I. Call to Order / Roll Call

II. Approval of standing committee minutes for February 27, 2012.

III. Committee Agenda

Item No. 1 - RESOLUTION

Synopsis:
A resolution allowing amendments to the Development Agreement for Project Areas 1 and 2 of the 39th and Rainbow Redevelopment District, submitted by George Brajkovic, Director of Economic Development. Project Area 1 is requesting a project cost cap increase for TIF reimbursables due to a change in the scope of the project which resulted in a change of total project costs from $24M to $37.5M. The change is to replace the physical therapy offices to an acute care rehabilitation facility on the second floor and post-acute care on floors 3 and 4. The ground floor retail component does not change. The cost cap increase is from $4,450,000 to $7,000,000. The
public/private ratio of dollars invested does not change. The project change will result in nearly a 70% increase on the UG's portion of TIF property tax increment sharing over the next 20 years.

On February 27, 2012, the Economic Development and Finance Standing Committee, voted unanimously to bring this matter back to standing committee on April 2, 2012.

It is requested that this matter be fast tracked to the April 5, 2012 full commission meeting.

Tracking #: 120071

Item No. 2 - COMMUNICATION

Synopsis:
Information regarding the Metropolitan Avenue Redevelopment District, submitted by George Brajkovic, Director of Economic Development. The district was established November 17, 2011. Argentine Commercial, Inc. (developer) is proposing a $4.5M redevelopment for Project Area 1 of the district consisting of an approximate 15,000 square foot grocery store, an approximate 9,075 square foot retail outlot, and an already constructed 8,500 square foot Dollar General. The developer is requesting an incentive package to include TIF increment on both property and sales tax, as well as a 1% CID.

Following review by the Ethics Administrator, Argentine Commercial, Inc. has replaced ANDA as the developer for this project.

Information only. The public hearing is scheduled for the April 5, 2012 full commission meeting.

Tracking #: 120076

Item No. 3 - COMMUNICATION

Synopsis:
Communication recommending changes to the Section 42 Tax Credit Policy, submitted by Charles Brockman, Economic Development.

Tracking #: 120072
Item No. 4 - DISCUSSION

Synopsis:
Consideration of modifications to the current NRA Program regarding establishing local, minority, women, and prevailing wage requirements for commercial projects applying for the NRA Program; and consideration of a residential program for the Piper School District area of Kansas City, Kansas, submitted by Doug Bach, Deputy County Administrator.
Tracking #: 120070

IV. Adjourn
ECONOMIC DEVELOPMENT AND FINANCE
STANDING COMMITTEE MINUTES
Monday, February 27, 2012

The meeting of the Economic Development and Finance Standing Committee was held on Monday, February 27, 2012, at 5:15 p.m., in the 6th Floor Human Resources Training Room of the Municipal Office Building. The following members were present: Commissioner Holland, Chair; Commissioners Kane, McKiernan, Barnes; and BPU Board Member Alvey. Commissioner Maddox was absent.

I. Chairman Holland called the meeting to order. Roll call was taken and members were present as shown above.

II. Approval of standing committee minutes for January 30, 2012. Commissioner McKiernan made a motion, seconded by Commissioner Kane, to approve the minutes. Motion carried unanimously.

III. Committee Agenda:

Item No. 1 – 120052… Resolution approving an Agreement with the Kansas City, Kansas Convention & Visitors Bureau, Inc., submitted by Gary Ortiz, Assistant County Administrator. The CVB will render convention and tourism promotion services for the UG.

Gary Ortiz, Assistant County Administrator, stated to keep this brief our current agreement was a five-year with the Chamber of Commerce. In July 2010, the CVB formed its own corporation and, therefore, the agreement was extended until December 31, 2011 which has obviously expired so we extended that three month period. We are within that final extension. This is a three year renewal of that agreement and it expires December 31, 2014. Just some highlights of the agreement, it requires 12-month notice of termination by either party, submission and approval of an annual budget and marketing plan, which you have four members on the board so that’s not a problem. They disclosed that to their board members and then we try to get them to the full commission for a special session so that’s how that’s conveyed generally. Payment to the CVB from the UG of the greater amount of 74.375% of the transient
guest tax, this first year we have budgeted a flat payment of $607,500 so it will be the greater of those two amounts. From that point on there is a 5% escalator per year ending in 2014 and the projected amount is $669,769. There is a restriction of transient guest tax in the 400 acre development adjacent to the speedway. Also, some of the proceeds from the 39th & Rainbow Redevelopment District the transient guest tax has been pledged to that project as well, so that is an additional restriction. The CVB board did want a longer extension, a five-year contract and basically Dennis was saying two and we agreed on three. I think if asked they would continue to want the five-year but we think what’s on the table is fair.

Commissioner Barnes stated they still want the five years. I don’t understand. We’ve done the five-year in the past and you have a stipulation that either party can end or terminate the relationship with a 12-month notice. You’ve capped it at 74.375% and you’ve already stated that you’ve pledged some of the transient guest tax at the 39th & Rainbow area. I don’t know what the process or procedure that we use gave you the authority to make that pledge in advance. If you have all of these controls in place, I don’t know where the fear comes in at for the five-year process. Mr. Ortiz stated I don’t know that there is any fear. Commissioner Barnes stated for the record “there is no reason for us not to give them the complete five years.” Mr. Ortiz stated I sit on that board quite a bit, quite often, we do have a confidence level but if you are asking for a substantial difference between the five-year and the three-year, the five-year previous was with the Chamber of Commerce and this one is with the CVB as a stand alone and a shorter term just seemed more like a trial period.

Commissioner Barnes stated I’m going to move for five years unless there is some other communication.

Jody Boeding, Chief Counsel, stated another reason I think is the circumstances could change in the next five years. We hope the new hotel out by the Casino and maybe other new hotels and the revenues coming in. The greater amounts that are payable under this contract are in anticipation of future revenues from development. I think at the end of 2014 it was thought that you would reassess what the CVB looks like. Commissioner Barnes stated I understand that but it seems we have this growth coming in and we really don’t have any negative factors that we can point at and say what they’ve done to give us any fear that they would continue to operate in
a professional manner going forward. We have all these other controls. Mr. Ortiz you didn’t
answer to the fact that I asked you how are we are able to pledge dollars to a 39th & Rainbow
project, that money that was intended to go to the Convention & Visitors Bureau, so you
automatically excluded them from the transient guest tax from that area. Mr. Ortiz stated I
didn’t do that. Commissioner Barnes stated don’t take it personally. As we visit these projects,
we have the authority to pledge the transient guest tax without saying CVB can we use your
dollars. We have the authority to do that when a hotel arises. If we don’t want those dollars to
.go towards the CVB, we can pledge those dollars to that project as we’ve done at 39th &
Rainbow, so that is what I am saying. We have all of these control measures in place. We have
total control of this process. Even last year when we had some budget issues we went to them
and told them or asked them to give back 10% and they voluntarily did that. I don’t know what
measures we use in order to transact that thing. When we are in total control I don’t know why
we chose to do this. Mr. Ortiz stated I do want to be respectful of your perspective but I have
the opposite perspective and I am sure Dennis does to. It’s not that it’s the CVB money and we
have to ask them to hold it back. The transient guest tax comes to the UG and there are specific
things that you can use the money for. Commissioner Barnes stated we are agreeing, we are
saying the same thing, we are in total control. I don’t know why we have all this fear factor.
Mr. Ortiz stated consider one thing it might be in their best interest to renegotiate as Jody
alluded to. In 2014 there might be other revenue sources that would be available to them that
aren’t currently contemplated. Commissioner Barnes stated the reason that I am speaking now
is I know Ms. Jobe is going to be very cooperative through this process. We’ve had a great
relationship with them in the past and she’s not going to say all the things that I am saying even
though she might agree with me. I just want to put them out there for her but we do want to hear
from her also.

Bridgete Jobe, CVB, stated as for the length of the contract our board did request five years and
the thinking behind that was it helps us plan further in the distance on some our multi-year
marketing contracts, also, some of leases, other contracts that we have when we have a longer
time period. We just have more leverage to be able to do that so our board does request the five
years. We can live with three but we would request five.
Commissioner Holland stated I have heard a motion for five years. Commissioner Kane stated second. Commissioner Holland stated and a second for five.

Commissioner Barnes asked you know what the landscape is looking like as far as visitors and conventions coming up. Kind of give us an overview of what you anticipate coming to us and the challenges that you guys are going to be faced with in addressing that to make sure that we maximize on all our opportunities coming in. Ms. Jobe stated I shared at our meeting that we gave a couple weeks ago with the Commission that we ended 2011 in a very good place. With our occupancy rate and our average daily rate we are back to pre-2009 levels. We also have the highest average daily rate in the Kansas City metro area excluding Jackson County. That’s very significant that people are willing to pay more dollars to stay in our hotels. Some challenges that we have, we are bringing in several new markets. We are bringing in the casino, that is a whole new market for us to go after. All of the different sports that we have, the amateur athletics, that’s again a whole new market for us to start going after, for us to start working with those amateur athletic teams to bring them in to stay in our hotels. The positive side is we keep adding more things to Kansas City, Kansas for us to market. The negative side is we don’t have enough money to market those things that we have so it’s a constant challenge for us to be able to market effectively the new things that we are adding on. Commissioner Barnes asked how do they do that in Missouri? Ms. Jobe stated how are they funded? Commissioner Barnes asked how are they funded in Missouri? Ms. Jobe stated the Kansas City, Missouri Convention & Visitors Association, which is our counterpart, has an annual budget of about $9 million. The state of Kansas Travel & Tourism Division for the state of Kansas is $4 million. We are up against a giant right next door. I tell this story quite often. For us to be in Kansas on the Kansas state commercials advertising Kansas we as a CVB, have to give money to the state of Kansas to be able to be on that commercial. In Kansas City, Missouri if a community wants to put on a commercial and market themselves, the state of Missouri gives them money to help them do that. It’s a very backward situation that we are in Kansas. Commissioner Holland stated did you say Topeka is backwards. Ms. Jobe stated I didn’t say that out loud but I did say it in my head. It is a challenge for tourism marketing in the state of Kansas and it makes it so much more relevant because we are right next door to Kansas City, Missouri.
Commissioner Barnes stated I don’t want Gary to go back Dennis and say hey I fought my heart out and I lost. I don’t want that to happen. Do you feel comfortable with the controls that I mentioned to you earlier that if there was something catastrophic to happen that we have enough controls to control the circumstances of the situation? Commissioner Holland stated No. 13 stated the Unified Government reserves the right to reduce payment under this agreement as it deems necessary. Commissioner Barnes stated that is all I wanted to say.

Commissioner McKiernan stated just as a point of information, what is the annual budget for CVB in KCK? Ms. Jobe stated $607,500. Our revenue, other than just a few pass through dollars, our revenue is from the transient guest tax.

Action: Commissioner Barnes made a motion, seconded by Commissioner Kane, to approve for five years. Roll call was taken and there were five “Ayes,” Alvey, Kane, McKiernan, Barnes, Holland.

Item No. 2 – 120049… Request adoption of a resolution authorizing the Board of Public Utilities to obtain a loan from the Kansas Public Water Supply Fund administered by the Kansas Department of Health and Environment for the following projects, submitted by Jody Boeding, Chief Legal Counsel.

- 4 million gallon reservoir at Nearman Water Treatment Plant - $10,025,000
- Water Main Replacement Projects - $2,205,500

Lew Levin, Chief Financial Officer, stated as you probably remember for the BPU to issue debt, the Unified Government Commission has to take action to authorize the debt. BPU has before them a very attractive financing mechanism using the state revolving loan. With me is Jim Epp, Manager of BPU Water Operations, and he has staff with him. I am going to let him summarize that opportunity.

Jim Epp, BPU, stated thank you for your time and consideration. I also have Kathy Peters with me this evening who is our loan agreement counselor for this project; Chris Stewart, Director of Civil Engineering for this project; and Randy Otting, Director of Finance. This is a loan in the

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amount of approximately $12.2 million from the State Revolving Loan Fund from the KDHE. It is for two projects. The first being a 4 million gallon reservoir at the Nearman Water Treatment Plant and the second being for Water Main Rehabilitation projects in our distribution system. The 4 million reservoir is approximately $10 million. The Water Main Replacement Projects is approximately $2 million. The reservoir is needed to bring our capacity of storage up to designed standards. When we originally built the new treatment plant it was for 36 million gallons per day and we were able to successfully show the state that we could push more water through our filters bringing our capacity up to 54 million gallons per day. We then gradually put in enough redundancy and other things we needed at the plant to feel it was safe for us to be a 24/7 operation and shutdown the Quindaro Aerial Water Treatment Plant. One of the remaining projects left to do is construction of this 4 million gallon reservoir and again it will bring it up to designed standards for our treatment plant at this capacity.

The second is the Water Main Replacement Projects. We have throughout the 90’s and early 2000’s we successfully replaced and brought up to standards our treatment supply transmission and storage capacity and feel we’re in good shape there. Now we are turning our attention to the distribution system. You have probably seen a lot of headlines from across the country about a lot of main breaks experience this year. We too are in that situation. This year we’ve had over 600 main leaks. It costs us about $1 million per year just to repair those main leaks. Most of those main leaks are on 4 inch to smaller mains that are 50 to 80 years old. About 80% of them are in that category. This funding is to help us replace some of those of mains. Reduce our main breaks. It is in the amount of about $2.2 million. The average cost to repair is about $100 per foot and with this funding it will replace about 4 miles of pipeline. As Lew stated it is an attractive loan. It is a term of 20 years. We are required to obtain loan insurance for this project and the interest rate won’t be determined until the loan is executed but the current rate is 2.34%. Again, 20-year term and it requires semi-annual payment of about $384,624 and with that I will open up for questions.

**Commissioner McKiernan** stated roughly $800,000 a year, where is that money coming from. Where do we get the money to make that loan payment every year? **Mr. Epp** stated when we did our last cost service study we put these projects in that cost of service study and presented them to our board. We went through a rate hearing process last year and our board voted to put the rates in place to allow the funding for this project. **Commissioner McKiernan** stated the
rate increase. Mr. Epp stated it was voted on last fall. Mr. Levin stated just to clarify, the BPU will be making the debt service payment on those.

Commissioner Barnes stated when you do these main replacements you say it’s about $1 million a year you’re doing right now. Mr. Epp stated to repair them. Commissioner Barnes asked do you guys do that in-house? You don’t contract any of it out? Mr. Epp stated not the repair work. BPU Board Member Alvey stated another additional benefit of the 4 million gallon reservoir is it will enable, if the Nearman Plant goes down, have to go what is called a black start goes all the way down, we have to have sufficient water to get it restarted. 4 million gallon reservoir is a good back-up for that to happen. Mr. Epp stated that would be if the power plant went down and we were in a black start situation. The Nearman Plant sits well above the power plant, it’s up on the hill and that reservoir will provide enough water and storage during a black start situation. It will also help us when we are operating a cooling tower during the summers when we can’t revertilise the Missouri River surface water. BPU Board Member Alvey that also becomes more crucial in the future perhaps because the EPA may begin regulating the temperature of the effluent water going back into the river.

Commissioner Holland stated in terms of the water and storage, BPU has a number of water towers around town many of which are empty. Is there a plan to take down old towers? Are there towers sitting empty that need to come down. I am not a big fan of water towers but I like water pressure. Mr. Epp stated the most recent elevate storage tank that we constructed was at 51st & Gibbs. All of our elevated storage we have telecommunication contracts on them. Basically antennas on the reservoir or elevated tanks which we are receiving revenue for. The tower at 51st & Gibbs, since we replaced it with a bigger tower at the same location, we transferred the telecommunications from the old tower to the new tower and tore the old one down. There are still three elevated tanks in the wood, what we used to call our wood oil in the steward system. They are still standing and yes, they are empty. We keep them up for the telecommunications revenue. We can discuss that with our board; evaluate the revenue versus tearing them down. Commissioner Holland stated I would invite that evaluation because they are unsightly. I can tell you there is one at 38th & State, there is one north of 38th & Parallel and 21st & Orville. They are unsightly. I think a cell tower looks better than those. If your board would be willing to look into that, I think having empty water towers rusting in front of us for
revenue is unsightly. Since we are building a 4 million gallon one I don’t know how much it takes to transfer those to an actual pole that doesn’t look nearly as bad. Mr. Epp stated it is actually going to be a ground storage reservoir. Our treatment plant is back here and you see our power plant down in the valley. This will be ground reservoir but yes it is storage but it is not elevated storage. Commissioner Holland stated it is not near as ugly. If you could clean up our beaten path, I would appreciate it.

Commissioner McKiernan stated basically we are co-signing this loan and they are getting loan insurance and they are making the payments. Mr. Levin stated we are the issuer of the debt. The insurance will back it up. Kathy Peters, BPU Legal, stated Jody has asked me to represent the Unified Government and the BPU in connection with this loan. Under the State Revolving Fund rules a city that gets a loan that has a general obligation backing does not require loan insurance, but as Jim and Lew indicated this loan is payable solely from the BPU revenues and therefore the loan insurance is required. Under the state statutes and under the charter ordinance, and this has been the case since about 1980, every loan that the BPU takes out requires Unified Government approval because the Unified Government owns the Board of Public Utilities. So you are a co-signer in a sense that the Mayor will sign it but there is no obligation whatsoever under the loan agreement for any Unified Government monies to be used to pay the loan and there is also a requirement that the BPU has to maintain debt service coverage ratio under that loan agreement of at least $1.25 for every dollar of the loan and they have to maintain that for the life of the loan so that they will always have enough money to pay that loan off.

Commissioner Barnes asked I thought you were going to mention the issue of those empty water towers that it became a legal issue when we’re talking about classifying them as a cell tower. Even if you don’t tear them down and you find it too cost effective to tear down we need to get them reclassified as a cell tower and not a water tower.

Commissioner Holland stated if they are going to be cell towers, they need to be cell towers. As ugly as cell towers are and I’m not advocating for those in anyway shape for form, they are less ugly. If they were classified as a cell tower, then people would be forced to collocate under our ordinances.

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Ms. Boeding stated I do think that you did adopt an ordinance that said they could be used as cell towers.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve. Roll call was taken and there were five “Ayes,” Alvey, Kane, McKiernan, Barnes, Holland.

Doug Bach, Deputy County Administrator, stated we have four good projects coming before you in different aspects, different areas of the city which we have been able to move forward. We have been actively working on items throughout the city. They all just kind of came about that we were able to get them to a point to either bring the deal points or bring amendments to projects which you have already previously seen before you this evening so with that we will get into each one with a little bit of a project introduction to what we have. George will go through that then we will have the developers come up and do a presentation to show the project description to what we have and then we will either move back to the deal points or factors that you would have for more consideration in each area.

Item No. 3 – 120050... Two resolutions setting a public hearing date on April 5, 2012, to consider the following, submitted by George Brajkovic, Director of Economic Development. The property is approximately a 2.9-acre tract generally at the northwest corner of 18th Street Expressway and Metropolitan Avenue. The development will consist of an approximate 8,500 square foot Dollar General store, an approximate 15,000 square foot grocery store, and an approximate 9,075 square foot retail outlet. The $4.5M project is requesting TIF increment on both property values and sales tax. In addition, there is a request for a 1% CID to be established. It is requested that this item be fast tracked to the March 1, 2012 full commission agenda.

- Consider the creation of a Community Improvement District (CID) to be known as the Metropolitan Avenue Community
Improvement District and the city's intent to levy a CID sales tax within such district.

- Consider the Metropolitan Avenue Redevelopment Project Plan, Project Area 1

George Brajkovic, Economic Development, stated the first project we would like to talk to you about tonight is the Metropolitan Avenue Redevelopment District. It is generally the area at 21st & Metropolitan, sometimes referred to as the former structural steel site. The formal Smelting Operation down on the lower end. November 2011 the Commission approved a TIF district in that area that captured both the high ground and the low ground. You also approved at that time two separate project areas for that district. Project Area 2 is the lower lever, the 20 plus acre former structural steel site and Project Area 1 the elevated site. Tonight for your consideration is to advance resolutions to hold public hearings on two portions of the project that relate to Project Area 1, a public hearing for the TIF plan itself and the CID district to be created. This project since it does have a TIF component though before we came here tonight they had to get a Master Plan amendment for their project. They were able to do that on February 16 and subsequently on February 21 actually got conformance to that Master Plan amendment. I will turn it over to the development team. It consists of ANDA, the Argentine Neighborhood Development Association along with Ferguson Development as well as attorneys from Polsinelli. We will turn it over to them and let them give you a brief presentation on the general nature of the project itself.

Korb Maxwell, Polsinelli Law Firm, stated appearing today along with Ann Murguia, Executive Director of the Argentine Neighborhood Development Association and Jeff Sharp, Ferguson Properties. I will be brief in my comments as I know we have a large agenda tonight. Many of the comments we are going to make are similar to what we brought forward to you when we were creating the TIF district approximately two to three months ago. The property that we are talking about is 18th & Metropolitan, the old structural steel site. As George & Doug brought up we created a TIF district for this entire area in approximately November. What we are bringing forward to you here today is to discuss a TIF project plan for the approximately 4.6 acres, Project Area 1, which is where the old administrative building of the structural steel site was. Now that there is currently a Dollar General on that site what we are working for here today is the development of a Dollar General that has already occurred but creating a
development of approximately 15,000 sq. ft. grocery store, an urban grocery store that we would put into this neighborhood. Then we have an additional pad site where we would end up doing other types of retail development on that. Right now Jeff is looking at identifying those users that would be ready to come to the neighborhood. We have identified and worked closely with your staff to figure out this is a very difficult project, very hard, very tough economics but we believe that we can get started on this grocery store probably as early as this summer if we can move forward with the Unified Government on this tax increment financing plan. We think it is a great public private partnership. We are having about 50% investment from the private side, 50% investment of the public side from the TIF. We think it would be a great project and something that this neighborhood has wanted for many years. What we have seen when we go to neighborhood meetings is that everybody is fully in support of it. With that I would be happy to stand for questions or any members of the development team would as well.

**Commissioner Barnes** asked where are the numbers on the TIF information? **Mr. Maxwell** stated there should have been included within the packet that there was information they were put in short form in the staff report in the summary. **Commissioner Barnes** stated I saw that but that is not what we normally get. **Mr. Maxwell** stated there is a full project plan that was submitted there to staff that we have submitted into the record and it would be if we were able to get this body’s recommendation that would part of any staff report that went up for your commission agenda meeting as well. **Commissioner Barnes** stated this is not even a question for you guys to answer. I think it was a staff question. What do we normally get Mr. Bach when it comes to the TIF? **Mr. Bach** stated what we are going through now are the deal points so we can put this into the development agreement and that’s when we bring back all those different numbers. **Commissioner Barnes** stated that will be done before this comes to the full commission. **Mr. Bach** stated that would be done as we put this stuff together and bring it back to the full commission.

**Commissioner Holland** stated the action that we are being asked to do tonight is to set the public hearing for the TIF and the CID. **Mr. Maxwell** stated correct. We will have to come back in front of you, in front of the full commission, for the actual public hearing where we will go through all of the project plan, all of the TIF, all of the numbers and all of those items.
**Commissioner Holland** stated and after that you would be requesting approval of the development agreement. **Mr. Maxwell** stated correct.

**Commissioner McKiernan** stated CID has 1%. What would the total tax paid be once you add the 1% CID? **Mr. Maxwell** stated total tax paid is just shy of 10%. We would be at 9.925%. We had a 8.925% base rate with the additional 1% we end up at 9.925% and that would only be for our grocery store and for the additional retail pad. That would not be at the Dollar General.

**Commissioner Holland** asked why is that by the way? **Mr. Maxwell** stated the Dollar General is already built and owned by other investors out there. We didn’t want to end up imposing that sales tax on them.

**Commissioner Barnes** stated I was only concerned about procedure and I just want to make certain that we were going through the whole process. I just felt that we were missing a step here somewhere. I support the project but I just didn’t want them to be laying down a dead-end street and then say this is something a little different, maybe it is just me. **Mr. Maxwell** stated we have been working closely with your staff. We’ve provided numbers. They are doing an excellent job of analyzing them and we would be prepared at any time to speak about numbers with the staff or members of the Commission.

**Commissioner McKiernan** stated I completely support it. We’ve had some other discussions about CID increases that bring the sales tax up really high and whether or not that is advisable. It’s interesting we’ve had some other conversations about this very same thing.

**Commissioner Barnes** stated it’s just the process that I am concerned about not on behalf of the proposers. This is something a little different because we put a one cent CID in place but we don’t have the numbers to support why the one cent. It’s kind of like we might be putting the cart before the horse. It’s like we’re casting this broad net to grab all of these dollars that we haven’t even begun to discuss. Tonight we are only talking about setting the public hearing. That’s where I got off at. I thought we had the information prior to and I could be wrong. It’s just similar to what I’ve been used to. It could just be me thinking. I’ve got it backwards or
something. It’s getting late too. I just didn’t want you to be lead down a dark street. Mr. Maxwell stated we feel very comfortable with the way we’ve been treated by staff.

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve. Roll call was taken and there were five “Ayes,” Alvey, Kane, McKiernan, Barnes, Holland.

Mr. Bach stated just to clarify and I think this speaks to Commissioner Barnes point. What we’ve actually tried to do in these processes is add a step early on where we bring you the project and the deal points so you can go through and offer comment. I think you specifically asked us to do that so we wouldn’t come in with a final agreement for you. So we could kind of go through and conceptually say this is how we are working the deal to make it all come together. I think that is why now you are seeing it without all that backing in place because you were used to seeing here is the development agreement and here is all the backup numbers and that is when you are seeing it. We are trying to insert this as an additional step so you can offer input and say that’s good or no we don’t like, this let’s go modify that and then bring that project back. I think that’s what is causing it to look different to you. Commissioner Barnes stated thank you.

Commissioner Holland stated I have a question for legal counsel. Do we need two motions? One for the public hearing for the TIF and one for the CID. Ms. Boeding stated I think you voted to approve both of them. I think it is sufficient the two resolutions as the item and the motion to approve so we consider a motion to approve both of those items. If you wanted a different outcome on them, then you might want to. Commissioner Holland stated I’m comfortable having them together. I just wanted to make sure we didn’t miss a step and not be able to do both at the same time.

Item No. 4 – 120054… Discuss terms of a potential development agreement relating to RED Development LLC proposal to redevelop Wyandotte Plaza, located at approximately 78th & State Avenue, submitted by George Brajkovic, Director of Economic Development. The redevelopment would include demolition of properties on the east side of the center to construct a new
70,000 plus square foot grocery store, façade improvements to the entire center, and parking lot improvements. RED Development LLC is seeking a local agreement on sales tax, establishment of a 1% CID, and participation in the UG's NRA Program. Additionally, the $28M project is seeking UG annual appropriations on a first bond issuance in the amount of $9.5M.

George Brajkovic, Economic Development, stated RED Development approached staff about their interest in the acquisition and the redevelopment of Wyandotte Plaza located at approximately 78th & State Avenue. Their proposal includes a redevelopment of the site that would transform that site from about 180,000 sq. ft. of retail to something in excess of 200,000. They would do that in a variety of ways. They are here tonight to present what their project looks like. To achieve that they’ve requested a certain incentive proposal and we are prepared to talk about that as well but maybe for continuity sake have them come up and show you what the project is and then staff can go over the incentive proposal as it’s been laid out.

Commissioner Holland stated just for clarity from process, this is only for discussion. You are not asking for any action. Mr. Bach stated we don’t need any vote tonight to approve the resolution. We are just going to hear input back on the potential development terms.

Wes Grammar, RED Development, stated we have had a number of great meetings with staff to talk about this project and we are very excited about it. We’ve done a lot of ground-up development and a lot of it here. This is redevelopment and it is a different type of project. We see a transformation here. This project is about 180,000 sq. ft. Our plan at this point which we are still working through our plan with staff from an incentive standpoint and we are still working through with the planning department to understand the ultimate development here. We look at adding a couple of new pads up on the street which goes great with the new right-of-way acquisition and the upgrades to 78th & State. We are going to improve access. We are potentially looking at a new signal light at this intersection there at the main entry into the project. Price Chopper is interested in expanding. We have looked at potential options to grow them to as much as 75,000 sq. ft. on site. There is different layouts that we’ve looked at. Part of that could
include some demolition of existing buildings and we are working with existing tenants to understand what the impacts there may be. New lighting, improved safety, improved access, new parking lot upgrades and landscaping. We are very excited about the project and would love to answer any questions that you may have.

Commissioner Holland asked what kind of timeline are you looking at if everything works easily, what would you anticipate. Mr. Grammar stated fairly immediate. Sometime this year we would begin moving forward with the plan. There is a lot of moving parts here. We got existing tenants that may need to be relocated. We need to work with those tenants. Obviously, Price Chopper is the anchor tenant here. We need to work with them and make sure that their happy for a very long-term commitment to this intersection. They love the site but they also are very interested in having the right configuration so they can be successful. I think sometime later this year we would hope to really get started with something. Commissioner Holland stated are you prepared today to talk about any of the possibilities that you are looking at in terms of demolition and reconstruction or are you wanting to keep it kind of general at this point. Mr. Grammar stated I think we are still at high level as we are trying to be sensitive to each of the tenants that’s on site. We have contacted them and are working through what those plans may be. Some of them are here tonight and we have been talking with them.

Commissioner Kane stated 78th Street is I believe is one of the busiest intersections we have in Kansas City, Kansas. The store was built a long time ago. If you go behind there, it’s not trucker friendly to back up to docks and stuff like that. I hope that is the type of stuff that you are looking at to make it to where they can get their product in a safe manner and also the customers as well. I think we owe it to them. We got a whole bunch of stuff out west and now we are in the middle. If you guys want to keep going east, that’s okay too. Mr. Grammar stated I think they are excited to have a better shopping experience inside the store as well. They believe that they are going to be able to do better here with the new store and new lighting.

Commissioner Barnes stated I was trying to do the math as you were speaking. From 180,000 sq. ft. to 200,000 sq. ft., what size pad sites would you be proposing. Mr. Grammar stated there is one that would be between 6,000 to 8,000 sq. ft. I guess they would both be about 6,000 to 8,000 sq. ft. One would go where the former gas station site is. There is some environmental
clean-up that we actually need to do as part of the project. There is potential opportunities on the eastern side of the site. **Commissioner Barnes** asked what’s the value of the property now, do you have those numbers? **Mr. Grammar** stated about $7 million. **Commissioner Barnes** stated when you finish what will it be? **Mr. Grammar** stated about $25 million. **Commissioner Barnes** stated you guys will agree up front that once this project is completed it’s worth $25 million and you won’t fight us over the value of it in the future. We have had some issues about that in the past. This is going to be great and when the tax bill comes it’s not really worth that much. We need to deal with that up front. **Mr. Grammar** stated we look forward to defining that in the development agreement with staff. **Commissioner Barnes** stated you have a Family Dollar Tree. **Mr. Grammar** stated it is Dollar Tree. **Commissioner Holland** stated they can’t keep them straight either. **Mr. Grammar** stated that site plan was started in 1967.

**Commissioner Holland** stated you would be wanting to move forward with this relatively quickly. I would say that we are very excited about this. I’m excited about the opportunity here. This is a much needed anchor in this area. It already is an anchor and would be a tremendous improvement and RED has done good work in the Legends and doing good work at 39th Street. We are looking forward to a good operation here as well.

**Mr. Brajkovic** stated now that you’ve heard a little bit about the project we wanted to spend some time to talk about the potential incentives package and what some of the proposals have been. Maybe starting with the property tax piece of it, one component is they would be eligible for the new special projects designation under the NRA program which would allow them a 95% rebate on the increment generated for a 20-year period. In hearing their performa our projections on property values that tie right into the rebate that they would be afforded.

Another component to this would be negotiating the local agreement on sales tax increment. I don’t think we have the final numbers there but they need some share of the UG portion of sales tax to make the project go, similar to some other projects that we brought to you recently.

An additional component is they are also looking to create a CID, a 1% CID across the entire retail center to help generate another revenue stream to help fund the project. As far as the
buckets of incentives that we are looking at those are the three buckets that we have been talking
about.

**Commissioner Holland** asked the total investment anticipated is what. **Mr. Brajakovic** stated
about $28 million for the total project cost. **Commissioner Holland** asked and how much of
that would come from incentives. **Mr. Brajakovic** stated under the current proposal no more than
half but I think we are probably looking at something south of that. If it’s $28 million. **Mr. Bach**
stated the perimeter that we are sticking with in this Commissioner is to say the 50/50
criteria that we utilized when we’ve looked at other projects where we said where is the
public/private projection to this and we include the CID on this deal on the public side of the
equation. So we come to it now and that would be the maximum and that also starts to factor in
where you are at on interest rates and such like that with bonds. I think where we are at with
them now is close to the number around 12 that there would be potential for public incentive to
come into this project. A key, and I’m very happy Commissioner Barnes asked that question
earlier, because they’ve already heard us talk about that somewhat that when we are talking
about increments that come from different buckets being one comes from property tax, one
comes from sales tax, one comes from CID, that we have a project go out there and then it
protests the amount of the value of the property so we are projecting so much to come from
property tax and then they protest it and drop that side of it because it is performing really well
on the sales tax and they don’t pay the property tax, they get it driven down and take more from
the other side. We will have and we have discussed that point where we structured something in
the system that says here’s that value and you’ll continue to pay that on the property tax through
this term or we will make it up in some other way if we can’t get that done and that way each
bucket continues to contribute it based on how we project the performa for the project to do.

**Commissioner Barnes** stated so on property taxes going forward what’s the tax amount now on
the property, do you know? **Mr. Grammar** stated about $21 million. **Commissioner Barnes**
stated so when you go forward with the abatement process this will continue, is that correct, on
the $21 million? The only part that would be abated would be? **Mr. Bach** stated on the
increment. 95% of the increment would then be rebated. **Commissioner Barnes** stated its $21
million right now. If the property is appraised at $21 million right now and they are paying $2
million a year in property taxes, so when they go forward we will still continue to get the level
pay of the $2 million that the property was appraised at as now. The only thing that the abatement would be on would be the additional amount of improvements made on the property, is that correct? Mr. Bach stated that is correct. It is a rebate that is utilized in the NRA. That really points out I think what is a real critical factor and how you get into a project like this is you can look at that and say what is the value of the property today and what is it generating. Then you can look at what is the value of the sales tax increment or the sales tax that’s coming off the site. We are looking at a store that was built in 1968. What is going to be coming off that site in ten years if we don’t have a reinvestment? I think we can all look across the street at the site over there where the Kmart is and you can look back at how it was doing 15 years ago and say the increment based on where we were at in the community was probably higher than it is today. You come into this store and you kind of see the same thing. There’s two levels of analysis that we try to conduct when we go through something like this and say what is our depreciating value that we see in a site if we never reinvest back into this site or you let it fall down to a level that’s so low that finally someone says let’s just go in and level the whole site and then we’ll try to build it back up from there and honestly that’s a long ways down before you ever get to that. This is an opportunity as been presented by RED for us to jump in and say okay here’s a reinvestment but it’s a reinvestment of all of our increment or large portion of our increment of the new growth that comes back into this site in order to make it happen. There is one other key factor that I think that is being presented and it is noted here under the incentive structure, is the developer is asking for us to come into this deal and help them build their bridge loan into this deal. It is a $28 million project to which they go in and do their site acquisition. They’ll move forward then with some demolition if there is somewhere that may happen or not, but then the resurfacing and the refacing of the stores and working through it to get up to that $28 million level. They are looking for us to issue annual appropriations on about $7.1 million of net proceeds of bonds that they will be able to use back into the store and we would do that on about a two-year term based on projections of dollars coming into the site. We look at that now and say this store with the projections will probably cover somewhere $11 to $12 million worth of net proceeds so you could probably issue a $14 million bond. In this case we would have to issue about a $9 million bond. They start their project, work through it, they get their new store, the new Price Chopper up and running and some of the other ports can take that out somewhere between year two and three and do a private issue bond to take it forward from that point.
Commissioner Barnes stated that will be spelled out in the agreement? Mr. Bach stated yes sir. That is what is being requested to come into this deal. That’s a big deal but they are adamant that is very necessary for their project to work that this piece has to be there. Commissioner Barnes stated staff is recommending that. Mr. Bach stated staff feels like that we can do that with a low-level of risk and that is an assessment that we would want to make sure we would have Lew come in and comment to that point we’ve had him involved in this. When you look at something like that you’re looking at what’s the risk assessment when we come to it and say do we do this on an older store where we’re trying to revitalize that area which is a different component than we have done on other projects. I will say at this point we feel like that is an acceptable one and that is a limited risk factor for that to happen. Commissioner Barnes stated when it comes to the commission I really don’t want the legal talk, I would like a recommendation from staff if you recommend it. I don’t want it to come down to a vote and say I made the decision. Mr. Bach stated if we put it in front of you, we are making the recommendation. Commissioner Barnes stated I would like to have an exact statement from staff saying we are recommending to do this, now what do we get in exchange for that. What is our guarantee if we make that choice. In the worst case scenario what happens? Board Member Alvey stated in other words once the UG closes the bonds for that two to three years, if the bridge loan is not refinanced through private financing what is the vote on the UG, is that what you are asking? Mr. Bach stated what the financial risk that comes back into it because we’ll structure any type of bond issue that will get us through all the time period through construction, get it up and running so that is preliminary. What you look at is we would do an interest only type bond. You would pay that off and then you would have some service for debt service coverage if it runs a little long and cover it from that standpoint. I think the key then comes back to the Commissioner’s point, how do we structure the assurances within the development agreement that lets us know they are going to build before we give them any money. There are a couple of things that we’ll structure into this. They’ll take down the site so they have full control of it. They are in an option period now. They are not moving forward to take this site down unless they have an agreement that allows them to move forward. You have their acquisition of the site then you also have the percentage of lease agreements that will fall into place and what we would have for sure is the Price Chopper and their expansion and Price Chopper is fully extended to this for another twenty years. They will be in place and they are looking at the 70,000. That is when you look at major retail engines. You look at Prescott Plaza
or who is that big retail generator that is going to drive traffic and who is going to drive their sales tax back into it. Then you have the high percentage back on the rest of the center and say before you get a dime back out of anything we put into this, you are going to have all these in place and then as they invest you only give a portion back from a reimbursement rate. We are talking now a 50/50 type rate so if they invest a $1 million then they can draw down $1 million. If they invest $2 million they can draw down $1 million back from their reimbursement that’s going into activity going on the site. Commissioner Holland stated so we would only pay out that bridge loan as they needed it. We wouldn’t give them $9.5 million and say please do something in our community. Mr. Bach stated just to clarify, we are just saying we think it looks like a $9.5 million loan to generate $7.1 million in proceeds. So that’s the size of the bond issue. The proceeds are what they’re after and they would have to spend then $14.2 million before they could get up to that $7.1 million dollar factor. You can factor in some things on reimbursement cost. We wouldn’t let them put it all back into reimbursement. That would be very limited portion of the acquisition cost.

Commissioner Kane asked is there a way you can break it down if we don’t do anything in the next four or five years. Maybe that will help explain it better to the other folks. If we didn’t do anything here is how much money would we get if we did this. here is the forecast. It would be simpler that way. That way everybody would know if we don’t do anything we’re going to get this much. If we do this, we going to get that much.

Commissioner Holland stated I think it is aggressive. I think the whole project is aggressive. I think my perspective on this is we just finished on a project to get a grocery store that’s aggressive. If we’re going to get grocery stores of the caliber we need, we’re going to have to be aggressive to get them. If they were just happening, they would be happening on their own. Mr. Bach stated I think maybe one difference to is you look on the Argentine grocery project we don’t have an annual appropriation and backing of that one. That is something that ANDA is stepping forward and really acting as that financer and moving all that money into. On the flip side we are in it on a public incentive ratio that hits over that 50/50 level. We look at it from what’s in the TIF but then they get their CID money and stuff like that on top of it. The deals aren’t the same. There are a lot of similarities. One is a redevelopment. One is a new development but there are different factors that come into it.

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Commissioner Barnes stated this is kind of more in general for us as we were discussing in earlier meetings how I say our policies fluctuate from different parts of our community. This is aggressive and I’m not against that aggression. I just hope that we are fair when we go to dealing with these projects in other parts of our community. We sit here and scratch our heads about being able to accomplish something. We just talked at 4:30. You guys are making this magic happen here but when it comes to certain portions of our community the magic goes away. I am documenting this aggression that we’re using here so you will hear this request for that same aggression when we come forward with another project in another area of town.

Commissioner Holland stated I think the bang for the bucks have to be there. We are looking at a $28 million investment. We need a 70,000 sq. ft. grocery store there. That is the benefit to us. We are not doing a $90.5 million bond issue for a much smaller grocery store, for an equal size because right now it is already 47,000 sq. ft. We are not going for more of the same, significantly increasing the size of the grocery store.

Commissioner Barnes stated its only 47,000 sq. ft. Commissioner Holland stated currently its only 47,000 sq. ft. Mr. Bach stated it doesn’t fit the Price Chopper mold of anything else you see. Commissioner Barnes stated that is why I was trying to do the math earlier. It’s only 47,000 and you said the location is 180,000 sq. ft., they are going to increase it 200,000 sq. ft. but they are going to add 30,000 sq. ft. to the grocery store. The math didn’t add up. Mr. Bach stated they are going to come back with a reconfigure of how this site comes together. Commissioner Holland stated the site is going to look different from this. That’s not a bad thing.

Action: For discussion only.

Item No. 5 – 120051… Ordinance allowing amendments to the Development Agreement for Project Areas 1 and 2 of the 39th and Rainbow Redevelopment District, submitted by George Brajkovic, Director of Economic Development. Project Area 1 is requesting a Project Cost Cap increase for TIF reimbursables due to a change in the scope of the project, which resulted in a

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change of total project costs from $24M to $37.5M. The change is to move from physical therapy offices to an acute care rehabilitation facility. The Cost Cap increase is from $4,450,000 to $7,000,000. The public/private ratio of dollars invested does not change.

George Brajkovic, Economic Development, stated I am sure you are all pretty familiar with the 39th & Rainbow area. It’s the same thing; it’s a TIF district. We have multiple project areas. Phase I of the project is occurring on the south end where there has been site acquisition, demolition, and construction of a hotel going up. The ground floor retail component and hotel component above it. Tonight’s discussion turns to Phase II of the project which is on the south end right at the 39th & Rainbow intersection. The request here is to consider a project cost cap increase for that Project Area II. The cost cap increase request is to go from a $4.45 million cap in TIF costs to a $7 million cap. The reasoning behind that is the change in the scope of the project itself which would take, when we initially did the TIF district there was a proposal for high-end condos and there was an amendment to that TIF plan for replacing the condos with physical therapy units. The new proposal there is for a post-acute rehab type facility. The developer is here tonight and they will do a fantastic job of explaining exactly what that is but before I turn it over to them what I wanted to emphasize is that the projected values or the total project cost for that change in the scope of the project takes it from a $24 million project to approximately a $37.5 million project. This is just discussion on the TIF. It doesn’t change anything in the nature of the retail component that exists on that ground floor level. It’s basically looking at floors two, three and four and how those property values change. Is it feasible? Will it generate enough increment to cover this? We have gone through that performa and it does. I think maybe it is a good opportunity to turn it over to the developer and let them explain exactly what the nature of the change is.

Kurt Peterson, Polsineli Shugart Law Firm, representing Rainbow Real Estate Partners LLC, stated with me is Hunter Harris. We don’t have a long presentation but we thought we might give you a little more context going very briefly again through the background specifics of this exciting and new expanded Phase II and explain exactly what the request of the committee is tonight. Starting with the quick background, as Mr. Brajkovic stated the TIF district created by

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the Commission back in 2009 had four project areas. It is a little confusing because Project Area II is what we called Phase I. Phase I is Project Area I is Phase II. In February 2010 the original redevelopment project plan that was passed by the Commission anticipated a hotel to be located on the north phase and that there be multi-family on the south with a parking garage on the south phase. In December 2010 the market evolved and we figured out what would best fit the site we moved the hotel from the south phase here again with structured parking. Although we didn’t have an identified specific use we determined that there might be a strong demand for a physical therapy type use on the north phase. We got the consent approval of this body, the full Commission, to go and have that flexibility. In March 2011 we worked through with staff and had approved by the Commission development agreement separate one for Phase I and the other for Phase II. In the summer 2011 we began construction on Phase I again a mixed-use project that had ground for retail by 10,000 sq. ft. Then above it three floors of hotel which is going to be a Holiday Inn Express. You have probably all driven by there and I hope everybody would agree it is shaping up. It is very attractive as it sits on the straight line there. We hope to be finished with that in early summer within the next few months. We are very excited about that. Really the discussion tonight is about Phase II. Again Project Area Phase I, we weren’t really sure where the market was coalescing around what would be the best use for Phase II even as we signed the development agreement last March. We are enthusiastic that we really understand now where the market wants to be which is again to have ground floor retail in Phase II but also to have not only a second or third floor but a fourth floor there that actually matches what the hotel is. It is three floors above retail. On the second story acute therapy and rehabilitation and on the third and fourth floors a post acute skilled nursing facility. Everything is lining up very well with that. Because of the intensity of use there we also need to put structured parking on the north phase which we didn’t anticipate before. That is a significant cost for the project. Also, as I said we are adding another floor to that building, another big cost. Then there is just other sorts of special finishes and other extra costs associated with these kinds of uses in the upper floors. As Mr. Brajkovic stated that took our previous budget of $24 million up to now an estimated $37.5 million with an approximate 57% increase and our project costs to put this enhanced product and structured parking up on the north phase.

As Mr. Brajkovic stated previously in the development agreement for this north phase we were permitted to capture for the project financing up $4.45 million. Obviously, because of the increasing cost created a financing gap for the project we’ve come in again, as cost went up

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by 56%, we are asking for your support to go to the full Commission to ask for an increase and the ability, if we can generate it through TIF, an increase of about 56% up to now a flat amount of $7 million, again only if we can generate that. It is not guaranteed, the project has to perform. In a nutshell, I brought a couple of visuals that I thought would be helpful. This is just showing that originally the structured parking was to be on the south side. The latest plans which we have now gone through with Planning Commission and Unified Commission with our preliminary development plan. This is the north phase and south phase. This is the hotel over retail. This will be three floors of rehab and skilled nursing. This is the structured parking. Again, with the full commission support hopefully in the near future, we plan to finalize our financing this summer and move forward by this fall with all due diligence to hopefully get started on that project. I brought one more picture of the south phase and this is what Phase II will look like with ground floor retail and three story is above it. I would be pleased to answer any questions you might have.

**Commissioner Kane** stated we’ve got some people who would like to talk about this. I don’t know when the appropriate time to do that would be. **Commissioner Holland** stated I will get some questions from the commission and then would be glad to open it up to people who would like to speak.

**Commissioner McKiernan** stated I know you guys have worked this all out but I’m surprised that you would be an acute rehabilitation so far removed from medical services presently KU hospital. **Mr. Harris** stated it is actually in conjunction with the University of Kansas Hospital. **Commissioner McKiernan** stated I understand that but there is generally some regulations regarding the proximity of those services and availability of those services on an emergency basis in acute rehabilitation. I’m sure you’ve got it all worked out but I’m interested in that because that is a very long distance with no direct route between those two places and certainly no direct route that does not go outside. **Mr. Harris** stated that is a great point. I know that we have been working really closely with counsel for the University of Kansas Hospital Authority. I haven’t worked through the details of that with them but I am confident that is something that they have thought about. Just you raising it, we will go back and have that discussion. If it would be helpful we could report back to this body or the full Commission. **Commissioner**
McKiernan stated you don’t need to report back to me other than if the proximity and the availability of those services modifies the feasibility of this plan in any way.

BPU Board Member Alvey stated even if it’s within the regulations of proximity, if it is still on the outer limits of that outer range, the distance from the medical services might actually cause people not to rent the space there, is that what you are saying?

Commissioner McKiernan stated you are going to bring in a third party, a new tenant and they are going to put an acute rehabilitation facility in this building that’s not going to be KU Hospital putting that in. Mr. Harris stated no, that would be the University of Kansas Hospital that would be that tenant. They know they are on proximity. I can’t imagine that they would go for this. They know all the rules and regulations. Having worked in acute rehabilitation I am surprised. Mr. Harris stated it is a good point and again you are making a point too. These are sophisticated folks that we have been working with for some time but you make a great point. I know we’ll go back and have that discussion with them to make sure that has been considered.

Commissioner Barnes asked what are your numbers for LBE/MBE/WBE on this project so far. Is this a running number at the bottom, you have legal expenses for $800,000 on the project, is that going to get any higher? Mr. Harris stated I sure hope not. Commissioner Barnes stated the reason I ask the question is because you have to work with exacts I think when you present a budget to us and so if those numbers are going to go higher, do you have a higher number in the original presentation to us about what the legal numbers are going to be. Mr. Harris stated generally speaking this process cumulating tonight, this entire project has taken longer getting the overall project done. We worked on the first phase for four years and have been working on the second phase now going into our fifth year so those numbers start to tally. However, this is an accurate reflection of how much we anticipate expending of legal. We’ve let very few aspects of the second phase of this project. Mr. Peterson stated Phase I is that what you were saying. Commissioner Barnes stated you gave us a report tonight telling us how much money you have already spent and that should be reflective of the LBE/MBE/WBE and that’s what I want a comparison with. Mr. Peterson stated we have worked very closely with Mr. Banks and the full compliance team. I should have had a copy of that report but I know that we have been in compliance and continue to be in compliance and tomorrow morning can get you a copy of the
latest. I assure you we definitely have been in compliance the entire time with the goals. Commissioner Barnes stated but you don’t have any numbers. Mr. Peterson stated I apologize for not having a copy of that with me. Commissioner Barnes asked will this go to the full Commission. Commissioner Holland stated yes. Commissioner Barnes stated if it passes. Well we certainly want to have those numbers. Mr. Peterson stated we will make sure of that.

Commissioner Holland stated one of the key components that I think is a concern is KU Med is going to be the main tenant. This property has to stay on the tax rolls. We don’t want it to become KU Med property because then it comes off the tax rolls. What safeguards do you have in place to make sure that this remains on the tax rolls? Mr. Brajkovic stated although we don’t have a lease done at this point, we are still working at putting the project together, we have been very clear that is our expectation as well as yours. Mr. Harris stated I would only add that our interest are aligned here because if that were to happen, it would be a huge detriment to the project financing. It would be a critical detriment. I understand what you are saying.

Commissioner Holland stated I’m going to open it up for comment and asked if there was anyone who would like to speak on this issue. The following appeared:

Joe Hudson, 625 W. 39th St., Kansas City, MO, stated I am a business agent with the Carpenters District Council and I have a prepared statement I would like to read. “On behalf of the working men and woman in the Kansas City metropolitan area in opposition to the proposed ordinance which would increase the project costs half of the TIF reimbursements from $4.45 million to $7 million, the Carpenters District Council is baffled by this ordinance. Why would the Unified Government even consider shelling out more TIF money on the 39th & Rainbow Redevelopment District Project when the project has been detest by so many labor problems. The district council has the names of over 25 workers who were paid below the prevailing wage rate on that project by subcontractors, John Peoples Construction Concrete and Michael Noller Contracting. In addition, we know that a number of undocumented aliens have been allowed to perform work on the 39th & Rainbow project. This group is especially vulnerable to the exploitation of unscrupulous contractors looking to cut labor costs. It has also come to our attention that at least one of the subcontractors on the project has routinely misclassified employees as independent contractors in an effort to avoiding payroll taxes on their behalf. We
are talking about TIFs. The facts that I have just presented to you are based on the information acquired by the district council business representatives directly from carpenters craft workers on the project. We suspect that similar labor issues exist among of the other building trades working on that project. Accordingly, we respectively request that the committee table the requested ordinance pending a thorough investigation by the Unified Government to the scope of labor problems on the 39th & Rainbow Redevelopment District project. The overreaching goal should be to ensure that all employees on the project have been paid or being paid the prevailing rate and that misclassified workers are not working on the project as independent contractors. Should the investigation uncover any violations of the law we recommend the requested project cap increase not be granted unless and until the developer and general contractor can provide written guarantees that there would be no further labor issues on the project. I would like to remind the committee that LBE/MBE/WBE goals that have been set on projects like Sporting KC were overwhelmingly achieved when union contractors were used.” I would like to note that you used the word aggression when we were talking about giving developers other projects. **Commissioner Holland** stated I said aggressive.

**Commissioner McKiernan** stated where is the verification? Who provides the validation of these claims? Where are the numbers? Who attested to their veracity? **Mr. Peterson** stated we have been in conversations with the Legal Department that is currently looking into the issues.

**Commissioner Holland** stated I wanted to get the comments out of the way first, then I’m going to ask staff to respond.

**Commissioner Barnes** asked Mr. Hudson to give some background on your membership and so forth. **Mr. Hudson** stated in regards to? **Commissioner Barnes** stated the carpenters union that you’re representing. You read the letter from them right? Give me some information on how many people in your group and so forth. **Mr. Hudson** stated we represent three states. There are approximately 25,000 members. **Commissioner Barnes** asked how many are located in the metropolitan area. **Mr. Hudson** stated there are about 7,000 in the metro area. I should say 5,000 to 7,000. I can’t give you an exact number with the economy in the last couple of years. **Commissioner Barnes** stated so when these kind of things happen some of your people don’t go to work. **Mr. Hudson** stated more importantly local documented workers. Also, I
would like to throw in a pitch for the contractor. We would like to have a level playing field. This particular project is obviously not a level playing field for local business that plays by the rules, that pay their taxes, that have work comp. Commissioner Barnes stated one of the issues that Commissioner Kane always has, this one comment when we get through with this issue is prevailing wage. That’s the level playing field. On the other hand is that the MBE/LBE/WBE becomes very important when you get a town that has a large percentage of minorities and women in this community. It is like we are hanging ourselves when we don’t abide by those contracts and that’s why they are in there and when get information that they are not there, I certainly want some answers myself. Mr. Hudson stated it is currently a catch me if you can process.

Commissioner Holland stated before we ask staff to respond, are there any other persons who would like to comment on this project before we turn it over to staff for a response. I don’t see any. I’d ask staff to step forward and respond and Mr. Bach I believe it is you in terms if you would like to ask the developer to respond.

Mr. Bach stated I guess specifically on those points I can tell you Commissioner Barnes that Jason Banks has received the MBE/WBE/LBE numbers. The last report he gave me showed me they were in compliance in showing tracks for that. We didn’t bring those reports to the committee. We will make sure that we submit them to you from our last reports.

Regarding prevailing wage, I will say that we have had issues with this general contractor on-site regarding prevailing wage. We have a compliance manager to specifically say how we do this. We go out to the site so we look at it from two perspectives. We look at when we require MBE/WBE/LBE to report on the site. We get reports that come back to us. We send our compliance manager. We’ll go to the site. They’ll look at it to verify, we look to see what is coming from it. If there is a question regarding the amount of the wages that are coming in then she will ask for wages or copies of payroll documents to come back to be submitted to us and evaluate it. Two things on that, she will also do surveys of workers on the scene. We’ve had times over the years where you could get a doctored payroll or something like that so we will survey actual workers on site to see what they are being paid and we will look back at actual payroll records to verify what it’s at. It’s a process. It takes a fair amount of work but they do it for more of an auditing perspective to go in and off sites and take it from there. We did have a
couple of occasions on this site where we had the numbers come in that looked like they were paying below the prevailing wage rate. In that issue it was a sub underneath, we went to and got that situation corrected. I think the last one I had was probably about three weeks ago when this thing heated up on an issue. The compliance manager and Mr. Banks both went on site and met with the sub and went through the process to get there. Specifically, I had asked him the question of whether there was anything there. This is a pay-as-you-go TIF process right now. As they come in they don’t get any money if we hold up payroll on any regard to what happens to it. I had him verify back to me that they were in compliance prior to release of the last one two weeks ago. That’s the current. I think if you want to have the developer speak to it specifically and what’s going on the general, they are here.

Commissioner McKiernan stated it seems to me this adds to the cost of the project. If we are constantly running down there, if we chasing our tail, if we are chasing them by having to verify, audit and oversee and approve. How do we stop this upfront so that we’re not having to pick up the phone every week and go okay are you following the rules this time? Commissioner Barnes stated or getting paid for it.

Commissioner Kane stated when you guys come to us and you say support us and we say okay we’ll support you if you follow this criteria and they’re not following the criteria and it hasn’t just been three weeks. Commissioner McKiernan is correct that we waste a lot of time and a lot money and we know they’ve done this. You’ve just told us they’ve done this. I want to push this back two weeks for a full investigation on what’s going on. We want to see the numbers, the MBE/WBE/LBE and exactly who is working for them. That’s not a cheap shot at anybody, that’s you guys have failed miserably and now you’ve got to pay, now you have to prove to us that you are going to do it right. You’re coming to us asking us for support and you’ve jammed us and that’s unacceptable.

Action: Commissioner Kane made a motion to push this back a couple of weeks until we get the information. Commissioner Barnes seconded the motion.

Commissioner Barnes stated I was on a job today and the inspector came out and interviewed me and interviewed the guy on the job and he asked how much I was paying him and he had him
sign a piece of paper. I’d like to see those pieces of paper. That should be a part of it. If they interviewed these people out on the job, they asked me. They asked the guy that was working for me. They asked for his phone number. They asked for his address and his name and how much was I paying him. They didn’t ask me. They asked him how much I was paying him. I don’t know if that was a compliance person doing that. If they are doing that, they should have some documentation of that. Mr. Bach stated we asked the employees. We are not going to the employer. Commissioner Barnes stated those need to be reviewed.

Commissioner Holland stated in terms of the costs, when we look at a loan, obviously there is interest that needs to be paid. If we are monitoring, do we have a piece in there where we recover our costs for monitoring of a project. We have a number of million dollars coming out of a TIF project, does some of that come back for an administrative fee for us to oversee? Commissioner Kane stated she has to spend a boat load of time there. That is the bad part about it and I think it is totally wrong. When staff knew they were messing up staff should have been all over it.

Commissioner McKiernan asked can we assess a recovery fee. Mr. Bach stated yes, in any kind of TIF that we do. Do we hold out a percentage that comes back out? If you are giving somebody $100 in TIF money and you want to hold back a percentage of that to cover costs of compliance managing, yes, we can do that. It doesn’t matter how much we are giving in incentive or how much we are holding out by a percentage basis, in this one, you can say you negotiate a percentage that they get overtime. In this project, ones earlier said 19% public/private sector management versus the 50/50. They are a long ways from getting all the increments. You could cut into the increment that we were getting and get a little bit more back out of it.

Commissioner Holland stated from a policy perspective the only leverage we have legally MBE/WBE/LBE prevailing wage is when we offer an incentive. It’s the only time we have that leverage legally. We don’t have any leverage if we don’t monitor it. I think one of the things I would like to see, and I don’t think this is just for this project, I think there needs to be a line item in the TIF project, in any publicly incentive project, that shows the costs of us administering this which in part shows the contractor that we are serious about administering because we are
going to spend their money to make sure they are doing what they said they are going to do in getting the incentive. In moving forward that is a good public policy piece anyway. Should we not spend all that, I don’t know how you incentivize that. If there is a company that we are constantly spending more money monitoring, it might be a rebate thing but if there is money left at the end of the program where we’ve not had to we’d give it back to them. If we are going to spend all this time and money because you are not doing it right the first time and we have to come back and do it, then they won’t get a rebate. It’s like a deposit on anything you do. If you leave the place a mess than you don’t get your money back.

**Commissioner Barnes** stated this issue that we are dealing with here, I thank him for stumbling upon a process to put some teeth in what we do. Even though we have the MBE/WBE/LBE policy there is no teeth in it. They violate the policy, they come and report to us and we move on. The only way we put any teeth in it is right here, having them investigated but when it comes back you still don’t have any teeth in it. All you have done is discover what they didn’t do.

**Commissioner Holland** stated if it’s in the development agreement to continue to pay out the TIF can we pull the money. **Mr. Bach** stated we would have held the money if they wouldn’t have got into compliance. I have a report back from compliance manager. **Commissioner Barnes** stated that is what we have been wrestling with on the policy itself. We are supposed to have revisited that policy and to address these kinds of issues. That is one that we had from the beginning. It had no teeth in the policy. I would certainly like to investigate how we put the teeth in the process. If these gentlemen from the Carpenters Union hadn’t came and made a statement, we would have been voted on this and moved on. I welcome this opportunity for us to not just this particular project but we need to find some policy that has teeth in it. This is what I was talking about the inconsistency as we go along. There are projects that we do charge an administrative fee on when they come to city hall. How this one escaped that process I don’t know but administratively we should have been charging them something from the beginning. I don’t know how we pick and choose which ones we charge an administrative fee and which ones we don’t. I think other than administrative fee we can lump all that into one sum and say we know that we are going to send people out there. I saw somewhere in here that they were paying a really high amount for inspection fees. I think it was like $20,000 or something on the
inspections that seems to be a large amount for inspections. The permit is computed on a percentage but not inspections.

**Commissioner McKiernan** stated it’s disappointing if we have an agreement, it seems like we kind of loose twice. Somebody’s playing catch me if you can. We lose because the terms of the agreement. There should be a penalty as well as recovering the costs. I’m just kind of disappointed. I think we need to look on this on a much broader policy basis and figure out what kind of controls we can put in place so that if we all signed an agreement and say these are the rules you’re going to play by then play by these rules. That is the thing that just kind of strikes me.

**Commissioner Holland** stated I want to ask a procedural question in terms of moving this forward a few weeks. The next standing committee is four weeks out. **Ms. Boeding** stated two weeks would take to you to when this would normally come to the full commission on March 15.

**Commissioner Kane** amended his motion to the next standing committee meeting.

**Commissioner Holland** stated there has been allegations raised. There has been some confirmation from our staff. I would like to hear from the developer if they have any comments in terms of moving forward. Who would like to respond? **Mr. Bach** stated I did want to clarify and George has clarified for me that we do have a 1% administrative fee on the TIF and on the CID because we had been starting to put that in a few years ago to cover offset costs and such like that. We do have that in place on the project. **Commissioner McKiernan** stated I would argue that is in place to recover normal administrative costs associated with the project not the extra that we have to do to chase down these situations. It would seem to be that there could be another offset here. If we have to extend additional administrative oversight, then they have to pay us for additional administrative oversight. **Mr. Bach** stated kind of like the callback when we send an inspector out to their place. They call; they want it inspected and they don’t meet compliance at that point. We come back another time but then after so many other times, then we start charging them for the additional visits.

**Ms. Boeding** stated Commissioner Kane amended his motion.
Commissioner Barnes amended his second.

Ms. Boeding stated to clarify for the record, it says an ordinance on the agenda but it’s actually a resolution in the packet. You won’t be voting on that. You’re voting to delay it.

Commissioner Holland stated I would like to hear from the developer and then we can take a roll call on the vote.

Mr. Hudson stated with sincerity, because I have been around when some of these issues have been talked about and then brought up. The developer takes this very seriously. It’s not a game. It’s not a joke. It’s very serious. I will say that as I think probably everyone around the table knows that we are the developer. We are responsible for everything that happens. When the issues have been raised, when they occur, often times we have many many subs. I’m not shirking responsibility on our behalf, but we try our very best and we’re constantly trying to educate both the general contractor and also all the subs. We take it very seriously. Every time a handful of issues were brought up, we went in and met immediately with the compliance staff and we addressed them immediately. I think you’ll find that is what staff would say. It’s too bad staff is not in the room now and we could have a more fulsome discussion, but we absolutely support the motion on the table. We will be back here in a month and I think we’ll be in a good place to continue the discussion that we started. We support the motion on the table and look forward to working with staff, look forward to meeting with any Commissioners individually to deal them the specifics on any of these issues along with your compliance staff again who we have worked closely with the whole time.

Commissioner McKiernan stated it seems to me we need to partner on this because you are chasing your tail just as much as we’re chasing ours on this. Mr. Hudson stated better said than I said but we truly are on the same page; on the same side. These folks, the developer, we’re not new to the construction field. We know that this doesn’t lead to anybody’s good. We all know that. When you hear of an issue which happens by the way on almost every project no matter how experienced of a general contractor you have, subs, there is always somebody that is trying to do something that’s not right and we need to stay on top of that. We want to stay on top of that. Folks around this table are all on the same side. I assure you that. Commissioner

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McKiernan stated I would suggest that in addition to any numbers that we might look at in the future, we also sit down and have some brainstorming discussions on how we can better team up to nip this in the bud so we don’t end up back here talking about these things in retrospect in the future so that we can work together to just cut it off right at the beginning. Mr. Harris stated we’d welcome that and we look forward to working with your staff to do that and working together to find some suggestions. Mr. Peterson stated especially as we move into Phase II. It’s a good timing so we can improve.

Commissioner Barnes stated this is just a typical response and I’ve watched over the years. You have a policy in place that doesn’t have any teeth in it. Those people that are probably in violation right now, this is not their first time. They are not a first timer. They know how to skirt this issue and they’ve done it before. They know that we are not going to do anything about it. It so happened that those guys from the carpenters union said I know what you are doing; I caught you and I’m going to report you, and I’m going to find a process to address it. I thank God that they did, but we have to put some teeth in the policy. That’s what really has to happen more than slapping them on the wrist or recognizing that they didn’t do it and we let them go. I’ve had this argument for many years that okay we didn’t make it. We did a goodwill thing. Anytime you see the term goodwill you might as well say good getting screwed because that is what is going to happen.

Commissioner McKiernan stated ultimately this project could have more far-reaching effects than simply improving 39th & Rainbow.

Commissioner Kane stated I would like to be involved with the research in digging this up. Just so the committee has a better understanding of what is going on and we do need teeth. It’s not to scold you it’s just to follow with what’s going on. It’s very important that we put that together. It’s equally as important that we do it. That’s all my point is.

Commissioner Holland stated we have a motion and a second on the floor to move this to the next standing committee. We have tasked the staff and the developer with some work moving forward and Commissioner Kane has asked to be involved in that process.
**Action:** Commissioner Kane made a motion, seconded by Commissioner Barnes, to come back to next standing committee meeting. Roll call was taken and there were five “Ayes,” Alvey, Kane, McKiernan, Barnes, Holland.

**Item No. 6 – 120053...** Resolution approving the Development Agreement and intent to issue $38M in multifamily revenue bonds for State Avenue 240 LLC to construct a 332 unit apartment complex and clubhouse on the north side of State Avenue at approximately 122nd St., submitted by George Brajkovic, Director of Economic Development. The project represents 0% tax abatement; however, PILOT schedules have been prepared to incent prevailing wage and participation rates for L/M/W.

**George Brajkovic, Director of Economic Development,** stated this project is something that you are probably familiar with because they came through for a Master Plan Amendment. I won’t spend a lot of time with some elaborate setup of the project other than to say that they are here and they are ready to talk about the nature of the project. Keeping in line with what we did earlier, let them talk about the project and then come back and talk about this bond issuance and the related PILOT schedule.

**Mr. Bach** stated I do want the opportunity to get into the PILOT schedule because this is something we have drafted for the first time in reaction to direction that we received from you about trying to layer in. This is one of those projects where we are working an IRB that was a 0%. We initially went after the 0% abatement in an effort to say how can we be sure somebody is going to pay their taxes over those years and not have it protested. We went after to get it. We got the developers to like that comment. Since we got involved in the deal, the Commission said we’re giving an IRB, we’re not giving an incentive, how do we get them to do prevailing and MBE/WBE. This is our first attempt at that so we want to get into that discussion. We will let the developer present their project and then we will come back and open that one up.
Kurt Peterson, Polsinelli Shugart Law Firm, appeared on behalf of State Avenue 240 LLC, stated the two issues that we are putting before you tonight is one asking you to consider supporting a development agreement and the second is industrial revenue bonds, not abatement. This is a project that you saw last year. My client owns approximately 240 acres of land at more or less centered around 122nd & State. They came in and worked through, along with property owners, a full 500-acre piece here. All of the 500 acres was the subject of a Master Plan Amendment that you all considered last year. Specifically, the Master Plan changes you can see had a lot of different components to it. Within the 240 that my client owns, the major components are regional retail, some planned commercial business park, a little bit of business park at the top and this multifamily bunch here which we have put on a concept plan focusing on the 240. To give you a sense on how we envisioned this playing out, specifically, perhaps townhomes in this portion here, more retail here, this is existing retail at the hard corner, and possibly up to five stages of multifamily that would go through here; this being the first phase and then this regional retail transition area. Commissioner Holland asked did you say there is existing retail there? Mr. Peterson stated right here on the hard corner. We don’t own this piece right here. That is existing retail now so we would just kind of build on what’s already there. Commissioner Holland stated zoned, I think. Not developed. Mr. Peterson stated zoned right. I’m sorry. Commissioner Holland stated I just drove by that this morning and there wasn’t a thing on it. We don’t own that piece so we are building on that zoning classification, as part of this Master Plan process, you will remember that a condition to the Master Plan change was the developer entering into a development agreement that we worked a long time with Mr. Richardson and his staff and Mr. Bach and his staff on making sure that, the theme was this, if this Master Plan change is going to go through and be implemented, that the developer, when they come in with plans over time, to take care of all the public and private infrastructure costs associated with it. We heard the message. We put a term sheet before you that you approved back with the Master Plan change and the development agreement before you is simply taking that term sheet and turning it into agreement like language and that is what we have before you. Making sure the developer pays for all the infrastructure associated with the project.

Phase I is zoned and ready to go for multifamily. So far, just giving you a little context, my client has approximately in terms of land acquisition and other design costs associated in Phase I, a total of about $10 million cash in the project right now and roughly $3 million
specifically of the $10 million is associated with all the design and getting Phase I ready to go, which it is. Right now our client is getting financing. We are near the last stages. We’ve narrowed it down to a few different lenders. We will be putting in a total so far of $10 million in the whole deal, $3 million which is here we’ll put another $7 million cash in on top of the $3 million to have $10 million of equity and then finance the rest of it. It is approximately a $35 million multifamily project. It will have about 332 units.

We are an important part, as we said before over the last year, anticipating we’d come in and ask for non-abatement IRBs. An important part of the financing for this new Class A project, we don’t have anything like that in Wyandotte County right now. It is a very important component that we’ll need to finish up our financing. A few more details before we open up for questions specific to the Phase I of the multifamily that we are ready to go with. The site plan shows 332 units that we are excited to move forward with shortly. It is about seventeen buildings of five different building types. One and two-bedroom units with lots of amenities. It’s a Class A in the industry, this truly is not making up a term. It is first Class A in Wyandotte County. Class A has to do with amenities and some of the amenities that cause it to be classified as that include granite countertops, tile floors, crown molding, other finishes like that inside the unit and also other amenities like a clubhouse, a pool, a spa, nine-foot ceilings in each of the buildings, a theatre room, a fitness center, washers and dryers that are included in each unit. These are the kinds of things that make it the first of it’s kind in Wyandotte County let alone the first major project to get going in Wyandotte County, a multifamily since 1986, I believe was the last one. We are very excited about this project and it is really ready to go.

**Commissioner Kane** asked what is the approximate cost to rent. **Mr. Peterson** stated we’re talking across the different types and then 90 cents to the dollar. I neglected to introduce my client George and Bill Filios and the architect, Bill Prelogar, is also present this evening. They did fly in for this meeting and they have extensive history in the multi-family market. Between George and Bill they are in the ballpark plus or minus 50,000 units under their belt. These are guys that have a real track record. They put in a quality product. They insist on it. That is what they are going to do here. They did fly in here. They are not based here, but these are guys that have been here for decades. Maybe not 30 but I know 20 years. George specifically in the Kansas City area even of the 50,000 he has about 8,000 units. Let the record reflect that Mr. Filios mentioned in the Kansas City area even of 50,000 units he has about 8,000 of them. I
didn’t want you to get the impression just because they are out of town these aren’t guys that are true invested guys in our community. They are very excited to be in Wyandotte County in the future where our county is heading. I will answer questions you might have about this project, about the development agreement, or about the request for IRB’s.

**Commissioner Holland** asked what is the timeline on building. **Mr. Peterson** stated we hope financing will happen in the next few months, certainly by late summer and then we hope to get started. We are ready to go so we can start within a few months after financing.

**Commissioner Holland** stated one of the things that I think you already said that I want to reiterate, the structure of this deal is the first of its kind and it’s a very important policy decision that has gotten us to this point. I want to thank staff for making this work because it has been some trial and error in terms of how do we get to where we want to be. I think this is a very creative solution. I’d ask you to go ahead and present the details of it.

**Mr. Bach** stated George has worked hard on this along with Jackie Carlson from Wyandotte Development, Inc. We had both her and Greg Kindle involved from Wyandotte Development in working through different concepts, ways we could work with developers when they come in and really aren’t seeking an incentive with our government. What we could do to really, as you said before, we put this on people that we don’t have leverage really on them to say hey, use prevailing wage or use MBE/WBE local contractors if we’re not offering an incentive to them since, we have a relationship with them how do we go? What George has structured into this deal is really one where you have a 10-year PILOT that shows a fixed amount of payment that stays at $250,000 for a 10-year time period and then see an Option B where we have an inflationary escalator of 1.5% and then you see Option C where you have an inflationary escalator of 3% a year. What we proposed to them is really to go through these in reverse order. If they come in and do what we have done previously on a 0% IRB is you would say okay, we agree, this is what your property tax are going to be and we are going to put a 3% inflationary increase on you every year and that’s the amount and this is what we believe the taxes will be on this. We think that’s a good deal for us. It takes us away from they get billed a year or two down the road, they say well it’s not really worth that value and then we are up at COTA in Topeka and we’re fighting on the value of that for a number of years so that was a structure to
which we went to. Then we said okay, if you use prevailing wage or L/M/W on this project, then what we are going to do is cut your inflationary factor in half so you won’t pay as much in taxes. If you use both, then we will just leave it at a flat base for the entire 10-year timeframe within it. Nothing in this requires them to do this one way or another. It provides them an incentive to come back into it and say this is worthwhile for us to do this and work within this community to do this. Commissioner Holland asked now would it be based on a rebate that they would pay the escalator and we rebate that back based on if they did it? This is not an abatement so they would have to pay the taxes. Mr. Bach stated this just sets out what the amount is. They pay the taxes. There is no rebate to it. This is a payment in lieu of tax. The IRB is really one where you come in and say the structure of which, rebate it all, then they make a payment in lieu of tax for the full amount. This sets off the PILOT schedule. This is what it will be for the 10-year time period and it would start out if they come through there and they use prevailing wage in construction and the MBE/WBE then they will be under Option A and that will be set and they will show what their 10-year taxes will be every year. Commissioner Holland stated and it doesn’t start until the project is finished so we know the results. Mr. Bach stated right. It’s year one when they are on full value.

Commissioner Barnes stated I think this is a great effort Doug but it still leaves, I’ll just give an example, if you have a company out of Texas, that has a bunch of people that they are not paying prevailing wage to and they can come in and say because of my wages that I’m paying these guys out of Texas it’s not worth the value of me doing that because I am not paying anything for these guys to construct anything anyway. When you look at this you look at how competitive this is with somebody that uses undocumented workers and the whole nine yards. There is no competition here. When you allow a company to come to come to town and they bring the people out of Texas, we had this issue once before at another location, and it was to their advantage to say I’m paying these guys less than half of what I would have to pay for prevailing wage and so that number is always going to equal more than the 1% that we could actually pay them, that we save them. You talk about the $10 million project that we’re starting out with at and you’re looking at $250,000 and they could save that by paying somebody $3 or $4 an hour less than what prevailing wage would be and that would wipe that incentive out right away. I don’t see the teeth in it. I see the incentive in it but if they don’t do it and say I don’t want it.

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**Commissioner Holland** stated I agree with that. The only thing I raise and this is why I think it is a good starting point is because they could not go for the IRB and just build it. Someone who comes in and builds it cash out of pocket, we’ve got nothing to say about it so they can do whatever they want. This gives us the opportunity, which really on the free market if people come in and decide to build, they’re within the zoning requirements, they come in, they can build it, they have the money, they pay it and however they build it good, bad or indifferent; legally we don’t have a leg to stand on. This gives us a leg to stand on and I think the reality is they can make a financial choice. I would say from a partnership, they want to build a lot more phases, so from a partnership perspective it would be beneficial to be \meeting it in at least the first four phases. **Commissioner Barnes** stated I agree. I would welcome these gentlemen to come to Kansas City. I am glad you guys are looking at our city. A group of this caliber, I want them to be happy. This is just not about them on this one particular project. It’s about how we structure this PILOT project going forward. Whatever we need to do to get them to take a second look at our city we want that to happen and I don’t want to discourage them by not coming. At the same time this policy that we are moving forward, I think it needs to be an evolving process where we can discover how we can put more teeth in it to work in our advantage. **Mr. Bach** stated that is an excellent point. If we get into this project and we find that they were not successful in this side of it then it allows us to go back and talk to the developer about here’s the differences as you built these numbers when you did your evaluation why you didn’t go that direction and then we could offer different pieces here for you all to consider. **Commissioner Barnes** stated if it was anybody else I would feel a little bit different but I think they have the desire with these many phases to do the right thing. I don’t want to hold that process up on this speculation but if we can promise to revisit this process as we go forward, I would certainly be happy with moving forward.

**Action:** Commissioner Barnes made a motion, seconded by Commissioner McKiernan, to approve. Roll call was taken and there were five “Ayes,” Alvey, Kane, McKiernan, Barnes, Holland.
Item No. 7 – 120047... Discussion regarding recommendations to the current Section 42 local review criteria, submitted by Charles Brockman, Economic Development.

Mr. Bach stated as directed by Commission we came before you with recommendations for different developments to come forward under the Section 42 application. During that time you directed us to come back, look at this, we wouldn’t have brought it back to this meeting when we were inundated with others, however, you asked us to get right back in front of you with this so Mr. Brockman was working on this in this regard so we would be ready. What we tried to do is set out for you a little bit of discussion on the Section 42 from where we started with. I think that the first point to this, we kind of went back and did a reflection of why we have a policy such as we do. The first thing you recall from where we were on this, for those of you that were here, is we are unique in the state. No one else has a policy review like we do for Section 42 applications. We set these out because back toward the early part of the decade we got into an issue with a developer that wanted Section 42 approval, we did not give it to them. They filed a lawsuit back against us as and we did not have a policy it made us very difficult in that discussion. I still might contend that I think we could have fared well in a long drawn out lawsuit over a few years in fighting on this project. In the end we settled, offered an incentive to them and they never took advantage of it and a different developer has taken over their project since that time. Through this we went back and said, or you did, make sure this doesn’t happen like this again. We put together a policy that has a good list of criteria that goes through and says this is how we are going to evaluate these projects and when they come before you as a governing body staff has done this thorough review and issued a point system and if they don’t make the 50 points, it’s not coming back before you and then when it gets the 50 points, that’s where it’s at. No one else in the state does that and when it goes before the state they don’t have any kind of review like that either in place that they do their evaluation on. That’s kind of set up the history that’s laid out there maybe in my words versus the words from Ms. York and our legal staff that’s drafted most of this for me. Charles kind of put together a few areas of discussion, that are listed there below that we are talking about and then we also put the criteria here that we currently have to see for your development. A couple of things we said, here is areas of discussion, we can vent through this tonight or we can offer input and take where we want to but we have compliance of the Master Plan. If you recall, we had that issue with one of...
the projects that came through this year, it wasn’t in compliance with the Master Plan. We ended up advancing it forward and then the Commission. We can remove that criteria if needed and say you are going to have to comply with the Master Plan before you build but it’s there. We set that out as an issue for discussion.

We were asked to look at incorporation of local minority women owned goals and prevailing wage criteria. You build that into this as a criteria, we could set that out and it could be a criteria and you get a point for it or two points or something like that or none or we could say if you don’t do it, you don’t even move on. There is different ways to lay that out.

Allowance for an open review and endorsement process. This is one where currently we make projects come in and they have to submit by a certain date. We have two review times. **Mr. Bach** asked Mr. Brockman what are those times. **Mr. Brockman** stated typically its February and August. **Mr. Bach** stated we make them to have to review it in like a December timeframe they have to have them into us and then a couple months before the summer if they are to review at the state. This has caused problems with developers that have come because they will be a little bit late or somebody comes in they wait to the last minute and they are dumping these on us. We can accept them anytime year round from that standpoint if you would like us to. We can conduct a review, put a point on them and submit them to the full Commission and they could learn in September whether or not we are going to support their project going forward at the beginning of the year. We first did this, to give you a little history on this, put them all together because we thought maybe the Commission would then rank them and say okay here is the ranking from staff, you might say this is first, second and third based on the points, we don’t do that. If they make the 50 points, we advance them and that is how we’ve done it so this would probably make it a little more free flowing.

The elimination of the market rate criteria that was one that was offered to us from a developer and there is an attached letter that was submitted to Charles from CHWC that said why do you guys have to have these be a market rate type project in these regards to receive your support. Staff also talked about having them come in and do a pre-application period before they submit and that way we talk through this a little bit. We are always open to discussion on it but if they’re all coming in at one time we could do one meeting.

Those are the points we’ve laid out, anything else you want to discuss.
Commissioner Barnes stated I do think we need more time on this and this should not be bundled into tonight. We do need to spend some more time on this because I kind of noticed when you mentioned LBE/MBE/WBE how many points and you were stingy with the points, you said maybe one point. On the areas that we need, where we want to put more emphasis on, I think we need to put more credit towards that. That’s the incentive for them to say, if I address this right here, I can pick up four points right away by doing that. I think the area of town that the blight is even greater than other areas I think there should be greater emphasis put on those areas where we want to see a huge turnaround in. I read the young man’s letter from CHWC and I somewhat agree with him on that, but that’s been the argument that we’ve all had because when you say 100%, everybody is thinking this is Section 8 property then that’s not an issue. Some areas of our community have wrestled with that. When you put the incentive for certain areas I think we should have a flexible scheduling there where that requirement of mixed income comes in. I don’t have a problem with it. I would much rather see a low-income property there then to see a vacant lot and I’m struggling with a lot of vacant lots. I think we need to take away this one size fits all. We should have the ability to have some flexibility here. We can use this to customize it to our needs and not just be about a random one size fits all process. In certain areas I think we should offer that incentive but they should have a greater incentive because they are building where we want them to build. We should be able to let them capitalize on it. If it’s an area where we know that has great need for this type of property. Then this early admission thing, for those people, I think we should incent them to submit early because we always do this all in a rush. Every time we get one of these projects it’s rushed. I think we should incent them to submit their projects earlier than we normally have in the past. I don’t know what others might have to say but how many points do you have on the list. Mr. Bach stated we just threw five things in there that we had heard comments on that come from staff. Commissioner Barnes stated on the criteria on the submission list, the point list, you probably have about 50 different items on there and so if we had a proper hearing, the one reason that MBE/LBE came up, the company had to be MBE/LBE and that was not the original intent. What does it actually address the one that you have about the point for MBE/WBE. Mr. Brockman stated it’s under Section 5, Financing Characteristics, women or minority involvement. Commissioner Barnes stated and we interrupt it as ownership and that was not the intent that the person had to be an owner. They could get a point if they addressed the issue.
Commissioner Holland stated I think Pre-requisite Requirements, compliance of land use and zoning and long range master plan. Is that important that be a pre-requisite. Clearly, they can’t use the tax credit if they don’t get that. I know we got jammed up at that on the last one because there was going to need to be some amendments made. It’s an interesting chicken and egg issue which needs to come first. Is it essential that those be addressed ahead of time? Rob Richardson, Director of Planning, stated there’s really two issues. One is the Master Plan and one is the zoning. The state requires them to have a zoning letter. When it goes from you it has to have a zoning letter or the state won’t consider it because the state requires them to comply, to have the zoning in place in advance. That one is really, whether you want it to or not the state is going to require that, so that’s almost a non-issue. On the Master Plan side, we put the Master Plan in because in the original timeframe we wanted to use the Master Plan as part of our quality control. It was a potential quality control measure and if they went through the Master Plan and the zoning at the same time then they would meet all of our current ordinances. Where we’ve gotten the hiccup is people thought they were okay because they had zoning and the zoning and Master Plan didn’t match. I think what I would recommend is if they have zoning in place and we’ve since said the Master Plan would be different than the current zoning to what the, you could look at the current zoning and not have the Master Plan requirement to go back and forth and change it. The other part of the Master Plan is that if you don’t do it in advance and the Commission has already acted to give them an endorsement, you’ve really prejudged the issue of the Master Plan. If you’re going to have it as a criteria, than you ought to do it in advance just as part of the form.

Commissioner Holland stated it’s an interesting question in terms of prejudging it because you could say, really we don’t grant the tax credits, we just give them kind of a fishing license to go get them. We could say we don’t want to change the Master Plan unless this project goes through. This project we might change it for but this project we wouldn’t. If we changed the Master Plan and they don’t get the credits and the project doesn’t come through, we’ve changed the Master Plan for a future use that we’re not anticipating yet. It might be worth saying will send you forward to the state to apply and if you’re in a position to do this, then we would consider the Master Plan amendment. It’s a tricky issue. Mr. Richardson stated or you could conditionally approve the Master Plan and you wouldn’t formally. Commissioner Holland stated that’s a good idea to. We could do it conditionally for this project, if this project does not
go through in x amount of months or whatever timeline, than it would revert back to, that’s a good idea. That solves my issue.

**Commissioner Barnes** stated you have on page 3 Property Location, it says need for affordable housing and area, they get two points for that. Then under CDBG Low-Mod Census Tract you get one point. That’s a census tract that needs the housing. It’s like you’re trying to steer them away from the community that needs the houses the most. I don’t understand. **Mr. Bach** stated it is actually just the opposite of that. Maybe Rob can speak to that because we constructed the point system to give the incentive more toward the areas that need it more. **Mr. Richardson** stated Doug is exactly right. In essence in there too it says the qualified census tract is also another point. On C, D, E, F & G, all of those are most likely points that can only be obtained if you are an urban project in an area that needs you. All those points together come up and we should have put in one category when we did this. I can’t recall why we didn’t. Its eight points of the 50, in most areas, of your particular commission district would get eight points just for being there of the 50. **Commissioner Holland** stated just for showing up in the area. **Mr. Richardson** stated right. We can make it more. This was highly debated amongst the Commission when we did it and there was give and take. There were other areas within the policy that say that if there is a lot of criteria here. Some of them would give you points in different areas but you get the most if you are in an urban area. **Mr. Bach** stated I don’t think we had a problem with urban projects getting the points that they need to achieve to come before you. The other ones come to those projects that can’t achieve, can’t get these automatic points coming into it. Then they have to achieve on the other criteria in areas, different points that we make them layer more things into the project which is why we haven’t seen a lot of projects come forward out west. **Mr. Richardson** stated I would say that most of the projects that we have reviewed, there haven’t been very many that were west of I-635 but those projects that don’t have that E through G benefit come in at 43 to 48 range right off the bat and they are looking for more points and the ones that come in the urban area come in right off the bat in the 49 to 54 range and may only be looking for a point. I think what you are seeing is the development, as they present it to us right off the bat in this area is pretty much going to meet the criteria and get the recommendation. Our highest point total have been redevelopment projects in the urban area, in qualified census tracts. I think that the highest is 56 or 57 points that we have ever given out. I think that you are seeing that the policy in that aspect is doing what it is
supposed to do, give benefits to those projects that we really want and yet it is also helping us bump the quality up. **Mr. Bach** stated if we do add areas to it in the MBE/WBE/LBE or prevailing wage we might have to think about how many points we have given some of the other areas if we truly want somebody to do that.

**Commissioner Barnes** stated I can’t stress how important it is. I’ve been around long enough to realize you can ride by a worksite I would see people that look like me on the worksite. I have a friend that plays a drinking game with me and we go by worksites and every time we see somebody that looks like me we take a drink. I haven’t been able to get drunk for ten years. It’s that severe. We have a total reverse in that process. When we allow people to recognize the community and be reflective of the community that is serves it does us all good. That is what I am saying. I think we should put special emphasis on that. I wish Lew could one of these days give me the turnover numbers on how much money that we have received as a result of the polices that we have put in place and how beneficial they have been to us. This would be a no brainer for everybody if they knew that real number. I think that we can get there one of these days. We are shooting ourselves in the foot when we don’t maximize on those opportunities. That’s all I want to say. If we could increase those numbers, I don’t care where you have to take it from.

**Action:** For discussion only.

IV. Adjourn

*Chairman Holland* adjourned the meeting at 7:45 p.m.

*tk*
Item Description:
The 39th & Rainbow Redevelopment District was established by O-79-09 on October 29, 2009. The Redevelopment District was divided into Project Area 1 and Project Area 2, for which Redevelopment Project Plans and Development Agreements were approved by O-10-11 on March 3, 2011. Project Area 2 has commenced with construction of a hotel and 9,000 square feet of retail. Project Area 1 is requesting a Project Cost Cap increase for TIF reimbursables, due to a change in the scope of the project, which resulted in a change of total project costs form $24M to $37.5M. The change is to replace the Physical Therapy offices to an Acute Care Rehabilitation Facility on the second floor and Post-Acute care on floors 3 & 4. the ground floor retail component does not change. The Cost Cap increase is from an amount of $4,450,000 to $7,000,000. The public/private ratio of dollars invested does not change.
The developer will present reports on M/L/W and prevailing wage for Phase 1. The developer will present their project status and details of the proposed scope change. Project financials are also attached. The project change will result in nearly a 70% increase on the UG portion of TIF Property Tax increment sharing over the next 20 years.

Action Requested:
Approve Ordinance allowing Amendments to Development Agreement for Project Area 1 and Project Area 2 of the 39th & Rainbow Redevelopment District.

☑ Publication Required

Budget Impact: (if applicable)

Amount: $
Source:
☐ Included In Budget
☑ Other (explain) Cap increase is consistent with revenue increase.
FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT
FOR PROJECT AREA 2
OF THE
39TH AND RAINBOW REDEVELOPMENT DISTRICT

between the

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

and

RAINBOW REAL ESTATE PARTNERS LLC

DATED AS OF ________, 2012
FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT
FOR PROJECT AREA 2
OF THE
39TH AND RAINBOW REDEVELOPMENT DISTRICT

THIS FIRST AMENDMENT is entered into between the UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, a municipal corporation organized and existing pursuant to the laws of the State of Kansas as a consolidated city–county having all the powers, functions and duties of a county and a city of the first class (the “Unified Government”), and RAINBOW REAL ESTATE PARTNERS LLC, a limited liability company organized and existing under the laws of the State of Kansas (the “Developer,” and together with the Unified Government, the “Parties”), and is dated as of the date set forth on the cover page of this Agreement.

RECITALS

WHEREAS, on October 29, 2009 the Unified Government created the 39th and Rainbow Tax Increment Financing Redevelopment District (the “Redevelopment District”) pursuant to K.S.A. 12-1770 et seq. (the “TIF Act”) and Ordinance No. O-79-09 of the Unified Government; and

WHEREAS, the Redevelopment District consists of approximately 9.8 acres generally located in an area bounded by 39th Avenue on the North, 40th Avenue on the South, Adams Street on the West and Rainbow Boulevard on the East, all in the City of Kansas City, Wyandotte County, Kansas, and is legally described on Exhibit A attached hereto; and

WHEREAS, pursuant to Ordinance No. O-79-09, the Redevelopment District consists of four redevelopment project areas which are shown on the map attached hereto as Exhibit B; and

WHEREAS, the Developer submitted to the Unified Government the Redevelopment Project Plan for Project Areas 1 and 2 of the Redevelopment District, dated October 21, 2009 and resubmitted on October 29, 2009 and again on January 21, 2010 (the “Original Project Plan”), which was approved by the Unified Government on February 14, 2010, pursuant to Ordinance No. O-18-10; and

WHEREAS, the Unified Government and the Developer entered into a Development Agreement dated February 25, 2010 (the “Original Agreement”) to address issues related to development of Project Areas 1 and 2 within the Redevelopment District, implementation of the Original Project Plan and the proposed CID #1 and CID #2; and

WHEREAS, the Developer submitted to the Unified Government a new Redevelopment Project Plan for Project Areas 1 and 2 of the Redevelopment District, dated December 17, 2010 (the “Project Plan”), which was approved by the Unified Government on March 3, 2011, pursuant to
Ordinance No. O-10-11, and which replaced the Original Project Plan in its entirety, with the twenty (20) year term of the Project Plan commencing upon UG approval of the Project Plan; and

WHEREAS, the Unified Government and the Developer entered into a new Development Agreement dated as of March 1, 2011 (the “Agreement”) to address issues related to development of Project Area 2 within the Redevelopment District, implementation of the Project Plan and the proposed CID #1 and CID #2 and to replace the Agreement in its entirety; and

WHEREAS, the Unified Government and the Developer now wish to amend the Agreement by this First Amendment.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. The definition of “Project Costs Cap” in Section 1.01 of the Agreement shall be replaced in its entirety with the following:

   “Project Costs Cap” means $4,350,000 in Redevelopment Project Costs for Project Area 2, plus Accrued Interest from the date a Redevelopment Project Cost is paid; provided however, that the aggregate amount of Redevelopment Project Costs eligible for reimbursement for Project Areas 1 and 2 shall not exceed $11,350,000 plus Accrued Interest from the date a Redevelopment Project Cost is paid. The Project Costs Cap shall not be applicable to CID Costs and shall not include bond reserves, capitalized interest, costs of issuance, the TIF Administrative Service Fee or Unified Government Expenses.

2. Capitalized words used in this First Amendment shall have the meanings set forth in the Recitals to this Agreement or, to the extent not defined in the Recitals, they shall have the meanings set forth in the Agreement.

3. The Parties agree to execute and deliver an original of this First Amendment Agreement and any amendments or supplements hereto, in proper form for recording and/or indexing in the appropriate land or governmental records, including, but not limited to, recording in the real estate records of Wyandotte County, Kansas. This Agreement shall be promptly recorded by the Developer at Developer’s cost after execution, and proof of recording shall be provided to the Unified Government.
THIS AGREEMENT has been executed as of the date first hereinabove written.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: _____________________________
Mayor/CEO

(Seal)

ATTEST:

By: _____________________________
Unified Government Clerk

APPROVED AS TO FORM:

By: _____________________________
Deputy Chief Counsel

ACKNOWLEDGEMENT

STATE OF KANSAS )
COUNTY OF WYANDOTTE ) ss.

BE IT REMEMBERED, that on this ___ day of _______, 2012, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Joe Reardon, Mayor/CEO of the Unified Government of Wyandotte County/Kansas City, Kansas, a municipal corporation organized and existing pursuant to the laws of the State of Kansas as a consolidated city–county having all the powers, functions and duties of a county and a city of the first class, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said Unified Government, and such person duly acknowledged the execution of the same to be the free act and deed of said Unified Government.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

______________________________
NOTARY PUBLIC

My Commission Expires:
______________________________
[SEAL]
THIS AGREEMENT has been executed as of the date first hereinabove written.

RAINBOW REAL ESTATE PARTNERS LLC,
A Kansas limited liability company

By: 39Rainbow Real Estate, Inc.
Its: Manager

By __________________________________________
    Owen Buckley, CEO

ACKNOWLEDGMENT

STATE OF _____________ )
 ) SS.
COUNTY OF ___________ )

On ______________, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Owen Buckley, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument as the CEO of 39 RAINBOW REAL ESTATE, INC., THE MANAGER OF RAINBOW REAL ESTATE PARTNERS, LLC, and acknowledged to me that he executed the same in his authorized capacity, and that by such person’s signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

____________________________________
Notary Public

My commission expires:
EXHIBIT A

LEGAL DESCRIPTION OF REDEVELOPMENT DISTRICT

Overall Redevelopment District
A tract of land located in the Northeast Quarter of Section 34 and the Northwest Quarter of Section 35, all in Township 11 South, Range 25 East of the Sixth Principal Meridian, in Kansas City, Wyandotte County, Kansas being more particularly described as follows:
Commencing at the Northeast corner of the Northeast Quarter of said Section 34 ; Thence S 87°55'05" W along the North line of said Section 34 a distance of 71.60 feet; Thence S 31°46'52" E a distance of 194.79 feet; Thence S 02°02'59" E along the East right-of-way line of Rainbow Boulevard and its prolongation North of 39th Street, a distance of 181.46 feet to the Point Of Beginning; Thence continuing S 02°02'59" E along said East right-of-way line, a distance of 1006.98 feet; Thence S 87°57'01" W along the South right-of-way line of 40th Avenue and its prolongations East and West, a distance of 382.71 feet to a point on the West right-of-way line of Adams Street; Thence N 02°03'25" W along the West right-of-way line of Adams Street and its prolongations North and South, a distance of 1007.04 feet; Thence N 87°57'31" E a distance of 382.82 feet to the Point of Beginning.
AND, including:
All adjacent right-of-way.

Project Area 2
A tract of land being all of Lots 8, 9, 10 and the North half of Lot 11, Lot 16 except the East 40 feet, Lot 17 except the East 40 feet, Lot 18 except the East 40 feet of the South 25 feet, and all of Lots 19, 20, 21, MALVERN HILL, a subdivision in the City of Kansas City, Wyandotte County, Kansas, according to the recorded plat thereof said tract being more particularly described as follows:
Beginning at the Northeast corner of said Lot 8; thence S 02°02'59" E along the West right-of-way line of Rainbow Boulevard and the East property lines of said Lots 8, 9, 10 and 11, a distance of 193.52 feet to a point being 25 feet North of the South property line of said Lot 11; thence S 87°57'01" W, parallel to the South property line of said Lot 11, a distance of 181.37 feet to a point 40 feet West of the East property line of Adams; thence N 02°03'25" W along the West right-of-way line and the West property lines of said Lots 16, 17, 18, 19, 20 and 21, a distance of 318.52 feet to the Northwest corner of said Lot 21 and the South right-of-way line of Marty; thence N 87°57'31" E, along said South right-of-way line and the North property lines of said Lot 21 and said Lot 8, a distance of 282.76 feet to the Point of Beginning.
AND, including:
All adjacent right-of-way.
EXHIBIT B

MAP OF REDEVELOPMENT DISTRICT AND PROJECT AREAS
FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT
FOR PROJECT AREA 1
OF THE
39TH AND RAINBOW REDEVELOPMENT DISTRICT

between the

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

and

RAINBOW REAL ESTATE PARTNERS LLC

DATED AS OF ________, 2012
FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT
FOR PROJECT AREA 1
OF THE
39TH AND RAINBOW REDEVELOPMENT DISTRICT

THIS AGREEMENT is entered into between the UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS, a municipal corporation organized and
existing pursuant to the laws of the State of Kansas as a consolidated city–county having all the
powers, functions and duties of a county and a city of the first class (the “Unified
Government”), and RAINBOW REAL ESTATE PARTNERS LLC, a limited liability company
organized and existing under the laws of the State of Kansas (the “Developer,” and together with
the Unified Government, the “Parties”), and is dated as of the date set forth on the cover page of
this Agreement.

RECITALS

WHEREAS, on October 29, 2009 the Unified Government created the 39th and Rainbow
Tax Increment Financing Redevelopment District (the “Redevelopment District”) pursuant to
K.S.A. 12-1770 et seq. (the “TIF Act”) and Ordinance No. O-79-09 of the Unified Government; and

WHEREAS, the Redevelopment District consists of approximately 9.8 acres generally
located in an area bounded by 39th Avenue on the North, 40th Avenue on the South, Adams Street
on the West and Rainbow Boulevard on the East, all in the City of Kansas City, Wyandotte
County, Kansas, and is legally described on Exhibit A attached hereto; and

WHEREAS, pursuant to Ordinance No. O-79-09, the Redevelopment District consists of
four redevelopment project areas which are shown on the map attached hereto as Exhibit B; and

WHEREAS, the Developer submitted to the Unified Government the Redevelopment
Project Plan for Project Areas 1 and 2 of the Redevelopment District, dated October 21, 2009 and
resubmitted on October 29, 2009 and again on January 21, 2010 (the “Original Project Plan”),
which was approved by the Unified Government on February 14, 2010, pursuant to Ordinance No.
O-18-10; and

WHEREAS, the Unified Government and the Developer entered into a Development
Agreement dated February 25, 2010 (the “Original Agreement”) to address issues related to
development of Project Areas 1 and 2 within the Redevelopment District, implementation of the
Original Project Plan and the proposed CID #1 and CID #2; and

WHEREAS, the Developer submitted to the Unified Government a new Redevelopment
Project Plan for Project Areas 1 and 2 of the Redevelopment District, dated December 17, 2010 (the
“Project Plan”), which was approved by the Unified Government on March 3, 2011, pursuant to Ordinance No. O-10-11, and which replaced the Original Project Plan in its entirety, with the twenty (20) year term of the Project Plan commencing upon UG approval of the Project Plan; and

WHEREAS, the Unified Government and the Developer entered into a new Development Agreement dated as of March 1, 2011 (the “Agreement”) to address issues related to development of Project Area 1 within the Redevelopment District, implementation of the Project Plan and the proposed CID #1 and CID #2 and to replace the Agreement in its entirety; and

WHEREAS, the Unified Government and the Developer now wish to amend the Agreement by this First Amendment.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. The definition of “Project Costs Cap” in Section 1.01 of the Agreement shall be replaced in its entirety with the following:

   “Project Costs Cap” means $7,000,000 in Redevelopment Project Costs for Project Area 1, plus Accrued Interest from the date a Redevelopment Project Cost is paid; provided however, that the aggregate amount of Redevelopment Project Costs eligible for reimbursement for Project Areas 1 and 2 shall not exceed $11,350,000 plus Accrued Interest from the date a Redevelopment Project Cost is paid. The Project Costs Cap shall not be applicable to CID Costs and shall not include bond reserves, capitalized interest, costs of issuance, the TIF Administrative Service Fee or Unified Government Expenses.

2. The Project Budget attached to the Agreement as Exhibit D shall be replaced in its entirety with the Project Budget attached hereto as Exhibit C.

3. For the sole purpose of providing sales tax exemption for the purchase of tangible personal property in conjunction with the construction of the Project, and the purchase of equipment and machinery for installation at the Project, the Unified Government shall issue Industrial Revenue Bonds for the Project.

4. The definition of “Opening Date” in Section 1.01 of the Agreement shall be deleted.

5. The definition of “Traffic Improvements” in Section 1.01 of the Agreement shall be deleted.

6. The deadline set forth in Section 2.03 and Exhibit E of the Agreement for Developer’s acquisition of the real property in Project Area 1 needed to construct the Project shall be July 1, 2012.
7. Section 6.04(A)(6) of the Agreement shall be deleted.

8. Capitalized words used in this First Amendment shall have the meanings set forth in the Recitals to this Agreement or, to the extent not defined in the Recitals, they shall have the meanings set forth in the Agreement.

9. The Parties agree to execute and deliver an original of this First Amendment Agreement and any amendments or supplements hereto, in proper form for recording and/or indexing in the appropriate land or governmental records, including, but not limited to, recording in the real estate records of Wyandotte County, Kansas. This Agreement shall be promptly recorded by the Developer at Developer’s cost after execution, and proof of recording shall be provided to the Unified Government.

[No further text on this page]
THIS AGREEMENT has been executed as of the date first hereinabove written.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ______________________________
    Mayor/CEO

(Seal)

ATTEST:

By: ______________________________
    Unified Government Clerk

APPROVED AS TO FORM:

By: ______________________________
    Deputy Chief Counsel

ACKNOWLEDGEMENT

STATE OF KANSAS )
      ) ss.
COUNTY OF WYANDOTTE )

BE IT REMEMBERED, that on this ___ day of __________, 2012, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Joe Reardon, Mayor/CEO of the Unified Government of Wyandotte County/Kansas City, Kansas, a municipal corporation organized and existing pursuant to the laws of the State of Kansas as a consolidated city–county having all the powers, functions and duties of a county and a city of the first class, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said Unified Government, and such person duly acknowledged the execution of the same to be the free act and deed of said Unified Government.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

________________________________

NOTARY PUBLIC

My Commission Expires:

________________________________
[SEAL]
THIS AGREEMENT has been executed as of the date first hereinabove written.

RAINBOW REAL ESTATE PARTNERS LLC,
A Kansas limited liability company

By: 39Rainbow Real Estate, Inc.
Its: Manager

By

Owen Buckley, CEO

ACKNOWLEDGMENT

STATE OF ___________ )
) SS.
COUNTY OF ___________ )

On ______________, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Owen Buckley, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument as the CEO of 39 RAINBOW REAL ESTATE, INC., THE MANAGER OF RAINBOW REAL ESTATE PARTNERS, LLC, and acknowledged to me that he executed the same in his authorized capacity, and that by such person’s signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

____________________________
Notary Public

My commission expires:
EXHIBIT A

LEGAL DESCRIPTION OF REDEVELOPMENT DISTRICT

Overall Redevelopment District
A tract of land located in the Northeast Quarter of Section 34 and the Northwest Quarter of Section 35, all in Township 11 South, Range 25 East of the Sixth Principal Meridian, in Kansas City, Wyandotte County, Kansas being more particularly described as follows:
Commencing at the Northeast corner of the Northeast Quarter of said Section 34; Thence S 87°55'05" W along the North line of said Section 34 a distance of 71.60 feet; Thence S 31°46'52" E a distance of 194.79 feet; Thence S 02°02'59" E along the East right-of-way line of Rainbow Boulevard and its prolongation North of 39th Street, a distance of 181.46 feet to the Point Of Beginning; Thence continuing S 02°02'59" E along said East right-of-way line, a distance of 1006.98 feet; Thence S 87°57'01" W along the South right-of-way line of 40th Avenue and its prolongations East and West, a distance of 382.71 feet to a point on the West right-of-way line of Adams Street; Thence N 02°03'25" W along the West right-of-way line of Adams Street and its prolongations North and South, a distance of 1007.04 feet; Thence N 87°57'31" E a distance of 382.82 feet to the Point of Beginning.
AND, including:
All adjacent right-of-way.

Project Area 1
A tract of land being all of Lots 1 through 7 and Lots 22 through 28, Malvern Hill, a subdivision located in the Northeast Quarter of Section 34, in Township 11 South, Range 25 East of the Sixth Principal Meridian, in Kansas City, Wyandotte County, Kansas being more particularly described as follows:
Beginning at the Northeast corner of Lot 1, Malvern Hill; Thence S 02°02'59" E along the East line of Lots 1 through 7, a distance of 368.52 feet; Thence S 87°57'01" W along the South line of lots 7 and 22 a distance of 282.78 feet; Thence N 02°03'25" W along the West line of lots 22 through 28 a distance of 368.52 feet; Thence N 87°57'31" E along the North line of lots 28 and 1 a distance of 282.82 feet to the Point of Beginning.
AND, including:
All adjacent right-of-way.
EXHIBIT B

MAP OF REDEVELOPMENT DISTRICT AND PROJECT AREAS
EXHIBIT C

PROJECT BUDGET
RESOLUTION NO. R-_______-12

A RESOLUTION APPROVING THE FIRST AMENDMENT OF THE DEVELOPMENT AGREEMENTS FOR PROJECT AREAS 1 AND 2 OF THE 39TH AND RAINBOW TIF DISTRICT AND AUTHORIZING THE EXECUTION OF SUCH AMENDMENTS.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”) desires to promote, stimulate and develop the general and economic welfare of Kansas City, Kansas and the state of Kansas (the “State”) and to assist in the development and redevelopment of eligible areas within Kansas City, Kansas, thereby promoting the general welfare of the citizens of the State and the Unified Government, by acquiring property and providing for the development and redevelopment thereof and the financing relating thereto; and

WHEREAS, pursuant to the provisions of K.S.A. 12-1770 et seq., as amended (the “Act”), the Unified Government is authorized to adopt redevelopment project plans within established redevelopment districts, as said terms are defined in the Act, and to finance all or a portion of redevelopment project costs from tax increment revenues and various fees collected within such redevelopment district, revenues derived from redevelopment projects, revenues derived from local sales taxes, other revenues described in the Act, or a combination thereof or from the proceeds of full faith and credit tax increment bonds of the Unified Government or special obligation tax increment bonds of the Unified Government payable from such described revenues; and

WHEREAS, the Unified Government on October 29, 2009, adopted Ordinance No. O-79-09, which created the 39th and Rainbow District within Kansas City, Kansas (the “City”), the boundaries of which were defined in said Ordinance (the “Redevelopment District”) and containing four redevelopment project areas; and

WHEREAS, on December 17, 2010 a Redevelopment Project Plan for Project Areas 1 and 2 of the Redevelopment District with an amended version dated on December 17, 2010 (“Redevelopment Project Plan”) was filed with the Unified Government Clerk; and

WHEREAS, on January 18, 2011 the Planning Commission of the Unified Government made a finding that the Redevelopment Project Plan was consistent with the intent of the City's comprehensive plan for the development of the City; and

WHEREAS, a copy of the Redevelopment Project Plan, and all amendments thereto, was delivered by the Unified Government to the Board of Education of Unified School District No. 500; and

WHEREAS, the Governing Body adopted Resolution No. R-4-11 on January 20, 2011 calling for a public hearing considering the adoption of the Redevelopment Project Plan to be held by the Governing Body on March 3, 2011; and

WHEREAS, notice of the public hearing on adoption of the Redevelopment Project Plan was given as required by the Act; and

WHEREAS, the public hearing was held and closed on March 3, 2011, with presentation of the Redevelopment Project Plan and an opportunity for all interested persons to be heard regarding the proposed Redevelopment Project Plan and on March 3, 2011 the Unified Government adopted Ordinance No. O-10-11 approving the Redevelopment Project Plan and Development Agreement for Project Area 1 and Development Agreement for Project Area 2; and
WHEREAS, the Unified Government and Developer desire to amend the Development Agreement for Project Area 1 and the Development Agreement for Project Area 2;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, AS FOLLOWS:

Section 1. Approval of Amendments. The governing body of the Unified Government hereby approves the First Amendment to Development Agreement for Project Area 1 and the First Amendment to Development Agreement for Project Area 2 in substantially the forms presented to and reviewed by the Board of Commissioners (a copy of each of the First Amendments, upon execution thereof, shall be filed in the office of the Unified Government Clerk), with such changes therein as shall be approved by the officers of the Unified Government executing such documents, such officers’ signatures thereon being conclusive evidence of their approval thereof:

Section 2. Further Action. The Mayor/CEO, County Manager, Unified Government Clerk and other officials and employees of the Unified Government, including the County Attorney, and Gilmore & Bell, P.C., Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this resolution.

Section 3. This Resolution shall take effect and be in full force immediately after its adoption by the governing body.

ADOPTED by the governing body of the Unified Government this ________ day of ___________, 2012.

________________________________________________________________________
Mayor/CEO
(SEAL)

ATTEST:

________________________________________________________________________
Unified Government Clerk
### Total Project Investment

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<tr>
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<th>Proposed</th>
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### Public Investment (TIF Cap)

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### Public Investment %

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<td>$23,287</td>
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### UG Property Tax payments during Incentive Term (20 years)

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### 39TH AND RAINBOW

#### ESTIMATED BUDGET - PROJECT AREA 1 (NORTH PROJECT)

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<th>CID Reimbursable:</th>
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<td>Division 6 - Woods &amp; Plastics</td>
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<td>Division 7 - Thermal &amp; Moisture Protection</td>
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<td>Division 9 - Finishes</td>
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<td>Division 11 - Equipment</td>
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<td>Division 12 - Furnishings</td>
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<td>Division 13 - Special Construction</td>
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<td>Division 14 - Conveying Systems</td>
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<td>Division 15 - Mechanical</td>
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<td>Fire Protection</td>
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<td>Plumbing</td>
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<td>Division 16 - Electrical</td>
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<td><strong>Total Direct Costs:</strong></td>
<td><strong>$11,559,959</strong></td>
<td><strong>$2,985,500</strong></td>
<td><strong>$1,660,000</strong></td>
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| Building Permit Fees  | $105,907 | $33,734 | $0 |
| Sales Tax on Materials | $0      | $0 | $0 |
| Contractor’s Liability Insurance | $52,742  | $16,800 | $0 |
| Builder’s Risk Insurance | $0      | $0 | $0 |
| Payment & Performance Bond | $73,953  | $22,568 | $0 |
| Contractor’s Fee      | $507,138 | $0 | $200,000 |
| **Total Construction Budget:** | **$12,299,699** | **$3,058,602** | **$1,860,000** |

| 2nd Floor Tenant Build-Out: | $5,043,593 | $0 | $0 |
| 3rd & 4th Floor Tenant Build-Out: | $4,972,500 | $0 | $0 |
| **Subtotal Construction Costs:** | **$22,315,792** | **$3,058,602** | **$1,860,000** |
| Construction Contingency | $1,115,790 | $150,000 | $0 |
| Retail Space White Box Allowance | $415,680  | $0 | $0 |
| Retail Space Tenant Improvements Allowance | $207,840  | $0 | $1,000,000 |
| **Total Project Hard Costs:** | **$24,055,102** | **$3,208,602** | **$2,860,000** |
## DEVELOPMENT SOFT COSTS:

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<td><strong>Architecture &amp; Engineering Fees</strong></td>
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<td>Civil Engineering</td>
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<td>Architecture &amp; Engineering (White Box Interiors)</td>
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</table>
### Owner Direct Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>39th &amp; Rainbow Turn Lane &amp; Signal</th>
<th>Rainbow &amp; Marty Signal Improvements</th>
<th>Sidewalks &amp; Curb to East of Site</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost</td>
<td>$225,000</td>
<td>$75,000</td>
<td>$75,000</td>
</tr>
<tr>
<td>Direct Costs</td>
<td>$150,000</td>
<td>$50,000</td>
<td>$50,000</td>
</tr>
<tr>
<td>Design Management Services</td>
<td>0.75%</td>
<td>$164,649</td>
<td>$0</td>
</tr>
<tr>
<td>Construction Management Services</td>
<td>0.35%</td>
<td>$76,836</td>
<td>$0</td>
</tr>
<tr>
<td>Project Accounting Services</td>
<td>0.50%</td>
<td>$110,036</td>
<td>$0</td>
</tr>
<tr>
<td>Financing &amp; Investment Services</td>
<td>1.00%</td>
<td>$219,533</td>
<td>$0</td>
</tr>
<tr>
<td>Marketing &amp; Advertising Services</td>
<td>0.15%</td>
<td>$32,930</td>
<td>$5,000</td>
</tr>
<tr>
<td>Owner's Interest Expense During Pursuit</td>
<td>$341,945</td>
<td>$0</td>
<td>$200,000</td>
</tr>
<tr>
<td>Travel, Project Expenses &amp; Meals</td>
<td>0.12%</td>
<td>$28,866</td>
<td>$0</td>
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<tr>
<td>Total Owner Direct Costs</td>
<td>$1,349,795</td>
<td>$250,000</td>
<td>$385,000</td>
</tr>
</tbody>
</table>

### Furniture, Fixtures & Equipment

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Direct Costs</th>
<th>Reimbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Movable</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>TV/Computers</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Office Supply Inventory</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Kitchen Equipment</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Telephone System &amp; Security</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Artwork &amp; Common Areas</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Total Furniture, Fixtures &amp; Equipment</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

### Financing Costs & Interest

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Direct Costs</th>
<th>Reimbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Construction/Development Loan Interest</td>
<td>$1,485,000</td>
<td>$0</td>
<td>$250,000</td>
</tr>
<tr>
<td>Closing Costs/Origination Fees</td>
<td>0.50%</td>
<td>$90,000</td>
<td>$0</td>
</tr>
<tr>
<td>Lender’s Inspection Fees</td>
<td>0.25%</td>
<td>$45,000</td>
<td>$0</td>
</tr>
<tr>
<td>TIF Loan/Bond Interest Expense</td>
<td>0.50%</td>
<td>$317,058</td>
<td>$0</td>
</tr>
<tr>
<td>TIF Loan/Bond Counsel Fees &amp; Expenses</td>
<td>0.50%</td>
<td>$45,000</td>
<td>$0</td>
</tr>
<tr>
<td>Title &amp; Escrow Contingency</td>
<td>0.50%</td>
<td>$90,000</td>
<td>$0</td>
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<tr>
<td>Total Financing Costs</td>
<td>$1,892,058</td>
<td>$0</td>
<td>$0</td>
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</tbody>
</table>

### Development & Management Fees

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Direct Costs</th>
<th>Reimbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developer’s Overhead &amp; Management</td>
<td>5.50%</td>
<td>$1,207,427</td>
<td>$200,000</td>
</tr>
<tr>
<td>Developer’s Profit</td>
<td>2.00%</td>
<td>$439,064</td>
<td>$60,000</td>
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<tr>
<td>Total Development &amp; Management Fees</td>
<td>$1,646,491</td>
<td>$260,000</td>
<td></td>
</tr>
</tbody>
</table>

### Total Development Soft Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Direct Costs</th>
<th>Reimbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Development Soft Costs</td>
<td>$8,877,971</td>
<td>$310,000</td>
<td>$798,000</td>
</tr>
</tbody>
</table>

### Total Project Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Direct Costs</th>
<th>Reimbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Project Costs</td>
<td>$37,536,048</td>
<td>$7,767,645</td>
<td>$3,658,000</td>
</tr>
</tbody>
</table>

### NOTE

The Development Agreement authorizes reimbursement of any TIF Redevelopment Project Cost and CID Project Cost to the full extent permitted under the TIF Act and CID Act, respectively. As such, Developer reserves the right to allocate/reallocate TIF Redevelopment Project Costs and CID Project Costs among eligible line items differently than indicated above. In addition, costs which are eligible to be reimbursed under both the TIF Act and CID Act may be reimbursed by both TIF and CID revenue so long as the total reimbursed from TIF and CID combined does not exceed the total for such cost.
### Staff Request for Commission Action

**Type:** Standard  
**Committee:** Economic Development and Finance Committee

**Date of Standing Committee Action:** 4/2/2012  
(If none, please explain):

**Proposed for the following Full Commission Meeting Date:**  
**Confirmed Date:** 4/5/2012

**Changes Recommended By Standing Committee (New Action Form required with signatures)**

| Date: 3/29/2012 | Contact Name: George Brajkovic | Contact Phone: x5749 | Contact Email: gbrajkovic@wycokck.org | Ref:  
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Department / Division: Economic Development</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
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</table>

**Item Description:**

The Metropolitan Avenue Redevelopment District was established via O-15-11 on November 17, 2011. Argentine Commercial, Inc. (Developer) is proposing a $4.5M redevelopment for Project Area 1 of the District; consisting of an approximate 15,000 square foot grocery store, an approximate 9,075 square foot retail outlot, and an already constructed 8,500 square foot Dollar General. The Developer is requesting an incentive package to include TIF increment on both property and sales tax, as well as a 1% CID.

Public Hearings for both CID and TIF Plan consideration have been called for April 5, 2012.

Following review by the Ethics Administrator, Argentine Commercial, Inc. has replaced ANDA as the Developer for this project.

**Action Requested:**

Approve Ordinance creating CID.

Approve Ordinance for TIF Plan and Development Agreement.

**Publication Required**

**Budget Impact:** (if applicable)

| Amount: $ |
| Source: |
| ☑ Included In Budget  
| ☑ Other (explain) Policy decision. UG retains the EMS and Dedicated sales tax portion of the local sales tax. Remaining local sales and property tax increment pledged to the Developer. |

---
Metropolitan Avenue Redevelopment District

Development Agreement for Project Area 1

Summary

04/02/12

Parties: Unified Government (UG) and Argentine Commercial, Inc. (Developer)

Project Description: Construction of a 15,000 sq ft grocery store and 9000 sq ft retail area to accompany the existing 8500 sq ft Dollar General.


Project Budget: $4.5M consisting of $275K land; $2.9M Construction; $945K soft costs and $400K contingency. The Developer has secured loans of $2.4M and grants of $622K.

Incentives Provided: Pay-as-you-go Community Improvement District (CID) & Tax Increment Financing (TIF) with respect to both property taxes and sales tax. Over their respective terms the CID is anticipated to generate revenues of $600K (13% of project budget) and the TIFs are anticipated to generate $2.25M (50% of project budget).

CID: 1% additional sales tax charged within the district for a 22 year period. Revenues generated are used to reimburse eligible CID costs incurred by Developer and approved by the UG. (Additional detail to be provided as part of creation of the CID).

Property Tax TIF: 20 year period. Base Value of $51,550 is the value of the undeveloped land. The increment is the value after construction less the base value and less 21.5 mils dedicated to the state and school districts. UG controls disbursements which can only be used for TIF eligible redevelopment project costs.

Sales Tax TIF: 20 year period. Base is established at $0. The increment is 1% of City and .94% of County sales tax generated within Project Area 1.

UG retains 1% of TIF revenues as administrative fee.

Prevailing Wage & LBE/MBE/WBE: Applicable to construction only. Prevailing wage paid on all aspects of construction undertaken by Developer. LMW goals for construction established in Development Agreement. (18% L; 15% M & 7%W)

Further Action: April 5, 2012 Commission Meeting. Proposed date for Public Hearing on CID & TIF and approval of Development Agreement.
### PROJECT COSTS

#### Land Costs

Property Purchase
2.200 acres @ 95,832 sq. ft. | $275,000

**Total Land Cost** | $275,000

#### Construction Costs

<table>
<thead>
<tr>
<th>Category</th>
<th>Gross SF</th>
<th>Rentable SF</th>
<th>Usable SF</th>
<th>Shell Cost PSF</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infrastructure &amp; Building Construction</td>
<td>23,987</td>
<td>23,987</td>
<td>23,897</td>
<td>$120.00</td>
<td>$2,878,440</td>
</tr>
<tr>
<td><strong>Total Construction Cost</strong></td>
<td>23,987</td>
<td>23,987</td>
<td>23,897</td>
<td></td>
<td>$2,878,440</td>
</tr>
</tbody>
</table>

#### Soft Costs

<table>
<thead>
<tr>
<th>Category</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Testing &amp; Inspections</td>
<td>$15,000</td>
</tr>
<tr>
<td>Engineering</td>
<td>$30,000</td>
</tr>
<tr>
<td>Architectural</td>
<td>$3.75 /sf</td>
</tr>
<tr>
<td>Interim Financing</td>
<td>$89,951</td>
</tr>
<tr>
<td>Land</td>
<td>$275,000</td>
</tr>
<tr>
<td>Construction</td>
<td>$2,878,440</td>
</tr>
<tr>
<td>Land</td>
<td>6.00%</td>
</tr>
<tr>
<td>Construction</td>
<td>6.00%</td>
</tr>
<tr>
<td>12</td>
<td></td>
</tr>
<tr>
<td>$16,500</td>
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</tr>
<tr>
<td>$172,706</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
<td>$3,153,440</td>
</tr>
<tr>
<td>Construction Loan Fee</td>
<td>1.00%</td>
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<tr>
<td>Mortgage Fee</td>
<td>1.00%</td>
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<tr>
<td>Legal Fees</td>
<td></td>
</tr>
<tr>
<td>$150,000</td>
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<tr>
<td>Closing Costs</td>
<td>$0.75 /sq,ft</td>
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<tr>
<td>$17,990</td>
<td></td>
</tr>
<tr>
<td>Taxes During Construction</td>
<td></td>
</tr>
<tr>
<td>$16,000</td>
<td></td>
</tr>
<tr>
<td>Brokerage Comm (Land)</td>
<td>$15,000</td>
</tr>
<tr>
<td>Brokerage Comm (Lease)</td>
<td>$43,200</td>
</tr>
<tr>
<td>Inspecting Architect</td>
<td>$12,000</td>
</tr>
<tr>
<td>Construction Mgmt Fee</td>
<td>3%</td>
</tr>
<tr>
<td>Developer's Overhead</td>
<td>3%</td>
</tr>
<tr>
<td><strong>Total Soft Costs</strong></td>
<td>$821,083</td>
</tr>
</tbody>
</table>

#### Total Costs

<table>
<thead>
<tr>
<th>Category</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Project Costs</td>
<td>$3,974,523</td>
</tr>
<tr>
<td>Contingency</td>
<td>10.00%</td>
</tr>
<tr>
<td><strong>Total Project Costs</strong></td>
<td>$4,371,976</td>
</tr>
</tbody>
</table>
DEVELOPMENT AGREEMENT
FOR PROJECT AREA 1
OF THE
METROPOLITAN AVENUE REDEVELOPMENT DISTRICT

between the

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

and

ARGENTINE COMMERCIAL, INC.

DATED AS OF _______, 2012
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DEVELOPMENT AGREEMENT
FOR PROJECT AREA 1
OF THE
METROPOLITAN AVENUE REDEVELOPMENT DISTRICT

THIS AGREEMENT is entered into between the UNITED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, a municipal corporation organized and existing pursuant to the laws of the State of Kansas as a consolidated city–county having all the powers, functions and duties of a county and a city of the first class (the “Unified Government”), and ARGENTINE COMMERCIAL, INC., a Kansas corporation (the “Developer,” and together with the Unified Government, the “Parties”), and is dated as of the date set forth on the cover page of this Agreement.

RECITALS

WHEREAS, on November 17, 2011, the Unified Government created the Metropolitan Avenue Redevelopment District (the “Redevelopment District”) pursuant to K.S.A. 12-1770 et seq. (the “TIF Act”) and Ordinance No. O-51-11 of the Unified Government; and

WHEREAS, the Redevelopment District consists of approximately 26.5 acres generally located in an area bounded by Metropolitan Avenue on the South, S. 24th Street on the West, railroad tracks on the North, and 18th Street Expressway on East, all in the City of Kansas City, Wyandotte County, Kansas, and is legally described on Exhibit A attached hereto; and

WHEREAS, pursuant to Ordinance No. O-51-11, the Redevelopment District consists of two redevelopment project areas which are shown on the map attached hereto as Exhibit B; and

WHEREAS, the Developer submitted to the Unified Government a Redevelopment Project Plan for Project Area 1 of the Redevelopment District, dated January 25, 2012 (the “Project Plan”), which was approved by the Unified Government on ____________, pursuant to Ordinance No. O-____-11; and

WHEREAS, the Unified Government and the Developer desire to enter into this Development Agreement (the “Agreement”) to address issues related to development of Project Area 1 within the Redevelopment District, and implementation of the Project Plan and the proposed CID.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Rules of Construction. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Agreement.

A. The terms defined in this Article include the plural as well as the singular.

B. All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles.
C. All references herein to “generally accepted accounting principles” refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.

D. All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as originally executed.

E. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

F. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

G. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section. The provisions of the Project Plan, and such resolutions and ordinances of the Unified Government introduced or adopted by the Unified Government Commission which designate the Redevelopment District and the Project Area and adopt the Project Plan, and the provisions of the TIF Act, as amended, are hereby incorporated herein by reference and made a part of this Agreement to the extent such relate to the development of Project Area 1, subject in every case to the specific terms hereof.

Section 1.02. Definitions of Words and Terms. Capitalized words used in this Agreement shall have the meanings set forth in the Recitals to this Agreement or they shall have the following meanings:

“Action” has the meaning set forth in Section 8.01.

“Agreement” means this Agreement, as amended from time to time.

“Applicable Law and Requirements” means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by Governmental Authorities.

“Base Sales Tax Revenues” means $0 actually received by the Unified Government and generated from the City of Kansas City, Kansas sales tax, the Wyandotte County, Kansas sales tax and the City of Kansas City, Kansas transient guest tax as illustrated on Exhibit J attached hereto solely by way of example.

“Certificate of Project Costs” means a certificate relating to Project Costs in substantially the form attached hereto as Exhibit C.

“Certificate of Substantial Completion” means a certificate evidencing Substantial Completion of the Project, in substantially the form attached hereto as Exhibit D.

“CID” means the community improvement district to be considered by the Unified Government after receipt of a proper creation petition in accordance with the CID Act for certain portions of Project Area 1, as shown on Exhibit I.
“CID Act” means the community improvement district act contained in K.S.A. 12-17,140 et seq.

“CID Administrative Service Fee” means a fee payable to the Unified Government provided by Section 6.05B hereof, equal to 1% of all CID Revenues.

“CID Costs” means those costs of the “project” as defined in the CID Act and approved by the Unified Government.

“CID Revenue Fund” means the Metropolitan Avenue CID Project Area 1 Revenue Fund, created pursuant to the CID Act and Section 6.05 hereof.

“CID Revenues” means the CID Sales Tax and the CID Special Assessments, if any.

“CID Sales Tax” means the 1% community improvement district sales tax to be imposed within the CID, pursuant to the CID Act.

“CID Term” means the period of time ending twenty-two (22) years following the first collection of the CID Sales Tax.

“City” means the City of Kansas City, Kansas.

“Construction Plans” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Project, together with all supplements, amendments or corrections, submitted by the Developer and approved by the Unified Government in accordance with this Agreement.

“County” means Wyandotte County, Kansas.

“Developer” means Argentine Commercial, Inc., a Kansas corporation organized and existing under the laws of the State of Kansas, and any successors and assigns approved pursuant to this Agreement.

“Developer Event of Default” means any event or occurrence defined in Section 9.01.

“Developer Representative” means Korb W. Maxwell or such other person or persons at the time designated to act on behalf of the Developer in matters relating to this Agreement as evidenced by a written certificate furnished to the Unified Government containing the specimen signature of such person or persons and signed on behalf of the Developer.

“Event of Default” means any event or occurrence as defined in Article IX of this Agreement.

“Excusable Delays” means any delay beyond the reasonable control of the Party affected, including any delays to the Project Schedule, caused by damage or destruction by fire or other casualty, power failure, strike, shortage of materials, unavailability of labor, delays in the receipt of Permitted Subsequent Approvals as a result of unreasonable delay on the part of the applicable Governmental Authorities, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or abnormal duration, tornadoes, the inability of Developer to locate purchasers, tenants, or users in connection with any portion of the Project, any other reasonable hindrance to Developer’s development of the Project provided such hindrance is not caused by Developer, and any other events or conditions, which shall include but not be limited to any
litigation interfering with or delaying the construction of all or any portion of the Project in accordance with this Agreement, which in fact prevents the Party so affected from discharging its respective obligations hereunder.

“Governmental Approvals” means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, architectural review or other subdivision, zoning or similar approvals required for the implementation of the Project and consistent with the Project Plan, the Site Plan, and this Agreement.

“Governmental Authorities” means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any type of any governmental unit (federal, state or local) whether now or hereafter in existence.

“Incremental Tax Revenues” means the Real Property Tax Revenues and the Sales Tax Revenues, as shown on Exhibit J hereto solely by way of example.

“Parties” means the Developer and the Unified Government and their successors and assigns.

“Pay As You Go” has the meaning set forth in Section 3.02.

“Permitted Subsequent Approvals” means the zoning and building permits and other governmental approvals customarily obtained prior to construction which have not been obtained on the date that this Agreement is executed, which the Unified Government or other governmental entity has not yet determined to grant.

“Plans” means Site Plans, Construction Plans and all other Governmental Approvals necessary to construct the Project in accordance with Unified Government code, applicable laws of Governmental Authorities and this Agreement.

“Project” means the project for Project Area 1 described in the Project Plan.

“Project Area 1” means Project Area 1 within the Redevelopment District, approved by Ordinance No. O-79-09, the boundaries of Project Area 1 which are generally shown on the map attached as in Exhibit B hereto.

“Project Budget” means the project budget as set forth in Exhibit F hereto.

“Project Costs” means Redevelopment Project Costs and CID Costs, as applicable.

“Project Plan” means the Redevelopment Project Plan for Project Area 1 of the Metropolitan Avenue Tax Increment Financing District, dated January 25, 2012, which was approved by the Unified Government on ____________ pursuant to Ordinance No. O-____-11.

“Project Schedule” means the schedule of completion of the Project shown on Exhibit E.

“Real Property Tax Revenues” means the incremental increase in real property taxes within Project Area 1 during the TIF Term.

“Redevelopment District” means the Metropolitan Avenue Tax Increment Financing Redevelopment District, created by the Unified Government on November 17, 2011 by the adoption of Ordinance No. O-51-11, pursuant to the TIF Act, and legally described on Exhibit A hereto.
“Redevelopment Project Costs” means “redevelopment project costs” as defined in the TIF Act and as set forth in the Project Plan and this Agreement, including all necessary reserves, capitalized interest and costs of issuance; provided, however that property acquisition costs must be the result of arms length contracts.

“Replacement Value” has the meaning set forth in Section 8.02.

“Sales Tax Revenues” means revenue from the following year over and above the Base Sales Tax Revenue: (i) 1.00% of the revenue received by the Unified Government from the City of Kansas City, Kansas 1.625% general sales tax within Project Area 1 plus, (ii) 0.94% of the revenue received by the Unified Government from the Wyandotte County 1.00% general sales tax within Project Area 1. Such is shown on Exhibit J hereto solely by way of example.

“Site Plan” means the final site plan for Project Area 1 submitted by the Developer to the Unified Government and approved by the Unified Government pursuant to applicable Unified Government ordinances, regulations and Unified Government code provisions, which may be approved as a whole or approved in phases or stages.

“Substantial Completion” has the meaning set forth in Section 4.07.

“Tax Increment Fund” means the Metropolitan Avenue Project Area 1 Tax Increment Fund, created pursuant to the TIF Act and Section 6.02 hereof.

“TIF Act” means the Kansas Tax Increment Financing District Act, K.S.A. 12-1770 et seq., as amended and supplemented from time to time.

“TIF Administrative Service Fee” means a fee payable to the Unified Government provided by Section 6.03 hereof, equal to 1% of all Incremental Tax Revenues.

“TIF Term” means that period of time equal to twenty (20) years beginning on the date the ordinance approving the Project Plan becomes effective.

“Unified Government” means the Unified Government of Wyandotte County/Kansas City, Kansas.

“Unified Government Event of Default” means any event or occurrence defined in Section 9.02.

“Unified Government Expenses” means the expenses described in Section 6.01.

“Unified Government Representative” means the Mayor/CEO or County Administrator, and such other person or persons at the time designated to act on behalf of the Unified Government in matters relating to this Agreement.

“Unified Government Indemnified Parties” has the meaning set forth in Section 8.01.

ARTICLE II

REPRESENTATIONS AND WARRANTIES
Section 2.01  Representations of Unified Government. The Unified Government makes the following representations and warranties, which are true and correct on the date hereof:

A. Due Authority. The Unified Government has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and this Agreement has been duly and validly authorized and approved by all necessary Unified Government proceedings, findings and actions. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Unified Government, enforceable in accordance with its terms.

Section 2.02. Representations of the Developer.

The Developer makes the following representations and warranties, which are true and correct on the date hereof:

A. Due Authority. The Developer has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

ARTICLE III

REIMBURSEMENT OF PROJECT COSTS

Section 3.01. Project Costs, Generally. The Unified Government agrees to reimburse the Developer for Redevelopment Project Costs and to reimburse CID Costs, all subject to the terms of this Agreement.

Section 3.02. Unified Government’s Obligation to Reimburse Developer.

A. Obligation to Reimburse. Subject to the terms of this Agreement and the conditions in this Section, the Unified Government agrees to reimburse Developer for Redevelopment Project Costs and to reimburse CID Costs. Subject to available revenues, Developer shall be reimbursed for Project Costs as funds are collected in the Tax Increment Fund and/or the CID Fund as funds are collected in the CID Revenue Fund (the “Pay As You Go”). The Parties agree that all reimbursement to the Developer shall be made only on a Pay As You Go basis.

B. Timing of Reimbursement. The Unified Government shall have no obligation to reimburse Developer until funds are available in the Tax Increment Fund or the CID Revenue Fund, as applicable.

C. Source of Reimbursement. The Unified Government shall make payments from the Tax Increment Fund and/or CID Revenue Fund, as applicable, on a Pay As You Go basis in the order of priority set forth in Section 6.02 and Section 6.05.

Section 3.03. Developer Reimbursement Process.

A. All requests for reimbursement of Project Costs and CID Costs shall be made in a Certificate of Project Costs in substantial compliance with the form attached hereto as Exhibit C. Requests for
reimbursement shall be submitted by the Developer to the Unified Government not more often than monthly. The Developer shall provide itemized invoices, real estate contracts, receipts or other information reasonably requested, if any, to confirm that any such cost has been paid and qualifies as a Project Cost, and shall further provide a summary sheet detailing the costs requested to be reimbursed. Such summary sheet shall show the date such cost was paid, the payee, a brief description of the type of cost paid, and the amount paid. The Developer shall provide such additional information as reasonably requested by the Unified Government to confirm that such costs have been paid and qualify as Project Costs.

B. The Unified Government reserves the right to have its engineer or other agents or employees inspect all work in respect of which a Certificate of Project Costs is submitted, to examine the Developer’s and others’ records relating to all expenses related to the invoices to be paid, and to obtain from such parties such other information as is reasonably necessary for the Unified Government to evaluate compliance with the terms hereof.

C. The Unified Government shall have 30 calendar days after receipt of any Certificate of Project Costs to review and respond by written notice to the Developer. If the submitted Certificate of Project Costs and supporting documentation demonstrates that (1) the request relates to the Project Costs; (2) the expense has been paid; (3) Developer is not in material default under this Agreement; and (4) there is no fraud on the part of the Developer, then the Unified Government shall approve the Certificate of Project Costs and make, or cause to be made, reimbursement from the Tax Increment Fund or CID Revenue Fund, in accordance with this Section 3.03 and Article VI hereof, within thirty (30) days of the Unified Government’s approval of the Certificate of Project Costs. If the Unified Government reasonably disapproves of the Certificate of Project Costs, the Unified Government shall notify the Developer in writing of the reason for such disapproval within such 30-day period. Approval of the Certificate of Project Costs will not be unreasonably withheld.

Section 3.04. Right to Inspect and Audit. The Developer agrees that, up to one year after completion of the Project, the Unified Government, with reasonable advance notice and during normal business hours, shall have the right and authority to review, audit, and copy, from time to time, all the Developer’s books and records relating to the Project Costs (including, but not limited to, all general contractor’s sworn statements, general contracts, subcontracts, material purchase orders, waivers of lien, paid receipts and invoices).

ARTICLE IV
THE PROJECT

Section 4.01. Scope of the Project. Subject to the terms and conditions of the Project Plan and this Agreement, the Developer shall use reasonable efforts to construct, or cause to be constructed, the Project in accordance with the Project Plan and the Project Schedule.

Section 4.02. Project Schedule.

A. Within a reasonable period following execution of this Agreement and receipt of all applicable Governmental Approvals, the Developer shall commence or cause to be commenced and shall promptly thereafter diligently prosecute to completion the construction of the Project generally in accordance with the Project Schedule attached hereto as Exhibit E. The completion of the Project shall be evidenced by the Unified Government delivery of a Certificate of Substantial Completion in accordance with Section 4.07 of this Agreement.

ARTICLE IV
B. The Unified Government agrees to timely process and review all Plans and consider the issuance of all necessary permits and other approvals, including building permits, rezoning approvals, preliminary and final plat approval, and all other permits or approvals which are required for the Developer and businesses within the Redevelopment District to construct the Project. To the extent the Unified Government determines that any Plans or other documents or requests submitted by the Developer for the Unified Government’s approval are unacceptable, the Unified Government shall provide a written description detailing the portions of the Plans or documents that are unacceptable.

C. The Parties recognize and agree that market and other conditions may affect the Project Schedule. Therefore, the Project Schedule is subject to change and/or modification, with the prior written approval of Unified Government, which shall not be unreasonably conditioned, delayed, or withheld, upon a showing by Developer of changed or adverse market or other conditions.

Section 4.03. Project Budget. The Project shall be constructed substantially in accordance with the Project Budget attached as Exhibit F hereto, it being acknowledged by the Parties that the Budget has been prepared prior to planning, zoning and plat approvals and prior to final bids based on said approvals.

Section 4.04. Design of Project.

A. In order to further the development of the Redevelopment District, the Unified Government hereby authorizes the Developer to construct, or cause to be constructed, the Project according to the Plans approved by the Unified Government.

Section 4.05. Project Zoning, Planning, Platting and Construction.

A. Conformance with Project Plan. Project Area 1 shall be developed, and the Project constructed, in accordance with this Agreement and the Project Plan submitted by the Developer and approved by the Unified Government. No “substantial changes,” as defined by K.S.A. 12-1770a, shall be made to the Project, except as may be mutually agreed upon, in writing, between the Developer and the Unified Government, it being the intended purpose of the Parties that the layout and size of particular buildings, parking facilities and private drives will likely change through the planning, zoning and marketing process. Any “substantial changes” shall be made only in accordance with the TIF Act.

B. Site Plan. The Developer shall prepare and submit a Site Plan for Project Area 1 to the Unified Government for review and approval pursuant to the Unified Government Code. The Site Plan shall be in conformance with the Project Plan and this Agreement.

C. Zoning, Planning and Platting. The Unified Government agrees to consider and act on any zoning, planning and platting applications by the Developer in due course pursuant to established policies and procedures. The Developer shall diligently pursue approval of such applications.

D. Antidiscrimination During Construction. The Developer, for itself, its successors and assigns, and any contractor with whom the Developer has contracted for the performance of work on the Project, agrees that in the construction, renovation, improvement, equipping, repair and installation of the Project provided for in this Agreement, the Developer shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, disability, national origin or ancestry.

E. No Waiver. Nothing in this Agreement shall constitute a waiver of the Unified Government’s right to consider and approve or deny Governmental Approvals pursuant to the Unified Government’s regulatory authority as provided by Unified Government Code and applicable state law. The
Developer acknowledges that satisfaction of certain conditions contained in this Agreement require the reasonable exercise of the Unified Government's discretionary zoning authority by the Unified Government's Planning Commission and Governing Body in accordance with Unified Government Code and applicable state law.

**Section 4.06. Rights of Access.** Representatives of the Unified Government shall have the right of access to the Redevelopment District, without charges or fees, at normal construction hours during the period of construction, for the purpose of ensuring compliance with this Agreement, including, but not limited to, the inspection of the work being performed in constructing, renovating, improving, equipping, repairing and installing the project, so long as they comply with all safety rules. Except in case of emergency, prior to any such access, such representatives of the Unified Government will check in with the on-site manager. Such representatives of the Unified Government shall carry proper identification, shall insure their own safety, assuming the risk of injury, and shall not interfere with the construction activity.

**Section 4.07. Certificate of Substantial Completion.** Promptly after completion of the Project in accordance with the provisions of this Agreement, the Developer may submit a Certificate of Substantial Completion to the Unified Government. Substantial Completion shall mean that the Developer shall have been granted a Certificate of Occupancy by the Unified Government Building Official and shall have completed all work as required by the Project Plan with respect to the applicable phase of the Project. The Certificate of Substantial Completion shall be in substantially the form attached as Exhibit D. The Unified Government shall, within ten (10) business days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Unified Government’s execution of the Certificate of Substantial Completion shall constitute evidence of the satisfaction of the Developer’s agreements and covenants to construct the applicable phase of the Project to which the Certificate of Substantial Completion relates.

**ARTICLE V**

**USE OF PROJECT AREA 1**

**Section 5.01. Tenants and Land Use Restrictions.** At all times while this Agreement is in effect:

A. **Land Use Restrictions.** The types of land uses and retailers set forth in Exhibit G hereto are prohibited within Project Area 1, unless approved in writing by the Unified Government prior to the execution of a lease or prior to the sale of land.

**Section 5.02. Operation of Project.** The Project shall comply with all applicable building and zoning, health, environmental and safety codes and laws and all other applicable laws, rules and regulations. The Developer shall, at its own expense, secure or cause to be secured any and all permits which may be required by the Unified Government and any other governmental agency having jurisdiction for the construction and operation of the Project, including but not limited to obtaining all necessary rental licenses and paying any necessary fees to obtain required permits and licenses.

**Section 5.03. Reserved.**

**Section 5.04. Sales Tax Information.**
A. The Developer shall provide the County Administrator and the Finance Director written notice of all current tenants of the Project within 30 days of the opening or closing for business of any business within the Project, and at all other times upon the written request of the County Administrator or the Finance Director.

B. The Developer agrees to use commercially reasonable efforts to cause all assignees, purchasers, tenants, subtenants or any other entity acquiring property or occupancy rights in Project Area 1 to be obligated by written contract (lease agreement or other enforceable document including documents made part of the Wyandotte County real estate records) to provide to the County Administrator and the Finance Director simultaneously with submission to the Kansas Department of Revenue the monthly sales tax returns for their facilities in Project Area 1.

C. To the extent it may legally do so, information obtained pursuant to this Section shall be kept confidential by the Unified Government in accordance with K.S.A. 79-3657.

Section 5.05. Taxes, Assessments, Encumbrances and Liens.

A. So long as the Developer owns real property within the Redevelopment District, the Developer shall pay, or cause to be paid, when due all real estate taxes and assessments on the property it owns within Redevelopment District. Nothing herein shall be deemed to prohibit the Developer from contesting the validity or amounts of any tax, assessment, encumbrance or lien, nor to limit the remedies available to the Developer in respect thereto. The Developer and any other owners of real property in the Redevelopment District shall promptly notify the Unified Government in writing of a protest of real estate taxes or valuation of the Developer’s or such other owners’ property within the Redevelopment District.

B. Notwithstanding anything in the Agreement to the contrary, Developer and the Unified Government may enter into an agreed-upon schedule of value for the construction of buildings within the Project. In such event, Developer shall have no right to protest real property taxes in connection with such buildings.

Section 5.06. Financing During Construction; Rights of Holders.

A. No Encumbrances Except Mortgages during Construction. Notwithstanding any other provision of this Agreement, mortgages are permitted for the acquisition, construction, renovation, improvement, equipping, repair and installation of the Project and to secure permanent financing thereafter. However, nothing contained in this paragraph is intended to permit or require the subordination of general property taxes, special assessments or any other statutorily authorized governmental lien to be subordinate in the priority of payment to such mortgages.

B. Holder Not Obligated to Construct Improvements. The holder of any mortgage authorized by this Agreement shall not be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Project to any uses or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

C. Notice of Default to Mortgage Holders; Right to Cure. With respect to any mortgage granted by Developer as provided herein, whenever the Unified Government shall deliver any notice or demand to Developer with respect to any breach or default by the Developer in completion of construction of the Project, the Unified Government shall at the same time deliver to each holder of record of any mortgage authorized by this Agreement a copy of such notice or demand, if Unified
Government has been requested to do so in writing by Developer. Each such holder shall (insofar as the rights of the Unified Government are concerned) have the right, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default and to add the cost thereof to the mortgage debt and the lien of its mortgage. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the Project or construction already made) without first having expressly assumed the Developer’s obligations to the Unified Government by written agreement satisfactory to and with the Unified Government. The holder, in that event, must agree to complete, in the manner provided in this Agreement, that portion of the Project to which the lien or title of such holder relate, and submit evidence satisfactory to the Unified Government that it has the qualifications and financial responsibility necessary to perform such obligations.

D. The restrictions on Developer financing in this Section are intended to and shall apply only to financing during the construction period for the improvements and any financing obtained in connection therewith. Nothing in this Agreement is intended or shall be construed to prevent the Developer from obtaining any financing for the Project or any aspect thereof.

Section 5.07. Covenant for Non-Discrimination. The Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, disability, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Redevelopment District, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Redevelopment District.

The covenant established in this Section shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Unified Government, its successors and assigns and any successor in interest to the Project or any part thereof. The covenants contained in this Section shall remain for so long as this Agreement is in effect.

ARTICLE VI

REIMBURSEMENT OF PROJECT COSTS; TAX INCREMENT AND CID FINANCING

Section 6.01. Tax Increment Fund.

A. Creation of Fund; Deposit of Incremental Tax Revenues. The Unified Government shall establish and maintain a separate fund and account known as the Metropolitan Avenue Project Area 1 Tax Increment Fund (the “Tax Increment Fund”). All Incremental Tax Revenues shall be deposited into the Tax Increment Fund.

B. Disbursements from Fund. All disbursements from the Tax Increment Fund shall be made only to pay Redevelopment Project Costs. The Unified Government shall have sole control of the disbursements from the Tax Increment Fund. Such disbursements shall be made in the following manner and order of preference:

a. Payment of the TIF Administrative Service Fee to the Unified Government pursuant to Section 6.02.
b. Reimbursement of Redevelopment Project Costs incurred by the Unified Government, if any; and

c. Reimbursement of Redevelopment Project Costs incurred by the Developer.

The Unified Government may continue to use any surplus amounts of Incremental Tax Revenues that result after all of the above payments have been made and the Project Costs Cap has been reached, for any purpose authorized by the TIF Act until such time as the Project is completed, but for not to exceed 20 years from the date of the approval of the Project Plan.

Section 6.02. TIF Administrative Service Fee. The Unified Government shall collect the TIF Administrative Service Fee on all Incremental Tax Revenues. The TIF Administrative Service Fee shall be used to cover the administration and other Unified Government costs incurred for the duration of the Redevelopment District, and shall be in addition to the costs identified in the Project Budget. The TIF Administrative Service Fee may be paid annually from the Incremental Tax Revenues deposited in the Tax Increment Fund. The TIF Administrative Service Fee shall be deemed a Redevelopment Project Cost.

Section 6.03. Community Improvement District.

A. Creation of CID. Developer has prepared, and delivered to the Unified Government a petition to create the CID pursuant to the CID Act which provides for the CID Sales Tax within the CID. The petition was filed with the Unified Government Clerk on February 24, 2012. The CID shall consist of the area shown on the map attached hereto as Exhibit I.

B. CID Administrative Service Fee. The Unified Government shall collect the CID Administrative Service Fee on all CID Revenues. The CID Administrative Service Fee shall be used to cover the administration and other Unified Government costs incurred for the duration of the District, and shall be in addition to the costs identified in the Project Budget. The CID Administrative Service Fee may be paid annually from the CID Revenues deposited in the CID Revenue Fund. The CID Administrative Service Fee shall be deemed a CID Cost.

The Developer or development association may continue to use any surplus amounts of CID Sales Tax after all CID Costs have been reimbursed, for any purpose authorized by the CID Act.

Section 6.04. CID Revenue Fund.

A. Creation of Fund; Deposit of CID Revenues. The Unified Government shall establish and maintain a separate fund known as the Metropolitan Avenue CID Project Area 1 Revenue Fund (the “CID Revenue Fund”). All CID Revenues shall be deposited into the CID Revenue Fund.

B. Disbursements from Fund. All disbursements from the CID Revenue Fund shall be made only to pay CID Costs. The Unified Government shall have sole control of the disbursements from the CID Revenue Fund. Such disbursements shall be made in the following manner and order of preference:

a. Payment of the CID Administrative Service Fee to the Unified Government pursuant to Section 6.03; and

b. Reimbursement of CID Costs incurred by the Developer.
Section 6.05. Developer Pay As You Go. The Developer shall be reimbursed from the CID on a Pay As You Go Basis as monies become available in the CID Revenue Fund, in accordance with Sections 3.03 and 6.04 hereof.

ARTICLE VII

ASSIGNMENT; TRANSFER

Section 7.01. Transfer of Obligations.

A. The rights, duties and obligations hereunder of the Developer may not be assigned, in whole or in part, to another entity, without the prior approval of the Unified Government County Administrator, with the right of appeal to the Unified Government. Any proposed assignee shall, by instrument in writing, for itself and its successors and assigns, and expressly for the benefit of the Unified Government, assume all of the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject (or, in the event the transfer is of or relates to a portion of the Redevelopment District, such obligations, conditions and restrictions to the extent that they relate to such portion). The Developer shall not be relieved from any obligations set forth herein unless and until the Unified Government specifically agrees to release the Developer.

B. No tenant of any part of the Redevelopment District shall be bound by any obligation of the Developer solely by virtue of being a tenant; provided, however, that no transferee or owner of property within the Redevelopment District or CID except the Developer shall be entitled to any rights whatsoever or claim upon the Incremental Tax Revenues or CID Revenues as set forth herein, except as specifically authorized in writing by the Developer and approved by the Unified Government.

C. The foregoing restrictions on assignment, and the restriction in Section 7.03, shall not apply to (a) any security interest granted to secure indebtedness to any construction or permanent lender, or (b) the sale, rental and leasing of portions of the Redevelopment District for the uses permitted under the terms of this Agreement.

Section 7.02. Developer Reorganization. Nothing herein shall prohibit the Developer from forming additional development or ownership entities to replace or joint venture with Developer for the purpose of business planning. The Developer shall provide the Unified Government written notice prior to any such restructuring.

Section 7.03. Prohibition Against Total Transfer of the Project, the Buildings or Structures Therein.

A. During the term of this Agreement, the Developer shall not, except as permitted by this Agreement and in accordance with the TIF Act, without prior written approval of the Unified Government which shall not be unreasonably withheld, conditioned or delayed, make any total sale, transfer, conveyance, assignment or lease of the whole Project. This prohibition shall not be deemed to prevent the granting of temporary or permanent easements or permits to facilitate the development of the Project or to prohibit or restrict the sale or leasing of any part or parts of a building, structure or land effective commencing on completion.

B. Notwithstanding any provisions in this Agreement to the contrary, Developer shall have the right to sell, lease, or otherwise transfer any building or individual parcel included within Project Area 1 to any prospective purchaser or tenant in the normal course of business, without the consent of the Unified
Government, so long as such purchaser or tenant is not otherwise restricted or prohibited by the terms of this Agreement.

C. As a condition to such total transfer, the Unified Government may require such transferee to agree to be bound, in whole or in part, by the provisions of this Agreement.

ARTICLE VIII

GENERAL COVENANTS

Section 8.01. Indemnification of Unified Government.

A. Developer agrees to indemnify and hold the Unified Government, its employees, agents and independent contractors and consultants (collectively, the “Unified Government Indemnified Parties”) harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and reasonable attorneys fees, resulting from, arising out of, or in any way connected with:

1. the Developer’s actions and undertaking in implementation of the Project Plan or this Agreement; and

2. the negligence or willful misconduct of Developer, its employees, agents or independent contractors and consultants in connection with the management, design, development, redevelopment and construction of the Project.

3. any delay or expense resulting from any litigation filed against the Developer by any member or shareholder of the Developer, any prospective investor, prospective partner or joint venture partner, lender, co-proposer, architect, contractor, consultant or other vendor.

This section shall not apply to negligence or willful misconduct of the Unified Government or its officers, employees or agents, nor to challenges to the Unified Government’s actions in considering and granting entitlements and permits. This section includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”; 42 U.S.C. Section 9601, et seq.), (ii) the Resource Conservation and Recovery Act (“RCRA”; 42 U.S.C. Section 6901 et seq.) and (iii) Article 34, Chapter 65, K.S.A. and all amendments thereto, at any place where Developer owns or has control of real property pursuant to any of Developer’s activities under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107 (e) of CERCLA to assure, protect, hold harmless and indemnify Unified Government from liability.

B. In the event any suit, action, investigation, claim or proceeding (collectively, an “Action”) is begun or made as a result of which the Developer may become obligated to one or more of the Unified Government Indemnified Parties hereunder, any one of the Unified Government Indemnified Parties shall give prompt notice to the Developer of the occurrence of such event.

C. The right to indemnification set forth in this Agreement shall survive the termination of this Agreement.
Section 8.02. Insurance. Developer agrees that it shall maintain reasonable insurance in connection with the Project for an entity of Developer’s size and financial capacity.

Section 8.03. Non-liability of Officials, Employees and Agents of the Unified Government. With the exception of violations and application of the Unified Government Code of Ethics, no recourse shall be had for the reimbursement of the Project Costs or for any claim based thereon or upon any representation, obligation, covenant or agreement contained in this Agreement against any past, present or future official, officer, employee or agent of the Unified Government, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officials, officers, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

Section 8.04. Prevailing Wage. Developer agrees to pay prevailing wages as established by the Davis Bacon Act for all aspects of construction of the Project undertaken by Developer. Developer shall use commercially reasonable efforts to see that all other transferees, assignees, and tenants responsible for constructing any part of the Project pay prevailing wages. Provided that Developer shall not be responsible for prevailing wages as to construction by tenants within completed “shell” structures or purchasers who construct their own buildings.

Section 8.05. LBE/MBE/WBE Employment Opportunity Goals. Developer agrees to comply with the goals set forth on Exhibit H attached hereto and made a part hereof, in order to identify and provide employment opportunities for local businesses and contractors, women and local minority owned businesses in connection with the Project.

ARTICLE IX
DEFAULTS AND REMEDIES

Section 9.01. Developer Event of Default. Except as further provided herein, and subject to Section 9.05, a “Developer Event of Default” shall mean a default in the performance of any obligation or breach of any covenant or agreement of the Developer in this Agreement (other than a covenant or agreement, a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of 30 days after Unified Government has delivered to Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied and the Developer is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the Developer shall promptly upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 9.02. Unified Government Event of Default. Subject to Section 9.05, the occurrence and continuance of any of the following events shall constitute a “Unified Government Event of Default” hereunder:

A. Default in the performance of any obligation or breach of any other covenant or agreement of the Unified Government in this Agreement (other than a covenant or agreement, a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of 30 days after there has been given to the Unified Government by the Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such 30-day period, but can
reasonably be expected to be fully remedied and the Unified Government is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the Unified Government shall immediately upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 9.03. Remedies Upon a Developer Event of Default.

A. Upon the occurrence and continuance of a Developer Event of Default, the Unified Government shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The Unified Government shall have the right to terminate this Agreement, in which event the Unified Government shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer.

2. The Unified Government may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the Developer as set forth in this Agreement, to enforce or preserve any other rights or interests of the Unified Government under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the Unified Government resulting from such Developer Event of Default; provided, however, that in no event shall the Unified Government be entitled to any specific, consequential, or punitive damages under this Agreement as the result of any default by Developer.

B. If the Unified Government has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Unified Government, then and in every case the Unified Government and the Developer shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the Unified Government shall continue as though no such proceeding had been instituted.

C. The exercise by the Unified Government of any one remedy shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by the Unified Government shall apply to obligations beyond those expressly waived.

D. Any delay by the Unified Government in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section shall not operate as a waiver of such rights or limit it in any way. No waiver in fact made by the Unified Government of any specific default by the Developer shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.


A. Upon the occurrence and continuance of a Unified Government Event of Default the Developer shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The Developer shall have the right to terminate the Developer’s obligations under this Agreement;
2. The Developer may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the Unified Government as set forth in this Agreement, to enforce or preserve any other rights or interests of the Developer under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the Developer resulting from such Unified Government Event of Default; provided, however, that in no event shall the Developer be entitled to any specific, consequential, or punitive damages under this Agreement as the result of any default by Unified Government.

B. If the Developer has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Developer, then and in every case the Developer and the Unified Government shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the Developer shall continue as though no such proceeding had been instituted.

C. The exercise by the Developer of any one remedy shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by the Developer shall apply to obligations beyond those expressly waived.

D. Any delay by the Developer in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this paragraph shall not operate as a waiver of such rights or limit it in any way. No waiver in fact made by the Developer of any specific default by the Developer shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

Section 9.05. Excusable Delays. Neither the Unified Government nor the Developer shall be deemed to be in default of this Agreement because of an Excusable Delay.

Section 9.06. Legal Actions. Any legal actions related to or arising out of this Agreement must be instituted in the District Court of Wyandotte County, Kansas or, if federal jurisdiction exists, in the United States District Court for the District of Kansas.

ARTICLE X

GENERAL PROVISIONS

Section 10.01. Mutual Assistance. The Unified Government and the Developer agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be reasonably necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to reasonably aid and assist each other in carrying out said terms, provisions and intent.

Section 10.02. Effect of Violation of the Terms and Provisions of this Agreement; No Partnership. The Unified Government is deemed the beneficiary of the terms and provisions of this Agreement, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement shall run in favor of the Unified Government, without regard to whether the Unified Government has been, remains or is an owner of any land or interest therein in the Project or the Redevelopment District. The Unified Government shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits
at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled. Nothing contained herein shall be construed as creating a partnership between the Developer and the Unified Government.

Section 10.03. Time of Essence. Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 10.04. Amendments. This Agreement may be amended only by the mutual consent of the Parties, as provided by law, and by the execution of said amendment by the Parties or their successors in interest.

Section 10.05. Agreement Controls. The Parties agree that the Project Plan will be implemented as agreed in this Agreement. This Agreement specifies the rights, duties and obligations of the Unified Government and Developer with respect to constructing the Project, the payment of Redevelopment Project Costs and all other methods of implementing the Project Plan. The Parties further agree that this Agreement contains provisions that are in greater detail than as set forth in the Project Plan and that expand upon the estimated and anticipated sources and uses of funds to implement the Project Plan. Nothing in this Agreement shall be deemed an amendment of the Project Plan. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

Section 10.06. Conflicts of Interest.

A. No member of the Unified Government’s governing body that has any power of review or approval of any of the Developer’s undertakings shall vote on any item relating thereto which affects such person’s personal interest or the interests of any corporation or partnership in which such person is directly or indirectly interested.

B. The Developer warrants that it has not paid or given and will not pay or give any officer, employee or agent of the Unified Government any money or other consideration for obtaining this Agreement. The Developer further represents that, to its best knowledge and belief, no officer, employee or agent of the Unified Government who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision making process or gain insider information with regard to the Project, has or will have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project, or in any activity, or financial benefit therefrom, which is part of the Project at any time during or after such person’s tenure.

C. Developer and the Unified Government agree and acknowledge that Ann Murguia, a non-compensated consultant to Developer, is a Unified Government Commission representative for the 3rd Commission District and also the compensated Executive Director of the Argentine Neighborhood Development Association. As such, Ms Murguia has a substantial interest in that business entity. It is agreed that Ms. Murguia shall not take part in any decision-making process in connection with the TIF, the CID or the Project, and Ms. Murguia shall abstain from and any all votes of the Unified Government Commission in connection with the same. Additionally, the parties agree that Ms. Murguia, Developer, and the Unified Government shall take any additional actions necessary to assure that Ms. Murguia’s participation with Developer shall not cause a violation of any rules or policies of the Unified Government. The parties understand and acknowledge that a business entity in which a Unified Government Representative has a substantial interest may provide monies, funds or loan guaranties; but that the business entity or Unified
Government Representative may not receive any monies, funds or financial benefit from the Project, either directly or indirectly.

Section 10.07. Term. Unless earlier terminated as provided herein, this Agreement shall remain in full force and effect for the TIF Term and CID Term, as applicable.

Section 10.08. Validity and Severability. It is the intention of the parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of State of Kansas, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

Section 10.09. Required Disclosures. The Developer shall immediately notify the Unified Government of the occurrence of any material event which would cause any of the information furnished to the Unified Government by the Developer in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

Section 10.10. Tax Implications. The Developer acknowledges and represents that (1) neither the Unified Government nor any of its officials, employees, consultants, attorneys or other agents has provided to the Developer any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer is relying solely upon its own tax advisors in this regard.

Section 10.11. Authorized Parties. Whenever under the provisions of this Agreement and other related documents, instruments or any supplemental agreement, a request, demand, approval, notice or consent of the Unified Government or the Developer is required, or the Unified Government or the Developer is required to agree or to take some action at the request of the other Party, such approval or such consent or such request shall be given for the Unified Government, unless otherwise provided herein, by the Unified Government Representative and for the Developer by any officer of Developer so authorized; and any person shall be authorized to act on any such agreement, request, demand, approval, notice or consent or other action and neither Party shall have any complaint against the other as a result of any such action taken. The Unified Government Representative may seek the advice, consent or approval of the Unified Government Commission before providing any supplemental agreement, request, demand, approval, notice or consent for the Unified Government pursuant to this Section.
Section 10.12. Notice. All notices and requests required pursuant to this Agreement shall be sent as follows:

To the Unified Government: To the Developer:

Unified Government Clerk Argentine Commercial, Inc.
Municipal Building Attn: Henry Sandate, President
701 North 7th Street 10281 W 87th St Ste 102
Kansas City, Kansas 66101 Overland Park, KS 66212

With a copy to: With a copy to:

Chief Counsel Korb Maxwell, Esq.
Legal Department Polsinelli Shughart P.C.
Municipal Building 4700 West 47th Street
701 North 7th Street Suite 1000
Kansas City, Kansas 66101 Kansas City, Missouri 64112

or at such other addresses as the Parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

Section 10.13. Kansas Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

Section 10.14. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 10.15. Recordation of Agreement. The Parties agree to execute and deliver an original of this Agreement and any amendments or supplements hereto, in proper form for recording and/or indexing in the appropriate land or governmental records, including, but not limited to, recording in the real estate records of Wyandotte County, Kansas. This Agreement shall be promptly recorded by the Developer at Developer’s cost after execution, and proof of recording shall be provided to the Unified Government.

Section 10.16. Consent or Approval. Except as otherwise provided in this Agreement, whenever the consent, approval or acceptance of either Party is required hereunder, such consent, approval or acceptance shall not be unreasonably withheld, conditioned or unduly delayed.

[The signature pages for this Agreement begin on the following page.]
THIS AGREEMENT has been executed as of the date first hereinabove written.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ______________________________
    County Administrator
(Seal)

ATTEST:

By: ______________________________
    Unified Government Clerk

APPROVED AS TO FORM:

By: ______________________________
    Deputy Chief Counsel

ACKNOWLEDGEMENT

STATE OF KANSAS )
    ) ss.
COUNTY OF WYANDOTTE )

BE IT REMEMBERED, that on this _____ day of __________, 2012, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Dennis M. Hays, County Administrator of the Unified Government of Wyandotte County/Kansas City, Kansas, a municipal corporation organized and existing pursuant to the laws of the State of Kansas as a consolidated city–county having all the powers, functions and duties of a county and a city of the first class, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said Unified Government, and such person duly acknowledged the execution of the same to be the free act and deed of said Unified Government.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

________________________________________

NOTARY PUBLIC

My Commission Expires:

[SEAL]
THIS AGREEMENT has been executed as of the date first hereinabove written.

ARGENTINE COMMERCIAL, INC, a Kansas
corporation

By: ________________________________
Name:    Henry Sandate
Title:    President

ACKNOWLEDGMENT

STATE OF _____________ )
) SS.
COUNTY OF ___________ )

BE IT REMEMBERED, that on this ____ day of __________, 2012, before me, the undersigned,
a Notary Public in and for the County and State aforesaid, came Henry Sandate, President of Argentine
Commercial, Inc., a corporation organized and existing pursuant to the laws of the State of Kansas, who is
personally known to me to be the same person who executed, as such President, the within instrument on
behalf of and with the authority of said corporation, and such person duly acknowledged the execution of
the same to be the free act and deed of said corporation.

WITNESS my hand and official seal.

________________________________________
Notary Public

My commission expires:

________________________________________
EXHIBIT A

LEGAL DESCRIPTION OF REDEVELOPMENT DISTRICT

Overall Redevelopment District

Lot 1, ARGENTINE INDUSTRIAL PARK, a subdivision of land in the City of Kansas City, County of Wyandotte, State of Kansas;

And

Lots 1, 2 and 3, and Tract A, HODG SUBDIVISION, a replat of Lot 2, Argentine Industrial Park, a subdivision of land in the City of Kansas City, County of Wyandotte, State of Kansas;

And

Any and all right-of-way adjacent thereto.

Project Area 1

Lots 1, 2 and 3, and Tract A, HODG SUBDIVISION, a replat of Lot 2, Argentine Industrial Park, a subdivision of land in the City of Kansas City, County of Wyandotte, State of Kansas, and all right-of-way adjacent thereto.
CERTIFICATE OF PROJECT COSTS

TO: Unified Government of Wyandotte County/Kansas City, Kansas
Attention: County Administrator

Re: Metropolitan Avenue Redevelopment District – Project Area 1
Metropolitan Avenue Community Improvement District

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement for Project Area 1 of the Metropolitan Avenue Redevelopment District dated as of February 25, 2010 (the “Agreement”) between the Unified Government and the Developer.

In connection with the Agreement, the undersigned hereby states and certifies that:

1. Each item listed on Schedule 1 hereto is a Project Cost and was incurred in connection with the construction of the Project after ______________.

2. These Project Costs have been paid by the Developer and are reimbursable under the Project Plan and the Agreement.

3. Each item listed on Schedule 1 has not previously been paid or reimbursed from money derived from the Tax Increment Fund [CID Revenue Fund], and no part thereof has been included in any other certificate previously filed with the Unified Government.

4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.

5. All necessary permits and approvals required for the work for which this certificate relates were issued and were in full force and effect at the time such work was being performed.

6. All work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.

7. The Developer is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes a Developer Event of Default under the Agreement.

9. All of the Developer’s representations set forth in the Agreement remain true and correct as of the date hereof.
Dated this ____ day of ____________, 20____.

ARGENTINE COMMERCIAL, INC.

By: ____________________________

Name: __________________________

Title: ___________________________

Approved for Payment this ____ day of ____________, 20____:

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ____________________________

Title: ___________________________
## SCHEDULE I

TO

CERTIFICATE OF PROJECT COSTS

<table>
<thead>
<tr>
<th>Description of Project Costs</th>
<th>Cost</th>
<th>Payee</th>
<th>Designate as Redevelopment Project Costs or CID Costs</th>
</tr>
</thead>
</table>

Schedule I-1
EXHIBIT D

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

Pursuant to Section 4.07 of the Agreement, the Unified Government shall, within ten (10) days following delivery of this Certificate, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in this Certificate.

CERTIFICATE OF SUBSTANTIAL COMPLETION

The undersigned, Argentine Commercial, Inc. (the “Developer”), pursuant to that certain Development Agreement for Project Area 1 of the Metropolitan Avenue Redevelopment District dated as of ______________, between the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”) and the Developer (the “Agreement”), hereby certifies to the Unified Government as follows:

1. That as of ____________, 20__, the construction, renovation, repairing, equipping and constructing of the Project (as such term is defined in the Agreement) has been substantially completed in accordance with the Agreement.

2. The Project has been completed in a workmanlike manner and in accordance with the Construction Plans (as those terms are defined in the Agreement).

3. Lien waivers for applicable portions of the Project have been obtained, or, to the extent that a good faith dispute exists with respect to the payment of any construction cost with respect to the Project, Developer has provided the Unified Government with a bond or other security reasonably acceptable to the Unified Government.

4. This Certificate of Substantial Completion is accompanied by (a) the project architect’s certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as Appendix A and by this reference incorporated herein), certifying that the Project has been substantially completed in accordance with the Agreement; and (b) a copy of the Certificate(s) of Occupancy issued by the Unified Government Building Official with respect to each building to be constructed within the Project.

5. This Certificate of Substantial Completion is being issued by the Developer to the Unified Government in accordance with the Agreement to evidence the Developer’s satisfaction of all obligations and covenants with respect to the Project.

6. The Unified Government’s acceptance and the recordation of this Certificate with the Wyandotte County Register of Deeds, shall evidence the satisfaction of the Developer’s agreements and covenants to construct the Project.
This Certificate shall be recorded in the office of the Wyandotte County Recorder of Deeds. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this _____ day of __________, 20_____.

Argentine Commercial, Inc.

By: ________________________________
Name: ______________________________
Title: ______________________________

ACCEPTED:

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ________________________________
Name: ______________________________
Title: ______________________________

(Insert Notary Form(s) and Legal Description)
EXHIBIT E

PROJECT SCHEDULE

The Project Schedule shall be provided by Developer to the Unified Government at such time as finalized by Developer. Notwithstanding such delivery, Developer shall have the right, in its sole discretion, to revise the Project Schedule from time to time as deemed necessary by Developer.
## PROJECT COSTS - ARGENTINE GROCERY STORE

<table>
<thead>
<tr>
<th>Land Costs</th>
<th>Total Land Cost $275,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Purchase</td>
<td>2,200 acres@ 95,632 sq. ft.</td>
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</tbody>
</table>
| Total Land Cost | $275,000 |}

### Construction Costs

<table>
<thead>
<tr>
<th>Category</th>
<th>Gross SF</th>
<th>Rentable SF</th>
<th>Usable SF</th>
<th>Shell Cost PSF</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infrastructure &amp; Building Construction</td>
<td>23,967</td>
<td>23,967</td>
<td>23,967</td>
<td>$120.00</td>
<td>$2,878,440</td>
</tr>
<tr>
<td>Total Construction Cost</td>
<td>23,967</td>
<td>23,967</td>
<td>23,967</td>
<td></td>
<td>$2,878,440</td>
</tr>
</tbody>
</table>

### Soft Costs

<table>
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<tr>
<th>Item</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Testing &amp; Inspections</td>
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</tr>
<tr>
<td>Engineering</td>
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<td>Architectural</td>
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<td>Interim Financing</td>
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<tr>
<td>Land</td>
<td>$275,000</td>
</tr>
<tr>
<td>Construction</td>
<td>$2,878,440</td>
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<tr>
<td>Total</td>
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</tr>
<tr>
<td>Construction Loan Fee</td>
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<tr>
<td>Mortgage Fee</td>
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<tr>
<td>Legal Fees</td>
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<tr>
<td>Closing Costs</td>
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<tr>
<td>Taxes During Construction</td>
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</tr>
<tr>
<td>Brokerage Comm (Land)</td>
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<tr>
<td>Brokerage Comm (Lease)</td>
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<tr>
<td>Inspecting Architect</td>
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<td>Non-Profit Owner Overhead</td>
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<tr>
<td>Construction Mgmt Fee</td>
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<tr>
<td>Developer's Overhead</td>
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<tr>
<td>Total Soft Costs</td>
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</tr>
</tbody>
</table>

### Total Costs

<table>
<thead>
<tr>
<th>Item</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Project Costs</td>
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<tr>
<td>Contingency</td>
<td>10.00%</td>
</tr>
<tr>
<td>Total Project Costs</td>
<td>$4,508,836</td>
</tr>
</tbody>
</table>
EXHIBIT G

RESTRICTED LAND USES WITHIN PROJECT AREA 1

1. Any use which emits an obnoxious odor, noise, or sound which can be heard or smelled outside of any building in the Project (except that this provision shall not prohibit normal cooking odors which are associated with a first-class restaurant operation).
2. Any operation primarily used as a storage warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation;
3. Any mobile home park, trailer court, labor camp, junkyard or stockyards (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction or maintenance);
4. Any dumping, disposing, incineration, or reduction of garbage (exclusive of garbage compactors located near the rear of any building);
5. Any fire sale, going out of business sale, bankruptcy sale (unless pursuant to a court order) or auction house operation;
6. Any adult book store, adult video store, adult movie theater or other establishment selling, renting or exhibiting pornographic materials or drug-related paraphernalia (except that this provision shall not prohibit the operation of a bookstore or video store which carries a broad inventory of books or videos and other materials directed towards the interest of the general public [as opposed to specific segment thereof]);
7. Any bar or tavern without a full service kitchen;
8. With respect to spaces over 5,500 square feet, any training or educational facility, including, but not limited to, beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers (except that this provision shall not prohibit on-site employee training [whether for employment at the Project or at another business location of such occupant] by an occupant incidental to the conduct of its business at the Project);
9. Any church, school, day care center or related religious or educational facility or religious reading room;
10. Any massage parlor (except that this provision shall not prohibit massages in connection with a beauty salon, health club or athletic facility); and
11. Any casino or other gambling facility or operation, including but not limited to, off-track or sports betting parlors, table games such as black-jack or poker, slot machines, video gambling machines and similar devices, and bingo halls (except that this provision shall not prohibit government sponsored gambling activities or charitable gambling activities if such activities are incidental to the business operation being conducted by the occupant).
This Exhibit sets forth the guidelines for the utilization of local business, minority and women enterprise and local resident, minority and women participation and equal employment opportunity referenced in Section 8.05 of the Development Agreement for Project Area 1 of the Metropolitan Avenue Redevelopment District (“Development Agreement”). The parties agree as follows:

I. SCOPE

These procedures are applicable to the construction of the Project, including but not limited to all aspects of the construction of the Improvements and all related facilities, including labor, materials and supplies and construction related services, but not including Specialized Services.

II. DEFINITIONS

All capitalized terms used in this Exhibit shall have the meaning ascribed to them in the Development Agreement and made a part thereof, or as otherwise set forth herein.

A. "Best Efforts" has the meaning set forth in Section III.C.3.b herein.

B. "Construction" means all aspects of the construction of the Improvements, all related facilities and the Project, including labor, materials and supplies and construction related services.

C. "Developer" means Argentine Commercial, Inc., and any of its successors, assigns or anyone holding portions of the Project by or through them.

D. "Local Resident" means an individual that, during his or her employment with the Project, maintains his or her place of domicile in Wyandotte County.

E. "Local Business Enterprises or LBE" means businesses headquartered or which maintain a major branch that performs the significant functions of the business in Wyandotte County or businesses of which at least 51% of the stock, equity or beneficial interest is owned, held, or controlled and whose day-to-day management is under the control of an individual residing in Wyandotte County. There is no formal certification process for LBE designation. It is determined and assigned based on the criteria referenced in this definition and payment of all applicable Wyandotte County taxes and/or licensing fees.

F. "Other Services" means non "Professional Services" (as defined below) including, but not limited to, plumbing, electrical, parking, janitorial, security and other maintenance services contracted for by Developer necessary for the annual operations of the Project.

G. "Professional Services" means advisory or consulting activities including, but not limited to, architectural, engineering, legal, accounting, financial, marketing, environmental studies, and financial services contracted for by Developer for the operations of the Project but specifically excluding professional services that have historically been sourced and performed at the holding company level by Developer (i.e. legal and accounting services).
H. "Proposer" means a person who submits a proposal in response to a solicitation for proposals issued by Developer or one of its contractors with respect to the design, development or construction of the Project or with respect to the annual operations of the Project.

I. "Specialized Services" means expertise, services or products, the application of which are unique to the business of the Project and which are only available through sole or limited source providers or national vendors, including, but not limited to the following: superflat concrete floors, vendor displays and racks, log construction, murals, mountain and exterior water feature displays (excluding plumbing), aquariums, mounts, bronze sculptures and construction management services and contingency. Specialized Services shall also include the services provided by the contractors and designers who have been involved with and have previous experience on similar projects with Developer and which Developer has engaged or intends to engage to perform similar services for the Project.

III. DEVELOPMENT AND CONSTRUCTION OF THE PROJECT

A. GOALS FOR LBE/MBE/WBE PARTICIPATION


Developer will use its best efforts to meet the following goals based upon the total cost of the Improvements and all related facilities for the Project. In no event shall Developer be required to incur higher costs as a result of its commitment to attempt to meet such goals. These goals are based upon a disparity study performed for the Kansas City Metropolitan Area LBE, MBE and WBE participation. These goals are not to act as quotas or set asides.

<table>
<thead>
<tr>
<th>Construction</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>LBE</td>
<td>18%</td>
</tr>
<tr>
<td>MBE</td>
<td>15%</td>
</tr>
<tr>
<td>WBE</td>
<td>7%</td>
</tr>
</tbody>
</table>

Where appropriate, the UG may agree to different specific goals for specific elements of the Project to be awarded by Developer, when proposed by Developer, relating to the design, development and construction of the Project, based upon the availability of qualified LBEs and certified MBEs and WBEs to perform the specific scopes of work delineated in Developer's Project Utilization Plan and taking into account the services which have previously been contracted for other than with such LBEs, MBEs and WBEs.

2. Eligibility for Credit.

a. Only firms certified or undergoing certification at the time of submittal of the subject bid or proposal and ultimately certified, as MBEs or WBEs, by the Kansas Department of Commerce and Housing, Missouri Department of Transportation (MODOT), City of Kansas City, Missouri, the MidAmerica Minority Business Development Council (MAMBDC), the Women’s Business Enterprise National Council or any other public or private entity reasonably acceptable to the UG, may be counted towards the MBE or WBE goals.

b. Only firms qualified as LBEs, pursuant to Section II. E., at the time of submittal of the subject bid or proposal, may be counted towards the LBE goal.
c. If Developer or a Proposer has awarded a contract to an LBE, MBE or WBE that was qualified or certified (hereafter "approved," when used in this context, shall mean either certified or qualified, as case may be) at the time the proposal listing the enterprise as LBE, MBE or MBE was submitted or was undergoing certification at the time of submittal and was ultimately certified, but the LBE, MBE or WBE becomes unapproved after the proposal was submitted, but prior to the completion and acceptance of all work with respect to which the LBE, MBE or WBE was approved, Developer shall nonetheless receive credit towards the goal for the entire portion of work performed or services provided.

(1) d. Only the participation of LBEs, MBEs and WBEs that provide a commercially useful function required for the work of the specific solicitation shall be counted toward achievement of the goals. The LBE, MBE or WBE must be responsible for the execution of a distinct element of the work by actually performing, managing, or supervising its function in the work identified in the solicitation. Brokering is not credited. Purchases from LBEs, MBEs and WBEs that constitute indirect or general overhead costs to a projected Proposer's business may not be counted toward the goals. Costs directly incurred solely to perform the work with respect to a project contract may be counted toward the goals.

3. Construction Workforce.

a. Recruitment and outreach

Developer will use its best efforts to employ and to ensure its contractors employ Local Residents, minorities and women in all aspects of the design, development and construction of the Project except for services already contracted for prior to February 25, 2010 and except for Specialized Services. These efforts shall include but not be limited to:

1. advertising in appropriate publications, describing the work available, pay scales, application procedures and maintaining a log or copies of these ads showing the date of publication and identifying the publication;

2. working with local community organizations, minority and women's community organizations and other appropriate organizations to seek qualified local residents, minorities and females (a list of these organizations may be provided by the UG upon request); and

3. working with the UG to promote diversity and inclusion in all aspects of the Project.

b. Employment Procedures

Developer shall implement equal employment opportunity hiring and job action procedures as that term is commonly understood.

B. Development and Construction Utilization Plans

1. Developer Project Utilization Plan.

a. Fourteen (14) calendar days before the solicitation of the first proposal for the Construction of the Project, Developer will submit a Project Utilization Plan to the UG for review and approval. This Plan shall set forth: all categories of work that will be covered within solicitations that Developer or its contractors intend to issue for all
Construction, an estimate of the dollar value of all work covered by these solicitations and an estimate of the dollar value of work within each identified work category; the dollar value of the work for each identified work category that is projected to be performed by LBEs, MBEs and WBEs; the potential joint ventures with LBEs, MBEs and WBEs within each identified work category; an overall schedule of all work projected to be performed, related to the design, development and construction of the Project laid out sequentially over time; and the actions Developer intends to take, with respect to each of these solicitations, to make its best efforts to meet the goals set forth in Section III.A.1.a. of this Exhibit.

b. Developer, in the Utilization Plan, shall designate one person as the project manager to serve as the point of contact with the UG on all matters related to the Utilization Plan. The name, address (including e-mail address if available) and phone number of the designated person shall be provided.

c. The goals of Section III.A.1.a. may be met by the expenditure of dollars with approved LBE, MBE or WBE prime contractors, material suppliers, subcontractors, or through joint ventures with approved LBEs, MBEs or WBEs.

1. The participation of certified MBE and WBE Proposers may count toward each goal for which they qualify, and the participation may be divided between two goals but may not be double-counted. These prime Proposers shall receive credit towards the goals for the dollar value of the contract.

2. Approved or Certified MBE, and WBE and/or qualified LBE material suppliers, regular dealers and manufacturers shall be credited towards the goals for the dollar value of the contract.

3. A joint venture involving an approved LBE, MBE or WBE as a partner, may be counted towards the applicable goal only to the extent of the dollar amount that the approved LBE, MBE or WBE is responsible for and at risk, except, however, if the LBE/MBE/WBE is the majority partner in the joint venture, the entire joint venture contract amount shall be counted, less any work subcontracted to the non LBE/MBE/WBE joint venture partner. To receive credit, the approved LBE, MBE or WBE must be responsible for a clearly defined portion of the work, profits, risks, assets and liabilities of the joint venture.

4. Participation by a certified MBE owned by a minority woman may be counted as MBE participation or as WBE participation, however, this participation cannot be double-counted. A certified MBE or WBE may also be counted towards the LBE goal, if qualified as a LBE. The amount of participation by these businesses may be divided between the MBE or the WBE goals but may not be double-counted. A qualified LBE that is certified as a MBE and WBE shall be counted toward the LBE and the MBE or WBE goals, but shall not be counted toward both the MBE and WBE goals.

5. Only the participation of LBEs, MBEs and WBEs that provides a commercially useful function required for the work of the specific solicitation shall be counted toward achievement of the goals. The LBE, MBE or WBE must be responsible for the execution of a distinct element of the work by actually
performing, managing, or supervising its function in the work identified in the solicitation. Brokering is not credited. Purchases from LBEs, MBEs and WBEs that constitute indirect or general overhead costs to a projected Proposer's business may not be counted toward the goals. Costs directly incurred solely to perform the work with respect to a project contract may be counted toward the goals.

2. Evaluation of Utilization Plans.

a. The UG will review Developer Project Utilization Plan respecting each category of work identified by Developer. In conducting its review, the UG shall evaluate the extent to which the actions Developer proposes to take to meet the goals constitute good faith efforts, as set forth is Section III.C.3.b. below. In no event shall Developer or any of its contractors be required to engage any LBE, MBE or WBE that is not the low bidder or is not qualified or capable of performing the work to acceptable standards in the reasonable discretion of Developer.

b. Changes to the Utilization Plan are permitted after its submission to the UG upon submission of the same to the UG.

C. CONTRACT AWARD COMPLIANCE PROCEDURES

1. Solicitation Documents.

Five (5) calendar days before the issuance of each solicitation, Developer shall submit the solicitation documents and the bid list to the UG. This submittal is mandatory for each bid subject to L/M/WBE goals. The solicitation documents for each contract for which goals are established shall contain a description of the requirements set forth in this Exhibit; the LBE, MBE and WBE goals; and the areas of projected subcontracting.


Within seven (7) working days after the date set for receipt of proposals by each solicitation issued for Developer for the Construction of the Project, the Project Manager shall submit to the UG, on a form provided or approved by the UG, a Report of Solicitation Results (the "Report") fully describing all proposals received in response to the solicitation. The Report shall: (1) state the estimated total Dollar value of the work covered by the solicitation; (2) state the name of all Proposers; (3) state the total Dollar value of work covered by proposals submitted by approved LBEs, MBEs and/or WBEs (for both Construction and Professional Services); (4) provide all relevant information concerning each joint venture Proposer; and (5) state the name of all subcontractors to Proposers (to the extent then available), which are approved LBEs, MBEs and/or WBEs, and the Dollar value of work covered by proposed subcontracts between Proposers and LBEs, MBEs and/or WBEs. The Report shall also indicate to which of the Proposers, including joint venture Proposers, the Developer or any of its contractors is intending to award contracts resulting from the solicitation. In addition, with respect to any LBE, MBE, or WBE goal established in the Developer Project Utilization Plan that it appears from the proposals received will not be met, Developer shall include in the Report a precise description of all efforts it has undertaken or caused to be undertaken to meet the established goals. These submittals are mandatory for all solicitations subject to L/M/WBE goals.

3. UG Review of Developer's Report of Solicitation Results
a. Within seven (7) calendar days of receiving a Report of Solicitation Results for review, the UG, based on its review of the Report, shall advise Developer whether it appears that, in light of Developer's indication of the Proposers to whom it intends to award contracts, Developer will meet the goals set forth in the Utilization Plan or if not, whether Developer has established good faith efforts to meet these goals, and shall state the reasons for this conclusion, referring to the specific good faith efforts criteria contained in Section III.C.3.b. below. As a part of its review, the UG may ascertain whether LBE, MBE or WBE subcontractors agree with the dollar value of the work and the scope of the work, as identified in the proposal.

b. For each Utilization Plan goal that is not achieved, Developer shall be deemed to have used best efforts (“best efforts”) to meet the Utilization Plan goals for Construction and Professional Services set forth in Section III.A.1.a. of this Exhibit if Developer shall have taken substantially all the following actions:

1. Developer is seeking or has sought timely assistance of the UG to identify qualified LBEs, MBEs and WBEs;
2. Developer is advertising or has advertised contract opportunities in local, minority and women media;
3. Developer is providing or has provided reasonable written notice of opportunities or informational meetings to approved LBEs, MBEs and WBEs;
4. Developer is following up or has followed up initial solicitations of interest by contacting LBEs, MBEs and WBEs;
5. Developer is segmenting or has segmented portions of the work to increase the likelihood of LBE, MBE and WBE participation, where feasible;
6. Developer is or has provided interested LBEs, MBEs and WBEs with timely and accurate information about the plans, specification, requirements, deadlines, and bidding procedures of the contracts;
7. Developer is negotiating or has negotiated in good faith with interested LBEs, MBEs and WBEs, not rejecting them as unqualified without sound reasons, based on a thorough review of their capabilities and prior work history; and
8. Developer is or has worked with local, minority and women contracting, professional, civic and community organizations, government officers and any other organization or persons, as identified by the UG, that provide assistance in the recruitment of LBEs, MBEs and WBEs.

Failure by the Developer to take all of the foregoing actions shall not be determinative that Developer has not used its best efforts.

4. Signed Contracts.

Signed contracts between Developer or any its contractors and successful Proposers shall be submitted to the UG within thirty (30) days after execution thereof. If a LBE, MBE or WBE
subcontractor fails to sign a contract after two requests by the Proposer, Developer may request to substitute the subcontractor.

**D. SUBCONTRACTOR RELATIONS**

1. **Documentation of Subcontracting Agreements.**

   All subcontracting services shall be evidenced by a written agreement stating, at a minimum, the scope of work to be performed and the amount to be paid for performance of the work. Unit price subcontracts are acceptable if appropriate to the type of work being performed.

2. **Documentation of Schedules.**

   a. For construction contracts, the contractor must present a work schedule that includes when the LBE, MBE and WBE subcontractors will be utilized at the job site. This schedule is due on or before the pre-construction meeting with the UG and the project manager representing Developer.

   b. For Professional Services contracts, Developer must present a written schedule of when the LBE, MBE and WBE consultants will be working on the Project. Such schedule must be submitted prior to June 1, 2010.

3. **Substitutions, Additions or Deletions.**

   **Submission of Notice of Change.** Where a substitution for a LBE, MBE or WBE subcontractor must occur after submission of proposals by Developer to the UG, pursuant to Section III.C.2., Developer's project manager must submit notice of the change or substitution to the UG. The UG shall have no authority to approve or reject any change or substitution. The sole purpose of the review by the UG shall be to determine whether the LBE, MBE or WBE should be counted toward achievement of the goals of Section 111.A.1.a.

**IV. UG'S ASSISTANCE TO DEVELOPER**

The UG will, at its cost, provide assistance to Developer in fulfilling its obligations, as set forth in this Exhibit and with respect to procedures described herein. Examples of assistance the UG may provide include but are not limited to:

1. providing information and technical assistance to the UG, Developer and its contractors, LBEs, MBEs, WBEs, officials and other interested persons about the Project;

2. coordinating and conducting workshops on the Project's certification and contracting processes;

3. maintaining a list of registered firms;

4. assisting with identifying potential LBEs, MBEs, and WBEs and reviewing their qualifications to participate in the Improvements;

5. updating the UG and Developer on current or proposed affirmative action legislation that may affect the Improvements;

6. recommending contract specific goals, as appropriate;
7. providing assistance in pre-award activities, such as provision of model or example Utilization Plans and work segmentation;

8. reviewing Developer and contractor performance and LBE, MBE and WBE participation on the Project, including site visits, and/or phone or desk audits to provide input on whether subcontractors listed are performing the work described in the Utilization Plan;

9. providing advice relative to Project utilization and compliance matters;

10. conducting compliance reviews and audits of LBE, MBE and WBE and participation;

11. evaluating requests for substitutions, additions and deletions;

12. assisting the UG and Developer in addressing issues related to the goals and procedures set forth in this Exhibit;

13. reviewing payments to subcontractors, as documented by monthly reports submitted by Developer.

14. reviewing complaints from LBEs, MBEs WBEs, contractors and any other interested persons regarding these goals and procedures;

15. assisting in Developer's development of forms to document compliance with these procedures; and

16. review and approve utilization plans and contract award submittals

V. DEVELOPER COMPLIANCE RECORDS AND REPORTS.

A. Records. Developer shall maintain those records as may reasonably be required to demonstrate compliance with the goals and procedures set forth in this Exhibit. These records shall be available to the UG upon reasonable notice.

B. Development and Construction Utilization Plan Reports. Developer shall update the Project Utilization Plan quarterly on the form attached hereto as Attachment B or another form provided or approved by the UG and shall include information requested thereon. In addition, each quarterly report shall include the following for each LBE, MBE or WBE whose participation is utilized by Developer to be applied to the goals set forth herein: business name and address of each LBE, MBE and WBE and a brief description of the work to be performed by each. Developer also shall document the change orders to contracts awarded in each quarterly report.

VII. PROJECT COMPLIANCE EVALUATION.

A. Five Year Review. Commencing on the fifth year following the opening of the Project and every five years thereafter, Developer may, at its sole cost and expense, retain an independent consultant qualified to evaluate the goals expressed herein for purposes of determining whether the goals stated herein continue to be reasonable and achievable (the "Five Year Review"). If, based upon the consultant's analysis, the consultant recommends that any of the goals contained herein should be modified, Developer shall certify the Five Year Review to the UG and the applicable goal shall automatically be revised.
B. Remedies. If, after reviewing Developers reports, UG believes that the participation goals contained in this Exhibit have not been met, and that the good faith efforts described herein have not been met, then the UG shall inform Developer of this determination in writing. Remedies shall be available as set forth in Section 9.03 of the Development Agreement.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: __________________________
    Dennis M. Hays, County Administrator
    Dated: ________________, 2012

ARGENTINE COMMERCIAL, INC.

By: __________________________
    __________________________
    Dated: ________________, 2012
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<th>Bid Package</th>
<th>Estimated Contract Value</th>
<th>Estimated LBE Value</th>
<th>Estimated LBE %</th>
<th>Estimated MBE Value</th>
<th>Estimated MBE %</th>
<th>Estimated WBE Value</th>
<th>Estimated WBE %</th>
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## Attachment B
### L/M/WBE Utilization Report

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<th>Bid Package</th>
<th>Discipline</th>
<th>Subcontractor/Supplier Name</th>
<th>Original Contract Value</th>
<th>Change in Contract Value</th>
<th>Total Contract Value (Excluding CCIP)</th>
<th>LBE</th>
<th>MBE</th>
<th>WBE</th>
<th>Certifying Agency or Local Jurisdiction Code</th>
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</table>

**Total Applicable Contract Volume Awarded To Date**

- **LBE**
- **MBE**
- **WBE**

<p>| | | | | | | | | | | |
|  |  |  |  |  |  |  |  |  |  |  |
|---|---|---|---|---|---|---|---|---|---|
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<th>Total</th>
<th>Class</th>
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<td>Total $ Awarded</td>
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<td>Total $ MBE</td>
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<td>% MBE</td>
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<td>Total $ WBE</td>
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<td>%WBE</td>
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<td>Total $ M/WBE</td>
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MINORITY AND WOMEN EMPLOYEES

List the name, address, trade, classification, date hired, sex and ethnic origin for each minority/women employed by your company.

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<thead>
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<th>Name &amp; Address</th>
<th>Trade</th>
<th>Classification</th>
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EXHIBIT I

CID MAP

Kansas City, KS

CID AREA
EXHIBIT J
INCREMENTAL TAX REVENUES CHART

<table>
<thead>
<tr>
<th><strong>Real Estate Taxes</strong></th>
<th><strong>Sales &amp; Transient Taxes</strong></th>
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<tr>
<td>1. Taxes on Base Assessed Value of $51,550 will flow thru to taxing jurisdictions as they do now</td>
<td>1. Base set at $0 for UG sales taxes</td>
</tr>
<tr>
<td>2. 100% of increment for Years 1-20</td>
<td>2. 1.000% of City 1.625% general sales tax</td>
</tr>
<tr>
<td></td>
<td>3. 0.940% of the County 1.000% general sales tax</td>
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</table>
Structure Chart for Metropolitan Development

ARGENTINE COMMERCIAL, INC. (DEVELOPER)

Private Bank
- Loan to New S-Corp for Development
  - Guaranty of Loan

ANDA
- Charitable Grants for Development
  - Incentive Funds

Unified Government
- Development Agreement

Development of Project Area 1
  - Operating Revenue

ARGENTINE COMMERCIAL, INC. Governance & Ownership
- Board (Does Not Include Ann Murguia)
- Shareholders (Does Not Include Ann Murguia)

Developer / Incentive Funds Spent on Construction/Development
ORDINANCE NO. O-___-12

AN ORDINANCE AUTHORIZING THE CREATION OF THE METROPOLITAN AVENUE COMMUNITY IMPROVEMENT DISTRICT IN KANSAS CITY, KANSAS; AUTHORIZING THE MAKING OF CERTAIN PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT IMPROVEMENTS; AND PROVIDING FOR THE METHOD OF FINANCING THE SAME.

WHEREAS, pursuant to K.S.A. 12-6a26 et seq., as amended (the “Act”), cities and counties are authorized to create community improvement districts as a method of financing economic development related improvements in a defined area within their city or county; and

WHEREAS, the Act authorizes the governing body of any city or county to create community improvement districts to finance projects within such defined area of the city or county and to levy a community improvement district sales tax and/or levy special assessments upon property within the district to finance projects; and

WHEREAS, a petition (the “Petition”) was filed with the Unified Government Clerk on February 27, 2012, proposing the creation of the Metropolitan Avenue Community Improvement District (the “District”) under the Act and the imposition of a community improvement district sales tax in order to pay the costs of projects as described in the Petition (the “Projects”); and

WHEREAS, the Petition was signed by the required number of owners of record, whether resident or not, as required by the Act; and

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”) intends to create the District and to levy a community improvement district sales tax in an amount of 1.0% as requested in the Petition (the “CID Sales Tax”); and

WHEREAS, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the governing body shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and the construction of such community improvement district projects therein, and to give notice of the hearing by publication at least once each week for two (2) consecutive weeks in the official City newspaper and by certified mail to all property owners within the proposed community improvement district, the second publication to be at least seven (7) days prior to the hearing and such certified mail sent at least ten (10) days prior to such hearing; and

WHEREAS, the Governing Body adopted Resolution No. R-20-12 on March 1, 2012 directing that a public hearing on the proposed District within the Unified Government be held on April 5, 2012, declaring its intent to impose a community improvement district sales tax, and requiring that the Unified Government clerk provide for notice of such public hearing as set forth in the Act; and
WHEREAS, the Notice of Public Hearing containing the following information: (a) the time and place of the hearing, (b) the general nature of the proposed community improvement district, (c) the estimated costs of the proposed community improvement district projects; (d) the proposed method of financing the costs of the community improvement district projects; (e) the proposed amount of the community improvement district sales tax; and (f) the map or boundary description of the proposed District, was mailed to all property owners within the proposed District on March 5, 2012, and published once each week for two (2) consecutive weeks in The Wyandotte Echo, the official City newspaper, on March 8, 2012 and March 15, 2012; and

WHEREAS, on April 5, 2012, the Governing Body conducted a public hearing on the proposed District, the proposed Projects, and estimated costs thereof and the method of financing the same; and

WHEREAS, the Governing Body hereby finds and determines it to be advisable to create the Metropolitan Avenue Community Improvement District and set forth the boundaries thereof, authorize community improvement district projects relating thereto, approve the estimated Costs of such community improvement district projects and approve the method of financing the same, all in accordance with the provisions of the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1.  Approval of Development Agreement.  The governing body of the Unified Government hereby approves the Development Agreement in substantially the form presented to and reviewed by the Board of Commissioners (a copy of the Development Agreement, upon execution thereof, shall be filed in the office of the Unified Government Clerk), with such changes therein as shall be approved by the officers of the Unified Government executing such documents, such officers’ signatures thereon being conclusive evidence of their approval thereof.

Section 2.  Creation of Community Improvement District; Boundaries.  That the Governing Body hereby finds and determines that it is advisable to create, in accordance with the provisions of the Act, the Metropolitan Avenue Community Improvement District within the Unified Government to be referred to as the Metropolitan Avenue Community Improvement District.  A legal description of the boundaries of the proposed Metropolitan Avenue Community Improvement District is set forth on Exhibit A, attached hereto and incorporated by reference herein.  A site plan generally outlining the boundaries of the proposed Metropolitan Avenue Community Improvement District is attached as Exhibit B, attached hereto and incorporated by reference herein.

Section 3.  Authorization of Community Improvement District Projects and Estimated Costs.

(a) The general nature of the Projects to be constructed within the District includes the Projects described on Exhibit C attached hereto.

(b) The total estimated cost of the Projects to be funded by the District is $600,000 plus financing costs, including interest.
Section 4. Method of Financing.

(a) In order to provide funds to finance the costs of the Project, it is advisable to impose, in accordance with the provisions of the Act, a community improvement district sales tax within the Metropolitan Avenue Community Improvement District in an amount of one percent (1.0%) on the selling of tangible personal property at retail or rendering or furnishing services within the Metropolitan Avenue Community Improvement District. The Unified Government shall receive a 1% administrative service fee of CID Sales Tax to reimburse the Unified Government for administrative costs in connection with the District and the CID Sales Tax.

(b) There will be no special assessments levied on property within the boundaries of the District to pay the cost of the Project.

(c) The Projects will be privately financed as pay-as-you-go financing (as defined in the Act). No general obligation bonds nor revenue bonds shall be issued by the Unified Government, i.e., the costs of the Project will be paid for by the Developer without the issuance of notes or bonds, and, subject to the terms and conditions of a development agreement to be entered into between the Developer and the Unified Government, the Developer will be reimbursed for the costs of the Project as moneys are deposited in the District fund from the net CID Sales Tax after the Unified Government’s 1% administrative service fee.

Section 5. Imposition of Community Improvement District Sales Tax. In order to provide for the payment of the Projects, the governing body of the Unified Government hereby imposes the CID Sales Tax within the District in an amount of one percent (1.0%) on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers’ sales tax act within the District.

Section 6. Segregation of Sales Tax Revenues. All revenues derived from the collection of the CID Sales Tax shall be deposited into a special fund of the Unified Government to be designated as the Metropolitan Avenue Community Improvement District Sales Tax Revenue Fund. Such revenues shall be used to pay the costs of the Projects and the Unified Government’s administrative service fee.

Section 7. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Governing Body of the Unified Government and publication once in the official City newspaper.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]
PASSED by the Governing Body this 5th day of April, 2012.

SIGNED by the Mayor this _____ day of April, 2012.

______________________________________________
Mayor/CEO

ATTEST:

______________________________________________
Unified Government Clerk

(Seal)

Approved As To Form Only:

______________________________________________
Chief Counsel
EXHIBIT A

Legal Description

Lots 1 and 2, HODG SUBDIVISION, a replat of Lot 2, Argentine Industrial Park, a subdivision of land in the City of Kansas City, County of Wyandotte, State of Kansas;
EXHIBIT B

General Depiction of CID
EXHIBIT C

Description of CID Project

The redevelopment of an approximately 2.9-acre tract of real property located generally at the Northwest corner of 18th Street Expressway and Metropolitan Avenue in Kansas City, Kansas. Such redevelopment shall include the construction of mixed-use office and retail space, including but not limited to, lobbies, parking lots, other related infrastructure and improvements, all as may be reimbursable pursuant to the Act.
(Published in The Wyandotte Echo on ____________)

ORDINANCE NO. O-_____-12

AN ORDINANCE ADOPTING A REDEVELOPMENT PROJECT PLAN
FOR PROJECT AREA 1 WITHIN THE METROPOLITAN AVENUE
REDEVELOPMENT DISTRICT, IN THE CITY OF KANSAS CITY,
KANSAS AND ADOPTING A DEVELOPMENT AGREEMENT IN
CONNECTION THERewith

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the
“Unified Government”) desires to promote, stimulate and develop the general and economic
welfare of Kansas City, Kansas and the state of Kansas (the “State”) and to assist in the
development and redevelopment of eligible areas within Kansas City, Kansas, thereby promoting
the general welfare of the citizens of the State and the Unified Government, by acquiring
property and providing for the development and redevelopment thereof and the financing relating
thereto; and

WHEREAS, pursuant to the provisions of K.S.A. 12-1770 et seq., as amended (the
“Act”), the Unified Government is authorized to adopt redevelopment project plans within
established redevelopment districts, as said terms are defined in the Act, and to finance all or a
portion of redevelopment project costs from tax increment revenues and various fees collected
within such redevelopment district, revenues derived from redevelopment projects, revenues
derived from local sales taxes, other revenues described in the Act, or a combination thereof or
from the proceeds of full faith and credit tax increment bonds of the Unified Government or
special obligation tax increment bonds of the Unified Government payable from such described
revenues; and

WHEREAS, the Unified Government on November 17, 2011, adopted Ordinance No. 0-
51-11, which created the Metropolitan Avenue Redevelopment District within Kansas City,
Kansas (the “City”), the boundaries of which were defined in said Ordinance (the
“Redevelopment District”) and containing two redevelopment project areas; and

WHEREAS, on February 6, 2012, a Redevelopment Project Plan for Project Area 1 of
the Redevelopment District (“Redevelopment Project Plan”) was filed with the Unified
Government Clerk; and

WHEREAS, on February 21, 2012, the Planning Commission of the Unified
Government made a finding that the Redevelopment Project Plan was consistent with the intent
of the City’s comprehensive plan for the development of the City; and

WHEREAS, a copy of the Redevelopment Project Plan, and all amendments thereto,
was delivered by the Unified Government to the Board of Education of Unified School District
No. 500; and

WHEREAS, the Governing Body adopted Resolution No. R-21-12 on March 1, 2012
calling for a public hearing considering the adoption of the Redevelopment Project Plan to be
held by the Governing Body on April 5, 2012; and
WHEREAS, the public hearing was held and closed on April 5, 2012, with presentation of the Redevelopment Project Plan and an opportunity for all interested persons to be heard regarding the proposed Redevelopment Project Plan; and

WHEREAS, the Unified Government and Developer desire to enter into a Development Agreement for Project Area 1 of the Metropolitan Avenue Redevelopment District to be dated the date set forth therein (the “Development Agreement”);

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. Approval of Redevelopment Project Plan. The Unified Government hereby adopts the Redevelopment Project Plan pursuant to the Act for Project Area 1 of the Redevelopment District with Project Area 1 legally described on Exhibit A attached hereto.

Section 2. Approval of Development Agreement. The governing body of the Unified Government hereby approves the Development Agreement for Project Area 1 in substantially the form presented to and reviewed by the Board of Commissioners (a copy of the Development Agreement, upon execution thereof, shall be filed in the office of the Unified Government Clerk), with such changes therein as shall be approved by the officers of the Unified Government executing such documents, such officers’ signatures thereon being conclusive evidence of their approval thereof:

Section 3. Further Action. The Mayor/CEO, County Administrator, Unified Government Clerk and other officials and employees of the Unified Government, including the Chief Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this resolution.

Section 4. Transmittal of Redevelopment Project Plan. Copies of the Redevelopment Project Plan and this ordinance shall be filed with the Clerk and also transmitted by the Clerk to the County Appraiser and County Treasurer and to the governing boards of the School District in which the Redevelopment District is located.

Section 5. Effective Date. This ordinance shall be in full force and take effect from and after its passage, approval and publication in The Wyandotte Echo.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]
PASSED by the Governing Body this 5th day of April, 2012.

SIGNED by the Mayor this _____ day of April, 2012.

________________________________________
Mayor/CEO

Attest:

______________________________
United Government Clerk

(Seal)

Approved As To Form Only:

______________________________Chief Counsel
EXHIBIT A

Legal Description of Redevelopment Project Area 1

Lots 1, 2 and 3, and Tract A, HODG SUBDIVISION, a replat of Lot 2, Argentine Industrial Park, a subdivision of land in the City of Kansas City, County of Wyandotte, State of Kansas, and all right-of-way adjacent thereto.
**Staff Request for Commission Action**

**Tracking No. 120072**

<table>
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<tr>
<th>Type: Standard</th>
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**Committee:** Economic Development and Finance Committee

<table>
<thead>
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<th>Date of Standing Committee Action: 4/2/2012</th>
</tr>
</thead>
</table>

(If none, please explain):

**Proposed for the following Full Commission Meeting Date:** 4/26/2012

**Confirmed Date:** 4/26/2012

**Changes Recommended By Standing Committee (New Action Form required with signatures)**

<table>
<thead>
<tr>
<th>Date: 3/28/2012</th>
<th>Contact Name: Charles Brockman</th>
<th>Contact Phone: x5733</th>
<th>Contact Email: <a href="mailto:cbrockman@wycokck.org">cbrockman@wycokck.org</a></th>
<th>Ref:</th>
<th>Department / Division: Economic Development</th>
</tr>
</thead>
</table>

**Item Description:**

Previously the Economic Development and Finance Committee Commissioners reviewed documentation submitted by staff for changes to the Section 42 Tax Credit Policy. The Commissioners reviewed "why" the policy criteria is in place and staff discussed the current policy. Staff recommends the following changes be made:

1) Open application period, allowing for submission and review throughout the year
2) Inclusion of points for MBE/WBE/LBE and prevailing wage
3) Elimination of requirement to be in conformance with Master Plan in advance of review, however still be required to conform before project can be built
4) Elimination of market rate criteria
5) A pre-application meeting.

**Action Requested:**

Discuss and consider approval of recommended changes to the Section 42 Tax Credit Policy.

- Publication Required

**Budget Impact: (if applicable)**

<table>
<thead>
<tr>
<th>Amount: $</th>
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</table>

**Source:**

- Included In Budget
- Other (explain)

- File Attachment
Section 42 Review

Reason for Unified Government’s Policy (Scoring Matrix):

Starting in June 2004, the Research Division of the Finance Department performed a comprehensive study of the Unified Government’s policy for local review of the Low-Income Housing Tax Credit (LIHTC) proposals and related issues. The study ultimately recommended a revision of the Unified Government’s “Affordable Housing Tax Credit Policy” adopted in 2001. The 2001 policy was a very bare bones procedure that did not directly address the community’s plans and priorities in a substantive way.

The study gave the Commission an overview of the tax credit program and it reported a summary of new residential development, single-family and apartment, in the Kansas City metropolitan area for January 2000-June 2004, including statistics for Kansas City, Kansas. It also analyzed, by way of survey, the 88 apartment complexes in Wyandotte, Johnson, and Leavenworth Counties. The purpose of that survey was to obtain current information on the rental market for both market rate and tax credit properties in the Kansas City, Kansas immediate area. Finally, the study polled 17 other cities regarding their LIHTC policies and made recommendations to enhance the existing policy (2001) without conflicting with the KHRC criteria established for local review.

The ERC vs. Unified Government litigation filed in February 2004 sparked much of this internal discussion regarding our LIHTC policy. As you may recall, ERC claimed that the Unified Government had violated the Fair Housing Act when it declined to provide a resolution of support for their LIHTC proposal to build a 228-unit apartment complex at 120th and State Avenue. ERC claimed that the Unified Government’s decision not to support the proposal was based on reasons that included racial and socio-economic discrimination and not on neutral/objective plans and priorities.

As a result of the above case, the Unified Government moved forward to establish a formal review and criteria to evaluate Section 42 applications.

Areas of Discussion:

- Compliance with Master Plan in advance of Commissioner support;
- Incorporation of local, minority, and women-owned goals and prevailing wage criteria;
- Allowance for open review and endorsement of Section 42 application year-round;
- Elimination of market rate criteria; and
- Addition of requirement for pre-application meeting.
LOCAL REVIEW CRITERIA FOR REVIEW OF HOUSING TAX CREDIT PROPOSALS
UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

INTRODUCTION

The Commission of the Unified Government of Wyandotte County/Kansas City, Kansas believes that one of the community's most attractive and positive characteristics is its cultural and racial diversity in which no one group constitutes a majority. It is the policy of the Unified Government to secure to all persons living or desiring to live in the City a fair opportunity to purchase, lease, rent or occupy housing or other real estate and to provide all persons full and equal access to housing regardless of race, sex, color, religion, ancestry, national origin, veteran status, sexual orientation, age, marital status, familial status or disability. Unlawful racial steering, discrimination and other forces promoting segregated housing must be eliminated. It is the intent of the Commission in the implementation of this Housing Tax Credit Policy to encourage racial and cultural integration as well as economic diversity.

CRITERIA

The Unified Government is committed to the construction and maintenance of quality affordable housing in Wyandotte County. The construction of new affordable housing units together with the renovation of existing housing units can significantly improve the livability of neighborhoods and provide decent living conditions. The Unified Government recognizes that the Housing Tax Credit Program, established in the Tax Reform Act of 1986, Section 42 (m), is an important tool to achieve these objectives.

The Kansas Housing Resources Corporation's (KHRC) state allocation plan requires a local review process prior to its consideration of housing tax credit proposals. The KHRC will not consider an application for housing tax credits "without a resolution from the local governing body stating that it is aware of and approves the housing development".

In addition, the KHRC evaluates proposals based on specific selection criteria, in accordance with Section 42 (m) requirements. To complement the State review process, the Unified Government has established selection criteria which are appropriate to local conditions and priorities.

To ensure a fair and accurate review, all proposals for housing tax credits will be evaluated on the basis of a point ranking system to determine if the proposal merits local support and to prioritize submissions, if more than a single proposal is received during an evaluation period.
1. Pre-Requisite Requirements

   a. Ownership is Clear- The developer must provide evidence of recorded title of the real estate to be developed or a contract indicating that the property will be acquired pending the approval of the tax credit application.

   b. Feasible Market Analysis- Submission of a feasibility study that supports the ability of the development to attract market rate tenants for any market rate units; and low income tenants for the tax credit units. (This analysis is not required for developments of 12 units or less.)

   c. Financing in Place- Evidence of permanent financing and permanent loan closing documents (15 year minimum for properties of 10 units or more), as required by the KHRC.

   d. Compliance with Land Use and Zoning Requirements- The Director of the Department of Urban Planning and Land Use must certify that the proposed site is in compliance with the designated zoning and land use of the site. The Unified Government Board of Commissioners will not take action on a tax credit application until zoning is in place or approved subject to stipulations.

   e. Compliance with Long-Range Master Plan- The Planning Commission must certify that the proposed site is in compliance with the approved Long Range Master Plan for this area.

   f. Acceptable Environmental and Site Impacts- The Directors of Public Works and the Department of Urban Planning and Land Use must certify that that the proposed development will not have any significant adverse environmental or site impacts or that appropriate mitigation will occur. Considerations include: areas subject to flooding; close proximity to pollution generators; and sites with steep slopes or unsuitable for development.

   g. Qualified Development and Management Team- The applicant must have previously developed and operated similar projects, or indicate how the ability and experience necessary to complete and operate the proposed project will be attained.

   h. Adequate Storm Shelter Requirements- In addition to complying with local building codes, the plans for the development of new units must include a storm shelter or a protected area in the event of a severe storm. The Director of Emergency Management of the Unified Government will review proposed plans to insure this protection is provided.
2. Property Location

   a. Neighborhood Revitalization Area (3 Points)

      A proposed project located in the Unified Government's recognized Neighborhood Revitalization Area (NRA) will receive three points. The points will also be awarded to any property located within the NRA boundaries, but situated in a Tax Increment Financing district. (The NRA is recognized as a targeted development area within the community; however it should be noted that tax credit developments are not eligible for the tax abatement incentives received for development in an NRA. Figure C-1 indicates the boundaries of the existing NRA.)

   b. Conformance with Consolidated Plan Objectives (3 Points)

      The current Unified Government Consolidated Plan mentions low income housing tax credits, as an option for constructing or rehabbing affordable rental housing. A revised five-year Consolidated Plan will be developed in 2005. The plan will examine rental housing needs from a comprehensive community perspective. Specific priorities and objectives, pertaining to tax credit housing, will be formulated in the revised plan. Prior to the revision, all applicants will receive three points for this category. The revision of the plan will explicitly indicate how these points are given.

   c. Need for Affordable Housing in Area (2 Points)

      The recent Housing Tax Credit Policy Review (September 2004), conducted by the Unified Government Research Division, indicated that two areas of the city have fewer affordable unit available than other areas of the city. If the development is located in either Turner/Muncie (area #4) or Piper/I-435 (area #5) two points are awarded. (Figure C-2 indicates the boundaries of these areas.)

   d. Infill Site (2 Points)

      Infill sites east of I-635 receive two points. An infill site located in areas 3 and 4 (Figure C-2) will receive one point. An infill site in areas 3 and 4 will receive an additional point, if the Director of Development determines that the property has not been used for agricultural purposes in the most recent 24 month period. Fallow ground is considered to be agriculture.

   e. Area Part of a Revitalization Plan or Designated Redevelopment Area (2 Points)

      The Unified Government Directors of Development and Land Use and Planning will determine if the proposed site is situated in one of these areas. If so, two points are awarded. These areas may include: special planning areas, Tax Increment Financing Districts (TIF) areas, CDBG targeted neighborhood or development areas, or other designated area.
f. Qualified Census Tract (1 Point)

    A proposed development located in a qualified census tract, in accordance to
    HUD regulations receives one point. A qualified census tract has either a poverty
    rate greater than 25% or over 50% of the households have incomes below 60% of
    the KC area median household income. (Figure C-3 displays qualified census
    tracts.)

g. CDBG Low-Mod Census Tract (1 Point)

    A proposed development located in a "low-mod census tract", in accordance to
    HUD regulations receives one point. The low-mod census tracts include the
    "qualified census tracts" and other census tracts with over 50% of the households
    having a median household income below 80% of the KC area median
    household income. (Figure C-3 displays the low-mod and qualified census
    tracts.)

h. Availability of Nearby Services (Up to 6 Points)

   1. Neighborhood Retail (1 Point)

       One point is received if "neighborhood retail" services are currently
       available within one mile of the development. Neighborhood retail
       includes centers or shopping areas that offer convenience goods such as
       food/groceries, drugs, and personal services.

   2. Park/Trails (1 Point)

       One point is given if the proposed site is within one mile of an existing
       neighborhood or community park, recreational facility, or trail system.

   3. Transit (1 Point)

       One point is awarded if the proposed site is within a ½ mile of an existing
       transit line.

   4. Medical Facilities/Offices (1 Point)

       One point is received if the proposed development is located within two
       miles of an existing medical office, clinic, or hospital facility. The medical
       facility should offer primary medical care service, as opposed to specialty
       care.
5. Employment Centers (2 Points)

Two points are given, if the proposed site is within one mile of a significant employment center, while one point is received if the development site is located within three miles of such a center. An employment center may include: a commercial business or retail district; or an industrial or warehouse/distribution district. Example of such districts include: the Fairfax, Armourdale, and Santa Fe industrial districts; the 78th Street business corridor; downtown; Village West; and the KU Medical Center area.

6. School District Impact (No points)

The impacted school district will be notified for comment.

3. Housing Needs Characteristics (20 Points Available)

a. Rehabilitation of Existing Affordable Housing (6 Points)

Six points are awarded if the proposed development meets KHRC’s definition of substantial rehabilitation. "Total rehabilitation expenditures must be the greater of an average of at least $4,000 of qualified basis per low-income unit in each building or ten percent of the unadjusted basis." (KHRC – Overview of Housing Tax Credits 2004)

b. Prevents Conversion to Market-Rate or Preserves Affordable Units (2 Points)

The acquisition of a property that may be subject to foreclosure or default or faced with an expiring rental assistance program would receive two points. In this instance, affordable units are retained. Rehabilitation is not required to earn these points.

c. Preserves Historically Significant Structures (3 Points)

Historically significant structures include those buildings placed on the National Historic Registrar or eligible for designation as determined by the Kansas City, Kansas Landmarks Commission. Three points are given for this designation.
d. Removes Blighted Structures or Funds a Unified Government Demolition or Rehabilitation Program (4 Points)

A development plan that includes the demolition of all blighted structures at its proposed development site will receive the four points for this category. If the development plan removes blighted structures by means of rehabilitation, it also would receive the four points. Blighted structures may include vacant or abandoned structures, or buildings that have been cited for code violations. The Directors of the Development Department and the Neighborhood Resource Center will make this determination.

If an applicant does not have blighted buildings at its proposed development site, the applicant may fund a Unified Government program dedicated for demolition or rehabilitation of housing structures to receive from one to four points. The table below indicates the required level of funding for various development costs.

<table>
<thead>
<tr>
<th>Amount of Investment</th>
<th>Funding Per Point</th>
<th>4 Point Funding Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $4,000,000</td>
<td>$15,000</td>
<td>$60,000</td>
</tr>
<tr>
<td>$4,000,000 to $7,999,999</td>
<td>$20,000</td>
<td>$80,000</td>
</tr>
<tr>
<td>$8,000,000 to $11,999,999</td>
<td>$25,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>More than $12,000,000</td>
<td>$30,000</td>
<td>$120,000</td>
</tr>
</tbody>
</table>

e. Minimal Impact to Existing Rental Market (2 Points)

This category awards points if the existing rental market, in an area, is less impacted by the proposed development. Two areas of the City have significantly fewer rental units and therefore are less impacted by a new rental development. If the development is located in either the Turner or Morris neighborhoods of area #4 or Piper/I-435 (area #5) two points are awarded. If the development is located in the Muncie-Stony Pt neighborhood of area #4, one point is given. If the proposed development is located in any of the other areas of the City, areas 1, 2, or 3 no additional points are given. (Again, refer to Figure C-2.)

f. Promotes New Construction (3 Points)

If the proposal is for either new construction of affordable rental units or the conversion to rental units from an alternative use, then three points are awarded. An example of conversion might be constructing residential lofts in a building that had been previously used for non-residential purposes.
4. **Resident/Tenant Needs Characteristics**

(25 Points Available)

a. Promotes a Mixed-Income Community (10 Points)

Senior or assisted-living developments do not have a minimum requirement for market-rate units, and will receive at minimum four points. If the market-rate percentage is above 40%, then five or more points may be given, based on the table below.

All family developments must have a minimum of 25% market-rate units. A family development can receive between two to ten points for this category. Points in this category are awarded as follows, for family developments.

<table>
<thead>
<tr>
<th>Market Rate Units Percentage</th>
<th>Points Received</th>
<th>Market Rate Units Percentage</th>
<th>Points Received</th>
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<tbody>
<tr>
<td>25-29%</td>
<td>2</td>
<td>50-54%</td>
<td>7</td>
</tr>
<tr>
<td>30-34%</td>
<td>3</td>
<td>55-59%</td>
<td>8</td>
</tr>
<tr>
<td>35-39%</td>
<td>4</td>
<td>60-64%</td>
<td>9</td>
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<tr>
<td>40-44%</td>
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</tr>
<tr>
<td>45-49%</td>
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</table>

b. Development Provides Affordable Housing for Low Income (4 Points)

Developments with 20% of units reserved for households, with income below 50% of area median, receive four points. Developments with 40% of units reserved for households, with income below 60% of area median, receive three points. Any proposal for tax credits is required to meet one of these two conditions.

c. Owner-Occupied Component (3 Points)

Three points are awarded if development proposal includes a viable option for the tenant to purchase the unit at the conclusion of the 15-year compliance period.

d. Units for Larger Families (2 Points)

Proposals that include a minimum of 25% 3 bedroom units in their proposal receive one point in this category. Two points are awarded if 35% of the tax credit units in the proposal are 3 bedrooms.
e. Minimal Adverse Impact Upon Public-Assisted Housing (2 Points)

The Director of Development will make this determination. The location in the community of other tax credit developments, public housing sites, and HUD listed section 8 properties will be considered in evaluating the impact of the proposed development. Two points are given if the proposed development is expected to have only minimal impact upon existing properties. If the development is located near existing developments (1-2 miles) and is expected to be in direct competition for rental units, then no points are awarded.

f. Set-Aside Units for Persons w/Special Needs or Transitional Housing (2 Points)

This category is for proposals that include units with special features. Examples include: supportive housing for disabled; transitional housing for homeless; and assisted living housing. Proposals that include a minimum of 5% special-need tax-credit units in their proposal receive one point. Two points are awarded if 10% of the tax credit units in the proposal meet this condition.

f. Provide Residential Support Services (2 Points)

Residential support services may include: transportation van services; assisted-living; information and referral; and a resident association. One point is given for each support service provided, up to two points.

5. Financing Characteristics (15 Points Available)

a. Future Maintenance and Reserve Escrow Plan (3 Points)

A proposal clearly indicating a future maintenance and reserve plan, as part of its operating plan, will be given three points for this category. At minimum, 5% of operating revenues should be set-aside as a future reserve to receive these points.

b. Additional Rehabilitation Expense (2 Points)

The KHRC requires an "average minimum of $4,000 per unit of qualified basis" to be eligible for tax credits on a rehabilitation developments. Two additional points will be received, if average rehabilitation expense, exceed $10,000 per unit on a qualified basis.
c. Low Percentage of Soft Costs (2 Points)

Two points will be awarded for this category, if the combined developer and consultant fees are less than 10% of the total development cost.

d. Returns of Part of Income Stream to Community (2 Points)

A proposal that returns a percentage of income to either a non-profit housing organization or a Unified Government housing rehabilitation program is eligible for these points. One point is awarded for each percent of income, derived from the tax credit units, that is allocated to one of the organizations referred to above. Two is the maximum number of points that can be received for this category.

e. Strength of Applicant (2 Points)

If the applicant has extensive development experience for similar proposals, two points will be awarded. Market-rate and tax-credit apartment development and/or management will be considered as relevant experience. If the applicant's experience is limited (1-2 similar developments), then one point will be given.

f. Applicant Not Fully-Funded in Prior Submission (1 Point)

One point is received, if the applicant received only partial tax credits in a previous submission for this proposal.

g. Leverages other Local or Federal Funding (1 Point)

A proposal that also leverages Federal funding, such as CDBG, HOME, or HOPE funds at the federal level or local government funding, through possibly a TIF or benefit district, the proposal will receive one point for this category.

h. Applicant is a Tax-Exempt Organization (1 Point)

A tax-exempt applicant conforming to the guidelines of 501 (c) (3) or (c) (4) of the Internal Revenue Service Code, and participating as the owner, developer, or manager will receive this one point.

i. Women or Minority Involvement (1 Point)

A proposal with either minority or women participating as owner or developer will receive one point.
6. Planning and Development Standards (20 Points Available)

a. Design Standards and Architecture and Construction Quality, (6 Points)

Six points maximum can be earned in this category. Points will be given for each of the standards provided below.

1. Two points for 100% brick/stone construction or one point for 50% brick/stone construction;
2. One point for exceeding the landscaping ordinance by 35%;
3. One point if all units have balconies/terraces;
4. Three points if 60% of the units have garages or two points if 30% of the units have garages; or one point if no garages and 60% of the units have carports;
5. One point for neo-traditional design;
6. One point if plans for buildings include significant building articulation. Roof lines should be articulated at the unit level and include gables and dormers. The facade articulation should be at the unit level for major articulation (greater than 24 inches) and at the room level for minor articulation (8-23 inches). Unit entry points should be covered and accented as a major architectural feature of the building.

b. Development Amenities, Family-Unit Complex (6 Points)

Six points maximum can be earned in this category. Points will be given for each of the amenities provided below.

1. One point for swimming pool;
2. One point for clubhouse with a meeting room, workout room and small kitchen;
3. One point for a sports court (excluding sand volleyball);
4. One point for at least 30 feet of trails per unit or a connection to a recognized city or regional trail network (excluding parking lot and unit access);
5. One point for a play structure having at least one feature for every ten housing units, including: pair of swings, climbing wall, slide, slide pole, swing bridge, and monkey bars (if over 150 units in development, the play area should be divided into two areas for older and younger children, with replication of amenities discouraged);
6. One point for each two of the following provided (or two points if four of the following provided etc.);
   i. Sand volleyball pit;
   ii. Barbecue grills and shelter (minimum size 10 by 15 feet);
   iii. Wet basin with fish (1/2 acre surface minimum);
   iv. In unit washer/dryer;
   v. Hot tub/sauna (one large hot tub per 100 units);
   vi. In unit fireplace;
   vii. Large patio with seating area (ten sq. feet per unit – one seat for every four units).
c. Development Amenities, **Senior or Assisted-Living Complex** (6 Points)

Six points maximum can be earned in this category. Points will be given for each of the amenities provided in 6(b) above, plus:

1. One point for each two of the following provided (or two points if four of the following provided);
   i. Beauty shop;
   ii. Rose garden;
   iii. Community garden;
   iv. Permanent card tables (one seat for every two units);
2. Four points for 24-hour nursing or two points for 8-12 hour nursing;
3. One point for an Alzheimer’s ward;
4. One point for rehabilitation services, with either a physical therapist on staff or a room dedicated to physical therapy with suitable therapy equipment.


d. Neighborhood Organization Support (5 Points)

It is required that the developer outline contacts with neighborhood and business associations scheduled for each phase of the development. If the developer receives support of both nearby neighborhood organizations and business associations, five points will be awarded for this category. The “support” may be in the form of written statement or public testimony at a Unified Government planning or standing committee meeting. Two to three points may be awarded if the proposal receives a mixed level of support from various local organizations.

e. Attached or Detached Single-Family Development (3 Points)

A single-family development with either attached or detached units, with on-site property management, is viewed positively. Three points are received, if the proposal is entirely this type of development with on-site management. Two points are given, if 50% of the units are single-family attached or detached with on-site management. One point is awarded if 50% or more of the units are single-family attached or detached, but on-site management is not part of the development plan.

The Director of Development will coordinate the review process. All applications that comply with the pre-requisite requirements and achieve a score of 50 points, based on the criteria listed above, will be forwarded to the Economic Development and Finance Standing Committee. If recommended by the Standing Committee, the application will be submitted for consideration by the Board of Commissioners.

The criteria will be reviewed after the July 2005 application submissions, with an annual review and update thereafter.
Neighborhood Groupings For Tax Credit Policy Study.

1 - Eastern Neighborhoods
2 - Rosedale/Argentine
3 - North Central Neighborhoods
4 - Turner/Muncie
5 - Piper/I-435
6 - Bonner Springs/Edwardsville
1. Qualified Census Tracts - IRS Section 42
2. Other Low-Mod Census Tracts

1. A qualified tract has either a poverty rate greater than 25% or 50% of the households have incomes below 60% of the KC area median household income.

2. The low-mod census tracts include the "qualified census tracts" and other tracts with 51% more of the households having income below 80% of the KC area median household income.

CRITERIA FOR LOCAL REVIEW OF HOUSING TAX CREDIT PROPOSALS
November 2004
February 9, 2012

Charles Brockman  
Economic Development Director  
Unified Government of Wyandotte County  
701 N 7th Street  
Kansas City, KS 66101

RE: UG Section 42 Application and Requirements

Dear Mr. Brockman,

CHWC’s mission is to revitalize, stabilize and reinvest in Kansas City, Kansas neighborhood through affordable housing opportunities, homebuyer education & counseling and community engagement. Among the many financing tools we use to provide affordable housing, one of the important tools we use to provide affordable housing to our families is the use of IRS Section 42 Tax Credits.

The Unified Government’s current policy that requires 25% of units for families to be market rate is, however, a burden to using the Section 42 program. Specifically, the 25% rule creates a significant burden to the projects by increasing the amount of permanent debt service; that would otherwise be covered by the tax credits if it weren’t a requirement. In some instances, it actually hinders an entire project from coming to fruition and for others, it simply increases the monthly rent charged to the tenants due to the need to pay for the increased debt service. In a way, the 25% market rate rule actually punishes the families in most need of the affordable housing by potentially increasing their monthly rent payment.

CHWC understands why this policy is in place, to promote mixed-income neighborhoods and we support this. However, we believe there are other manners that this can be achieved. One idea we would suggest is that the revised Section 42 Application gives a developer the opportunity build 100% tax credit units, but in lieu of this the developers must return or set-aside a small portion of their developer fees or earned revenue into a community-led revolving loan fund pool that local non-profits or CHDO’s can access to use to provide affordable, for-sale homes in the same neighborhood in which the Section 42 project is being built. The community-led revolving loan could also be used to make below-market, interest rate loans to qualifying families seeking to buy a home in the same general area of the Section 42 project. Here is an example:

Example: Tax Credit Housing Development, LLC seeks to build 100 units of low-income housing tax credits in Board of Commissioner District 2 of Kansas City, KS. The developer anticipates earning $500,000 in developer fees or net profit from the project. However, due to the 25% market rate rule, this developer now
must increase their debt service and thus reduce their potential developer fee to $300,000. This developer instead would rather contribute 10% of their fee, or $50,000 so that 100% of the units in this project are tax-credit funded. Now, the developer can increase his potential developer fee back to $300,000 with $30,000 of that income being contributed to a community led-grant or loan pool for local CHDOs to access and use to fund or subsidize for-sale housing for families in the same community. Possibly this community-led financing pool could also be accessed for below-market interest rate mortgages for qualifying families.

Ultimately, CHWC would like to request that the market rate requirement of 25% be eliminated or at the very least, an exemption be made for local CHDO’s working to improve our neighborhoods. This reduction is necessary for CHWC (and all CHDO’s) because:

- We want to help the community that we are located in by revitalizing and stabilizing the neighborhoods.
- We are stable in this community and are not going to develop units and then leave once we collect our fee.
- More units would be available to those that are truly in need of decent, safe, affordable housing.
- Fewer tenants would be rent-burdened.
- We cannot carry a large debt load for the market rate units.
- We cannot fund the market rate portion of the developments out of pocket.
- The Kansas Housing Resource Corporation (KHRC) does not fund market rate units with tax credits or HOME funds.
- Although senior housing is important (which has no market rate component), we also feel that single-family developments are extremely important in this area.

After speaking with local governments and Fred Bentley, Director of the Tax Credit Program at the Kansas Housing Resources Corporation, it was discovered that the Unified Government of Wyandotte County is the only city in the State of Kansas that has a requirement for market rate units in family developments. Wichita wants a requirement, but it has not been passed by City Government as of now. Kansas City, MO does not require market rate units for family developments. These local governments realize that CHDO’s (as well as for-profit developers) do not have the funds to cover the gap in financing that the 25% market-rate rule requires.

CHWC would like to propose that if the requirement remains at 25% for CHDO’s, that again a financing mechanism, such as below-market interest rate loans or grants be made available to the CHDO’s to meet the 25% market-rate construction requirement.

If you have any questions or comments, please call me at 913-342-7580 x5 or email me at atrotta@chwcck.org.

Sincerely,

Annie Trotta
Urban Planner/Project Manager
Staff Request for Commission Action

Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 4/2/2012

(If none, please explain):

Proposed for the following Full Commission Meeting Date: Confirmed Date: 4/26/2012

4/26/2012

Changes Recommended By Standing Committee (New Action Form required with signatures)

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<th>Date</th>
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<td>Doug Bach</td>
<td>573-5030</td>
<td><a href="mailto:pgarmon@wycokck.org">pgarmon@wycokck.org</a></td>
<td></td>
<td>Economic Development</td>
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Item Description:
Consideration of modifications to the current NRA Program regarding establishing local, minority, women and prevailing wage requirements for commercial projects applying for the NRA program and consideration of a residential program for the Piper School District area of Kansas City, Kansas.

Action Requested:
Discussion and direction

Publication Required

Budget Impact: (if applicable)

Amount: $
Source:

- [ ] Included In Budget
- [x] Other (explain)  Policy discussions at this point.