, provided, however, that the Union must obtain a signed authorization from the affected employee before such access may be given. No other access shall be permitted unless specifically authorized in writing by the employee or through subpoena by a court of competent jurisdiction.

Section 5. Notification of Potential Liability.

All bargaining unit employees have a duty to promptly notify their supervisors of any activity of which they become aware which may cause a liability to the City, irrespective of their formal working areas or schedules. Employees have a continuing responsibility to help minimize the City's financial exposure so that it can provide the best and most efficient services to the public. If an employee's own supervisor is unavailable in a situation that demands immediate attention, the employee shall notify another department supervisor capable of remedying the matter.

Section 6. Work Rules.

Work rules and/or regulations will not be inconsistent with the provisions of this Agreement and will be uniformly applied in like circumstances.

Work rules and regulations pertaining to the performance of work and conduct of employees shall be available in each Division or Department for review by employees. One copy of the rules and regulations shall be made available to the Union.

Before existing work rules are changed or new rules established, an open hearing shall be held for the purpose of receiving and reviewing input from all affected employees. Notice of the hearing and the proposed work rules shall be posted on each Development Services Division and Planning Department bulletin board.

When existing work rules are changed or new rules established, they shall be posted prominently on each respective bulletin board for a period of fourteen (14) calendar days before implementation.

In the event an emergency is declared by the Employer at the Department Head level or above, existing work rules may be temporarily suspended for the duration of the emergency.

Section 7. Agreement Distribution.

The City and the Union agree to equally share the cost of printing this Agreement. Union stewards will be authorized to distribute the Agreement to bargaining unit employees.

Section 8. Clothing/Rain Gear.

One rain coat and one pair of rain boots will be provided to each employee at the expense of the City. The City will replace worn out or damaged rain gear provided the employee has taken reasonable care to secure and maintain it.

The City will also provide coveralls and safety equipment to all employees whose working conditions/job requirements warrant additional protection.

Section 9. Job Studies.

Union requests for job reclassification studies shall be considered on an individual, case-by-case basis. If the Human Resources, Public Works, or Planning Director determines that a job study is warranted, the study shall be conducted by the Human Resources Director, who shall then make a recommendation to the City Manager for a final determination.

Section 10. Union/Management Meetings.

At the request of either the Union or the Employer, meetings to consider matters of common interest other than grievances shall be held at a mutually acceptable time and place. Employees designated as representatives of the Union, not to exceed four (4), shall be allowed to be away from their work assignments with pay for the purpose of attending said meetings.

Section 11. Benefits Committee.

Local 1294 shall be entitled to select one (1) employee as a representative to any City Employee Benefits Committee. Such Union representative will receive his/her regular rate of pay for the time spent in meetings during regular work schedules, not to exceed two (2) hours per month. The Development Services Division or Planning Department Head or designee may authorize additional time on a case-by-case basis, however, upon written request from the employee representative.

Section 12. Residency.

- A. Employees hired after December 31, 1981 by the City must either be bona fide residents of Shawnee County at the time of appointment or establish such residency within six (6) months of successful completion of their initial employment probations.
- B. Residency shall also be maintained within the confines of the County for the duration of City employment. The City Manager may grant one extension, not to exceed six (6) months, for establishment of residency for good cause shown.
- C. Should the City Council make amendments to or repeal the current City Code regarding residency requirements, the Union and the City agree to meet and confer regarding such changes.

Section 13. Bilingual Employees.

The Employer may call upon bilingual employees to provide service as a translator/interpreter. Such service will be at the sole discretion of the employee. Employees who refuse such requests will suffer no reprisals for their refusal. Any time spent providing translation/interpreter service shall be considered time worked.

ARTICLE 13

LEAVES

Section 1. Leave of Absence Without Pay; Obligations of Employee.

A leave of absence without pay is a predetermined amount of time away from work requested by an employee and approved by the Development Services Division or Planning Department Director. It shall generally not extend beyond six (6) calendar months, but may be requested by an employee for any reason except illness. Leaves for illness or injury are governed by the provisions of Section 8 of this Article.

The fact that such a leave is possible does not mean approval is obligatory. Leaves of absence without pay, except in the case of a disciplinary action, shall be considered a privilege. As such, the best interests of both the City and the employee shall be considered in determining whether such leave shall be granted. An approved leave of absence may later be canceled for just cause.

When an employee is granted a leave of absence without pay, he/she may return to work at the end of the leave to the position left if still available. Should business necessity require the City to fill the position during the term of the leave, however, a temporary employee may be hired.

When granted a leave of absence without pay, the employee makes a commitment to return to work at the end of the leave. Failure to return to work or to obtain an extension shall be considered a resignation.

Section 2. Leave of Absence Without Pay; Conditions.

A. During a leave of absence without pay, the employee:

1. Shall not receive pay from the City;
 2. Shall not accrue any leave;
 3. Shall not pay retirement contributions nor be credited time toward retirement for any time the employee is not in pay status;
 4. Shall pay total health or other insurance falling due except as provided in Section 8 below;
 5. Shall, upon return to work, carry over all leave accrued prior to commencement of the leave without pay; and
 6. Shall not receive any other benefits during the absence.
- B. Provisions of the Family and Medical Leave Act (FMLA) shall govern any leave of absence that qualifies for such.

Section 3. Military Leaves; Temporary Training Periods.

An employee who is a member of a military reserve organization or a National Guard unit shall be entitled to paid leave as hereinafter provided. If such assignment would substantially interfere with the execution of City duties in the public interest, the employee may be encouraged to request a rescheduling of any such training/assignment. The maximum pay during any military leave shall be the difference between the base pay an employee would normally receive in one pay period and the amount received from the military. There shall be no compensation from the City if the military pay is equal to or greater than City pay. The maximum amount of temporary training pay annually for a forty (40) hour employee shall be eighty (80) hours. An employee shall be paid only for those days he/she would normally have been assigned to work during the time of the military assignment.

The employee shall provide appropriate documentation of orders to attend any training, citing the nature of the training; the required time away; and any related information as may be necessary to fully clarify the absence.

No City compensation shall be allowed for any person called to active or extended military service, provided that in the event of a natural disaster or civil disorder within the City limits of Topeka, the City Manager may authorize payment from the City for the duration of such active service, not to exceed the difference between City and military pay as stated herein.

Section 4. Military Leaves; Extended Military Assignment.

All requests for military leave in excess of thirty (30) days must receive prior approval by the City Manager. Employees may be entitled to a position with the City following completion of a military assignment, pursuant to applicable state and/or federal laws governing such leaves. It should be noted that the intent of this provision, unless superseded by state or federal law, is not to encourage voluntary induction into the service for the purpose of exploring a different career opportunity.

In case of involuntary conscription, the absence may be considered a leave of absence without pay and the employee may be allowed to continue in employment following completion of such service (at a point in the salary and benefit structure where the employee left the City) unless he/she plans to resign formally from a position, at which point all obligations by the City would cease.

Section 5. Funeral/Family Crisis Leave.

A. Forty (40) hour employees shall receive a maximum of three (3) working days per occurrence with no deduction from any hourly accruals for Funeral Leave, to be used specifically in accordance with the following:

1. Making arrangements for and/or attending the funeral of an employee's immediate family member, as defined in Article 3.G.
2. If the bargaining unit member is on approved leave and the death of an immediate family member occurs, the employee, at his/her option, may cancel the approved leave and be placed instead on funeral leave.
3. If the travel time required to get to and return from the funeral of an immediate family member is more than 18 hours, one additional travel day will be granted after verification.

B. Forty (40) hour employees shall also be eligible for up to three working days per occurrence for Family Crisis Leave, to be used in the following situations:

1. Caring for an immediate family member who has a life-threatening illness or injury as determined by the attending physician. If requested by the Development Services Division or Planning Department Head, as applicable, the employee may be required to supply a statement from such physician verifying the severity of the condition of the family member.
2. Undertaking recovery (or in limited cases of advance warning, preventive) measures in extreme extenuating circumstances which may threaten the health or welfare of the immediate family and/or their household as with a natural disaster such as fire, flood, tornado, or similar emergency requiring the securing of property.

C. Determination of eligibility for Funeral/Family Crisis leave shall be made by the Development Services or Planning Department Director or designee, consistent with the guidelines set forth in this Section. Upon the request of the employee, additional time, if needed, may be allowed from other leave accruals or pursuant to leave of absence provisions.

Section 6. Court Appearances.

An employee called to serve on jury duty or required to be a court witness, but not as a party in a civil matter or defendant in a criminal case, shall continue to receive full regular pay, but must turn over any witness/juror fees to the City.

An employee on court appearance leave shall return to work for the balance of a work day when the employee is excused by the court.

An employee shall not have deductions made from accrued leave for the purpose of this provision unless a party in a civil matter or defendant in a criminal case, either unrelated to his/her job, or appearing as an expert witness other than as a part of his/her job.

An employee appearing in court under this provision may retain any travel, lodging, and/or meal reimbursements.

Section 7. Leave Agreements.

An employee shall enter into a written leave agreement with his/her Department Head if the leave exceeds two (2) calendar weeks, including for a leave of absence to pursue Union Business but excluding vacation leave and leaves taken in accordance with Section 8 of this Article. The agreement shall specify the conditions of the leave; whether it is with or without pay; and what the employment status, salary, and other benefits will be.

The agreement shall be approved by the Human Resources Director and the City Manager prior to commencement of the leave. A copy of the leave agreement, excluding confidential material, shall be provided to the Union if the employee involved so authorizes.

Section 8. Medical Disability Leave.

A written request for a leave of absence with or without pay due to medical reasons may be made by an employee through the Development Services Division or Planning Department Director to the Human Resources Director, who has ultimate approval authority.

The Human Resources Director may require the employee to provide a conclusive medical statement concerning the problem, the probable extent of incapacitation, and any prognosis of when the employee could resume full responsibilities. The Human Resources Director or the CHCP may request an interim evaluation of the employee's condition during such a leave.

In the event the employee is receiving Workers' Compensation benefits as the result of an injury sustained in City employment -- and such incapacitation is total and temporary but not exceeding three (3) months' duration, the City may make contributions to the employee's health benefits upon recommendation of the Development Services or Planning Director and approval of the Human Resources Director, provided the employee is normally eligible for such benefits.

Physical incapacitation, including but not limited to pregnancy, miscarriage, abortion, childbirth, or other related medical conditions and recovery therefrom, shall be considered as temporary medical disabilities and treated as such under applicable leave provisions.

The employee shall return to work at the conclusion of the medical disability leave, contingent upon a statement from the CHCP indicating that the employee is able to return to work. The provisions of Section 5 of Article 14 shall be utilized in the event the employee

disagrees with the opinion of the CHCP. A light duty assignment, if available, may be an option at the discretion of the Department Head.

A medical leave shall be required for all leaves in pay status for medical reasons in excess of thirty (30) working days and for all medically-related leaves in a non-pay status. The employee requesting medical leave shall only receive pay during such leave to the extent the employee has and uses accrued leave.

An employee shall be returned to his/her former position at the end of a medical leave, subject to medical clearance to perform those duties.

Section 9. Voting Time.

An employee who is eligible and registered to vote in a primary, general, or special election held within the state shall, on the day of such election, be entitled to absent himself/herself from employment duties with the City for a period not to exceed two (2) consecutive hours between the time of opening and closing of the polls, provided, however, that if the polls are open before work commences or after it ends but the period of time the polls are so open is less than two (2) consecutive hours, the employee shall only be entitled to be absent from City employment for such period of time which, when added to the time the polls are open, will not exceed two (2) hours. An employee shall not, because of so absenting himself/herself, be subject to any penalty, nor shall deductions be made on account of such absence from the employee's usual salary or wages.

The Development Services or Planning Director may specify the particular times during the day in which employees may absent themselves as aforesaid, except such specified times shall not include the regular lunch period.

The employee's Division or Department Head may require the employee to show a current voter registration card in order for the employee to be eligible for paid time off for voting.

Section 10. Civic Duty.

Employees appointed to a committee of the Topeka United Way shall be granted leave with pay to attend committee meetings during their scheduled work hours as long as staffing levels are appropriate as determined by the Development Services Division or Planning Department Head.

Employees choosing to seek election to the office of Mayor or City Council Member shall request vacation leave or a formal leave of absence from their positions with the City the duration of any campaign. If elected, an employee shall relinquish any position with the City.

Section 11. Blood Donations.

Employees who choose to donate blood or blood products shall be granted leave with pay for the time required to be absent from work during their scheduled work hours. Employees shall use only the time required to complete the donation procedure and shall seek to avoid conflicts with previously scheduled inspections or appointments.

Section 12. Extended Sick Leave Benefit.

- A. General. All employees who have satisfied their initial probationary periods and are benefit-eligible may receive extended sick leave benefits. Extended sick leave benefits may only be used by employees who will not be returning to work due to a diagnosed terminal illness.

- B. Amount. Extended sick leave benefits shall consist of 520 hours of sick leave for full-time employees and 390 hours of sick leave for employees who are not full-time. An employee who returns to work after using all or part of these benefits shall not receive additional extended sick leave benefits.
- C. Eligibility and Payment. An employee diagnosed as terminally ill may use extended sick leave benefits based on the normal scheduled hours for that employee's position. The extended sick leave benefits shall be paid at the employee's most recent regular rate of pay. No terminally ill employee shall be paid extended sick leave benefits until that employee has exhausted all accrued sick and vacation leave. A terminally ill employee who is using extended sick leave benefits shall not be considered in pay status for the purpose of other benefit accruals.
- D. Termination. An employee's receipt and usage of extended sick leave benefits shall end or be proportionally reduced when the employee starts receiving other disability benefit payments, including, but not limited to, KPERS and/or Social Security. An employee receiving extended sick leave benefits shall be obligated to inform the Human Resources Department when such disability benefit payments commence.
- E. Death. The death of an employee receiving extended sick leave benefits shall cause the benefits to cease. The deceased employee's heirs and/or estate shall not be entitled to either any unused extended sick leave benefits or the continuation of benefit payments.

Section 13. Leave for Professional Trade Organizations.

The City and Union agree that it is in the interests of both for employees to be appointed to and attend meetings of committees of nationally recognized code groups, trade associations, or other recognized organizations whose goals are to evaluate standards and implement improved practices for building construction. Accordingly, affected employees may, at the discretion of Management, be allowed paid leave time to attend such meetings without deductions from their leave accruals.

Requests for leave to participate in professional trade organization meetings in a representative capacity must be submitted in writing to the Director of Development Services or Director of Planning or their designees at least two (2) calendar weeks in advance of the requested leave. The leave request must include information stating the time, date(s), and agenda of the meeting and be supported by documentation citing the employee's official stature. None of the costs associated with these meetings shall be absorbed by the City.

Section 14. Union Leave.

Up to five (5) members of the bargaining unit shall be allowed to attend union functions such as, but not limited to, steward training or organizational drives, provided that staffing levels are not adversely affected as determined by Management. Any such time off, however, shall be chargeable as personal leave.

Up to four (4) members of the bargaining unit shall be granted paid time off from duty for getting to and from and attending any scheduled negotiation sessions with the City. Granted paid time under this section shall not cause the employee to be placed into overtime, unless authorized by Management.

A total pool of forty (40) regular hours with pay will be provided each contract year for no more than two (2) bargaining unit members to attend Council 61 and/or international union meetings at times that would not adversely affect staffing levels, as determined by Management.

ARTICLE 14

SICK LEAVE

Section 1. Accrual.

Full-time, forty (40) hour employees covered by this Agreement shall be entitled to accrue sick leave at a rate of 3.692 hours per pay period. The maximum year-end carry-over for sick leave shall be one thousand forty (1,040). While bargaining unit members may continue to accrue above that number at their normal rate during the ensuing twelve-month period, any excess on December 31 will be zeroed out and compensated in accordance with the provisions of Section 6 below. An employee must be performing assigned duties or on authorized paid leave to be eligible to accrue sick leave.

Section 2. Policy.

An employee shall only be allowed to utilize sick leave for approved purposes. An employee who wishes to be placed on sick leave shall make such a request to his/her supervisor. The request may be subject to verification of appropriateness either before or after its approval.

Requests for classification of paid time away as sick leave submitted more than three working days after return to work shall not be honored unless an exception is made by the employee's supervisor for good cause shown. Requests submitted following termination of employment shall not be processed.

Utilization of sick leave shall be permissible as it is accrued, including during the initial probationary period, but shall not be allowed in advance of accrual.

Section 3. Acceptable Use.

A. Sick leave may be allowed in minimum one-quarter-hour increments when an employee is unable to perform duties due to personal illness or injury. It may also be used for direct care-giving purposes associated with the illness, or for facilitating the medical, dental, or other routine diagnostic or remedial treatment, of the employee's immediate family member, as defined in Article 3.G.

In non-emergency situations, the employee shall strive to schedule medical or dental appointments and/or treatments at times which do not unduly interfere with job-related duties, notifying his/her supervisor as soon as possible once such appointment times are known. Sick leave may also be allowed or directed if exposure to a contagious disease may endanger or jeopardize the attendance of other employees.

B. Sick leave may be utilized for elective surgery. If more than three (3) days will be necessary, however, arrangements shall be made in advance between the employee and his/her supervisor so that the leave will, to the extent possible, be at a time best suited to the work situation.

Section 4. Special Conditions.

A. Employees shall not be charged sick leave use for:

1. Medical appointments or therapy during regularly scheduled working hours authorized by Risk Management in connection with a Workers' Compensation claim or as otherwise directed by the Human Resources Director.
2. Medical consultations required by Management under the provisions of Section 5 below.
3. Any absence from scheduled time necessary because of a quarantine.

B. Employees shall not be compensated in the form of Sick Leave use for medical appointments or therapy occurring during non-duty hours.

Section 5. Health Status/Return to Work.

A. Employee Health Status. An employee may remain on the job so long as his/her health permits. In the event the Development Services Division or Planning Department Head, as applicable, believes the employee's health or the health of other employees may be jeopardized by that employee's continued presence at the worksite or otherwise determines that such employee is no longer able to perform the duties of his/her position, the employee may be referred to the Human Resources Department.

The Human Resources Director may further refer the employee to the CHCP for a determination as to whether the employee may remain on the job or be required to take sick leave.

The employee may seek a second opinion from another medical doctor in the event the CHCP determines the employee may no longer remain on the job. The CHCP shall attempt to reconcile any differing conclusion regarding the advisability of an employee's continuing to work, obtaining a third opinion at City expense if necessary to make that determination.

The physician designated by the employee and the CHCP shall jointly select the medical doctor to perform any third examination, with Risk Management resolving any disagreement between the two.

B. Return to work. Any employee who utilizes sick leave for five or more consecutive working days shall be required to obtain a medical release from

Human Resources prior to returning to work. The Human Resources Director may require the employee seeking to return to work to submit to an examination by the CHCP prior to returning to work.

Section 6. Year-end Reconciliation/Payment Upon Retirement.

Employees who at the end of the year have in excess of the number of Sick Leave hours permitted for carry-over as stipulated in Section 1 above shall have such residual hours zeroed out and compensated at the rate of thirty-five percent (35%) of their respective hourly wages on December 31. An employee retiring under KPERS or the Social Security System will similarly be paid for thirty-five percent (35%) of eligible accrued sick leave up to a maximum payment of three hundred ninety-seven (397) hours at his/her hourly rate immediately preceding retirement.

Section 7. Abuse of Sick Leave.

Any employee who establishes a pattern that makes it appear the employee is using sick leave improperly shall be referred by the Development Services Division or Planning Department Head or his/her designee to the Human Resources Director.

The Human Resources Director may require the employee to report for a consultation and/or physical to the CHCP, who may further require the employee to provide a physician's statement certifying:

1. That the employee was treated and the date(s) of that treatment;
2. That the illness or injury was of sufficient seriousness to prevent the employee from being present at work;
3. That the employee was unable to work on a specified date or dates because of the illness or injury; and

4. That the employee may return to work to assume his or her regular duties on a date certain.

Failure to comply with the above doctor's statement requirement or the inability of the CHCP to substantiate any legitimate illness may result in a determination that the sick leave in question was not supported by medical opinion, thereby leading to the denial of its use and/or disciplinary action for abuse.

Section 8. Non-City Employment Injury and Use of Leaves.

Any employee injured while working for an employer other than the City shall reimburse the City for sick or other paid leave usage associated with such injury, provided such other employer is insured and a Workers' Compensation settlement has been consummated between it and the employee. The amount reimbursed shall not exceed the amount of pay made by the City.

Section 9. Injury on the Job; Workers' Compensation Relationship With Leave.

Employees injured in the course, or becoming ill as a direct result, of their employment and thereby eligible to receive Workers' Compensation while Temporarily Totally Disabled may elect to use accrued leave in an amount representing the difference between their total base compensation including longevity and the amount received from Workers' Compensation. Under this election, the employee's sick and other leave accrual shall be proportionate to the amount of leave being used. Should the employee's accrued leaves become depleted, any additional compensation from the City shall cease.

While on Workers' Compensation, employees shall continue to accrue seniority and other benefits, except that leave accrual will be prorated as above.

Section 10. Effect of Inter- and Intradepartmental Transfers on Sick Leave Accrual.

Any employee who is transferred, promoted, demoted, reassigned, or otherwise placed in a different department within the City shall be entitled to retain accrued sick leave.

Section 11. Sick Leave Non-Use Incentive.

As an incentive for the non-use of Sick Leave, bargaining unit employees shall be eligible for one (1) day, defined as eight (8) consecutive hours, of personal leave for each four full calendar months, specified as January-April, May-August, and September-December in which they use no sick leave.

The employee shall be responsible for reporting to their immediate supervisor, any errors or inaccuracies, reflected in their time cards as to personal leave time earned or accrued pursuant to this section within 28 calendar days of the day the personal leave time is earned or accrued. Failure to report any such error or inaccuracy within the time prescribed shall result in employee losing or forfeiting said personal leave time earned.

If not utilized by the end of the calendar year in which it is validated and credited by the Department of Financial Services, such non-compensable bonus day for the non-use of Sick Leave will be lost.

ARTICLE 15
EMPLOYEE BENEFITS

Section 1. Holidays Recognized and Observed.

The following days shall be recognized and observed as paid holidays:

- 1) New Year's Day -- January First
- 2) Martin Luther King, Jr.'s Birthday -- Third Monday in January
- 3) Memorial Day -- Last Monday in May
- 4) Independence Day -- July Fourth
- 5) Labor Day -- First Monday in September
- 6) Veterans Day -- November Eleventh
- 7) Thanksgiving -- Fourth Thursday in November
- 8) Friday after Thanksgiving
- 9) Christmas Eve Day -- December Twenty-fourth
- 10) Christmas Day -- December Twenty-fifth

Eligible employees shall receive a normal day's pay for each of the holidays listed above on which they perform no work.

Whenever any of the holidays listed above shall fall on Saturday, the preceding Friday shall be observed as the holiday.

Whenever any of the holidays listed above shall fall on Sunday, the succeeding Monday shall be observed as the holiday. However, if the Governing Body designates an alternate day other than the Friday or Monday or vice versa as a holiday, then it will be the official designated holiday for the purposes of this section.

Section 2. Compensation for Work on a Holiday.

If an employee is required to work on a holiday, he/she shall be paid double time for all hours worked in addition to his/her normal pay for the holiday. All hours paid at the double time rate shall not be utilized for calculating overtime pay.

Section 3. Vacation.

A. Employees covered by this Agreement shall be entitled to accrue and utilize vacation benefits in accordance with the following chart:

Length of Service	Hours Earned Per Pay Period	Days Earned Per Year	Hours Earned Per Year
1-4 years	3.692	12	96
5-9 years	4.615	15	120
10-14 years	5.539	18	144
15-19 years	6.462	21	168
20-24 years	7.385	24	192
25-29 years	8.308	27	216
30 years & thereafter	9.231	30	240

Employees shall accrue vacation time from their dates of hire, but shall not be credited with such time until the successful completion of their original/initial probationary periods.

The maximum carry-over of vacation time from year to year for any forty-hour employee shall be two hundred forty (240) hours.

Employees shall be allowed use of accrued vacation time in minimum one (1) full hour increments.

B. Special Conditions.

An employee whose denial of the opportunity to take requested vacation leave results in the employee's accrual exceeding the maximum permissible for carry-over shall, with the approval of his or her Department Head, be allowed to carry over that part of the excess hours which were requested and denied. The burden of proof that the employee made a good faith effort to request and schedule vacation leave during the year in order to avoid the prospect of forfeiture shall be on the employee. Regardless, any excess hours authorized for an extension must be utilized during the post year-end period of January 1 through March 31 or be lost.

Management will make every effort to allow an employee to schedule and use excess vacation leave during the above-cited period, if necessary assigning days off to liquidate the surplus. Under no circumstances, however, will total accrued vacation leave as of April 1 of any year be allowed to be above two hundred forty (240) hours plus the number earned during the preceding three-month period.

Section 4. Vacation Pay.

The pay for vacation hours shall be at the employee's regular straight time rate in effect for his/her regular job on the day immediately preceding the vacation period.

An employee whose pay day falls during a vacation will either have his/her check mailed to a pre-designated address or direct-deposited in his/her bank account, consistent with the established individual option, with the voucher being held by his/her supervisor until the employee returns.

Section 5. Choice of Vacation Period.

The Development Services Division and Planning Department Directors, respectively, shall have sole approval authority for vacation requests. Employees shall strive to make those requests as far in advance of the desired time off as possible, but may be granted up to two (2) days without prior notice.

All vacation in excess of two (2) days must be requested in writing to the Development Services Division or Planning Department Director or his or her designee at least one (1) week prior to commencement of the vacation. If competing requests have been submitted and mission requirements make it necessary to limit the number of employees away at the same time, the employee with the greater Development Services Division or Planning Department (whichever applies) seniority shall be given first preference. Regardless, the approving authorities shall have ultimate discretion to determine the number of employees who may be on vacation at any given time.

Section 6. Advance Vacation Request Period.

- A. Employees shall have until March 1 of each year to request specific dates for vacation leave for the remainder of that year and have such requests acted upon pursuant to seniority as set forth in Section 5 above. Once approved, the vacation dates may not be canceled except for compelling business reasons.

- B. Vacation leave requests made subsequent to March 1 in any calendar year shall be considered on a "first come, first served" basis without regard to individual seniority.

Section 7. Holiday During Vacation Period.

If a designated holiday, as provided in Section 1 of this Article, occurs during the work week in which a vacation is taken by an employee, the amount of time charged to vacation shall be reduced by the number of holiday hours that are credited.

Section 8. Vacation Right in Case of Layoff, Separation, or Retirement.

- A. Retirement. Subject to the limits set forth in Section 3 above, any retiring employee shall be fully compensated for his/her unused accrued vacation time at the hourly rate of pay in effect on the last day of work.
- B. Voluntary/Involuntary Separation. Any employee terminating his/her employment with the City after satisfactorily completing the initial probationary period shall be compensated for all unused accrued vacation time.
- C. Laid-Off Employees. Any employee who is laid off for any reason after completion of the initial probationary period shall be paid for any unused accrued vacation as of the date of the layoff. Any employee laid off may, in the alternative, retain his or her accrued vacation time as permitted under the recall provisions of this Agreement.

Section 9. Retirement Systems.

All employees covered by this Agreement shall be subject to federal Social Security withholding. In addition, the Employer agrees to operate under the Kansas Public Employees Retirement System Act as may be amended from time to time.

Section 10. Deferred Compensation.

Any benefit-eligible employee may participate in the Deferred Compensation Plan as defined by the City of Topeka.

Section 11. Mileage Reimbursement.

Any employee covered by this Agreement who is required to use a personal vehicle in conducting City business will be eligible for reimbursement at the rate paid by the City at the time the travel occurs.

To be eligible for mileage reimbursement, employees will be required to maintain complete and accurate records of travel related to City business. Failure to have such records may result in denial of claims presented to the City. Any misuse of this provision (that is, making a false claim for reimbursement) may result in disciplinary action up to and including dismissal.

Mileage driven by employees to and from home and work and lunch or break more than ten (10) miles one way to any destination without prior supervisory approval or any other mileage not directly related to City business shall not be eligible for reimbursement.

Section 12. Auto Insurance Reimbursement.

Any employee covered by this Agreement who is required on a continuing basis to use a personal vehicle in the execution of City business shall be reimbursed at the rate of seven dollars (\$7.00) per month for each full month the employee utilizes his/her personal vehicle on the job as a partial offset to the cost of said employee's auto insurance premiums. Such reimbursements shall be calculated on a monthly basis per individual and be reimbursed twice annually during the first full pay periods in January and July of each year. Any over-payments may be recouped by the City.

Employees must provide the Development Services Division or Planning Department Director with proof of their personal auto insurance coverage in order to receive this reimbursement.

Section 13. Employee Development.

A. The purpose of the City's employee development program is to promote improved productivity in City services as per the following policy guidelines:

1. Only full-time benefit-eligible employees may be reimbursed for academic courses pursued through recognized educational institutions.
2. Reimbursement will be authorized upon the employee's showing evidence of completion and passing of the course.
3. The City will not reimburse employees for a course from a non-accredited institution, nor may an employee receive total overall reimbursement for course work in excess of four hundred fifty dollars (\$450.00) per year.
4. The City will not reimburse employees for extracurricular fees, textbooks, or other course-related materials. These shall be paid for by the employee.

5. An employee must complete the request for reimbursement form as provided by the Human Resources Department and have the concurrence of the Director under whose jurisdiction the employee's Department falls before the employee may be reimbursed for an academic course.
 6. Any employee attending an academic course during regular working hours pursuant to these policy guidelines must take time off without pay or use vacation time, unless the course is a training seminar or conference sanctioned by the City.
 7. This section does not apply to technical or departmental-related training sponsored by organizations of which a City Department is a member.
- B. The Public Works and Planning Department Directors shall make every effort to budget for and approve reimbursement for academic courses for employees in their respective Departments on a first-come, first-served basis.
- C. All newly-hired employees or employees who are reassigned or transferred to another classification will be provided with all application fees and other approved expenses associated with the testing for all certifications required to perform the positions to which they are assigned. The above provisions are applicable to a maximum of two (2) attempts to pass any required test, with employees being personally responsible for the costs thereafter. Employees will be required to notify the Development Services or Planning Director, as applicable, in writing, of their intentions to take a required certification test at least three (3) months prior to the test date, unless an exception is requested and granted.

- D. Annual continuing education shall be provided to all bargaining unit employees in their primary and any secondary disciplines.
- E. Management and the Bargaining Unit agree to work together to explore the possibility of creating a special fund dedicated to professional training and continuing education.

Section 14. Physical Fitness Programs.

In order to encourage and enable employees to achieve optimal physical health, the City shall offer a personal fitness program to benefit-eligible employees. The program shall provide that all employees have full use of the City Wellness Center without charge. Employees desiring to utilize this program shall make application directly to the Wellness Center.

Section 15. Group Insurance.

The Employer and Union have agreed to cost-sharing for healthcare benefits for employees and dependents as set forth within the current Memorandum of Agreement between the City of Topeka, this Union and other bargaining units recognized by the City.

The Employer retains the authority to select group health insurance coverage and carriers in order to maintain a cost-effective program. The Employer agrees to notify the Union at least thirty (30) days in advance of any changes in coverage or carrier.

The Union agrees to discuss and consider coverage options in a continuing effort to contain and control escalating costs of group health insurance through the City's Healthcare Advisory Committee. The Union may select one (1) member as a representative of this bargaining unit to the Healthcare Advisory Committee.

Section 16. Cafeteria Benefit Plan.

All benefit-eligible employees may participate in the Cafeteria Benefit Plan as defined by the City of Topeka.

Section 17. Personal Day.

All bargaining unit employees, upon the successful completion of their initial employment probationary periods (minimum 6 months/1,040 hours; maximum 9 months/1,560 hours), shall be allowed one (1) discretionary personal day off with pay per calendar year. Except for the first such day awarded upon completion of probation, these eight-consecutive-hour leave entitlements will be credited on the first business day of each year. Employees must schedule their personal days off with and have them approved by their Supervisors. This personal day cannot be carried over from one (1) calendar year to the next unless an exception is granted by the Department Head. In all instances the Personal Day must be used by June 30th of the next calendar year or be lost.

During the calendar year 2014, bargaining unit employees will be allowed one (1) additional discretionary personal day off, for a total of two (2) discretionary personal days in the calendar year 2014. The additional discretionary day off for calendar year 2014 is subject to all the terms and conditions set out in the above paragraph of this section.

Section 18. Professional Organization Dues.

The City shall, at his or her election and request, pay the cost of annual membership in one of the following organizations for each employee of the bargaining unit: International Association of Plumbing and Mechanical Officials (IAPMO); International Association of Electrical Inspectors (IAEI); Heart of America Chapter, International Code Council (ICC); Kansas Association of Code Enforcement (KACE); American Backflow Prevention Association (ABPA); or American Association of Code Enforcement (AACE).

ARTICLE 16

WAGES

Section 1. Pay Periods.

Employees shall be paid on a bi-weekly basis according to the published payroll schedule that is in effect for the City of Topeka.

Section 2. Wages.

Inspectors and Reviewers shall be paid in accordance with their respective Position and Grade Levels set forth in the “Development Services/Planning Wage Schedule”.

Effective with the first day of the first full pay period in January 2017, all hourly rates in the wage schedule shall be increased by one and three-quarters percent (1.75%). Effective with the first day of the first full pay period in January 2018, all hourly rates in the wage schedule shall be increased by two percent (2%). For 2019, Article 16 shall be reopened.

Development Services/Planning Wage Schedule

Inspectors			
(Includes Building, Mechanical, Electrical, Cross Connection, & Zoning)			
Position	Grade	2017 Hourly Rate	2018 Hourly Rate
Inspector I	Non-Certified	18.81	19.19
Inspector II	Certified	21.68	22.12
Inspector III	3 Years Certified	24.75	25.25
Inspector IV	3 Years Certified + Additional Certification Identified in Article 16, § 4	26.00	26.52
Inspector V	6 Years Certified + Additional Certification Identified in Article 16, § 4	26.78	27.32

Inspectors			
Plus Mobile Home (MH)			
Position	Grade	2017 Hourly Rate	2018 Hourly Rate
Inspector I	Non-Certified	19.18	19.57
Inspector II	Certified	22.13	22.58
Inspector III	3 Years Certified	25.26	25.77
Inspector IV	3 Years Certified + Additional Certification Identified in Article 16, § 4	26.52	27.06
Inspector V	6 Years Certified + Additional Certification Identified in Article 16, § 4	27.31	27.86

Inspectors			
Plus Elevator			
Position	Grade	2017 Hourly Rate	2018 Hourly Rate
Inspector I	Non-Certified	19.37	19.76
Inspector II	Certified	22.33	22.78
Inspector III	3 Years Certified	25.49	26.00
Inspector IV	3 Years Certified + Additional Certification Identified in Article 16, § 4	26.79	27.33
Inspector V	6 Years Certified + Additional Certification Identified in Article 16, § 4	27.59	28.15

Inspectors							
Plus Multi-Trade							
Position	Grade	2017 Hourly Rate	w/MH	w/Elev	2018 Hourly Rate	w/MH	w/Elev
Inspector I	Non-Certified	20.13	20.53	20.73	20.54	20.95	21.15
Inspector II	Certified	23.20	23.66	23.92	23.67	24.14	24.40
Inspector III	3 Years Certified	26.48	27.02	27.29	27.01	27.57	27.84
Inspector IV	3 Years Certified + Additional Certification Identified in Article 16, § 4	27.81	28.37	28.66	28.37	28.94	29.24
Inspector V	6 Years Certified + Additional Certification Identified in Article 16, § 4	28.66	29.23	29.52	29.24	29.82	30.12

Planner Review			
Position	Grade	2017 Hourly Rate	2018 Hourly Rate
Planner Reviewer I	Non-Certified	23.20	23.67
Planner Reviewer II	Certified	26.03	26.56
Planner Reviewer III	2 Years Certified + CPRC (See Article 16, § 4)	28.90	29.48
Planner Reviewer IV	4 Years Certified + CPRC (See Article 16, § 4)	31.75	32.39
Planner Reviewer V	6 Years Certified + CPRC (See Article 16, § 4)	32.72	33.38

Section 3. Longevity.

Inspectors and Reviewers shall receive one level increase in longevity compensation as set forth in the forty (40) year Longevity Pay Plan at the end of this section. The longevity increase shall become effective on their hiring anniversary dates, provided there has been at least a “Meets Expectations” rating received on the most recent annual performance appraisal

preceding that event and the employee is not already at the top of the forty (40) year Longevity Pay Plan. For the purposes of longevity movement under this Section, employees who for whatever reason do not receive annual performance appraisals will be deemed to have qualified for an overall “Meets Expectations” rating.

Longevity Pay Plan Effective January 9, 2010	
1yr	.05/hr
2yrs	.10/hr
3yrs	.15/hr
4yrs	.20/hr
5yrs	.25/hr
6yrs	.30/hr
7yrs	.35/hr
8yrs	.40/hr
9yrs	.45/hr
10yrs	.50/hr
11yrs	.55/hr
12yrs	.60/hr
13yrs	.65/hr
14yrs	.70/hr
15yrs	.75/hr
16yrs	.80/hr
17yrs	.85/hr
18yrs	.90/hr
19yrs	.95/hr
20yrs	1.00/hr
21yrs	1.05/hr
22yrs	1.10/hr
23yrs	1.15/hr
24yrs	1.20/hr
25yrs	1.25/hr
26yrs	1.30/hr
27yrs	1.35/hr
28yrs	1.40/hr
29yrs	1.45/hr
30yrs	1.50/hr
31yrs	1.55/hr
32yrs	1.60/hr
33yrs	1.65/hr
34yrs	1.70/hr
35yrs	1.75/hr
36yrs	1.80/hr
37yrs	1.85/hr

38yrs	1.90/hr
39yrs	1.95/hr
40yrs	2.00/hr

Section 4. Certification and Advancement.

Employees hired in the classifications of Inspector I and Plan Reviewer I must obtain mandatory certification in their respective discipline, as prescribed in the table below, within eighteen (18) months of their hire date in order to be retained in that position. Once the mandatory certification is obtained, advancement to Inspector II or Plan Reviewer II is automatic.

Inspector III eligibility will occur after three (3) years' time in certified status -- and promotion to Inspector IV shall coincide with attainment of a Master's License for trade inspectors, AACE Enforcement Administrator certification for zoning inspectors or Commercial Plan Review Certification (CPRC) for building inspectors, as prescribed in the table below. Eligibility for Inspector V shall come about three years after Inspector III or IV has been achieved, with the potential existing for skipping directly to Level IV from Level II if the time requirement has been met and a Master's License for trade inspectors, AACE Enforcement Administrator certification for zoning inspectors or CPRC for building inspectors is already earned.

Plan Reviewer III eligibility will occur after two (2) years maintaining certified status -- and promotion to Plan Reviewer IV shall coincide with attainment of the Commercial Plan Review Certification. Eligibility for the top level of Plan Reviewer V shall come about four (4) years after Inspector III has been achieved, with the potential existing for skipping directly to Level IV from Level II if the time requirement has been met and the Commercial Plan Review Certification has been attained. In addition to any pay increases resulting from corresponding

elevation to a higher-ranking position, Inspectors and Plan Reviewers shall be given two hundred fifty dollar (\$250.00) bonuses for each of the following: (1) obtaining their initial certifications; (2) obtaining their Master's Licenses, AACE Enforcement Administrator certification, or Commercial Plan Review Certification; and (3) obtaining any certification authorized for their classification in the chart below.

In conformance with accepted industry standards, employees shall be required to re-certify every three years. Attendance at available seminars is encouraged for that purpose. If certification is not renewed and maintained, an employee may have to revert to a non-certified pay status.

While as indicated below all Inspectors/Plan Reviewers may obtain certification as a Certified Building Official (CBO), the City shall with respect to just that category reimburse an employee for the cost of taking the test one time only.

Certifications shall be applicable to the current code(s) adopted by the City of Topeka.

SANCTIONED CERTIFICATIONS

Cross-Connection, Electrical, Mechanical, &Plumbing Inspectors	Building Inspector	Commercial Plan Reviewer	Zoning Inspector
MANDATORY CERTIFICATIONS			
Trade Specific Inspectors' Certification	ICC Commercial Building Inspectors Certification	ICC Commercial Plans Examiners' Certification	AACE/ICC Zoning Inspector
VOLUNTARY CERTIFICATIONS			
Building	Building	Building	Building
Certified Building Official	Certified Building Official	Certified Building Official	Certified Building Official
Cross-Connection	Concrete	Concrete	KACE Code Enforcement Officers' Certification
Electrical	Electrical	Electrical	*AACE Code Enforcement Administrator
Elevator	Elevator	Elevator	
Mechanical	Mechanical	Mechanical	
Mobile Home	Mobile Home	Mobile Home	
Commercial Plan Review	*Commercial Plan Review	*Commercial Plan Review	
Plumbing	Plumbing	Plumbing	
Solid Fuel	Steel	Trade Commercial Plan Review (within Primary Trade)	
Trade Commercial Plan Review (within Primary Trade)			
*Master Trade License			

*Certification required for advancement to certain grade levels as prescribed above.

Section 5. Evaluations.

A. Promotional Probationary Employees. An employee's supervisor(s) will strive to provide a promotional probationary employee with appropriate feedback pertinent to the employee's work performance, as needed, throughout the probationary period. In addition, a promotional probationary employee's supervisor(s) may complete mid-probation and end-of-probation evaluations to advise the employee of any needed improvements and of his or her status in a position.

At least two (2) calendar weeks prior to the expiration of the employee's promotional probationary period, the Development Services or Planning Director, as applicable, shall notify the Human Resources Director, the Union, and the employee in writing whether the service of the employee has been satisfactory and whether the employee shall be retained in the position. The Development Services or Planning Director, as applicable, may also remove a promotional probationary employee from a position at any time if, in their opinion, the employee is unable or unwilling to satisfactorily perform expected duties or the employee's attitude, habits, or dependability do not merit continuation of service consistent with Section 4 of Article 9.

B. Permanent Employees. Regular, full-time, permanent bargaining unit members shall be evaluated by their supervisors annually during the month of January for the preceding year. Such performance appraisals shall be discussed personally with and acknowledged through his or her signature by each individual employee. Such signatures shall not necessarily indicate agreement with the content and conclusions of the evaluation and may be accompanied by written comments -- to be submitted within seven (7) days of and stay on file with the evaluation -- taking exception to the overall rating or any portion thereof.

Any employee who elects not to acknowledge by his or her signature the presentation and receipt of an annual evaluation shall thereby relinquish entitlement to any longevity pay and any

monetary bonuses or incentives associated with work performance, merit recognition, or certification achievement. In the event a supervisor fails to execute an employee's appraisal during the time period specified above, that employee shall be deemed to be performing at at least a "Meets Expectations" level.

ARTICLE 17

JOB ACTION PROHIBITION

Neither the Union nor its agents nor any employee, for any reason, will authorize, institute, aid, condone, or engage in a slowdown, work stoppage, strike, or any other interference with the work and statutory functions or obligations of the Employer. Similarly, consistent with the proscriptions of K.S.A.75-4333(b)(8), the Employer will not institute or attempt to institute any form of lockout.

The Union agrees to notify all Local officers and representatives of their obligations and responsibilities for maintaining compliance with this Article, including their responsibility to remain at work during any interruption which may be caused or initiated by others and to encourage employees violating this Article to return to work.

Nothing contained herein shall preclude the Employer from disciplining employees and/or obtaining judicial restraint and damages in the event of a violation of this Article.

ARTICLE 18

CLOSING AND SAVINGS CLAUSE

Section 1. Closing Clause.

The parties jointly stipulate that this Memorandum of Understanding represents the complete Agreement between the Employer and the Union.

The parties acknowledge that (1) during the meetings which resulted in this Agreement, each had the unlimited right and opportunity to make requests and proposals with respect to any subject or matter not removed by law and (2) the complete understandings and agreements arrived at by the parties after exercise of those rights and opportunities are set forth in this Agreement. Therefore, the Employer and the Union each voluntarily and unqualifiedly waives the right -- and each agrees that the other shall not be obligated -- to meet and confer with respect to any subject or matter not specifically referred to or covered in this Agreement.

Section 2. Savings Clause.

Should any part of this Agreement or any provision contained herein be declared invalid by a tribunal of competent jurisdiction, such invalidation shall not negate any remaining portions, which shall remain in full force and effect. Any invalidated provisions shall, however, be subject to the meet and confer procedure.

Section 3. Successor Clause.

In the event the City of Topeka consolidates City Departments and/or Divisions represented by AFSCME Local 1294 for the purpose of efficiency or better serving the public, this Agreement shall continue to govern the terms and conditions of employment for those positions identified in Article 2 *supra*.

ARTICLE 19

RATIFICATION OF BARGAINING UNIT AGREEMENT

Upon completion of negotiations, all tentatively agreed-to provisions shall be reviewed by the City and Union bargaining teams, including the Union's representative business agent, for accuracy of language and content. If no discrepancies are found, the Union shall submit the proposed contract to its membership for a ratification vote. The Union shall then submit a letter to the City announcing the results of that vote. If the Union membership votes in favor of the bargaining unit agreement, the letter of notification will include a request to present the ratified Agreement to the Governing Body for approval. Such letter shall be sent within five (5) working days of the bargaining unit vote.

Should the Governing Body approve the Agreement, the City and Union bargaining team members, including the Union representative business agent, shall sign the Acknowledgement page before having it attested-to by the City Clerk and Executed by the City Manager.

ARTICLE 20

TERMINATION AND AMENDMENTS

This Agreement shall be effective for three years from the first day of the first full pay period in January 2017 through December 31, 2019; however, Article 16 shall be reopened for 2019. Thereafter, it shall continue in effect during any period of negotiations and until replaced by a successor Agreement or terminated in the manner set forth in the following paragraph.

In the event either party decides to terminate this Agreement, written notice must be given to the other party at least sixty (60) days prior to the desired termination date.

The City and AFSCME Local 1294 agree that any Article of this Agreement may be reopened at any time by mutual consent.

Any amendments to this Agreement shall be numbered, dated, and signed by the responsible parties and be in technical conformity and consistency with existing provisions of this Agreement. The ratification process for such amendments shall be as described in Article 19.

DATED AND ACKNOWLEDGED THIS _____ DAY OF _____ 2017 IN
THE CITY OF TOPEKA, KANSAS, BY:

UNION

Jennifer Schmidt
AFSCME Council 61 Representative

David Streit
Negotiating Team Member

Craig Thornburg
Negotiating Team Member

Ed Alford
Negotiating Team Member

Craig Johnson
Negotiating Team Member

CITY OF TOPEKA, KANSAS

Brent Trout
City Manager

ATTEST:

Brenda Younger, City Clerk



**City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017**

DATE:	November 14, 2017		
CONTACT PERSON:	Nick Hawkins, Budget and Performance Manager	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Budget Amendment/Establish Public Hearing Date	PROJECT #:	
CATEGORY/SUBCATEGORY	004 Budgets or Appropriations / 001 Operating Budget - City		
CIP PROJECT:	No		
ACTION OF COUNCIL:		JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

AUTHORIZING a public hearing for December 5, 2017, for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2017 Operating Budget.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval authorizes publication of the Notice of Public Hearing for December 5, 2017, in the November 20, 2017, edition of the Topeka Metro Newspaper.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

K.S.A. 79-2929 allows for governing bodies to amend a budget based upon a standard process outlined in statute that follows a similar process for the budget adoption. Any amended budgets for proposed increases in expenditures are required to be balanced by previous unbudgeted revenues or balances other than ad valorem property taxes. At no time after setting the maximum taxes levied can the governing body increase the ad valorem property taxes.

During budget planning, staff are planning for budgets typically eight months in advance of the beginning of the upcoming fiscal year. The governing body typically will adopt the budget four months in advance of the upcoming fiscal year. Amendments are needed due to the changing nature of the City's budget, especially if more revenues are received than estimated.

As required by State law, the governing body must hold a public hearing to consider amendments to the 2017 Operating Budget. Approval would set a public hearing date of December 5, 2017, and authorize the publication of the public hearing notice in the Topeka Metro Newspaper on November 20, 2017. Approval of the amendments would be considered on December 12th, the week following the public hearing.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to set the public hearing date on December 5, 2017, and authorize publication of the public hearing notice in the Topeka Metro Newspaper on November 20, 2017.

BACKGROUND:

The proposed amendments for the 2017 budget would increase the adopted budget from \$21,776,719 to \$26,534,523, a \$4,758,224 increase for the following funds:

Citywide Half Cent Sales Tax (292): The 2017 adopted budget was \$18,805,175, and is recommended to increase to \$23,000,000. The fund accounts for revenues received from citywide half cent sales tax and is utilized for maintenance of existing streets. While the entire \$23m will not be spent in 2017, a budget amendment is required as encumbrances have been established to accommodate for a large amount of projects that will be completed in 2017 and 2018.

Transient Guest Tax Funds (271/272/273): The 2017 adopted budget was \$2,781,121, and is recommended to increase to \$3,285,000. These funds account for revenues received from the 7% transient guest tax that is imposed on hotel and motel room rentals and is utilized for promotion of conventions and tourism in the City of Topeka. 5% is spent on general tourism with the majority going to Visit Topeka; 1% on Sunflower Soccer; and 1% on 4 projects (Downtown Plaza, Evel Knievel, Jayhawk Theatre and Constitution Hall). The primary reason for this amendment is due to the timing of the payments to the 4 projects. The distribution of 2016 funding was made in 2017 due to the timing of the development agreement approvals, making the 2017 expenditures higher than anticipated.

Tax Increment Financing Fund (220) The 2017 adopted budget was \$190,000, and is recommended to increase to \$250,000. These funds were established to monitor the amount of property taxes received for tax increment financing districts created for redevelopment of blighted areas. The City currently has one district: College Hill. Revenues from the fund are transferred to the Debt Service fund to pay for capital projects within the College Hill district. Revenues have been higher than anticipated due to growth within the district.

BUDGETARY IMPACT:

The proposed amendments for the 2017 budget would increase the adopted budget from \$21,776,719 to \$26,534,523.

SOURCE OF FUNDING:

Citywide Half Cent Sales Tax (292): Fund Balance
Transient Guest Tax Funds (271/272/273): Fund Balance
Tax Increment Financing (220): Revenue

ATTACHMENTS:

Description

Notice of Public Hearing
2017 Budget Amendment Summary
Budget Amendments by Fund

2017

**Notice of Budget Hearing for Amending the
2017 Budget**

The governing body of

Topeka

will meet on the day of December 5, 2017 at 6:00 p.m. at City Council Chambers, 214 E Eighth Street for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.

Detailed budget information is available at Office of the City Clerk at City Hall
and will be available at this hearing.

Summary of Amendments

Fund	2017 Adopted Budget			2017 Proposed Amended Expenditures
	Actual Tax Rate	Amount of Tax that was Levied	Expenditures	
Transient Guest Tax			2,781,124	3,284,523
Tax Increment Financing			190,000	250,000
Half Cent Sales Tax (Street)			18,805,175	23,000,000
			0	0
			0	0
			0	0

Brenda Younger
Official Title: City Clerk

2017 Budget Amendment Summary



Below is a summary of each of the proposed amendments to the 2017 budget.

Citywide Half Cent Sales Tax (292) – The 2017 adopted budget was \$18,805,175, and is recommended to increase to \$23,000,000. The fund accounts for revenues received from citywide half cent sales tax and is utilized for maintenance of existing streets. While the entire \$23m will not be spent in 2017, a budget amendment is required as encumbrances have been established to accommodate for a large amount of projects that will be completed in 2017 and 2018.

Transient Guest Tax Funds (271/272/273) – The 2017 adopted budget was \$2,781,121, and is recommended to increase to \$3,285,000. These funds account for revenues received from the 7% transient guest tax that is imposed on hotel and motel room rentals and is utilized for promotion of conventions and tourism in the City of Topeka. 5% is spent on general tourism with the majority going to Visit Topeka; 1% on Sunflower Soccer; and 1% on 4 projects (Downtown Plaza, Evel Knievel, Jayhawk Theatre and Constitution Hall). The primary reason for this amendment is due to the timing of the payments to the 4 projects. The distribution of 2016 funding was made in 2017 due to the timing of the development agreement approvals, making the 2017 expenditures higher than anticipated.

Tax Increment Financing Fund (220) – The 2017 adopted budget was \$190,000, and is recommended to increase to \$250,000. These funds were established to monitor the amount of property taxes received for tax increment financing districts created for redevelopment of blighted areas. The City currently has one district: College Hill. Revenues from the fund are transferred to the Debt Service fund to pay for capital projects within the College Hill district. Revenues have been higher than anticipated due to growth within the district.

2017

**Amended
Certificate
For Calendar Year 2017**

To the Clerk of Shawnee, State of Kansas
We, the undersigned, duly elected, qualified, and acting officers of
Topeka
certify that: (1) the hearing mentioned in the attached publication was
held;(2) after the Budget Hearing this Budget was duly approved and
adopted as the maximum expenditure for the various funds for the year.

			2017 Amended Budget		
			Amount of 2016 Tax that was Levied	Adopted 2017 Expenditures	Proposed Amended 2017 Expenditures
Table of Contents:		Page No.			
Fund	<u>K.S.A.</u>				
Transient Guest Tax	Charter Ord 69	2		2,781,124	3,284,523
Tax Increment Financing	12-1775 (b)(2)	3		190,000	250,000
Half Cent Sales Tax (Street)	Admin; Code Sec. 138-36	4		18,805,175	23,000,000
Totals		xxxxxxxx	0	21,776,299	26,534,523
Summary of Amendments		5			

Attested date: _____

County Clerk

Assisted by:

Address:

Email:

Governing Body

Page No. 2

Topeka

2017

Adopted Budget

Tax Increment Financing	2017 Adopted Budget	2017 Proposed Budget
Unencumbered Cash Balance January 1	0	0
Receipts:		
Ad Valorem Tax		
Delinquent Tax		
Motor Vehicle Tax		
Recreational Vehicle Tax		
16/20M Vehicle Tax		
College Hill	190,000	250,000
Interest on Idle Funds		
Total Receipts	190,000	250,000
Resources Available:	190,000	250,000
Expenditures:		
Other	190,000	250,000
Total Expenditures	190,000	250,000
Unencumbered Cash Balance December 31	0	0

Topeka

2017

Adopted Budget

Half Cent Sales Tax (Street)	2017 Adopted Budget	2017 Proposed Budget
Unencumbered Cash Balance January 1	4,155,570	13,607,220
Receipts:		
Ad Valorem Tax		
Delinquent Tax		
Motor Vehicle Tax		
Recreational Vehicle Tax		
16/20M Vehicle Tax		
Sales Tax	14,619,605	14,619,605
Private Contributions	30,000	30,000
Interest on Idle Funds		
Total Receipts	14,649,605	14,649,605
Resources Available:	18,805,175	28,256,825
Expenditures:		
Projects	12,980,272	17,175,097
Personnel	169,328	169,328
Contractual	700,500	700,500
Commodities	800,000	800,000
Capital Outlay	4,155,075	4,155,075
Total Expenditures	18,805,175	23,000,000
Unencumbered Cash Balance December 31	0	5,256,825



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Nickie Lee, Director of Finance DOCUMENT #:
SECOND PARTY/SUBJECT: Wheatfield Village PROJECT #:
Project Plan
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: 10-03-17 Public Hearing JOURNAL #:
Continued to
November 14, 2017
PAGE #:

DOCUMENT DESCRIPTION:

PUBLIC HEARING and ORDINANCE introduced by City Manager Brent Trout, adopting a Redevelopment Project Plan for the Wheatfield Village Redevelopment District pursuant to K.S.A. 12-1770 et seq., as amended.

Voting Requirement: Two-thirds vote of the Governing Body (7).

(Approval would adopt the Project Plan for redevelopment of the northwest corner of SW 29th Street and SW Fairlawn Road - Wheatfield Village.)

VOTING REQUIREMENTS:

Two-thirds vote of the Governing Body (7).

POLICY ISSUE:

Whether to adopt the Redevelopment Project Plan for the Wheatfield Village Redevelopment District related to a project located at the northwest corner of SW 29th Street and SW Fairlawn Road.

STAFF RECOMMENDATION:

Staff recommends the Governing Body adopt the ordinance.

BACKGROUND:

The Wheatfield Village Tax Increment Financing (TIF) District was established on June 26, 2017. The next step in the development of the area located at 29th and Fairlawn is consideration and approval of the associated

Project Plan. On September 12, 2017, representatives of the project developer provided an overview of the mixed-use project plan consisting of a multi-story 150-180 unit upscale, market-rate apartment complex "wrapped" around a parking garage; a state-of-the-art movie theatre with bar and food service; a multi-story 70-90 room hotel with a national flag; and a fast food restaurant and coffee shop.

A mix of funding sources will be used in relation to the project, which is anticipated to attract visitors from within the community in addition to visitors from outside the city due to the project's close proximity to I-470. A traffic impact analysis was prepared by Transystems and revealed that the intersection will be able to handle any additional load that is anticipated to be generated by the project.

A public hearing was held on September 12, 2017, continued to October 3, 2017, and continued again to November 14, 2017. Public comment was considered on September 12, 2017 and October 3, 2017, and will again be considered on November 14, 2017.

BUDGETARY IMPACT:

This project has been anticipated in the 2018 budget.

SOURCE OF FUNDING:

Pay-as-you-go Developer Financing

ATTACHMENTS:

Description

Ordinance

Development Agreement

Financial Analysis

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by City Manager Brent Trout adopting a Redevelopment
6 Project Plan for the Wheatfield Village Redevelopment District
7 pursuant to K.S.A. 12-1770 *et seq.*, as amended.
8

9 WHEREAS, on June 26, 2017 the Governing Body established the Wheatfield
10 Village Redevelopment District ("District") (Ordinance No. 20072); and

11 WHEREAS, the City is now considering the adoption of a redevelopment Project
12 Plan for the District (the "Project Plan"), which provides for the redevelopment of the
13 Project Area within the District; and

14 WHEREAS, on July 17, 2017, the Planning Commission made a finding that the
15 Project Plan is consistent with the intent of the City's comprehensive plan for the
16 development of the City; and

17 WHEREAS, a copy of the Project Plan was delivered to the Board of County
18 Commissioners of Shawnee County and to the Board of Education of Unified School
19 District No. 501; and

20 WHEREAS, on August 8, 2017, the Governing Body passed Resolution No. 8939
21 calling a public hearing for consideration of the Project Plan to be held on September 12,
22 2017; and

23 WHEREAS, the Governing Body conducted a public hearing on September 12,
24 2017, in the City Council Chambers of City Hall, 214 E. 8th Street, at 6:00 p.m., as required
25 by K.S.A. 12-1770 *et seq.*, as amended at which time public comment was entertained and
26 considered; and

27 WHEREAS, the Governing Body thereafter continued the public hearing to October

3, 2017, at which time additional public comment was entertained and considered; and

WHEREAS, on October 3, 2017, the Governing Body thereafter continued the public hearing to November 14, 2017, at which time additional public comment was entertained and considered and thereafter the public hearing was then closed.

NOW, THEREFORE, BE IT ORDAINED BY GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. The Governing Body adopts the Project Plan which is attached hereto as Exhibit A and specifically incorporated herein.

Section 2. The Governing Body adopts the boundaries of the Project Area as described in Exhibit B and specifically incorporated herein.

Section 3. That any substantial changes as defined in K.S.A. 12-1770a, and amendments thereto, to the Project Plan shall be subject to a public hearing and publication of notice in accordance with K.S.A. 12-1770, *et seq.*, and amendments thereto.

Section 4. This Ordinance shall take effect and be in force from and after its passage and approval by a two-thirds (2/3) majority vote of the Governing Body, and publication in the official City newspaper.

PASSED and APPROVED by the Governing Body _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

EXHIBIT A
TIF Project Plan

**TAX INCREMENT FINANCING
REDEVELOPMENT PROJECT PLAN
(WHEATFIELD VILLAGE REDEVELOPMENT PROJECT)**

The Tax Increment Financing Act, K.S.A. 12-1770, et seq., as amended (the “**TIF Act**”), permits the City of Topeka, Kansas (the “**City**”) to undertake one or more redevelopment projects within an established redevelopment district. In order to pursue such redevelopment projects, the City is obligated to create, in consultation with the City’s Planning Commission, a “project plan.”

At the request of 29 Fairlawn, LLC (the “**Developer**”), developer of the Wheatfield Village Redevelopment Project (the “**Development**”), the City presents the following information as required by the TIF Act related to the project plan for the Development (“**Redevelopment Project Plan**”). Except as otherwise noted herein, the information included in this Redevelopment Project Plan was submitted by the Developer.

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	THE REDEVELOPMENT PROJECT PLAN.....	1
A)	Description of the TIF District and Project Area.....	1
B)	Established TIF District	2
C)	Redevelopment Project	2
D)	Feasibility Study	4
E)	Relocation Plan	5
Exhibit A-1 – TIF District Legal Description		
Exhibit A-2 – TIF District Boundary Map		
Exhibit B-1 – Project Area 1 Legal Description		
Exhibit B-2 – Project Area 1 Boundary Map		

I. INTRODUCTION

The subject of this project plan, as defined by the TIF Act (as hereinafter defined) is the initial project area of the Wheatfield Village mixed-use development (the “**Development**”) located in the northwest corner of Southwest 29th Street and Fairlawn Road in Topeka, Kansas (the “**City**”). The Development will be constructed by 29 Fairlawn, LLC (the “**Developer**”), a special-purpose entity affiliated with Midwest Health, Inc. and led by its principals Jim Klausman and Floyd Eaton. The Development spans approximately 15 acres in total, including rights-of-way, and is planned to include approximately 13 acres of multi-family, restaurant, movie theater and hotel uses, plus infrastructure and site improvements. The Development is planned to transform a highly visible and long-deteriorating site bordering I-470 into a vibrant mixed-use setting currently unavailable within the City.

Pursuant to the Kansas Tax Increment Financing Act, K.S.A. 12-1770 et seq., as amended (the “**TIF Act**”), Kansas municipalities are authorized to establish redevelopment districts and redevelopment project plans for property within their jurisdiction. Redevelopment districts may be created based upon certain findings by the municipality, including that property within a proposed district is an “eligible area” pursuant to the TIF Act.

On June 26, 2017, the City, after conducting a duly noticed public hearing, found that the property within the boundaries described in **Exhibit A-1** and depicted in **Exhibit A-2** hereto qualifies as a “conservation area” and is therefore an “eligible area” pursuant to the TIF Act. Based in part upon said finding, the City adopted Ordinance No. 20072 creating a redevelopment district encompassing the subject property (the “**TIF District**”) and approving a plan for redevelopment of the TIF District established under K.S.A. 12-1771 and amendments thereto (the “**District Plan**” as further described herein).

This redevelopment project plan (the “**Redevelopment Project Plan**”) for the first redevelopment project area established within the TIF District (“**Redevelopment Project Area 1**”) is presented to the City for its consideration and approval, with the maximum twenty (20) year term of the Redevelopment Project Plan to commence upon the effective date as specified in the ordinance adopting this Redevelopment Project Plan. The boundaries of Redevelopment Project Area 1 are legally described in **Exhibit B-1** and generally depicted in **Exhibit B-2** attached hereto.

II. THE PROJECT PLAN

A. Description of the TIF District

The property comprising the TIF District consists of approximately 15 acres generally located in the northwest and northeast quadrants of Southwest 29th Street and Fairlawn Road within the City, plus right-of-way also included within the TIF District boundaries. A legal description and boundary map of the TIF District are attached hereto as **Exhibits A-1** and **A-2**, respectively.

B. Established TIF District

Redevelopment Project Area 1 is located within an established TIF District approved by the City on June 26, 2017 pursuant to Ordinance No. 20072. The approved District Plan contained within the Ordinance provides for certain redevelopment projects within the TIF District:

The District shall consist of one (1) or more redevelopment project areas, which are anticipated to include a mix of uses including retail, restaurant, and other commercial uses and residential uses with associated amenities, along with associated infrastructure including but not limited to structured and/or surface parking, landscaping, lighting, utilities, storm water improvements, sidewalks/walkways, streets/drives, ingress/egress improvements, green space, signalization and other infrastructure improvements.

C. Redevelopment Project

This Project Plan proposes the use of tax increment financing revenues generated by Redevelopment Project Area 1 (“**TIF Revenues**”) to pay for or reimburse the costs of a redevelopment project as generally described in the District Plan (the “**Redevelopment Project**” or “**Project**”). Consistent with the approved District Plan, the following Redevelopment Project Plan for the Redevelopment Project is anticipated to include a mix of commercial and residential uses including:

Residential

A multi-story 150-180 unit, upscale, market rate apartment complex “wrapped” around a parking garage.

Movie Theater

A seven to nine-screen, state-of-the-art movie theater with bar and food service.

Hotel

A multi-story 70 to 90-room hotel with a national flag.

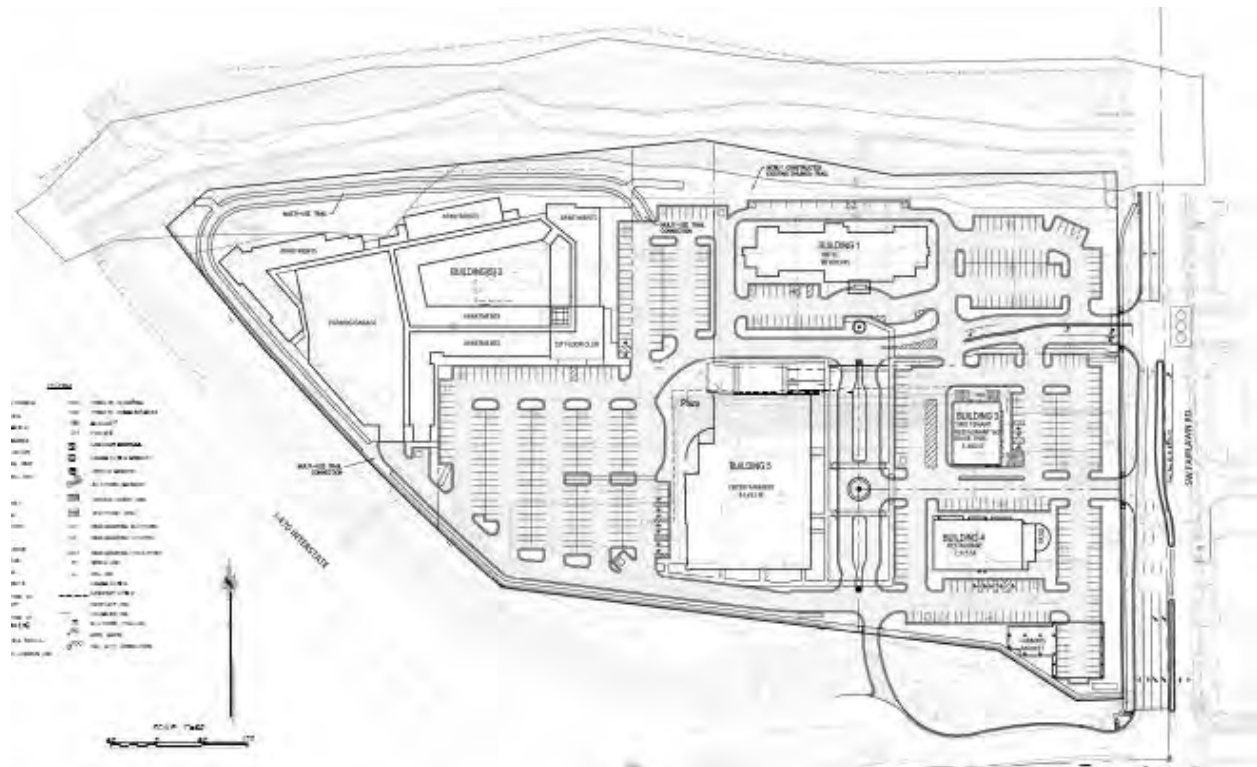
Restaurants

A family dining restaurant at the southeast corner of the site and a fast food restaurant building with two tenants, and including one operating a drive-through window at east end of the site.

Related Costs

Related costs include property acquisition, site preparation (including demolition of existing structures), the construction of infrastructure including a multi-story parking deck associated with the residential component and the development of open space at the southeast corner of the site which is anticipated to include a small “farmers’ market” concept.

The current site plan depicting the Development, which may be amended as approved by the City from time to time, is as follows:



In addition to TIF Revenue, the Developer plans separately to petition the City for the creation of a community improvement district (“**CID**”) and to request that Shawnee County issue industrial revenue bonds (“**IRBs**”) for the purpose of providing the Project with a sales tax exemption on construction labor and materials.

The Developer expects that the Project contemplated in the Redevelopment Project Plan will produce a significant economic impact for the City by redeveloping a significantly deteriorated and highly visible site fronting I-470, remediating blighting conditions and economic obsolescence within Project site, enhancing existing businesses and attracting new businesses within the vicinity of the Redevelopment Project Area, and spurring increased commerce, employment, and general improvement within the Redevelopment Project Area.

The Developer anticipates that redevelopment of the Redevelopment Project Area will attract visitation to the Project site from members of the City community and from visitors outside the City because of the location of the Redevelopment Project Area adjacent to a major interstate. As described in the Traffic Study prepared in connection with the Planned Unit Development plan for the Project, the Project will include construction of improvements to Fairlawn Road and Southwest 29th Street to service traffic generated by the Project (the “**Traffic Improvements**”). In connection with the proposed Traffic Improvements, the Developer and the City have requested a break in access from 29th Street to an on-ramp leading to I-470. The

Traffic Study describes the Traffic Improvements to 29th Street that will be constructed as part of the Project (a) in the event the break in access request is approved by the Federal Highway Administration and (b) in the event the break in access request is denied by the Federal Highway Administration. Although the scope of the Traffic Improvements to 29th Street differs depending upon whether the break in access request is approved or denied by the Kansas Department of Transportation and the Federal Highway Administration, the Traffic Study establishes that the scope of improvements in each circumstance adequately accounts for the traffic anticipated to be generated by the Project as quantified in the Traffic Study.

D. Feasibility Study

The table below summarizes the Project's expected sources and uses of funds:



CITY OF TOPEKA
Wheatfield Village Redevelopment District
Sources and Uses of Funds

SOURCES OF FUNDS	TOTAL
Developer Loans	65,255,984
Developer Equity	27,966,850
TOTAL SOURCES	93,222,834
USES OF FUNDS	
Land Acquisition	2,375,000
Site Work Improvements	7,150,508
Fairlawn Improvements	736,233
29th Street Improvements	376,250
Site Monuments/Features	150,000
Multi-Family Building	31,680,000
Parking Deck/MF Building	5,940,000
Hotel	12,320,000
Fast Casual Restaurant	927,500
Coffee Shop	408,000
Sit Down Restaurant	1,585,625
Movie Theater	8,760,525
Design/Const Mgt	4,812,728
Legal/Lease Concessions	771,753
Site Permit/Fees	25,000
Construction Interest	9,789,320
Contingency	5,414,392
TOTAL USES	93,222,834

The Developer requests a “pay-as-you-go” method for implementing the TIF. As a result, no TIF Revenues will be available to the Developer at financial close on the Project by virtue of the issuance of bonds. Instead, as the Project generates TIF Revenues, the City will reimburse the Developer for actual, eligible Project costs certified by the Developer to the City. The Developer expects reimbursements from the proceeds of the CID, if approved by the City, to work similarly. The Developer may also benefit from a sales tax exemption on construction materials resulting from the IRB issue it has requested be issued by Shawnee County.

The City's obligation to reimburse the Developer for TIF-eligible Project costs will be detailed by a redevelopment agreement to be entered into by and between the City and the Developer concurrently with the Topeka City Council's approval of this Redevelopment Project Plan.

The Developer represents that it is able to secure the private financing required to bridge the availability of TIF Revenues and CID proceeds and that it has the resources necessary to make the required equity contributions necessary to complete the Project, as shown in the sources and uses above. The Developer further represents that, based upon the advice of its architects, engineers and contractors, the construction costs projected for the Project are reasonable.

Based upon the foregoing, the Project's benefits and TIF Revenues and other available revenues are expected to exceed or be sufficient to pay for the costs of the Project. Further, there are no special obligation bonds outstanding relying on revenues described K.S.A. 12-1774(a)(1)(D).

E. Relocation Plan

In the event the City acquires any real property within the Redevelopment Project Area in carrying out the provisions of the TIF Act, and that, as a result, any persons, families and businesses move from real property located in the Redevelopment Project Area or move personal property from real property located in the Redevelopment Project Area, a \$500 payment will be made to such persons, families and businesses as provided in the TIF Act. No persons or families reside in the TIF District and thus no such persons shall be displaced nor require suitable alternate housing. Any retailers, as defined in K.S.A. 79-3702, which are or have been located within the TIF District and which will move or have moved from the TIF District will or have moved on their own accord pursuant to arm's-length transactions with the Developer and thus no payment of damages for liquidation of inventories shall be required to be made to such parties.

[No further text on this page.]

EXHIBIT A-1

TIF DISTRICT LEGAL DESCRIPTION

WHEATFIELD VILLAGE

Project 14-5195
Revised June 21, 2017

DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10 at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the North line of said Shunga Plaza Subdivision a distance of 261.00 feet more or less, to a point 50-feet easterly of the West line of Lot 2, Block D of said Shunga Plaza Subdivision; thence South on a line parallel with and 50-feet easterly of the West line of said Lot 2, Block D a distance of 226.45 feet more or less, to the center of Southwest 28th Street as shown on the Plat of said Shunga Plaza Subdivision; thence West on the center of said Southwest 28th Street a distance of 50.08 feet, more or less to the East lines of Lots 5 and 6, Block B, Shunga Plaza Subdivision extended; thence South on the East lines of Lots 5 and 6, Block B of said Shunga Plaza Subdivision a distance of 174.97 feet more or less; thence West on the North line of Lot 2, Block A, Butler Plaza Subdivision No.2, a distance of 134.94 feet; thence Northwesterly, continuing on said North line a distance of 18.31 feet to the West line of said Lot 2; thence South on the West line of said Lot 2 and Lot 1, Block A and the extension thereof, said line also being the East Right of Way line of Southwest Fairlawn Road, a distance of 207.79 feet to the Northwest corner of Lot 1, Block A, Phillips 66 Subdivision No.2; thence East on the North line of said Lot 1, Block A Phillips 66 Subdivision No.2, a distance of 150.00 feet; thence South on the East line of said Lot 1, Block A, of Phillips 66 Subdivision No.2 and its extension thereof a distance of 180 feet more or less to the South curb line of Southwest 29th Street; thence Westerly and Southwesterly on said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

TIF DISTRICT BOUNDARY MAP



EXHIBIT B-1

PROJECT AREA 1 LEGAL DESCRIPTION



WHEATFIELD VILLAGE

Project 14-5195
July 26, 2017

TIF PROJECT AREA 1 BOUNDARY

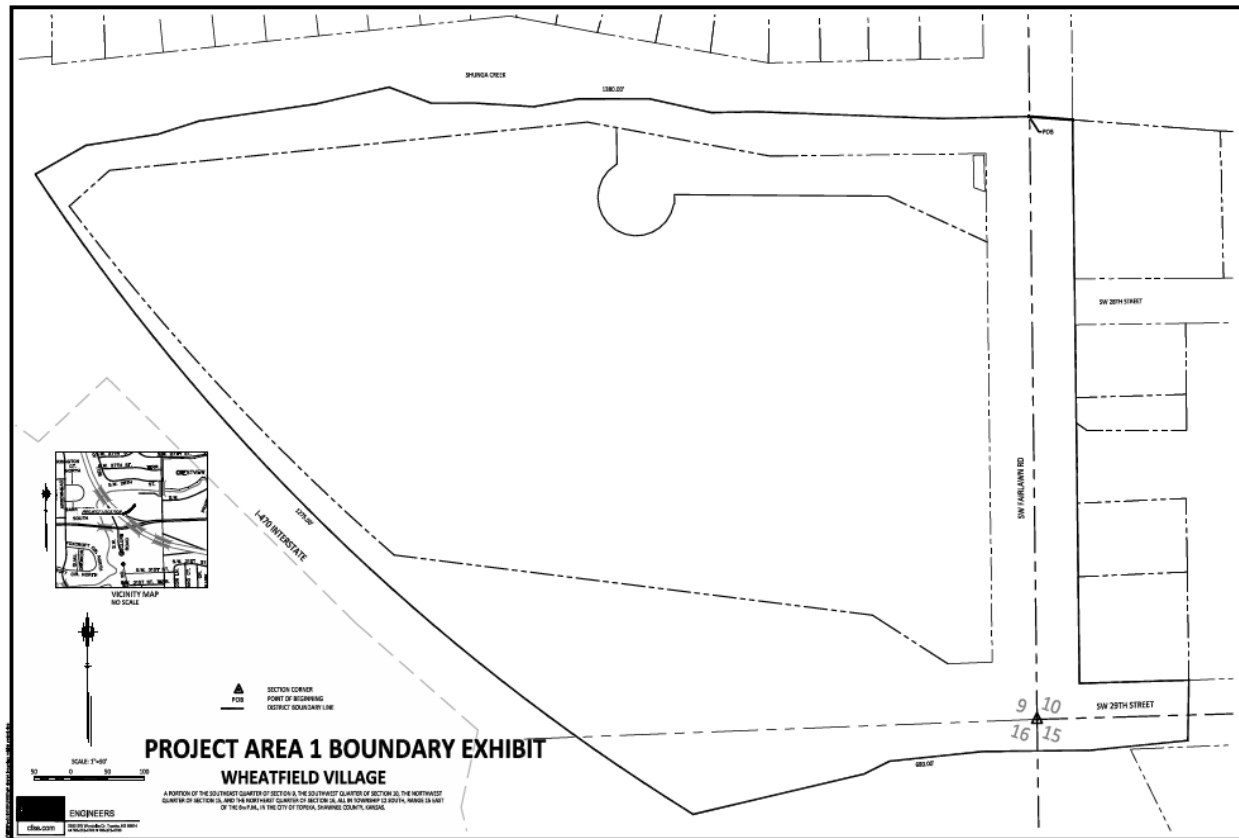
A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10, at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the extension of the North line of said Shunga Plaza Subdivision to the East Right of Way line of Southwest Fairlawn Road; thence Southerly on said East Right of Way line to the intersection with the North Right of Way line of Southwest 29th Street; thence Easterly on the North Right of Way of Southwest 29th Street a distance of 150 feet more or less; thence Southerly to a point 20 feet South of the South curb line of Southwest 29th Street; thence Westerly and Southwesterly parallel with said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

2930 SW Woodside Drive | Topeka, KS 66614 | 785.272.4706 | 785.272.4736 fax

EXHIBIT B-2

PROJECT AREA 1 BOUNDARY MAP



DEVELOPMENT AGREEMENT

between

THE CITY OF TOPEKA, KANSAS

and

29 FAIRLAWN LLC

for implementation of the

**WHEATFIELD VILLAGE
COMMUNITY IMPROVEMENT DISTRICT
&
TAX INCREMENT FINANCE REDEVELOPMENT
DISTRICT (PROJECT PLAN 1)**

DATED AS OF _____, 2017

**DEVELOPMENT AGREEMENT
WHEATFIELD VILLAGE COMMUNITY IMPROVEMENT DISTRICT
&
TAX INCREMENT FINANCE REDEVELOPMENT
DISTRICT (PROJECT PLAN 1)**

This Development Agreement dated as of _____, 2017, for implementation of the Wheatfield Village Community Improvement District and Project Plan 1 of the Wheatfield Village Tax Increment Finance Redevelopment District (the "Agreement") is entered into by and between the **CITY OF TOPEKA, KANSAS**, a municipal corporation (the "City"), and **29 FAIRLAWN, LLC**, a Kansas limited liability company (the "Developer") (collectively referred to as the "Parties").

WHEREAS, the Developer has proposed to engage in a mixed-use development project to be known as the Wheatfield Village Development, which is anticipated to include retail/restaurant uses, multi-family residential uses, parking garage, surface parking, landscaping, lighting, storm water retention/detention improvements, sidewalks/walkways, streets/drives, ingress/egress, signalization and other associated infrastructure improvements, with a total investment of approximately \$93,000,000, all upon approximately 14.67 acres of land located at 5235 SW 28th Court plus adjacent right-of-way; and

WHEREAS, the Developer has filed a petition and an amended petition with the City to establish the Wheatfield Village Community Improvement District to impose a special Two Percent (2%) sales tax within the boundaries of the CID to assist with funding the costs of development within the Project Area; and

WHEREAS, the City, following a properly noticed public hearing, established the CID District by adoption of the CID Ordinance on _____, 2017; and

WHEREAS, the City, following a properly noticed public hearing, established the Wheatfield Village Redevelopment District by adoption of the TIF Ordinance on _____, 2017, which set a base value for property tax within the boundaries of the TIF District, to assist with funding the costs of development within the Project Area; and

WHEREAS, the City, following a properly noticed public hearing, adopted TIF Project Plan 1 pursuant to Ordinance No. _____ passed by the Governing Body on _____, 2017; and

WHEREAS, the Developer and the City anticipate that the Project will provide significant economic benefits to the City and other political subdivisions, including paying real property taxes to the City and other taxing subdivisions and generating retail sales tax revenues for the City and other entities collecting retail sales taxes; and

WHEREAS, entering into this Agreement serves the public purpose of enabling the Developer to proceed with the Project, thereby increasing economic development in the City and adding to the existing tax base within the City; and

WHEREAS, the City and the Developer desire to enter into this Agreement for the Project to provide the terms and conditions for payment and/or reimbursement of the Project Costs.

NOW THEREFORE, to improve, maintain and revitalize commercial activity in the City by assuring opportunities for redevelopment and attracting sound and stable commercial growth, to promote the public interest, to create new jobs in the City, to enhance the tax base of the City and to induce the Developer to undertake the Project, and in consideration of the premises and mutual covenants and agreement herein set forth, the City and the Developer do hereby covenant and agree as follows:

Section 1

Definitions of Words and Terms

In addition to words and terms defined elsewhere herein, capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the hereinafter defined Act. Unless the context shall otherwise indicate, words importing the singular number shall include the plural, and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“Affiliate” means an entity in which management authority or majority ownership is possessed by Jim Klausman or Floyd Eaton, whether individually or through a trust or other entity in which either of these individuals possesses majority ownership or management authority.

“Captured City Sales Tax” means of the receipts of the City under KSA 12-187 et seq., as amended, and KSA 12-198, as amended, during the TIF Term, from retail sales and compensating use taxes generated in the Project Area equal to One and a Half Percent (1.5%) of any taxable retail sales in any calendar year above the Taxable Retail Sales Base, less any fees charged to the City by the Department of Revenue for its collection of such taxes. The Half-Cent City Sales Tax is part of the Captured City Sales Tax.

“CID Act” means the Constitution and statutes of the State including K.S.A. 12-6a26 et seq. as amended and supplemented from time to time.

“CID Commencement Date” means January 1, 2019.

“CID District” means the Wheatfield Village Community Improvement District established by the City pursuant to the CID Ordinance, which contains within its boundaries the real property legally described and generally depicted in *Exhibit A*.

“CID Eligible Project Cost” means the costs of the Project described in the column labeled “CID Eligible Project Costs” on *Exhibit H*, which are eligible to be paid or reimbursed pursuant to the CID Act and in accordance with this Agreement; provided, however: (i) land acquisition costs shall be CID Eligible Project Costs only to the extent they are limited to actual, documented costs for bona fide arm’s length purchase transactions with unrelated parties; (ii) costs described in KSA 12-6a27(m)(2) through and including KSA 12-6a27(m)(8) shall not be CID Eligible Project Costs; and (iii) Developer fees and legal costs shall not be CID Eligible

Project Costs. In addition to the costs described on **Exhibit H**, interest on Developer financing is a CID Eligible Project Cost and shall be reimbursable at the rate of 5.5% per annum on any CID Eligible Project Costs, approved by the City but unreimbursed. Interest shall begin to accrue upon any CID Eligible Project Cost, other than interest costs, commencing on the first day of the month next succeeding the City's approval of the same.

"CID Ordinance" means Ordinance No. _____ passed by the Governing Body of the City on _____, 2017, authorizing the creation of the Community Improvement District and levying the CID Sales Tax, as amended from time to time.

"CID Sales Tax" means the Two Percent (2%) special Community Improvement District Sales Tax levied within the District and collected pursuant to K.S.A. 12-6a31, as amended.

"CID Sales Tax Fund" means that fund held in the City's treasury into which proceeds of the CID Sales Tax are deposited. The City may designate a name for such fund on its books and records at its discretion.

"CID Taxpayers" means any individual or business located in the CID District and required to remit sales and use tax to the Kansas Department of Revenue (and its successors).

"CID Term" means a term commencing on the CID Commencement Date and ending on the date twenty-two (22) years following the CID Commencement Date. In no event shall any deposits be made to the CID Sales Tax Fund after the expiration of the CID Term.

"City" means the City of Topeka, Kansas.

"City Clerk" means the duly appointed City Clerk of the City of Topeka, Kansas.

"Department of Revenue" means the Department of Revenue of the State of Kansas and any successor.

"Developer" means 29 FAIRLAWN, LLC, a Kansas limited liability Company, and its successors and assigns.

"Developer Road Improvement Cost Obligation" means the estimated amounts described in **Exhibit H** under the subheadings "Fairlawn Roadway Improvements" and "29th Street Roadway Improvements" which cumulatively equal \$1,113,483.

"Excess Public Road Improvements Costs" means any costs in excess of the Developer Road Improvement Cost Obligation to design and construct the Public Road Improvements, but excluding costs for that certain Wheatfield Village Traffic Impact Study prepared by Transystems and dated July 2017.

"Excusable Delays" means the delays for performance set forth in Section 14(f) herein.

"Governing Body" means the governing body of the City.

“Half-Cent City Sales Tax” means One-Half Cent of the Captured City Sales Tax which was approved pursuant to the City of Topeka Ordinance No. 19257 “exclusively for costs of maintenance and improvements of existing city streets, gutters, curbs, sidewalks, alleys and street lighting”, which may be renewed, supplemented, or altered from time to time by separate ordinance during the TIF Term.

“Half-Cent City Sales Tax Sub-Account” means the subaccount of the TIF Fund into which the proceeds of the Half-Cent City Sales Tax are deposited. The City may designate a name for such fund on its books and records at its discretion.

“Half-Cent Eligible Project Cost” means the costs of the Project described in the column labeled “Half-Cent Sales Tax Eligible Expenses” on **Exhibit H**, which are eligible to be paid or reimbursed in accordance with this Agreement; provided, however, that (i) if the Half-Cent City Sales Tax is not renewed by the voters of the City of Topeka at any point during the TIF Term, there will be no obligation on the part of the City regarding any payments set to be funded by such Half-Cent City Sales Tax (unless the Half-Cent City Sales Tax is later reapproved by ordinance during the TIF Term, at which point the same shall be collected and administered pursuant to the terms of this Agreement); and, provided further, that (ii) any payments made from the Half-Cent City Sales Tax Fund shall be restricted by the specific uses identified in the corresponding ballot language authorizing such Half-Cent City Sales Tax. In addition to the costs described on **Exhibit H**, interest on Developer financing is a Half-Cent Eligible Project Cost and shall be reimbursable at the rate of 5.5% per annum on any Half-Cent Eligible Project Costs. Interest shall begin to accrue upon any Half-Cent Eligible Project Cost, other than interest costs, commencing on the first day of the month next succeeding the City’s approval of the same.

“Parties” means, collectively, the City and the Developer.

“Petition” means the petition, and any amended petitions, requesting the creation of the Wheatfield Village Community Improvement District filed with the City Clerk on August 9, 2017 and August 31, 2017.

“Placed in Service Date” means the date, certified by the Developer’s architect in writing to the City’s Director of Financial and Administrative Services, on which all components of the Project are complete and able to be occupied by the Developer or its tenants.

“Project” means a mixed-use project to be known as the Wheatfield Village Development, which is anticipated to include retail/restaurant uses, multi-family residential uses, parking garage, surface parking, landscaping, lighting, storm water retention/detention improvements, sidewalks/walkways, streets/drives, ingress/egress, signalization and other associated infrastructure improvements, with a capital investment of approximately \$93,000,000.

“Project Area” means Project Area 1 within the TIF District as described in the TIF Project Plan and as further described in the legal description and boundary map attached hereto as **Exhibit C**.

“Project Costs” means all the costs and expenses of the Project expended by the Developer, as more specifically described in **Exhibit H**, which are attached hereto and incorporated herein by this reference.

“Public Finance Proceeds” means the CID Sales Tax, the TIF Captured City Sales Tax, and the TIF Property Tax.

“Public Road Improvements” means those improvements to the public rights-of-way, and any improvements to private property required to effectuate such public improvements, to be constructed by requirement of the Planned Unit Development Plan approved by the Governing Body on _____, 2017.

“Public Road Improvements Costs” means those costs to design and construct the Public Road Improvements.

“Reimbursement Funds” means the CID Sales Tax Fund and the TIF Fund.

“Site Plan” means the site plan for the Project contained within the Planned Unit Development Plan for the Project approved by the Governing Body on <month/day>, 2017, and as amended from time to time through the City’s planning process, which is attached hereto and incorporated herein by this reference as **Exhibit D**.

“State” means the State of Kansas.

“Taxable Retail Sales Base” means One Hundred Ninety-Thousand Dollars (\$190,000.00) for a full year, prorated by month (including any partial month) for any partial year.

“TIF Act” means K.S.A. 12-1770 *et. seq.*, as amended and supplemented from time to time.

“TIF Commencement Date” means January 1, 2019.

“TIF District” means the Wheatfield Village Redevelopment District established by the City pursuant to the TIF Ordinance, which contains within its boundaries the real property legally described and generally depicted in **Exhibit B**.

“TIF Eligible Project Cost” means the costs of the Project described on **Exhibit H**, which are eligible to be paid or reimbursed pursuant to the Act and in accordance with this Agreement; provided, however: (i) land acquisition costs shall be TIF Eligible Project Costs only to the extent they are limited to actual, documented costs for bona fide arm’s length purchase transactions with unrelated parties; and (ii) Developer fees and legal costs shall not be TIF Eligible Project Costs. In addition to the costs described on **Exhibit H**, interest on Developer financing is a TIF Eligible Project Cost and shall be reimbursable at the rate of 5.5% per annum on any TIF Eligible Project Costs. Interest shall begin to accrue upon any TIF Eligible Project

Cost, other than interest costs, commencing on the first day of the month next succeeding the City's approval of the same.

"TIF Fund" means that fund held in the City's treasury as required by KSA 12-1775(b)(2) into which proceeds of the TIF Property Tax and Captured City Sales Tax are deposited. The City may designate a name for such fund on its books and records at its discretion.

"TIF Ordinance" means Ordinance No. _____ passed by the Governing Body of the City on _____, 2017, authorizing the creation of the Tax Increment Finance District, as amended from time to time.

"TIF Project Plan" means that project plan conforming to KSA 12-1772 and adopted by Ordinance No. _____ passed by the Governing Body on _____ and included as *Exhibit I*.

"TIF Project Plan Ordinance" means Ordinance No. _____ passed by the Governing Body of the City on _____, 2017, approving the TIF Project Plan, as amended from time to time.

"TIF Property Tax" means the real property taxes attributable to the increase in the current assessed valuation over the base assessed valuation of the real property from the Project Area during the TIF Term, as determined in accordance with the TIF Act. The base assessed valuation of only the real property within the Project Area shall be utilized to calculate the TIF Property Tax increment available to reimburse the Developer for TIF Eligible Project Costs.

"TIF Taxpayers" means any individual or business located in the TIF District and required to remit sales and use tax to the Kansas Department of Revenue (and its successors).

"TIF Term" means a term commencing on the TIF Commencement Date and ending on the date twenty (20) years following the TIF Commencement Date. In no event shall any deposits be made to the TIF Fund or after the expiration of the TIF Term.

Section 2

District Formation and Purpose

Pursuant to the CID Act and TIF Act, as well as the proceedings of the City, including the CID Ordinance, the TIF Ordinance, and the TIF Project Plan Ordinance, the City has authorized the creation of the CID District and TIF District and has approved the TIF Project Plan. The purpose of creating the CID District and TIF District and approving the TIF Project Plan is to provide the Developer with an economic incentive to undertake the Project and to provide for further economic development of the City. The purpose of this Agreement is to outline the rights, duties and obligations of the Parties as they relate to the CID District and TIF District and to provide for the reimbursement to the Developer of the CID Eligible Project Costs from the proceeds of the CID Sales Tax and TIF Eligible Project Costs from the TIF Property Tax and the Captured City Sales Tax, in accordance with the further terms of this Agreement.

Section 3

Representations of the Parties

(a) The City is a municipal corporation organized under the laws of the State. The City is authorized pursuant to the CID Act to create the CID District and levy the CID Sales Tax and the TIF Act to create the TIF District and approve the TIF Project Plan; to enter into this Agreement and to perform the duties and obligations of the City contained herein. The Governing Body has taken all requisite action to pass the CID Ordinance, the TIF Ordinance, and the TIF Project Plan Ordinance, which, when they each become effective: 1) create the CID District and levy the CID Sales Tax and 2) create the TIF District and approve the TIF Project Plan. This Agreement constitutes a valid and binding obligation of the City in accordance with its terms and conditions.

(b) The Developer is a limited liability company duly organized and existing under the laws of the State. The Developer has taken all requisite action under its organizational documents to authorize the execution of this Agreement and to perform the duties and obligations of the Developer contained herein. The Agreement constitutes a valid and binding obligation of the Developer in accordance with its terms. Throughout the term of this Agreement, the Developer agrees to maintain its status as such an entity, in good standing and authorized to do business in the State.

Section 4

Project Costs

(a) A description of the scope of the Project, the estimated Project Costs, the estimated CID Eligible Project Costs and the estimated TIF Eligible Project Costs, as submitted by the Developer, are set forth on ***Exhibit H***.

(b) The Parties agree that the amount of the Project Costs may be adjusted by the Developer among any of the stated categories, without the consent of the City, except for as follows:

(1) The Parties agree that the amounts of CID Eligible Project Costs as shown on ***Exhibit H*** may not be increased by the Developer for the following categories: land acquisition, developer fees, and legal/lease concession.

(2) The Parties agree that the amounts of TIF Eligible Project Costs as shown on ***Exhibit H*** may not be increased by the Developer for the following categories: land acquisition, developer fees, and legal/lease concession.

Section 5

Funding of Project

(a) The Project Costs will be paid by, or on behalf of, the Developer and reimbursed as a pay-as-you-go-financing under the CID Act and TIF Act. The City will not advance any

City funds for the payment of any Project Costs, except as provided in Section 5(b) and 5(c) herein, and will not provide any financing, including the issuance of any bonds or notes. Reimbursement to the Developer shall be made in accordance with Section 7 of this Agreement.

(b) In the event the cost to design and construct the Public Road Improvements exceeds the estimated amounts described in **Exhibit H** under the subheadings “Fairlawn Roadway Improvements” and “29th Street Roadway Improvements,” which cumulatively equal \$1,113,483 (the “Developer Road Improvement Cost Obligation”), the City shall be solely responsible for payment of any such Excess Public Road Improvements Costs from funds other than the Public Finance Proceeds. Funds for any Excess Public Road Improvements Costs will not be advanced by the Developer, but will rather be paid by the City directly. If the Developer has expended funds in the amount of the Developer Road Improvement Obligation in order to construct the Public Road Improvements, the Developer shall certify the same in writing to the City.

(c) The City shall be responsible for acquiring any private property required to construct the Public Road Improvements, whether by eminent domain or otherwise, and shall complete such acquisition within a reasonable time frame to facilitate said Public Road Improvements; provided, however, that the Developer agrees to donate (at no cost) any and all Developer-owned property to facilitate said Public Road Improvements as identified in the construction drawings for such Public Road Improvements as jointly approved by the Parties. Any costs for any such right of way acquisition qualify as Excess Public Road Improvements Costs and are the responsibility of the City.

Section 6
Reimbursement of City Costs; Administration of CID Sales Tax,
Administration of CID Sales Tax TIF Sales and Property Tax, and Half-Cent City Sales
Tax

(a) As required by City policy, the Developer shall be responsible for paying all costs necessary to comply with state law, including but not limited to: costs of legal publication notices, resolutions and ordinances. The Developer shall also reimburse the City for reasonable expenses associated with review and evaluation of the Petition and this Agreement by the City’s financial advisor. Developer payments under this Section 6(a) shall be considered to be CID Eligible Project Costs or TIF Eligible Project Costs. The Developer shall pay such costs as required under this Section 6(a) within thirty (30) days of invoice by the City; but shall not be required to make such payments more than once per calendar month.

(b) Subject to, and as specified by, the terms and conditions of this Agreement, the City agrees to perform, or provide for the performance of, the administration of the reimbursement of the CID Eligible Project Costs. On or before September 30, 2018, the City shall provide notification to the Department of Revenue to commence the collection and reporting of the CID Sales Tax within the District in accordance with the provisions of the CID Act. The imposition of the CID Sales Tax shall commence on January 1, 2019, or as soon thereafter as the Department of Revenue begins the collection of the CID Sales Tax, and shall expire at the end of the CID Term. Notwithstanding this subsection (b), if no CID Eligible

Project Costs remain unreimbursed, the City may repeal the CID Ordinance prior to the expiration of the CID Term if the Governing Body determines that the CID Sales Tax is no longer required to pay for such CID Eligible Project Costs.

(c) Pursuant to the CID Act, the City shall establish the CID Sales Tax Fund as a segregated fund within the treasury of the City, which shall be held and administered by the City in accordance with this Agreement and the Act. Revenues collected from the CID Sales Tax, and received by the City from the Department of Revenue during the CID Term, shall be deposited periodically in the CID Sales Tax Fund, but not less than monthly.

(d) The City shall impose and collect a fee for the administration of the CID Sales Tax. On the 15th day of each month (or the next business day if such day shall not be a normal business day of the City) of each year during the term of this Agreement, the City shall withdraw from the CID Sales Tax Fund an amount equal to Two Percent (2%) of the aggregate deposits to the CID Sales Tax Fund.

(e) Subject to, and as specified by, the terms and conditions of this Agreement, the City agrees to perform, or provide for the performance of, the administration of the reimbursement of the TIF Eligible Project Costs. The commencement of the TIF Property Tax collections and the segregation of the TIF Captured City Sales Tax shall commence on January 1, 2019, or as soon thereafter as the Shawnee County Treasurer begins the collection of the TIF Property Tax, and shall expire at the end of the TIF Term. Notwithstanding this subsection (e), if no TIF Eligible Project Costs remain unreimbursed, the City may repeal the TIF Project Plan Ordinance prior to the expiration of the TIF Term if the Governing Body determines that the TIF Project Plan is no longer required to pay for the TIF Eligible Project Costs.

(f) Pursuant to the TIF Act, the City shall establish the TIF Fund as a segregated fund within the treasury of the City, which shall be held and administered by the City in accordance with this Agreement and the TIF Act. Proceeds of the TIF Property Tax received by the City from the Shawnee County Treasurer and the TIF Captured City Sales Tax received by the City from the Department of Revenue during the TIF Term shall be deposited periodically in the TIF Fund, but not less than monthly. The Half-Cent City Sales Tax Subaccount shall be utilized to reimburse the Developer “exclusively for costs of maintenance and improvements of existing city streets, gutters, curbs, sidewalks, alleys and street lighting” pursuant to City of Topeka Ordinance No. 19257.

(g) The City shall impose and collect a fee for the administration of the TIF Property and the Captured City Sales Tax. On the 15th day of each month (or the next business day if such day shall not be a normal business day of the City) of each year during the term of this Agreement, the City shall withdraw from the TIF Fund an amount equal to Two Percent (2%) of the aggregate deposits to the TIF Fund.

(h) Subject to, and as specified by, the terms and conditions of this Agreement, the City agrees to perform, or provide for the performance of, the administration of the reimbursement of the Half-Cent Eligible Project Costs from the Half-Cent City Sales Tax Subaccount. Notwithstanding this subsection (h), if no Half-Cent Eligible Project Costs remain unreimbursed, the City shall discontinue capture of the Half-Cent Sales Tax.

Section 7

Reimbursement Procedures

Reimbursement of CID Eligible Project Costs, TIF Eligible Project Costs, and Half-Cent Eligible Project Costs is conditioned upon the following:

(a) Not more frequently than once per calendar month, the Developer may submit to the Director of Financial and Administrative Services (“Director”) a Certification of Expenditures (in substantially the form attached to this Agreement as ***Exhibit E, Exhibit F and Exhibit G***, which are attached hereto and incorporated herein by this reference) signed by the Developer, with supporting documentation identifying the CID Eligible Project Costs, TIF Eligible Project Costs, and/or Half-Cent Eligible Project Costs for which the Developer seeks reimbursement. The supporting documentation shall include: copies of invoices reflecting amounts billed, copies of checks, evidence of wire transfers or other cash payments by the Developer for Project Costs, lien waivers or other evidence that no mechanic’s liens exist with respect to the construction of the Project for which reimbursement is sought and such other documentation as the City shall reasonably request.

(b) Each Certificate of Expenditures shall contain a certification by the Developer that each Project Cost submitted for reimbursement is a CID Eligible Project Cost, a TIF Eligible Project Cost, or a Half-Cent Eligible Project Cost, that such expense has been incurred by the Developer, and that such expense has not been previously submitted for reimbursement from the same fund or subaccount, as applicable, hereunder. The City reserves the right to have its engineer or other agents or employees inspect all work associated with a submitted Certification of Expenditure, to retain an outside accountant, engineer or attorney to evaluate and assist with processing Certifications of Expenditures for compliance with this Agreement (with the reasonable costs of such outside accountant, engineer or attorney paid from the TIF Fund, so long as the City provides notice to the Developer of the expense to be incurred at least fifteen (15) days prior to such expenditure), to examine the Developer’s records relating to all CID Eligible Project Costs, TIF Eligible Project Costs, and/or Half-Cent Eligible Project Cost to be paid and to obtain from such parties such other information as is reasonably necessary for the City to evaluate compliance with the terms hereof.

(c) The City shall have fifteen (15) calendar days after receipt of any completed and executed Certification of Expenditure to review and respond by written notice to the Developer; provided, however, that the City may, prior to the end of such fifteen (15) day period, advise the Developer if additional time is needed to review and respond to such Certificate, in which event the City shall respond by the extended date so indicated, which date shall not be more than thirty (30) days after the date of such notice. If, in the reasonable judgment of the officer or agent of the City charged with reviewing each Certification of Expenditure, the submitted documentation demonstrates that: (1) the payments requested in the Certification of Expenditure are for CID Eligible Project Costs, TIF Eligible Project Costs, and/or Half-Cent Eligible Project Costs; (2) the expense was incurred; (3) the Developer is not in default under this Agreement; (4) the ad valorem property taxes for property owned by the Developer within the CID District and the TIF District are current; and (5) there is no fraud on the part of the Developer, then the City shall

approve the Certification of Expenditure, and, if there are sufficient funds available in the Reimbursement Funds as set forth herein, make, or cause to be made, reimbursement to the Developer at the time set forth in subsection (d) of this Section. If the City disapproves the Certification of Expenditure, the City shall notify the Developer, in writing, of the reason(s) for such disapproval within such fifteen (15) calendar-day period (or such extended period as provided herein). The City will provide reasonable assistance to the Developer so that the Developer can take the steps necessary to rectify the reason for the City's disapproval and resubmit such Certificate of Expenditure for approval by the City. However, if only certain line items on the Certification of Expenditure are disapproved and others are approved, if there are sufficient funds available in the Reimbursement Funds as set forth herein, the City shall make, or cause to be made, reimbursement for the line items of the Certification of Expenditure approved by the City from Reimbursement Funds. The Developer agrees to make a good faith effort to submit thorough and complete Certifications of Expenditures. The Developer may appeal a denial of one or more items of a Certification of Expenditure in accordance with the administrative appeal process defined in the Topeka Municipal Code.

(d) Subject to the further terms of this Agreement, and to the extent moneys are available in the CID Sales Tax Fund, TIF Fund, or Half-Cent City Sales Tax Subaccount, any requested reimbursement approved by the City pursuant to this Section 7 shall be paid to the Developer through the City's regular accounts payable process from the CID Sales Tax Fund, TIF Fund, and Half-Cent City Sales Tax Subaccount; provided, however, that no deposits shall be made to the CID Sales Tax Fund and TIF Fund after the expiration of the CID Term or the TIF Term, respectively. All amounts deposited in the CID Sales Tax Fund and TIF Fund prior to the expiration of the CID Term and TIF Term, respectively, shall be used to reimburse the Developer for CID Eligible Project Costs and TIF Eligible Project Costs, regardless if the reimbursement occurs after the expiration of the CID Term or TIF Term.

(e) Notwithstanding any other provision herein, the City shall not make any payments to the Developer for reimbursement of any cost pursuant to this Section until the first Certificate of Occupancy is issued for a building within the Project Area.

Section 8

City and Other Governmental Permits

Before beginning construction of any aspect of the Project, the Developer shall, at its expense, obtain or cause to be obtained any necessary planning documents, permits or licenses that may be required by the City, Shawnee County or any other governmental agency having jurisdiction over the Project.

Section 9

Reporting

(a) From and after the commencement of this Agreement, the Developer shall make commercially reasonable efforts to ensure that all CID Taxpayers, at the request of the Director, not later than the 15th day of each month, to provide copies of any sales tax filings required to be submitted to the Department of Revenue for the next preceding month (or the next preceding

quarter if such taxpayer is a quarterly filer). Provided the Developer can demonstrate that it made commercially reasonable efforts to ensure CID Taxpayer compliance with this Section 9(a), failure to obtain such compliance will not be considered a default of the Development under this Agreement. The Developer shall demonstrate it has made commercially reasonable efforts to ensure CID Taxpayers provide copies of such filings to the Director by imposing a requirement in any lease of property located within the CID District that if the tenant is a CID Taxpayer it shall provide this information to the Director not later than the 15th day of each month for the next preceding month (or the next preceding quarter if such taxpayer is a quarterly filer).

(b) Not later than January 25th of each year, commencing January 25, 2018, and ending January 25, 2041, the Developer shall provide to the Director a reporting, as of December 31st of the next preceding year, of: (i) annual and cumulative Project Costs; (ii) Project Costs funded with sources other than reimbursements from the Reimbursement Funds; (iii) the remaining amount of unreimbursed CID Eligible Project Costs; and (iv) proof of insurance as provided in Section 11 herein. Such reporting shall be in the form of the Project Budget attached hereto as **Exhibit H**. The Developer shall make every reasonable effort to file all such reports with the City, but failure of the Developer to timely file such reporting shall not be a default of the Developer under this Agreement.

(c) From and after the commencement of this Agreement, the Developer shall make commercially reasonable efforts to ensure that all TIF Taxpayers, at the request of the Director, not later than the 15th day of each month, to provide copies of any sales tax filings required to be submitted to the Department of Revenue for the next preceding month (or the next preceding quarter if such taxpayer is a quarterly filer). Provided the Developer can demonstrate that it made commercially reasonable efforts to ensure TIF Taxpayer compliance with this Section 9(a), failure to obtain such compliance will not be considered a default of the Development under this Agreement. The Developer shall demonstrate it has made commercially reasonable efforts to ensure TIF Taxpayers provide copies of such filings to the Director by imposing a requirement in any lease of property located within the TIF District that if the tenant is a TIF Taxpayer it shall provide this information to the Director not later than the 15th day of each month for the next preceding month (or the next preceding quarter if such taxpayer is a quarterly filer).

(d) Not later than January 25th of each year, commencing January 25, 2018, and ending January 25, 2039, the Developer shall provide to the Director a reporting, as of December 31st of the next preceding year, of: (i) annual and cumulative Project Costs; (ii) Project Costs funded with sources other than reimbursements from the Reimbursement Funds; (iii) the remaining amount of unreimbursed TIF Eligible Project Costs; and (iv) proof of insurance as provided in Section 11 herein. Such reporting shall be in the form of the Project Budget attached hereto as **Exhibit H**. The Developer shall make every reasonable effort to file all such reports with the City, but failure of the Developer to timely file such reporting shall not be a default of the Developer under this Agreement.

(e) If the boundaries of the CID District and TIF Project Area are coterminous, information provided to the City by Developer or its tenants in accordance with Section 9(a)-(d) above shall not be duplicated.

(f) The City shall be responsible for collecting, accounting for and remitting CID Sales Tax to the CID Sales Tax Fund and the Captured City Sales Tax to the TIF Fund upon receipt of such amounts from the Kansas Department of Revenue.

Section 10

Rights of Access

For purposes of insuring compliance with this Agreement, representatives of the City shall have rights of access to the Project, without charges or fees, during normal business hours during the period of Project construction, to inspect work performed or being performed in the construction of the Project. City representatives shall carry proper identification, insure their own safety and shall not interfere with construction activity unless such activity is apparently in violation of this Agreement, City codes, state or federal regulations, statutes or other law. The right of access granted by this Section shall be in addition to the City's rights to access the Project in the exercise of its proper authority to regulate, and provide for, public safety and to issue and enforce required licenses and permits.

Section 11

Insurance and Indemnification

(a) The Developer agrees to defend, indemnify and hold the City, its officers, agents and employees, harmless from and against all liability for damages, costs and expenses, including attorney fees, arising out of any claim, suit, judgment or demand arising from the negligent and/or intentional acts or omissions of the Developer, its contractors, subcontractors, agents or employees in the performance of this Agreement. The Developer shall give the City immediate written notice of any claim, suit or demand that may be subject to this provision. The City shall also give prompt notice to the Developer of any such claim, suit, or demand, and the City hereby agrees that it shall not defend, settle or otherwise resolve any such claim, suit, or demand without prior notice to the Developer. After receipt of such notice, the Developer shall defend, contest, or otherwise protect the City against any such matter, at the cost and expense of the Developer, utilizing counsel selected by the Developer. This section shall not apply to negligence or willful misconduct of the City or its officers, employees, or agents.

(b) Not in derogation of the indemnification provisions set forth herein, the Developer shall, at its sole cost and expense, throughout the term of this Agreement and during all phases of the development described herein, to the extent Developer holds fee title to property within the District, insure and keep insured any vertical structures built in the District against direct loss or damage occasioned by fire, flood and extended coverage perils through insurers with an AM Best rating of no less than "A" and/or a rating that is acceptable to the City without co-insurance. The insurance shall be for an amount that is not less than the full replacement cost of such structures.

(c) In the event of destruction or damage to any vertical structure owned by the Developer, the Developer shall restore the Project to a clean, safe, and sanitary condition within the time parameters and other terms or provisions identified in any lease agreement with any CID Taxpayer or TIF Taxpayer; provided, however, that in all events the Developer shall cause

all damaged or destroyed property within the Project to be restored to a clean, safe and sanitary condition within a reasonable period of time after such damage or destruction, not to exceed Ninety (90) days. If the Developer has commenced work associated with restoring the damaged or destroyed property within the Project to a clean, safe, and sanitary condition within such 90 day period, but has been unable to complete this work, the Developer may request a 90-day extension from the City to continue and ultimately complete all restoration efforts within One Hundred Eighty (180) days. Further reasonable extensions may be requested by the Developer which may be approved by the City in its reasonable discretion, not to be unreasonably withheld. Notwithstanding the foregoing, nothing in this Section shall require the Developer to rebuild or reconstruct any component of the Project damaged or destroyed by casualty or other causes, so long as the Developer restores the Project to a clean, safe, and sanitary condition.

Section 12

Local, State and Federal Laws

The Developer agrees that it shall abide by, and the Project shall be completed in conformity with, all applicable federal, state and local laws and regulations.

Section 13

Nondiscrimination During Construction

The Developer, for itself and its successors and assigns, agrees that in the construction of the Project, the Developer shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, handicap, national origin or ancestry.

Section 14

Default and Remedies

(a) The failure or delay by either of the Parties to this Agreement to perform any term or provision of this Agreement required of such Party, shall constitute an event of default under this Agreement, subject to rights of cure, as specified below.

(b) Notice of an event of default shall be given by the Party claiming such default to the other Party and shall contain the basis of the claimed default.

(c) No legal proceedings against the claimed defaulting Party shall be instituted nor shall the claiming Party be entitled to damages if, within fourteen (14) days from the receipt of a notice of claimed default, the claimed defaulting Party undertakes acts to cure, correct or remedy such claimed default, proceeds with due diligence to complete such cure, correction or remedy and such cure, correction or remedy is completed within thirty (30) days of the date such claimed defaulting Party received a notice of default. If the Party claimed to be in default cannot reasonably cure such claimed default within thirty (30) days, the claimed defaulting Party shall notify the other Party of such assertion with a proposed date to complete the cure; and default shall be suspended if the claimed defaulting Party commences curing the default within fourteen (14) days after receipt of written notice thereof and diligently prosecutes the cure to completion within the time period set forth in the notice to the Party claiming the default.

(d) In the event the defaulting Party does not cure the event of default as set forth in this Section, the non-defaulting Party shall have the right:

(1) by mandamus or other suit, action or proceedings at law or in equity, to enforce the rights of the non-defaulting Party against the defaulting Party and to require and compel duties and obligations required by the provisions of the Agreement or by the laws of the State;

(2) by suit, action or other proceedings at law or in equity, to enjoin any acts or things that may be unlawful or in violation of the rights of the non-defaulting Party; or

(3) to take such other action as necessary to protect the interests of the City, including suspending reimbursements to the Developer from the CID Sales Tax Fund and TIF Fund, which reimbursements may be reinstated following cure of the default.

(e) Notwithstanding any other provision of this Agreement to the contrary, in no event shall the Developer or the City ever be liable for any punitive, special, incidental, or consequential damages in connection with this Agreement, or otherwise. For the purposes of this Section, consequential damages shall include, but not be limited to, lost tax revenue or other similar losses which are not direct out-of-pocket costs incurred by the non-defaulting Party. Further, specific performance shall not be available to the City to require the Developer to construct any component of the Project.

(f) In addition to specific provisions of this Agreement, performance by a Party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where the Party seeking the extension has acted diligently and delays or defaults are due to events beyond the reasonable control of the Party such as, but not limited to: default of other Party; war; insurrection; strikes; labor shortages; market conditions; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; epidemics; quarantine restrictions; freight embargoes; unusually severe weather; government delays or prohibitions; administrative or permitting delays; or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform ("Excusable Delays"). The time of performance hereunder shall be extended for the period of any delay or delays caused or resulting from any Excusable Delay of the foregoing causes. The Developer shall provide notice to the City if and when any such Excusable Delays occur and the Developer may be granted such extensions based upon the period of such Excusable Delays.

(g) Specific Events of Default. In addition to other defaults that might occur pursuant to this Section, the Developer shall be considered to be in default if any of the following occurs:

(1) The Developer commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if the Developer takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.

(2) If a petition is filed against the Developer under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against the Developer under any other federal or state law in effect at the time relating to bankruptcy or insolvency, unless lacking in foundation.

(3) The Developer makes a general assignment for the benefit of creditors.

(4) If a trustee, receiver, custodian or agent of the Developer is appointed under applicable law or under contract, whose appointment or authority to take charge of property of the Developer is for the purpose of enforcing a lien against property in the CID District and TIF District or for the purpose of general administration of such property for the benefit of the Developer's creditors.

(6) The Developer fails to spend at least a minimum of Forty Million Dollars (\$40,000,000) of Project Costs on the Project (including any Project Costs certified for reimbursement from Public Finance Proceeds) on or before the Placed in Service Date, to be attested to in writing by the Developer not later than the Placed in Service Date.

(7) The Developer does not commence construction of the Project by December 31, 2018. Commencement of construction shall mean the issuance of a building permit or site construction permit for purposes of commencing the Project.

(8) The Developer fails to construct the following Project components by the Placed in Service Date:

- a. A multi-story 150-180 unit, upscale, market rate apartment complex "wrapped" around a parking garage;
- b. A seven to nine-screen, state-of-the-art movie theater with bar and food service;
- c. A multi-story 70 to 90-room hotel with a national flag;
- d. A family dining restaurant at the southeast corner of the site;
- e. A fast food restaurant building with two tenants, and including one operating a drive-through window at east end of the site;
- f. An open-space area at the southeast corner of the site; and
- g. Land acquisition, site preparation and horizontal improvements required to support the Project.

The description of the Project contained herein shall be subject to the provisions of the Planned Unit Development plan and final plans for each Project component approved by the City for the Project, as amended from time to time.

(9) The Developer shall provide notice of all proposed initial tenants and third party operators of any Project component to the City, through its City Manager, ten (10) days prior to execution of a lease or agreement for same, respectively. The City Manager

may then have an opportunity to provide his or her written objection to such tenant or third party operator to Developer within such ten (10) day period, including a detailed description of the basis for such objection. If the City Manager does not issue such objection within the ten (10) day period, the City Manager's opportunity to object shall be deemed waived. In the event the City Manager issues such a notice of objection, the Parties shall meet to discuss such objection in order to reach resolution as to the proposed tenant or third party operator. In the event such resolution cannot be reached within ten (10) days following the City Manager's notice of objection to the Developer, the City Manager shall have the opportunity to place the issue as a discussion item on the next proceeding agenda of a regular meeting of the Governing Body, at which time the City Manager and the Developer shall appear before the Governing Body to discuss such objection in order to reach resolution regarding the same.

(10) The Developer fails to restore the Project to a clean, safe, and sanitary condition as required by Section 11 of this Agreement within One-Hundred Eighty (180) days of any damage or destruction of all or a portion of the Project (or within the period as extended by the terms of Section 11).

(11) The Developer fails to make payments required by Section 6(a) of this Agreement in a timely manner.

(12) The Developer authorizes or permits to be included in the Project any of the impermissible end users included in *Exhibit J* hereto, unless approved by the City.

Section 15

Governing Law, Jurisdiction

(a) This Agreement shall be governed by, interpreted and enforced pursuant to the laws of the State.

(b) The Parties agree that any legal actions arising out of this Agreement will be instituted in the District Court of Shawnee County, Kansas or, in the case of federal jurisdiction, in the Federal District Court for the District of Kansas.

Section 16

Rights and Remedies Cumulative, Waivers

Except as otherwise expressly provided in this Agreement, the rights and remedies of the Parties shall be cumulative, and the exercise by one party of one or more such rights shall not preclude the exercise by it, at the same or different times, of any other rights or remedies specified herein. Any failure or delay by either party in asserting any of its rights and remedies as to any default hereunder shall not operate as a waiver of such default or of any rights or remedies specified hereunder, or deprive either party of its right to assert and enforce any such right or remedy.

Section 17 Amendments

This Agreement may be amended by the parties, which amendment shall be in writing and shall not cause the Agreement to be in violation of the Act.

Section 18 Transfer and Assignment

The Parties acknowledge that the Developer's expertise in constructing and managing like projects and its commitment to Topeka were material inducements to the City undertaking this Agreement. As such:

(a) The Developer may not assign this Agreement, or the rights, duties, and obligations hereunder without the prior written consent of the City. In determining whether to approve such an assignment, the City will similarly assess the proposed assignee's expertise in constructing and managing like projects and its commitment to Topeka; provided, however, that it shall be unreasonable to disapprove any such assignee if such assignee possesses the requisite financial qualifications and capabilities to perform the duties and obligations contained within this Agreement. The City's consent to any proposed assignment may not be unreasonably withheld.

(b) Notwithstanding the foregoing, the Developer may:

(1) assign or pledge its rights under this Agreement to any Affiliate by giving thirty (30) days' prior written notice to the City of its intent to proceed with such assignment or pledge; and/or

(2) collaterally assign or pledge its rights to payments due hereunder to its lender. The Developer shall provide written notice to the City of such assignment or pledge within one month of execution of the same, addressed to the Topeka City Manager, including a copy of any agreement evidencing such collateral assignment or pledge to such third party.

(c) Nothing herein shall prohibit (or require City approval to allow) the Developer from forming additional development or ownership entities to replace or joint venture with the Developer for the purpose of business and/or income tax planning; provided, however, that such additional development or ownership entities or joint ventures shall be an Affiliate.

Section 19 Notices, Demands, Communications Among Parties

Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Agreement shall be in writing, addressed to the following:

(a) To the City at:

CITY OF TOPEKA, KANSAS
City Hall, Room 355
215 SE 7th Street
Topeka, Kansas 66603
Attn: City Manager

With a copy to:

City Clerk
City Hall, Room 166
215 SE 7th Street
Topeka, Kansas 66603

and

City Attorney
City Hall, Room 353
215 SE 7th Street
Topeka, Kansas 66603

(b) To the Developer at:

Jim Klausman
Jennifer Sourk
29 Fairlawn LLC
3024 SW Wanamaker Road, Suite 300
Topeka, Kansas 66614

With a copy to:

Bob Johnson
Polsinelli PC
6201 College Boulevard
Overland Park, Kansas 66201

Such notice shall be deemed duly given or filed if the same shall be: (i) duly mailed by certified or registered mail, postage prepaid; or (ii) communicated via facsimile, with electronic or telephonic confirmation of receipt. All notices given by: (i) certified or registered mail, postage prepaid, shall be deemed duly given as of the date they are so mailed; and (ii) facsimile, with electronic or telephonic confirmation of receipt, shall be deemed duly given as of the date of confirmation of receipt. The Parties may from time to time designate, by giving notice as set forth above, such other address to which subsequent notices, certificates or other communications shall be sent.

Section 20
Entire Agreement

This Agreement is executed in duplicate originals, each of which shall be considered an original. This Agreement, including the Exhibits hereto, constitutes the entire agreement and understanding of the Parties. This Agreement supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter of this Agreement.

Section 21
Electronic Transactions

The transactions related thereto and described herein may be conducted and documents may be stored by electronic means.

Section 22
Severability

The invalidity or inability to enforce any one or more phrases, sentences, clauses or sections of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement.

Section 23
No Liability of City Officials or Employees

All liabilities under this Agreement on the part of the City and the Developer are solely corporate liabilities of the City and the Developer and no officer, director, employee, or agent of the City or the Developer shall have any personal or individual liability under this Agreement for anything done or omitted to be done by the City or the Developer hereunder.

[page intentionally blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the dates set forth opposite the signatures and represent that the individuals executing this Agreement on behalf of the Parties have the express authority to do so.

CITY OF TOPEKA, KANSAS

(SEAL)

By: _____
Doug Gerber, Interim City Manager

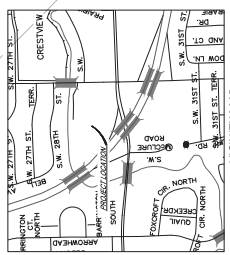
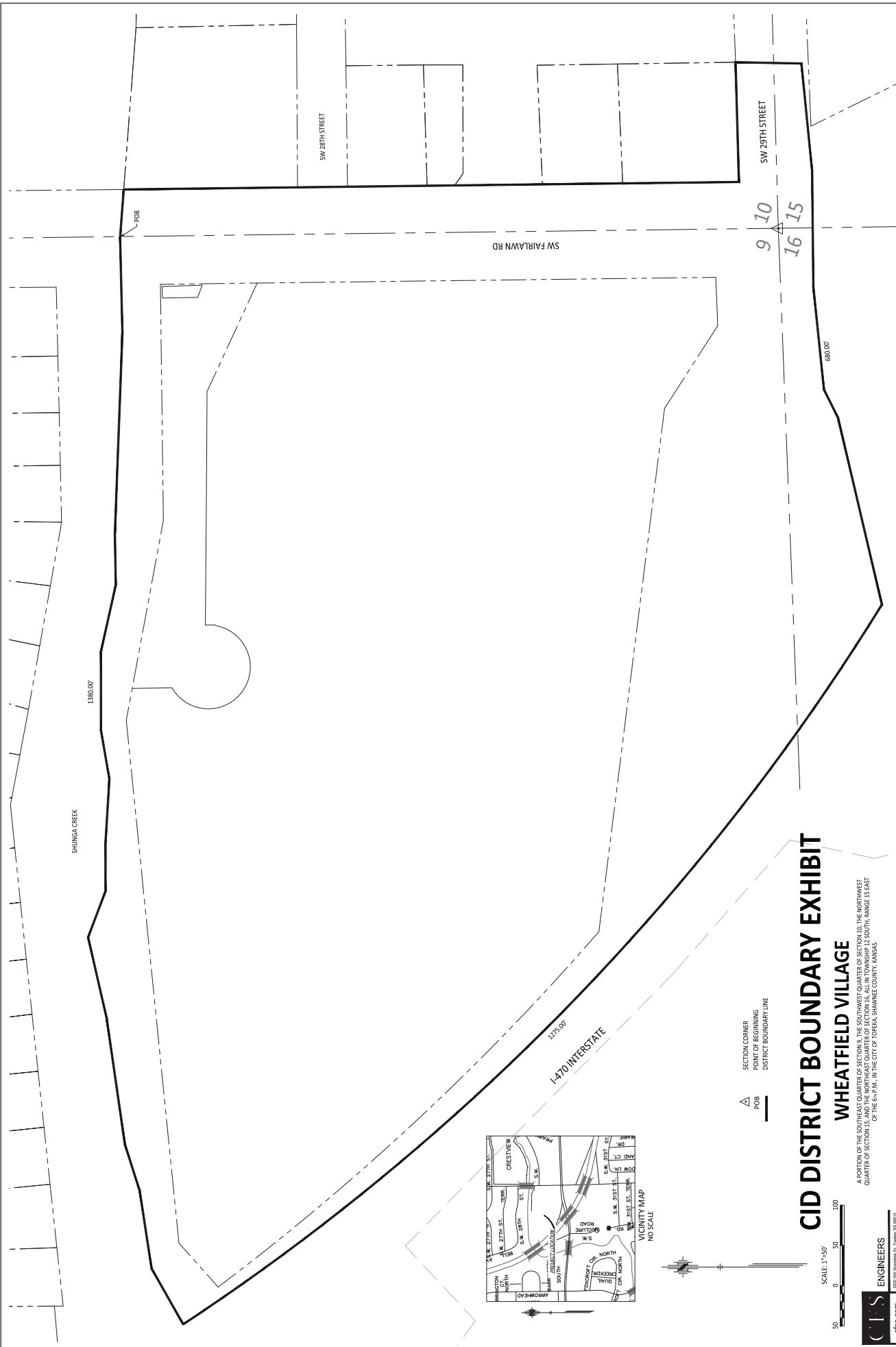
ATTEST:

By: _____
Brenda Younger, City Clerk

**29 FAIRLAWN, LLC,
a Kansas limited liability company**

By: _____
Jim Klausman, Member

EXHIBIT A
Legal Description and Boundary Map of CID District



SECTION CORNER
POINT OF BEGINNING
DISTRICT BOUNDARY LINE

CID DISTRICT BOUNDARY EXHIBIT WHEATFIELD VILLAGE

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 8, THE SOUTHWEST QUARTER OF SECTION 10, THE NORTHWEST QUARTER OF SECTION 15, AND THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 15N, RANGE 15E, EAST 1/4 OF THE 36-1/4, IN THE CITY OF TOPICK, SHAWNEE COUNTY, KANSAS.

SCALE: 1"=50'

CIS ENGINEERS
cise.com

2020-2021, Kansas City, Missouri, Kansas
© 2020-2021, Kansas City, Missouri, Kansas

WHEATFIELD VILLAGE

Project 14-5195

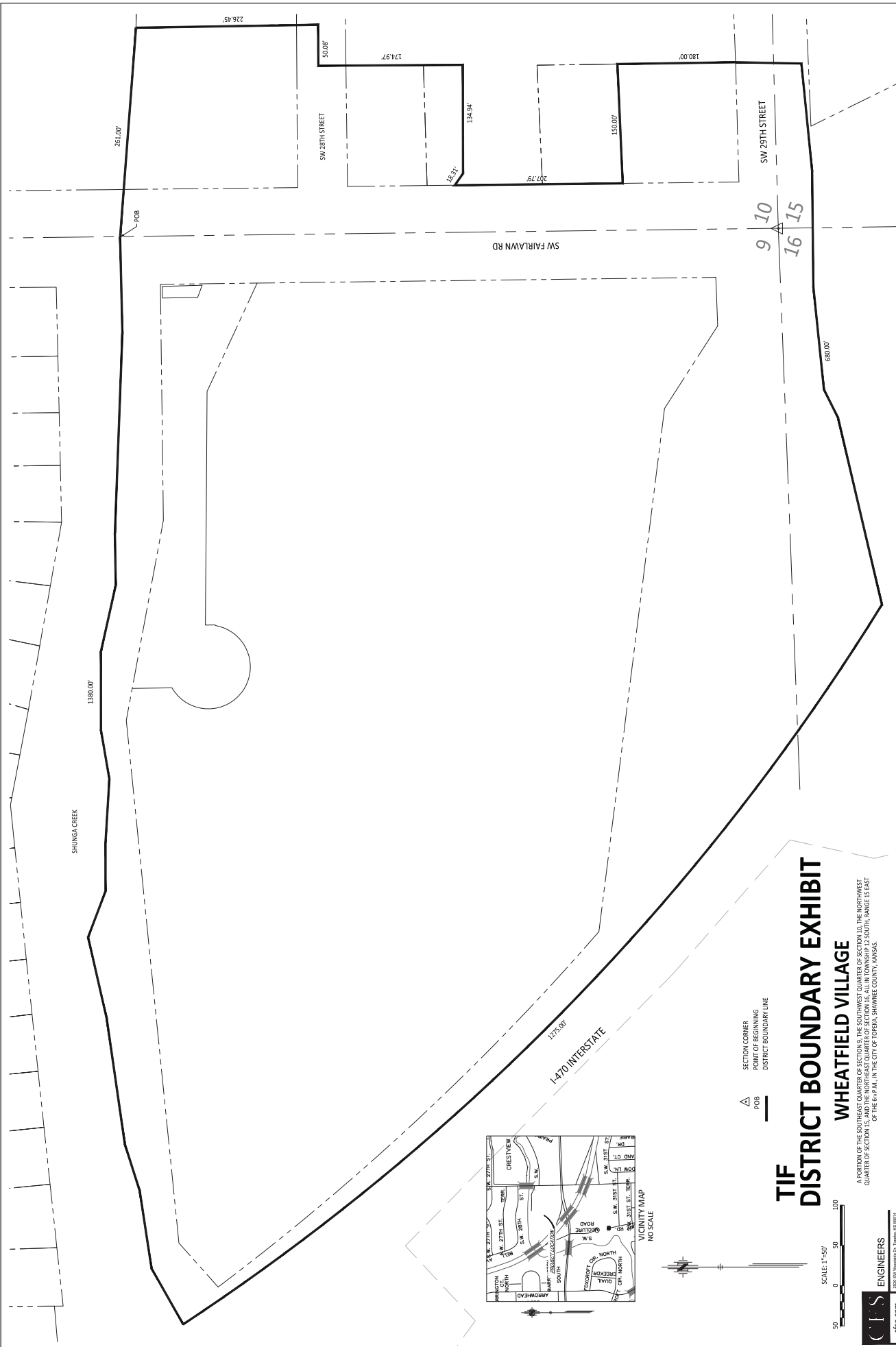
July 26, 2017

CID DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10, at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the extension of the North line of said Shunga Plaza Subdivision to the East Right of Way line of Southwest Fairlawn Road; thence Southerly on said East Right of Way line to the intersection with the North Right of Way line of Southwest 29th Street; thence Easterly on the North Right of Way of Southwest 29th Street a distance of 150 feet more or less; thence Southerly to a point 20 feet South of the South curb line of Southwest 29th Street; thence Westerly and Southwesterly parallel with said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

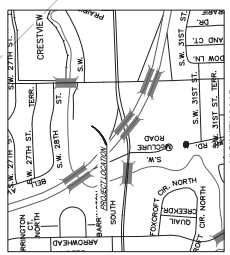
EXHIBIT B
Legal Description and Boundary Map of TIF District



TIF DISTRICT BOUNDARY EXHIBIT

WHEATFIELD VILLAGE

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 8, THE SOUTHWEST QUARTER OF SECTION 10, THE NORTHWEST QUARTER OF SECTION 15, AND THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 15S, RANGE 15E, EAST 1/2 OF THE 36-1/4 IN. THE CITY OF TOPPEKA, SHAWNEE COUNTY, KANSAS.



VICINITY MAP
NO SCALE

SECTION CORNER
POINT OF BEGINNING
DISTRICT BOUNDARY LINE

SCALE: 1"=50'
0 50 100

WHEATFIELD VILLAGE

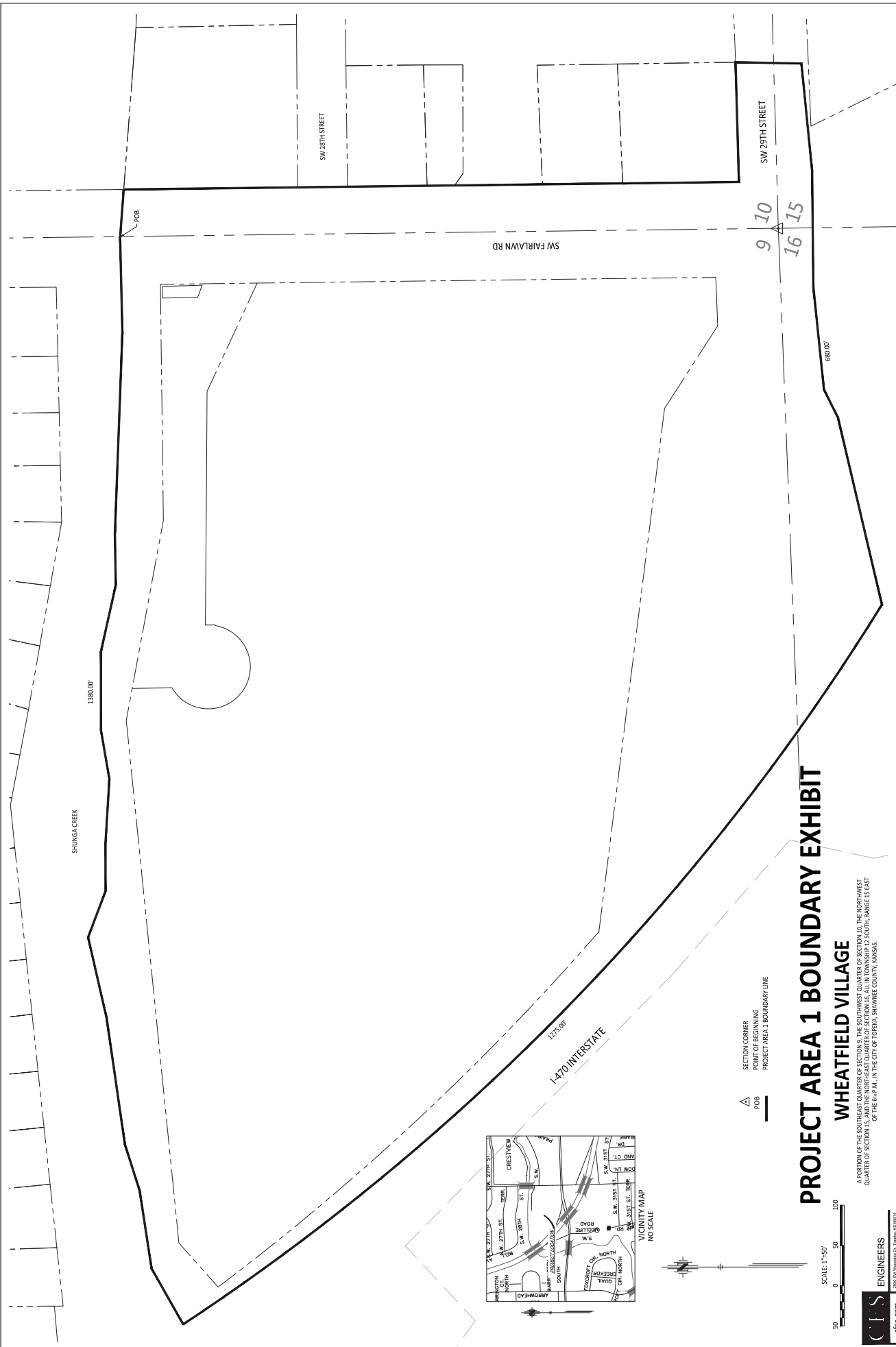
Project 14-5195
Revised June 21, 2017

DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10 at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the North line of said Shunga Plaza Subdivision a distance of 261.00 feet more or less, to a point 50-feet easterly of the West line of Lot 2, Block D of said Shunga Plaza Subdivision; thence South on a line parallel with and 50-feet easterly of the West line of said Lot 2, Block D a distance of 226.45 feet more or less, to the center of Southwest 28th Street as shown on the Plat of said Shunga Plaza Subdivision; thence West on the center of said Southwest 28th Street a distance of 50.08 feet, more or less to the East lines of Lots 5 and 6, Block B, Shunga Plaza Subdivision extended; thence South on the East lines of Lots 5 and 6, Block B of said Shunga Plaza Subdivision a distance of 174.97 feet more or less; thence West on the North line of Lot 2, Block A, Butler Plaza Subdivision No.2, a distance of 134.94 feet; thence Northwesterly, continuing on said North line a distance of 18.31 feet to the West line of said Lot 2; thence South on the West line of said Lot 2 and Lot 1, Block A and the extension thereof, said line also being the East Right of Way line of Southwest Fairlawn Road, a distance of 207.79 feet to the Northwest corner of Lot 1, Block A, Phillips 66 Subdivision No.2; thence East on the North line of said Lot 1, Block A Phillips 66 Subdivision No.2, a distance of 150.00 feet; thence South on the East line of said Lot 1, Block A, of Phillips 66 Subdivision No.2 and it's extension thereof a distance of 180 feet more or less to the South curb line of Southwest 29th Street; thence Westerly and Southwesterly on said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

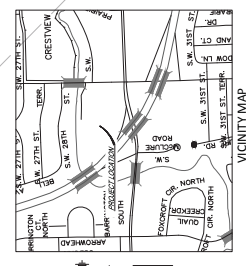
EXHIBIT C
Legal Description and Boundary Map of TIF Project Area



PROJECT AREA 1 BOUNDARY EXHIBIT

WHEATFIELD VILLAGE

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 8, THE SOUTHWEST QUARTER OF SECTION 10, THE NORTHWEST QUARTER OF SECTION 15, AND THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 15N, RANGE 15E, EAST 1/2 OF THE 6-1/2 AC. IN THE CITY OF TOPICK, SHAWNEE COUNTY, KANSAS.



SECTION CORNER
POINT OF BEGINNING
PRODUCT AREA 1 BOUNDARY LINE



WHEATFIELD VILLAGE

Project 14-5195

July 26, 2017

TIF PROJECT AREA 1 BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10, at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the extension of the North line of said Shunga Plaza Subdivision to the East Right of Way line of Southwest Fairlawn Road; thence Southerly on said East Right of Way line to the intersection with the North Right of Way line of Southwest 29th Street; thence Easterly on the North Right of Way of Southwest 29th Street a distance of 150 feet more or less; thence Southerly to a point 20 feet South of the South curb line of Southwest 29th Street; thence Westerly and Southwesterly parallel with said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

EXHIBIT D
Proposed Project Site Plan

EXHIBIT E
CID Certificate of Expenditures

**CERTIFICATION OF EXPENDITURES
WHEATFIELD VILLAGE PROJECT**

Date: _____

Certification # _____

City Clerk of the
City of Topeka, Kansas

In accordance with the Development Agreement for the Wheatfield Development Project dated _____, 2017, (the "Agreement"), between the City of Topeka, Kansas, (the "City"), and 29 Fairlawn, LLC, (the "Developer"), the Developer hereby certifies, with respect to all payment amounts requested pursuant to this Certificate to be reimbursed to the Developer, as follows:

1. All amounts are CID Eligible Project Costs (as defined in the Agreement) that are reimbursable to the Developer pursuant to the Agreement and the CID Act, (as defined in the Agreement).
2. All amounts have been advanced by the Developer for CID Eligible Project Costs (as defined in the Agreement) in accordance with the Agreement and represent the fair value of work, materials or expenses.
3. No part of such amounts has been the basis for any previous reimbursement under the Agreement from the Reimbursement Funds or request for reimbursement from the CID Fund (as defined in the Agreement).
4. All taxes and assessments currently due on any property owned by the Developer in the CID District have been paid.
5. No uncured Events of Default under the Agreement currently exist.

The Developer further certifies that all insurance policies required to be in force under the Agreement are in full force and effect and that the Developer is in compliance, in all material respects, with all further terms of the Agreement.

The total amount of reimbursement requested by this Certificate is \$_____, which amount is itemized on Attachment E-1 attached hereto and which Attachment E-1 includes ____ page(s), is incorporated herein by reference and has been initialed by the authorized representative of the Developer who signed this Certificate. Attached to Attachment E-1 are copies of the contract, invoice or other billing for the CID Eligible Project Costs or which the Developer seeks reimbursement, along with copies of checks, evidence of wire transfers or other evidence of payment by the Developer of such CID Eligible Project Costs and hereby certify that such copies are true and accurate copies of the original documents.

**29 FAIRLAWN, LLC,
a Kansas limited liability company**

By: _____
Name

Title

ATTACHMENT E-1
TO CERTIFICATION OF ELIGIBLE CID PROJECT COSTS
(29 FAIRLAWN, LLC)



CITY OF TOPEKA

FINANCIAL SERVICES
 Nickie Lee
 Director of Finance and Administrative Services
 City Hall, 215 SE 7th Street, Suite 358
 Topeka, KS 66603-3914
 Tel: (785) 368-1653

Community Improvement District Reimbursement Request

Submit requests to: City of Topeka Director of Finance and Administrative Services
 215 SE 7th Street, Suite 358
 Topeka, KS 66603 or fax to: 785-368-3975

Submission Date: _____
City Project Number: _____
Request Number: _____

Please visit the following link for CID policies and procedures:
<https://www.topeka.org/for-businesses/economic-development/community-improvement-districts>
 Reimbursement is contingent upon sales tax revenue received.
 Minimum reimbursement is \$1,000.00.
 Please include supporting documentation (copies of invoices and checks).

Type *	Vendor Name	Invoice #	Invoice Date	Payment Date	Time period of work	Requested Amount
Page 1 Total						\$ -

- * Note**
- | | |
|---------------------------|-----------------------------------|
| 1 = Land Acquisition | 4 = Demolition |
| 2 = Public Infrastructure | 5 = Site Prep |
| 3 = Relocation Costs | 6 = Legal and Third Party Reports |

Please use page 2 for additional items.

Certification: I certify that the above listed costs are eligible CID costs and were incurred as part of the CID project listed above. Costs have not previously been submitted and they reflect actual costs expended. There are also no outstanding or anticipated liens for the work.

Office Use Only:

Finance Approval: _____

Engineering Approval: _____

Signature: _____

Date: _____

Phone number: _____

EXHIBIT F
TIF Certificate of Expenditures

**CERTIFICATION OF EXPENDITURES
WHEATFIELD VILLAGE PROJECT**

Date: _____

Certification # _____

City Clerk of the
City of Topeka, Kansas

In accordance with the Development Agreement for the Wheatfield Development Project dated _____, 2017 (the "Agreement"), between the City of Topeka, Kansas, (the "City"), and 29 FAIRLAWN, LLC, (the "Developer"), the Developer hereby certifies, with respect to all payment amounts requested pursuant to this Certificate to be reimbursed to the Developer, as follows:

1. All amounts are TIF Eligible Project Costs (as defined in the Agreement) that are reimbursable to the Developer pursuant to the Agreement and the TIF Act, (as defined in the Agreement).
2. All amounts have been advanced by the Developer for TIF Eligible Project Costs (as defined in the Agreement) in accordance with the Agreement and represent the fair value of work, materials or expenses.
3. No part of such amounts has been the basis for any previous reimbursement under the Agreement from the Reimbursement Funds or request for reimbursement from the TIF Fund (as defined in the Agreement).
4. All taxes and assessments currently due on any property owned by the Developer in the TIF District have been paid.
5. No uncured Events of Default under the Agreement currently exist.

The Developer further certifies that all insurance policies required to be in force under the Agreement are in full force and effect and that the Developer is in compliance, in all material respects, with all further terms of the Agreement.

The total amount of reimbursement requested by this Certificate is \$_____, which amount is itemized on Attachment F-1 attached hereto and which Attachment F-1 includes _____ page(s), is incorporated herein by reference and has been initialed by the authorized representative of the Developer who signed this Certificate. Attached to Attachment F-1 are copies of the contract, invoice or other billing for the TIF Eligible Project Costs for which the Developer seeks reimbursement, along with copies of checks, evidence of wire transfers or other evidence of payment by the Developer of such TIF Eligible Project Costs and hereby certify that such copies are true and accurate copies of the original documents.

**29 FAIRLAWN, LLC,
a Kansas limited liability company**

By: _____
Name

Title

ATTACHMENT F-1
TO CERTIFICATION OF ELIGIBLE TIF PROJECT COSTS
(29 FAIRLAWN, LLC)

CITY OF TOPEKA



Tax Increment Financing Reimbursement Request

General City Sales Tax

Nickie Lee
 Director of Finance and Administrative Services
 City Hall, 215 SE 7th Street, Suite 358
 Topeka, KS 66603-3914
 Tel: (785) 368-1653
nlee@topeka.org

Submit Requests to Address above.

Reimbursement is contingent upon sales tax revenue received.

Minimum reimbursement is \$1,000.00.

Please include supporting documentation (copies of invoices and checks).

Submission Date:	_____
City Project Number:	_____
Request Number:	_____

Project Cost Breakdown:

	Total	Amount of Draw Request	Budget Remaining
LAND ACQUISITION COSTS			
Land Acquisition	\$ 2,375,000.00		
Total Land Acquisition Costs	\$ 2,375,000.00		

SITework COSTS

Site Work

Demolition	\$384,998	_____
Earthwork	\$1,602,842	_____
Concrete Curb	\$277,400	_____
Asphalt & Concrete Paving	\$1,509,661	_____
Storm Water Management	\$1,117,290	_____
Water & Sanitary Sewer	\$627,250	_____
Street Lighting	\$308,917	_____
Landscape & Irrigation	\$275,000	_____
Electrical, Gas, Telephone Service	\$503,950	_____
Geotech, Erosion Control, Staking, Roadway Signage, Environmental Mitigation	\$543,200	_____
Total Site Costs	\$7,150,508	_____

Fairlawn Road Improvements

Entrance & Signal	\$371,900	_____
Asphalt & Concrete Paving	\$133,770	_____
Storm Water Management	\$58,730	_____
Street Lighting	\$37,000	_____
Geotech / Materials Testing	\$30,000	_____
Earthwork Roadway Only	\$21,333	_____
Concrete Curb	\$13,300	_____
Roadway Demo, Utility Demo, Staking, Traffic Control, Erosion Control, Mobilization	\$70,200	_____
Total Fairlawn Costs	\$736,233	_____

29th Street Roadway Improvements

Entrance & Signal	\$2,000	_____
Utility Relocation	\$20,000	_____
Asphalt & Concrete Paving	\$118,000	_____
Storm Water Management	\$25,000	_____
Street Signage and Striping	\$3,000	_____

Geotech / Materials Testing	\$20,000	
Earthwork Roadway Only	\$25,750	
Concrete Curb	\$17,500	
Retaining Walls	\$110,000	
Roadway Demo, Utility		
Demo, Staking, Traffic		
Control, Erosion Control,		
Mobilization	\$35,000	
Total 29th St Costs	\$376,250	
Interest Carry on Site Work	\$1,197,307	
Contingency	\$662,221	
Site Monuments and Features	\$150,000	
Total Sitework Costs	\$10,272,519	
BUILDING COSTS		
Parking Deck for Multi Family	\$5,940,000	
Construction Interest Carry	\$860,706	
Contingency	\$476,049	
Total Building Costs	\$7,276,755	
SOFT COSTS		
<i>Site Work A&E</i>		
Survey	\$5,000	
Preliminary Plat / Preliminary Development Plan	\$10,000	
Final Plan / Plat	\$5,000	
Sanitary Sewer & Storm Water Detention	\$50,000	
Public Improvements & Access Ways	\$175,000	
Civil Construction Plans	\$65,000	
29th Street Roadway Design and Inspection	\$112,500	
Design and Construction Administration	\$300,000	
Development Fee (3.00%)	\$2,715,228	
Total Professional Fees	\$3,437,728	
<i>Legal</i>		
Gneral Legal	\$50,000	
TIF and CID Legal Fees	\$100,000	
Lease Commissions	\$621,753	
Legal Subtotal	\$771,753	
<i>Site Permit/Fees</i>		
Site Plan review fee	\$5,000	
Civil Engineering review fee	\$7,500	
Miscellaneous Fees	\$10,000	
Site Permit/Fees Subtotal	\$22,500	
Total Soft Costs	\$4,231,981	
TOTAL REIMBURSEABLE PROJECT COSTS	\$ 24,156,255.00	
TOTAL AMOUNT FOR THIS REQUEST		

EXHIBIT G
Half-Cent City Sales Tax Certificate of Expenditures

**CERTIFICATION OF EXPENDITURES
WHEATFIELD VILLAGE PROJECT**

Date: _____

Certification # _____

City Clerk of the
City of Topeka, Kansas

In accordance with the Development Agreement for the Wheatfield Development Project dated _____, 2017 (the "Agreement"), between the City of Topeka, Kansas, (the "City"), and 29 FAIRLAWN, LLC, (the "Developer"), the Developer hereby certifies, with respect to all payment amounts requested pursuant to this Certificate to be reimbursed to the Developer, as follows:

1. All amounts are Half-Cent Eligible Project Costs (as defined in the Agreement) that are reimbursable to the Developer pursuant to the Agreement.
- 2 All amounts have been advanced by the Developer for Half-Cent Eligible Project Costs (as defined in the Agreement) in accordance with the Agreement and represent the fair value of work, materials or expenses.
3. No part of such amounts has been the basis for any previous reimbursement under the Agreement from the Reimbursement Funds or request for reimbursement from the Half-Cent City Sales Tax Subaccount (as defined in the Agreement).
4. No uncured Events of Default under the Agreement currently exist.

The Developer further certifies that all insurance policies required to be in force under the Agreement are in full force and effect and that the Developer is in compliance, in all material respects, with all further terms of the Agreement.

The total amount of reimbursement requested by this Certificate is \$_____, which amount is itemized on Attachment G-1 attached hereto and which Attachment G-1 includes _____ page(s), is incorporated herein by reference and has been initialed by the authorized representative of the Developer who signed this Certificate. Attached to Attachment G-1 are copies of the contract, invoice or other billing for the Half-Cent Eligible Project Costs for which the Developer seeks reimbursement, along with copies of checks, evidence of wire transfers or other evidence of payment by the Developer of such Half-Cent Eligible Project Costs and hereby certify that such copies are true and accurate copies of the original documents.

**29 FAIRLAWN, LLC,
a Kansas limited liability company**

By: _____
Name

Title

ATTACHMENT G-1
TO CERTIFICATION OF ELIGIBLE PROJECT COSTS
(29 FAIRLAWN, LLC)

CITY OF TOPEKA



Tax Increment Financing Reimbursement Request

Half-Cent Citywide Sales Tax

Nickie Lee

Director of Finance and Administrative Services

City Hall, 215 SE 7th Street, Suite 358

Topeka, KS 66603-3914

Tel: (785) 368-1653

nlee@topeka.org

Submission Date:	_____
City Project Number:	_____
Request Number:	_____

Submit Requests to Address above.

Reimbursement is contingent upon sales tax revenue received.

Minimum reimbursement is \$1,000.00.

Please include supporting documentation (copies of invoices and checks).

Project Cost Breakdown:

	Total	Amount of Draw Request	Budget Remaining
SITWORK COSTS			
<i>Fairlawn Road Improvements</i>			
Entrance & Signal	\$371,900	_____	_____
Asphalt & Concrete Paving	\$133,770	_____	_____
Storm Water Management	\$58,730	_____	_____
Street Lighting	\$37,000	_____	_____
Geotech / Materials Testing	\$30,000	_____	_____
Earthwork Roadway Only	\$21,333	_____	_____
Concrete Curb	\$13,300	_____	_____
Roadway Demo, Utility			
Demo, Staking, Traffic			
Control, Erosion Control,			
Mobilization	\$70,200	_____	_____
<i>Total Fairlawn Costs</i>	<i>\$736,233</i>	_____	_____
<i>29th Street Roadway Improvements</i>			
Entrance & Signal	\$2,000	_____	_____
Utility Relocation	\$20,000	_____	_____
Asphalt & Concrete Paving	\$118,000	_____	_____
Storm Water Management	\$25,000	_____	_____
Street Signage and Striping	\$3,000	_____	_____
Geotech / Materials Testing	\$20,000	_____	_____
Earthwork Roadway Only	\$25,750	_____	_____
Concrete Curb	\$17,500	_____	_____
Retaining Walls	\$110,000	_____	_____
Roadway Demo, Utility			
Demo, Staking, Traffic			
Control, Erosion Control,			
Mobilization	\$35,000	_____	_____
<i>Total 29th St Costs</i>	<i>\$376,250</i>	_____	_____
<i>Interest Carry on Site Work</i>	<i>\$161,199</i>	_____	_____
<i>Contingency</i>	<i>\$89,158</i>	_____	_____
Total Sitework Costs	\$1,362,840	_____	_____
SOFT COSTS			
<i>Site Work A&E</i>			
Public Improvements & Access Ways	\$175,000	_____	_____
29th Street Roadway Design and Inspection	\$112,500	_____	_____
<i>Total Professional Fees</i>	<i>\$287,500</i>	_____	_____
<i>Site Permit/Fees</i>			
Civil Engineering review fee	\$7,500	_____	_____
<i>Site Permit/Fees Subtotal</i>	<i>\$7,500</i>	_____	_____
Total Soft Costs	\$295,000	_____	_____
TOTAL REIMBURSEABLE PROJECT COSTS	\$1,657,840	_____	_____

TOTAL AMOUNT FOR THIS REQUEST _____

EXHIBIT H
TIF Project Costs
(including CID Eligible Project Costs, TIF Eligible Project Costs, and Half-Cent Eligible Project Costs)

					TOTAL PROJECT COST	TIF ELIGIBLE EXPENSES	CID ELIGIBLE EXPENSES	HALF-CENT SALES TAX ELIGIBLE EXPENSES		
Land Acquisition										
	Land Acquisition				\$2,375,000	\$2,375,000	\$2,375,000	\$0		
Land Acquisition Subtotal					\$2,375,000	\$2,375,000	\$2,375,000	\$0		
Sitework										
	Site Work Improvements									
	Demolition				\$384,998	\$384,998	\$384,998	\$0		
	Earthwork				\$1,602,842	\$1,602,842	\$1,602,842	\$0		
	Concrete Curb				\$277,400	\$277,400	\$277,400	\$0		
	Asphalt & Concrete Paving				\$1,509,661	\$1,509,661	\$1,509,661	\$0		
	Storm Water Management				\$1,117,290	\$1,117,290	\$1,117,290	\$0		
	Water & Sanitary Sewer				\$627,250	\$627,250	\$627,250	\$0		
	Street Lighting				\$308,917	\$308,917	\$308,917	\$0		
	Landscape & Irrigation				\$275,000	\$275,000	\$275,000	\$0		
	Electrical, Gas, Telephone Service				\$503,950	\$503,950	\$503,950	\$0		
	Geotech, Erosion Control, Staking, Roadway Signage, Environmental Mitigation				\$543,200	\$543,200	\$543,200	\$0		
	Subtotal				\$7,150,508					
	Fairlawn Roadway Improvements									
	Entrance & Signal				\$371,900	\$371,900	\$371,900	\$371,900		
	Asphalt & Concrete Paving				\$133,770	\$133,770	\$133,770	\$133,770		
	Storm Water Management				\$58,730	\$58,730	\$58,730	\$58,730		
	Street Lighting				\$37,000	\$37,000	\$37,000	\$37,000		
	Geotech / Materials Testing				\$30,000	\$30,000	\$30,000	\$30,000		
	Earthwork Roadway Only				\$21,333	\$21,333	\$21,333	\$21,333		
	Concrete Curb				\$13,300	\$13,300	\$13,300	\$13,300		
	Roadway Demo, Utility Demo, Staking, Traffic Control, Erosion Control, Mobilization				\$70,200	\$70,200	\$70,200	\$70,200		
	Subtotal				\$736,233					
	29th Street Roadway Improvements									
	Entrance & Signal				\$2,000	\$2,000	\$2,000	\$2,000		
	Utility Relocation				\$20,000	\$20,000	\$20,000	\$20,000		
	Asphalt & Concrete Paving				\$118,000	\$118,000	\$118,000	\$118,000		
	Storm Water Management				\$25,000	\$25,000	\$25,000	\$25,000		
	Street Signage and Striping				\$3,000	\$3,000	\$3,000	\$3,000		
	Geotech / Materials Testing				\$20,000	\$20,000	\$20,000	\$20,000		
	Earthwork Roadway Only				\$25,750	\$25,750	\$25,750	\$25,750		
	Concrete Curb				\$17,500	\$17,500	\$17,500	\$17,500		
	Retaining Walls				\$110,000	\$110,000	\$110,000	\$110,000		
	Roadway Demo, Staking, Traffic Control, Erosion Control, Mobilization				\$35,000	\$35,000	\$35,000	\$35,000		
	Subtotal				\$376,250					
	Interest Carry on Site Work (24 months; Interest Only; 7.00%)				\$1,197,307	\$1,197,307	\$1,197,307	\$161,199		
	Contingency				\$662,221	\$662,221	\$662,221	\$89,158		
	Site Work Subtotal				\$10,122,519	\$10,122,519	\$10,122,519	\$1,362,840		
	Site Monuments And Features									
	Pylon Signs				\$150,000	\$150,000	\$150,000	\$0		
	Site Monuments Subtotal				\$150,000	\$150,000	\$150,000	\$0		
Building										
	Building Improvements (Permits, Water & Sewer Tap Fee)									
	Multi-Family				Cost per Door	\$180,000	\$176	Number of Doors	\$31,680,000	\$0
	Parking Deck for Multi-Family				Cost per Stall	\$22,500	\$2	Stalls per Door	\$5,940,000	\$5,940,000
	Building 1: Hotel				Cost per Door	\$140,000	\$88	Number of Doors	\$12,320,000	\$0
	Building 3: Restaurant				Cost per SF	\$215	\$3,500	Square Feet	\$752,500	\$0
	Building 3: Coffee Shop				Cost per SF	\$215	\$1,600	Square Feet	\$344,000	\$0
	Building 4: Restaurant				Cost per SF	\$165	\$7,375	Square Feet	\$1,216,875	\$0
	Building 5: Movie Theater				Cost per SF	\$205	\$34,355	Square Feet	\$7,042,775	\$0
	Tenant Improvement Allowance									
	Building 3: Restaurant				Cost per SF	\$50	\$3,500	Square Feet	\$175,000	\$0
	Building 3: Coffee Shop				Cost per SF	\$40	\$1,600	Square Feet	\$64,000	\$0
	Building 4: Restaurant				Cost per SF	\$50	\$7,375	Square Feet	\$368,750	\$0
	Building 5: Movie Theater				Cost per SF	\$50	\$34,355	Square Feet	\$1,717,750	\$0
						\$46,830		Square Feet		
	Construction Interest Carry - Multi-Family & Parking Deck (24 months; Interest Only; 7.00%)					\$5,451,138		\$860,706	\$5,451,138	\$0
	Construction Interest Carry - Buildings 1-6 (24 months; Interest Only; 7.00%)					\$3,140,874		\$0	\$3,140,874	\$0
	Contingency					\$4,752,171		\$476,049	\$4,752,171	\$0
	Building Improvement Subtotal					\$74,965,833		\$7,276,755	\$74,965,833	\$0
	Soft Costs									
		Site Work A&E - Construction Management								
		Survey					\$5,000	\$5,000	\$5,000	\$0
		Preliminary Plat / Preliminary Development Plan					\$10,000	\$10,000	\$10,000	\$0
		Final Plan / Plat					\$5,000	\$5,000	\$5,000	\$0
		Sanitary Sewer & Storm Water Detention					\$50,000	\$50,000	\$50,000	\$0
Public Improvements & Access Ways					\$175,000	\$175,000	\$175,000	\$175,000		
Civil Construction Plans					\$65,000	\$65,000	\$65,000	\$0		
29th Street Roadway Design and Inspection					\$112,500	\$112,500	\$112,500	\$112,500		
A&E: Buildings 1-6					\$875,000	\$0	\$875,000	\$0		
A&E: Multi-Family					\$500,000	\$0	\$500,000	\$0		
Design and Construction Administration					\$300,000	\$300,000	\$300,000	\$0		
Development Fee (3.00%)					\$2,715,228	\$2,715,228	\$2,715,228	\$0		
A&E / Development Fee Subtotal					\$4,812,728	\$3,437,728	\$4,812,728	\$287,500		
Legal										
General Legal					\$50,000	\$50,000	\$50,000	\$0		
TIF and CID Legal Fees					\$100,000	\$100,000	\$100,000	\$0		
Lease Commissions					\$621,753	\$621,753	\$621,753	\$0		
Legal Subtotal					\$771,753	\$771,753	\$771,753	\$0		
Site Permit / Fees										
Site Plan review fee					\$5,000	\$5,000	\$5,000	\$0		
Civil Engineering review fee					\$7,500	\$7,500	\$7,500	\$7,500		
Master Comprehensive Signage Plan Package (estimated review & fee)					\$2,500	\$0	\$2,500	\$0		
Miscellaneous Fees					\$10,000	\$10,000	\$10,000	\$0		
Permit / Fees Subtotal					\$25,000	\$22,500	\$25,000	\$7,500		
Total Project Cost					\$93,222,834	\$24,156,256	\$93,222,834	\$1,657,840		
Note 1: All certified eligible costs will be subject to 5.50% interest as additional reimbursement as provided in the Development Agreement. Note 2: The amount for any given line item shall not act as a cap on the reimbursable amount for such line item from Public Finance Proceeds nor a requirement to spend a specific amount for a particular line item, but rather all Project Costs eligible to be reimbursed from Public Finance Proceeds pursuant to Kansas statutes may be reimbursed pursuant to the terms of the Development Agreement.										

EXHIBIT I
TIF Project Plan

**TAX INCREMENT FINANCING
REDEVELOPMENT PROJECT PLAN
(WHEATFIELD VILLAGE REDEVELOPMENT PROJECT)**

The Tax Increment Financing Act, K.S.A. 12-1770, et seq., as amended (the “**TIF Act**”), permits the City of Topeka, Kansas (the “**City**”) to undertake one or more redevelopment projects within an established redevelopment district. In order to pursue such redevelopment projects, the City is obligated to create, in consultation with the City’s Planning Commission, a “project plan.”

At the request of 29 Fairlawn, LLC (the “**Developer**”), developer of the Wheatfield Village Redevelopment Project (the “**Development**”), the City presents the following information as required by the TIF Act related to the project plan for the Development (“**Redevelopment Project Plan**”). Except as otherwise noted herein, the information included in this Redevelopment Project Plan was submitted by the Developer.

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I.	INTRODUCTION	1
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	A) Description of the TIF District and Project Area.....	1
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	D) Feasibility Study	4
	E) Relocation Plan	5
	Exhibit A-1 – TIF District Legal Description	
	Exhibit A-2 – TIF District Boundary Map	
	Exhibit B-1 – Project Area 1 Legal Description	
	Exhibit B-2 – Project Area 1 Boundary Map	

I. INTRODUCTION

The subject of this project plan, as defined by the TIF Act (as hereinafter defined) is the initial project area of the Wheatfield Village mixed-use development (the “**Development**”) located in the northwest corner of Southwest 29th Street and Fairlawn Road in Topeka, Kansas (the “**City**”). The Development will be constructed by 29 Fairlawn, LLC (the “**Developer**”), a special-purpose entity affiliated with Midwest Health, Inc. and led by its principals Jim Klausman and Floyd Eaton. The Development spans approximately 15 acres in total, including rights-of-way, and is planned to include approximately 13 acres of multi-family, restaurant, movie theater and hotel uses, plus infrastructure and site improvements. The Development is planned to transform a highly visible and long-deteriorating site bordering I-470 into a vibrant mixed-use setting currently unavailable within the City.

Pursuant to the Kansas Tax Increment Financing Act, K.S.A. 12-1770 et seq., as amended (the “**TIF Act**”), Kansas municipalities are authorized to establish redevelopment districts and redevelopment project plans for property within their jurisdiction. Redevelopment districts may be created based upon certain findings by the municipality, including that property within a proposed district is an “eligible area” pursuant to the TIF Act.

On June 26, 2017, the City, after conducting a duly noticed public hearing, found that the property within the boundaries described in **Exhibit A-1** and depicted in **Exhibit A-2** hereto qualifies as a “conservation area” and is therefore an “eligible area” pursuant to the TIF Act. Based in part upon said finding, the City adopted Ordinance No. 20072 creating a redevelopment district encompassing the subject property (the “**TIF District**”) and approving a plan for redevelopment of the TIF District established under K.S.A. 12-1771 and amendments thereto (the “**District Plan**” as further described herein).

This redevelopment project plan (the “**Redevelopment Project Plan**”) for the first redevelopment project area established within the TIF District (“**Redevelopment Project Area 1**”) is presented to the City for its consideration and approval, with the maximum twenty (20) year term of the Redevelopment Project Plan to commence upon the effective date as specified in the ordinance adopting this Redevelopment Project Plan. The boundaries of Redevelopment Project Area 1 are legally described in **Exhibit B-1** and generally depicted in **Exhibit B-2** attached hereto.

II. THE PROJECT PLAN

A. Description of the TIF District

The property comprising the TIF District consists of approximately 15 acres generally located in the northwest and northeast quadrants of Southwest 29th Street and Fairlawn Road within the City, plus right-of-way also included within the TIF District boundaries. A legal description and boundary map of the TIF District are attached hereto as **Exhibits A-1** and **A-2**, respectively.

B. Established TIF District

Redevelopment Project Area 1 is located within an established TIF District approved by the City on June 26, 2017 pursuant to Ordinance No. 20072. The approved District Plan contained within the Ordinance provides for certain redevelopment projects within the TIF District:

The District shall consist of one (1) or more redevelopment project areas, which are anticipated to include a mix of uses including retail, restaurant, and other commercial uses and residential uses with associated amenities, along with associated infrastructure including but not limited to structured and/or surface parking, landscaping, lighting, utilities, storm water improvements, sidewalks/walkways, streets/drives, ingress/egress improvements, green space, signalization and other infrastructure improvements.

C. Redevelopment Project

This Project Plan proposes the use of tax increment financing revenues generated by Redevelopment Project Area 1 (“**TIF Revenues**”) to pay for or reimburse the costs of a redevelopment project as generally described in the District Plan (the “**Redevelopment Project**” or “**Project**”). Consistent with the approved District Plan, the following Redevelopment Project Plan for the Redevelopment Project is anticipated to include a mix of commercial and residential uses including:

Residential

A multi-story 150-180 unit, upscale, market rate apartment complex “wrapped” around a parking garage.

Movie Theater

A seven to nine-screen, state-of-the-art movie theater with bar and food service.

Hotel

A multi-story 70 to 90-room hotel with a national flag.

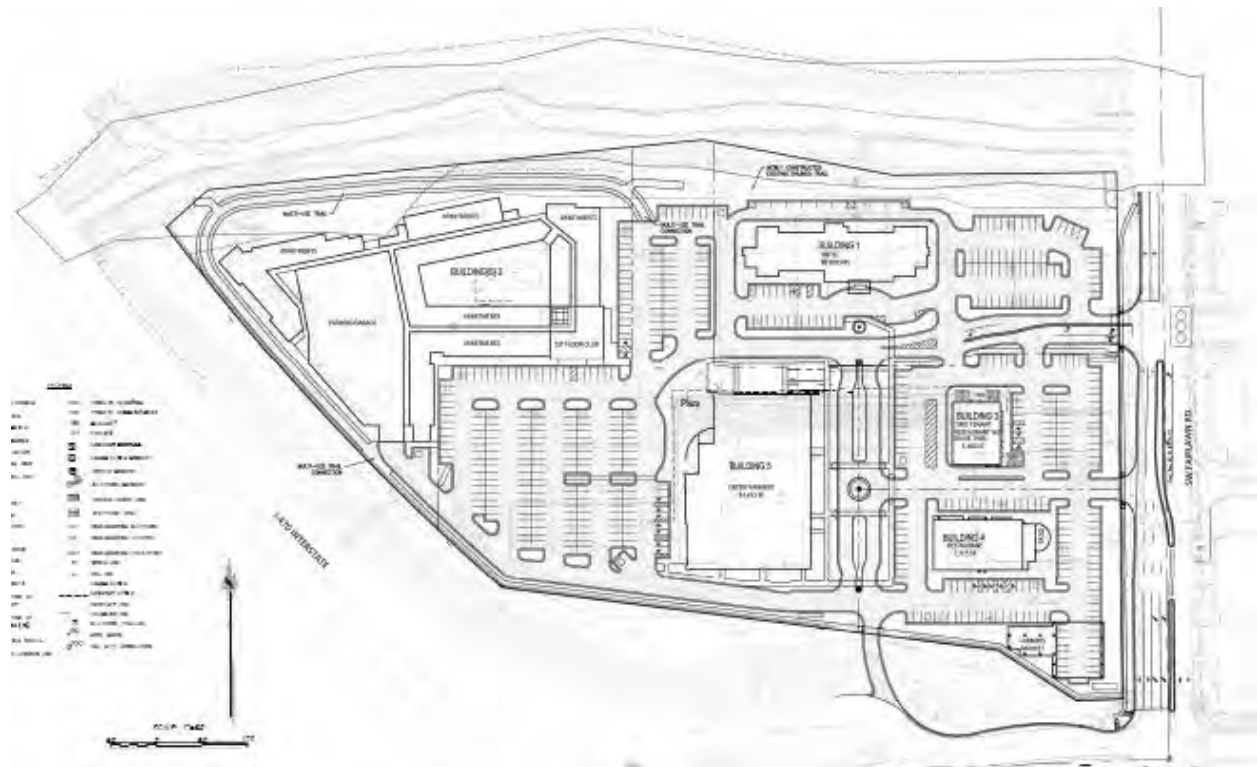
Restaurants

A family dining restaurant at the southeast corner of the site and a fast food restaurant building with two tenants, and including one operating a drive-through window at east end of the site.

Related Costs

Related costs include property acquisition, site preparation (including demolition of existing structures), the construction of infrastructure including a multi-story parking deck associated with the residential component and the development of open space at the southeast corner of the site which is anticipated to include a small “farmers’ market” concept.

The current site plan depicting the Development, which may be amended as approved by the City from time to time, is as follows:



In addition to TIF Revenue, the Developer plans separately to petition the City for the creation of a community improvement district (“**CID**”) and to request that Shawnee County issue industrial revenue bonds (“**IRBs**”) for the purpose of providing the Project with a sales tax exemption on construction labor and materials.

The Developer expects that the Project contemplated in the Redevelopment Project Plan will produce a significant economic impact for the City by redeveloping a significantly deteriorated and highly visible site fronting I-470, remediating blighting conditions and economic obsolescence within Project site, enhancing existing businesses and attracting new businesses within the vicinity of the Redevelopment Project Area, and spurring increased commerce, employment, and general improvement within the Redevelopment Project Area.

The Developer anticipates that redevelopment of the Redevelopment Project Area will attract visitation to the Project site from members of the City community and from visitors outside the City because of the location of the Redevelopment Project Area adjacent to a major interstate. As described in the Traffic Study prepared in connection with the Planned Unit Development plan for the Project, the Project will include construction of improvements to Fairlawn Road and Southwest 29th Street to service traffic generated by the Project (the “**Traffic Improvements**”). In connection with the proposed Traffic Improvements, the Developer and the City have requested a break in access from 29th Street to an on-ramp leading to I-470. The

Traffic Study describes the Traffic Improvements to 29th Street that will be constructed as part of the Project (a) in the event the break in access request is approved by the Federal Highway Administration and (b) in the event the break in access request is denied by the Federal Highway Administration. Although the scope of the Traffic Improvements to 29th Street differs depending upon whether the break in access request is approved or denied by the Kansas Department of Transportation and the Federal Highway Administration, the Traffic Study establishes that the scope of improvements in each circumstance adequately accounts for the traffic anticipated to be generated by the Project as quantified in the Traffic Study.

D. Feasibility Study

The table below summarizes the Project's expected sources and uses of funds:



CITY OF TOPEKA
Wheatfield Village Redevelopment District
Sources and Uses of Funds

SOURCES OF FUNDS	TOTAL
Developer Loans	65,255,984
Developer Equity	27,966,850
TOTAL SOURCES	93,222,834
USES OF FUNDS	
Land Acquisition	2,375,000
Site Work Improvements	7,150,508
Fairlawn Improvements	736,233
29th Street Improvements	376,250
Site Monuments/Features	150,000
Multi-Family Building	31,680,000
Parking Deck/MF Building	5,940,000
Hotel	12,320,000
Fast Casual Restaurant	927,500
Coffee Shop	408,000
Sit Down Restaurant	1,585,625
Movie Theater	8,760,525
Design/Const Mgt	4,812,728
Legal/Lease Concessions	771,753
Site Permit/Fees	25,000
Construction Interest	9,789,320
Contingency	5,414,392
TOTAL USES	93,222,834

The Developer requests a “pay-as-you-go” method for implementing the TIF. As a result, no TIF Revenues will be available to the Developer at financial close on the Project by virtue of the issuance of bonds. Instead, as the Project generates TIF Revenues, the City will reimburse the Developer for actual, eligible Project costs certified by the Developer to the City. The Developer expects reimbursements from the proceeds of the CID, if approved by the City, to work similarly. The Developer may also benefit from a sales tax exemption on construction materials resulting from the IRB issue it has requested be issued by Shawnee County.

The City's obligation to reimburse the Developer for TIF-eligible Project costs will be detailed by a redevelopment agreement to be entered into by and between the City and the Developer concurrently with the Topeka City Council's approval of this Redevelopment Project Plan.

The Developer represents that it is able to secure the private financing required to bridge the availability of TIF Revenues and CID proceeds and that it has the resources necessary to make the required equity contributions necessary to complete the Project, as shown in the sources and uses above. The Developer further represents that, based upon the advice of its architects, engineers and contractors, the construction costs projected for the Project are reasonable.

Based upon the foregoing, the Project's benefits and TIF Revenues and other available revenues are expected to exceed or be sufficient to pay for the costs of the Project. Further, there are no special obligation bonds outstanding relying on revenues described K.S.A. 12-1774(a)(1)(D).

E. Relocation Plan

In the event the City acquires any real property within the Redevelopment Project Area in carrying out the provisions of the TIF Act, and that, as a result, any persons, families and businesses move from real property located in the Redevelopment Project Area or move personal property from real property located in the Redevelopment Project Area, a \$500 payment will be made to such persons, families and businesses as provided in the TIF Act. No persons or families reside in the TIF District and thus no such persons shall be displaced nor require suitable alternate housing. Any retailers, as defined in K.S.A. 79-3702, which are or have been located within the TIF District and which will move or have moved from the TIF District will or have moved on their own accord pursuant to arm's-length transactions with the Developer and thus no payment of damages for liquidation of inventories shall be required to be made to such parties.

[No further text on this page.]

EXHIBIT A-1

TIF DISTRICT LEGAL DESCRIPTION

WHEATFIELD VILLAGE

Project 14-5195
Revised June 21, 2017

DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10 at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the North line of said Shunga Plaza Subdivision a distance of 261.00 feet more or less, to a point 50-feet easterly of the West line of Lot 2, Block D of said Shunga Plaza Subdivision; thence South on a line parallel with and 50-feet easterly of the West line of said Lot 2, Block D a distance of 226.45 feet more or less, to the center of Southwest 28th Street as shown on the Plat of said Shunga Plaza Subdivision; thence West on the center of said Southwest 28th Street a distance of 50.08 feet, more or less to the East lines of Lots 5 and 6, Block B, Shunga Plaza Subdivision extended; thence South on the East lines of Lots 5 and 6, Block B of said Shunga Plaza Subdivision a distance of 174.97 feet more or less; thence West on the North line of Lot 2, Block A, Butler Plaza Subdivision No.2, a distance of 134.94 feet; thence Northwesterly, continuing on said North line a distance of 18.31 feet to the West line of said Lot 2; thence South on the West line of said Lot 2 and Lot 1, Block A and the extension thereof, said line also being the East Right of Way line of Southwest Fairlawn Road, a distance of 207.79 feet to the Northwest corner of Lot 1, Block A, Phillips 66 Subdivision No.2; thence East on the North line of said Lot 1, Block A Phillips 66 Subdivision No.2, a distance of 150.00 feet; thence South on the East line of said Lot 1, Block A, of Phillips 66 Subdivision No.2 and its extension thereof a distance of 180 feet more or less to the South curb line of Southwest 29th Street; thence Westerly and Southwesterly on said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

TIF DISTRICT BOUNDARY MAP



EXHIBIT B-1

PROJECT AREA 1 LEGAL DESCRIPTION



WHEATFIELD VILLAGE

Project 14-5195
July 26, 2017

TIF PROJECT AREA 1 BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10, at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the extension of the North line of said Shunga Plaza Subdivision to the East Right of Way line of Southwest Fairlawn Road; thence Southerly on said East Right of Way line to the intersection with the North Right of Way line of Southwest 29th Street; thence Easterly on the North Right of Way of Southwest 29th Street a distance of 150 feet more or less; thence Southerly to a point 20 feet South of the South curb line of Southwest 29th Street; thence Westerly and Southwesterly parallel with said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

2930 SW Woodside Drive | Topeka, KS 66614 | 785.272.4706 | 785.272.4736 fax

EXHIBIT B-2

PROJECT AREA 1 BOUNDARY MAP

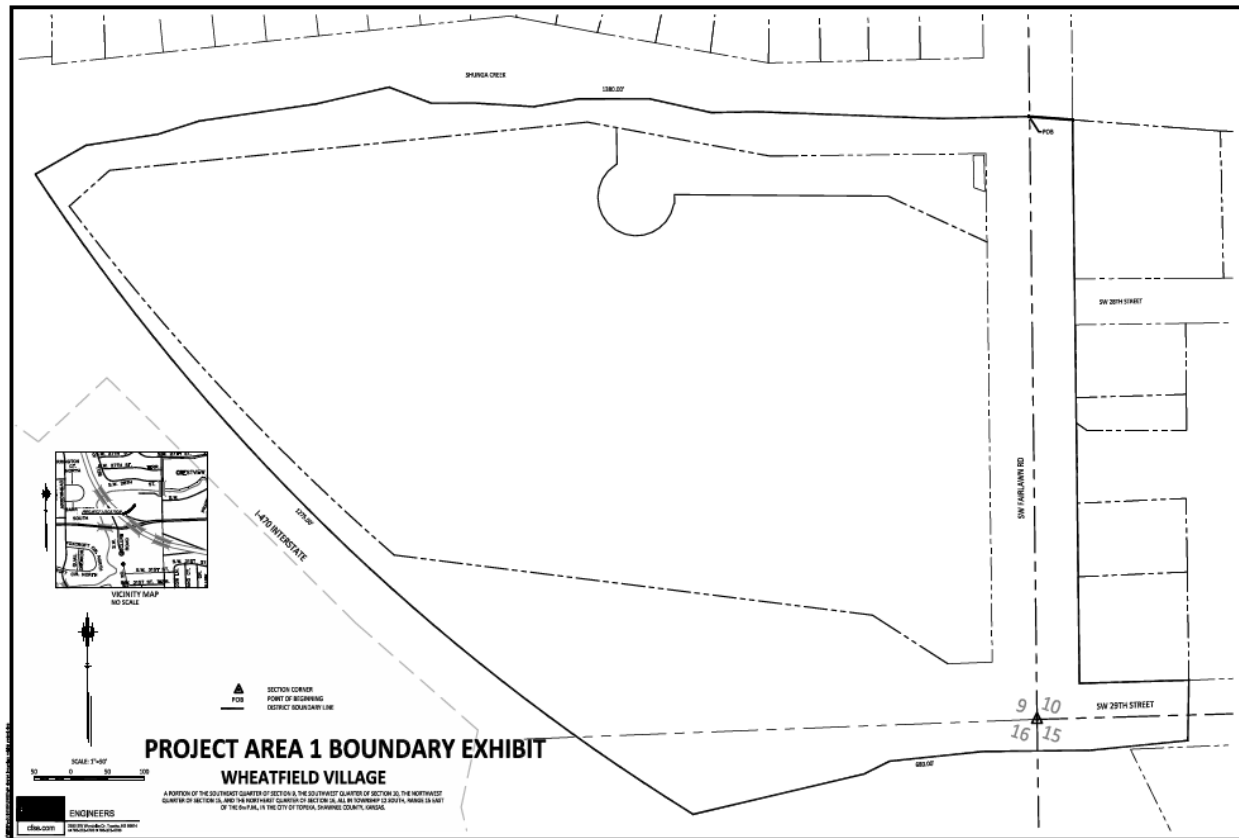


EXHIBIT J
Prohibited Tenants/End Users

Adult entertainment
Adult bookstore
Arcade*
Body piercing, other than ears
Car repair
Car wash***
Cellular or other telecommunications towers or facilities which are not stealth or fully integrated
Day care*
Mobile home park
Mobile home sales
Pawn shop
Pay-day loan services
Permanent rooftop signage, except for any signage approved by the City**
Satellite dishes that are not fully integrated
Tattoo parlor

* This land use may be allowed as an accessory use if approved pursuant to City approval and such use is a subordinate use that is customarily and incidentally associated with the primary use, is located entirely within the structure of a primary use, and is not visible from and cannot be directly accessed from the exterior of the structure that contains the primary use.

** Temporary roof top signage may be allowed pursuant to the Topeka Municipal Code.

*** Unless such use is incidental to the operation of an automobile sales facility or a convenience store.



City of Topeka, Kansas

Wheatfield Village Tax Increment Financing District
Project Plan #1

Financial Analysis | October 2017





Columbia Capital Management, LLC
6330 Lamar Avenue, Suite 200
Overland Park, Kansas 66202
913.312.8077

Jeff White
Principal
jwhite@columbiacapital.com

Columbia Capital is an SEC-registered investment adviser and a registered municipal advisor. Columbia Capital provides advice as a fiduciary to its clients.



INTRODUCTION

29 Fairlawn, LLC, a single purpose limited liability company listing Floyd C. Eaton, Jr. and Jim Klausman, as its only members with more than five (5) percent ownership (the “Developer”), originally submitted its “Tax Increment Financing Redevelopment Project Plan (Wheatfield Village Redevelopment Project)” dated July 14, 2007 (the “Plan”) to the City of Topeka, Kansas (the “City”) for consideration. The Plan would be constructed in the Wheatfield Village Tax Increment Financing District, created by the City on June 26, 2017, located substantially in the northwest corner of the intersection of Fairlawn and 29th in Topeka (the “District”) and would result in the construction of a mixed-use development on approximately 13 acres including hotel, restaurant, movie theater and multi-family uses (as more fully defined below, the “Project”). The Developer is constituted as a Kansas limited liability company in good standing as of October 10, 2017, according to the records of the Kansas Secretary of State.

The purpose of this financial analysis (the “Analysis”) is to satisfy the requirements of Kansas statutes related to the development of tax increment financing district (KSA 12-1770 *et seq.*), specifically the requirement found at KSA 12-1772(a)(1).

Tax increment financing (TIF) is a tool that allows a city to identify a defined geographic area within which certain taxes, including *ad valorem* property taxes, sales taxes and other revenues, may be captured for a period of limited duration and redirected to the payment or reimbursement of certain eligible project costs.

In Kansas, TIF is limited to a 20-year duration from the effective date of a project plan, capturing incremental property taxes (i.e., those net new taxes created by the development above base year levels) plus other taxes pledged by the City for capture at its discretion, including but not limited to sales taxes and other locally-levied taxes and fees.

The Plan contemplates the capture of 100% of incremental *ad valorem* property taxes for the full 20 years permitted by statute. It also contemplates the capture of 100% of the City’s general one (1) percent sales and use tax on incremental taxable retail sales at the Project, as

well as the City's one-half percent sales and use tax dedicated for street repairs and maintenance, if such tax is renewed by the voters.

In addition to the TIF benefits contemplated by the Plan, the Developer has petitioned the City for a two (2) percent incremental sales tax overlay for 22 years following the effective date using the statutory community improvement district (CID) mechanism. Additionally, Shawnee County has approved a resolution of intent provide the Project with a sales tax exemption on construction labor and materials through the statutory industrial revenue bond mechanism. We estimate the value of that exemption to be between \$2.5 and \$3.0 million based upon our experience with a similar exemption awarded to another recent large scale, mixed-use development in Kansas.

The Developer reports a \$93.2 million total development cost budget for the Project with the Project being fully open for operations by 2022.

RELATIONSHIPS

Columbia Capital Management, LLC (the "Financial Advisor") is a registered municipal advisor and serves as the City's financial advisor. The City engaged the Financial Advisor to provide a financial evaluation of the Plan and to make certain statutory findings. The Financial Advisor is not now, nor has ever been, engaged by the Developer or its related entities to provide it with similar services.

The Financial Advisor serves as a fiduciary to the City. The reader's interests may vary from those of the City's.

RELIANCE

This Analysis is not a projection of the likelihood of success of the project proposed in the Plan and as described more fully herein. In preparing this analysis, the Financial Advisor relied upon certain data and information supplied to it by the Developer, contained both in the Plan, delivered to the City and provided to it separately. The Developer provided some of such information to us under the protection of a non-disclosure agreement (NDA). The NDA provides an exemption for information required to be disclosed for the purposes of this Analysis and the Developer had an opportunity to review this report prior to its release to ensure no confidential information was disclosed.

Except where noted herein, the Financial Advisor has relied upon this data and information without independently verifying the veracity or reliability of such information. The Analysis may not be used, except in the context of the City of Topeka's review of the Developer's request for TIF and CID incentives. The Analysis assumes all components of the Project are developed as described herein.

As with any work of this kind, the Analysis is almost exclusively forward-looking. The reader should note that small changes in modeling inputs could have significant impacts on modeled financial outcomes. The reader must consider this Analysis in light of contractual arrangements that the City would expect to undertake with the Developer to formalize the development components of the Plan and their anticipated timing for completion.

THE PROJECT

As disclosed in local media and to the City Council prior to formal delivery of the Plan to the City, the Developer presented the following land uses in the Project to the Topeka Planning Commission:

Residential. A four-story, market-rate, multi-family rental residential complex consisting of approximately 178 units. The residential complex will be constructed in the northwest corner of the site, in part, on top of a multi-story parking deck. The Developer advises it expects its rents to be at or near the upper end of the Topeka market.

Movie Theater. A nine-screen, B&B Theaters branded movie theater with approximately 690 seats, focusing on first-run movies and featuring state-of-the-art technology. At approximately 34,000 sq ft, the theater is located in the south central portion of the site.

Hotel. A four-story, 88-room Marriott TownSuites hotel near the northeast corner of the site (approximately 134,000 sq ft). Marriott considers its TownSuites brand to be a mid-priced, extended stay offering, competing with Candlewood Suites (InterContinental), Home2 Suites (Hilton), and Hawthorne Suites (Wyndham).

Restaurants. Two restaurant buildings anticipated to contain a Spin Neapolitan Pizza, a Johnny's Tavern and a PT's Coffee, all totaling approximately 12,000 sq ft.

Related Costs. Related costs include property acquisition, site preparation (including demolition of existing structures), the construction of infrastructure including a multi-story parking deck and improvements to public streets, and the development of a small "farmers' market" open space at the southeast corner of the site.

We understand that the Developer's current intent is to own all phases of the Project. The Developer plans to enter into operating arrangements for the theater and hotel and, potentially, the apartments. Subject to the NDA, the Developer provided us with evidence interest for the retail spaces, in the form of draft leases or leasing letters of intent (LOIs), and evidence of interest from potential operating partners in the form of letters of support. The Developer also provided us with access to third-party market studies where applicable.

DEVELOPMENT BUDGET AND PROJECT COST

The Developer's most recent project budget, dated September 8, 2017, shows the following expected total development costs. Please note that the Developer's unit count assumptions differ somewhat from the plan presented to Topeka Planning Commission.

Because the Developer Fee inures to the Developer, we do not consider it as a cost of the Project. The Developer's capital stack contemplates interest during construction and we have not considered here to avoid double-counting its impact. For the balance of this analysis, we will rely on an estimated cost of the Project of \$80,720,286 (the "Project Budget").

USE	TOTAL BUDGET	TIF ELIGIBLE	CID ELIGIBLE
Land Acquisition	\$ 2,375,000	\$ 2,375,000	\$ -
Site Work			
Site Work	\$ 7,150,508	\$ 7,150,508	\$ -
Fairlawn Improvements	736,233	736,233	-
29th Improvements	376,250	376,250	-
Site Monuments/Signage	150,000	150,000	150,000
Building			
Multi-Family (176 units)	\$ 31,680,000	\$ -	\$ 31,680,000
Parking Deck (264 stalls)	5,940,000	5,940,000	5,940,000
Hotel (88 rooms)	12,320,000	-	12,320,000
Restaurant	752,500	-	752,500
Coffee Shop	344,000	-	344,000
Restaurant	1,218,875	-	1,218,875
Theater	7,042,775	-	7,042,775
Tenant Improvements	2,325,500	-	2,325,500
Soft Costs			
Arch & Engin	\$ 2,097,500	\$ 722,500	\$ 2,097,500
Legal	150,000	150,000	150,000
Permits & Fees	25,000	25,000	25,000
Lease Commissions	621,753	621,753	621,753
Contingency			
Site Work	\$ 662,221	\$ 662,221	\$ 662,221
Building	4,752,171	476,049	4,752,171
SUBTOTAL –PROJECT COSTS	\$ 80,720,286	\$ 19,385,514	\$ 80,720,286
Developer Fee	\$ 2,715,229	\$ 2,715,229	\$ 2,715,229
Interest Carry			
Site Work (2yrs/7%)	\$ 1,197,307	\$ 1,197,307	\$ 1,197,307
Building (2 yrs/7%)	8,592,012	860,706	8,592,012
TOTAL DEVELOPMENT COSTS	\$ 93,224,834	\$ 24,158,756	\$ 93,224,834

The City should consider this budget to be an early estimate. Although the Developer provided us with evidence that it had used a local contractor to inform its costing for the Project as shown above, our understanding is that the Project remains in the schematic design stage. As the Project progresses through design development, construction documents and bidding, we expect costs of the Project to change. The Project Budget includes a standard contingency budget to reflect this uncertainty, but may not have to be spent.

CAPITAL STACK

The Developer's financial modeling relies on an assumption of a capital stack comprised of 70% debt and 30% equity, applied against total development costs:

SOURCES OF FUNDS	
Debt	\$ 65,257,384
Equity	27,967,450
TOTAL SOURCES	\$ 93,224,834

The Developer did not provide us with a lender term sheet or commitment on the debt component of the financing or of any evidence of its ability to contribute nearly \$28 million in equity to the Project. As noted above, the Developer's financing assumptions include construction interest and the Developer fee in the total capital stack.

Because both the Plan and the companion Developer petition to the City to create the CID contemplate pay-as-you-go structures, the Developer will be required to make 100% of the capital stack available prior to or during construction of the Project. TIF and CID incentives will only become available once the Project is constructed and leased.

We anticipate the Developer's lender underwriting will rely on the City's determination of whether TIF and/or CID benefits should be conferred to the Project.

DEVELOPMENT SCHEDULE

On September 13, 2017, the Developer provided us with the following schedule related to its expected completion of the Project:

MILESTONE	EXPECTED DATE
Incentives Approved	October 2017
Demolition Commences	December 2017
Site Work Commences	July 2017
Vertical Work Commences	March 2019
All Components Constructed	March 2021
All Components Leased	Summer 2021

OPERATING PROJECTIONS

The Developer provided to the City a ten-year, high-level operating pro forma driving both its conclusion that the Project will be financially successful over that period and its conclusion that incentives are needed for the Project to proceed. Although the Developer provided us with sufficient detail to assess the quality of their top line revenue projections, its assumptions on operations and maintenance cost were not detailed. As a result, while the Developer provided projections of net operating income ("NOI") for the Project in for all uses in the aggregate, we did not have the ability to assess the quality of those projections.

The NOI projections are significant because it they are used in the calculation of the Developer's projected rate of return for the project—a factor critical to assessing the appropriateness of the level of incentives requested.

EVALUATING THE APPROPRIATENESS OF INCENTIVES

The City's ultimate desire for any commercial property is that it be developed to its highest and best use. An efficiently used site will maximize the City's future tax receipts from the Project and will provide the Topeka community with access to amenities and experiences that might not be available in the community today. Ideally, a private developer would produce such an outcome without public subsidy in the project.

Philosophical Approach. Most modern urban redevelopment suffers from challenges that increase project costs and reduce investor returns versus similar projects on greenfield sites. Demolition and site preparation, environmental remediation, new or revitalized public utilities, parking and transportation infrastructure improvements are the common drivers of these higher costs. Philosophically, cities desire to “level the playing field” between more expensive infill sites and less costly “greenfield” sites (undeveloped properties) through the payment of incentives to infill developers. Cities desire to provide incentives that will equalize the profitability of an infill site and a greenfield site. The challenge for all cities is the asymmetry of information available to assess what, exactly, is this “perfect” level of incentive. Developers often have a desired minimum amount of incentives in mind, but cities are forced to guess this number. The key risk for a city in this challenging dance is that it ends up over-incentivizing the infill project by agreeing to pay the developer a subsidy amount higher than the developer would have accepted to move forward with the project.

“But-For” Test. Although the City has no statutory or policy requirement that an incentives grant meet the so-called “but-for” test, it is an economic development best practice to employ it. The but-for test is simple in theory: but-for the presence of the incentives, the project would not proceed. As described above, urban infill development faces significant barriers to attracting private capital versus less costly, more certain greenfield developments.

In practice, the but-for test is hard to apply. The City does not know the intentions of the developer and the developer has an incentive (and depending on its corporate structure, potentially a duty) to maximize its return from the investment in a project. We understand through frequent conversation with the Developer that the incentives requested are a necessary precondition to its development of the Project. While it is fairly easy to recognize that conditions at the Project's current site will require significant investment to make the site attractive to development, it is more challenging to quantify how much incentive is necessary to level the playing field with the cost of developing the Project at another site.

The but-for calculation generally relies on a comparison of the developer's return on investment, both with and without incentives, against market rates of return for similar projects. These types of analyses are blunt instruments, at best. Legitimate debates rage about calculation inputs, cashflow discounting rates and calculation mechanics at the end of the analysis period. Additionally, these analyses are often performed using concept plan-level project cost information, generic assumptions about sources of project income (lease rates, property sale proceeds) and speculative estimates of potential drivers of new tax revenues (retail sales per square foot, post-construction assessed valuation, construction

completion timing). The result is that the developer and the city providing the incentives can draw very different conclusions from the same set of analytical inputs.

Macroeconomic Concerns About the Retail Environment. A quick Internet search reveals countless articles about the reality that the U.S. has too much bricks-and-mortar retail square footage. This over-supply, coupled with changing trends and technological innovation, is leading to the deaths, fast and slow, of some of the most venerable historic names in retail. As a result, we think cities should be very selective in the retail-focused projects they incentivize.

The Project proposes mix of development that, at least presently, runs counter to this macro trend. Restaurants, particularly those in the “quick service” and “fast casual” categories, have seen robust performance in recent years, commanding strong retail rents and producing very high sales per square footage values.

Concerns Linger About Movie Theaters. Topeka finds itself in a fairly unusual position for a mid-sized city: it has but one movie theater complex showing first-run movies. To some extent, this may reflect macroeconomic conditions in the movie theater space. According to a variety of sources (including <http://www.the-numbers.com/market/> from Nash Information Service, a consultant focused on the movie business) movie theater ticket sales peaked in 2002 at 1.58 billion and have shown an overall downward trend since, falling to 1.30 billion last year (compound annual growth rate of -1.4%). Disney’s head of film distribution recently told cinema owners that he expected total box office sales to be stagnant in the short- to mid-term (<http://www.latimes.com/business/hollywood/la-fi-ct-disney-disruption-20170328-story.html>). And, AMC Theaters, based in Leawood, saw the value of its stock decline by 25% earlier this year after reporting poor financial results.

Further, there does not appear to be pent-up demand for moviegoers. The Motion Picture Association of America (the “MPAA”) reported that, in 2016, seven out of ten people living in the US and Canada went to the theater at least once. The MPAA further reported that roughly half to ticket sales were driven by frequent moviegoers (those going to the theater at least once per month) (http://www.mpa.org/wp-content/uploads/2017/03/MPAA-Theatrical-Market-Statistics-2016_Final-1.pdf). It appears that everyone that wants to take in a movie in a theater is likely already doing so.

As a result, it seems likely that a substantial portion of the economics generated by the movie theater in the Project—with recliner seating, on-site food service and the latest sound and projection technology—will come from Topeka’s existing theater. Because the Project proposes to capture essentially all of the local tax production from the theater, the City could face real losses to its general fund if sales decline at the existing theater.

Topeka Has No New Hotel Nights. Topeka hotel demand is down for 2017, roughly at 2015 levels which, themselves, were down significantly from 2014. Occupancy rates have mostly followed this trend as supply has remained more constant. Positively, revenue per available room (“RevPAR”)—calculated as the product of a hotel’s average daily rate and its average occupancy—is up substantially over 2015. This indicates that, even though

demand has fallen, hoteliers have been able to demand greater room rates. This is reflected in the average daily rate which has increased in Topeka by seven (7) percent since 2015.

The Developer has modeled both higher occupancy and higher room rates than the Topeka averages. We expect it to achieve this result, although this property faces competition from multiple other competing hotel openings on the Wanamaker corridor in 2017 and 2018.

Given the trends in hotel demand in Topeka, we would expect each hotel night within the Project to be matched by a loss of a hotel night at another Topeka hotel. The implication for the City is that it is likely to lose much or all of the general sales taxes derived on the current average Topeka RevPAR (approximately \$45 per night) as 100% of new hotel sales taxes within the Project will be captured over the life of the TIF.

QUANTIFICATION OF INCENTIVES REQUESTED

In order to assess the value to the Developer of the incentives requested, it is important first to try to quantify their value. All financial projections suffer from a very fuzzy crystal ball. The potential end-of-life of the incentives requested for the Project is more than 23 years from now. (The CID extends 22 years from its commencement date that the Developer requests to be December 31, 2018.) This uncertainty falls mostly to the Developer—that is the reason it demands a rate of return on the Project that substantially exceeds a “risk free” rate of return. It is also one of the reasons why mixed-use developments have become so popular: a project including assets which have more predictable performance and value over time (such as multi-family and hotel) provides a less-risky overall development than one focused solely on retail.

The City is also at risk, however, in this transaction. By granting incentives, it is making an affirmative decision to cause a project to develop at this site that the market itself will not support. Further, it agrees to continue to support that project financially for more than two decades. If another, better use for this site emerges five or ten years from now, the City will not be able to revisit its decision of 2017. There is an opportunity cost to the City to forgo the property and sales taxes from the Project for nearly a generation. Additionally, each time the City grants incentives to a project it creates precedent for future projects. The City’s prudent use of incentives here will provide a foundation for future development incentives requests from other developers.

With these caveats in mind, and based upon the best information available, we prepared the schedule shown in Exhibit A, which provides a discounted cashflow analysis of both Project Costs and projected incentives over the life of the Project. Using a five (5) percent discount rate, the present value of the incentives totals approximately \$18.8 million. (This includes the value of the Developer fee as the cost of financing that fee is included in the Developer’s NOI calculation which is critical to our rate of return analysis, below.)

Because the Developer does not expect to complete the project for a number of years, it is also appropriate to discount, using the same five (5) percent rate, Project Costs. Doing so yields a discounted cost figure of \$71.2 million. With that, we calculate the estimated

percentage of the Project Costs to be covered by incentives, all on a discounted basis, to be 26.4%.

APPROPRIATENESS OF THE INCENTIVES GRANT

As described above, the City's interest (presuming it desires to see the Developer construct the Project) is to provide just enough incentive to cause the Developer to proceed with the Project—but not a penny more. Where the parties have diametrically opposing interests (the Developer wants to maximize its incentives grant while the City wants to pay none), we can look to the unincentivized real estate market for guidance about what a reasonable, incentivized Developer rate of return should be.

CITY OF TOPEKA

Proposed Wheatfield Village Development

CASH ON COST RETURN ANALYSIS

Unincentivized Cash on Cost Return Without Incentives

Project Costs (Nominal)	80,720,286
Incentives/Developer Income (Discounted)	-
Net Project Costs	80,720,286
Stabilized NOI (per Developer)	4,900,000
Cash-on-Cost Return	6.07%

Incentivized Cash on Cost Return With Incentives

Project Costs (Nominal)	80,720,286
Incentives/Developer Income (Discounted)	(18,817,771)
Net Project Costs	61,902,515
Stabilized NOI (per Developer)	4,900,000
Cash-on-Cost Return	7.92%

Baseline Calculation of Likely Cash on Cost Market Returns

ASSET CLASS	NOI CONTRIB.	MARKET CAP RATE	RISK PREMIUM	REQUIRED COC RETURN
Multifamily	55.50%	5.25%	1.50%	6.75%
Retaurant	21.52%	7.00%	1.50%	8.50%
Movie Theater	5.69%	7.25%	1.50%	8.75%
Hotel	17.29%	7.00%	1.50%	8.50%
Weighted Market Cash-on-Cost Return for Project				7.54%

(NOI Contribution and Market Cap Rate provided by Developer)

One approach many professional real estate development companies use is a cash-on-cost return. This is a litmus test analysis calculated by evaluating stabilized net operating income as a percentage of project costs. Firms differ in how they define an “acceptable” cash-on-cost return for a project, but often they are looking for cash on cost return to exceed either the market capitalization rate for an asset plus a risk premium or their cost of capital invested in an asset plus a risk premium. By comparing the cash-on-cost returns for the

Project before and after the effects of the incentives to a market cash-on-cost return, we can assess the appropriateness of the Developer's incentives request.

As shown above, the Developer's estimated unincentivized cash-on-cost return of 6.1% is well below market expectations of approximately 7.5% for a similar project. Its estimated incentivized return, however, is higher than market expectations. Although the differential appears small (7.9% versus 7.5%), the Developer's incentive grant would need to be reduced by \$3 million dollars (in 2017 dollars) to reduce its incentivized cash on cash return to market rates.

In addition, there are a number of important weaknesses to the cash-on-cost calculation, including:

No Consideration of Intrinsic Value. The cash-on-cost metric fails to consider the intrinsic value of the Project when it is constructed. The Project's value as an enterprise—its ability to generate income—is encompassed in the NOI calculation. But, even if the Project generated no income at all, it would still have value. And, roughly 25% of that value would have been derived from the public incentives used to support construction of the Project.

While that intrinsic value is hypothetical until the Developer were to sell or recapitalize the Project, the Developer itself calculated the hypothetical value of the Project to be nearly \$81 million at the end of ten years—about \$20 million more than its outstanding borrowings are expected to be at that point.

No Value Assigned to Sales Tax Substitution Effects. As described above, when the Project is fully open for business, the City is likely to experience losses to its general fund from retail sales moving from other parts of the City (outside of TIF districts) to the Project (within a TIF district). This is particularly the case with respect to the movie theater and the hotel, but is likely to occur to a more limited extent with the other uses in the Project, as well.

At the same time, however, the City will gain from new transient guest taxes (TGT) generated by the Project's hotel, although likely *only* to the extent of the RevPAR difference between the hotel and Topeka average RevPAR (again, because the hotel is likely to cannibalize hotel nights from existing Topeka hoteliers). And, our analysis does not consider tangible spin-off benefits (new jobs created, the potential for redevelopment in surrounding areas, the potential for incremental traffic flow improvements through the development of additional transportation infrastructure at 29th and Fairlawn) or the intangible effects of converting this underused and neglected site into a quality new commercial development.

STATUTORY FINDINGS

Based upon our review of the information provided by the Developer in the Plan, as supplemented with more detailed information provided to City staff and to us, we find the following:

- the total development costs of the Project are \$93,222,834
- this total development cost will be initially paid through a combination of debt (approximately \$65,255,984) and Developer equity (approximately \$27,966,850)
- the future value incentives available to the Developer under the Plan (including CID receipts and the value of the sales tax exemption) are approximately \$29,650,000 while the present value discounted incentives available to the Developer under the Plan (including CID receipts and the value of the sales tax exemption) are approximately \$18,817,000. Most of the incentives will be generated over time as TIF increment (and CID receipts) are generated
- the Developer's projected net operating income from the Project at stabilization (approximately \$4,900,000) plus its projected incentives grant in such year (approximately \$1,300,000) exceed its expected costs of servicing the debt in that year (approximately \$4,865,000) and each subsequent year

As such, the Plan's benefits and TIF revenue and other available revenues under subsection (a)(1) of K.S.A. 12-1774, and amendments thereto, are expected to exceed or be sufficient to pay for the Plan's project costs. The Plan will have no effect on any outstanding special obligation bonds payable from the revenues described in K.S.A. 12-1774(a)(1)(D), and amendments thereto.



Exhibit A— Discounted Cashflow Modeling of Project Costs and Incentives



CITY OF TOPEKA

Proposed Wheatfield Village Development

Pro Forma Incentives Calculation

		YEAR												
	TOTALS	1	2	3	4	5	6	7	8	9	10	11	12	13
PROJECT COSTS														
Land Acquisition	2,375,000	2,375,000	-	-	-	-	-	-	-	-	-	-	-	-
Site Work														
Site Work	7,150,508	400,000	3,375,254	3,375,254	-	-	-	-	-	-	-	-	-	-
Fairlawn Improvements	736,233	-	368,117	368,117	-	-	-	-	-	-	-	-	-	-
29th Improvements	376,250	-	188,125	188,125	-	-	-	-	-	-	-	-	-	-
Site Monuments/Signage	150,000	-	-	-	-	150,000	-	-	-	-	-	-	-	-
Building														
Multi-Family (176 units)	31,680,000	-	-	11,880,000	15,840,000	3,960,000	-	-	-	-	-	-	-	-
Parking Deck (264 stalls)	5,940,000	-	-	2,227,500	2,970,000	742,500	-	-	-	-	-	-	-	-
Hotel (88 rooms)	12,320,000	-	-	4,620,000	6,160,000	1,540,000	-	-	-	-	-	-	-	-
Restaurant	752,500	-	-	282,188	376,250	94,063	-	-	-	-	-	-	-	-
Coffee Shop	344,000	-	-	129,000	172,000	43,000	-	-	-	-	-	-	-	-
Restaurant	1,218,875	-	-	457,078	609,438	152,359	-	-	-	-	-	-	-	-
Theater	7,042,775	-	-	2,641,041	3,521,388	880,347	-	-	-	-	-	-	-	-
Tenant Improvements	2,325,500	-	-	-	1,162,750	1,162,750	-	-	-	-	-	-	-	-
Soft Costs														
Arch & Engin	2,097,500		1,398,333	699,167	-	-	-	-	-	-	-	-	-	-
Legal	150,000	150,000	-	-	-	-	-	-	-	-	-	-	-	-
Permits & Fees	25,000	12,500	12,500	-	-	-	-	-	-	-	-	-	-	-
Lease Commissions	621,753	-	-	-	-	621,753	-	-	-	-	-	-	-	-
Contingency														
Site Work	662,221	-	662,221	-	-	-	-	-	-	-	-	-	-	-
Building	4,752,171	-				4,752,171	-	-	-	-	-	-	-	-
TOTAL PROJECT COSTS	80,720,286	2,937,500	6,004,550	26,867,468	30,811,825	14,098,943	-	-	-	-	-	-	-	-

INCENTIVES/DEVELOPER INCOME—NOMINAL VALUE

Value of Avoided Sales Tax (IRB)	2,716,237	14,400	165,374	942,059	1,109,226	485,179	-	-	-	-	-	-	-	-
CID Reimbursement (2%)	5,377,698	-	-	-	-	233,883	235,973	238,082	240,211	242,361	244,530	246,720	248,930	251,162
TIF Reimbursement (100% + 1.5%)	21,556,555	-	-	-	-	973,012	983,401	993,892	1,004,487	1,015,188	1,025,995	1,036,908	1,047,930	1,059,061
Developer Fee	-	-	-	-	-	2,715,229	-	-	-	-	-	-	-	-
TOTAL INCENTIVES/DEV INCOME	29,650,490	14,400	165,374	942,059	1,109,226	4,407,303	1,219,373	1,231,974	1,244,699	1,257,549	1,270,525	1,283,628	1,296,860	1,310,223

INCENTIVES/DEVELOPER INCOME—PRESENT VALUE (DISCOUNTED AT 5 PERCENT)

Discount Factor		100.00%	95.24%	90.70%	86.38%	82.27%	78.35%	74.62%	71.07%	67.68%	64.46%	61.39%	58.47%	55.68%
Project Costs	(71,241,353)	(2,937,500)	(5,718,619)	(24,369,586)	(26,616,413)	(11,599,235)	-	-	-	-	-	-	-	-
Incentives/Dev Income	18,817,771	14,400	157,499	854,475	958,191	3,625,899	955,411	919,318	884,584	851,158	818,991	788,036	758,247	729,581
Net Benefit	(52,423,582)	(2,923,100)	(5,561,120)	(23,515,111)	(25,658,222)	(7,973,336)	955,411	919,318	884,584	851,158	818,991	788,036	758,247	729,581

Incentives as % of Costs **26.41%**

CITY OF TOPEKA
Proposed Wheatfield Village C

Pro Forma Incentives Calculation

	14	15	16	17	18	19	20	21	22	23	24	25
PROJECT COSTS												
Land Acquisition	-	-	-	-	-	-	-	-	-	-	-	-
Site Work												
Site Work	-	-	-	-	-	-	-	-	-	-	-	-
Fairlawn Improvements	-	-	-	-	-	-	-	-	-	-	-	-
29th Improvements	-	-	-	-	-	-	-	-	-	-	-	-
Site Monuments/Signage	-	-	-	-	-	-	-	-	-	-	-	-
Building												
Multi-Family (176 units)	-	-	-	-	-	-	-	-	-	-	-	-
Parking Deck (264 stalls)	-	-	-	-	-	-	-	-	-	-	-	-
Hotel (88 rooms)	-	-	-	-	-	-	-	-	-	-	-	-
Restaurant	-	-	-	-	-	-	-	-	-	-	-	-
Coffee Shop	-	-	-	-	-	-	-	-	-	-	-	-
Restaurant	-	-	-	-	-	-	-	-	-	-	-	-
Theater	-	-	-	-	-	-	-	-	-	-	-	-
Tenant Improvements	-	-	-	-	-	-	-	-	-	-	-	-
Soft Costs												
Arch & Engin	-	-	-	-	-	-	-	-	-	-	-	-
Legal	-	-	-	-	-	-	-	-	-	-	-	-
Permits & Fees	-	-	-	-	-	-	-	-	-	-	-	-
Lease Commissions	-	-	-	-	-	-	-	-	-	-	-	-
Contingency												
Site Work	-	-	-	-	-	-	-	-	-	-	-	-
Building	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL PROJECT COSTS	-	-	-	-	-	-	-	-	-	-	-	-

INCENTIVES/DEVELOPER INCOME												
Value of Avoided Sales Tax (IRB)	-	-	-	-	-	-	-	-	-	-	-	-
CID Reimbursement (2%)	253,414	255,688	257,983	260,299	262,638	264,998	267,381	269,787	272,215	274,666	277,140	279,637
TIF Reimbursement (100% + 1.5%)	1,070,303	1,081,655	1,093,121	1,104,700	1,116,394	1,128,204	1,140,131	1,152,176	1,164,340	1,176,626	1,189,033	-
Developer Fee	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL INCENTIVES/DEV INCOME	1,323,717	1,337,343	1,351,104	1,364,999	1,379,032	1,393,202	1,407,512	1,421,962	1,436,555	1,451,291	1,466,173	279,637

INCENTIVES/DEVELOPER INCOME												
Discount Factor	53.03%	50.51%	48.10%	45.81%	43.63%	41.55%	39.57%	37.69%	35.89%	34.18%	32.56%	31.01%
Project Costs	-	-	-	-	-	-	-	-	-	-	-	-
Incentives/Dev Income	701,995	675,449	649,904	625,322	601,667	578,904	557,000	535,923	515,640	496,124	477,344	86,707
Net Benefit	701,995	675,449	649,904	625,322	601,667	578,904	557,000	535,923	515,640	496,124	477,344	86,707

Incentives as % of Costs



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Bill Fiander DOCUMENT #: PUD17/02
SECOND PARTY/SUBJECT: Wheatfield Village PUD PROJECT #:
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 007 Zoning
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by City Manager Brent Trout, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at the northwest corner of SW 29th Street and SW Fairlawn Road in the City of Topeka, Kansas, FROM “C-4” Commercial District TO “PUD” Planned Unit Development District (C-4 and M-3 use groups). (PUD 17/02) (Council District No.8)

Voting Option Requirements: (1) Approve Planning Commission's recommendation 6 votes required (2) Reject or Amend Planning Commission's recommendation 7 votes required; or (3) Remand back to Planning Commission 6 votes required

(Approval would allow for a mixed-use re-development of a 14.7 acre property that includes restaurants, movie theater, hotel and a multi-family apartment complex.)

VOTING REQUIREMENTS:

The Governing Body has the following options:

- (1) Adopt the recommendation of the Planning Commission by a majority vote (6);
- (2) Reject or amend the Planning Commission's recommendation by a two-thirds vote (7); or
- (3) Return such recommendation to the Planning Commission by majority vote (6), with a statement specifying the basis of the decision to approve or deny the request.

POLICY ISSUE:

The key issue is the need for improvements to Fairlawn Road and 29th Street to accommodate the new development in an area that is already congested during peak travel times. Access into the site will include two

new driveways along Fairlawn Road, with one of these being a full access signalized driveway aligning with 28th Street. A potential third access into the site from 29th Street on the I-470 entrance ramp was not approved by the Kansas Department of Transportation (KDOT) and the Federal Highway Administration (FHWA).

The applicant's traffic impact study (TIS) analyzes the transportation improvements required for the first scenario (3 access points including access from the I-470 entrance ramp) and the second scenario (2 access points without access from the I-470 entrance ramp). The TIS also dictates required roadway improvements for each phase of development, with Phase 1 requiring improvements to Fairlawn Road prior to Phase 2 occupancy only; and Phase 2 requiring improvements to 29th Street prior to Phase 2 occupancy. The PUD Master Plan requires the developer to complete the transportation improvements dictated by the TIS. The request is supported by the findings and analysis included in the staff report to the Planning Commission, including a finding of consistency with the City's Land Use and Growth Management Plan.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

The request by 29 Fairlawn, L.L.C. is to rezone property from "C-4" Commercial District to "PUD" Planned Unit Development District. The 14.7-acre property is located at the northwest corner of SW 29th Street and SW Fairlawn Road. The PUD Master Plan provides for a phased mixed-use development to include a nine-screen movie theater and a fast-food restaurant and coffee shop in the first phase; and an 88-room hotel, family dining restaurant, farmers market area and a residential component with a maximum of 178 rental apartments and parking garage in the second phase.

The applicant held a Neighborhood Information Meeting on April 24, 2017, with attendees being primarily concerned with traffic impacts, specific commercial uses proposed and site design and layout.

The Planning Commission recommended the rezoning request be approved by a vote of 7-0-1 (none opposed with one Commissioner abstaining) on July 18, 2017. The Planning Department recommended approval. The applicant has agreed to all recommended conditions of approval.

BUDGETARY IMPACT:

Approval of the rezoning request will have no impact on the City's adopted budget.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

Ordinance
Summary Report
Staff Report to Planning Commission
Aerial Map
Zoning Map
PUD Master Plan
PUD Landscape Plan
Applicant Summary of Neighborhood Information Meeting
Neighborhood Information Sign-In Sheet
Planning Commission Minutes PUD17/02

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Brent Trout amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at the northwest corner of SW 29th Street and SW Fairlawn Road in the City of Topeka, Kansas, FROM “C-4” Commercial District TO “PUD” Planned Unit Development District (C-4 and M-3 use groups) (PUD 17/02) (Council District No.8)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), be, and the same is hereby amended, by reclassifying the following described property:

Commencing at the Southeast corner of said Southeast Quarter; thence North 00 degrees 43 minutes 10 seconds West on the East line of said Southeast Quarter a distance of 80.00 feet; thence South 87 degrees 47 minutes 53 seconds West and parallel with the South line of said Southeast Quarter a distance of 60.02 feet to the West right-of-way line of S.W. Fairlawn Road and the point of beginning; thence continuing South 87 degrees 47 minutes 53 seconds West a distance of 60.37 feet; thence North 57 degrees 13 minutes 26 seconds West a distance of 122.09 feet; thence North 82 degrees 51 minutes 17 seconds West a distance of 655.61 feet; thence on a curve to the right having a radius of 3099.56 feet, a chord which bears North 43 degrees 01 minutes 43 seconds West a distance of 647.56 feet, an arc distance of 648.74 feet; thence North 48 degrees 19 minutes 20 seconds East a distance of 73.28 feet; thence North 84 degrees 14 minutes 59 seconds East a distance of 653.10 feet; thence South 79 degrees 29 minutes 44 seconds East a distance of 252.84 feet; thence North 89 degrees 16 minutes 50 seconds East a distance of 293.57 to said West right-of-way line of SW Fairlawn Road; thence South 00 degrees 43 minutes 10 seconds East on said West right-of-way line a distance of 690.51 feet to the point of beginning.

from “C-4” Commercial District TO “PUD” Planned Unit Development (C-4 and M-3 use groups)
subject to:

1. Use and development of the site in accordance with the Wheatfield Village Planned Unit Development Master Plan for Wheatfield Village.

Section 2. The Wheatfield Village Planned Unit Development Master Plan shall be recorded with the Shawnee County Register of Deeds in accordance with Section 18.190.060(b) of the Topeka Municipal Code (TMC). Following the recording of the PUD Master Plan and prior to building permit and/or land development on the site, site development plans shall be submitted for review and

administrative approval by the Planning Director.

Section 3. This Ordinance Number shall be fixed upon the "District Map."

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body, _____, 2017

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified X

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

Re: Case PUD 17/02 Wheatfield Village Planned Unit Development (PUD) Master Plan

By: 29 Fairlawn, LLC

PUD 17/02 is a request to rezone property from “C-4” Commercial District to “PUD” Planned Unit Development District (C-4 use group for restaurants, hotel, and theater; and M-3 use group for multiple-family dwellings). The 14.7-acre property is located at the northwest corner of SW 29th Street and SW Fairlawn Road.¹

The change in zoning will provide for redevelopment of a site currently consisting of vacant land and vacant, deteriorating structures. The PUD Master Plan provides for a phased mixed-use development to include a nine-screen movie theater and a fast-food restaurant and coffee shop (both within a single, shared building with a drive-up window) in the first phase; and an 88-room hotel, family dining restaurant, farmers market area, and a residential component with a maximum of 178 rental apartments and parking garage in the second phase. The PUD Master Plan includes design elements and standards that effectively address on-site parking, signage, and landscaping particularly suited to this development.

The key issue is the need for improvements to Fairlawn Road and 29th Street to accommodate the new development in an area that is already congested during peak travel times. Access into the site will include two new driveways along Fairlawn Road, with one of these being a full access, signalized driveway aligning with 28th Street. A potential third access into the site from 29th Street will require a “break-in-access” on the I-470 entrance ramp which is presently being considered for approval by the Kansas Department of Transportation (KDOT) and the Federal Highway Administration (FHWA).

The applicant’s traffic impact study (TIS) analyzes the transportation improvements required for the first scenario (3 access points including access from the I-470 entrance ramp as reflected in the proposed PUD master plan) and the second scenario (2 access points without access from the I-470 entrance ramp). The TIS also dictates required roadway improvements for each phase of development, with Phase 1 requiring improvements to Fairlawn Road only and Phase 2 requiring improvements to 29th Street without additional improvements to Fairlawn. The PUD Master Plan requires the developer to complete the transportation improvements dictated by the TIS. Should the break-in-access on the I-470 entrance ramp not be approved by either agency, the PUD Master Plan is notated to provide for a minor amendment to the Master Plan to eliminate the 29th Street access.

The Topeka Land Use and Growth Management Plan 2040 (LUGMP) supports the proposed redevelopment project. The LUGMP “*encourages infill and redevelopment within Topeka to take advantage of existing urban infrastructure and services and that promote a range of uses to fit within the overall character of the area.*” The LUGMP also emphasizes mixed use and promotes the concept throughout the land use plan. The future land use map (Map #3) designates the intersection of Southwest 29th Street and Fairlawn Road as a Community Commercial Node. This designation supports the proposed project and also states: “*Even though the dominant character of a node intersection or an area is commercial, that shouldn’t preclude mixing uses as a component of a development or redevelopment of the node or the area.*” Furthermore, the proposed project is also a Tier 1 redevelopment that is taking advantage of existing urban infrastructure and services.

The applicant held a Neighborhood Information Meeting on April 24, 2017. Questions and comments from 16 meeting attendees were primarily concerned with traffic impacts, specific commercial uses proposed, and site design and layout.

The Planning Commission recommended the rezoning request be **APPROVED** by a vote of **7-0-1** (none opposed with one Commissioner abstaining) at its July 17, 2017 public hearing, as stated in the attached minutes. The Planning Department recommended approval as indicated in the attached staff report. All conditions of approval are reflected in the revised Wheatfield Village PUD Master Plan.

¹ On June 26, 2017 the Topeka Governing Body approved the establishment of the Wheatfield Village Redevelopment District including the area of the PUD. With their consideration of this change in zoning the Governing Body is considering a Project Plan employing tax increment financing (TIF) and a community infrastructure district (CID). On July 17, 2017, in accordance with K.S.A. 12-1772, the Planning Commission approved Resolution No. 1-2017 finding that the Project Plan is consistent with the Land Use and Growth Management Plan 2040

**STAFF REPORT – PLANNED UNIT DEVELOPMENT
TOPEKA PLANNING DEPARTMENT**

PLANNING COMMISSION DATE: July 17, 2017

<u>CASE NUMBER & NAME:</u>	PUD17/02 Wheatfield Village Planned Unit Development (PUD) Master Plan
REQUESTED ACTION / CURRENT ZONING:	Rezoning of 14.7-acre site <i>from</i> “C-4” Commercial District <i>to</i> “PUD” Planned Unit Development to provide for re-design/ re-use of commercial center, along with new residential development. Proposed PUD stipulates Use Group(s) of C-4/ Restaurant, Hotel, Theater; and M-3/ Multiple-Family Dwellings providing for 178 apartments.
APPLICANT / PROPERTY OWNER:	29 Fairlawn, LLC
APPLICANT REPRESENTATIVE:	Mr. Kevin K. Holland, CFS Engineers, P.A.
PROPERTY ADDRESS & PARCEL ID:	Northwest corner of the intersection of SW 29 th Street and SW Fairlawn Road Parcel ID: 1420904010007000
PARCEL SIZE:	14.7 acres
CASE PLANNER:	John Neunuebel, Planner II
<u>STAFF RECOMMENDATION:</u>	Approval of Wheatfield Village PUD Master Plan subject to conditions included on Pages 14-15
<u>RECOMMENDED MOTION:</u>	Based on the findings and analysis in the staff report, I move to recommend APPROVAL with conditions to the Governing Body of the proposed Wheatfield Village PUD Master Plan.

PROJECT AND SITE INFORMATION

PROPOSED USE SUMMARY:

Proposed Planned Unit Development (PUD) with mixed-use Use Group(s) of C-4/ Restaurant/ 'Family Dining;' Restaurant/ 'Fast Food (2 restaurants within a single building);' Hotel; Theater; and M-3/ Multiple-Family Dwellings providing for 178 apartments. The subject area comprises a designated Redevelopment Project Area with associated Redevelopment Project Plan approved and adopted by the City of Topeka that is consistent with the proposed PUD.

DEVELOPMENT / CASE HISTORY:

Existing site includes vacant land and primarily vacant structures. Commercial development on the site occurred in a piecemeal manner including: construction of a bowling alley in 1960; auto service station in 1963; and hotel in 1968. All three of these structures have been demolished with only their foundation pads still visible. There are currently two (2) commercial businesses operating on the site, and these are a billiards hall and vacuum cleaner repair service. Zoning on the site is currently C-4 Commercial District.

In addition to the proposed PUD in process, there are associated preliminary and final re-plat(s) also being processed concurrently.

PHOTOS:



North side of project area looking west along SW 28th Court with a newly-constructed segment of Shunga Creek Trail located on right.

Note: SW 28th Court public right-of-way to be abandoned upon approval of new subdivision plat for subject property currently in process.



North central portion of property looking toward southeast, with building pad in foreground that of previous bowling alley structure.



North side of property looking south along Fairlawn Avenue

**ZONING AND CHARACTER OF
SURROUNDING AREA:**

Adjacent areas to the south, east, and west along 28 Street, 29th Street, and Fairlawn Avenue include commercial zoning and uses, with nearby residential development being located to the north on the opposite side of Shunganunga Creek, with Crestview Park being located north of 28th Street just east of Fairlawn Avenue.

OVERVIEW OF PROPOSED PUD ELEMENTS

UTILITIES:

All utilities to be underground, with existing sanitary sewer and water service provided by City of Topeka.

(A Preliminary Stormwater Drainage Analysis has been submitted for the PUD, with formal analysis to be completed during processing of the associated subdivision plat and site plan review applications.)

CIRCULATION & ACCESS:

The PUD master plan provides for internal circulation for vehicles and pedestrians. A segment of the Shunga multi-use trail was recently completed adjacent to the project area, and will provide direct access into the development at various points.

A Traffic Impact Study (TIS) has been completed and is currently in review in assessing the impact of the proposed development plan on the surrounding transportation system. Acceptance of the TIS by the City of Topeka including associated roadway improvements will be required prior to final approval of the PUD master plan.

Three access points are being proposed in servicing the new development. There will be two new driveways along Fairlawn Road, with one of these being a full access, signalized driveway aligning with 28th Street. The other driveway onto Fairlawn Road will be located 200 feet south of 28th Street and will be limited to right-turn movements only. A *potential* third access into the development will be located off the I-470 Westbound entrance ramp just north of 29th Street, and will accommodate one-way traffic only into the site. This potential third access will require a 'break-in access' on the I-470 entrance ramp, and is presently being considered for approval by the Kansas Department of Transportation (KDOT) and the Federal Highway Administration (FHWA). Should the break-in-access onto the I-470 entrance ramp not be approved by either agency, the proposed PUD master plan is notated to provide for administrative processing of a minor amendment to the master plan in eliminating the I-470 entrance ramp access.

The Traffic Impact Study provides detailed analysis of improvements to the area roadway system for 3 access points, as well as 2 access points without the break-in-access on the I-470 entrance ramp. Regardless of which access scenario occurs, all necessary roadway improvements must be completed prior to occupancy of any new structure. The following tables (next page) provide an overview of roadway improvements to 29th Street and Fairlawn Road for either access scenario, as well as for Phase I and Phase II of development.

Phase I Roadway System Improvements (Supports development of movie theater and 2-tenant restaurant with drive through)		
	29th Street	Fairlawn Road
Phase I Phase I roadway improvements are the same whether or not an entrance of I-470 Ramp is approved by FHWA or not	No improvements to 29 th Street required for Phase I.	1) New traffic signal installation and construct northbound turn lane at 28 th Street 2) Construct second southbound turn lane on Fairlawn at 29 th 3) Construct raised median on Fairlawn between 28 th and 29 th Streets

Sidewalk and other miscellaneous improvements will be included in work tabulated above.

Phase II Roadway System Improvements (Supports Phase I development plus development of apartments, hotel, and sit-down restaurant)		
	29th Street	Fairlawn Road
Phase II Roadway improvements required if entrance off I-470 Ramp is approved by KDOT and the FHWA	Widen 29 th Street to extend eastbound left turn lane at the I-470 Ramp/Connection Road Intersection	No additional improvements to Fairlawn Road for Phase II. (Phase I improvements only)
Phase II Roadway improvements required if entrance off I-470 Ramp is not approved by KDOT and the FHWA	Widen 29 th Street to provide second eastbound left turn lane and additional left turn storage at the intersection of 29 th and Fairlawn	No additional improvements to Fairlawn Road for Phase II. (Phase I improvements only)

Sidewalk and other miscellaneous improvements will be included in work tabulated above.

BUILDINGS/USES:

The proposed development includes:

- Building 1: A 4-storey 88-room hotel near northeast corner of the site. (134,257 square feet)
- Building 2: A 4-storey 178 unit apartment complex with parking garage in the northwest corner of the site. (201,827 square feet including parking garage)
- Building 3: Nine-screen, 691-seat movie theater in the south central portion the site. (34,451 square feet)
- Building 4: Family dining restaurant at the southeast corner of the site (7,375 square feet).
- Building 5: Fast food restaurant with two tenants operating a drive-through window at east end of the site. (5,100 sf)
- 'Farmers Market' open-space area at the southeast corner of the site. (approx. 600 square feet)

Anticipated project phasing will be completion of the fast food restaurant (Building 5) and movie theater (Building 3) in the first phase of development, with residential development, hotel, and family restaurant (Buildings 1, 2, and 4) in the second phase.

The PUD Master Plan includes extensive notes providing increased certainty as to the scale, quality, and design character of buildings. (See "Building Notes" and "Building Elevation Notes".) The design controls provided by these notes apply to all buildings.

Staff is of the understanding that the residential component of the PUD is highly conceptual. Even so, staff makes the following observations and recommendations.

- An average setback of at least 10 feet for residential buildings is recommended with landscaping to including extensive plantings and other features to provide an appropriate buffer.
- Responding to the Fire Department's requirements, the PUD master plan includes a fire access lane on all sides of the residential development. Additional setback is needed to accommodate trees and other plants around the buildings.
- While the residential component of development is acknowledged to be conceptual in nature, staff have identified a potential deficit in the number of residential parking spaces as proposed. (See 'Parking' section below.)

PARKING:

On sheet 1 of the master plan, for each building and land use, calculations are provided for *required* parking (per the zoning regulations) and *proposed* parking. The proposed parking exceeds required parking for all of the uses with the exception of the residential use. The following summarizes staff's analysis and findings.

	Parking per Master Plan (sheet 1)	Required by Ordinance	Parking Shown on Sheet 2 of Master Plan
Building 1 (Hotel)	93	88	93
Building 3 (Theater)	269	277	256
Building 4 (Restaurant)	103	<50	103
Building 5 (fast food restaurant)	66	<60	66
Total Non-Residential Uses	531	<475	518
Building 2 (Apartments)	188	277	Parking Garage Footprint shown but not Individual Spaces

- The master plan substantially overstates the parking required for building 4 (60 spaces) and building 5 (50 spaces). Per the regulations, after deducting square feet for restrooms, storage areas, corridors, lobbies, and other unoccupied space, fast food requires 1 space per 85 square feet and family dining requires space per 150 square feet (TMC 18.240). The applicant's calculations are based on the total floor area of each building.
- The master plan substantially understates parking required for the residential land use because it uses the standard for "multiple-family dwelling, high-rise" instead of "multiple-family dwelling and apartment hotels." For high-rise apartments the regulations require 1.5 spaces per unit for the first 20 units and 1 space per unit for the balance of 158 units for a total of 188 (188 are proposed). The master plan's concept for the apartments is not for a high-rise development ("high-rise" generally means 6 stores or more) and, therefore, the applicable standard (multiple-family dwellings) is 2 spaces per unit for the first 20 units and 1.5 spaces per unit for the balance for a total of 277 spaces. The proposed parking is 89 spaces short of the parking standard.

- The City may approve variances to the parking standards as part of a PUD upon making the findings in TMC 18.180.080. If the parking demand for the proposed apartments is typical of other apartments, the actual parking required will be greater than 188 spaces, although perhaps not as high as 277 spaces. If the parking demand for the residential component exceeds 188 spaces, residents will very likely use the theater parking. Encroachment on the theater parking will be exacerbated to some extent by the relative convenience to residents parking in the surface lot instead of in a parking garage. However, over building of parking spaces is also not advised in a mixed-use/shared parking setting where pedestrian-scaled features are a priority. For these reasons staff recognizes a variance to the residential parking requirements – a reduction of up to 25% - may be justified at a future time when the owner may demonstrate the ratio as too restrictive given the characteristics of the residential use. The parking ratio may also be satisfied through a combination of reduced residential units or increased parking spaces.

SIGNAGE:

Sign regulations applicable to the C-4 zoning district are not restrictive, allowing for multiple 55' high ground signs up to 300 square feet in copy area per sign face and an unrestricted quantity of 300 sf wall signs. Therefore, PUDs help establish where appropriate more restrictive but reasonable sign standards in keeping with best practices of the community. The following photos are provided for illustration.



SW Wanamaker, 1100 block; PUD zoning; 55' high; 196 sf (Home Depot) plus 280 sf (Dicks and other tenants)



SW Wanamaker & Huntoon
(Wanamaker Crossing); PUD
zoning; 30' high, 300 sf



SW Wanamaker & Huntoon
(Wanamaker Crossing); PUD
zoning; 50' high, up to 300 sf



SW 12th & Wanamaker (Crosswinds
Commons); C4 zoning; 35' high, 300 sf



SW 12th & Wanamaker (Crosswinds Commons); C4 zoning; 13' high, 36 sf

At the recommendation of staff, the applicant is proposing an appropriate limit on wall signage (for commercial uses cumulative area of signs limited to 20% of the façade of each building). For ground signs (signs mounted in the ground on pylons or monuments) the signage notes in the master plan provide for up to five ground signs, not including small directional signs, to include two monument signs along I-470 and SW 29th, each up to 50' high and 300 sf, and two monument signs on Fairlawn, each up to 30' high and 300 sf. As proposed the shopping center name and logo is not to be included in the 300 sf size limit.

Staff is recommending more restrictive standards for the ground signs based on what is appropriate at this location and on restrictions imposed on other similar developments. Signs at a height of 50 feet or more are sometimes needed for visibility from I-470. Signs at a height of 30' or less are appropriate for visibility from arterial streets.

LANDSCAPING:

The Planning Department received a current Landscape Plan on July 5th, too late to complete a detailed review prior to completion of the staff report. It is attached for information and not as a recommended approved plan. Staff can make these observations and recommendations as the process moves forward:

- Landscaping will include a mix of large trees and understory trees, coniferous trees, and shrubs along Fairlawn Road and 29th Street, as well as throughout the project area.
- An enriched landscape parkway adjacent to Fairlawn Road will also include a 30' high contoured berm in providing enhanced screening of parking lot expanse as viewed from Fairlawn Road.

- In addition to meeting the landscape point total for quantity, it is important for the landscaping to also be arranged throughout the site to ensure compatibility between uses and to enhance the project's appearance at its edges. Staff recommends substantial landscaping and related features between the residential component and the entertainment and hotel uses.

OTHER: A Preliminary Stormwater Drainage Analysis has been submitted for the PUD, with formal analysis to be completed during processing of the associated subdivision plat and site plan review applications.

VARIANCES REQUESTED: None
(Provision for future potential variance from residential parking standards.)

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

(The PUD Master Plan establishes development standards and guidelines as described in the previous section of this report.)

OTHER FACTORS

SUBDIVISION PLAT: A subdivision plat is required for the project. The applicant has indicated they will submit a subdivision plat application during the time the PUD application is under review. Staff anticipates the subdivision plat will be eligible as a minor plat and thus not require approval by the Planning Commission and City Council.

FLOOD HAZARDS, STREAM BUFFERS: The subject area is partially located within FEMA designated floodplain associated with nearby Shunganunga Creek, and will require processing of permit through FEMA in ensuring that all structures are safely above the FEMA 100-year base floodplain elevation prior to development. All proposed drives and parking lots will be curbed with enclosed storm sewer lines to collect and convey drainage north to the Creek. Stormwater detention for the site is proposed with the use of underground storage chambers.

(A Stormwater Management Plan for the site is currently under review and will be further considered during the subdivision platting process.)

HISTORIC PROPERTIES: None

NEIGHBORHOOD MEETING: The project applicant held a Neighborhood Information Meeting on Monday, April 24, 2017. Questions/comments from the sixteen (16) attendees were primarily concerned with traffic impacts, specific commercial uses proposed, and site design and layout. .
(Applicant's meeting summary and sign-in sheet as attachment.)

OTHER: None

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

**PUBLIC WORKS/
ENGINEERING:** A Traffic Impact Study (TIS) has been completed and is currently in review in assessing the impact of the proposed development plan on the surrounding transportation system. Acceptance of the TIS by the City of Topeka including associated roadway improvements will be required prior to final approval of the PUD master plan.

**WATER POLLUTION
CONTROL:** No Comments Received; continued review during processing of associated subdivision plat. (A Stormwater Management Plan for the site is currently under review and will be further considered during the subdivision platting process.)

FIRE: Residential apartments at northwest portion of project site will require review and analysis for placement of fire lanes during subsequent steps in the development process.

**DEVELOPMENT
SERVICES:** All structures must be certified as being above the FEMA 100-year base floodplain elevation prior to issuance of building permits.

OTHER: Westar Energy has concerns regarding placement of electric utility easements to be addressed during processing of associated subdivision plat.

KEY DATES

SUBMITTAL OF PUD APPLICATION	December 12, 2015 (Proposed PUD Case16/01 application deemed incomplete.)
SUBMITTAL OF REVISED PUD APPLICATION	March 31, 2017 (Proposed PUD Case 17/02 application submitted with re-configured commercial and residential development.)
NEIGHBORHOOD INFORMATION MEETING	April 27, 2017
LEGAL NOTICE PUBLICATION	April 24, 2017 May 29, 2017 (Notice of re-scheduled public hearing)
PROPERTY OWNER NOTICE MAILED	April 20, 2017 May 25, 2017 (Notice of re-scheduled public hearing) June 6, 2017 (Notice of re-scheduled public hearing)

STAFF ANALYSIS

Character of Neighborhood: The proposed PUD Master Plan provides for re-development of a deteriorated commercial center and will provide for new commercial and residential development that will be compatible with other commercial and residential development within the area. The character of the single –family neighborhood to the north of the project area will be well-buffered from the proposed commercial development with the presence of Shunganunga Creek being located between the two areas.

Length of time property has remained vacant as zoned or used for its current use under present classification: The site has been underdeveloped and in a deteriorating state for several years or more. The adoption of the proposed Wheatfield Village PUD Master Plan is justified in part based on the length of time the subject property has continued to deteriorate and the desirability of a mixed use development coordinated with transportation improvements needed to support commercial development at this location.

Conformance to Comprehensive Plan: The Topeka Land Use and Growth Management Plan 2040 (LUGMP) contains policies related to growth management and future land use that support the proposed redevelopment project. The LUGMP “*encourages infill and redevelopment within Topeka to take advantage of existing urban infrastructure and services and that promote a range of uses to fit within the overall character of the area.*” In addition, the LUGMP emphasizes mixed use and promotes the concept throughout the land use plan.

The future land use map (Map #3) designates the intersection of Southwest 29th Street and Fairlawn Road as a Community Commercial Node. This designation supports the proposed project and also states: “*Even though the dominant character of a node intersection or an area is commercial, that shouldn’t preclude mixing uses as a component of a development or redevelopment of the node or the area.*”

The proposed project will comprise a mixed use redevelopment that includes both residential and commercial land uses. The proposed project is also a Tier 1 redevelopment that is taking advantage of existing urban infrastructure and services. The proposed redevelopment project is consistent with the Topeka Land Use and Growth Management Plan 2040.

The extent to which removal of the restrictions will detrimentally affect nearby properties: The proposed Wheatfield Village PUD Master Plan will include development standards that are more restrictive than current standards within the current C-4 zoning district, thus providing more protections for nearby properties. A traffic impact study and a financing plan will be required to mitigate the traffic generated by the new development, and its potential to adversely affect neighboring commercial and residential uses.

The relative gain to the public health, safety and welfare by the destruction of the value of the owner’s property as compared to the hardship imposed upon the individual landowner: The proposed Wheatfield Village PUD Master Plan allows the property owner to construct new residential and commercial development pursuant to market-driven demand. Proposed development will have a substantial benefit on neighboring property owners as compared to the existing deteriorated and vacant development and the potential development under C4 zoning. All traffic-related impacts will be mitigated by improvements required within the approved Traffic Impact Analysis.

Availability of Public Services: All essential public services and utilities are presently available or will be extended at property owner expense.

Compliance with zoning and subdivision regulations: The proposed PUD Master Plan establishes development standards and guidelines as indicated. The standards established by this Master Plan exceed

standards normally applicable to the C-4 zoning district. More details of the project will be reviewed at the site plan review stage. An associated subdivision plat will be submitted for review and must be found to adhere to the City's subdivision regulations prior to its approval.

STAFF RECOMMENDATION

Based upon the above findings and analysis Planning Staff recommend approval of the Wheatfield Village PUD Master Plan, subject to the following:

1. Use and development of the site in accordance with the Wheatfield Village PUD Master Plan for 29 Fairlawn LLC as recorded with the Office of the Shawnee County Register of Deeds.
2. Revise PUD Master Plan graphic to clearly depict the presence of recently completed segment of the Shunga Trail, a designated multi-use trail, as well as connections with pedestrian circulation within the project area.
3. Add new note within "Landscaping Notes" requiring a 10' average landscape buffer adjacent to Building 2 (residential apartments).
4. Revise the "Project Data" section of page 1 of the master plan to indicate "Multiple Family Dwelling" parking ratio. Compliance with the new parking ratio may be achieved in combination by either reducing the quantity of dwellings or increasing the quantity of parking spaces devoted to residential use, or through an administrative variance.
5. Revise Note #8 within Circulation, Parking & Traffic Notes to: "Off-Street parking shall generally be provided in accordance with TMC 18.240.020 unless stated otherwise herein. All parking, drives, approaches, and walks shall be improved to City of Topeka standards. Up to a 25% reduction in the quantity of required parking spaces may be administratively approved where it can be demonstrated that the use has characteristics reducing the number of parking spaces needed. Reserving an area of land on the site equal in size to the area of land needed for the quantity of parking being reduced shall not be required."
6. Revise the "Project Data" section of page 1 of the master plan such that the building numbers match the building numbers on page 2 of the master plan.
7. Revise General Note #12 to substitute use of "buildings" instead of "lots" in describing construction Phases I and II.
8. Delete Landscaping Note #1 regarding an "attached landscape plan."
9. Revise Signage Notes as follows:
 - a. Revise note # 3.A.1 to: 1. TOTAL TENANT COPY AREA SHALL NOT INCLUDE ARCHITECTURAL EMBELLISHMENTS AND SHOPPING CENTER NAME/LOGOS PROVIDED THE SHOPPING CENTER NAME AND LOGO ARE INTEGRATED WITH THE EXTERIOR MATERIAL OF THE BASE OR STRUCTURE OF THE SIGN. USE OF ILLUMINATED COPY FOR THE SHOPPING CENTER NAME AND LOGO THAT INCLUDES PAN CHANNEL LETTERS OR OTHER ILLUMINATED LETTERS ARE PERMITTED. HOWEVER USE OF AN INTERNALLY ILLUMINATED CABINETS WITH TRANSLUCENT FACE FOR THE SHOPPING CENTER NAME AND LOGO ARE NOT PERMITTED.
 - b. Revised note # 3.A.2 to: 2.. TWO MONUMENT STYLE, MULTI-TENANT SIGNS ON SW FAIRLAWN ROAD . . . 300 SQUARE FEET OF TENANT COPY AREA PER FACE, AND

SHALL BE LOCATED A MINIMUM OF 150 FEET APART FROM ONE ANOTHER.

- c. Revise note #3 A.3 to: 3. ~~TWO~~ONE MONUMENTSTYLE, MULTI-TENANT SIGNS ON 29TH STREET/I-470 . . . COPY AREA PER FACE AND LOCATED A MINIMUM OF 280 FEET FROM SW FAIRLAWN ROAD.
 - d. After note # 3 A.3 add: 4. ONE MONUMENT STYLE, MULTI-TENANT SIGN ON SW 29TH STREET NOT TO EXCEED TWENTY FIVE FEET (25') IN OVERALL HEIGHT AND 150 SQUARE FEET OF TENANT COPY AREA PER FACE.
 - e. After note # 3.a.4 add: 6. THE EXTERIOR MATERIALS AND COLORS OF THE BASES OF MONUMENT-STYLE SIGNS SHALL BE COMPATIBLE WITH THE MATERIALS AND COLORS OF OTHER SIGNS AND THE EXTERIORS OF BUILDINGS WITHIN THE DEVELOPMENT.
- 10. Revise Circulation, Parking & Traffic Note #6 to indicate that roadway improvements required for each development phase “shall be under contract for completion prior to issuance of a building permit and said improvements shall be accepted for maintenance by the City of Topeka prior to issuance of a certificate of occupancy.”
 - 11. Revise Circulation, Parking & Traffic Note #8 to indicate: “Off-street parking, including bicycle parking, shall be provided in accordance with TMC 18.240.020. All parking, drives, approaches, and walks shall be improved to City of Topeka standards.”
 - 12. Within “Project Data,” correct the number of parking spaces provided pursuant to the number of parking spaces illustrated on the Master Plan graphic.
 - 13. Delete Building Note #1 indicating: All buildings/structures shall be consistent with C-4 zoning requirements and restrictions.

ATTACHMENTS

Aerial Map

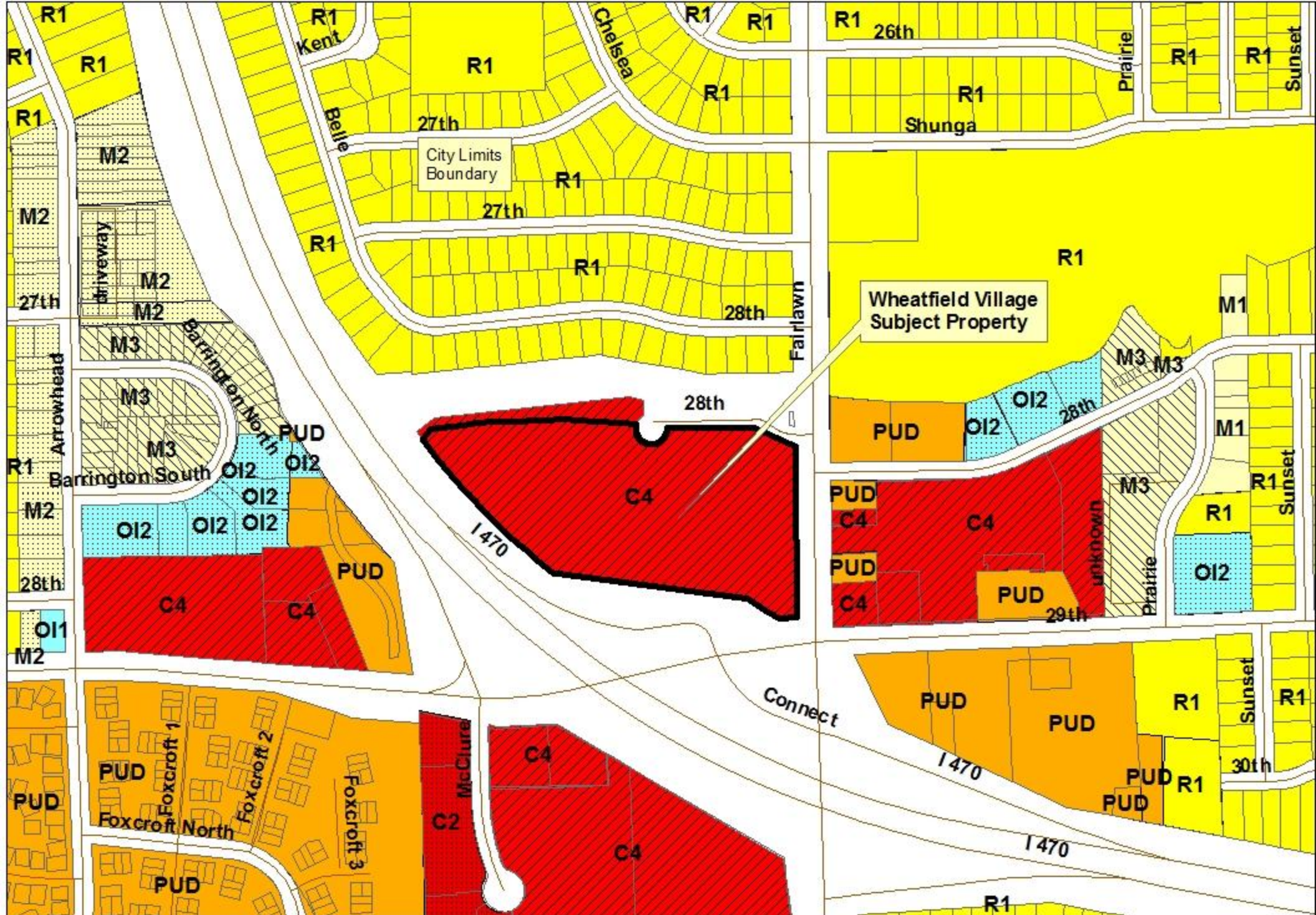
Zoning Map

Wheatfield Village PUD Master Plan (2 pages) plus landscape plan

Neighborhood Information Meeting report and attendance sheet



Wheatfield Village PUD Master Plan
Subject Property



PUD 17/02
Wheatfield Village PUD Master Plan

WHEATFIELD VILLAGE PLANNED UNIT DEVELOPMENT MASTER PLAN

BOOK
DATE

PAGE
TIME

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS

REBECCA J. NIOCE, REGISTER OF DEEDS

PROJECT DATA

PREVIOUS ZONING: C-4				
CURRENT ZONING: PUD (USE GROUP(S): C-4/RESTAURANT,HOTEL,THEATER; AND M-3/MULTIPLE-FAMILY DWELLINGS				
MINIMUM LOT AREA: 10,000 SF				
MAXIMUM DENSITY (LOT 6 - APARTMENTS): 72 UNITS/ACRE				
MAXIMUM BUILDING COVERAGE RATIO: 60% OF LOT AREA PARCEL SIZE: 14.67 ACRES				
MAXIMUM BUILDING HEIGHT: 100FT (M-3/MULTIPLE FAMILY DWELLING DISTRICT)				
TOTAL STRUCTURES (PROPOSED): 6				
TOTAL MAXIMUM BUILDING AREA: 8.80 ACRES				
		USE		BICYCLE
BUILDING 1:	134,257 SF	HOTEL	1/ROOM = 88 REQ'D (91 PROV.)	5
BUILDING(S) 2:	201,827 SF (178 units)	MULTIPLE FAMILY DWELLING	2/(20)+1.5 for balance = 277 REQ'D (219 PROV.) w/25% reduction	15
BUILDING 3:	5,100 SF	FAST FOOD	1/85 SQ FT = 60 REQ'D (61 PROV.)	3
BUILDING 4:	7,375 SF	FAMILY DINING	1/150 SQ FT = 50 REQ'D (103 PROV.)	3
BUILDING 5:	34,451 SF	THEATER	1/2.5 SEATS = 691 SEATS/2.5 = 248 REQ'D (249 PROV.)	13
TOTAL: = 723 REQ'D (723 PROV.)				

GENERAL NOTES

- THE BASE ZONING OF EACH USE GROUP SHALL APPLY UNLESS OTHERWISE STATED.
- THE BUILDING LAYOUTS ARE CONCEPTUAL IN NATURE AND MINOR ADJUSTMENTS TO THE BUILDING LAYOUT MAY BE PERMITTED. NO BUILDING PERMITS SHALL BE ISSUED UNTIL INDIVIDUAL SITE DEVELOPMENT PLANS SUBJECT TO TMC 18.190. 060(C) HAVE BEEN REVIEWED AND APPROVED BY THE PLANNING DIRECTOR. THESE SITE PLANS SHALL ADDRESS INDIVIDUAL BUILDING SITE LOCATIONS, OFF-STREET PARKING AND INTERNAL CIRCULATION, FIRE HYDRANTS, LANDSCAPING, PEDESTRIAN CONNECTIVITY, EXTERNAL LIGHTING, SIGNAGE, BUILDING ELEVATIONS, UTILITIES, STORM WATER, RELATIONSHIP OF ADJACENT LOTS, ETC.
- NO BUILDING PERMITS SHALL BE ISSUED UNTIL INDIVIDUAL SITE DEVELOPMENT PLANS SUBJECT TO TMC 18. 190. 060(C) HAVE BEEN REVIEWED AND APPROVED BY THE PLANNING DIRECTOR. THESE SITE PLANS SHALL ADDRESS INDIVIDUAL BUILDING SITE LOCATIONS, OFF-STREET PARKING AND INTERNAL CIRCULATION, FIRE HYDRANTS, LANDSCAPING, PEDESTRIAN CONNECTIVITY, EXTERNAL LIGHTING, SIGNAGE, BUILDING ELEVATIONS, UTILITIES, STORM WATER, RELATIONSHIP TO ADJACENT LOTS, ETC.
- NO BUILDING PERMITS SHALL BE ISSUED UNTIL THE PROPERTY IS PLATTED.
- NO BUILDING PERMITS SHALL BE ISSUED UNTIL STORMWATER MANAGEMENT PLANS PURSUANT TO TMC 13.335 ARE APPROVED, INCLUDING GRANTING OF ANY NECESSARY STORMWATER MANAGEMENT EASEMENTS.
- NO CITY OF TOPEKA DEVELOPMENT SERVICES PERMITS SHALL BE ISSUED FOR DEVELOPMENT IN THE FLOOD ZONE AE (FLOODWAY OR 100 YEAR FLOOD PLAIN) UNTIL ALL REQUIRED APPROVALS HAVE BEEN OBTAINED FROM APPROVAL AGENCIES, INCLUDING FEDERAL EMERGENCY MANAGEMENT AGENCY, DIVISION OF WATER RESOURCES- KANSAS DEPARTMENT OF AGRICULTURE, AND THE U.S. ARMY CORPS OF ENGINEERS AS MAY BE REQUIRED. THE APPLICANT SHALL OBTAIN AN APPROVED CURRENT FLOOD PLAIN FILL PERMIT FROM THE KANSAS DEPARTMENT OF AGRICULTURE, DIVISION OF WATER RESOURCES PRIOR TO APPROVAL OF A FLOOD PLAIN DEVELOPMENT PERMIT FROM THE CITY OF TOPEKA PURSUANT TO TMC 17.30.
- NO CITY DEVELOPMENT SERVICES PERMITS SHALL BE ISSUED UNTIL ALL CITY OF TOPEKA STORM WATER MANAGEMENT REQUIREMENTS ARE MET INCLUDING: APPROVAL OF STORM WATER MANAGEMENT PLANS AND GRANTING OF ANY NECESSARY STORM WATER EASEMENTS.
- 29 FAIRLAWN LLC OR IT'S SUCCESSORS AND ASSIGNS, ("OWNER"), MAY SOLELY INITIATE AMENDMENTS TO WHEATFIELD VILLAGE MASTER PUD PLAN. THE TERMS AND PROVISIONS HEREOF SHALL EXTEND TO AND BE BINDING UPON THE HEIR, EXECUTORS, ADMINISTRATORS, TRUSTEES AND ASSIGNS OF 29 FAIRLAWN LLC, SHOULD MORE THAN ONE ENTITY HOLD TITLE, THEN ALL SUCH AFFECTED OWNERS AS DETERMINED BY THE PLANNING DIRECTOR OF ALL SUCH TITLE SHALL BE REQUIRED TO EXECUTE ANY SUCH AMENDMENT.
- PURSUANT TO TMC 18.190, THE APPLICANT MUST RECORD THE MASTER PUD PLAN WITH THE SHAWNEE COUNTY REGISTER OF DEEDS WITHIN SIXTY (60) DAYS UPON APPROVAL OF THE GOVERNING BODY. FAILURE BY THE APPLICANT TO RECORD THE PLAN WITHIN THE PRESCRIBED TIME PERIOD AND PROVIDE THE PLANNING DEPARTMENT WITH THE REQUIRED NUMBER OF COPIES OF THE RECORDED PLAN WITHIN NINETY (90) DAYS OF THE DATE OF ACTION BY THE GOVERNING BODY SHALL RENDER THE ZONING PETITION NULL AND VOID.
- MINIMUM OPENING ELEVATIONS SHALL BE 1 FT. ABOVE THE HIGHEST ADJACENT 100-YEAR WATER SURFACE ELEVATION.
- ACCORDING TO "FIRM" MAP COMMUNITY PANEL NUMBER 2017C0213E EFFECTIVE SEPT 29TH, 2011, THIS TRACT LIES IN FLOOD ZONE "AE" (FLOODWAY), FLOOD ZONE "AE" (1% ANNUAL CHANCE FLOOD)(WITH A BASE FLOOD ELEVATION RANGING FROM TO 938.9 TO 941.2) & FLOOD ZONE "X" (AREA OF MINIMAL FLOODING)
- THE DEVELOPMENT MAY BE CONSTRUCTED IN TWO PHASES. PHASE ONE SHALL INCLUDE BUILDINGS 3 AND 5. PHASE 2 SHALL INCLUDE BUILDINGS 1, 2, AND 4.

UTILITY NOTES

- LIGHTING SHALL BE FULL CUT OFF, SHIELDED & RECESSED WITH CUT-OFF ANGLES TO PREVENT THE CAST OF LIGHTING BEYOND THE PROPERTY & NOT EXCEED 3 FOOT CANDLES AS MEASURED AT THE PROPERTY LINE. EXTERIOR LIGHTING SHALL FOLLOW ACCEPTED NATIONAL GUIDELINES FOR PARKING LOT LIGHTING (I.E. CPTED), THE TYPE, ILLUMINATION, POLE HEIGHT & QUANTITY OF NEW PARKING LOT LIGHTING SHALL BE APPROVED BY THE TOPEKA PLANNING DEPARTMENT AT THE TIME OF PERMIT APPROVAL BY DEVELOPMENT SERVICES. A FOOT CANDLE ANALYSIS WILL BE APPROVED AT THE SITE DEVELOPMENT PLAN STAGE.
- WATER AND SEWER WILL BE PROVIDED BY CITY OF TOPEKA. THE FIRE DEPARTMENT SHALL REVIEW AND APPROVE FUTURE PLANS SHOWING FIRE HYDRANT LOCATIONS AND FIRE ACCESS PRIOR TO THE START OF CONSTRUCTION.
- ALL NEW UTILITIES SHALL BE PLACED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
- MINIMUM 20 FT. WIDE FIRE LANES SHALL BE PROVIDED AND POSTED 'NO PARKING' PURSUANT TO 901.4.2 OF THE UNIFORM FIRE CODE AS REQUIRED ALL FIRE HYDRANT LOCATIONS SHALL BE APPROVED BY THE CITY OF TOPEKA FIRE DEPARTMENT AS PART OF THE IMPROVEMENT PLANS PRIOR TO THE START OF CONSTRUCTION.

FIRE DEPARTMENT NOTES:

- FINAL LOCATION OF ALL FIRE HYDRANTS MUST BE APPROVED BY THE TOPEKA FIRE DEPARTMENT. TRAVEL DISTANCE BETWEEN FIRE HYDRANTS SHALL NOT EXCEED 400 FEET.
- AN ACTIVE FIRE HYDRANT SHALL BE LOCATED WITHIN 400 FEET OF ANY BUILDING TO BE CONSTRUCTED OF COMBUSTIBLE MATERIALS AS PERMITTED BY CODE PRIOR TO COMMENCEMENT OF ABOVE GRADE CONSTRUCTION. LOCATION OF REQUIRED FIRE HYDRANTS SHALL BE REVIEWED AND APPROVED BY THE TOPEKA FIRE DEPARTMENT PRIOR TO COMMENCEMENT OF CONSTRUCTION.
- TEMPORARY CONSTRUCTION ACCESS DRIVES SHALL BE CLEARLY DELINEATED AT ALL TIMES DURING CONSTRUCTION. TEMPORARY ACCESS DRIVES SHALL BE 20 FEET WIDE AND CONSTRUCTED OF A MINIMUM OF SIX INCHES OF CRUSHED STONE OR EQUIVALENT, IN ORDER TO SUPPORT EMERGENCY FIRE AND RESCUE APPARATUS. LOCATION, CONFIGURATION AND MARKING OF TEMPORARY ACCESS DRIVES ARE SUBJECT TO REVIEW AND APPROVAL BY THE TOPEKA FIRE DEPARTMENT. TEMPORARY ACCESS DRIVES SHALL BE MAINTAINED AS REQUIRED BY THE TOPEKA FIRE DEPARTMENT.

LANDSCAPING NOTES

- THERE SHALL BE A 10' AVERAGE LANDSCAPE BUFFER ADJACENT TO BUILDING 2 (RESIDENTIAL APARTMENTS).
- LANDSCAPING SHALL BE PROVIDED CONSISTENT WITH TMC 18.235 LANDSCAPE REGULATIONS. THE SPECIFIC POINTS, TYPES AND QUANTITIES SHALL BE APPROVED BASED ON THE "LANDSCAPE PLAN" DATED 06/30/17."AN ATTRACTIVE MIX OF EVERGREEN TREES, SHRUBS, AND DECIDUOUS LARGE TREES SHALL BE PROVIDED ALONG THE PROPERTY'S STREET FRONTAGES WITHIN THE 20 FOOT LANDSCAPE SETBACK SHOWN THEREON AND WHERE THE BUILDING AND/OR DEVELOPED AREA IS IMMEDIATELY ADJACENT TO RESIDENTIAL PROPERTIES AND THE SHUNGA TRAIL.
- A 30 INCH HIGH LANDSCAPING BERM INCORPORATING TREES IS TO BE PLACED ALONG THE FAIRLAWN ROAD FRONTAGE AS SHOWN ON THE "LANDSCAPE PLAN" DATED 06/30/17 EXCEPT AS TO ALLOW FOR APPROVED SIGNAGE.
- DETAILED LANDSCAPING PLANS (DRAWN AT SCALE OF 1" EQUALS 20') SHALL BE SUBMITTED TO THE CITY OF TOPEKA FOR REVIEW AND APPROVAL AS PART OF THE SITE DEVELOPMENT PLAN(S) APPROVAL PROCESS AND SHALL ADHERE TO THE LANDSCAPE PLAN DATED 06/30/17 AS APPROVED FOR THE PUD MASTER PLAN AREA.
- THE CARE, MAINTENANCE, AND OWNERSHIP OF COMMON OPEN SPACE, PARKING AREAS, UTILITIES, PRIVATE STREETS, ACCESS WAYS, STORMWATER MANAGEMENT EASEMENTS, FENCING, AND LANDSCAPING SHALL BE THE RESPONSIBILITY OF THE OWNERS. ALL LANDSCAPING SHALL BE INSTALLED PURSUANT TO PHASING SCHEDULE AND PROPERLY MAINTAINED. IF ANY PORTION OF THE LANDSCAPED MATERIAL DIES, IT SHALL BE REPLACED BY THE NEXT PLANTING SEASON.

SIGNAGE NOTES

- SIGNS SHALL BE APPROVED BY SEPARATE SIGN PERMIT APPLICATION.
- NO PORTABLE OR TEMPORARY SIGNS ARE PERMITTED OTHER THAN REAL ESTATE SIGNS RELATING TO THE LEASE OR SALE OF THE PROPERTY.
- TMC 18, DIVISION 2 SIGNS SHALL GOVERN ALL OTHER SIGNS UNLESS SPECIFICALLY STATED HEREIN AND IN ACCORDANCE WITH THE FOLLOWING:
 - A MAXIMUM OF FIVE (5) FREE-STANDING SIGNS SHALL BE PERMITTED AND LOCATED AS SHOWN HEREIN AS FOLLOWS:
 - TOTAL TENANT COPY AREA SHALL NOT INCLUDE ARCHITECTURAL EMBELLISHMENTS AND SHOPPING CENTER NAME/LOGOS PROVIDED THE SHOPPING CENTER NAME AND LOGO ARE INTEGRATED WITH THE EXTERIOR MATERIAL OF THE BASE OR STRUCTURE OF THE SIGN. USE OF ILLUMINATED COPY FOR SHOPPING CENTER NAME AND LOGO INCLUDES PAN CHANNEL LETTERS OR OTHER ILLUMINATED LETTERS ARE PERMITTED. HOWEVER, USE OF INTERNALLY ILLUMINATED CABINETS WITH TRANSLUCENT FACE FOR THE SHOPPING CENTER NAME AND LOGO ARE NOT PERMITTED.
 - TWO MONUMENT STYLE, MULTI-TENANT SIGNS ON SW FAIRLAWN ROAD NOT TO EXCEED THIRTY FEET (30') IN OVERALL HEIGHT AND 300 SQUARE FEET OF TENANT COPY AREA PER FACE AND SHALL BE LOCATED A MINIMUM OF 150 FEET (150') APART FROM ONE ANOTHER.
 - ONE MONUMENT STYLE, MULTI-TENANT SIGNS ON I470 NOT TO EXCEED FIFTY FEET (50') IN OVERALL HEIGHT AND 300 SQUARE FEET OF TENANT COPY AREA PER FACE AND LOCATED A MINIMUM OF 280 FEET (280') FROM SW FAIRLAWN ROAD.
 - ONE MONUMENT STYLE, MULTI-TENANT SIGN ON SW 29TH STREET NOT TO EXCEED TWENTY FIVE FEET (25') IN OVERALL HEIGHT AND 150 SQUARE FEET OF TENANT COPY AREA PER FACE.
 - IN ADDITION TO THE ABOVE ITEMS 2 AND 3, THE LAND DESIGNATED FOR APARTMENTS SHALL BE PERMITTED A MAXIMUM OF ONE MONUMENT SIGN NOT TO EXCEED 5 FEET IN HEIGHT AND 32 SQUARE FEET PER SIDE AND LOCATED ON THE LOT ON WHICH APARTMENTS ARE LOCATED.
 - THE EXTERIOR MATERIALS AND COLORS OF THE BASES OF MONUMENT-STYLE SIGNS SHALL BE COMPATIBLE WITH THE MATERIALS AND COLORS OF OTHER SIGNS AND THE EXTERIORS OF BUILDINGS WITHIN THE DEVELOPMENT.
 - ATTACHED BUILDING SIGNS:
 - ATTACHED SIGNS, SUCH AS WALL AND PROJECTING SIGNS, FOR THE C-2 AND C-4 USE GROUPS SHALL BE LIMITED IN SIZE TO NOT MORE THAN 20 PERCENT OF THE AREA OF THE WALL ON WHICH SUCH SIGNS ARE LOCATED.
 - ATTACHED SIGNS FOR THE APARTMENTS SHALL NOT EXCEED 1 SIGN PER BUILDING AND 32 SQUARE FEET PER SIGN.
- IN ADDITION TO OTHER TYPES OF SIGNS PERMITTED, NO MORE THAN SIX (6) DIRECTIONAL SIGNS SHALL BE PERMITTED WITH EACH LOT AND SHALL NOT EXCEED 8 SQUARE FEET IN AREA AND 5 FEET IN HEIGHT.
- PORTABLE SIGNS AND ROOF SIGNS (UNLESS ARCHITECTURALLY INTEGRATED WITH THE BUILDING) ARE NOT PERMITTED SIGNAGE ELEVATIONS TO BE APPROVED AT THE TIME OF SIGN PERMIT APPLICATION AND SHALL BE SUBSTANTIALLY COMPLIANT WITH THE BUILDING ARCHITECTURE.

CIRCULATION, PARKING & TRAFFIC NOTES

- HANDICAP SPACES SHALL MEET MINIMUM ADA CRITERIA WITH A MINIMUM OF 15 HANDICAP SPACES PER 500-1000 PARKING SPACES. (2% OF 717)
- A 40 FT. SIGHT TRIANGLE, MEASURED FROM THE FACE OF CURB EXTENDED, SHALL BE MAINTAINED AT ALL ENTRANCES; NO OBSTRUCTIONS GREATER THAN (30) INCHES ABOVE GRADE OF ANY ADJACENT STREET OR ENTRANCE MAY BE PLACED WITHIN THIS AREA.
- ACCESS OPENINGS SHALL BE ALLOWED AS DEPICTED ON THE PLAN.
- ALL NEW DRIVES, STREETS, PARKING AREAS, APPROACHES AND WALKS SHALL BE CONSTRUCTED TO CITY OF TOPEKA STANDARDS.
- ALL DRIVES, LANES & PRIVATELY OWNED ACCESS WAYS PROVIDING ACCESSIBILITY TO STRUCTURES, BUILDINGS AND USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE CONSIDERED AND SERVE AS MUTUAL RIGHTS OF ACCESS TO OWNERS, TENANTS, INVITED GUESTS, CLIENTS, EMPLOYEES, CUSTOMERS, SUPPORT AND UTILITY PERSONNEL AND EMERGENCY SERVICE PROVIDERS, INCLUDING LAW ENFORCEMENT, FIRE PROTECTION AND AMBULANCE SERVICES. ALL ACCESS WAYS PROVIDING GENERAL ACCESSIBILITY TO, AND CIRCULATION AMONG, THE USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE MAINTAINED AT ALL TIMES IN GOOD SERVICEABLE CONDITION WITH THE MAINTENANCE OF SAID ACCESS WAYS BEING THE RESPONSIBILITY OF THE OWNER.
- ALL ROADWAY IMPROVEMENTS REQUIRED FOR EACH DEVELOPMENT PHASE SHALL BE UNDER CONTRACT FOR COMPLETION PRIOR TO ISSUANCE OF A BUILDING PERMIT. AND SAID IMPROVEMENTS SHALL BE ACCEPTED FOR MAINTENANCE BY THE CITY OF TOPEKA PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY. THE SPECIFIC IMPROVEMENTS REQUIRED TO SW 29TH STREET SHALL BE DICTATED BY WHETHER THE BREAK IN ACCESS REQUEST REFERENCED IN NOTE #7 BELOW IS GRANTED OR DENIED AS FURTHER DESCRIBED IN THE TRAFFIC IMPACT ANALYSIS.
- BREAK IN ACCESS TO I-470 ON RAMP REQUIRES APPROVAL BY KANSAS DEPARTMENT OF TRANSPORTATION AND OTHER APPLICABLE AGENCIES AS REQUIRED. IN THE EVENT THE BREAK IN ACCESS REQUEST IS DENIED BY THE KANSAS DEPARTMENT OF TRANSPORTATION FOR THE FEDERAL HIGHWAYS ADMINISTRATION, THE CITY WILL ADMINISTRATIVELY APPROVE A MINOR PLAN AMENDMENT REMOVING SUCH BREAK IN ACCESS.
- OFF-STREET PARKING, INCLUDING BICYCLE PARKING SHALL GENERALLY BE PROVIDED IN ACCORDANCE WITH TMC 18.240.020 UNLESS STATED OTHERWISE HEREIN. ALL PARKING, DRIVES, APPROACHES, AND WALKS SHALL BE IMPROVED TO CITY OF TOPEKA STANDARDS. UP TO A 25% REDUCTION IN THE QUANTITY OF REQUIRED PARKING SPACES MAY BE ADMINISTRATIVELY APPROVED WHERE IT CAN BE DEMONSTRATED THAT THE USE HAS CHARACTERISTICS REDUCING THE NUMBER OF PARKING SPACES NEEDED. RESERVING AN AREA OF LAND ON THE SITE EQUAL TO THE AREA OF LAND NEEDED FOR THE QUANTITY OF PARKING BEING REDUCED SHALL NOT BE REQUIRED.
- ALL BUILDING SITES SHALL INCLUDE DESIGNATED PEDESTRIAN WALKWAYS THAT ARE INTER-CONNECTED THROUGHOUT THE PROJECT AREA INCLUDING CONNECTIONS TO SW FAIRLAWN ROAD AND THE EXISTING SHUNGA TRAIL.
- SITE DEVELOPMENT PLAN(S) SHALL INCLUDE PLACEMENT AND CONSTRUCTION OF A CONCRETE PAD (SIZED 10 FEET x 15 FEET) TO ACCOMMODATE A BUS SHELTER FOR AN ADJACENT BUS STOP, WITH CONCRETE PAD TO BE LOCATED WITHIN 60 FEET WEST OF THE WESTERN EDGE OF FAIRLAWN ROAD CROSSWALK OR AS OTHERWISE APPROVED.

BUILDING NOTES

- NO OUTDOOR STORAGE SHALL BE PERMITTED EXCEPT AS PROVIDED IN THE AREA LABELED 'FARMER'S MARKET' AS DEFINED IN TMC18.55.
- THE LOCATION OF TRASH AND RECYCLING RECEPTACLES SHALL BE DETERMINED AT THE SITE DEVELOPMENT STAGE TO ENSURE TRASH AREAS ARE NOT OVERLY CONCENTRATED, ARE EFFECTIVELY SCREENED FROM PUBLIC AREAS, AND PROVIDE ADEQUATE CIRCULATION WITHIN THE OVERALL DEVELOPMENT. ALL SAID RECEPTACLES SHALL HAVE ENCLOSURES THAT SCREEN THE RECEPTACLES FROM VIEW AND ARE CONSTRUCTED WITH MATERIALS COMPATIBLE WITH THE FRONT FACADE OF THE PRINCIPAL BUILDING.

BUILDING ELEVATION NOTES

- MINOR ADJUSTMENTS TO THESE DESIGN GUIDELINES MAY BE APPROVED ADMINISTRATIVELY BY THE PLANNING DIRECTOR AT THE SITE DEVELOPMENT STAGE PROVIDED THE ARCHITECTURAL INTENT IS BEING MET.
- THE EXTERIOR BUILDING DESIGN OF ALL PRINCIPAL BUILDING(S), ACCESSORY BUILDING(S), AND ACCESSORY STRUCTURES SHALL BE COORDINATED ON ALL ELEVATIONS WITH REGARD TO COLOR, MATERIALS, ARCHITECTURAL FORM AND ELEMENTS TO ACHIEVE VISUAL INTEREST, HARMONY OF DESIGN, AND CONTINUITY.
- WINDOWS AND DOORS: DOORWAYS, DISPLAY WINDOWS, AND OTHER OPENINGS IN THE FACADE SHOULD BE PROPORTIONED TO REFLECT PEDESTRIAN SCALE AND MOVEMENT, AND TO ENCOURAGE INTEREST AT THE STREET OR SIDEWALK LEVEL ON THE FRONT AND STREET FACADES. THESE OPENINGS SHALL COMPRISE A MINIMUM OF 50% OF THE TOTAL AREA FOR GROUND LEVEL FACADES ON FRONT AND STREET FACADES.
- MATERIALS: EXTERIOR STREET AND FRONT FACING FACADES ARE TO BE FINISHED WITH 85% STONE, BRICK, CAST STONE, OR STUCCO. SYNTHETIC STONE, SUCH AS PRE-MANUFACTURED FIBERGLASS, CULTURED STONE, OR GLASS FIBER REINFORCED CONCRETE, IF IT IS IDENTICAL IN APPEARANCE AND OF EQUAL OR GREATER DURABILITY TO NATURAL STONE. CEMENT BOARD SIDING MAY BE USED TO FULFILL THE MASONRY REQUIREMENT BUT THE PERCENTAGE OF MASONRY BECOMES 100%, EXCLUDING TRIM. REMAINING FACADES SHALL BE FINISHED WITH THE MATERIALS LISTED ABOVE, OR CEMENTIOUS-FIBER PLANKING. SOLID WOOD PLANKING AND DECORATIVE CEMENTIOUS-FIBER PANELS MAY BE USED FOR ACCENT FEATURES.
- ARCHITECTURAL ELEMENTS: FOR EACH 50 LINEAR FEET (OR LESS) OF STREET OR FRONT FACING BUILDING FRONTAGE, EACH BUILDING SHALL BE DESIGNED WITH A MINIMUM OF 4 ARCHITECTURAL ELEMENTS, SUCH AS: VARIED ROOF HEIGHTS, RECESSED ENTRIES, AWNINGS OR CANOPIES, ORNAMENTAL CORNICES, WINDOWS/DOORWAYS, ETC. ONE ADDITIONAL ARCHITECTURAL ELEMENT REQUIRED/OR EACH ADDITIONAL 25 FEET OF STREET OR FRONT FACING BUILDING FRONTAGE.
- BLANK WALLS: MAXIMUM LENGTH OF NON-STREET OR NON-FRONT FACING WALLS WITHOUT ARCHITECTURAL ELEMENTS OR DETAILS IS 30 FEET.

STREAM BUFFER NOTES

- RESTRICTION: - THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION EXCEPT AS SHOWN HEREON FOR CONSTRUCTION OF GREEN SPACE, UTILITIES AND FIRE DEPARTMENT ACCESS AS PERMITTED UNDER SECTION 17.10.060 OF THIS CODE OR AS APPROVED BY THE PUBLIC WORKS DIRECTOR OR HIS OR HER DESIGNEE.
- STREAM BUFFER EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR INFORMAL GREEN SPACE AND THE NATURAL UNOBSTRUCTED OVERLAND FLOW OF SURFACE WATER IN EXISTING DRAINAGE WAYS. PROPERTY OWNER(S) SHALL NOT PLACE PERMANENT OR SEMI-PERMANENT OBSTRUCTIONS OTHER THAN APPROVED LANDSCAPING IN SAID EASEMENT. ALL MAINTENANCE WITHIN THE STREAM BUFFER EASEMENT (SBE) SHALL BE THE RIGHT, DUTY AND RESPONSIBILITY OF THE PROPERTY OWNER(S) OF THE PROPERTY IN WHICH THE EASEMENT IS SO LOCATED, HOWEVER, IF MAINTENANCE IS NEGLECTED OR SUBJECT TO OTHER UNUSUAL CIRCUMSTANCES AND IS DETERMINED TO BE A HAZARD OR THREAT TO PUBLIC SAFETY BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS, CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE GOVERNING JURISDICTION WITH COSTS ASSESSED TO AND BORNE UPON SAID PROPERTY OWNER(S). OFFICIALS REPRESENTING THE APPLICABLE DEPARTMENT OF PUBLIC WORKS SHALL HAVE THE RIGHT TO ENTER UPON THE EASEMENT FOR PURPOSES OF PERIODIC INSPECTION AND/OR CORRECTIVE MAINTENANCE.

CERTIFICATION OF MASTER PUD PLAN APPROVAL

THIS PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 18.190 OF THE COMPREHENSIVE ZONING REGULATIONS OF THE CIT Y OF TOPEKA, SHAWNEE COUNTY, KANSAS AND MAY BE AMENDED ONLY AS PRESCRIBED IN TMC 18.190.070 OF SAID CHAPTER AND AS SET FORTH ON THIS DOCUMENT OR AS MAY SUBSEQUENTLY BE APPROVED AND RECORDED.

BILL FIANDER, PLANNING DIRECTOR

DATE

OWNER'S CERTIFICATE

29 FAIRLAWN LLC, OWNER, AGREES TO COMPLY WITH THE CONDITIONS AND RESTRICTIONS AS SET FORTH ON THE MASTER PUD PLAN.

IN TESTIMONY WHEREOF: 29 FAIRLAWN LLC, THE OWNERS OF THE ABOVE DESCRIBED PROPERTY, HAS SIGNED THESE PRESENTS THIS

DAY OF , 2017.

JAMES A. KLAUSMAN, PRESIDENT

29 FAIRLAWN LLC

STATE OF KANSAS) ss
COUNTY OF SHAWNEE) ss

BE IT REMEMBERED THAT ON THIS DAY OF 2017, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CAME JAMES A. KLAUSMAN, PRESIDENT, 29 FAIRLAWN LLC, WHO IS PERSONALLY KNOWN TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

IN WITNESS WHEREOF, I HEREBY SET MY HAND AND AFFIX MY SEAL ON THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

LEGAL DESCRIPTION

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 43 MINUTES 10 SECONDS WEST ON THE EAST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 80.00 FEET; THENCE SOUTH 87 DEGREES 47 MINUTES 53 SECONDS WEST AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 60.02 FEET TO THE WEST RIGHT-OF-WAY LINE OF S.W. FAIRLAWN ROAD AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 87 DEGREES 47 MINUTES 53 SECONDS WEST A DISTANCE OF 60.37 FEET; THENCE NORTH 57 DEGREES 13 MINUTES 26 SECONDS WEST A DISTANCE OF 122.09 FEET; THENCE NORTH 82 DEGREES 51 MINUTES 17 SECONDS WEST A DISTANCE OF 655.61 FEET; THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 3099.56 FEET, A CHORD WHICH BEARS NORTH 43 DEGREES 01 MINUTES 43 SECONDS WEST A DISTANCE OF 647.56 FEET, AN ARC DISTANCE OF 648.74 FEET; THENCE NORTH 48 DEGREES 19 MINUTES 20 SECONDS EAST A DISTANCE OF 73.28 FEET; THENCE NORTH 84 DEGREES 14 MINUTES 59 SECONDS EAST A DISTANCE OF 653.10 FEET; THENCE SOUTH 79 DEGREES 29 MINUTES 44 SECONDS EAST A DISTANCE OF 252.84 FEET; THENCE NORTH 89 DEGREES 16 MINUTES 50 SECONDS EAST A DISTANCE OF 293.57 TO SAID WEST RIGHT-OF-WAY LINE OF SW FAIRLAWN ROAD; THENCE SOUTH 00 DEGREES 43 MINUTES 10 SECONDS EAST ON SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 690.51 FEET TO THE POINT OF BEGINNING.

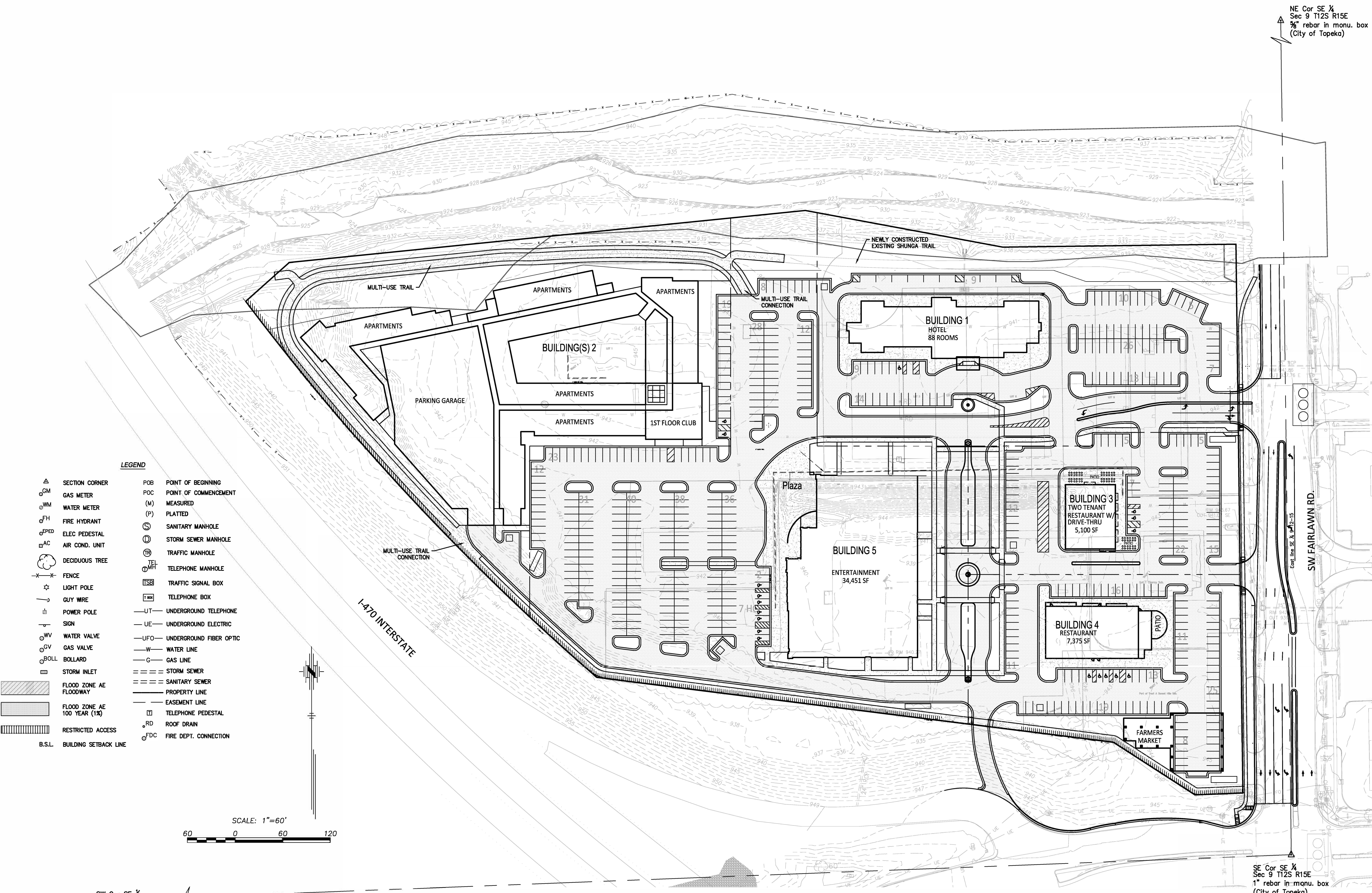
CONTAINS 639,187 FT² OR 14.67 ACRES OF LAND MORE OR LESS.

DATE: JULY 30, 2017

PROPERTY OWNER'S:

29 FAIRLAWN, LLC	PROPERTY ADDRESS
OWNER ADDRESS:	5235 SW 28TH CT
3715 SW 29TH ST	TOPEKA, KS 66614
TOPEKA, KS 66612	

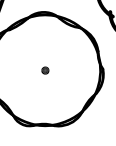
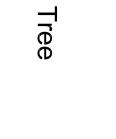
WHEATFIELD VILLAGE
PLANNED UNIT DEVELOPMENT MASTER PLAN

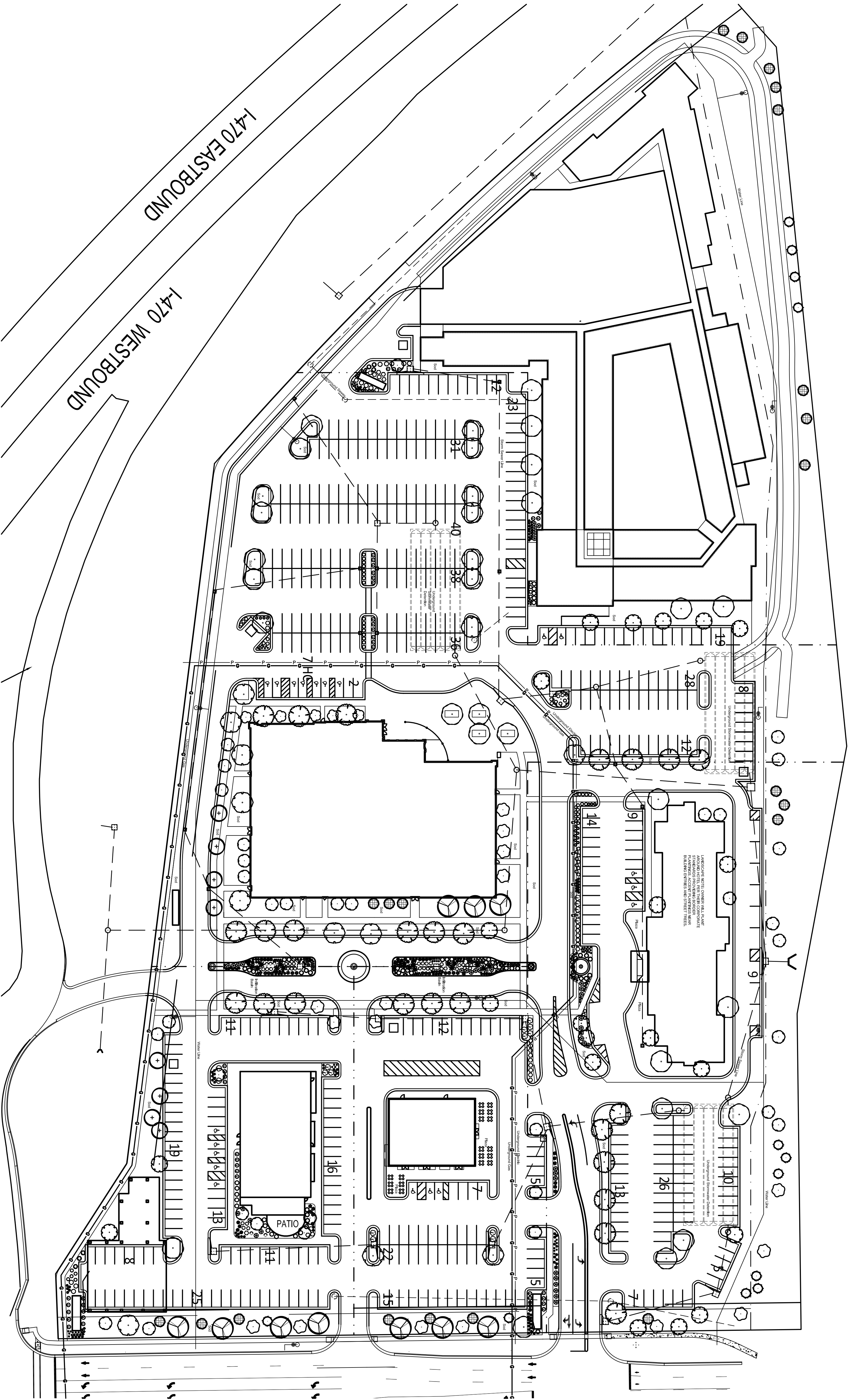


CFS ENGINEERS
cfse.com
2930 SW Woodside Dr., Topeka, KS 66614
o: 785-272-4706 f: 785-272-4736

DATE: JULY 30, 2017

PLANT SCHEDULE

TREES	BOTANICAL NAME / COMMON NAME	QTY
	Acer platanoides 'Warrenred' TM / Pacific Sunset Maple	25
	Cercis canadensis 'Oklahoma' / Oklahoma Redbud	5
	Ginkgo biloba 'Autumn Gold' TM / Maidenhair Tree	26
	Gleditsia triacanthos 'Skyline' / Skyline Honey Locust	18
	Juniperus virginiana 'Camearti' / Camearti Juniper	12
	Juniperus virginiana 'Taylor' / Taylor Eastern Redcedar	21
	Magnolia virginiana / Sweet Bay	16
	Magnolia x 'Daybreak' / Daybreak Magnolia	8
	Malus x 'Royal Raindrops' / Royal Raindrops Crabapple	34
	Quercus robur x alba 'Crimson Spire' / 'Crimson Spire Oak	10
	Syringa reticulata ' Ivory Silk' / Ivory Silk Japanese Tree Lilac	22
SHRUBS	BOTANICAL NAME / COMMON NAME	QTY
	Buddleia x 'Lo & Behold' / 'Lo & Behold' Blue Chip Butterfly Bush	19
	Buxus microphylla koreana 'Green Velvet' / Korean Boxwood	17
	Calamagrostis x acutiflora 'Karl Foerster' / Feather Reed Grass	17
	Cornus sericea 'Kelsey' / Kelsey Dogwood	6
	Echinacea purpurea 'PowWow Wild Berry' / PowWow Wild Berry Coneflower	75
	Fothergilla gardenii / Dwarf Fothergilla	38
	Hemerocallis x 'Going Bananas' / Going Bananas Daylily	109
	Hemerocallis x 'Pardon Me' / Pardon Me Daylily	136
	Ilex aquifolium 'Dragon Lady' / Dragon Lady Holly	11
	Juniperus horizontalis 'Hughes' / Hughes Juniper	40
	Juniperus horizontalis 'Lineglow' / Lineglow Juniper	21
	Lagerstroemia x infinita Blie Pink / InfinitiTM Blie Pink Crapehyrtle	5
	Lagerstroemia 'PillAGAY' / Enduring SummerTM Red Crapehyrtle	6
	Nandina domestica 'Fire Power' / Firepower Nandina	43
	Nepeta x 'Kassensii' Walkers Low' / Walkers Low Catmint	18
	Pennisetum alopecuroides 'Hemeln' / Hemeln Dwarf Fountain Grass	12
	Physocarpus opulifolius 'SMPOTW' / Tiny Wine Ninebark	39
	Rhus aromatica 'Gro-Low' / Gro-Low Fragrant Sumac	19
	Rhus typhina 'Balliger' TM / Tiger Eyes Sumac	16
	Rosa x 'Coral Drift' / Coral Drift Rose	29
	Schizachyrium scoparium 'Blue Heaven' / Blue Heaven Little Bluestem	14
	Weigela florida 'My Monet' / My Monet Weigela	42



LANDSCAPE PLAN

The following is a summary of landscape requirements per Chapter 18.235 of the City Code.

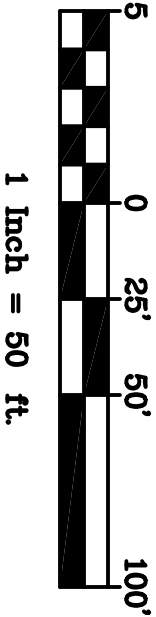
The total Development Area is 639,183 SF
Total surface parking stalls provided is 518 Stalls

Using Template 1, Provided by the Landscape Code, the following is the required points needed:

Base Points:	33
Greater than 10,000 S.F.	2,097
Parking lot points required: (1.5 points per parking space)	777
Less credit for storm-water best management practices	0
Less irrigation credits claimed:	-436 (75% of Areas is irrigated)
Total Points Required:	2,471
Total Points Obtained:	2,471

LANDSCAPE PROVIDED:

Type	Quantity	Size	Points Total
Large Tree	79	2" Cal.	869
Medium Tree	47	1.5" Cal.	376
Understory Tree	38	1.5" Cal.	190
Coniferous Tree	38	4" Tall	304
Shrub	369	2-Gal	369
Perennials	320	2-Gal	320
Ornamental Grass	43	2-Gal	43
Total Points Provided:	2,471		



Memorandum

To: John Neunuebel

CC:

From: Kevin Holland

Date: April 28, 2017

Re: Public Meeting for Rezoning of Wheatfield Village, 29th & Fairlawn

A public information meeting was held Monday, April 24, 2017 from 5:30 PM until 6:30 PM at the Town and Country Christian Church for the rezone of the property located at the northwest corner of SW 29th Street and SW Fairlawn Road.

Sixteen neighbors attended the meeting, mainly from the neighborhood just north of the Shunga Creek. The main questions involved traffic congestion and their ability to get out of their side road onto Fairlawn once the development is completed and operational. The other comments dealt with what uses of buildings were proposed and specifics about the site. The crowd was excited to have the existing dirt/rock pile removed because of the dust issues from the piles in the past. The conversation was relatively supportive, although the question of traffic and the combination of a new signal working with the existing signals at 29th and Fairlawn was discussed at length and generated the most concern from the neighbors.

Wheatfield Village

NAME	ADDRESS	EMAIL	PHONE
Kevin Holland	CFS		
Tom Ingram	CFS		
Jennifer Sork	Midwest Health		
John Nemall	COT		
Mendys Quebussard		suebussard3@yahoo.com	
Richard Platt	60810 5512 S W 28th St		
Bob + Susan Wright	5800 3rd 28th St.		
Collette Brown Lister	2740 SW 80th Ave		
DALE SMITH	5131 SW 29th St	DALESMITH@CARPETONEINTERIORS.COM 2131402	
Shad Isaacson	5314 SW 28th St	Shad.Isaacson@yahoo.com	
Sheryl + Robert Maxwell	6500 SW Burlington Ct		
Henry McCall	5307 SW 28th St	WAVE@CLOX.NET	267-7174 583-9994
Jim Plussman	4925 SW 25th St. Topk		
Terry Coder	COT		
NICK HONIGAN	206		
Tom Welch	COT		
Patricia A. Reeder, Winner, Reader's Grand	5611 SW Penningsford Dr.	reeder@wrlaw.com	(785) 235-5330
Green Beck		kspackey75@yahoo.com	
MARK CASHILL	6446 SW Gayland Dr		



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION
C A S E M I N U T E S

Monday, July 17, 2017

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Brian Armstrong, Ariane Messina, Dennis Haugh, Carole Jordan, Rosa Cavazos (Acting Chair), Katrina Ringler, Scott Gales, Patrick Woods (8)

Members Absent: Wiley Kannarr (1)

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; John Neunuebel, Planner II; Kris Wagers, Administrative Officer; Mary Feighny, Legal

PUD17/02 Wheatfield Village Planned Unit Development by: 29 Fairlawn, LLC, requesting to amend the district zoning classification of the subject property (14.7 acres) located at the Northwest corner of SW 29th Street and Fairlawn Road **from** “C-4” Commercial District **to** “PUD” Planned Unit Development (C-4 Commercial and M-3 Multiple Family Dwelling Use Groups) to allow for development of a theater, hotel, restaurants, and residential apartments. (Neunuebel)

Mr. Fiander noted that a project traffic engineer and others were in attendance to answer technical questions Commissioners may have.

Mr. Neunuebel presented the Staff Report, concluding with staff’s recommendation for approval of the Wheatfield Village PUD Master Plan subject to the 13 conditions listed in the Staff Report.

Mr. Gales asked if possible parking variances would be reviewed with the proposed phases of the project, and Mr. Neunuebel confirmed that an administrative variance could be possible based on applicant’s providing adequate support to determine it appropriate.

Ms. Messina asked if there would be bicycle parking requirements; Mr. Fiander stated that City code requires 5% of total vehicle parking spaces be set up for bike parking. There are no additional requirements set for this PUD.

With no further questions for staff, Ms. Cavazos invited the applicant’s representative to come forward to speak. Mr. Bob Johnson of Polsinelli Law Firm came forward and stated he represents the applicant, 29 Fairlawn LLC. He introduced those who were with him and available to answer questions, including Jeff Wilke, a traffic engineer for TranSystems.

Mr. Johnson thanked staff for all the work they’ve put into the project and stated that the applicant agrees to all the conditions put forth in the staff report.

Mr. Johnson spoke of the history and current state of the property, which he stated has been in decline for some time and is currently an eyesore along a highly visible corridor in the City. He explained that the PUD

DRAFT

plan calls for all current buildings to be demolished and new buildings built into what he described as a modern mixed use site.

Mr. Johnson reviewed a conceptual site plan (PowerPoint) and spoke to the intended modern, high quality project the owners plan for the site. Currently planned are a hotel, apartments, movie theater, two restaurants and a coffee shop. He also spoke about the ease of access to the Shunga Trail for residents, those staying at the hotel, and others who come to dine and/or attend a movie.

Mr. Johnson reviewed potential traffic access scenarios and explained that traffic engineer Jeff Wilke would review them in more detail. He stated that Mr. Wilke, working with COT's traffic engineer Terry Coder, has produced an exhaustive traffic study that has analyzed the project from all angles and they both agree that every intersection and every movement studied under each of the scenarios meets an acceptable level of service through all phases of the project. Scenario one and two both include the same improvements to Fairlawn, which include a fully signalized intersection at 28th & Fairlawn. Just north of that they will retain the existing southbound turn lane and add a dedicated northbound turn lane at 28th & Fairlawn. They'll construct a raised median, leaving a break in access to the south of the intersection for access to the property on the east side of Fairlawn. The applicant will also construct an additional left turn lane on 29th to turn east onto Fairlawn.

Scenario One, which includes the proposed break in access from the I-470 on-ramp, includes all the Fairlawn modifications listed above. 29th Street improvements would include increasing capacity of the left turn lane onto the I-470 west bound on-ramp.

Scenario Two, which does not include a break in access from the I470 on-ramp, also includes all the Fairlawn modifications listed above. 29th Street improvements would include adding a 2nd left hand turn lane for traffic going east on 29th Street to turn North onto Fairlawn. That would also include additional storage west of the 29th Street & I-470 on-ramp intersection.

Mr. Johnson explained that the Fairlawn street improvements would occur with Phase One of the Wheatfield Village, which includes the movie theater and pad site for fast/casual restaurant along Fairlawn. SW 29th Street improvements will occur with Phase Two of the project. Certificates of Occupancy will not be granted by the City until the agreed upon street improvements are complete in each of the phases.

Mr. Wilke, Traffic Engineer for TranSystems, KCMO, came forward and reviewed three traffic simulation scenarios. Mr. Gales asked if the simulations took into account events such as movies letting out and dumping several hundred cars at once onto the street. Mr. Wilke explained that the traffic simulations were for peak traffic times for commuting, which is when the Wheatfield traffic addition would likely have the biggest impact. Scenarios showed potential traffic movement to be within industry approved standards even after the completion of Phase Two.

Mr. Gales asked what sorts of issues we might see in the simulations if there was a problem, and Mr. Wilkes stated it would be ques between intersections being extensive and not clearing in one light cycle. He explained that this is typical of a level E or F, but the levels predicted in the models are within good thresholds.

Mr. Armstrong asked for and received clarifications on the 29th Street improvements. He asked when the applicant expects a final answer regarding the proposed break in access, and was told that it would perhaps be about 5 months; however, it's uncertain how long it will take Federal Highways Administration to review the proposal.

Ms. Cavazos asked if there would be a pedestrian crossing at the 28th & Fairlawn intersection and was told that yes, a crosswalk would be part of the signalized intersection.

Mr. Haugh asked if there had been discussion with the City about cleanup of Shunga and surrounding trees and debris. Mr. Johnson explained that since it's in a floodway, they are prohibited from making changes in that area.

Mr. Gales pointed out that some of the proposed new building was within the 100 year flood zone. Mr. Johnson explained that this has been taken into consideration and discussed with City staff. They plan to elevate the site to move it out of the 100 year floodplain. They've met with a number of parties, including the City, KDOT, and Kansas Division of Water Resources; they will work together to make sure the issue is adequately addressed before receiving permits.

With no further questions to the applicant, Acting Chair Cavazos declared the **public hearing open**. With none coming forward to speak, she declared the **public hearing closed**.

Mr. Gales asked staff to verify that the stipulations staff listed on pp. 14-15 of the staff report are agreeable to the applicant. Mr. Neunuebel stated that the applicant has accepted these conditions and will comply. Ms. Ringler expressed concern about the number of conditions, but it was agreed that many are grammatical and due to the scale of a PUD master plan, it's not uncommon to have a substantial number of conditions. Mr. Hall further explained that a corrected mylar will be required before the case is taken to City Council and staff is comfortable that the applicant will be able to meet the conditions.

Motion by Mr. Gales to approve the Wheatfield Village PUD Master Plan, subject to the conditions listed on pp. 14-15 of the Staff Report. **Second by Mr. Haugh**.

Mr. Armstrong pointed out that this is a high traffic area with three existing signals. He stated that the existing analysis takes into account a project that the City already has planned to install a traffic signal. He stated that from a traffic analysis point of view, it appears the break in access vs. non-break have very similar results and pointed out that the break in access will likely relieve some Fairlawn traffic. He stated that he thinks the improvements with Phase One and Phase Two make sense.

There was a request from the audience to re-open the public hearing. Mr. Fiander inquired of the Commissioners whether this would be allowed, and Mr. Gales asked for an explanation as to why it was being requested since the public hearing time had already been opened and subsequently closed. It was determined the potential speaker may not have understood the proceedings.

Mr. Gales stated he would suspend his motion in lieu of hearing public comments if it was the desire of Commissioners to re-open the public hearing and moved to do so. With no objections, Ms. Cavazos declared the **public hearing open**.

Mr. William G. Haynes of Topeka came forward and explained he owns the property at 2830 Fairlawn. He expressed concern about traffic being able to access his property and was unclear as to whether there would be a break in the median on Fairlawn so people could turn into his property from the west side of Fairlawn.

Commissioner Woods arrived at 7:19PM.

Mr. Gales stated that the break in the median is still in the plans and this was confirmed by the applicant and by City Traffic Engineer Terry Coder, who stated that access to Mr. Haynes's property will remain unchanged.

Ms. Cavazos stated the **public hearing was once again closed** and Mr. Gales stated his motion as previously made and seconded by Mr. Haugh stands with no changes. With no further discussion, Ms. Cavazos called for a vote: **APPROVAL (7-0-1** with Mr. Woods abstaining).



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE: November 14, 2017
CONTACT PERSON: Nickie Lee, Director of Finance DOCUMENT #:
SECOND PARTY/SUBJECT: Wheatfield Village PROJECT #:
Community Improvement District
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by City Manager Brent Trout, establishing a Community Improvement District for the Wheatfield Village District at 29th and Southwest Fairlawn Road and levying a CID sales tax of two percent (2%) within the CID.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval would establish a community improvement district at the northwest corner of SW 29th Street and SW Fairlawn Road and impose a 2% retailers sales tax on retail sales or services within the district.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

Whether to establish a community improvement district and impose a 2% sales tax on businesses located within the Wheatfield Village district located at the northwest corner of SW 29th Street and SW Fairlawn Road.

STAFF RECOMMENDATION:

Staff recommends the Governing Body adopt the ordinance.

BACKGROUND:

The owner of Wheatfield Village has petitioned the governing body to establish a Community Improvement District (CID) pursuant to K.S.A. 12-6a26 and impose a 2% sales tax on good and services purchased within the district. The sales tax expires 22 years from the date collections start, or when the developer's reimbursable

costs have been paid.

The total costs of the project are approximately \$93 million. Reimbursements for the eligible CID project costs would be distributed once received from the State of Kansas and certified as eligible costs. The 2% sales tax revenue would be generated based upon taxable sales in the district.

A public hearing was held and closed on October 3, 2017. The City of Topeka CID Policy requires approval of a development agreement.

BUDGETARY IMPACT:

A community improvement district is a self-supporting economic development tool. The CID levies an incremental sales tax on businesses within the district. The state collects the incremental sales tax, remitting it to the City for reimbursement of qualified CID project costs as certified by the project developer. The City's only budgetary impact is the administration of the monies and per City policy, an administrative fee is charged to the sales tax received.

SOURCE OF FUNDING:

2% CID Sales Tax

ATTACHMENTS:

Description

Ordinance

Development Agreement

Wheatfield CID Petition dated August 31, 2017

CID Policy

1 (Published in the Topeka Metro News _____)
2

3 ORDINANCE NO. _____
4

5 AN ORDINANCE introduced by City Manager Brent Trout establishing a Community
6 Improvement District (CID) for the Wheatfield Village District at 29th
7 and Southwest Fairlawn Road levying a CID sales tax of two
8 percent (2%) within the CID.
9

10 WHEREAS, pursuant to the Community Improvement District Act, K.S.A. 12-
11 6a26 through 12-6a36, as amended (the "Act") cities are authorized to establish
12 Community Improvement Districts ("CID") for economic development purposes; and

13 WHEREAS, on or about August 3, 2017, the City received a petition from the
14 owners of record of more than 55% of the land within a proposed CID district ("District")
15 generally described as the Wheatfield Village and the persons collectively owning more
16 than 55% by assessed value of the land area within the proposed District; and

17 WHEREAS, on or about August 31, 2017 the City received an amended petition
18 changing the amount of the requested sales tax levy from 1.5% to 2%; and

19 WHEREAS, pursuant to Resolution No. 8948 adopted on September 5, 2017 the
20 City has provided notice that it would hold a public hearing on October 3, 2017 to
21 consider establishing a CID and make findings necessary therefore; and

22 WHEREAS, the Governing Body conducted a public hearing on October 3, 2017
23 to consider establishing the proposed District, all in accordance with the Act; and

24 WHEREAS, the Act provides that upon the conclusion of the public hearing the
25 Governing Body may authorize the CID and project therein.

26 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA,
27 KANSAS, that:

28 Section 1. Nature of the Project. The general nature of the proposed project
29 (Project) will promote the redevelopment and revitalization of the Wheatfield Village
30 mixed-use development, located at the northwest corner of Southwest 29th Street and
31 Southwest Fairlawn Road within the City, by providing community improvement district
32 financing for the demolition, construction, maintenance, and procurement of certain
33 improvements, costs, and services within the district, including, but not limited to: land
34 acquisition, infrastructure related items, streets, sidewalks, parking lots and/or
35 structures, buildings, facilities, tenant improvements, water management and drainage
36 related items, utilities, landscaping, lighting, art, water features and other cultural
37 amenities, ongoing maintenance of the district, marketing, advertisement and economic
38 development, promotion of activities and special events, training, cleaning and
39 maintenance, and administrative costs in establishing and maintaining the district and
40 the Project, and any other items permitted to be financed within the district under the
41 Act.and authorized in the Development Agreement.

42 Section 2. Findings. The Governing Body finds the District furthers economic
43 development within the City and further finds it advisable and in the City's best interest
44 to establish the District and authorize the project as proposed, subject to a Development
45 Agreement approved by the City Manager.

46 Section 3. Estimated Project Cost. The estimated cost of the proposed project
47 within the District is approximately \$93,222,834.

48 Section 4. Map. A map of the District is attached as Exhibit A and
49 incorporated herein by reference.

50 Section 5. Legal Description. The legal description of the District is attached
51 as Exhibit B and incorporated herein by reference.

52 Section 6. Method of Financing; Sales Tax; Pay as You Go. The method of
53 financing the project is through a CID sales tax. The proposed amount of the CID sales
54 tax to be levied is two percent (2%) which shall be levied upon all sales of tangible
55 personal property at retail or services taxable within the District pursuant to the Kansas
56 Retailers' Sales Tax Act.

57 Section 7. Sales Tax Levy. The City authorizes and hereby levies a two
58 percent (2%) CID sales tax as described in Section 6 which shall expire no later than 22
59 years from the date the state director of taxation begins collecting the tax or when the
60 pay-as-you-go costs have been paid.

61 Section 8. Development Agreement. In accordance with the Governing
62 Body's CID Policy which requires presentation of a development agreement to the
63 governing body, the Development Agreement is approved.

64 Section 9. Effective Date. This ordinance shall be in full force and effect from
65 and after its passage by a majority of the Governing Body and publication once in the
66 official City newspaper.

67 Section 10. Recording. After publication, the City Clerk is hereby directed to file
68 a copy of this ordinance with the Shawnee County Register of Deeds.

69 Section 11. Kansas Department of Revenue. The City Clerk is directed to
70 provide the Kansas Department of Revenue with a certified copy of this ordinance
71 notifying the Department of the establishment of the District and the levy of the CID
72 sales tax.

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PASSED AND APPROVED by the Governing Body on _____.

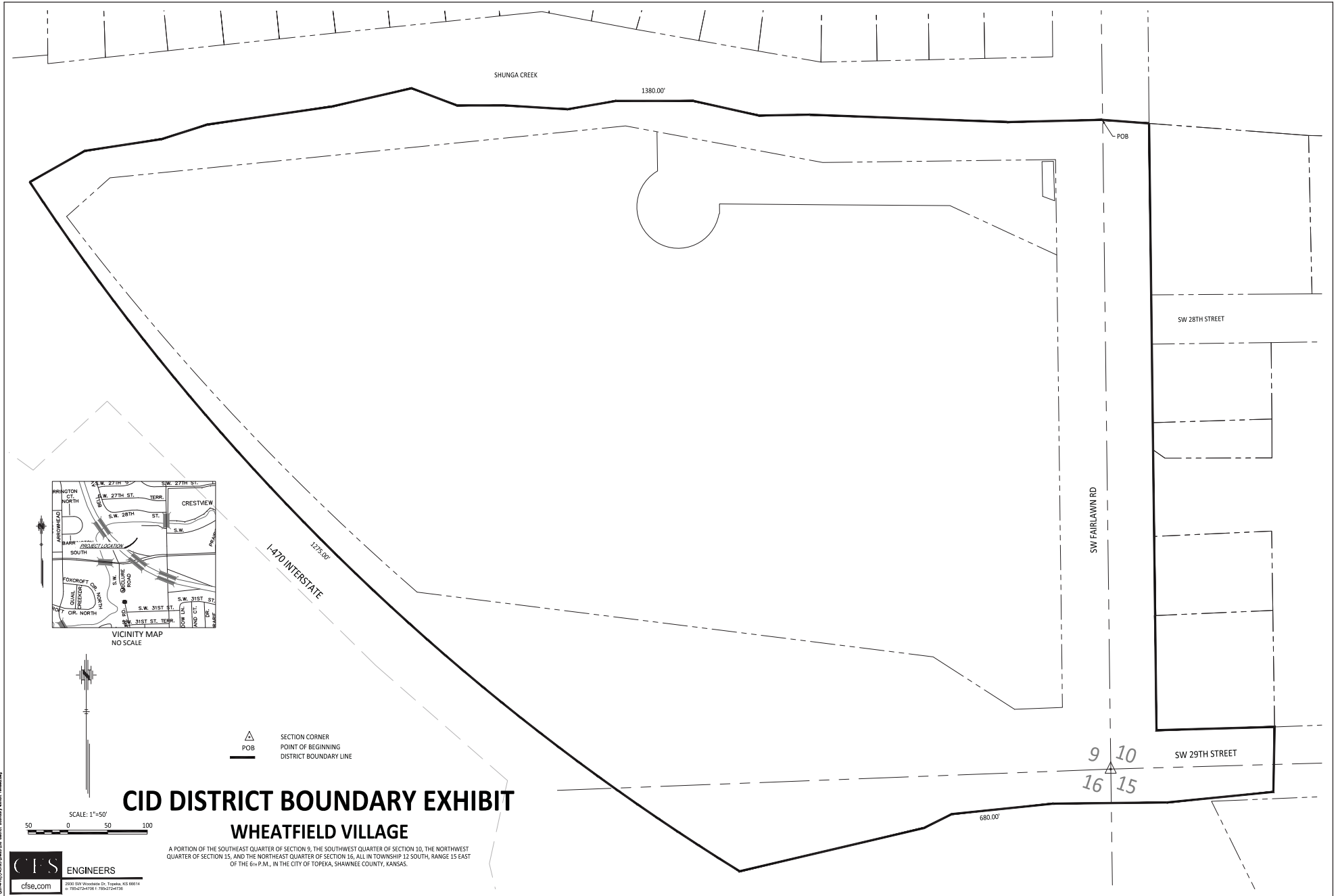
CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

EXHIBIT A



WHEATFIELD VILLAGE

Project 14-5195

July 26, 2017

CID DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10, at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the extension of the North line of said Shunga Plaza Subdivision to the East Right of Way line of Southwest Fairlawn Road; thence Southerly on said East Right of Way line to the intersection with the North Right of Way line of Southwest 29th Street; thence Easterly on the North Right of Way of Southwest 29th Street a distance of 150 feet more or less; thence Southerly to a point 20 feet South of the South curb line of Southwest 29th Street; thence Westerly and Southwesterly parallel with said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

DEVELOPMENT AGREEMENT

between

THE CITY OF TOPEKA, KANSAS

and

29 FAIRLAWN LLC

for implementation of the

**WHEATFIELD VILLAGE
COMMUNITY IMPROVEMENT DISTRICT
&
TAX INCREMENT FINANCE REDEVELOPMENT
DISTRICT (PROJECT PLAN 1)**

DATED AS OF _____, 2017

**DEVELOPMENT AGREEMENT
WHEATFIELD VILLAGE COMMUNITY IMPROVEMENT DISTRICT
&
TAX INCREMENT FINANCE REDEVELOPMENT
DISTRICT (PROJECT PLAN 1)**

This Development Agreement dated as of _____, 2017, for implementation of the Wheatfield Village Community Improvement District and Project Plan 1 of the Wheatfield Village Tax Increment Finance Redevelopment District (the "Agreement") is entered into by and between the **CITY OF TOPEKA, KANSAS**, a municipal corporation (the "City"), and **29 FAIRLAWN, LLC**, a Kansas limited liability company (the "Developer") (collectively referred to as the "Parties").

WHEREAS, the Developer has proposed to engage in a mixed-use development project to be known as the Wheatfield Village Development, which is anticipated to include retail/restaurant uses, multi-family residential uses, parking garage, surface parking, landscaping, lighting, storm water retention/detention improvements, sidewalks/walkways, streets/drives, ingress/egress, signalization and other associated infrastructure improvements, with a total investment of approximately \$93,000,000, all upon approximately 14.67 acres of land located at 5235 SW 28th Court plus adjacent right-of-way; and

WHEREAS, the Developer has filed a petition and an amended petition with the City to establish the Wheatfield Village Community Improvement District to impose a special Two Percent (2%) sales tax within the boundaries of the CID to assist with funding the costs of development within the Project Area; and

WHEREAS, the City, following a properly noticed public hearing, established the CID District by adoption of the CID Ordinance on _____, 2017; and

WHEREAS, the City, following a properly noticed public hearing, established the Wheatfield Village Redevelopment District by adoption of the TIF Ordinance on _____, 2017, which set a base value for property tax within the boundaries of the TIF District, to assist with funding the costs of development within the Project Area; and

WHEREAS, the City, following a properly noticed public hearing, adopted TIF Project Plan 1 pursuant to Ordinance No. _____ passed by the Governing Body on _____, 2017; and

WHEREAS, the Developer and the City anticipate that the Project will provide significant economic benefits to the City and other political subdivisions, including paying real property taxes to the City and other taxing subdivisions and generating retail sales tax revenues for the City and other entities collecting retail sales taxes; and

WHEREAS, entering into this Agreement serves the public purpose of enabling the Developer to proceed with the Project, thereby increasing economic development in the City and adding to the existing tax base within the City; and

WHEREAS, the City and the Developer desire to enter into this Agreement for the Project to provide the terms and conditions for payment and/or reimbursement of the Project Costs.

NOW THEREFORE, to improve, maintain and revitalize commercial activity in the City by assuring opportunities for redevelopment and attracting sound and stable commercial growth, to promote the public interest, to create new jobs in the City, to enhance the tax base of the City and to induce the Developer to undertake the Project, and in consideration of the premises and mutual covenants and agreement herein set forth, the City and the Developer do hereby covenant and agree as follows:

Section 1

Definitions of Words and Terms

In addition to words and terms defined elsewhere herein, capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the hereinafter defined Act. Unless the context shall otherwise indicate, words importing the singular number shall include the plural, and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“Affiliate” means an entity in which management authority or majority ownership is possessed by Jim Klausman or Floyd Eaton, whether individually or through a trust or other entity in which either of these individuals possesses majority ownership or management authority.

“Captured City Sales Tax” means of the receipts of the City under KSA 12-187 et seq., as amended, and KSA 12-198, as amended, during the TIF Term, from retail sales and compensating use taxes generated in the Project Area equal to One and a Half Percent (1.5%) of any taxable retail sales in any calendar year above the Taxable Retail Sales Base, less any fees charged to the City by the Department of Revenue for its collection of such taxes. The Half-Cent City Sales Tax is part of the Captured City Sales Tax.

“CID Act” means the Constitution and statutes of the State including K.S.A. 12-6a26 et seq. as amended and supplemented from time to time.

“CID Commencement Date” means January 1, 2019.

“CID District” means the Wheatfield Village Community Improvement District established by the City pursuant to the CID Ordinance, which contains within its boundaries the real property legally described and generally depicted in *Exhibit A*.

“CID Eligible Project Cost” means the costs of the Project described in the column labeled “CID Eligible Project Costs” on *Exhibit H*, which are eligible to be paid or reimbursed pursuant to the CID Act and in accordance with this Agreement; provided, however: (i) land acquisition costs shall be CID Eligible Project Costs only to the extent they are limited to actual, documented costs for bona fide arm’s length purchase transactions with unrelated parties; (ii) costs described in KSA 12-6a27(m)(2) through and including KSA 12-6a27(m)(8) shall not be CID Eligible Project Costs; and (iii) Developer fees and legal costs shall not be CID Eligible

Project Costs. In addition to the costs described on **Exhibit H**, interest on Developer financing is a CID Eligible Project Cost and shall be reimbursable at the rate of 5.5% per annum on any CID Eligible Project Costs, approved by the City but unreimbursed. Interest shall begin to accrue upon any CID Eligible Project Cost, other than interest costs, commencing on the first day of the month next succeeding the City's approval of the same.

"CID Ordinance" means Ordinance No. _____ passed by the Governing Body of the City on _____, 2017, authorizing the creation of the Community Improvement District and levying the CID Sales Tax, as amended from time to time.

"CID Sales Tax" means the Two Percent (2%) special Community Improvement District Sales Tax levied within the District and collected pursuant to K.S.A. 12-6a31, as amended.

"CID Sales Tax Fund" means that fund held in the City's treasury into which proceeds of the CID Sales Tax are deposited. The City may designate a name for such fund on its books and records at its discretion.

"CID Taxpayers" means any individual or business located in the CID District and required to remit sales and use tax to the Kansas Department of Revenue (and its successors).

"CID Term" means a term commencing on the CID Commencement Date and ending on the date twenty-two (22) years following the CID Commencement Date. In no event shall any deposits be made to the CID Sales Tax Fund after the expiration of the CID Term.

"City" means the City of Topeka, Kansas.

"City Clerk" means the duly appointed City Clerk of the City of Topeka, Kansas.

"Department of Revenue" means the Department of Revenue of the State of Kansas and any successor.

"Developer" means 29 FAIRLAWN, LLC, a Kansas limited liability Company, and its successors and assigns.

"Developer Road Improvement Cost Obligation" means the estimated amounts described in **Exhibit H** under the subheadings "Fairlawn Roadway Improvements" and "29th Street Roadway Improvements" which cumulatively equal \$1,113,483.

"Excess Public Road Improvements Costs" means any costs in excess of the Developer Road Improvement Cost Obligation to design and construct the Public Road Improvements, but excluding costs for that certain Wheatfield Village Traffic Impact Study prepared by Transystems and dated July 2017.

"Excusable Delays" means the delays for performance set forth in Section 14(f) herein.

"Governing Body" means the governing body of the City.

“Half-Cent City Sales Tax” means One-Half Cent of the Captured City Sales Tax which was approved pursuant to the City of Topeka Ordinance No. 19257 “exclusively for costs of maintenance and improvements of existing city streets, gutters, curbs, sidewalks, alleys and street lighting”, which may be renewed, supplemented, or altered from time to time by separate ordinance during the TIF Term.

“Half-Cent City Sales Tax Sub-Account” means the subaccount of the TIF Fund into which the proceeds of the Half-Cent City Sales Tax are deposited. The City may designate a name for such fund on its books and records at its discretion.

“Half-Cent Eligible Project Cost” means the costs of the Project described in the column labeled “Half-Cent Sales Tax Eligible Expenses” on **Exhibit H**, which are eligible to be paid or reimbursed in accordance with this Agreement; provided, however, that (i) if the Half-Cent City Sales Tax is not renewed by the voters of the City of Topeka at any point during the TIF Term, there will be no obligation on the part of the City regarding any payments set to be funded by such Half-Cent City Sales Tax (unless the Half-Cent City Sales Tax is later reapproved by ordinance during the TIF Term, at which point the same shall be collected and administered pursuant to the terms of this Agreement); and, provided further, that (ii) any payments made from the Half-Cent City Sales Tax Fund shall be restricted by the specific uses identified in the corresponding ballot language authorizing such Half-Cent City Sales Tax. In addition to the costs described on **Exhibit H**, interest on Developer financing is a Half-Cent Eligible Project Cost and shall be reimbursable at the rate of 5.5% per annum on any Half-Cent Eligible Project Costs. Interest shall begin to accrue upon any Half-Cent Eligible Project Cost, other than interest costs, commencing on the first day of the month next succeeding the City’s approval of the same.

“Parties” means, collectively, the City and the Developer.

“Petition” means the petition, and any amended petitions, requesting the creation of the Wheatfield Village Community Improvement District filed with the City Clerk on August 9, 2017 and August 31, 2017.

“Placed in Service Date” means the date, certified by the Developer’s architect in writing to the City’s Director of Financial and Administrative Services, on which all components of the Project are complete and able to be occupied by the Developer or its tenants.

“Project” means a mixed-use project to be known as the Wheatfield Village Development, which is anticipated to include retail/restaurant uses, multi-family residential uses, parking garage, surface parking, landscaping, lighting, storm water retention/detention improvements, sidewalks/walkways, streets/drives, ingress/egress, signalization and other associated infrastructure improvements, with a capital investment of approximately \$93,000,000.

“Project Area” means Project Area 1 within the TIF District as described in the TIF Project Plan and as further described in the legal description and boundary map attached hereto as **Exhibit C**.

“Project Costs” means all the costs and expenses of the Project expended by the Developer, as more specifically described in **Exhibit H**, which are attached hereto and incorporated herein by this reference.

“Public Finance Proceeds” means the CID Sales Tax, the TIF Captured City Sales Tax, and the TIF Property Tax.

“Public Road Improvements” means those improvements to the public rights-of-way, and any improvements to private property required to effectuate such public improvements, to be constructed by requirement of the Planned Unit Development Plan approved by the Governing Body on _____, 2017.

“Public Road Improvements Costs” means those costs to design and construct the Public Road Improvements.

“Reimbursement Funds” means the CID Sales Tax Fund and the TIF Fund.

“Site Plan” means the site plan for the Project contained within the Planned Unit Development Plan for the Project approved by the Governing Body on <month/day>, 2017, and as amended from time to time through the City’s planning process, which is attached hereto and incorporated herein by this reference as **Exhibit D**.

“State” means the State of Kansas.

“Taxable Retail Sales Base” means One Hundred Ninety-Thousand Dollars (\$190,000.00) for a full year, prorated by month (including any partial month) for any partial year.

“TIF Act” means K.S.A. 12-1770 *et. seq.*, as amended and supplemented from time to time.

“TIF Commencement Date” means January 1, 2019.

“TIF District” means the Wheatfield Village Redevelopment District established by the City pursuant to the TIF Ordinance, which contains within its boundaries the real property legally described and generally depicted in **Exhibit B**.

“TIF Eligible Project Cost” means the costs of the Project described on **Exhibit H**, which are eligible to be paid or reimbursed pursuant to the Act and in accordance with this Agreement; provided, however: (i) land acquisition costs shall be TIF Eligible Project Costs only to the extent they are limited to actual, documented costs for bona fide arm’s length purchase transactions with unrelated parties; and (ii) Developer fees and legal costs shall not be TIF Eligible Project Costs. In addition to the costs described on **Exhibit H**, interest on Developer financing is a TIF Eligible Project Cost and shall be reimbursable at the rate of 5.5% per annum on any TIF Eligible Project Costs. Interest shall begin to accrue upon any TIF Eligible Project

Cost, other than interest costs, commencing on the first day of the month next succeeding the City's approval of the same.

"TIF Fund" means that fund held in the City's treasury as required by KSA 12-1775(b)(2) into which proceeds of the TIF Property Tax and Captured City Sales Tax are deposited. The City may designate a name for such fund on its books and records at its discretion.

"TIF Ordinance" means Ordinance No. _____ passed by the Governing Body of the City on _____, 2017, authorizing the creation of the Tax Increment Finance District, as amended from time to time.

"TIF Project Plan" means that project plan conforming to KSA 12-1772 and adopted by Ordinance No. _____ passed by the Governing Body on _____ and included as *Exhibit I*.

"TIF Project Plan Ordinance" means Ordinance No. _____ passed by the Governing Body of the City on _____, 2017, approving the TIF Project Plan, as amended from time to time.

"TIF Property Tax" means the real property taxes attributable to the increase in the current assessed valuation over the base assessed valuation of the real property from the Project Area during the TIF Term, as determined in accordance with the TIF Act. The base assessed valuation of only the real property within the Project Area shall be utilized to calculate the TIF Property Tax increment available to reimburse the Developer for TIF Eligible Project Costs.

"TIF Taxpayers" means any individual or business located in the TIF District and required to remit sales and use tax to the Kansas Department of Revenue (and its successors).

"TIF Term" means a term commencing on the TIF Commencement Date and ending on the date twenty (20) years following the TIF Commencement Date. In no event shall any deposits be made to the TIF Fund or after the expiration of the TIF Term.

Section 2

District Formation and Purpose

Pursuant to the CID Act and TIF Act, as well as the proceedings of the City, including the CID Ordinance, the TIF Ordinance, and the TIF Project Plan Ordinance, the City has authorized the creation of the CID District and TIF District and has approved the TIF Project Plan. The purpose of creating the CID District and TIF District and approving the TIF Project Plan is to provide the Developer with an economic incentive to undertake the Project and to provide for further economic development of the City. The purpose of this Agreement is to outline the rights, duties and obligations of the Parties as they relate to the CID District and TIF District and to provide for the reimbursement to the Developer of the CID Eligible Project Costs from the proceeds of the CID Sales Tax and TIF Eligible Project Costs from the TIF Property Tax and the Captured City Sales Tax, in accordance with the further terms of this Agreement.

Section 3

Representations of the Parties

(a) The City is a municipal corporation organized under the laws of the State. The City is authorized pursuant to the CID Act to create the CID District and levy the CID Sales Tax and the TIF Act to create the TIF District and approve the TIF Project Plan; to enter into this Agreement and to perform the duties and obligations of the City contained herein. The Governing Body has taken all requisite action to pass the CID Ordinance, the TIF Ordinance, and the TIF Project Plan Ordinance, which, when they each become effective: 1) create the CID District and levy the CID Sales Tax and 2) create the TIF District and approve the TIF Project Plan. This Agreement constitutes a valid and binding obligation of the City in accordance with its terms and conditions.

(b) The Developer is a limited liability company duly organized and existing under the laws of the State. The Developer has taken all requisite action under its organizational documents to authorize the execution of this Agreement and to perform the duties and obligations of the Developer contained herein. The Agreement constitutes a valid and binding obligation of the Developer in accordance with its terms. Throughout the term of this Agreement, the Developer agrees to maintain its status as such an entity, in good standing and authorized to do business in the State.

Section 4

Project Costs

(a) A description of the scope of the Project, the estimated Project Costs, the estimated CID Eligible Project Costs and the estimated TIF Eligible Project Costs, as submitted by the Developer, are set forth on ***Exhibit H***.

(b) The Parties agree that the amount of the Project Costs may be adjusted by the Developer among any of the stated categories, without the consent of the City, except for as follows:

(1) The Parties agree that the amounts of CID Eligible Project Costs as shown on ***Exhibit H*** may not be increased by the Developer for the following categories: land acquisition, developer fees, and legal/lease concession.

(2) The Parties agree that the amounts of TIF Eligible Project Costs as shown on ***Exhibit H*** may not be increased by the Developer for the following categories: land acquisition, developer fees, and legal/lease concession.

Section 5

Funding of Project

(a) The Project Costs will be paid by, or on behalf of, the Developer and reimbursed as a pay-as-you-go-financing under the CID Act and TIF Act. The City will not advance any

City funds for the payment of any Project Costs, except as provided in Section 5(b) and 5(c) herein, and will not provide any financing, including the issuance of any bonds or notes. Reimbursement to the Developer shall be made in accordance with Section 7 of this Agreement.

(b) In the event the cost to design and construct the Public Road Improvements exceeds the estimated amounts described in **Exhibit H** under the subheadings “Fairlawn Roadway Improvements” and “29th Street Roadway Improvements,” which cumulatively equal \$1,113,483 (the “Developer Road Improvement Cost Obligation”), the City shall be solely responsible for payment of any such Excess Public Road Improvements Costs from funds other than the Public Finance Proceeds. Funds for any Excess Public Road Improvements Costs will not be advanced by the Developer, but will rather be paid by the City directly. If the Developer has expended funds in the amount of the Developer Road Improvement Obligation in order to construct the Public Road Improvements, the Developer shall certify the same in writing to the City.

(c) The City shall be responsible for acquiring any private property required to construct the Public Road Improvements, whether by eminent domain or otherwise, and shall complete such acquisition within a reasonable time frame to facilitate said Public Road Improvements; provided, however, that the Developer agrees to donate (at no cost) any and all Developer-owned property to facilitate said Public Road Improvements as identified in the construction drawings for such Public Road Improvements as jointly approved by the Parties. Any costs for any such right of way acquisition qualify as Excess Public Road Improvements Costs and are the responsibility of the City.

Section 6
Reimbursement of City Costs; Administration of CID Sales Tax,
Administration of CID Sales Tax TIF Sales and Property Tax, and Half-Cent City Sales
Tax

(a) As required by City policy, the Developer shall be responsible for paying all costs necessary to comply with state law, including but not limited to: costs of legal publication notices, resolutions and ordinances. The Developer shall also reimburse the City for reasonable expenses associated with review and evaluation of the Petition and this Agreement by the City’s financial advisor. Developer payments under this Section 6(a) shall be considered to be CID Eligible Project Costs or TIF Eligible Project Costs. The Developer shall pay such costs as required under this Section 6(a) within thirty (30) days of invoice by the City; but shall not be required to make such payments more than once per calendar month.

(b) Subject to, and as specified by, the terms and conditions of this Agreement, the City agrees to perform, or provide for the performance of, the administration of the reimbursement of the CID Eligible Project Costs. On or before September 30, 2018, the City shall provide notification to the Department of Revenue to commence the collection and reporting of the CID Sales Tax within the District in accordance with the provisions of the CID Act. The imposition of the CID Sales Tax shall commence on January 1, 2019, or as soon thereafter as the Department of Revenue begins the collection of the CID Sales Tax, and shall expire at the end of the CID Term. Notwithstanding this subsection (b), if no CID Eligible

Project Costs remain unreimbursed, the City may repeal the CID Ordinance prior to the expiration of the CID Term if the Governing Body determines that the CID Sales Tax is no longer required to pay for such CID Eligible Project Costs.

(c) Pursuant to the CID Act, the City shall establish the CID Sales Tax Fund as a segregated fund within the treasury of the City, which shall be held and administered by the City in accordance with this Agreement and the Act. Revenues collected from the CID Sales Tax, and received by the City from the Department of Revenue during the CID Term, shall be deposited periodically in the CID Sales Tax Fund, but not less than monthly.

(d) The City shall impose and collect a fee for the administration of the CID Sales Tax. On the 15th day of each month (or the next business day if such day shall not be a normal business day of the City) of each year during the term of this Agreement, the City shall withdraw from the CID Sales Tax Fund an amount equal to Two Percent (2%) of the aggregate deposits to the CID Sales Tax Fund.

(e) Subject to, and as specified by, the terms and conditions of this Agreement, the City agrees to perform, or provide for the performance of, the administration of the reimbursement of the TIF Eligible Project Costs. The commencement of the TIF Property Tax collections and the segregation of the TIF Captured City Sales Tax shall commence on January 1, 2019, or as soon thereafter as the Shawnee County Treasurer begins the collection of the TIF Property Tax, and shall expire at the end of the TIF Term. Notwithstanding this subsection (e), if no TIF Eligible Project Costs remain unreimbursed, the City may repeal the TIF Project Plan Ordinance prior to the expiration of the TIF Term if the Governing Body determines that the TIF Project Plan is no longer required to pay for the TIF Eligible Project Costs.

(f) Pursuant to the TIF Act, the City shall establish the TIF Fund as a segregated fund within the treasury of the City, which shall be held and administered by the City in accordance with this Agreement and the TIF Act. Proceeds of the TIF Property Tax received by the City from the Shawnee County Treasurer and the TIF Captured City Sales Tax received by the City from the Department of Revenue during the TIF Term shall be deposited periodically in the TIF Fund, but not less than monthly. The Half-Cent City Sales Tax Subaccount shall be utilized to reimburse the Developer “exclusively for costs of maintenance and improvements of existing city streets, gutters, curbs, sidewalks, alleys and street lighting” pursuant to City of Topeka Ordinance No. 19257.

(g) The City shall impose and collect a fee for the administration of the TIF Property and the Captured City Sales Tax. On the 15th day of each month (or the next business day if such day shall not be a normal business day of the City) of each year during the term of this Agreement, the City shall withdraw from the TIF Fund an amount equal to Two Percent (2%) of the aggregate deposits to the TIF Fund.

(h) Subject to, and as specified by, the terms and conditions of this Agreement, the City agrees to perform, or provide for the performance of, the administration of the reimbursement of the Half-Cent Eligible Project Costs from the Half-Cent City Sales Tax Subaccount. Notwithstanding this subsection (h), if no Half-Cent Eligible Project Costs remain unreimbursed, the City shall discontinue capture of the Half-Cent Sales Tax.

Section 7

Reimbursement Procedures

Reimbursement of CID Eligible Project Costs, TIF Eligible Project Costs, and Half-Cent Eligible Project Costs is conditioned upon the following:

(a) Not more frequently than once per calendar month, the Developer may submit to the Director of Financial and Administrative Services ("Director") a Certification of Expenditures (in substantially the form attached to this Agreement as ***Exhibit E, Exhibit F and Exhibit G***, which are attached hereto and incorporated herein by this reference) signed by the Developer, with supporting documentation identifying the CID Eligible Project Costs, TIF Eligible Project Costs, and/or Half-Cent Eligible Project Costs for which the Developer seeks reimbursement. The supporting documentation shall include: copies of invoices reflecting amounts billed, copies of checks, evidence of wire transfers or other cash payments by the Developer for Project Costs, lien waivers or other evidence that no mechanic's liens exist with respect to the construction of the Project for which reimbursement is sought and such other documentation as the City shall reasonably request.

(b) Each Certificate of Expenditures shall contain a certification by the Developer that each Project Cost submitted for reimbursement is a CID Eligible Project Cost, a TIF Eligible Project Cost, or a Half-Cent Eligible Project Cost, that such expense has been incurred by the Developer, and that such expense has not been previously submitted for reimbursement from the same fund or subaccount, as applicable, hereunder. The City reserves the right to have its engineer or other agents or employees inspect all work associated with a submitted Certification of Expenditure, to retain an outside accountant, engineer or attorney to evaluate and assist with processing Certifications of Expenditures for compliance with this Agreement (with the reasonable costs of such outside accountant, engineer or attorney paid from the TIF Fund, so long as the City provides notice to the Developer of the expense to be incurred at least fifteen (15) days prior to such expenditure), to examine the Developer's records relating to all CID Eligible Project Costs, TIF Eligible Project Costs, and/or Half-Cent Eligible Project Cost to be paid and to obtain from such parties such other information as is reasonably necessary for the City to evaluate compliance with the terms hereof.

(c) The City shall have fifteen (15) calendar days after receipt of any completed and executed Certification of Expenditure to review and respond by written notice to the Developer; provided, however, that the City may, prior to the end of such fifteen (15) day period, advise the Developer if additional time is needed to review and respond to such Certificate, in which event the City shall respond by the extended date so indicated, which date shall not be more than thirty (30) days after the date of such notice. If, in the reasonable judgment of the officer or agent of the City charged with reviewing each Certification of Expenditure, the submitted documentation demonstrates that: (1) the payments requested in the Certification of Expenditure are for CID Eligible Project Costs, TIF Eligible Project Costs, and/or Half-Cent Eligible Project Costs; (2) the expense was incurred; (3) the Developer is not in default under this Agreement; (4) the ad valorem property taxes for property owned by the Developer within the CID District and the TIF District are current; and (5) there is no fraud on the part of the Developer, then the City shall

approve the Certification of Expenditure, and, if there are sufficient funds available in the Reimbursement Funds as set forth herein, make, or cause to be made, reimbursement to the Developer at the time set forth in subsection (d) of this Section. If the City disapproves the Certification of Expenditure, the City shall notify the Developer, in writing, of the reason(s) for such disapproval within such fifteen (15) calendar-day period (or such extended period as provided herein). The City will provide reasonable assistance to the Developer so that the Developer can take the steps necessary to rectify the reason for the City's disapproval and resubmit such Certificate of Expenditure for approval by the City. However, if only certain line items on the Certification of Expenditure are disapproved and others are approved, if there are sufficient funds available in the Reimbursement Funds as set forth herein, the City shall make, or cause to be made, reimbursement for the line items of the Certification of Expenditure approved by the City from Reimbursement Funds. The Developer agrees to make a good faith effort to submit thorough and complete Certifications of Expenditures. The Developer may appeal a denial of one or more items of a Certification of Expenditure in accordance with the administrative appeal process defined in the Topeka Municipal Code.

(d) Subject to the further terms of this Agreement, and to the extent moneys are available in the CID Sales Tax Fund, TIF Fund, or Half-Cent City Sales Tax Subaccount, any requested reimbursement approved by the City pursuant to this Section 7 shall be paid to the Developer through the City's regular accounts payable process from the CID Sales Tax Fund, TIF Fund, and Half-Cent City Sales Tax Subaccount; provided, however, that no deposits shall be made to the CID Sales Tax Fund and TIF Fund after the expiration of the CID Term or the TIF Term, respectively. All amounts deposited in the CID Sales Tax Fund and TIF Fund prior to the expiration of the CID Term and TIF Term, respectively, shall be used to reimburse the Developer for CID Eligible Project Costs and TIF Eligible Project Costs, regardless if the reimbursement occurs after the expiration of the CID Term or TIF Term.

(e) Notwithstanding any other provision herein, the City shall not make any payments to the Developer for reimbursement of any cost pursuant to this Section until the first Certificate of Occupancy is issued for a building within the Project Area.

Section 8

City and Other Governmental Permits

Before beginning construction of any aspect of the Project, the Developer shall, at its expense, obtain or cause to be obtained any necessary planning documents, permits or licenses that may be required by the City, Shawnee County or any other governmental agency having jurisdiction over the Project.

Section 9

Reporting

(a) From and after the commencement of this Agreement, the Developer shall make commercially reasonable efforts to ensure that all CID Taxpayers, at the request of the Director, not later than the 15th day of each month, to provide copies of any sales tax filings required to be submitted to the Department of Revenue for the next preceding month (or the next preceding

quarter if such taxpayer is a quarterly filer). Provided the Developer can demonstrate that it made commercially reasonable efforts to ensure CID Taxpayer compliance with this Section 9(a), failure to obtain such compliance will not be considered a default of the Development under this Agreement. The Developer shall demonstrate it has made commercially reasonable efforts to ensure CID Taxpayers provide copies of such filings to the Director by imposing a requirement in any lease of property located within the CID District that if the tenant is a CID Taxpayer it shall provide this information to the Director not later than the 15th day of each month for the next preceding month (or the next preceding quarter if such taxpayer is a quarterly filer).

(b) Not later than January 25th of each year, commencing January 25, 2018, and ending January 25, 2041, the Developer shall provide to the Director a reporting, as of December 31st of the next preceding year, of: (i) annual and cumulative Project Costs; (ii) Project Costs funded with sources other than reimbursements from the Reimbursement Funds; (iii) the remaining amount of unreimbursed CID Eligible Project Costs; and (iv) proof of insurance as provided in Section 11 herein. Such reporting shall be in the form of the Project Budget attached hereto as **Exhibit H**. The Developer shall make every reasonable effort to file all such reports with the City, but failure of the Developer to timely file such reporting shall not be a default of the Developer under this Agreement.

(c) From and after the commencement of this Agreement, the Developer shall make commercially reasonable efforts to ensure that all TIF Taxpayers, at the request of the Director, not later than the 15th day of each month, to provide copies of any sales tax filings required to be submitted to the Department of Revenue for the next preceding month (or the next preceding quarter if such taxpayer is a quarterly filer). Provided the Developer can demonstrate that it made commercially reasonable efforts to ensure TIF Taxpayer compliance with this Section 9(a), failure to obtain such compliance will not be considered a default of the Development under this Agreement. The Developer shall demonstrate it has made commercially reasonable efforts to ensure TIF Taxpayers provide copies of such filings to the Director by imposing a requirement in any lease of property located within the TIF District that if the tenant is a TIF Taxpayer it shall provide this information to the Director not later than the 15th day of each month for the next preceding month (or the next preceding quarter if such taxpayer is a quarterly filer).

(d) Not later than January 25th of each year, commencing January 25, 2018, and ending January 25, 2039, the Developer shall provide to the Director a reporting, as of December 31st of the next preceding year, of: (i) annual and cumulative Project Costs; (ii) Project Costs funded with sources other than reimbursements from the Reimbursement Funds; (iii) the remaining amount of unreimbursed TIF Eligible Project Costs; and (iv) proof of insurance as provided in Section 11 herein. Such reporting shall be in the form of the Project Budget attached hereto as **Exhibit H**. The Developer shall make every reasonable effort to file all such reports with the City, but failure of the Developer to timely file such reporting shall not be a default of the Developer under this Agreement.

(e) If the boundaries of the CID District and TIF Project Area are coterminous, information provided to the City by Developer or its tenants in accordance with Section 9(a)-(d) above shall not be duplicated.

(f) The City shall be responsible for collecting, accounting for and remitting CID Sales Tax to the CID Sales Tax Fund and the Captured City Sales Tax to the TIF Fund upon receipt of such amounts from the Kansas Department of Revenue.

Section 10

Rights of Access

For purposes of insuring compliance with this Agreement, representatives of the City shall have rights of access to the Project, without charges or fees, during normal business hours during the period of Project construction, to inspect work performed or being performed in the construction of the Project. City representatives shall carry proper identification, insure their own safety and shall not interfere with construction activity unless such activity is apparently in violation of this Agreement, City codes, state or federal regulations, statutes or other law. The right of access granted by this Section shall be in addition to the City's rights to access the Project in the exercise of its proper authority to regulate, and provide for, public safety and to issue and enforce required licenses and permits.

Section 11

Insurance and Indemnification

(a) The Developer agrees to defend, indemnify and hold the City, its officers, agents and employees, harmless from and against all liability for damages, costs and expenses, including attorney fees, arising out of any claim, suit, judgment or demand arising from the negligent and/or intentional acts or omissions of the Developer, its contractors, subcontractors, agents or employees in the performance of this Agreement. The Developer shall give the City immediate written notice of any claim, suit or demand that may be subject to this provision. The City shall also give prompt notice to the Developer of any such claim, suit, or demand, and the City hereby agrees that it shall not defend, settle or otherwise resolve any such claim, suit, or demand without prior notice to the Developer. After receipt of such notice, the Developer shall defend, contest, or otherwise protect the City against any such matter, at the cost and expense of the Developer, utilizing counsel selected by the Developer. This section shall not apply to negligence or willful misconduct of the City or its officers, employees, or agents.

(b) Not in derogation of the indemnification provisions set forth herein, the Developer shall, at its sole cost and expense, throughout the term of this Agreement and during all phases of the development described herein, to the extent Developer holds fee title to property within the District, insure and keep insured any vertical structures built in the District against direct loss or damage occasioned by fire, flood and extended coverage perils through insurers with an AM Best rating of no less than "A" and/or a rating that is acceptable to the City without co-insurance. The insurance shall be for an amount that is not less than the full replacement cost of such structures.

(c) In the event of destruction or damage to any vertical structure owned by the Developer, the Developer shall restore the Project to a clean, safe, and sanitary condition within the time parameters and other terms or provisions identified in any lease agreement with any CID Taxpayer or TIF Taxpayer; provided, however, that in all events the Developer shall cause

all damaged or destroyed property within the Project to be restored to a clean, safe and sanitary condition within a reasonable period of time after such damage or destruction, not to exceed Ninety (90) days. If the Developer has commenced work associated with restoring the damaged or destroyed property within the Project to a clean, safe, and sanitary condition within such 90 day period, but has been unable to complete this work, the Developer may request a 90-day extension from the City to continue and ultimately complete all restoration efforts within One Hundred Eighty (180) days. Further reasonable extensions may be requested by the Developer which may be approved by the City in its reasonable discretion, not to be unreasonably withheld. Notwithstanding the foregoing, nothing in this Section shall require the Developer to rebuild or reconstruct any component of the Project damaged or destroyed by casualty or other causes, so long as the Developer restores the Project to a clean, safe, and sanitary condition.

Section 12

Local, State and Federal Laws

The Developer agrees that it shall abide by, and the Project shall be completed in conformity with, all applicable federal, state and local laws and regulations.

Section 13

Nondiscrimination During Construction

The Developer, for itself and its successors and assigns, agrees that in the construction of the Project, the Developer shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, handicap, national origin or ancestry.

Section 14

Default and Remedies

(a) The failure or delay by either of the Parties to this Agreement to perform any term or provision of this Agreement required of such Party, shall constitute an event of default under this Agreement, subject to rights of cure, as specified below.

(b) Notice of an event of default shall be given by the Party claiming such default to the other Party and shall contain the basis of the claimed default.

(c) No legal proceedings against the claimed defaulting Party shall be instituted nor shall the claiming Party be entitled to damages if, within fourteen (14) days from the receipt of a notice of claimed default, the claimed defaulting Party undertakes acts to cure, correct or remedy such claimed default, proceeds with due diligence to complete such cure, correction or remedy and such cure, correction or remedy is completed within thirty (30) days of the date such claimed defaulting Party received a notice of default. If the Party claimed to be in default cannot reasonably cure such claimed default within thirty (30) days, the claimed defaulting Party shall notify the other Party of such assertion with a proposed date to complete the cure; and default shall be suspended if the claimed defaulting Party commences curing the default within fourteen (14) days after receipt of written notice thereof and diligently prosecutes the cure to completion within the time period set forth in the notice to the Party claiming the default.

(d) In the event the defaulting Party does not cure the event of default as set forth in this Section, the non-defaulting Party shall have the right:

(1) by mandamus or other suit, action or proceedings at law or in equity, to enforce the rights of the non-defaulting Party against the defaulting Party and to require and compel duties and obligations required by the provisions of the Agreement or by the laws of the State;

(2) by suit, action or other proceedings at law or in equity, to enjoin any acts or things that may be unlawful or in violation of the rights of the non-defaulting Party; or

(3) to take such other action as necessary to protect the interests of the City, including suspending reimbursements to the Developer from the CID Sales Tax Fund and TIF Fund, which reimbursements may be reinstated following cure of the default.

(e) Notwithstanding any other provision of this Agreement to the contrary, in no event shall the Developer or the City ever be liable for any punitive, special, incidental, or consequential damages in connection with this Agreement, or otherwise. For the purposes of this Section, consequential damages shall include, but not be limited to, lost tax revenue or other similar losses which are not direct out-of-pocket costs incurred by the non-defaulting Party. Further, specific performance shall not be available to the City to require the Developer to construct any component of the Project.

(f) In addition to specific provisions of this Agreement, performance by a Party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where the Party seeking the extension has acted diligently and delays or defaults are due to events beyond the reasonable control of the Party such as, but not limited to: default of other Party; war; insurrection; strikes; labor shortages; market conditions; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; epidemics; quarantine restrictions; freight embargoes; unusually severe weather; government delays or prohibitions; administrative or permitting delays; or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform ("Excusable Delays"). The time of performance hereunder shall be extended for the period of any delay or delays caused or resulting from any Excusable Delay of the foregoing causes. The Developer shall provide notice to the City if and when any such Excusable Delays occur and the Developer may be granted such extensions based upon the period of such Excusable Delays.

(g) Specific Events of Default. In addition to other defaults that might occur pursuant to this Section, the Developer shall be considered to be in default if any of the following occurs:

(1) The Developer commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if the Developer takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.

(2) If a petition is filed against the Developer under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against the Developer under any other federal or state law in effect at the time relating to bankruptcy or insolvency, unless lacking in foundation.

(3) The Developer makes a general assignment for the benefit of creditors.

(4) If a trustee, receiver, custodian or agent of the Developer is appointed under applicable law or under contract, whose appointment or authority to take charge of property of the Developer is for the purpose of enforcing a lien against property in the CID District and TIF District or for the purpose of general administration of such property for the benefit of the Developer's creditors.

(6) The Developer fails to spend at least a minimum of Forty Million Dollars (\$40,000,000) of Project Costs on the Project (including any Project Costs certified for reimbursement from Public Finance Proceeds) on or before the Placed in Service Date, to be attested to in writing by the Developer not later than the Placed in Service Date.

(7) The Developer does not commence construction of the Project by December 31, 2018. Commencement of construction shall mean the issuance of a building permit or site construction permit for purposes of commencing the Project.

(8) The Developer fails to construct the following Project components by the Placed in Service Date:

- a. A multi-story 150-180 unit, upscale, market rate apartment complex "wrapped" around a parking garage;
- b. A seven to nine-screen, state-of-the-art movie theater with bar and food service;
- c. A multi-story 70 to 90-room hotel with a national flag;
- d. A family dining restaurant at the southeast corner of the site;
- e. A fast food restaurant building with two tenants, and including one operating a drive-through window at east end of the site;
- f. An open-space area at the southeast corner of the site; and
- g. Land acquisition, site preparation and horizontal improvements required to support the Project.

The description of the Project contained herein shall be subject to the provisions of the Planned Unit Development plan and final plans for each Project component approved by the City for the Project, as amended from time to time.

(9) The Developer shall provide notice of all proposed initial tenants and third party operators of any Project component to the City, through its City Manager, ten (10) days prior to execution of a lease or agreement for same, respectively. The City Manager

may then have an opportunity to provide his or her written objection to such tenant or third party operator to Developer within such ten (10) day period, including a detailed description of the basis for such objection. If the City Manager does not issue such objection within the ten (10) day period, the City Manager's opportunity to object shall be deemed waived. In the event the City Manager issues such a notice of objection, the Parties shall meet to discuss such objection in order to reach resolution as to the proposed tenant or third party operator. In the event such resolution cannot be reached within ten (10) days following the City Manager's notice of objection to the Developer, the City Manager shall have the opportunity to place the issue as a discussion item on the next proceeding agenda of a regular meeting of the Governing Body, at which time the City Manager and the Developer shall appear before the Governing Body to discuss such objection in order to reach resolution regarding the same.

(10) The Developer fails to restore the Project to a clean, safe, and sanitary condition as required by Section 11 of this Agreement within One-Hundred Eighty (180) days of any damage or destruction of all or a portion of the Project (or within the period as extended by the terms of Section 11).

(11) The Developer fails to make payments required by Section 6(a) of this Agreement in a timely manner.

(12) The Developer authorizes or permits to be included in the Project any of the impermissible end users included in *Exhibit J* hereto, unless approved by the City.

Section 15

Governing Law, Jurisdiction

(a) This Agreement shall be governed by, interpreted and enforced pursuant to the laws of the State.

(b) The Parties agree that any legal actions arising out of this Agreement will be instituted in the District Court of Shawnee County, Kansas or, in the case of federal jurisdiction, in the Federal District Court for the District of Kansas.

Section 16

Rights and Remedies Cumulative, Waivers

Except as otherwise expressly provided in this Agreement, the rights and remedies of the Parties shall be cumulative, and the exercise by one party of one or more such rights shall not preclude the exercise by it, at the same or different times, of any other rights or remedies specified herein. Any failure or delay by either party in asserting any of its rights and remedies as to any default hereunder shall not operate as a waiver of such default or of any rights or remedies specified hereunder, or deprive either party of its right to assert and enforce any such right or remedy.

Section 17 Amendments

This Agreement may be amended by the parties, which amendment shall be in writing and shall not cause the Agreement to be in violation of the Act.

Section 18 Transfer and Assignment

The Parties acknowledge that the Developer's expertise in constructing and managing like projects and its commitment to Topeka were material inducements to the City undertaking this Agreement. As such:

(a) The Developer may not assign this Agreement, or the rights, duties, and obligations hereunder without the prior written consent of the City. In determining whether to approve such an assignment, the City will similarly assess the proposed assignee's expertise in constructing and managing like projects and its commitment to Topeka; provided, however, that it shall be unreasonable to disapprove any such assignee if such assignee possesses the requisite financial qualifications and capabilities to perform the duties and obligations contained within this Agreement. The City's consent to any proposed assignment may not be unreasonably withheld.

(b) Notwithstanding the foregoing, the Developer may:

(1) assign or pledge its rights under this Agreement to any Affiliate by giving thirty (30) days' prior written notice to the City of its intent to proceed with such assignment or pledge; and/or

(2) collaterally assign or pledge its rights to payments due hereunder to its lender. The Developer shall provide written notice to the City of such assignment or pledge within one month of execution of the same, addressed to the Topeka City Manager, including a copy of any agreement evidencing such collateral assignment or pledge to such third party.

(c) Nothing herein shall prohibit (or require City approval to allow) the Developer from forming additional development or ownership entities to replace or joint venture with the Developer for the purpose of business and/or income tax planning; provided, however, that such additional development or ownership entities or joint ventures shall be an Affiliate.

Section 19 Notices, Demands, Communications Among Parties

Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Agreement shall be in writing, addressed to the following:

(a) To the City at:

CITY OF TOPEKA, KANSAS
City Hall, Room 355
215 SE 7th Street
Topeka, Kansas 66603
Attn: City Manager

With a copy to:

City Clerk
City Hall, Room 166
215 SE 7th Street
Topeka, Kansas 66603

and

City Attorney
City Hall, Room 353
215 SE 7th Street
Topeka, Kansas 66603

(b) To the Developer at:

Jim Klausman
Jennifer Sourk
29 Fairlawn LLC
3024 SW Wanamaker Road, Suite 300
Topeka, Kansas 66614

With a copy to:

Bob Johnson
Polsinelli PC
6201 College Boulevard
Overland Park, Kansas 66201

Such notice shall be deemed duly given or filed if the same shall be: (i) duly mailed by certified or registered mail, postage prepaid; or (ii) communicated via facsimile, with electronic or telephonic confirmation of receipt. All notices given by: (i) certified or registered mail, postage prepaid, shall be deemed duly given as of the date they are so mailed; and (ii) facsimile, with electronic or telephonic confirmation of receipt, shall be deemed duly given as of the date of confirmation of receipt. The Parties may from time to time designate, by giving notice as set forth above, such other address to which subsequent notices, certificates or other communications shall be sent.

Section 20
Entire Agreement

This Agreement is executed in duplicate originals, each of which shall be considered an original. This Agreement, including the Exhibits hereto, constitutes the entire agreement and understanding of the Parties. This Agreement supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter of this Agreement.

Section 21
Electronic Transactions

The transactions related thereto and described herein may be conducted and documents may be stored by electronic means.

Section 22
Severability

The invalidity or inability to enforce any one or more phrases, sentences, clauses or sections of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement.

Section 23
No Liability of City Officials or Employees

All liabilities under this Agreement on the part of the City and the Developer are solely corporate liabilities of the City and the Developer and no officer, director, employee, or agent of the City or the Developer shall have any personal or individual liability under this Agreement for anything done or omitted to be done by the City or the Developer hereunder.

[page intentionally blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the dates set forth opposite the signatures and represent that the individuals executing this Agreement on behalf of the Parties have the express authority to do so.

CITY OF TOPEKA, KANSAS

(SEAL)

By: _____
Doug Gerber, Interim City Manager

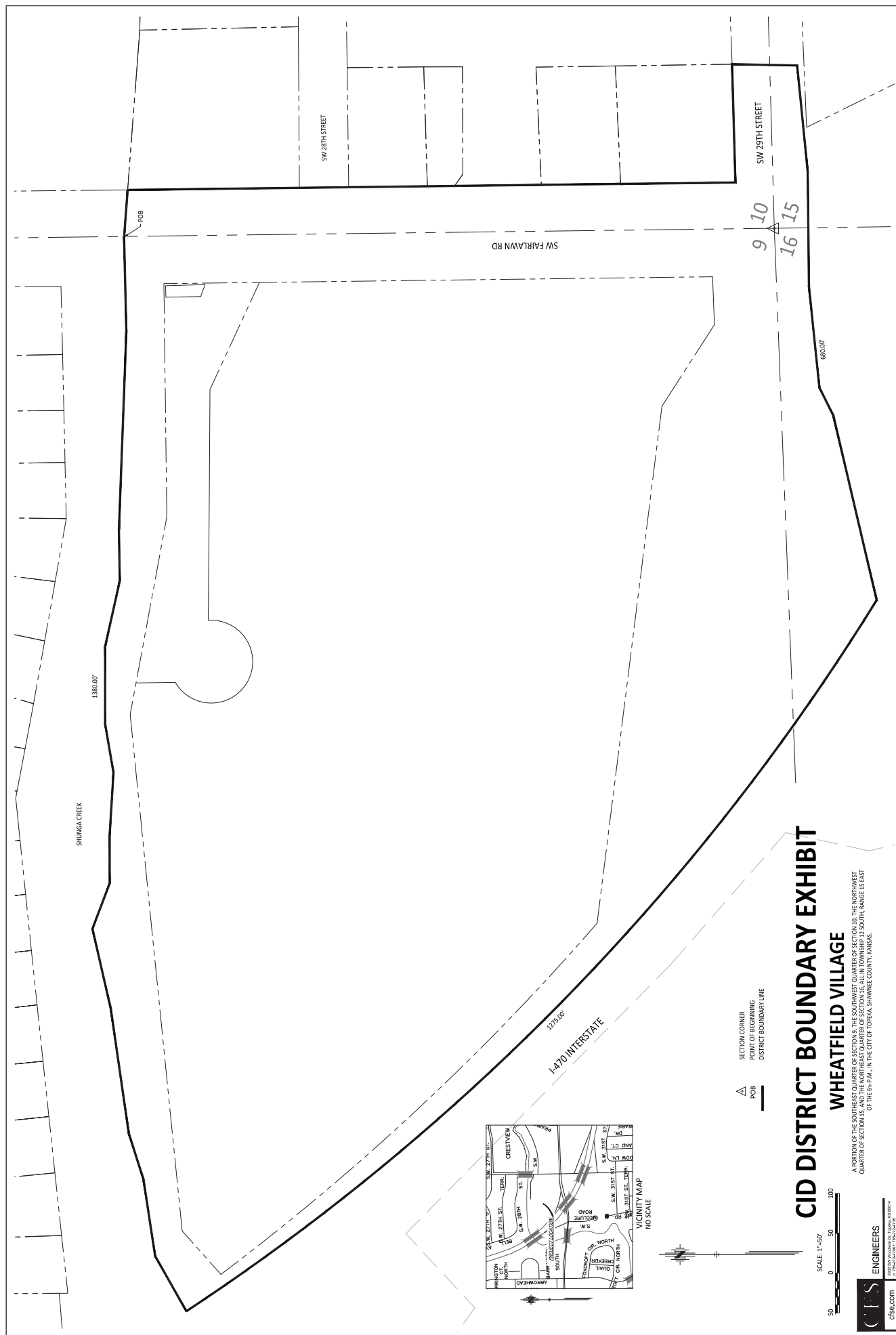
ATTEST:

By: _____
Brenda Younger, City Clerk

29 FAIRLAWN, LLC,
a Kansas limited liability company

By: _____
Jim Klausman, Member

EXHIBIT A
Legal Description and Boundary Map of CID District



WHEATFIELD VILLAGE

Project 14-5195

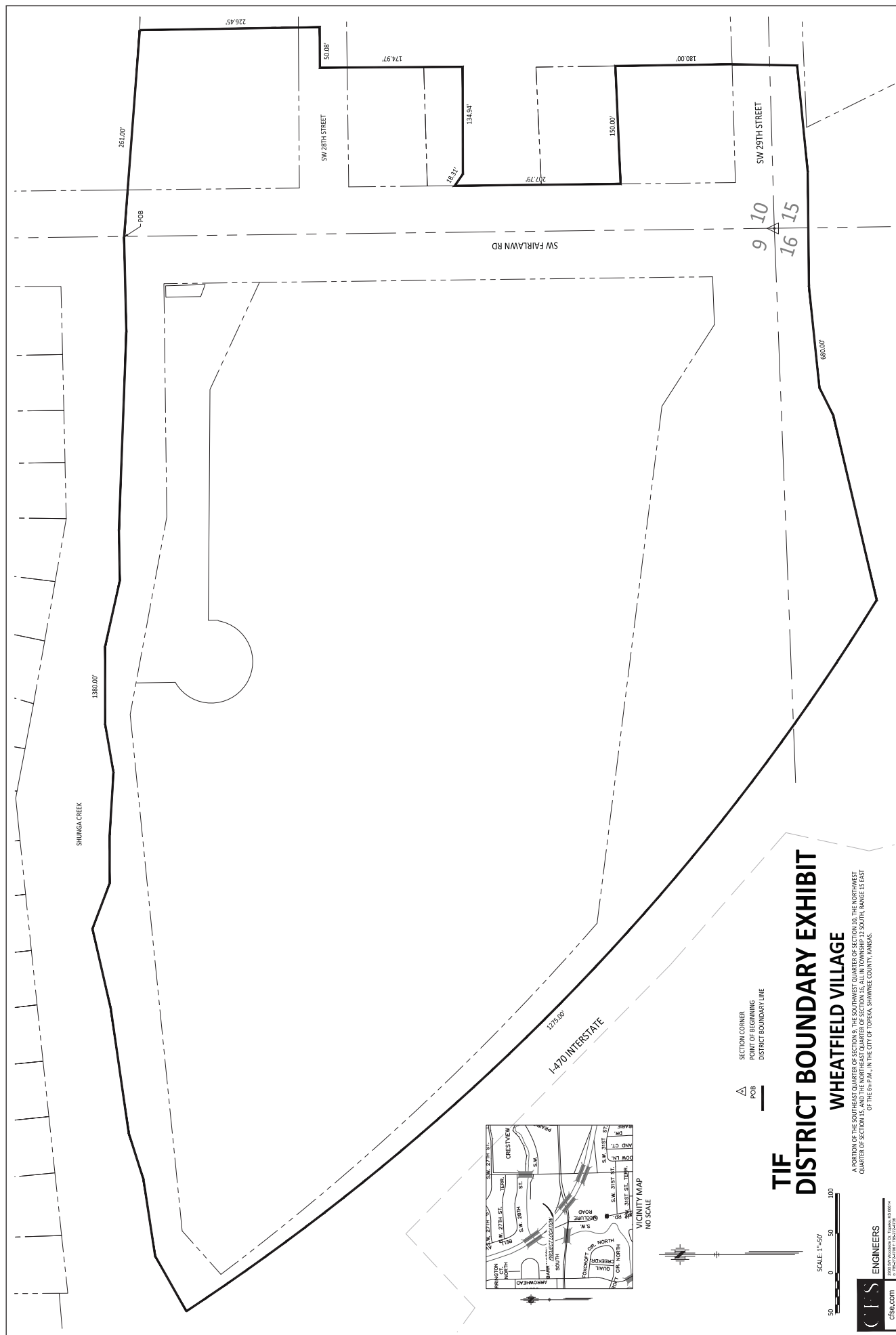
July 26, 2017

CID DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10, at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the extension of the North line of said Shunga Plaza Subdivision to the East Right of Way line of Southwest Fairlawn Road; thence Southerly on said East Right of Way line to the intersection with the North Right of Way line of Southwest 29th Street; thence Easterly on the North Right of Way of Southwest 29th Street a distance of 150 feet more or less; thence Southerly to a point 20 feet South of the South curb line of Southwest 29th Street; thence Westerly and Southwesterly parallel with said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

EXHIBIT B
Legal Description and Boundary Map of TIF District



WHEATFIELD VILLAGE

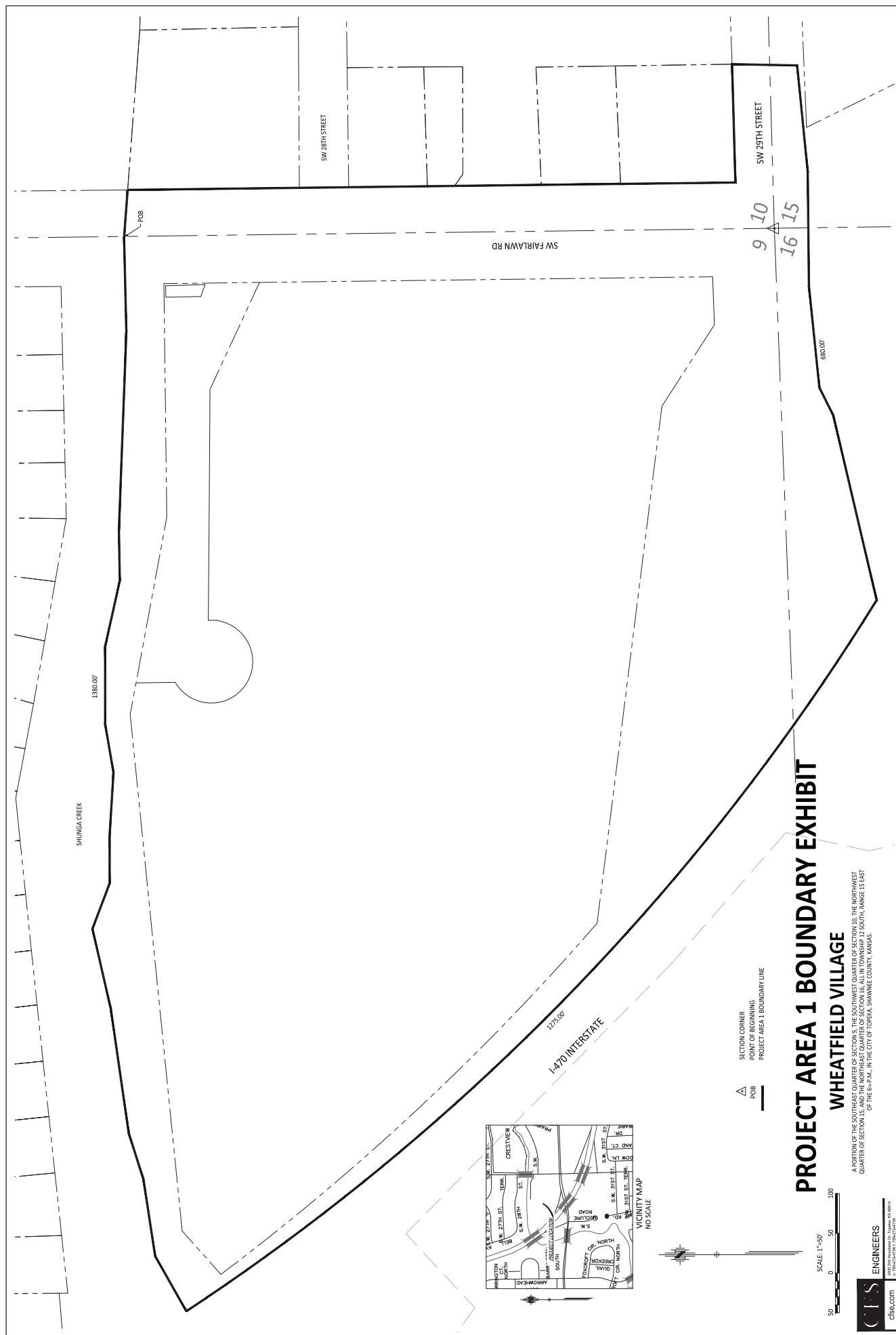
Project 14-5195
Revised June 21, 2017

DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10 at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the North line of said Shunga Plaza Subdivision a distance of 261.00 feet more or less, to a point 50-feet easterly of the West line of Lot 2, Block D of said Shunga Plaza Subdivision; thence South on a line parallel with and 50-feet easterly of the West line of said Lot 2, Block D a distance of 226.45 feet more or less, to the center of Southwest 28th Street as shown on the Plat of said Shunga Plaza Subdivision; thence West on the center of said Southwest 28th Street a distance of 50.08 feet, more or less to the East lines of Lots 5 and 6, Block B, Shunga Plaza Subdivision extended; thence South on the East lines of Lots 5 and 6, Block B of said Shunga Plaza Subdivision a distance of 174.97 feet more or less; thence West on the North line of Lot 2, Block A, Butler Plaza Subdivision No.2, a distance of 134.94 feet; thence Northwesterly, continuing on said North line a distance of 18.31 feet to the West line of said Lot 2; thence South on the West line of said Lot 2 and Lot 1, Block A and the extension thereof, said line also being the East Right of Way line of Southwest Fairlawn Road, a distance of 207.79 feet to the Northwest corner of Lot 1, Block A, Phillips 66 Subdivision No.2; thence East on the North line of said Lot 1, Block A Phillips 66 Subdivision No.2, a distance of 150.00 feet; thence South on the East line of said Lot 1, Block A, of Phillips 66 Subdivision No.2 and it's extension thereof a distance of 180 feet more or less to the South curb line of Southwest 29th Street; thence Westerly and Southwesterly on said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

EXHIBIT C
Legal Description and Boundary Map of TIF Project Area



WHEATFIELD VILLAGE

Project 14-5195

July 26, 2017

TIF PROJECT AREA 1 BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10, at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the extension of the North line of said Shunga Plaza Subdivision to the East Right of Way line of Southwest Fairlawn Road; thence Southerly on said East Right of Way line to the intersection with the North Right of Way line of Southwest 29th Street; thence Easterly on the North Right of Way of Southwest 29th Street a distance of 150 feet more or less; thence Southerly to a point 20 feet South of the South curb line of Southwest 29th Street; thence Westerly and Southwesterly parallel with said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

EXHIBIT D
Proposed Project Site Plan

EXHIBIT E
CID Certificate of Expenditures

**CERTIFICATION OF EXPENDITURES
WHEATFIELD VILLAGE PROJECT**

Date: _____

Certification # _____

City Clerk of the
City of Topeka, Kansas

In accordance with the Development Agreement for the Wheatfield Development Project dated _____, 2017, (the "Agreement"), between the City of Topeka, Kansas, (the "City"), and 29 Fairlawn, LLC, (the "Developer"), the Developer hereby certifies, with respect to all payment amounts requested pursuant to this Certificate to be reimbursed to the Developer, as follows:

1. All amounts are CID Eligible Project Costs (as defined in the Agreement) that are reimbursable to the Developer pursuant to the Agreement and the CID Act, (as defined in the Agreement).
2. All amounts have been advanced by the Developer for CID Eligible Project Costs (as defined in the Agreement) in accordance with the Agreement and represent the fair value of work, materials or expenses.
3. No part of such amounts has been the basis for any previous reimbursement under the Agreement from the Reimbursement Funds or request for reimbursement from the CID Fund (as defined in the Agreement).
4. All taxes and assessments currently due on any property owned by the Developer in the CID District have been paid.
5. No uncured Events of Default under the Agreement currently exist.

The Developer further certifies that all insurance policies required to be in force under the Agreement are in full force and effect and that the Developer is in compliance, in all material respects, with all further terms of the Agreement.

The total amount of reimbursement requested by this Certificate is \$_____, which amount is itemized on Attachment E-1 attached hereto and which Attachment E-1 includes ____ page(s), is incorporated herein by reference and has been initialed by the authorized representative of the Developer who signed this Certificate. Attached to Attachment E-1 are copies of the contract, invoice or other billing for the CID Eligible Project Costs or which the Developer seeks reimbursement, along with copies of checks, evidence of wire transfers or other evidence of payment by the Developer of such CID Eligible Project Costs and hereby certify that such copies are true and accurate copies of the original documents.

**29 FAIRLAWN, LLC,
a Kansas limited liability company**

By: _____
Name

Title

ATTACHMENT E-1
TO CERTIFICATION OF ELIGIBLE CID PROJECT COSTS
(29 FAIRLAWN, LLC)



CITY OF TOPEKA

FINANCIAL SERVICES
 Nickie Lee
 Director of Finance and Administrative Services
 City Hall, 215 SE 7th Street, Suite 358
 Topeka, KS 66603-3914
 Tel: (785) 368-1653

Community Improvement District Reimbursement Request

Submit requests to: City of Topeka Director of Finance and Administrative Services
 215 SE 7th Street, Suite 358
 Topeka, KS 66603 or fax to: 785-368-3975

Submission Date: _____
City Project Number: _____
Request Number: _____

Please visit the following link for CID policies and procedures:
<https://www.topeka.org/for-businesses/economic-development/community-improvement-districts>
 Reimbursement is contingent upon sales tax revenue received.
 Minimum reimbursement is \$1,000.00.
 Please include supporting documentation (copies of invoices and checks).

Type *	Vendor Name	Invoice #	Invoice Date	Payment Date	Time period of work	Requested Amount
Page 1 Total						\$ -

- * Note**
- | | |
|---------------------------|-----------------------------------|
| 1 = Land Acquisition | 4 = Demolition |
| 2 = Public Infrastructure | 5 = Site Prep |
| 3 = Relocation Costs | 6 = Legal and Third Party Reports |

Please use page 2 for additional items.

Certification: I certify that the above listed costs are eligible CID costs and were incurred as part of the CID project listed above. Costs have not previously been submitted and they reflect actual costs expended. There are also no outstanding or anticipated liens for the work.

Office Use Only: Finance Approval: _____ Engineering Approval: _____

Signature: _____

Date: _____

Phone number: _____

EXHIBIT F
TIF Certificate of Expenditures

**CERTIFICATION OF EXPENDITURES
WHEATFIELD VILLAGE PROJECT**

Date: _____

Certification # _____

City Clerk of the
City of Topeka, Kansas

In accordance with the Development Agreement for the Wheatfield Development Project dated _____, 2017 (the "Agreement"), between the City of Topeka, Kansas, (the "City"), and 29 FAIRLAWN, LLC, (the "Developer"), the Developer hereby certifies, with respect to all payment amounts requested pursuant to this Certificate to be reimbursed to the Developer, as follows:

1. All amounts are TIF Eligible Project Costs (as defined in the Agreement) that are reimbursable to the Developer pursuant to the Agreement and the TIF Act, (as defined in the Agreement).
2. All amounts have been advanced by the Developer for TIF Eligible Project Costs (as defined in the Agreement) in accordance with the Agreement and represent the fair value of work, materials or expenses.
3. No part of such amounts has been the basis for any previous reimbursement under the Agreement from the Reimbursement Funds or request for reimbursement from the TIF Fund (as defined in the Agreement).
4. All taxes and assessments currently due on any property owned by the Developer in the TIF District have been paid.
5. No uncured Events of Default under the Agreement currently exist.

The Developer further certifies that all insurance policies required to be in force under the Agreement are in full force and effect and that the Developer is in compliance, in all material respects, with all further terms of the Agreement.

The total amount of reimbursement requested by this Certificate is \$_____, which amount is itemized on Attachment F-1 attached hereto and which Attachment F-1 includes _____ page(s), is incorporated herein by reference and has been initialed by the authorized representative of the Developer who signed this Certificate. Attached to Attachment F-1 are copies of the contract, invoice or other billing for the TIF Eligible Project Costs for which the Developer seeks reimbursement, along with copies of checks, evidence of wire transfers or other evidence of payment by the Developer of such TIF Eligible Project Costs and hereby certify that such copies are true and accurate copies of the original documents.

**29 FAIRLAWN, LLC,
a Kansas limited liability company**

By: _____
Name

Title

ATTACHMENT F-1
TO CERTIFICATION OF ELIGIBLE TIF PROJECT COSTS
(29 FAIRLAWN, LLC)

CITY OF TOPEKA



Tax Increment Financing Reimbursement Request

General City Sales Tax

Nickie Lee
 Director of Finance and Administrative Services
 City Hall, 215 SE 7th Street, Suite 358
 Topeka, KS 66603-3914
 Tel: (785) 368-1653
nlee@topeka.org

Submit Requests to Address above.
 Reimbursement is contingent upon sales tax revenue received.
 Minimum reimbursement is \$1,000.00.
 Please include supporting documentation (copies of invoices and checks).

Submission Date:	_____
City Project Number:	_____
Request Number:	_____

Project Cost Breakdown:

	Total	Amount of Draw Request	Budget Remaining
LAND ACQUISITION COSTS			
Land Acquisition	\$ 2,375,000.00		
Total Land Acquisition Costs	\$ 2,375,000.00		

SITework COSTS

Site Work

Demolition	\$384,998	_____
Earthwork	\$1,602,842	_____
Concrete Curb	\$277,400	_____
Asphalt & Concrete Paving	\$1,509,661	_____
Storm Water Management	\$1,117,290	_____
Water & Sanitary Sewer	\$627,250	_____
Street Lighting	\$308,917	_____
Landscape & Irrigation	\$275,000	_____
Electrical, Gas, Telephone Service	\$503,950	_____
Geotech, Erosion Control, Staking, Roadway Signage, Environmental Mitigation	\$543,200	_____
Total Site Costs	\$7,150,508	_____

Fairlawn Road Improvements

Entrance & Signal	\$371,900	_____
Asphalt & Concrete Paving	\$133,770	_____
Storm Water Management	\$58,730	_____
Street Lighting	\$37,000	_____
Geotech / Materials Testing	\$30,000	_____
Earthwork Roadway Only	\$21,333	_____
Concrete Curb	\$13,300	_____
Roadway Demo, Utility Demo, Staking, Traffic Control, Erosion Control, Mobilization	\$70,200	_____
Total Fairlawn Costs	\$736,233	_____

29th Street Roadway Improvements

Entrance & Signal	\$2,000	_____
Utility Relocation	\$20,000	_____
Asphalt & Concrete Paving	\$118,000	_____
Storm Water Management	\$25,000	_____
Street Signage and Striping	\$3,000	_____

Geotech / Materials Testing	\$20,000	
Earthwork Roadway Only	\$25,750	
Concrete Curb	\$17,500	
Retaining Walls	\$110,000	
Roadway Demo, Utility		
Demo, Staking, Traffic		
Control, Erosion Control,		
Mobilization	\$35,000	
<i>Total 29th St Costs</i>	<i>\$376,250</i>	
<i>Interest Carry on Site Work</i>	<i>\$1,197,307</i>	
<i>Contingency</i>	<i>\$662,221</i>	
<i>Site Monuments and Features</i>	<i>\$150,000</i>	
Total Sitework Costs	\$10,272,519	
BUILDING COSTS		
<i>Parking Deck for Multi Family</i>	<i>\$5,940,000</i>	
<i>Construction Interest Carry</i>	<i>\$860,706</i>	
<i>Contingency</i>	<i>\$476,049</i>	
Total Building Costs	\$7,276,755	
SOFT COSTS		
<i>Site Work A&E</i>		
Survey	\$5,000	
Preliminary Plat / Preliminary Development Plan	\$10,000	
Final Plan / Plat	\$5,000	
Sanitary Sewer & Storm Water Detention	\$50,000	
Public Improvements & Access Ways	\$175,000	
Civil Construction Plans	\$65,000	
29th Street Roadway Design and Inspection	\$112,500	
Design and Construction Administration	\$300,000	
Development Fee (3.00%)	\$2,715,228	
<i>Total Professional Fees</i>	<i>\$3,437,728</i>	
<i>Legal</i>		
Gneral Legal	\$50,000	
TIF and CID Legal Fees	\$100,000	
Lease Commissions	\$621,753	
<i>Legal Subtotal</i>	<i>\$771,753</i>	
<i>Site Permit/Fees</i>		
Site Plan review fee	\$5,000	
Civil Engineering review fee	\$7,500	
Miscellaneous Fees	\$10,000	
<i>Site Permit/Fees Subtotal</i>	<i>\$22,500</i>	
Total Soft Costs	\$4,231,981	
TOTAL REIMBURSEABLE PROJECT COSTS	\$ 24,156,255.00	
TOTAL AMOUNT FOR THIS REQUEST		

EXHIBIT G
Half-Cent City Sales Tax Certificate of Expenditures

**CERTIFICATION OF EXPENDITURES
WHEATFIELD VILLAGE PROJECT**

Date: _____

Certification # _____

City Clerk of the
City of Topeka, Kansas

In accordance with the Development Agreement for the Wheatfield Development Project dated _____, 2017 (the "Agreement"), between the City of Topeka, Kansas, (the "City"), and 29 FAIRLAWN, LLC, (the "Developer"), the Developer hereby certifies, with respect to all payment amounts requested pursuant to this Certificate to be reimbursed to the Developer, as follows:

1. All amounts are Half-Cent Eligible Project Costs (as defined in the Agreement) that are reimbursable to the Developer pursuant to the Agreement.
- 2 All amounts have been advanced by the Developer for Half-Cent Eligible Project Costs (as defined in the Agreement) in accordance with the Agreement and represent the fair value of work, materials or expenses.
3. No part of such amounts has been the basis for any previous reimbursement under the Agreement from the Reimbursement Funds or request for reimbursement from the Half-Cent City Sales Tax Subaccount (as defined in the Agreement).
4. No uncured Events of Default under the Agreement currently exist.

The Developer further certifies that all insurance policies required to be in force under the Agreement are in full force and effect and that the Developer is in compliance, in all material respects, with all further terms of the Agreement.

The total amount of reimbursement requested by this Certificate is \$_____, which amount is itemized on Attachment G-1 attached hereto and which Attachment G-1 includes _____ page(s), is incorporated herein by reference and has been initialed by the authorized representative of the Developer who signed this Certificate. Attached to Attachment G-1 are copies of the contract, invoice or other billing for the Half-Cent Eligible Project Costs for which the Developer seeks reimbursement, along with copies of checks, evidence of wire transfers or other evidence of payment by the Developer of such Half-Cent Eligible Project Costs and hereby certify that such copies are true and accurate copies of the original documents.

**29 FAIRLAWN, LLC,
a Kansas limited liability company**

By: _____
Name

Title

ATTACHMENT G-1
TO CERTIFICATION OF ELIGIBLE PROJECT COSTS
(29 FAIRLAWN, LLC)

CITY OF TOPEKA



Submit Requests to Address above.

Reimbursement is contingent upon sales tax revenue received.

Minimum reimbursement is \$1,000.00.

Please include supporting documentation (copies of invoices and checks).

Tax Increment Financing Reimbursement Request

Half-Cent Citywide Sales Tax

Nickie Lee

Director of Finance and Administrative Services

City Hall, 215 SE 7th Street, Suite 358

Topeka, KS 66603-3914

Tel: (785) 368-1653

nlee@topeka.org

Submission Date:	_____
City Project Number:	_____
Request Number:	_____

Project Cost Breakdown:

	Total	Amount of Draw Request	Budget Remaining
SITWORK COSTS			
<i>Fairlawn Road Improvements</i>			
Entrance & Signal	\$371,900	_____	_____
Asphalt & Concrete Paving	\$133,770	_____	_____
Storm Water Management	\$58,730	_____	_____
Street Lighting	\$37,000	_____	_____
Geotech / Materials Testing	\$30,000	_____	_____
Earthwork Roadway Only	\$21,333	_____	_____
Concrete Curb	\$13,300	_____	_____
Roadway Demo, Utility			
Demo, Staking, Traffic			
Control, Erosion Control,			
Mobilization	\$70,200	_____	_____
<i>Total Fairlawn Costs</i>	<i>\$736,233</i>	_____	_____
<i>29th Street Roadway Improvements</i>			
Entrance & Signal	\$2,000	_____	_____
Utility Relocation	\$20,000	_____	_____
Asphalt & Concrete Paving	\$118,000	_____	_____
Storm Water Management	\$25,000	_____	_____
Street Signage and Striping	\$3,000	_____	_____
Geotech / Materials Testing	\$20,000	_____	_____
Earthwork Roadway Only	\$25,750	_____	_____
Concrete Curb	\$17,500	_____	_____
Retaining Walls	\$110,000	_____	_____
Roadway Demo, Utility			
Demo, Staking, Traffic			
Control, Erosion Control,			
Mobilization	\$35,000	_____	_____
<i>Total 29th St Costs</i>	<i>\$376,250</i>	_____	_____
<i>Interest Carry on Site Work</i>	<i>\$161,199</i>	_____	_____
<i>Contingency</i>	<i>\$89,158</i>	_____	_____
Total Sitework Costs	\$1,362,840	_____	_____
SOFT COSTS			
<i>Site Work A&E</i>			
Public Improvements & Access Ways	\$175,000	_____	_____
29th Street Roadway Design and Inspection	\$112,500	_____	_____
<i>Total Professional Fees</i>	<i>\$287,500</i>	_____	_____
<i>Site Permit/Fees</i>			
Civil Engineering review fee	\$7,500	_____	_____
<i>Site Permit/Fees Subtotal</i>	<i>\$7,500</i>	_____	_____
Total Soft Costs	\$295,000	_____	_____
TOTAL REIMBURSEABLE PROJECT COSTS	\$1,657,840	_____	_____

TOTAL AMOUNT FOR THIS REQUEST _____

EXHIBIT H
TIF Project Costs
(including CID Eligible Project Costs, TIF Eligible Project Costs, and Half-Cent Eligible Project Costs)

					TOTAL PROJECT COST	TIF ELIGIBLE EXPENSES	CID ELIGIBLE EXPENSES	HALF-CENT SALES TAX ELIGIBLE EXPENSES		
Land Acquisition										
	Land Acquisition				\$2,375,000	\$2,375,000	\$2,375,000	\$0		
	Land Acquisition Subtotal				\$2,375,000	\$2,375,000	\$2,375,000	\$0		
Sitework										
	Site Work Improvements									
	Demolition				\$384,998	\$384,998	\$384,998	\$0		
	Earthwork				\$1,602,842	\$1,602,842	\$1,602,842	\$0		
	Concrete Curb				\$277,400	\$277,400	\$277,400	\$0		
	Asphalt & Concrete Paving				\$1,509,661	\$1,509,661	\$1,509,661	\$0		
	Storm Water Management				\$1,117,290	\$1,117,290	\$1,117,290	\$0		
	Water & Sanitary Sewer				\$627,250	\$627,250	\$627,250	\$0		
	Street Lighting				\$308,917	\$308,917	\$308,917	\$0		
	Landscape & Irrigation				\$275,000	\$275,000	\$275,000	\$0		
	Electrical, Gas, Telephone Service				\$503,950	\$503,950	\$503,950	\$0		
	Geotech, Erosion Control, Staking, Roadway Signage, Environmental Mitigation				\$543,200	\$543,200	\$543,200	\$0		
	Subtotal		\$7,150,508							
	Fairlawn Roadway Improvements									
	Entrance & Signal				\$371,900	\$371,900	\$371,900	\$371,900		
	Asphalt & Concrete Paving				\$133,770	\$133,770	\$133,770	\$133,770		
	Storm Water Management				\$58,730	\$58,730	\$58,730	\$58,730		
	Street Lighting				\$37,000	\$37,000	\$37,000	\$37,000		
	Geotech / Materials Testing				\$30,000	\$30,000	\$30,000	\$30,000		
	Earthwork Roadway Only				\$21,333	\$21,333	\$21,333	\$21,333		
	Concrete Curb				\$13,300	\$13,300	\$13,300	\$13,300		
	Roadway Demo, Utility Demo, Staking, Traffic Control, Erosion Control, Mobilization				\$70,200	\$70,200	\$70,200	\$70,200		
	Subtotal		\$736,233							
	29th Street Roadway Improvements									
	Entrance & Signal				\$2,000	\$2,000	\$2,000	\$2,000		
	Utility Relocation				\$20,000	\$20,000	\$20,000	\$20,000		
	Asphalt & Concrete Paving				\$118,000	\$118,000	\$118,000	\$118,000		
	Storm Water Management				\$25,000	\$25,000	\$25,000	\$25,000		
	Street Signage and Striping				\$3,000	\$3,000	\$3,000	\$3,000		
	Geotech / Materials Testing				\$20,000	\$20,000	\$20,000	\$20,000		
	Earthwork Roadway Only				\$25,750	\$25,750	\$25,750	\$25,750		
	Concrete Curb				\$17,500	\$17,500	\$17,500	\$17,500		
	Retaining Walls				\$110,000	\$110,000	\$110,000	\$110,000		
	Roadway Demo, Staking, Traffic Control, Erosion Control, Mobilization				\$35,000	\$35,000	\$35,000	\$35,000		
	Subtotal		\$376,250							
	Interest Carry on Site Work (24 months; Interest Only; 7.00%)					\$1,197,307	\$1,197,307	\$1,197,307	\$161,199	
	Contingency					\$662,221	\$662,221	\$662,221	\$89,158	
	Site Work Subtotal					\$10,122,519	\$10,122,519	\$10,122,519	\$1,362,840	
	Site Monuments And Features									
	Pylon Signs					\$150,000	\$150,000	\$150,000	\$0	
	Site Monuments Subtotal					\$150,000	\$150,000	\$150,000	\$0	
	Building									
		Building Improvements (Permits, Water & Sewer Tap Fee)								
		Multi-Family	Cost per Door	\$180,000	\$176	Number of Doors	\$31,680,000	\$0	\$31,680,000	\$0
		Parking Deck for Multi-Family	Cost per Stall	\$22,500	\$2	Stalls per Door	\$5,940,000	\$5,940,000	\$5,940,000	\$0
		Building 1: Hotel	Cost per Door	\$140,000	\$88	Number of Doors	\$12,320,000	\$0	\$12,320,000	\$0
Building 3: Restaurant		Cost per SF	\$215	\$3,500	Square Feet	\$752,500	\$0	\$752,500	\$0	
Building 3: Coffee Shop		Cost per SF	\$215	\$1,600	Square Feet	\$344,000	\$0	\$344,000	\$0	
Building 4: Restaurant		Cost per SF	\$165	\$7,375	Square Feet	\$1,216,875	\$0	\$1,216,875	\$0	
Building 5: Movie Theater		Cost per SF	\$205	\$34,355	Square Feet	\$7,042,775	\$0	\$7,042,775	\$0	
Tenant Improvement Allowance										
Building 3: Restaurant		Cost per SF	\$50	\$3,500	Square Feet	\$175,000	\$0	\$175,000	\$0	
Building 3: Coffee Shop		Cost per SF	\$40	\$1,600	Square Feet	\$64,000	\$0	\$64,000	\$0	
Building 4: Restaurant		Cost per SF	\$50	\$7,375	Square Feet	\$368,750	\$0	\$368,750	\$0	
Building 5: Movie Theater		Cost per SF	\$50	\$34,355	Square Feet	\$1,717,750	\$0	\$1,717,750	\$0	
				\$46,830	Square Feet					
Construction Interest Carry - Multi-Family & Parking Deck (24 months; Interest Only; 7.00%)					\$5,451,138	\$860,706	\$5,451,138	\$0		
Construction Interest Carry - Buildings 1-6 (24 months; Interest Only; 7.00%)					\$3,140,874	\$0	\$3,140,874	\$0		
Contingency					\$4,752,171	\$476,049	\$4,752,171	\$0		
Building Improvement Subtotal					\$74,965,833	\$7,276,755	\$74,965,833	\$0		
Soft Costs										
		Site Work A&E - Construction Management								
		Survey				\$5,000	\$5,000	\$5,000	\$0	
		Preliminary Plat / Preliminary Development Plan				\$10,000	\$10,000	\$10,000	\$0	
		Final Plan / Plat				\$5,000	\$5,000	\$5,000	\$0	
		Sanitary Sewer & Storm Water Detention				\$50,000	\$50,000	\$50,000	\$0	
		Public Improvements & Access Ways				\$175,000	\$175,000	\$175,000	\$175,000	
		Civil Construction Plans				\$65,000	\$65,000	\$65,000	\$0	
		29th Street Roadway Design and Inspection				\$112,500	\$112,500	\$112,500	\$112,500	
		A&E: Buildings 1-6				\$875,000	\$0	\$875,000	\$0	
		A&E: Multi-Family				\$500,000	\$0	\$500,000	\$0	
		Design and Construction Administration				\$300,000	\$300,000	\$300,000	\$0	
	Development Fee (3.00%)				\$2,715,228	\$2,715,228	\$2,715,228	\$0		
	A&E / Development Fee Subtotal					\$4,812,728	\$3,437,728	\$4,812,728	\$287,500	
	Legal									
	General Legal				\$50,000	\$50,000	\$50,000	\$0		
	TIF and CID Legal Fees				\$100,000	\$100,000	\$100,000	\$0		
	Lease Commissions				\$621,753	\$621,753	\$621,753	\$0		
	Legal Subtotal					\$771,753	\$771,753	\$771,753	\$0	
	Site Permit / Fees									
	Site Plan review fee				\$5,000	\$5,000	\$5,000	\$0		
	Civil Engineering review fee				\$7,500	\$7,500	\$7,500	\$7,500		
	Master Comprehensive Signage Plan Package (estimated review & fee)				\$2,500	\$0	\$2,500	\$0		
	Miscellaneous Fees				\$10,000	\$10,000	\$10,000	\$0		
	Permit / Fees Subtotal					\$25,000	\$22,500	\$25,000	\$7,500	
	Total Project Cost					\$93,222,834	\$24,156,256	\$93,222,834	\$1,657,840	
	Note 1: All certified eligible costs will be subject to 5.50% interest as additional reimbursement as provided in the Development Agreement. Note 2: The amount for any given line item shall not act as a cap on the reimbursable amount for such line item from Public Finance Proceeds nor a requirement to spend a specific amount for a particular line item, but rather all Project Costs eligible to be reimbursed from Public Finance Proceeds pursuant to Kansas statutes may be reimbursed pursuant to the terms of the Development Agreement.									

EXHIBIT I
TIF Project Plan

**TAX INCREMENT FINANCING
REDEVELOPMENT PROJECT PLAN
(WHEATFIELD VILLAGE REDEVELOPMENT PROJECT)**

The Tax Increment Financing Act, K.S.A. 12-1770, et seq., as amended (the “**TIF Act**”), permits the City of Topeka, Kansas (the “**City**”) to undertake one or more redevelopment projects within an established redevelopment district. In order to pursue such redevelopment projects, the City is obligated to create, in consultation with the City’s Planning Commission, a “project plan.”

At the request of 29 Fairlawn, LLC (the “**Developer**”), developer of the Wheatfield Village Redevelopment Project (the “**Development**”), the City presents the following information as required by the TIF Act related to the project plan for the Development (“**Redevelopment Project Plan**”). Except as otherwise noted herein, the information included in this Redevelopment Project Plan was submitted by the Developer.

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I.	INTRODUCTION	1
II.	THE REDEVELOPMENT PROJECT PLAN.....	1
	A) Description of the TIF District and Project Area.....	1
	B) Established TIF District	2
	C) Redevelopment Project	2
	D) Feasibility Study	4
	E) Relocation Plan	5
	Exhibit A-1 – TIF District Legal Description	
	Exhibit A-2 – TIF District Boundary Map	
	Exhibit B-1 – Project Area 1 Legal Description	
	Exhibit B-2 – Project Area 1 Boundary Map	

I. INTRODUCTION

The subject of this project plan, as defined by the TIF Act (as hereinafter defined) is the initial project area of the Wheatfield Village mixed-use development (the “**Development**”) located in the northwest corner of Southwest 29th Street and Fairlawn Road in Topeka, Kansas (the “**City**”). The Development will be constructed by 29 Fairlawn, LLC (the “**Developer**”), a special-purpose entity affiliated with Midwest Health, Inc. and led by its principals Jim Klausman and Floyd Eaton. The Development spans approximately 15 acres in total, including rights-of-way, and is planned to include approximately 13 acres of multi-family, restaurant, movie theater and hotel uses, plus infrastructure and site improvements. The Development is planned to transform a highly visible and long-deteriorating site bordering I-470 into a vibrant mixed-use setting currently unavailable within the City.

Pursuant to the Kansas Tax Increment Financing Act, K.S.A. 12-1770 et seq., as amended (the “**TIF Act**”), Kansas municipalities are authorized to establish redevelopment districts and redevelopment project plans for property within their jurisdiction. Redevelopment districts may be created based upon certain findings by the municipality, including that property within a proposed district is an “eligible area” pursuant to the TIF Act.

On June 26, 2017, the City, after conducting a duly noticed public hearing, found that the property within the boundaries described in **Exhibit A-1** and depicted in **Exhibit A-2** hereto qualifies as a “conservation area” and is therefore an “eligible area” pursuant to the TIF Act. Based in part upon said finding, the City adopted Ordinance No. 20072 creating a redevelopment district encompassing the subject property (the “**TIF District**”) and approving a plan for redevelopment of the TIF District established under K.S.A. 12-1771 and amendments thereto (the “**District Plan**” as further described herein).

This redevelopment project plan (the “**Redevelopment Project Plan**”) for the first redevelopment project area established within the TIF District (“**Redevelopment Project Area 1**”) is presented to the City for its consideration and approval, with the maximum twenty (20) year term of the Redevelopment Project Plan to commence upon the effective date as specified in the ordinance adopting this Redevelopment Project Plan. The boundaries of Redevelopment Project Area 1 are legally described in **Exhibit B-1** and generally depicted in **Exhibit B-2** attached hereto.

II. THE PROJECT PLAN

A. Description of the TIF District

The property comprising the TIF District consists of approximately 15 acres generally located in the northwest and northeast quadrants of Southwest 29th Street and Fairlawn Road within the City, plus right-of-way also included within the TIF District boundaries. A legal description and boundary map of the TIF District are attached hereto as **Exhibits A-1** and **A-2**, respectively.

B. Established TIF District

Redevelopment Project Area 1 is located within an established TIF District approved by the City on June 26, 2017 pursuant to Ordinance No. 20072. The approved District Plan contained within the Ordinance provides for certain redevelopment projects within the TIF District:

The District shall consist of one (1) or more redevelopment project areas, which are anticipated to include a mix of uses including retail, restaurant, and other commercial uses and residential uses with associated amenities, along with associated infrastructure including but not limited to structured and/or surface parking, landscaping, lighting, utilities, storm water improvements, sidewalks/walkways, streets/drives, ingress/egress improvements, green space, signalization and other infrastructure improvements.

C. Redevelopment Project

This Project Plan proposes the use of tax increment financing revenues generated by Redevelopment Project Area 1 (“**TIF Revenues**”) to pay for or reimburse the costs of a redevelopment project as generally described in the District Plan (the “**Redevelopment Project**” or “**Project**”). Consistent with the approved District Plan, the following Redevelopment Project Plan for the Redevelopment Project is anticipated to include a mix of commercial and residential uses including:

Residential

A multi-story 150-180 unit, upscale, market rate apartment complex “wrapped” around a parking garage.

Movie Theater

A seven to nine-screen, state-of-the-art movie theater with bar and food service.

Hotel

A multi-story 70 to 90-room hotel with a national flag.

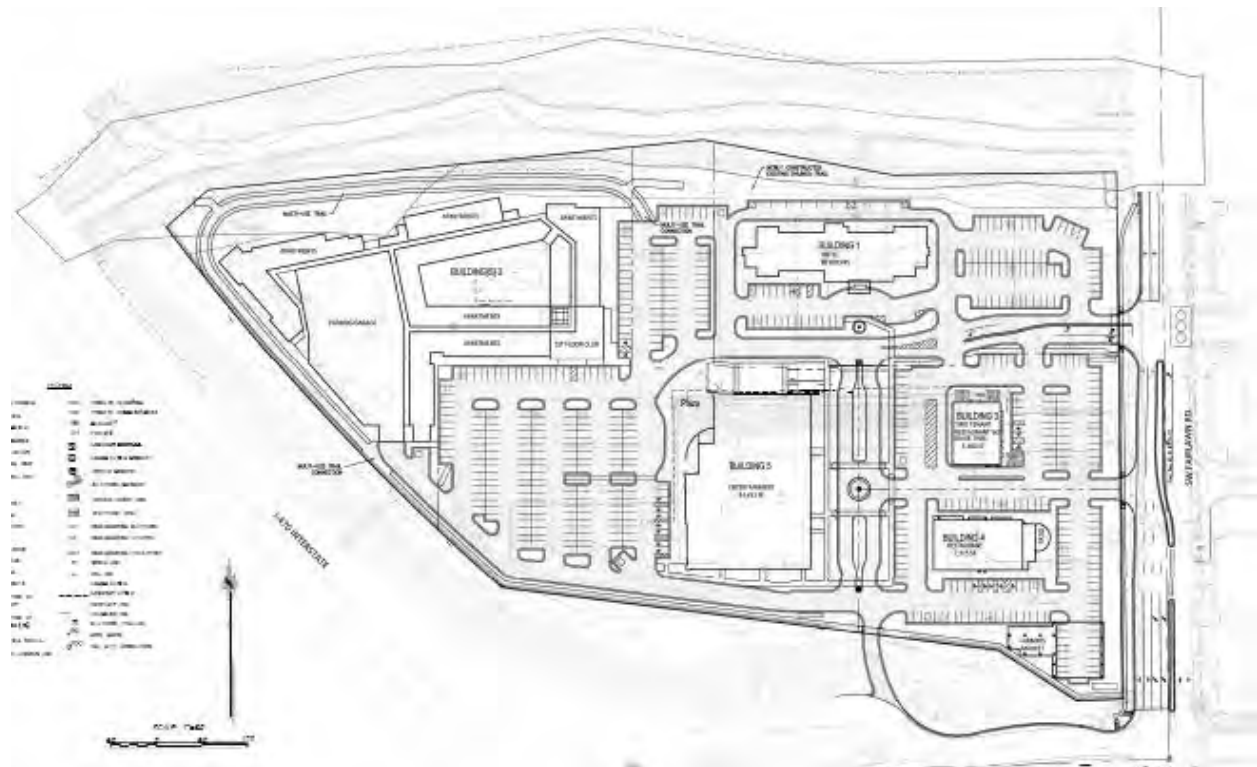
Restaurants

A family dining restaurant at the southeast corner of the site and a fast food restaurant building with two tenants, and including one operating a drive-through window at east end of the site.

Related Costs

Related costs include property acquisition, site preparation (including demolition of existing structures), the construction of infrastructure including a multi-story parking deck associated with the residential component and the development of open space at the southeast corner of the site which is anticipated to include a small “farmers’ market” concept.

The current site plan depicting the Development, which may be amended as approved by the City from time to time, is as follows:



In addition to TIF Revenue, the Developer plans separately to petition the City for the creation of a community improvement district (“**CID**”) and to request that Shawnee County issue industrial revenue bonds (“**IRBs**”) for the purpose of providing the Project with a sales tax exemption on construction labor and materials.

The Developer expects that the Project contemplated in the Redevelopment Project Plan will produce a significant economic impact for the City by redeveloping a significantly deteriorated and highly visible site fronting I-470, remediating blighting conditions and economic obsolescence within Project site, enhancing existing businesses and attracting new businesses within the vicinity of the Redevelopment Project Area, and spurring increased commerce, employment, and general improvement within the Redevelopment Project Area.

The Developer anticipates that redevelopment of the Redevelopment Project Area will attract visitation to the Project site from members of the City community and from visitors outside the City because of the location of the Redevelopment Project Area adjacent to a major interstate. As described in the Traffic Study prepared in connection with the Planned Unit Development plan for the Project, the Project will include construction of improvements to Fairlawn Road and Southwest 29th Street to service traffic generated by the Project (the “**Traffic Improvements**”). In connection with the proposed Traffic Improvements, the Developer and the City have requested a break in access from 29th Street to an on-ramp leading to I-470. The

Traffic Study describes the Traffic Improvements to 29th Street that will be constructed as part of the Project (a) in the event the break in access request is approved by the Federal Highway Administration and (b) in the event the break in access request is denied by the Federal Highway Administration. Although the scope of the Traffic Improvements to 29th Street differs depending upon whether the break in access request is approved or denied by the Kansas Department of Transportation and the Federal Highway Administration, the Traffic Study establishes that the scope of improvements in each circumstance adequately accounts for the traffic anticipated to be generated by the Project as quantified in the Traffic Study.

D. Feasibility Study

The table below summarizes the Project's expected sources and uses of funds:



CITY OF TOPEKA
Wheatfield Village Redevelopment District
Sources and Uses of Funds

SOURCES OF FUNDS	TOTAL
Developer Loans	65,255,984
Developer Equity	27,966,850
TOTAL SOURCES	93,222,834
USES OF FUNDS	
Land Acquisition	2,375,000
Site Work Improvements	7,150,508
Fairlawn Improvements	736,233
29th Street Improvements	376,250
Site Monuments/Features	150,000
Multi-Family Building	31,680,000
Parking Deck/MF Building	5,940,000
Hotel	12,320,000
Fast Casual Restaurant	927,500
Coffee Shop	408,000
Sit Down Restaurant	1,585,625
Movie Theater	8,760,525
Design/Const Mgt	4,812,728
Legal/Lease Concessions	771,753
Site Permit/Fees	25,000
Construction Interest	9,789,320
Contingency	5,414,392
TOTAL USES	93,222,834

The Developer requests a “pay-as-you-go” method for implementing the TIF. As a result, no TIF Revenues will be available to the Developer at financial close on the Project by virtue of the issuance of bonds. Instead, as the Project generates TIF Revenues, the City will reimburse the Developer for actual, eligible Project costs certified by the Developer to the City. The Developer expects reimbursements from the proceeds of the CID, if approved by the City, to work similarly. The Developer may also benefit from a sales tax exemption on construction materials resulting from the IRB issue it has requested be issued by Shawnee County.

The City's obligation to reimburse the Developer for TIF-eligible Project costs will be detailed by a redevelopment agreement to be entered into by and between the City and the Developer concurrently with the Topeka City Council's approval of this Redevelopment Project Plan.

The Developer represents that it is able to secure the private financing required to bridge the availability of TIF Revenues and CID proceeds and that it has the resources necessary to make the required equity contributions necessary to complete the Project, as shown in the sources and uses above. The Developer further represents that, based upon the advice of its architects, engineers and contractors, the construction costs projected for the Project are reasonable.

Based upon the foregoing, the Project's benefits and TIF Revenues and other available revenues are expected to exceed or be sufficient to pay for the costs of the Project. Further, there are no special obligation bonds outstanding relying on revenues described K.S.A. 12-1774(a)(1)(D).

E. Relocation Plan

In the event the City acquires any real property within the Redevelopment Project Area in carrying out the provisions of the TIF Act, and that, as a result, any persons, families and businesses move from real property located in the Redevelopment Project Area or move personal property from real property located in the Redevelopment Project Area, a \$500 payment will be made to such persons, families and businesses as provided in the TIF Act. No persons or families reside in the TIF District and thus no such persons shall be displaced nor require suitable alternate housing. Any retailers, as defined in K.S.A. 79-3702, which are or have been located within the TIF District and which will move or have moved from the TIF District will or have moved on their own accord pursuant to arm's-length transactions with the Developer and thus no payment of damages for liquidation of inventories shall be required to be made to such parties.

[No further text on this page.]

EXHIBIT A-1

TIF DISTRICT LEGAL DESCRIPTION

WHEATFIELD VILLAGE

Project 14-5195
Revised June 21, 2017

DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10 at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the North line of said Shunga Plaza Subdivision a distance of 261.00 feet more or less, to a point 50-feet easterly of the West line of Lot 2, Block D of said Shunga Plaza Subdivision; thence South on a line parallel with and 50-feet easterly of the West line of said Lot 2, Block D a distance of 226.45 feet more or less, to the center of Southwest 28th Street as shown on the Plat of said Shunga Plaza Subdivision; thence West on the center of said Southwest 28th Street a distance of 50.08 feet, more or less to the East lines of Lots 5 and 6, Block B, Shunga Plaza Subdivision extended; thence South on the East lines of Lots 5 and 6, Block B of said Shunga Plaza Subdivision a distance of 174.97 feet more or less; thence West on the North line of Lot 2, Block A, Butler Plaza Subdivision No.2, a distance of 134.94 feet; thence Northwesterly, continuing on said North line a distance of 18.31 feet to the West line of said Lot 2; thence South on the West line of said Lot 2 and Lot 1, Block A and the extension thereof, said line also being the East Right of Way line of Southwest Fairlawn Road, a distance of 207.79 feet to the Northwest corner of Lot 1, Block A, Phillips 66 Subdivision No.2; thence East on the North line of said Lot 1, Block A Phillips 66 Subdivision No.2, a distance of 150.00 feet; thence South on the East line of said Lot 1, Block A, of Phillips 66 Subdivision No.2 and its extension thereof a distance of 180 feet more or less to the South curb line of Southwest 29th Street; thence Westerly and Southwesterly on said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

EXHIBIT A-2

TIF DISTRICT BOUNDARY MAP

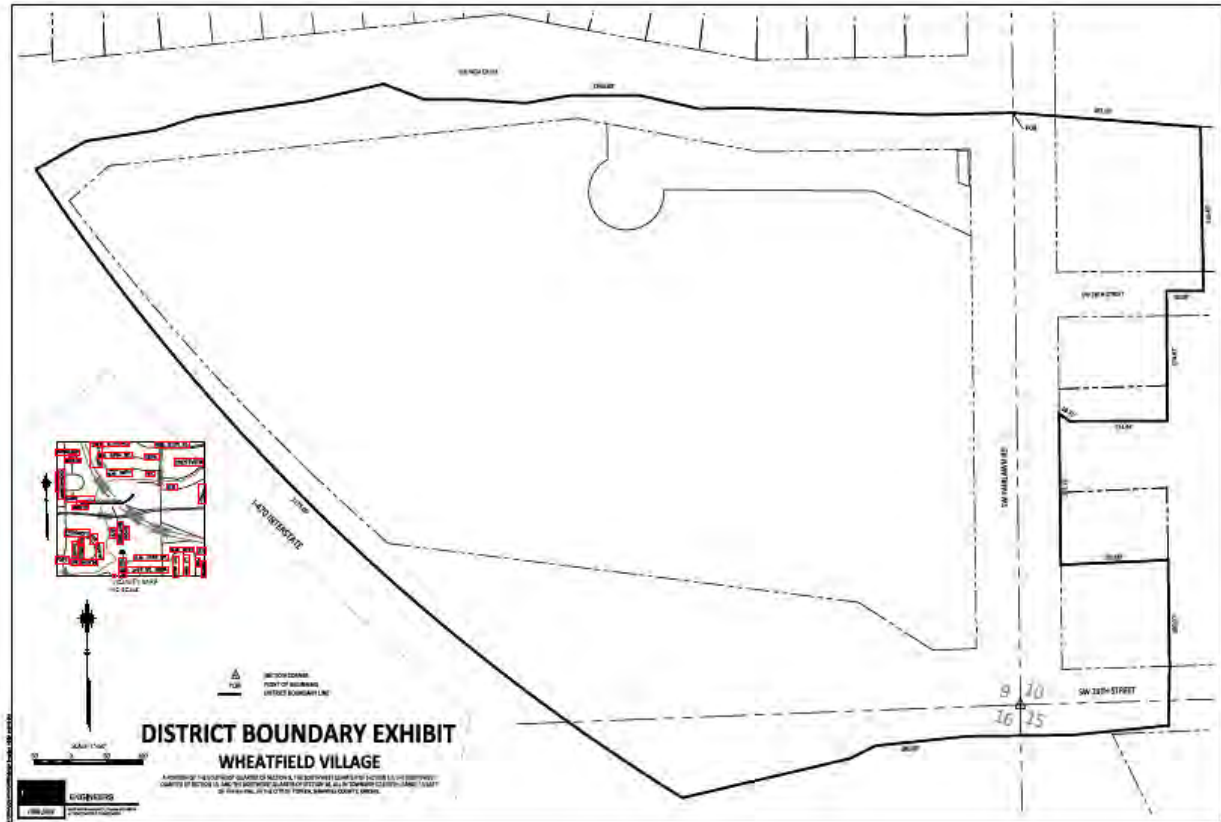


EXHIBIT B-1

PROJECT AREA 1 LEGAL DESCRIPTION



WHEATFIELD VILLAGE

Project 14-5195
July 26, 2017

TIF PROJECT AREA 1 BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10, at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the extension of the North line of said Shunga Plaza Subdivision to the East Right of Way line of Southwest Fairlawn Road; thence Southerly on said East Right of Way line to the intersection with the North Right of Way line of Southwest 29th Street; thence Easterly on the North Right of Way of Southwest 29th Street a distance of 150 feet more or less; thence Southerly to a point 20 feet South of the South curb line of Southwest 29th Street; thence Westerly and Southwesterly parallel with said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

2930 SW Woodside Drive | Topeka, KS 66614 | 785.272.4706 | 785.272.4736 fax

PROJECT AREA 1 BOUNDARY MAP

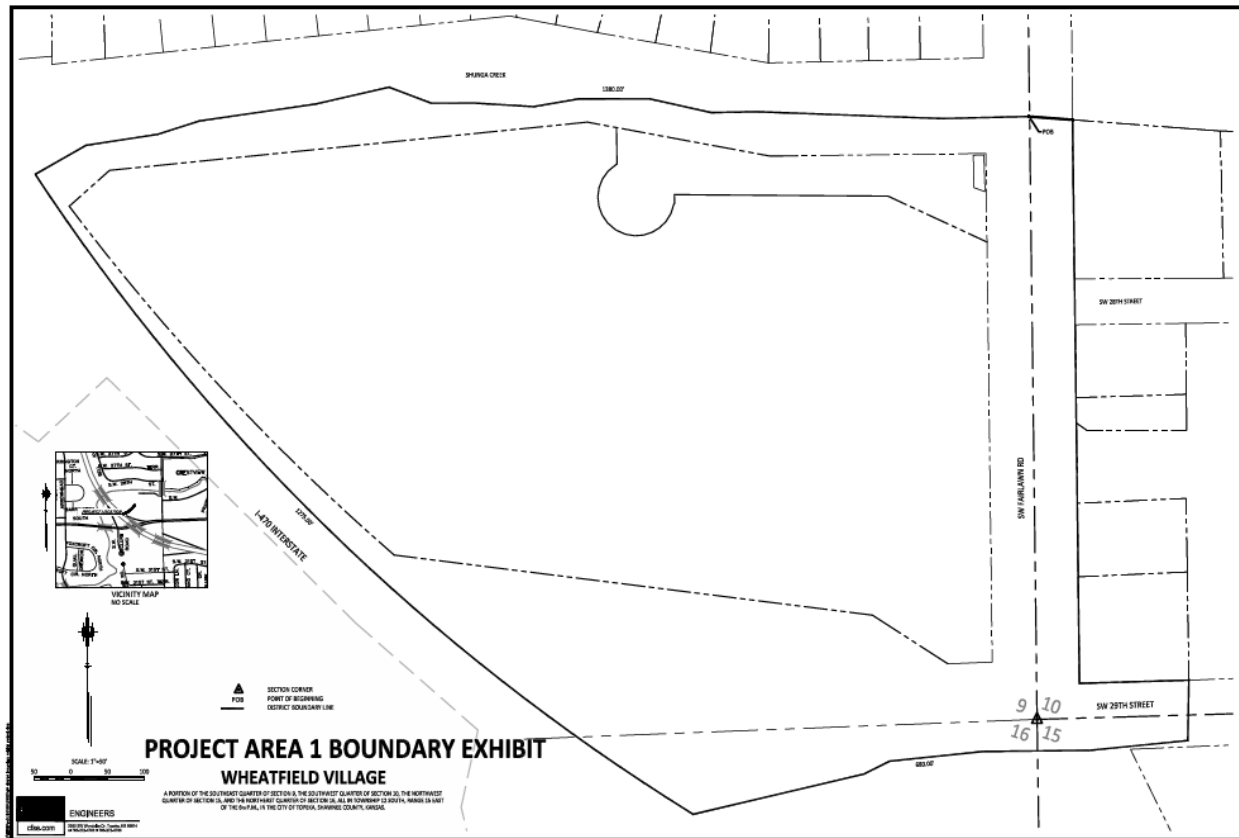


EXHIBIT J
Prohibited Tenants/End Users

Adult entertainment
Adult bookstore
Arcade*
Body piercing, other than ears
Car repair
Car wash***
Cellular or other telecommunications towers or facilities which are not stealth or fully integrated
Day care*
Mobile home park
Mobile home sales
Pawn shop
Pay-day loan services
Permanent rooftop signage, except for any signage approved by the City**
Satellite dishes that are not fully integrated
Tattoo parlor

* This land use may be allowed as an accessory use if approved pursuant to City approval and such use is a subordinate use that is customarily and incidentally associated with the primary use, is located entirely within the structure of a primary use, and is not visible from and cannot be directly accessed from the exterior of the structure that contains the primary use.

** Temporary roof top signage may be allowed pursuant to the Topeka Municipal Code.

*** Unless such use is incidental to the operation of an automobile sales facility or a convenience store.

PETITION FOR THE CREATION OF A
COMMUNITY IMPROVEMENT DISTRICT
(WHEATFIELD VILLAGE)

RECEIVED
CITY CLERK

2017 AUG 31 A 9:28

TO: City Council,
City of Topeka, Kansas

TOPEKA, KANSAS

The undersigned (the “**Petitioner**”), being the owner of record, whether resident or not, of the following:

1. Not less than fifty-five percent (55%) of the land area contained within the hereinafter described community improvement district; and
2. Not less than fifty-five percent (55%) by assessed value of the land area contained within the hereinafter described community improvement district.

hereby petitions the City of Topeka, Kansas (the “**City**”) to create the Wheatfield Village Community Improvement District (“**CID**”) and authorize the proposed CID project (the “**CID Project**”) hereinafter set forth, all in the manner provided by K.S.A. § 12-6a26, *et seq.* (the “**Act**”). In furtherance of such request, the Petitioner states as follows:

1. GENERAL NATURE

The general nature of the proposed CID Project is to promote the redevelopment and revitalization of the Wheatfield Village mixed-use development, located at the northwest corner of Southwest 29th Street and Southwest Fairlawn Road within the City, by providing community improvement district financing in accordance with this petition and the Act to finance the demolition, construction, maintenance, and procurement of certain improvements, costs, and services within the district, including, but not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and/or structures, buildings, facilities, tenant improvements, water management and drainage related items, utilities, landscaping, lighting, art, water features and other cultural amenities, ongoing maintenance of the district, marketing, advertisement and economic development, promotion of activities and special events, training, cleaning and maintenance, and administrative costs in establishing and maintaining the district and the CID Project, and any other items permitted to be financed within the district under the Act.

2. ESTIMATED COST

The total estimated cost of the CID Project is \$93,222,834, plus interest. It is anticipated that revenue generated from collection of the CID sales tax described in paragraph 5 of this Petition will be utilized to reimburse a portion of the cost of the CID Project.

3. PROPOSED METHOD OF FINANCING

The proposed method of financing the CID Project is from the CID sales tax described in paragraph 5 of this Petition through Pay-as-you-go financing.

4. PROPOSED METHOD AND AMOUNT OF ASSESSMENT

Petitioner does not propose that the CID Project be financed through the levying of assessments.

5. PROPOSED AMOUNT OF SALES TAX

Petitioner proposes that the CID Project be financed through the levying of a CID sales tax in the amount of 2% for a 22 year term as authorized by the Act.

6. MAP AND LEGAL DESCRIPTION OF THE PROPOSED CID

A map of the CID is attached hereto at **EXHIBIT A**.

The legal description of the CID is attached hereto at **EXHIBIT B**.

7. NOTICE TO PETITION SIGNER

Petitioner hereby acknowledges that signatures may not be withdrawn from this Petition by the signer hereof after the Governing Body of the City commences consideration of this Petition, or later than seven (7) days after the filing hereof with the City Clerk, whichever occurs first.

8. PETITION BINDING ON FUTURE OWNERS

Petitioner hereby acknowledges that if this Petition is not properly withdrawn as permitted by the Act, any future owners of the property within the CID shall be bound by this Petition.

9. BOND MARKETABILITY

Petitioner hereby acknowledges that the City will record this Petition if the proposed CID Project is approved by the City Council and that by the acceptance of this Petition, the City Council is not making any representation as to the issuance or marketability of CID bonds/notes, if any, to finance the CID Project described in this Petition. The Petitioner assumes the risk that such CID bonds/notes can be issued under terms acceptable to the City.

10. ACKNOWLEDGMENTS

Petitioner acknowledges that:

(A) the City's approval of this Petition or of the CID Project set forth in this Petition and creation of a CID by the City as proposed in this Petition does not eliminate independent requirements by the Petitioner to comply with all applicable zoning, planning, permit and other laws relating to the development of property;

(B) the City is relying on the estimated costs of the CID Project set forth in this Petition without independent investigation as to the accuracy of such estimates; and

(C) the implementation of the CID proposed by the Petition and the receipt of CID sales tax proposed by this Petition may be governed by the terms of a reimbursement or

development agreement entered into between the City and the Petitioner, or any successor or assigns of the Petitioner approved by the City.

No further text on this page

IN WITNESS WHEREOF, the undersigned have executed the above foregoing Petition to create the CID on the date set forth below:

29 FAIRLAWN, LLC, a Kansas limited liability company

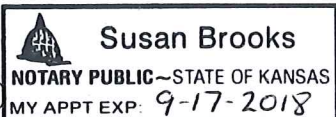
By: James A. Klausman
Name: James A. Klausman
Title: Vice-President
Date: August 30, 2017

ACKNOWLEDGMENT

STATE OF Kansas)
) ss.
COUNTY OF Shawnee)

BE IT REMEMBERED, that on this 30 day of August, 2017, before me, the undersigned, a Notary Public in and for said County and State, came James A. Klausman, who is known to me to be the same person who executed the within instrument, and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

(Seal)  Susan Brooks
NOTARY PUBLIC~STATE OF KANSAS
MY APPT EXP: 9-17-2018

Susan Brooks
Notary Public in and for said
County and State

My Commission Expires:
9-17-2018

MAP OF CID

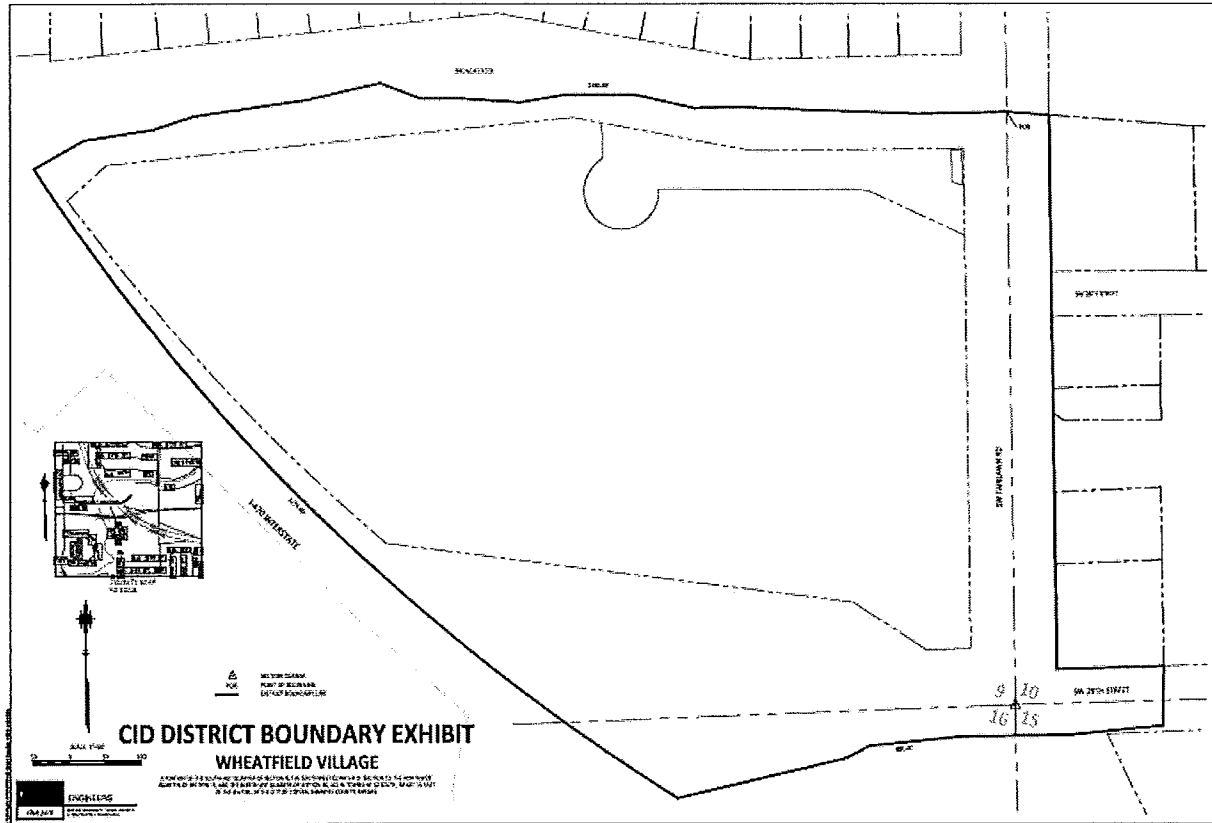


EXHIBIT B

LEGAL DESCRIPTION OF CID



WHEATFIELD VILLAGE

Project 14-5195

July 26, 2017

CID DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

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**CITY OF TOPEKA
COMMUNITY IMPROVEMENT DISTRICT (“CID”) POLICY**

Effective Date: October 25, 2011

Sections:

- I. OBJECTIVES**
 - II. SCOPE**
 - III. DEFINITIONS**
 - IV. PROVISIONS**
 - V. PROCEDURES**
 - VI. STATUTORY AMENDMENTS**
 - VII. EFFECTIVE DATE**
 - VIII. RESPONSIBILITY FOR ENFORCEMENT**
-

I. OBJECTIVES.

The proper use of a Community Improvement District (CID) should promote, stimulate and develop the general and economic welfare of and quality of life in the City of Topeka. A CID involves public financing of all or a portion of a “Project” as defined in the Community Improvement District Act (“Act”) within a prescribed area (the District). A CID Project should provide public benefit such as strengthening economic development and employment opportunities; enhancing tourism; upgrading older real estate through redevelopment or rehabilitation; or promoting sustainability. Public financing is achieved by levying and collecting special assessments and/or a CID sales tax upon property in the District.

II. SCOPE.

An applicant may petition the City to utilize CID financing to fund Projects eligible under the Act. The authority and decision to approve a petition establishing a CID for a Project is within the sole discretion of the Governing Body. However, Projects in which the anticipated costs are less than \$1 million dollars will not be considered. The Governing Body is under no obligation to approve any petitioned Project. This Policy is intended to provide a guide in considering applications. The Governing Body reserves the right to deviate from this Policy when it believes it is in the City’s best interest.

III. DEFINITIONS.

- A. “CID Sales Tax” means a retailers’ sales tax over and above the aggregate amount of the retailers’ sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailer’s sales tax act, within a District, in any increment of .10% or .25% not to exceed 2% as authorized

by the Act, pledging such revenue to pay the bonds issued for the Project or to reimburse the cost of the Project pursuant to pay-as-you-go financing.

- B. “Cost” means the definition set out in K.S.A. 12-6a27, as amended. The City, on a case by case basis, may consider costs incurred within 12 months prior to District establishment, provided the costs were incurred after July 1, 2009. The City reserves the right to exclude otherwise eligible costs under the Act. . The approved project costs shall be described in detail in a Development Agreement.
- C. “Owner” means the owner or owners of record, whether resident or not, of real property within the District. The applicant shall be an owner.
- D. “Pay-As-You-Go” means a method of financing in which the costs of a Project are financed privately, and the approved costs of such Project are reimbursed after Project completion as monies are deposited in the District fund.
- E. “Project” may include any item eligible under the Act, as described in K.S.A. 12-6a27, as amended, but the City reserves the right to exclude otherwise eligible Projects under the Act; determine eligible and ineligible projects; and determine the amount of funding for a Project on a case by case basis. These terms and approvals shall be set out in a Development Agreement.
- F. “Review Committee” includes the Deputy City Manager, Director of Finance, Director of Public Works, Director of Planning, Director of Development Coordination, and the City Attorney, or their designees. The Committee may also include City staff and individuals designated by the City Manager, including but not limited to the City’s bond counsel and City financial advisor.

IV. PROVISIONS.

A. Criteria. The Governing Body shall consider establishment of a CID when it determines it is in the best interest of the City and provided the Project meets one or more of the following criteria:

1. Creates facilities which promote the cultural, historical, or artistic elements of the City and enhance tourism and quality of life.
2. Attracts unique commercial, office, industrial, and/or mixed use development which will enhance the economic climate of the City and diversify the economic base.
3. Substantially promotes economic development, investment or reinvestment in the community.

4. Encourages retail projects that enhance the retail base by either attracting new sales or capturing sales moving to other markets.
5. Provides for the construction of facilities that promote tourism or enhance the quality of life within the City.
6. Upgrades older real estate through redevelopment and/ or rehabilitation.

B. Applicant Responsibility. The application process shall include an application form and the petition required by the Act. As part of the process, the applicant shall complete the following prior to submission of the petition to the Governing Body:

1. Provide evidence in a form satisfactory to the City of the applicant's financial ability to complete the proposed project in a timely manner.
2. Provide documentation substantiating the applicant's sources of funding, including the amount/percentage of equity funding.
3. Submit a financial analysis demonstrating that the projected revenue is sufficient to pay the costs of the project, including bond debt service. The Review Committee may secure an independent feasibility study, the costs of which shall be borne by the applicant.
4. Pay all required fees and comply with all procedural requirements of the Act and the City's CID Policy.
5. Execute a Development Agreement contemporaneous with presentation of the CID petition to the governing body.

C. Review Committee Consideration. The Review Committee shall review each application and petition and make a recommendation to the Governing Body. In determining whether to recommend approval of a CID petition and the method of financing, the Review Committee may consider all of the following:

1. Whether creation of a CID meets one or more of the criteria set forth in Section IV(A);
2. The total development costs and investment, including estimated Project costs for which public financing is sought;

3. Sources of funding, including the amount of equity funding in comparison to public financing;
4. Experience and financial stability of Developer;
5. Whether tenants for the Project are in place and the nature and quality of the tenants;
6. Financial viability of the Project, including potential competition;
7. The amount and purpose of the funding request, including the percentage of funding for capital costs; operational costs; and public costs;
8. If bonds are requested, the projected debt service coverage from projected revenues; any additional security pledged by the Developer; and the marketability of the bonds; and
9. Whatever other factors or considerations the Review Committee believes the Governing Body would find relevant to its decision.

D. Governing Body Review. The Governing Body shall review the financial viability of each CID and shall use this information in determining whether to grant the Petition and, if granted, the appropriate term of the CID, which may be less than the duration allowed by the Act.

1. In the event pay-as-you-go financing is utilized, the CID sales tax shall expire on a date approved by the City, but no later than twenty-two (22) years from the date the state director of taxation begins collecting such tax or when the pay-as-you-go costs have been paid.
2. CID Bonds issued to finance the Project shall mature on a date approved by the City, but no later than twenty-two (22) years from date of issue, unless otherwise provided by law.
3. In no event shall any CID sales tax extend later than the date the bonds issued to finance such project or refunding bonds issued for the Project mature.

E. Financing.

1. Source of Funds. The cost of all or a portion of any authorized CID Project may be financed by any or all of the following sources:

a. Pay-As-You-Go financing based either on a special assessment or a CID sales tax within the District, or both;

b. Special Obligation Bond financing payable wholly through special assessments within the CID;

c. Special Obligation Bond financing payable in part through special assessments within the CID and in part through a CID sales tax;

d. General Obligations Bonds;

e. Any other funds appropriated by the City; or

f. A combination of the foregoing methods.

2. Development Agreement. If after review of the application, the Review Committee determines to recommend approval of the CID to the Governing Body, the Applicant shall supply an executed Development Agreement (the "Development Agreement") which shall be presented to the Governing Body for consideration contemporaneous with the Petition. The Development Agreement shall address the recommended method of financing, approved Project(s) and approved Costs; the feasibility of the Project, the steps to be taken to minimize the risk of default; and any other terms the Committee deems appropriate.

3. Bonds. The City encourages the use of private financing ("Pay-As-You-Go") with reimbursement to the applicant for eligible, approved costs associated with a CID Project, but the City may consider the issuance of Bonds. Any determination to issue Bonds is within the sole discretion of the Governing Body.

a. CID Bonds. The City may issue special obligation notes or bonds ("CID Bonds") (collectively, "Bonds") to finance one or more Projects. In no event shall special assessments be levied against the City. The City will not provide credit enhancements for CID Bonds; however, credit enhancement provided by an applicant will be viewed favorably.

b. G.O. Bonds. The City discourages the use of full faith and credit notes or bonds (G.O. Bonds) to finance a Project

under this Act, but may consider such action for that portion of a CID Project that is exclusively for public improvements.

Prior to the issuance of any Bonds, the applicant must receive a Certificate of Completion from the City. In addition, the applicant must agree to certain disclosures required by the City and the Bond underwriters and ensure that if necessary, such disclosure requirements are included in all subsequent tenant leases and land sales within the District.

4. Project Funds. A separate fund shall be created for each District and such fund shall be identified by a suitable title (the "Fund"). CID sales tax receipts, special assessments paid to the City under this Act, the proceeds from the sale of Bonds, and any other moneys appropriated by the Governing Body for the purpose of paying Project Costs, including the principal and interest on the bonds issued pursuant to this Act shall be credited to such Fund.

a. The Fund shall be solely used to pay the Costs of the Project either through the issuance of Bonds or Pay-As-You-Go financing, and shall be limited to approved costs included in the ordinance authorizing the Project or in the Development Agreement.

b. Reimbursement of approved Costs may only be made after a Certificate of Completion has been issued by the City.

c. In the event moneys remain in the Fund after the expiration of the CID sales tax, such moneys shall continue to be used solely to pay the Cost of the Project. Upon payment of all Project Costs and principal and interest on any bonds issued for such District, the City has the authority to terminate the CID and spend any moneys remaining in such Fund for the purposes for which local sales tax receipts may be spent.

5. Fees. When submitting its application the applicant shall pay a non-refundable application fee to cover City expenses associated with reviewing and processing the CID request. The City shall also require the applicant to reimburse all costs incurred by the City for additional legal, financial and/or planning consultants, for direct out-of-pocket expenses, and for other costs relating to services rendered for the City to review, evaluate, process and consider the petition for a CID. If bonds are requested and subsequently approved by the City the applicant shall also be responsible for all costs of issuance associated therewith. The applicant shall also be responsible for paying an annual administrative fee to cover the cost of monitoring and administering

the CID. Fee amounts shall be set out in the CID Procedures as described in Section

V. PROCEDURES.

City staff shall develop procedures for processing CID applications and filing CID petitions, in addition to such other matters such as the establishment of fees. Such procedures shall be approved, and amended as appropriate, by the City Manager.

VI. STATUTORY AMENDMENTS; CONFLICT WITH STATE LAW.

Any amendment to the Act or any statute cited herein or used as a source of authority for development of the City's CID Policy shall apply without the need to modify or amend this Policy. If any part of this policy conflicts with state law, the latter shall control.

VII. EFFECTIVE DATE.

This CID Policy shall take effect upon passage by the City Council.

VIII. RESPONSIBILITY FOR ENFORCEMENT.

The City Manager shall be responsible for the enforcement of this Policy.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
November 14, 2017

DATE:	November 14, 2017	
CONTACT PERSON:	Jason Peek, Public Works	DOCUMENT #:
SECOND PARTY/SUBJECT:	Downtown Parking Master Plan	PROJECT #:
CATEGORY/SUBCATEGORY	019 Reports / 012 Consultant	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

DISCUSSION related to the Downtown Parking Master Plan recommendations.

VOTING REQUIREMENTS:

Discussion item only.

POLICY ISSUE:

To present recommendations for Downtown Parking based on issues identified through study phase of the planning process.

STAFF RECOMMENDATION:

Staff recommends the list of twenty two (22) actions included in the attached document.

BACKGROUND:

In early 2017, the City of Topeka hired DESMAN, a professional parking consulting, to assist in the development of a long-term downtown parking master plan. The study scope includes a review of existing parking facility utilization and occupancy, projecting future demand, determining the capacity of the current parking system to absorb additional demand, and evaluating financial health of the parking system. The final Parking Plan will include recommendations designed to help the City's Parking Division operate, maintain and manage Topeka's public parking assets for the next decade.

Study Area and Parking Inventory

The boundaries of the study area for the Downtown Parking Plan were developed by the City and intended to encompass all of the public parking in Downtown Topeka. In general, the study area for this project is SW 2nd Street as the northern boundary, Tyler Street as the western boundary, SW 12th Street as the southern

boundary, and Adams Street as the eastern boundary.

Within the Downtown study area there are 9 public parking garages, 5 private parking garages, 6 public surface parking lots, 15 large, private surface parking lots, and several thousand on-street spaces. All told, within the Downtown study area, the following parking assets were identified:

- 2,057 On-Street Spaces
- 3,708 Spaces in the Nine Public Garages (7 City-owned, 1 State-owned, 1 privately-operated)
- 560 Spaces in the Six Public Surface Lots
- 5,500 Private Spaces in Five Garages and 15 Large Surface Lots

The previous report presented on September 12, 2017, summarized the existing conditions surrounding public parking in downtown Topeka, the public input process that contributed to this study, and projected future parking needs in the downtown study area.

Based on these findings, the attached report provides recommendations to address the current needs of downtown parking as well as anticipated future needs for downtown parking over the next 5- 10 years. A list of twenty-two (22) recommendations is provided to address current and future needs of downtown parking. These recommendations are discussed in detail in the attached report.

Key to these recommendations are the following policy assumptions:

1. Continuation of free-two hour on street parking along S. Kansas Avenue and associated side streets that currently have yellow hoods on meters.
2. Implementation of demand management strategies to better utilize existing parking supply available in on-street, garages, and surface lots. These demand strategies include changes to parking rates over time combined with other actions to better utilize supply.
3. Development of additional funding strategies beyond existing fees from meters, leases permits, and enforcement, to pay for plan recommendations and capital repair needs of parking facilities.

BUDGETARY IMPACT:

The proposed recommendations will address current issues and future needs of downtown parking. The cost of the proposed recommendation exceeds anticipated revenues. While a fund balance is available within the parking enterprise fund, current forecast project the balance to be depleted and additional funding will be needed to implement proposed recommendations.

SOURCE OF FUNDING:

Currently, the maintenance and operations of the City of Topeka's parking facilities is funded through the Parking enterprise fund. The parking enterprise fund is supported through user fees from city owned garages, city owned surface lots, and on-street parking meters.

ATTACHMENTS:

Description

Parking Plan Recommendations

8.0 Operations, Management, Policy, and Physical Improvement Recommendations

8.1 Purpose of Recommendations

The recommendations which follow were developed by DESMAN, in consultation with the City, in order to address each of the issues identified throughout the course of this study. The recommended changes to the operations, management, policies, and physical assets which makeup the City's public parking system are intended to address the current needs of Downtown Topeka, as well as the anticipated needs of the area over the next 10 years. While none of the recommended changes will, by themselves, remedy all of the existing or future parking-related issues within the study area, the goal is to make incremental improvements in order to delay or eliminate the need for additional structured parking facilities, to improve the experience of parking users and to address the concerns raised by the city's stakeholders.

8.2 Recommendations

There are three policies assumed within the proposed recommendations:

1. Continuation of free, two-hour on-street parking along S. Kansas Avenue and associated side streets that currently have yellow hoods on meters. This approach assumes that the City will forgo meter revenue in these areas to support revitalization of downtown. Future updates to the plan could see this policy change. Continuing this policy would establish 550 spaces as free, two-hour parking on these streets. The free parking in these spaces represents lost revenue of more than \$280,000 annually. This solution will require an alternative source of funding to help support the parking system.
2. Implementation of demand management strategies to better utilize existing parking supply available on-street, as well as in garages and surface lots. These demand management strategies include changes to parking rates over time to help balance demand among facilities, increasing the number of permits sold in garages up to the practical capacity of each facility, changing meter rates and time limits to optimize convenience for parkers, combined with other actions to better utilize supply.
3. Development of additional funding strategies beyond existing fees from meters, leases and enforcement, to pay for plan recommendations and capital repair needs of parking facilities.

Along with the current operations of the parking system, the proposed recommendations are anticipated to result in expenses exceeding revenues by more than \$300,000-\$600,000 annually in the short-, medium- and long-term. If the recommendations are acceptable, City staff will evaluate potential funding mechanisms and bring the results back before City Council at a later date. If the parking system is going to continue to sustain itself as an enterprise fund, additional net revenue will be needed to fund capital and operating expenses.

These policy directions will need to be considered prior to implementing any of the recommendations presented in this report. The results of these decisions will affect the City's entire parking operation and will dictate the flow of subsequent recommendations. In addition, once implemented, certain of the

recommendations have the potential to reduce or eliminate the need for other, potentially costlier and more complicated changes to the parking operation.

8.2.1 Specific Recommendations

Once the major policy decisions have been made, a number of specific recommendations can and should be undertaken. DESMAN has formulated a matrix (**Table 8.1**) which compares the issues previously identified during the course of this study with recommendations aimed at addressing the issues. In addition, the matrix shows the relative financial impact each recommendation is expected to have on the overall financial performance of the parking system, as well as the anticipated timeframe for implementation. In terms of the implementation timeframe, short-term (ST) recommendations were assumed to occur in 1-2 years, medium-term (MT) in 3-5 years and long-term (LT) in 6+ years.

Following the matrix in Table 8.1 are detailed descriptions of the initial recommendations, along with the anticipated costs associated with each recommendation and the anticipated timeframe for implementation. Lastly, financial projections for the parking system over the next 10 years are presented in order to summarize the potential financial impact of all of the proposed recommendations.

Table 8.1 Parking Recommendations Matrix

		System Recommendations												Garage Recommendations				On-Street Recommendations						Lots
		Establish a funding mechanism	Acquire Out of State License Plate Lookup	Improve Wayfinding Signage	Establish Capital Repair Reserve Fund	Acquire/Develop Residential Parking Policy	Institute Regular Rate/Fine Increases	Utilize Private Parking in Off Hours	Implement TDM Strategies	Increase Oversell in Garages	Acquire Single PARC System for Garages	Add Electronic Counting and Signage to Garages	Balance Demand Among Parking Facilities	Eliminate Yellow Hoods	Evaluate Meter Locations	Increase On-street Parking Rates	Acquire LPR Enforcement System	Add Electronic Meters	Adjust Enforcement Hours	Evaluate Use of Surface Lots				
Issue #	Issue Description	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
1a.	Localized on-street parking shortages			X					X	X			X	X	X	X	X	X				X	X	
1b.	Future development will overwhelm supply	X			X	X			X	X	X			X							X	X		
1c.	In the long-term, city will need more downtown parking	X			X	X				X	X			X				X						
2a.	Current rates have not been increased since 2010	X						X						X				X						
2b.	Current revenue does not cover expenses plus capital repair needs	X	X					X			X			X		X	X	X	X		X			
2c.	Issue of yellow hooded meters should be resolved															X								
2d.	Little price differentiation between high and low occupancy spaces							X			X			X				X		X		X		
3a.	Enforcement is labor intensive	X																		X	X			
3b.	Back office processes are nearly all manually done	X					X					X								X	X			
3c.	There is no out of state license plate look-up	X	X																					
4a.	Free, 2-hour on-street parking invites abuse															X			X	X				
4b.	Decision is needed about free parking on/near Kansas Avenue	X														X					X			
4c.	Widespread abuse of ADA placards has been reported																			X				
5a.	Wayfinding is minimal	X		X																				
5b.	Drivers are unable to determine if spaces are available in garages	X											X											
6a.	Parking meters accept only coins	X															X	X			X			
6b.	Most administrative tasks require manual input	X					X					X								X				
6c.	There are continual issues with Full Court/SL software	X					X													X				
6d.	Garages use four different PARCS systems	X			X		X					X												
6e.	Enforcement handhelds are outdated	X																		X				
7a.	No capital reserve fund for repairs	X			X			X			X				X			X						
Relative Financial Impact		\$\$\$\$	(\$)	N/A	(\$\$\$\$)	N/A	(\$)	\$\$	N/A	(\$)	\$	(\$\$\$\$)	(\$\$)	\$	\$	(\$)	N/A	\$\$	\$	(\$)	(\$\$\$)	\$	N/A	
Implementation Timeline		ST	ST	ST	ST	ST	ST	MT	MT	LT	ST	ST	MT	MT	LT	ST	ST	ST	ST	ST	ST	MT	LT	

Relative Financial Impact of Recommendations: \$\$\$\$ = Significant Positive Impact on Net Revenue (\$\$\$\$) = Significant Negative Impact on Net Revenue

ST = Short-Term MT = Medium-Term LT = Long-Term

System-Wide Recommendations

- 1) Establish a funding mechanism to fund parking recommendations.** If all of these recommendations are implemented, the 10-year Parking Fund forecast shows expenses exceeding revenue by an average of approximately \$409,000 annually. The primary driver of this shortfall is the establishment of a capital reserve fund to replace and rehabilitate existing parking infrastructure and setting aside \$383,000/year for this purpose.

In lieu of increasing parking rates and fines, a funding mechanism such as a special service district or community improvement district could be used to fund the operations and capital needs of the Parking Division. This would spread the financial burden associated with operating and maintaining the system over the system's beneficiaries, not just parkers who use the system. In all likelihood, additional funds will be needed beyond user fees if the Parking Division is to be completely self-supporting.

Estimated Cost to implement: Nominal (funding mechanism would need to generate ~\$409,000/year)

Estimated timeframe: Needs to be in place no later than two years after implementation of recommendations

- 2) Out of State license plate lookup capability should be acquired.** At the present time, the Parking Division is only able to access the records associated with Kansas-registered vehicles. Consideration should be given to contracting for a national data base to facilitate out-of-state collections.

Estimated Cost to implement: Nominal

Estimated timeframe: Short-Term (6 Months)

- 3) Improve wayfinding signage from Kansas Avenue and major approaches to Downtown to the City's garages.** Additional signage is needed to direct drivers from Kansas Avenue to available spaces in City facilities both east and west of Kansas Avenue. Currently, drivers cruise S. Kansas Avenue looking for on-street parking, while garage spaces are typically readily available.

The City's recently-completed wayfinding program recommended a variety of signs, including more than 10 specific vehicular parking guidance signs, to be placed throughout the downtown. The recommended signs on Kansas Avenue and on key cross streets are intended more-effectively direct motorists to the City's parking garages. After these signs have been procured and installed, parking wayfinding signage should be reassessed in order to determine if additional signage is necessary.

Estimated Cost to Implement: Nominal

Estimated Timeframe: Short-Term (1 Year)

- 4) Establish a capital repair reserve fund for parking.** Parking garages, surface parking lots, parking meters, signage, and all of the various other physical assets that form a parking system and enable a parking operation to work have a cost associated with them and will require replacement at some point in the future. Building new parking spaces, maintaining existing spaces and replacing equipment can all require significant capital outlays which, at present, come from the revenues generated by the parking system or through debt financing. Due to the significant burden that these

large and irregular expenses can place on a city's finances, it is good practice to set aside money in a reserve fund to help offset these future costs.

Ideally, the City should be setting aside at least \$100/space per year for the 3,183 parking garage spaces and \$25/space per year for the surface lot and on-street spaces to be used for future capital repair and maintenance.

Estimated Cost to implement: ~\$383,000/year, based on existing parking inventory
Estimated Timeframe: Short-Term (Immediately)

- 5) Establish a policy regarding downtown residential parking.** Historically, downtown parking has been provided by the City. With the number of residential units in downtown expected to grow in the future, a conflict is developing between residential and office parking needs. Resident parking is most appropriate in off-street facilities where vehicles can be conveniently parked when not in use. However, this can create conflicts between the needs of residents and downtown office workers and commercial patrons.

To address this situation, consideration should be given to establishing a provision for downtown residential parking, either an absolute standard, such as a zoning requirement, fee in lieu or contracting for existing available parking. As development continues, this could also translate to the City requiring developers to provide residential parking as part of their projects or contributing to a parking fund to assist the City in building structured parking.

We recommend a multi-phased approach to residential parking. In the short-term, the City should continue to sell garage leases for 24-hour parking for residential users in City facilities. The Townsite Garage has the best potential to help accommodate the projected residential demand, given the existing and projected future utilization of this facility. Although there is substantial space available in the lots adjacent to the freeway along Madison and Monroe, they are not convenient to most of the proposed residential units.

In the mid-term, as residential demand increases to the point where there are capacity constraints with daytime users, parking rates can be adjusted to balance demand among the various City facilities, creating additional capacity to satisfy residential demand. As this situation develops, the City must decide whether to continue the current policy of providing all downtown parking (which could require an additional parking garage be developed) or require developers to provide residential parking.

Estimated Cost to Implement: Nominal (minimal staff time)
Estimated Timeframe: Short-Term (6 Months)

- 6) New integrated back office software should be acquired to link all facets of parking operations.** The existing JSI and the Lawson systems are cumbersome and difficult to use for the operation of the City's parking system. There are a number of effective software programs which can provide accounting support and integration with parking operations. All can accommodate data and reports from current garage operating systems. The linking of financial and operating data from the off-street facilities with on-street reporting and enforcement will simplify reporting and increase the City's understanding of their parking system.

Estimated Cost to implement: \$50,000
Estimated timeframe: Short-Term (1 – 2 Years)

- 7) **Institute regular rate increases.** One of the most difficult parts of managing a parking system is convincing the public and governing entities of the value of regularly increasing parking rates. Because increasing rates is often difficult politically, the decision to increase rates is generally deferred until financial need dictates. For this reason, it is recommended that regular rate increases be part of the City’s plan of operation in the future. Ideally, these increases should at least keep pace with normal cost escalation.

A 10% increase in parking rates and fine amounts every 3 – 4 years would provide a relatively painless way to keep the parking system solvent, as salaries and other costs increase. **Table 8.2** (below) presents a potential schedule for increasing parking rates when downtown parking demand dictates.

Table 8.2 Schedule of Current and Potential Future Parking Rates

Facility Name	EXISTING		FIRST INCREASE		SECOND INCREASE		THIRD INCREASE	
	Monthly Lease Rate (covered)	Hourly Parking Rate	Monthly Lease Rate (covered)	Hourly Parking Rate	Monthly Lease Rate (covered)	Hourly Parking Rate	Monthly Lease Rate (covered)	Hourly Parking Rate
512 Jackson Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Townsite Plaza Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Park-N-Shop Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Crosby Place Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Centre City Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Ninth Street Garage	\$47.43	\$1.00	\$52.00	\$1.00	\$57.00	\$1.00	\$63.00	\$1.25
Coronado Garage	\$67.75	N/A	\$75.00	N/A	\$83.00	N/A	\$91.00	N/A
5th & Jackson Lot	\$45.00	N/A	\$50.00	N/A	\$55.00	N/A	\$61.00	N/A
8th & Madison Lot	\$18.00	N/A	\$20.00	N/A	\$22.00	N/A	\$24.00	N/A
900 Monroe Lot	\$30.00	N/A	\$33.00	N/A	\$36.00	N/A	\$40.00	N/A
Water Tower Lot	\$18.00	N/A	\$20.00	N/A	\$22.00	N/A	\$24.00	N/A
1- or 2-Hour Meters	N/A	\$1.00	N/A	\$1.25	N/A	\$1.50	N/A	\$1.75
10-Hour Meters	N/A	\$0.50	N/A	\$0.75	N/A	\$1.00	N/A	\$1.25
10-Hour Permit	\$44.00	N/A	\$48.00	N/A	\$53.00	N/A	\$58.00	N/A
Hood (Daily)	\$6.00	N/A	\$7.00	N/A	\$8.00	N/A	\$9.00	N/A
Hood (Monthly)	\$67.75	N/A	\$75.00	N/A	\$83.00	N/A	\$91.00	N/A

In addition, as downtown development fills existing parking facilities, it will be important to manage the demand at individual facilities by adjusting prices. Greater variation in monthly rates between high and low occupancy parking facilities can shift demand to underutilized lots and garages. The provision of long-term leases at fixed prices with heavily discounted rates is detrimental to the ability to balance demand and fund future capital repair and maintenance projects. As much as possible, we recommend that leases be limited to a fixed price for one year, with a provision for increases above inflation for each year thereafter. Shorter-term leases enable the City to balance demand using price elasticity.

Estimated Cost to Implement: Nominal
Estimated Timeframe: Medium-Term (3 – 5 Years)

- 8) Work with the State and other property owners to utilize employee parking in off hours.** There are a large number of State of Kansas and corporately-owned parking facilities used for employee parking during the day (estimated at more than 5,500 spaces within the study area). These facilities often sit empty at night and on weekends. Shared parking should be encouraged to satisfy evening and weekend demand for theaters, restaurants and special events. These types of arrangements are an effective way to delay the need for the City to build additional structured parking.

Estimated Cost to Implement: Nominal
Estimated Timeframe: Medium-Term (3 – 5 Years)

- 9) Encourage demand management strategies.** Before investing in additional structured parking in the downtown, consideration should be given to continuing efforts to reduce parking demand for employees and residents. The City should continue to encourage the use of other modes of transportation including bicycles, carpooling and public transportation.

Additionally, when demand justifies, in an effort to provide a lower cost parking option and to better utilize the City's surface parking lots on the edges of downtown, such as the 8th and Madison Lot east of I-70, serious consideration should be given to developing a shuttle bus route running from this facility to the core of downtown.

Estimated Cost to Implement: \$200,000 annually
Estimated Timeframe: Long-Term (6+ Years)

Garage Recommendations

- 10) Increase oversell in garages.** Although the City currently has a policy of overselling permits in its garages, there are typically spaces available during peak demand periods. For this reason, it is recommended that the City begin to gradually increase the number of permits sold while monitoring the occupancy of the garages. Based on DESMAN's analysis, there is potential to sell more than 150 additional permits total between the 512 Jackson, Townsite Plaza, Ninth Street, and Crosby garages, without exceeding the practical capacity of those facilities.

Estimated Cost to Implement: Nominal (minimal staff time)
New Revenue: \$122,000 @ \$67.75 per permit
Estimated Timeframe: Short-Term (Immediately)

- 11) Garage revenue control systems should be consistent across all facilities.** Currently, the City's seven parking garages operate using four different operating systems. In addition, most of the software and hardware systems are approaching the end of their useful lives or are already beyond their useful lives. The use of several different access and revenue control systems puts a large burden on staff to manually integrate the financial and operating data from these facilities.

At present, only the Center City Garage has an up-to-date access and revenue control system. However, the use of the Coronado garage by the Cyrus Hotel valet operation will likely require new equipment and software as well. This provides a perfect opportunity to begin migrating to a unified system.

We recommend that one system be adopted to run all the City's parking garages and to manage financial data for the parking system. This should be implemented in conjunction with Recommendation 6, above.

Estimated Cost to implement: \$600,000
Estimated timeframe: Short-Term (1 – 2 Years)

- 12) Add electronic counting and signage on high occupancy off-street parking facilities.** As downtown parking facilities become more occupied, customer service can be improved by providing the number of available spaces in each garage prior to a patron entering the facility. Systems of this type typically include signs at the entrances to a garage indicating the number of available spaces, as well as making this information available online. Any of the revenue control systems that might be recommended in Recommendation 10 (above) would be compatible with electronic counting and signage systems. However, only the TIBA system currently in place in the Centre City garage could support a counting system without upgrade.

Estimated Cost to Implement: \$70,000
Estimated Timeframe: Medium-Term (3 – 5 Years)

- 13) Balance demand among parking facilities.** As peak occupancy levels raise above 90% on a regular basis, parking garage rates should be increased to help balance demand among garages and surface lots. Rates should be reviewed at least annually to determine if they should be adjusted.

Estimated Cost to Implement: Nominal (minimal staff time)
New Revenue: TBD
Estimated Timeframe: Medium-Term (3 – 5 Years)

- 14) Review lighting in all parking facilities and replace where appropriate with energy-efficient fixtures.** Energy-efficient lighting fixture prices have decreased significantly in recent years. Coupled with incentives from electric utilities, there is little reason to delay upgrading lighting in parking facilities, where those upgrades have not already been completed or are not already planned. Additionally, customer service and patron safety can be improved through lighting enhancements. For these reasons, it is recommended that all facilities be surveyed to determine the need for and cost to upgrade lighting systems.

Estimated Cost to Implement: TBD
Estimated Timeframe: Long-Term (6+ Years)

On-Street Recommendations

- 15) Eliminate yellow hooded meters.** Hooded meters are both unsightly and, in some instances, unnecessary. If the City wishes to provide free on-street parking with strict time limit enforcement, then meters and hoods should be removed, where they still exist. There are other local funding mechanisms available to support the parking functions and maintain the assets.

Estimated Cost to implement: Nominal
Estimated timeframe: Short-Term (1 Month)

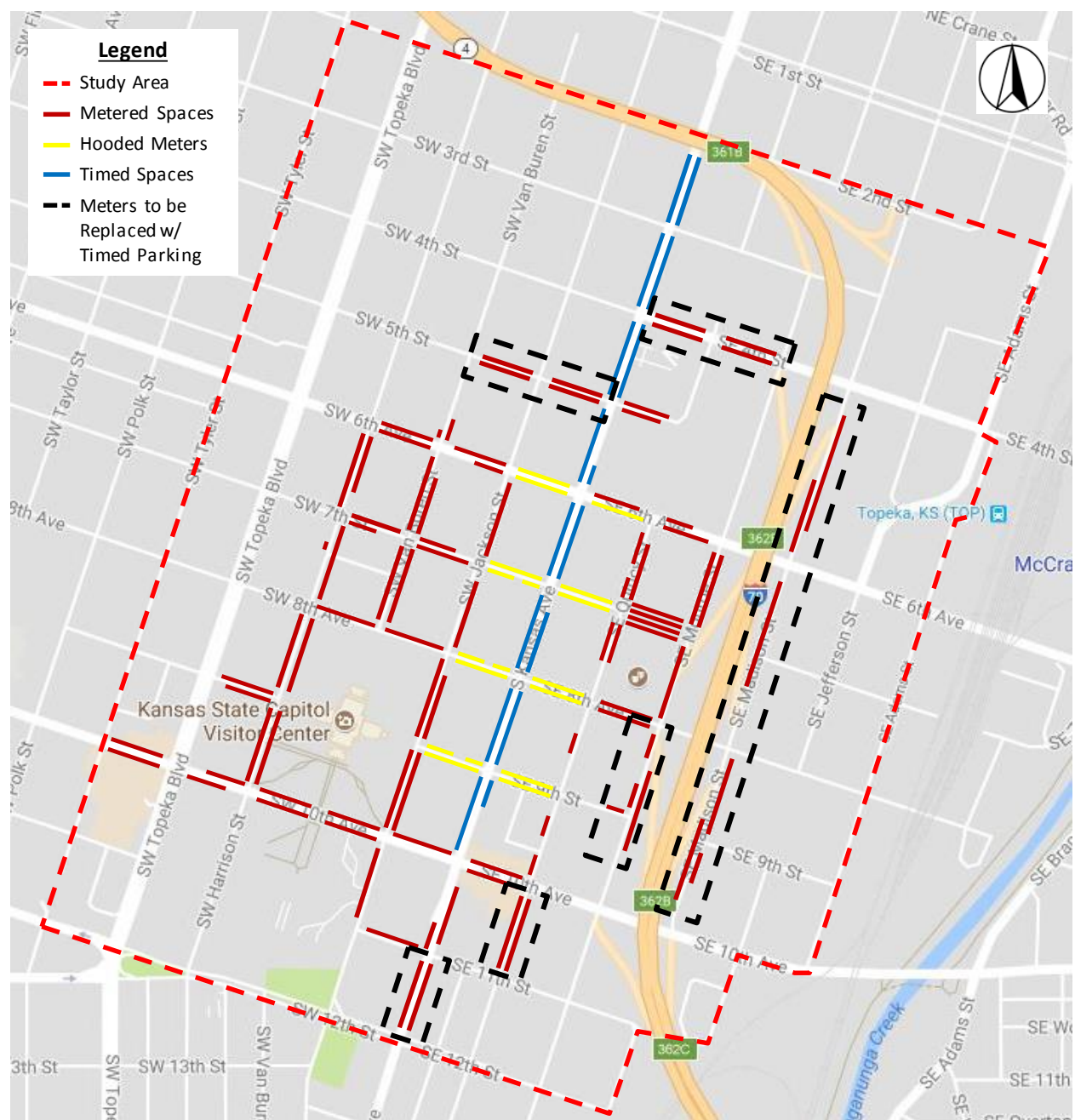
16) Evaluate meter locations. Since the occupancies of the meters vary significantly by block, the desirability of maintaining meters in all existing locations should be reviewed. In the short-term, we recommend that poorly-producing meters be removed and replaced with timed parking. In the mid-term, the occupancy of the remaining meters should be reviewed and a decision made to eliminate or upgrade to electronic meters. Long-term, as development increases on-street demand, new meter locations and/or elimination of additional meters should be considered.

As shown in the below figure, we have identified several locations where existing meters could potentially be removed and replaced with timed parking, with little to no impact on revenue or the availability of parking; the locations identified contain 405 existing meters. City staff who are intimately familiar with the parking activity patterns in downtown and the meter revenue generated on a street-by-street basis should make the final determination of meters for removal.

In addition, we recommend that 10-hour meters be relocated from areas of high demand to areas with lower demand. For instance, the 53 10-hour meters in the 800 block of SW Jackson Street could be relocated to SW 10th Avenue and replaced with 2-hour meters.

<i>Estimated Cost to Implement:</i>	Nominal (minimal staff time)
<i>Estimated New Revenue:</i>	Little revenue impact; minimal savings for maintenance and collection
<i>Estimated Timeframe:</i>	Short-Term (3 – 6 Months)

Potential Locations for Replacement of Meters w/ Timed Parking



17) Increase on-street parking rates in high demand areas. We recommend that meter rates be increased to \$1.25 per hour in the high occupancy areas adjacent to the State Capitol, particularly along SW Jackson Street, SW Van Buren Street and SE Harrison Street south of 7th Street, and on and 8th Avenue from Jackson to Harrison, as shown in the below figure. Increasing hourly parking rates in these areas would encourage parkers to disperse to less utilized meters and, by increasing the on-street hourly rate above that of the garages, would encourage use of off-street facilities. There is a total of 318 meters in the identified blocks.

- 18) Increase initial fines for metered/timed parking violations to \$10.00.** In the parking industry, it is a best practice to price overtime/non-payment of parking violations at 10 to 15 times the hourly cost of parking. This pricing structure is intended to encourage payment of the meters and compliance with time limit regulations. If the fine for a violation is too low, parkers are more likely to take their chances on receiving a violation, as opposed to paying for the time they are parked or moving their vehicles within the posted time limit. If the parking rate on Kansas Avenue is increased to \$1.25 per hour, as recommended, then the fine amount for overtime/non-payment violations should be increased in order to maintain the proper cost ratio.

Estimated Cost to Implement: Nominal (minimal staff time)
Estimated New Revenue: \$25,000
Estimated Timeframe: Short-Term (6 Months)

- 19) Acquire updated enforcement capability for on-street parking.** The current enforcement practices are extremely effective, but very labor intensive. An investment in new technology, such as license plate recognition (LPR), integrated with on-street meters, would eliminate some of the manual effort by enforcement personnel and would improve capture rates. Our experience in other communities suggests that the productivity of personnel using LPR is significantly improved versus manual enforcement. Again, funds would be needed to acquire this technology, but those costs will be offset by increased capture of violators and a longer-term reduction in operating expenses.

We recommend that LPR hardware and software be acquired for two vehicles for use by the City's PCOs. The LPR equipment can be used to enforce time limits on-street and permit restrictions on-street and in the surface lots, as well as on-street meter parking for those parkers who pay via cell phone at a single-space meter.

Estimated Cost to Implement: \$60,000
Estimated New Revenue: \$20,000
Estimated Timeframe: Short-Term (6 Months – 1 Year)

- 20) Replace on-street meters with technology that would permit use of credit cards and cell phone payments.** The single-space meters currently used downtown are manual meters which do not take credit cards and whose rates cannot be easily adjusted. There are two primary technology options to replace the existing meters, either of which can be coupled with a pay-by cell phone app: 1) electronic single-space meters (previously tested in Topeka) add to a traditional meter by accepting credit cards or 2) multi-space meters provide a kiosk to serve typically 8-10 parking spaces on a block.

There are advantages and disadvantages to each type of technology, principally higher capital costs and longer walking distances for multi-space meters, but lower operating costs, easier enforcement, fewer poles on the sidewalk. The primary advantages of single-space meters is the significantly-lower capital cost and a familiarity with the technology.

Despite the advantages of multi-space meters from an enforcement perspective, given Topeka's hourly on-street parking rates and the cost to procure multi-space meters, we recommend that the City procure and install credit card-enabled single-space meters to replace the existing mechanical meters.

Based on the existing on-street parking inventory within the study area, if the identified spaces on Kansas Avenue and the adjacent streets remain free and the 405 existing spaces identified in Recommendation 16 are changed to timed parking, there are approximately 1,100 remaining on-street metered parking spaces. In order to minimize the financial impact of this recommendation, we have devised a scheme for replacing the meters over time. Assuming that the free spaces remain on Kansas Avenue and the adjacent streets, it is estimated that 318 single-space meters would be needed to control the on-street metered parking spaces in the high occupancy on-street areas (identified in the graphic above).

Over the medium-term, outside of the high occupancy areas, the remaining 784 metered spaces should be evaluated to determine if the existing technology should be replaced with new single-space meters or with timed parking enforced by LPR technology.

<i>Estimated Cost (Short-Term):</i>	\$143,000 (318 meters @ \$450/meter)
<i>Estimated Timeframe:</i>	Short-Term (1 – 2 Years)
<i>Estimated Cost (Medium-Term):</i>	\$353,000 (784 meters @ \$450/meter)
<i>Estimated Timeframe:</i>	Medium-Term (3 – 5 Years)

- 21) Adjust Enforcement Hours.** Although the current enforcement hours are appropriate given existing activity levels downtown, as evening and weekend activity increases, consideration should be given to extending meter hours later in the evenings on weekdays and instituting paid parking on weekends. An annual review of evening/weekend activity should be conducted to identify major activity areas and inform the decision to extend on-street hours of enforcement.

<i>Estimated Cost to Implement:</i>	TBD
<i>Estimated New Revenue:</i>	TBD
<i>Estimated Timeframe:</i>	Medium-Term (3 – 5 Years)

Surface Lot Recommendations

- 22) Evaluate the use of the surface lots.** Despite the low lease rates charged at the surface parking lots, the lots remain underutilized compared to the garages. This low level of utilization reflects the locations of the surface lots on the periphery of downtown. Although there is little demand for remote parking today, as demand grows in the core, remote lots may become more desirable as a low-cost parking option. We recommend that the status quo be maintained until demand for remote parking and shuttle service increases.

<i>Estimated Cost to implement:</i>	N/A
<i>Estimated timeframe:</i>	Long-Term (6+ Years)

8.3 Timing of Recommendations

While the impacts of the recommended changes can be predicted to a certain extent, a number of the changes that are being proposed have the potential to impact the public parking system in unknown ways.

Due to the uncertainty around the impact that these recommendations will have on the current and future parking dynamics within the study area, the proposed implementation timetable has been designed to allow time for the impacts of the changes to be felt, before additional changes are made to the system. In our experience, this approach is more successful than attempting to implement all of the recommended changes at one time and dealing with any unintended consequences in a piecemeal way. Hopefully, this will allow changes to the parking system to be made in a methodical way, avoiding a situation where the City spends resources on recommendations that do not result in an improved parking operation or must walk back a change that had an unintended, negative consequence.

8.4 Anticipated Cost of Implementation

For each of the recommended changes or improvements, an anticipated cost has been provided for use in the City's budgeting process. While the actual costs of implementing the recommendations will likely vary somewhat from these figures, these planning level cost estimates are intended to provide the City with an idea of the financial commitment associated with each recommendation. That cost, along with the potential benefits of each recommendation, will allow for an objective comparison of the merits of each proposed recommendation. Similarly, some of the recommendations, such as rate increases, will generate revenue. We have also attempted to identify the magnitude of the revenue increases associated with these recommendations. Some recommendations are seen as low cost and more easily implementable, while others will require more significant capital outlays and/or more planning in order for implementation to be successful.

Table 8.3 (below) presents the projected financial performance of the parking system over the next 10 years, based upon the above recommendations and implementation timeframes.

Table 8.3 Projected Financial Performance of the City of Topeka Parking Division

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
	Budget	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected
ON-GOING FUND BALANCE	\$ 143,183	\$ (548,032)	\$ (790,972)	\$ (1,168,332)	\$ (1,511,188)	\$ (2,117,920)	\$ (2,689,816)	\$ (3,129,881)	\$ (3,620,880)	\$ (3,864,919)	\$ (4,125,068)
OPERATING RESERVE	\$ 759,652	\$ 330,235	\$ 330,235	\$ 330,235	\$ 332,205	\$ 356,896	\$ 356,896	\$ 356,896	\$ 358,866	\$ 385,532	\$ 385,532
Profit/Loss	\$ (616,469)	\$ (360,979)	\$ (242,941)	\$ (377,359)	\$ (340,886)	\$ (582,042)	\$ (571,895)	\$ (440,065)	\$ (489,028)	\$ (217,373)	\$ (260,150)
REVENUE¹	\$ 2,856,370	\$ 3,302,355	\$ 3,302,355	\$ 3,302,355	\$ 3,322,055	\$ 3,568,963	\$ 3,568,963	\$ 3,568,963	\$ 3,588,663	\$ 3,855,324	\$ 3,855,324
Fees for Service:	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083
Municipal Court	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287
Miscellaneous	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000
Revenue from Recommendations	\$ -	\$ 445,984	\$ 445,984	\$ 445,984	\$ 465,684	\$ 712,592	\$ 712,592	\$ 712,592	\$ 732,292	\$ 998,954	\$ 998,954
EXPENSES²	\$ 3,472,840	\$ 3,663,334	\$ 3,545,295	\$ 3,679,714	\$ 3,662,941	\$ 4,151,005	\$ 4,140,858	\$ 4,009,028	\$ 4,077,691	\$ 4,072,697	\$ 4,115,474
Employee Compensation	\$ 652,426	\$ 668,737	\$ 685,455	\$ 702,592	\$ 720,157	\$ 738,160	\$ 756,614	\$ 775,530	\$ 794,918	\$ 814,791	\$ 835,161
Benefits	\$ 225,639	\$ 231,280	\$ 237,062	\$ 242,989	\$ 249,064	\$ 255,290	\$ 261,672	\$ 268,214	\$ 274,920	\$ 281,793	\$ 288,837
Utilities	\$ 284,777	\$ 291,896	\$ 299,194	\$ 306,674	\$ 314,341	\$ 322,199	\$ 330,254	\$ 338,510	\$ 346,973	\$ 355,647	\$ 364,539
Professional Services and Contractors	\$ 308,751	\$ 316,470	\$ 324,382	\$ 332,491	\$ 340,803	\$ 349,323	\$ 358,057	\$ 367,008	\$ 376,183	\$ 385,588	\$ 395,227
Miscellaneous	\$ 3,500	\$ 3,588	\$ 3,677	\$ 3,769	\$ 3,863	\$ 3,960	\$ 4,059	\$ 4,160	\$ 4,264	\$ 4,371	\$ 4,480
Insurance	\$ 64,103	\$ 65,706	\$ 67,349	\$ 69,032	\$ 70,758	\$ 72,527	\$ 74,340	\$ 76,199	\$ 78,104	\$ 80,056	\$ 82,058
Maintenance	\$ 83,655	\$ 85,747	\$ 87,890	\$ 90,088	\$ 92,340	\$ 94,648	\$ 97,015	\$ 99,440	\$ 101,926	\$ 104,474	\$ 107,086
Rent	\$ 1,800	\$ 1,845	\$ 1,891	\$ 1,938	\$ 1,987	\$ 2,037	\$ 2,087	\$ 2,140	\$ 2,193	\$ 2,248	\$ 2,304
Purchased Services	\$ 234,971	\$ 240,845	\$ 246,866	\$ 253,038	\$ 259,364	\$ 265,848	\$ 272,494	\$ 279,307	\$ 286,289	\$ 293,447	\$ 300,783
Supplies	\$ 129,100	\$ 132,328	\$ 135,636	\$ 139,027	\$ 142,502	\$ 146,065	\$ 149,716	\$ 153,459	\$ 157,296	\$ 161,228	\$ 165,259
Capital Outlay	\$ 261,528	\$ 268,066	\$ 274,768	\$ 281,637	\$ 288,678	\$ 295,895	\$ 303,292	\$ 310,875	\$ 318,646	\$ 326,613	\$ 334,778
Debt Service	\$ 822,588	\$ 784,526	\$ 718,825	\$ 688,839	\$ 681,484	\$ 907,452	\$ 833,656	\$ 636,587	\$ 638,378	\$ 564,841	\$ 537,361
Expenses from Recommendations	\$ 400,000	\$ 572,300	\$ 462,300	\$ 567,600	\$ 497,600	\$ 697,600	\$ 697,600	\$ 697,600	\$ 697,600	\$ 697,600	\$ 697,600

1) Regular parking rate increases were assumed in 2019, 2023 and 2027. These figures do not account for additional revenue from future demand growth.

2) Assumed annual expense growth of 2.5%, not including additional expenses associated with implementing recommendations.