I. Call to Order / Roll Call

II. Approval of standing committee minutes for January 30, 2012.

III. Committee Agenda

Item No. 1 - RESOLUTION

Synopsis:
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.

Tracking #: 120052
Item No. 2 - RESOLUTION

Synopsis:
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

Tracking #: 120049

Item No. 3 - TWO RESOLUTIONS

Synopsis:
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.

- 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

It is requested that this item be fast tracked to the March 1, 2012 full commission agenda.

Tracking #: 120050
Item No. 4 - DISCUSSION

Synopsis:
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.
Tracking #: 120054

Item No. 5 - ORDINANCE

Synopsis:
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 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.
Tracking #: 120051

Item No. 6 - RESOLUTION

Synopsis:
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.
Tracking #: 120053
Item No. 7 - DISCUSSION

Synopsis:
Discussion regarding recommendations to the current Section 42 local review criteria, submitted by Charles Brockman, Economic Development.
Tracking #: 120047

IV. Adjourn
The meeting of the Economic Development and Finance Standing Committee was held on Monday, January 30, 2012, at 5:30 p.m., in the 6th Floor Human Resources Training Room of the Municipal Office Building. The following members were present: Commissioner Barnes, Acting Chair; Commissioners Kane, Maddox, and McKiernan; and BPU Board Member Alvey. Commissioner Holland was absent.

I. Acting Chair Barnes called the meeting to order. Roll call was taken and members were present as shown above.

II. Approval of standing committee minutes for January 9, 2012. BPU Board Member Alvey made a motion, seconded by Commissioner Kane, to approve the minutes. Motion carried unanimously.

III. Committee Agenda:


Lew Levin, Chief Financial Officer, said what you have before you are quarterly investments reported as yearend totals for 2011. Our total interest earnings for the year were just under $1.2 million. On our current portfolio, our average yield was less than 1%. We’ve attempted to go out for a longer period, meaning we have a number of investments maturing in 2014, with the intention of generating slightly higher interest earnings; however, as you can see just where interest rates are even on the two to three year terms, our overall interest rates and earnings are low. Conversely, when we issue debt, the lower interest rates are to our advantage. No action is required.

Commissioner Kane asked how much money have we saved to date so far as far as snowplow and stuff like that. Mr. Levin said I can’t say for certain, but I know its several hundred
thousand dollars in overtime costs. Acting Chair Barnes said by now we usually have had about four or five episodes. Usually it’s about $75,000 to $100,000 per episode.

Commissioner McKiernan asked as you read the market, you said we’re making a little less than a percent right now. Mr. Levin said yes, because of our overnight deposits which we’re paying virtually nil. Commissioner McKiernan asked do you anticipate any positive change in that over 2012 or is it going to pretty much stay right where it is. Mr. Levin said I think if you happened to catch it last week, the Federal Reserve issued a report on where they see it going. I think it was through 2014. They believe rates are going to be constant where they are today.

Action: Information only.

Item No. 2 – 120029… An ordinance amending the occupation tax, submitted by Phillip Henderson, License Administrator. It is requested that this item be fast tracked to the February 2, 2012 full commission meeting.

Phillip Henderson, License Administrator, said the fast track is not in place at this time. It would proceed as normal business would. Jody Boeding, Chief Legal Counsel, said the full commission meeting would be on February 16 for anybody in the audience who is interested.

Mr. Henderson said before I begin, I’ve got one thing I want to give each of the commissioners as a reference point that I will allude to in a moment. I’m appearing today submitting a recommended amendment to the occupation tax ordinance as it relates to the basis for assessing trucking companies from a flat fee to the amount of square footage used within the business.

A brief history on this; through the budget process last summer, a request was made for an across-the-board adjustment to the occupation tax for all business entities. An ordinance recommendation was submitted in September which included a change in the basis for assessing the occupation tax for the trucking companies. The unintended result at that time was that there was a significant increase in the occupation tax amount for the businesses in the trucking industry. The recommended amendment before you now is made to address that unintended result.

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Historically, entities in the trucking industry have been assessed the occupation tax based on one of two flat fee amounts. I can’t speak as to how that initially came about, but I do know that for the years that I’ve been in the department, our office has taken, and I have personally fielded a number of calls whether they be—however you want to characterize them—complaints, issues, or questions regarding the amount that small companies have had to pay relative to their counterparts that were much larger. If you reference the sheet that I’ve given you, those are just an overhead snapshot of four different companies of varying size. Two of them at the top are very small; two at the bottom are very large. Under the flat fee basis, every one of them would have paid the exact same amount and that was what the trucking companies, the small companies, had complained about for years that they were paying the same amount as the large trucking companies.

The North American Industry Classification System is what is utilized to categorize all business entities. Transportation and warehousing are categorized together as one entity, subcategorized within that category. Other businesses in this category are assessed the occupation tax with some degree of parity and stratification. Within the warehousing industry, it’s based upon the size of the warehouse. Smaller warehouses have a smaller operating capacity than do larger warehouses. In the transportation industry, those that deal in personal transportation, the taxi companies, the limo companies, and the bus companies, they pay based upon the number of vehicles. There are also some licensure, some regulated activities related to the passenger for fare operations.

Also within the transportation industry are the tow truck companies. Tow truck companies pay for each vehicle they have running on the road so a company that has four trucks running, they’re paying four times what a company that has one. They’re paying actually $96 for each vehicle they have operating as a tow truck within the city.

At this time, with the request last summer, it seemed a natural time to attempt to stratify within the trucking companies and create that parity that the smaller companies had argued for, complained about, or questioned about all those years past.

At the time the recommendation that was made last fall, used an existing model that we currently have for similar operations. It’s slightly different. It takes a portion of the exterior plus the interior and applies it. It’s a model that’s used for the recycling companies and the auto dealerships. Recognizing that applying that was probably ill-advised because of the unintended result, we went back and revisited this and have established what is now before you in this
current amendment. It takes the same principle of formula. You take the interior square footage and a portion of the exterior square footage, you create a stratification of ranges operating in 10,000 square foot ranges up to 101,000 square feet and then it actually went by 100,000 square feet ranges thereof. It also applied the original principle of trying to remain within the intended adjustment and it took that amount and stratified it among the 10,000 square foot ranges. So from range to range, each one actually jumps up $9 until it reaches the cap of where we would be at about that top end. The remaining ones are all capped at that same one top level. In this case, $277. At some point in the future, there may be an effort and a recommendation to address those remaining ones and stratify those out a little bit more as well.

**Commissioner McKiernan** said I’ve learned a lot about trucking stuff as we’ve done this and I want to just have a little bit of a continuing discussion because the first gentleman who called me and then actually other people that I’ve talked to, still are concerned about using square footage as the basis for the stratification. Conceptually, it just makes complete sense to me that there’s a range of sizes and it should be stratified that the small operations should not be paying the same price as the large operation. But the first gentleman who called said basically, I have a huge square footage, but because of the economy, I’ve been constricting; I’ve been downsizing; I have very few tractors; I have very few trailers; I have very few employees so I don’t run that much business through my physical plant even though I have the capacity to. So he was concerned that square footage by itself misrepresented him. He said physically, I look like a big guy, but in terms of gross receipts, I’m a small guy; is kind of how he put it to me. I just want to see if we can have a continuing discussion about trying to find the right marker to stratify.

**Ms. Boeding** said I’ve said this over the years, but just to repeat, the state of Kansas prohibits cities from using gross receipts as the basis of our occupation tax. That’s unfortunate because that’s what makes sense. That separates the small guys from the large guys, but we cannot use it. We are forced to use proxies for that. For all retailers and manufacturers, and as he said, warehouses, we’ve taken square footage because we’re not allowed to use income or gross receipts which would make more sense.

**Commissioner Kane** said for now, I don’t have a problem with this but I think we need to come up with a better way to charge them and to be more creative than we are and figure out a way because there are loopholes in everything the state has ever written. For now, so we don’t
penalize these people like we have, I guess—the economy is in the tank right now and everybody knows you’re not using as much space as you used to. We can do this as a band-aid, but I’d like to revisit it when we get a chance to come up with a more solid way for the folks to pay what they should pay and nothing more.

Commissioner McKiernan said I just want to be on the record as saying that Phil has really worked hard from the very beginning and a good faith effort to try to correct something that historically has been pointed out as being unequal. Once we discovered the unintended consequences, he’s really worked hard. He’s put a lot of thought into this. It just seems like no matter where we go with this, it’s going to be an imperfect solution. I just want to make sure that we recognize that you’ve really put a lot of effort, good faith effort into this to try to make sure that we are being fair across-the-board, both big and little.

Acting Chair Barnes said the one thing that I’d be concerned about is having this systematic shock period to where I go from this is what I’ve normally been doing and now all of a sudden I’m handed this. I don’t care what formula you come with, I just don’t want it—when I’ve sat here and projected what I’m going to do in 2012, and it might seem like a small amount to us, but to an operator, that’s a whole different ballgame. What I’d like to do is to see those comparisons on what were we paying then and what under this new system. Mr. Henderson said I actually have that broken down in a couple of different ways. Ms. Boeding said this is in your packet.

Acting Chair Barnes said once we look at whatever shock amount that we’re having on the system, then we can look forward to—because I don’t think this is an issue that we can just come here tonight and say we fix it even though the standing committee is the place to fix it, but at the same time, I think we’re the ones to really make the recommendations and send it on to the larger body, but I’d much rather do it in a discussion type atmosphere where we could actually—and rather than sending this on to the full commission for them to take action and vote on it, I think they need to really hear about all the perimeters involved in this process before we actually call ourselves putting this thing to rest.

You can go and present that to me right now, and we have some people in the audience who want to speak on this also and we want to hear from them too. Mr. Henderson said actually the original breakdown, if we went with the two flat fee basis, there would be 28
businesses that would be in the lowest flat fee and 54 businesses that would have been in the upper flat fee. Stratifying that out and starting with the lowest, 45 businesses would actually fall into that smallest of square footage ranges. There would be four that would be in the next step up, three in the next step up from that, three in the next step up from that, five that would fall into the next range up from that, five in the next one up from that, and then three in the next range up, three more in the next range, and then all of the remaining businesses would cap out. There would be 11 that would cap out at that very top range at the moment.

Commissioner McKiernan asked that was the original amendment, right, or is that the current one. Mr. Henderson said that’s the current breakdown. There are 11 businesses that would actually fit into what would be the $277 category. Of those 11 businesses, only one of them actually truly is within that square footage range. The other 10 are over 100,000 square feet. To try to keep it capped so that none of them would have that shock as what was the unintended consequence, they would all be capped out until at such time in the future. They would be stratified out, four of them, and some of them would actually see what they paid last year reduced to this year. There would be four of them that would be paying $205, three of them $214, three of them $223, five of them $232, five of them $241, and those amounts were all less than what that top range was last year. Acting Chair Barnes said I’m not concerned about the…

Ms. Boeding said this is a mistake. I didn’t change that. Those amounts in the 2011 column are wrong. Commissioner McKiernan asked the $175 and $248. Ms. Boeding said yes. Commissioner McKiernan said we’ve got them.

Acting Chair Barnes said I’m not concerned about the $277 amount. I don’t have any problem with this right here. Commissioner McKiernan said the middle column is what he’s worked really hard to modify. Mr. Henderson said right. The middle column was what was done last fall that created that. Acting Chair Barnes asked but under this new scenario that you put on the table tonight, there’s no possibility of that happening. Mr. Henderson said actually the biggest amount that anyone would see would go from $248 last year to the $277, which would be the top end this year. Acting Chair Barnes said I don’t have a problem with that because that’s what we talked about originally. Mr. Henderson said it caps everyone at the $277; at that top amount.

Acting Chair Barnes said and I’ll say the same thing I said last time in the meetings. We asked were there any surprises involved in this process during the budget process. I’m just
trying to get back to that same thing again that under this scenario, the 10% is 10%.

Commissioner McKiernan said for some people it’s less. Mr. Henderson said for some people it is less. There are two business entities that based upon the size of their operation, they would have been in the smallest of square footages. One of them would go to $232 and the other would go to $241. Acting Chair Barnes said I’m not really here to discuss $50, $20, or $10 difference. My only thing is when we go to talking about $150, $2,000, that’s the issue that I’m concerned about. If that’s not going to happen, then I feel very comfortable with this right here and moving it on. If anybody else has any questions about it, we can discuss that at the commission level. That’s all I was concerned about. I’m not concerned about discussing whether it went up or down $25 or $30. I’m more concerned about somebody normally paying $200 and then they get a bill for $1,500. Mr. Henderson said no, nothing that significant.

Brenda Miller, 17763 168th Street, Bonner Springs, KS, appeared stating I’m the president/CEO of Convoy Leasing. I would like to also thank Mr. Henderson for the hard work because I can tell you, we’ve been a trucking company here in Kansas City, KS, for 28 years. We started out when the licensing fee was $50. I have all of them still in the same frame there on the office wall up to $246 and ours was $3,800 this year when I opened it up. That gets attention. So I would like to thank him a lot for working on this. It’s not the $277. Ours actually will be the $205 based on our square footage. That’s not the part that I’m concerned with. What I’m concerned with is, and I wanted to let that be known by everybody here, if we do move to the square footage basis, that in the future, we don’t find our bill saying it’s now $2,500 because of the other companies that are warehouses, manufacturers, and retailers. When they’re in the square footage, the bill for the square footage I have would be $3,800. I feel like if we do move to that platform—because the $277 is reasonable—I can tell you right now that I always thought $243 for a license—you know it could be $50 more, whatever, but I just don’t want to get us on a platform that you give a little now and later on somebody is going to say will here’s your bill, it’s $3,800. We’re going to say whoa what happened. Will, you didn’t have any problem with us changing it to square footage when its $277. Why are you complaining now? So I want to get that out.

Also, I want to get out the fact that I think some of these small guys who called and put in these complaints all summer long, they aren’t going to be happy with this new one either. I can tell you they’re going to have the same complaints that we’ve had. We are based on, even with
this—UPS is our next door neighbor. They’re going to pay $277. We’re going to pay $205. Under the $3,000 bill, it was coming in as $3,800. They were going to pay $200 a year more than us with 100 trucks. No matter what you do, I don’t care what you do, the small guys are not going to be happy because they’re a one and two truck guy and they’re looking at I’m paying $246 a year and UPS is paying $277. You’re still going to have these same phone calls coming in no matter what you do unless, of course, you didn’t charge them a licensing fee at all. I don’t know where they’re located at or how many trucks they have or what, but one of the things I did notice was when you’re talking about fairness and equal—I went around and did a bunch of pictures today of carwashes. Carwashes in Kansas City, KS, pay $96 a year. It doesn’t matter if you have 4 stalls or 20 stalls. I took pictures of all of them. They do make their revenue based on how large they are; we don’t. If they have 20 stalls, that’s where their revenue comes from. You could start getting phone calls from the carwashes saying I only have four stalls, why do I pay $96. In the trucking industry for 28 years myself, you let one driver hear something, they’re going to spread it to all their friends. These one and two guys that have now complained and have gotten somebody to step forward and make a change, you’re going to have phone calls from every industry out there saying I’m the small guy, how come the big guys paying more. If the fee has always been in Kansas City, KS, your trucking company is $246. If they really don’t like it, don’t move here you know when you’re getting into fairness.

Commissioner McKiernan said I’m assuming you also have to pay vehicle registration on all of your trucks in Wyandotte County. UPS does the same? Ms. Miller said I’m assuming. I don’t know that they are licensed out of Wyandotte County. Commissioner McKiernan said that would be the issue because I understand the argument based upon square footage that it would not seem to be equitable for a really large trucking operation like UPS. It would seem to me that would equalize when it came down to registration of the vehicle. That’s a question that I’m not sure. Ms. Miller said I don’t know if they register out of their base state, which a lot of companies do that. A lot of companies, their base state is Oklahoma. Our licensing bill which is due next week is $205,000.

I don’t think this is how this came down, but one of the things when I look at this and I went out and I took pictures of the carwashes and small places, they don’t have very much square footage so it seems like all of a sudden trucking, who a lot of us have a lot of land we don’t use—we’re down here off of 3rd and James Street. We’re there because it was cheap.

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one else was moving in there. We’re across the street from the sewer treatment plant. That’s why we’re there. It’s not because we need it. Our parking lot is half full right now. Our trailers go to our customers. Our trucks are out on the road. We’re just there because it’s a cheap use land. The real estate taxes happen to be $52,000 a year. I’m not really sure how trucking got picked out of this because I think almost any industry you have in Kansas City, KS, would have complaints. That’s one of my questions I’ve asked is how did we get picked out of all these industries.

**Commissioner McKiernan** said this is something that we’ve talked about at commission meetings, just reexamining how we do our business; making sure that we’re doing our business in the right way that’s fair across the board. It just happened to be your day. This is something that we’ve been talking about trying to look at our efficiencies, trying to look at our policies and procedures, and so this is something that we just didn’t wake up and say we’ll pick on you. It’s part of an on-going process to make sure that we’ve got quality service.

**Ms. Miller** said right and I think that goes back to what you we’re saying from the truckline that called you is maybe we would all feel a little bit better if it were someone who’s really making the revenue because they have this side of it. Our revenue, like I’ve said, I could send all my trucks to their houses and I could send all the trailers to the customers and work out of my living room. I think a lot of these small, little guys, they may have 50 trucks, but they’re running out of their living room and all their truck drivers are going home and they just look at our facility and say you must be big. I’m probably not any different size than they are and my revenue might be the same as theirs but they’re looking at a large facility. I really don’t know.

**Acting Chair Barnes** said I don’t know, in fact I’ve asked some questions among commissioners and I haven’t found out which commissioner actually got the great idea to take a look at you guys. I don’t know where that came from. We appreciate you in Wyandotte County. Is there anything else we can do for you?

**Ms. Miller** said I’ve been in this company, worked my way up from high school all the way up to the president of the company in 28 years. I’ve never been up here for anything. This is the first event that we’ve had. Obviously you are doing just fine. **Acting Chair Barnes** said we customarily say how may I help you. We’re certainly pleased to have you here and I’m glad this had a reasonable, acceptable outcome for you. I, too, agree to the fact that we should never shock any industry like that. In fact, I don’t know if we can do this, but if there’s going to be an increase over a certain amount, we need to make certain that we ease into that process and not
shock anybody regardless of what industry it is. Ms. Miller said it’s just like you said, you have a budget and we have a budget which is very thin in the trucking industry with fuel costs. There’s not really much left. Like I said, I can’t talk for every trucking company out there. This is very reasonable, the $277. Of course, it still puts the UPS at $277 and it puts the little guy at $196. He’s still not going to be happy no matter what you do.

Commissioner McKiernan said the bottom line is once staff became aware of this, they moved quickly. They made it right. I’m very appreciative for the fact that they recognized the problem, solved the problem, and worked quickly to make it right. Ms. Miller said, right. I just want it on record that I really don’t think we should be on square footage, so if it is left this way, five years from now we’re not at $3,800 because of square footage. Acting Chair Barnes said I certainly like input from the industry if we’re going to make those kinds of drastic changes and we’d certainly like to hear from you before those kinds of decisions are made. We certainly thank you for coming in.

Action: Commissioner McKiernan made a motion, seconded by Commissioner Kane, to approve the revision as proposed and forward to full commission. Roll call was taken and there were five “Ayes,” Alvey, Kane, Maddox, McKiernan, Barnes.

Commissioner McKiernan asked Ms. Boeding how many years ago did gross receipts stop being the metric we use for assessments like this. Ms. Boeding said I’ve worked here for 30 years and its always been limited to us, to cities. It makes it very difficult to come up with a proxy for the worth of the business, but also something that the License Division can count.

Commissioner McKiernan asked is it that way across all states or are there other states…Ms. Boeding said Kansas City, MO, uses gross receipt and our occupation tax, other than that fact, is very much like theirs. Kansas City does not have occupation tax. We’re one of the few that have occupation tax in Kansas and that’s probably one of the reasons.

Item No. 3 – 120028… Presentation regarding the current status of the UG’s Kansas Setoff Program, by Brett Deichler, Director of Real Estate Revenue Collections.

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**Brett Deichler**, Director of Real Estate Revenue Collections, said I actually brought a couple of things to you tonight just to discuss a little bit of what we’re doing now with the Kansas Setoff Program. In looking at a brief overview of what we’re going to talk about, you have a presentation there. I don’t want to bore you with the details. We can talk a little bit about some of the numbers behind it after the fact.

**Commissioner Barnes** said define the Setoff Program before you get started. **Mr. Deichler** said the Kansas Setoff Program basically has been out there for a while. It was brought to the UG conversation-wise here a couple of years ago. It really started in Public Works after the conversation started in-house where Bob Roddy’s group started working a little bit to support the staff efforts that were required to take care of the business end on that administratively.

In the fall of 2010, we were engaged in conversations with Public Works and talking to Bob Roddy looking to move the responsibilities into the Delinquent Revenue Collections side, basically housed and supported by Delinquent Real Estate itself, which we did, which actually shifted in February 2011.

Looking back and giving you a little history of what they do, they try to garnish against debts that are owed to the certifying agency, which in this case is the UG. That being said, we look at primarily garnishing against right now at this point in time, against technically a state income tax return is particularly what we’re getting. You’ll look and see some of the real estate projections here in the pages in the back here that show a little bit about what we’re doing as far as certifications within the department itself where we’re taking currently real estate and we have since 2011 started and certifying those debts at the state level with KDOR. When they find a match as far as someone by social and they can identify that, then they will move to send out what they call a notice of intent. The notice of intent tells that taxpayer that they basically owe a debt to certify to the UG. They have a certain amount of days to respond to that.

There are informal and formal appeals that can be filed on that subject matter. Typically an informal goes obviously before the formal would be presented at that level where we may even have to talk to the presiding judge from the state. The UG presents their documentation at that point in time if it goes to an appeal and then we basically move forward with a yea or nay scenario.

We’ve been in this for a little over a year and one-half just about. We haven’t had very many appeals to be honest with you because most of the time we’ve got the documentation; it’s just right there. Occasionally you’ll get to where there’s a piece of paper missing or something
just wasn’t out there at the time. We find that after the fact like if there was a bankruptcy or something of that nature, we’ll take care of it because we obviously can’t move into that and get something that’s been put in bankruptcy court. With that being said, that’s basically how the program works.

The state takes 18.5% for their involvement once they do find a match. That may sound like a whole lot, quite honestly in the industry, it’s not very much. I’ll be honest with you, I’ve been in their offices and walked through there. They’re a very small group, very tight-knit, but they’re bringing in millions of dollars across the state of Kansas right now and they don’t take any of the mill levy. They get the 1.5 mills to support themselves. They’re self-supported. It’s a pretty good operation. Their program seems to be pretty descent. I’m looking at integrating some things right now with the UG’s legacy system. I think it will make it talk a little bit better and maybe they’ll adopt it statewide. Let’s keep our fingers crossed. With that being said, we can move on, I guess, to the back pages and look a little bit at what I brought tonight.
If you look at that first snapshot which shows the pie graphs at the bottom, it’s basically a projection of 2010 on the left-hand side and 2011 on the right-hand side. It shows a little bit of what we actually had collected. We actually got in there and started taking care of the business side and could ramp it up with a little more support to get more entries in. Once you put an entry in, it’s certified. Like I said, you have to find a certified match at that point in time. There are a lot of entries you’ll see in there, as we go down through the slides, that show we have a large amount of money sitting out there that we could try to collect, but we haven’t matched against it yet. There’s a lot of unmatched debt still out there. The beauty of that is the program rolls forward. If we put somebody in in 2010 and they don’t necessarily have a tax return coming from the state that year, it stays out there as long as we certify. Maybe in 2011 or maybe in 2012, they do get matched against something and at that point in time, we move to garnish that. That’s the beauty of that. Just like with our delinquent real estate, we don’t have to wait three years. We can move into this as soon as we really need to. Based on Lew Levin’s authority and guidelines that we’re waiting on, some of that stuff we want to give the taxpayer a chance to pay their taxes, to do the right thing, so we’re really going up to about 2009 right now. 2010 is not in here. What you’re seeing is a reflection of basically 7, 8, 9. We’re going back into arrears on some of it, but we’re working from forward and also back from this point into the arrears so we’re starting to make some adjustments there too.

You’ll look at that, there’s a green line there that talks about Kansas Setoff debt tax, what’s garnished at the state level by KDOR itself. The others are walk-ins whereas working closely with Lew Levin and Debbie Pack in Treasury, we put the setoff language inside of our notification coming out through Treasury on their letterhead saying that you owe a delinquent debt, now you’re subject to also fall within the Kansas Setoff and they’re like what is that. They look it up. They go see, they come walk in and they pay. We have a series of walk-ins as well that would come in and say hey I got this letter. We track that so that’s a different number on that chart itself.

January 30, 2012
Moving into that second page which has what we call the EMS, Emergency Medical Services’ projections. We’re also taking on a new classification whereas we’re working with the Fire Department to look at the transportation delinquencies that are out there right now and we’re moving forward as well in that. They work with a current collection agency which I think is in the neighborhood of 37 or 38%. Some of these have already been out there. We do have a requirement of at least three notifications to the debtor that we have to validate and verify before we can actually put someone in Kansas Setoff. By the time the EMS guys get to us, they’ve already had four and a lot of that includes things that are going out through Debbie Pack in Treasury, etc., but we’ve got that, we meet that minimum requirement and then we’re putting that in there.

If you look at that right there alone, that shows you just in August, September, October, November, and December, we’ve got five months right there. If we were to collect in those months based on the average match from the state, those are the dollars we would bring in for that particular program. Don’t let that fool you in thinking we’re going to grab it out there probably in August or September unless somebody’s filed a really late extension with their tax filing. It would show you how that program levels out. The reason we did that is to show you
how this program pays for itself across the board. It’s kind of like fishing, the more bobbers you have in the water, the more likely you are to probably catch something on that hook.

**Commissioner McKiernan** said what you’re saying is, rather than go through a contract with a collection agency, it could be done through the Setoff Program. **Mr. Deichler** said exactly, and we’re working to do that because it’s a lot less. 18.5 is a lot less than 30+ something. So we’re looking at doing that. Like I said, that’s a good thing. The amount of information that’s out there now on EMS and looking back in the arrears, they’ve already got things that are out in collections right now. If we have to, we could work back into the arrears. Right now it’s not been a conscience decision to do that. We’re going to try to move forward and see what that yields and then work back if we need to, but if it’s already in a collection agency’s hands at that point...

**Acting Chair Barnes** asked do you know of any agencies, any states or cities that combine more than just real estate and EMS. I don’t quite remember what city it was, but I remember having this conversation with some of my cohorts at the National League. Whether they were collecting it or not, but they were giving this information anytime they got involved with the city in any degree, whether it was a traffic ticket—when they printed out your traffic ticket, they printed out everything that you had within that municipality. If you were delinquent on taxes, outstanding fines, or warrants, all of it printed out at the same time so when the cop wrote you a ticket, he knew you were delinquent on taxes and everything. It was more of a notification process and I don’t know how they tied it together. I don’t know if you had to pay one or the other, but I do know you were able to get one printout on every single thing they had on you in that county.

**Mr. Deichler** said we’re looking at those types of things and trying to figure out what’s the biggest. At the end of the day, I guess $100 is $100, when it’s cashed in somewhere on a delinquency of any size as long as it doesn’t zero it out and we’re looking at how those applications work right now.

I know there were some conversations initially which brought Kansas Setoff in-house on looking at parking tickets. I know Legal had an opinion on that that basically said that couldn’t necessarily stick. There were some legal issues there. You don’t know if someone borrowed that person’s car, etc., and we tried to look at those too a little bit. We’re examining everything that’s out there right now. Quite honestly, you hit the nail right on the head. I’m looking right now into our systems to see what we can develop that would give us that highest debt ratio per
constituent and to see how we can move forward with certifying debts that Legal is putting into the system because quite honestly, we need to get those out there. We can’t certify anything and can’t match anything if it’s not certified. That’s a great point and we are looking at that because this is a very viable program and it’s really instantaneous. When you see the numbers in here, looking at that page—some of the things that we’re going to look at here in just a second—you’ll see that during the tax season, once the W2s are filed, the early filers we’re catching up with them pretty fast so you’ll see those charts start to shoot off which kind of brings me to that page 3. Commissioner Kane said that’s got to make the old boy mad. Mr. Deichler said we get calls on this, I mean we’re not going to lie about. We get calls from people saying what’s going on; why is this, why is that.

Acting Chair Barnes asked this is FYI right. We don’t have to vote on this tonight do we? Mr. Deichler said no, this is just information only. Acting Chair Barnes said this is a great program. In fact, I think it’s in San Diego County. They would actually garnish wages. I don’t know how they got it, but they would actually be able to garnish your wages if they knew where you worked at and you had delinquent property taxes after so many years.

Mr. Deichler said absolutely and the BPU is actually doing that too. BPU’s program is highly successful. They’re bringing in a lot of money right now and I’ve got opinions on that. I think their $200 bills, $300 bills maybe on average debt worth $3 and $4,000 with real estate and BPU can turn your power off in 30 days, we can’t. It’s a great program. It’s a phenomenal program. At the end of the day, it’s a debt that’s owed and we can’t run for free. We operate just like a business too and we need to get these things taken care of. This is just another way to show people that we have things in order that will help those things be expedited a little bit quicker.
Commissioner McKiernan said I don’t want to get greedy or anything, but from 2010 to 2011, that’s like a 300% increase. Could we see an upward projection still continuing you think? Mr. Deichler said you can, yes. Let me break that down, Commissioner, in two different ways. Let’s talk about EMS first. EMS, we have found that with the capacity of between 450 and 500 entries per month that we can do that really, really fast. That’s what this third phase kind of represents. That green line down here shows what the average salary is for someone to put that in and you’ll see if you pull the red line, as you pull those dollars out of EMS right there, how quick that would come back. Also, you get back into the real estate side. Now, let me talk about EMS first. We can put those in and be done. At that point in time, do we go into the arrears? Probably not if it’s sitting in a collection agency’s hands. We’re going to move far enough out in the future that we’ll just be taking those and moving forward with it. But if you look at real estate, once again, if you added a position for that, you could actually ramp that up because it’s one of those things where the UG had this program available in ’98 but they weren’t taking advantage of this thing; it wasn’t really in-house then. You could actually put more out there and probably get it. Commissioner Kane said I don’t want people to miss what you just said. Could you repeat it? If we had another person in there, we could collect more money. Commissioner

January 30, 2012
McKiernan said its low lying fruit. Mr. Deichler said if you take the amount of delinquencies we have out there just in real estate alone and you throw ten times that out there, at 8.7% return, you’re probably going to be pretty close to increasing that to the factor of 10.

Acting Chair Barnes said even though in the budget session we talked about having an interim period when we would actually talk about budget items that we could save money on or even make money on and those ideas, because I had this long conversation with you over lunch, a lot of times we leave a lot of money on the table. Mr. Deichler said we do and we’ve left it in the past and we can’t go get those. Acting Chair Barnes said we leave money on the table because we wait until three months before the budget is due and then we’re bailing water and we don’t have time to really visit the issue.

Once somebody from the Administrator’s Office is here, I want to send a message to them that we’re concerned about an opportunity to discuss those budget saving items, money saving items, or money making items and we need a special time when we can actually sit down and talk about what initiatives we can put in place to make that happen. Commissioner Kane said you need to ask for a person and if they tell you no, you better call us.

Acting Chair Barnes said we’ve got this same situation here on every floor. The guys from the Accounting Office can come and say we’re hiring outside auditors and we could have a full-time person who could do some of that work internally if we had an employee. I bet other departments can say the same thing but we need to take the time and be able to listen to those opportunities and weigh the pros and cons of it and see which one works for us. This one right here just seems like a no-brainer.
Mr. Deichler said if you look at that page 4, it really draws out what we’re talking about right now. You look and you say just under current status, we get two and one-half months into this thing, January is usually a dead month because W2s aren’t even out on the streets by then, usually. You get into February and just the middle of March by the 15th, the programming and what we’re actually averaging right now, has already paid for that position in six weeks. This is something that I take into my personal business to try to make things as efficient as possible. When we’re looking at current staff and status, we try to present a workflow and a process that actually is most amenable to staff so they can get this thing done most efficiently with the system, etc. We work on that continuously and move forward. The same kind of thing with this. If you start applying more to the system, you get back around—I mean it’s a probability matrix. It just makes sense. These numbers actually don’t lie.

Acting Chair Barnes said it might be a good thing for you to maybe come back and talk to us and just give us another FYI in May or June. Commissioner Kane said I don’t think we should wait until the budget. I think you need to go to the Administrator now and see what we need to buy. Acting Chair Barnes said he’s not the one to do it. As a committee, we can make a
recommendation to the Administrator’s Office. Commissioner Kane said that’s a recommendation. We don’t want to get Mr. Deichler in trouble. Commissioner Kane said no, as a committee we should say Administrator Hays, we want you to take a deep look at what’s going on in their department and see if there’s a possibility to get some low-lying fruit that’s laying there. Acting Chair Barnes said it seems like we all agree at the committee level and it’s been so noted by the Assistant County Administrator here, and I think he’ll take that message back to his boss and say we need to take a look at it. Commissioner Kane said we appreciate the information.

Mr. Deichler said I do want to take the time to introduce Mr. Luke Folscroft. He used to be with Tom Weiss in the Legislative Auditor’s Office. He just recently came over to work with us. He works in this stuff every day in 311. I obviously work on both sides of the street and I have Luke entrenched in this stuff right now. He handles quite a bit of it, so I want to thank him for his time and efforts on what he’s done for the program and putting the numbers together for us because we are very busy people. Luke takes a lot of that burden on his shoulders and just runs with it. I just wanted to introduce that Luke’s here with us and I think he’s enjoying it.

Action: For information only.

IV. Adjourn

Acting Chair Barnes adjourned the meeting at 6:20 p.m.
**Staff Request for Commission Action**

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

**Date of Standing Committee Action:** 2/27/2012  
(If none, please explain):

**Proposed for the following Full Commission Meeting Date:** 3/15/2012  
**Confirmed Date:** 3/15/2012

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

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<td>Gary Ortiz</td>
<td>573-5017</td>
<td><a href="mailto:gortiz@wycokck.org">gortiz@wycokck.org</a></td>
<td>jb</td>
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**Item Description:**  
Attached Resolution authorizing the County Administrator to enter into the attached Agreement between the Unified Government and the Kansas City, Kansas Convention & Visitors Bureau, Inc.

**Action Requested:**  
Adopt resolution.

**Publication Required**

**Budget Impact: (if applicable)**

**Amount:** $

**Source:**  
- Included In Budget
- Other (explain)

---

File Attachment
File Attachment
RESOLUTION NO. ______________________

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

That the County Administrator is hereby authorized and directed to execute in the name of the Unified Government of Wyandotte County/Kansas City, Kansas, the attached Agreement between the Unified Government and the Kansas City, Kansas Convention & Visitors Bureau, Inc.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS THIS 15TH DAY OF MARCH 2012.

____________________________________
Unified Government Clerk

Approved as to Form:

______________________________
Unified Government Counsel
AGREEMENT

THIS AGREEMENT is made and entered into effective January 1, 2012, between the Unified Government of Wyandotte County/Kansas City, Kansas, a municipal corporation (hereinafter the “Unified Government”), and the Kansas City, Kansas Convention & Visitors Bureau, Inc. (hereinafter the “CVB”).

Recitals:

The Unified Government, pursuant to K.S.A. 12-1696 et seq. and Charter Ordinance CO-2-02, has levied a transient guest tax upon the gross receipts derived from transient guests for sleeping accommodations in any hotel, motel, or tourist court within the boundaries of the City of Kansas City, Kansas.

The proceeds derived from the transient guest tax are to be used for the promotion of conventions and tourism within the Unified Government, for the promotion of downtown tourism development, and, if necessary, to make payments on bonds issued for the renovation of Jack Reardon Civic Center and the construction and equipping of an adjacent hotel facility to be operated as Hilton Garden Inn Hotel (collectively, the “Convention Center Complex”).

The Unified Government and the Kansas City, Kansas Area Chamber of Commerce (hereinafter “the Chamber”) had a long-time arrangement for the performance of convention and tourism promotion services by the Chamber by and through its Convention and Visitors Bureau in exchange for payment by the Unified Government of a portion of the transient guest tax revenues levied by the Unified Government (hereinafter the “Original Agreement”).

In 2010 the Kansas City Kansas Convention & Visitors Bureau, Inc., incorporated as a 501(c) not-for-profit organization under the laws of the State of Kansas, separate from the Chamber.

The Unified Government and the Chamber agreed to the assignment of the Chamber’s obligations and rights under the contract with the Unified Government to the Kansas City Kansas Convention & Visitors Bureau, Incorporated, or CVB, and, effective July 1, 2010, with the Unified Government’s consent, the Chamber assigned the contract to the CVB and the CVB accepted and assumed all obligations and rights under the contract.

Effective July 1, 2010, the Unified Government and the CVB entered into a Modified Agreement through December 31, 2011.

The parties now wish to renew the agreement between them.

NOW, THEREFORE, in consideration of the mutual undertakings set forth below, the Unified Government and the CVB hereby agree as follows.
Engagement

1. The Unified Government hereby engages and retains the CVB to render convention and tourism promotion services for the Unified Government, and the CVB agrees to accept such engagement and to discharge its duties as set forth in this Agreement (hereinafter “Agreement”).

2. The CVB is engaged and retained as an independent contractor and not as an officer, agent, servant, or employee of the Unified Government.

3. The CVB shall encourage, promote, and solicit tourism and conventions for Kansas City, Kansas, and Wyandotte County. Services will include but are not limited to the following tasks: (1) enhancement of tourism opportunities; (2) attraction of major tourism and convention events to Kansas City, Kansas, and Wyandotte County; and (3) special projects, all as set out in the Marketing Plan submitted by the CVB and approved by the Unified Government.

Term and Termination

4. The term of the Agreement shall be for three years, expiring December 31, 2014. The parties agree to begin negotiations for any renewal agreement in January of 2014.

5. Either party may terminate this Agreement by giving to the other party twelve months’ advance notice in writing of its intent to terminate.

6. Upon termination of this Agreement, after the CVB’s payment of all allowable expenses under the Agreement, the CVB shall deliver to the Unified Government all funds received by the CVB from the Unified Government and representing sums collected by the Unified Government from the transient guest tax and all tangible personal property purchased with Unified Government funds then remaining in the possession of the CVB. Upon termination the CVB shall provide the Unified Government a final accounting of all funds received since the last accounting period.

Submission and Approval of Annual Budget and Marketing Plan

7. Each year on or before November 1st, the CVB shall submit to the Unified Government County Administrator a detailed Budget and Marketing Plan for the next calendar year. The budget and marketing plans shall be submitted for final approval by the Unified Government Board of Commissioners. The budget shall reflect the proposed expenditures to be made by the CVB and the purpose for which such expenditures will be made. Such expenditures shall only be for the purpose of convention and tourism promotion as authorized by Charter Ordinance No.CO-03-08. Except as provided in paragraph 8, administrative expenses shall not exceed 20% of the total expenditures. Administrative costs include any expenditures not directly related to marketing or the promotion of tourism. The cap on administrative expenses set forth above will be reviewed annually by the Unified Government.
8. The CVB Board of Directors shall review and approve all budget and marketing plans prior to submission to the Unified Government. Any amendments to the budget or marketing plan must be reviewed and approved by the CVB Board of Directors prior to submission to the Unified Government.

**Payments**

9. Except as otherwise provided in this paragraph and below in paragraphs 10, 11, 12, and 13, and subject to the Cash Basis Law, K.S.A. 10-1101 and amendments thereto, the Unified Government will pay to the CVB the greater of:

(a) 74.375 percent of all transient guest tax revenues levied and collected within the City of Kansas City, Kansas, under the authority of K.S.A. 12-1696 et seq. and Charter Ordinance CO-03-08, or

(b) 2012 -- $607,500

(c) 2013 -- $637,875

(d) 2014 -- $669,769

10. If sufficient funds are not otherwise available from the Convention Center Complex, the Unified Government has pledged all of the transient guest tax revenues to make payments on the bonds issued to finance the Convention Center Complex. In such event, the Unified Government may reduce, suspend, or defer payments to the CVB under this Agreement in order to have sufficient funds to make payments on the bonds or to provide a required reserve fund of transient guest tax revenues.

11. Bonds have been issued under K.S.A. 12-1774 for the 400-acre redevelopment district adjacent to the Kansas Speedway, and the transient guest tax revenues from that redevelopment district will not be paid under this Agreement. It is possible that other redevelopment projects will be established and that transient guest tax revenues from those projects will be pledged to finance those projects and will not be paid under this Agreement.

12. Bonds have been issued for the 39th & Rainbow Redevelopment District, which upon completion will include a hotel. The transient guest tax revenues from the hotel will not be paid under this Agreement.

13. The Unified Government reserves the right to reduce payments under this Agreement if such reduction is deemed necessary by the Board of Commissioners as part of its annual budget process.

14. Except as provided in this Section 13, it is the intention of the Unified Government and the CVB that the Unified Government will advance 25 percent of budgeted funds on a quarterly basis to the CVB in furtherance of CVB activities. Said advances are to be made by the tenth day of the month following the month that there is a
receipt by the Unified Government of quarterly disbursements from the State of Kansas of the proceeds of the transient guest tax. Under state law, the Unified Government may obligate only those funds budgeted and credited to a Unified Government fund. It is further understood and agreed that the CVB will submit an accounting of its expenditures in budgetary format, on both an accrual and a cash basis, in accordance with generally accepted accounting practices to the Unified Government Chief Financial Officer. The accounting on a cash basis shall be monthly, and the accounting on an accrual basis shall be at the end of the CVB’s fiscal year, that is, as of December 31. The accounting submissions shall be a condition precedent to advancement by the Unified Government of the next quarterly payment.

Location

15. The CVB shall notify the Unified Government of any proposed change by the CVB of its current office location and shall request the approval of such change by the Unified Government Board of Commissioners, which approval shall not be unreasonably withheld.

Miscellaneous

16. The Unified Government’s designated representative, upon reasonable notice, shall have the right to inspect all books and records of the CVB pertaining to this Agreement.

17. The CVB shall provide the Unified Government an annual audit of the CVB performed by an independent certified accounting firm. The audit shall be on a calendar year basis. The CVB shall submit the audit to the Unified Government no later than July 30 for the preceding fiscal year.

18. The CVB agrees to indemnify, save harmless, and defend the Unified Government from any and all claims, causes of action, and damages of every kind arising from the operation of the CVB, its officers, agents, and employees, including the Convention and Visitors Bureau and its officers, agents, and employees, carried out in furtherance of this Agreement. The CVB shall carry or cause to be carried comprehensive general liability insurance, directors and officers liability insurance, and automobile liability insurance covering all the operations embraced by this Agreement in the amount of $2,000,000 for each person and $2,000,000 per occurrence. The insurance policies must be written by companies acceptable to the Unified Government and shall name the Unified Government as an additional insured. Prior to disbursement of funds under this Agreement, the CVB shall submit to the Unified Government a certificate of insurance showing the coverage required herein.

19. The provisions found in Contractual Provisions Attachment which is attached hereto and marked as Exhibit A are hereby incorporated in this Agreement and made a part hereof.
IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS
CITY, KANSAS

Dennis M. Hays, County Administrator

Attest:

Unified Government Clerk

Approved As To Form:

Unified Government Counsel

KANSAS CITY KANSAS
CONVENTION & VISITORS BUREAU, INC.

Jimmy Lopez, Chairperson
Board of Directors

Attest:
**Staff Request for Commission Action**

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

**Date of Standing Committee Action:** 2/27/2012

(If none, please explain):

**Proposed for the following Full Commission Meeting Date:** 3/15/2012  
**Confirmed Date:** 3/15/2012

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

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<td>573-5069</td>
<td><a href="mailto:jboeding@wycokck.org">jboeding@wycokck.org</a></td>
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**Item Description:**
Attached 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: (1) 4 million gallon reservoir at Nearman Water Treatment Plant--$10,025,000, and (2) Water Main Replacement Projects--$2,205,500, as described in the attached project descriptions. Also attached is the BPU Resolution No. 5178 authorizing the loan application to KDHE.

**Action Requested:**
Adopt resolution.

**Publication Required**

**Budget Impact:** (if applicable)

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- [ ] Included In Budget
- [x] Other (explain) Low cost financing (2.34%) to address BPU water system capital needs.

[File Attachment]
RESOLUTION NO. _________________

A RESOLUTION AUTHORIZING THE BOARD OF
PUBLIC UTILITIES OF THE UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS TO
OBTAIN A LOAN FROM THE KANSAS PUBLIC WATER
SUPPLY FUND ADMINISTERED BY THE KANSAS
DEPARTMENT OF HEALTH AND ENVIRONMENT

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the
“Unified Government”) is a municipal corporation duly organized under the laws of the state of
Kansas (the “State”) as a consolidated city-county; and

WHEREAS, the Unified Government owns and operates a public water supply and
distribution system (the “System”), which is managed, operated, maintained and controlled on a
day-to-day basis by an administrative agency of the Unified Government known as the Board of
Public Utilities (the “BPU”); and

WHEREAS, the Board of Directors of the BPU (the “BPU Governing Body”) has
heretofore determined it to be in the best needs of the customers of the System to undertake
certain modifications and improvements to the System, including (i) construction of a 4 million
gallon reservoir at the Nearman Water Treatment Plant at a cost not to exceed $10,025,000, and
(ii) water main replacement projects in the water distribution system at a cost not to exceed
$2,205,500 (collectively, the “Projects”), and to pay Loan origination costs; and

WHEREAS, pursuant to K.S.A. 65-163c et seq. (the “Act”), the Kansas Department of
Health and Environment (“KDHE”) administers the Kansas Public Water Supply Fund (the
“Fund”) from which loans are made to certain qualified Municipalities (as said term is defined in
the Act) to finance modification and improvements to public water supply systems; and

WHEREAS, the BPU has heretofore made an application to KDHE for two loans in an
aggregate amount not to exceed $12,230,500 (collectively, the “Loans”) to finance the Projects; and

WHEREAS, the BPU Governing Body has heretofore conducted a public hearing on the
advisability of proceeding with the completion of the application for the Loans and has
authorized the appropriate officials of the BPU to accomplish the completion process; and

WHEREAS, the Board of Commissioners of the Unified Government wishes to
authorize the BPU to enter into the Loans to finance the Projects.

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 Loans. The BPU is hereby authorized to obtain the Loans in order to provide financing for the Project.

Section 2. Further Proceedings. The Mayor, the County Administrator, the Unified Government Clerk, and other officers and representatives of the Unified Government are hereby authorized and directed to take such action as may be necessary to implement this Resolution.

Section 3. Further Authority. This Resolution shall be in full force and effect from and after its adoption.

ADOPTED by the Governing Body of the Unified Government of Wyandotte County/Kansas City, Kansas on the 15th day of March 2012.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ________________________________
Joe Reardon, Mayor/Chief Executive

(SEAL)

ATTEST:

______________________________
Unified Government Clerk
The Kansas Department of Health and Environment (KDHE) recently notified the Kansas City Board of Public Utilities (BPU) that funding was available from the State Revolving Loan Fund for two capital projects totaling $12,230,500. The first approved project is a new 4 million gallon reservoir at the Nearman Water Treatment Plant, and the second is water main rehabilitation projects in the distribution system. The Kansas Public Water Supply Loan Fund (KPWSLF) is a state revolving loan fund (SRF) program which provides financial assistance in the form of loans to Kansas municipalities, at below market interest rates, for construction of public water supply system infrastructure. The following provides a general description of the projects.

### 4 Million Gallon Reservoir at Nearman Water Treatment Plant ($10,025,000)

The Nearman Water Treatment Plant was placed in service in May 2000 with an original treatment capacity of 36 million gallons per day (mgd) with the intention of operating with the Quindaro Water Treatment Plant. The Quindaro plant has not been used and is essentially decommissioned since 2006 and the Nearman treatment capacity has been increased from 36 mgd to 54 mgd. However, BPU is still operating with the original clearwell reservoir capacity designed for a 36 mgd plant. The existing reservoir capacity does not meet the design and operating standards for the increased treatment capacity of 54 mgd. This creates a greater risk to maintain operation of the plant during high demand periods (summer) and during emergency situations. The new reservoir will add 4 million gallons to the plant storage at a cost of $10,025,000.

### Water Main Replacement Projects ($2,205,500)

The water distribution system provides service to 55,000 customers and has over 1000 miles of pipe. This system consists of galvanized, cast iron and ductile iron pipe in sizes of 1 inch to 48 inch installed circa 1900 to the current date. BPU experiences an average of 600 main leaks per year with 80% of the leaks from 4” and smaller mains. The proposed main replacement projects will consider many locations in the water distribution system with a high priority for replacement due to excessive main breaks and deterioration of material due to the age of infrastructure. Technical criteria used to select projects include: leaks / 100 feet; age and size of pipe; location of pipe in parkway or street (cost for repair); budgeted street overlay by Unified Government; customer service and water quality. Water main replacement projects have an average cost of $100 per foot. Consequently, the SRF funding is anticipated to replace approximately 4 miles of pipeline at a cost of approximately $2,205,500.

### Funding Information (at this time)

The loan term is 20 years and will have a 0.25% Loan Origination Fee (that is typically capitalized into the loan). KDHE will charge interest during construction based on any amounts disbursed during construction. BPU is required to obtain insurance for the loan and we are currently working with an insurance company. The insurance policy will have a fee. The interest rate will be determined at the time of the loan execution. However, the current rate is 2.34 percent. KDHE has provided the following projection:

- Principal = $12,230,500
- Interest rate = 2.34%
- Term = 20 years
- Estimate Semi-Annual Payment = $384,624
RESOLUTION NO. 5178

A RESOLUTION AUTHORIZING THE COMPLETION OF AN APPLICATION TO THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT REGARDING A LOAN FROM THE KANSAS PUBLIC WATER SUPPLY FUND

WHEREAS, the Board of Public Utilities (the "BPU") of the Unified Government of Wyandotte County/Kansas City, Kansas (the "Unified Government"), an administrative agency of the Unified Government, operates the Unified Government's public water supply and distribution system (the "System"); and

WHEREAS, the Board of Directors of the BPU (the "BPU Governing Body") has heretofore determined it to be in the best needs of the customers of the System to undertake certain modifications and improvements to the System, including (i) construction of a 4 million gallon reservoir at the Neerman Water Treatment Plant at a cost not to exceed $10,025,000, and (ii) water main replacement projects in the water distribution system at a cost not to exceed $2,205,500 (collectively, the "Projects"), and to pay Loan origination costs; and

WHEREAS, pursuant to K.S.A. 65-163c et seq. (the "Act"), the Kansas Department of Health and Environment ("KDHE") administers the Kansas Public Water Supply Fund (the "Fund") from which loans are made to certain qualified Municipalities (as said term is defined in the Act) to finance modification and improvements to public water supply systems; and

WHEREAS, the BPU has heretofore made an application to KDHE for two loans in an aggregate amount not to exceed $12,230,500 (the "Loans") to finance the Projects; and

WHEREAS, the BPU Governing Body has conducted a public hearing this date on the advisability of proceeding with the completion of the application for the Loans and desires to authorize the appropriate officials of the BPU to accomplish the completion process.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC UTILITIES OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, AS FOLLOWS:

Section 1. Loan Application. The General Manager of the BPU is hereby authorized to cause to be prepared and to execute a Loan Application – Part II, including all attachments thereto (jointly, the "Application"), for each of the two improvement projects comprising the Projects, in order to provide financing for the Projects. The Application shall be forwarded to KDHE as soon as possible.

Section 2. Further Proceedings. The President, Secretary, General Manager and other officers and representatives of the BPU are hereby authorized and directed to take such other action as may be necessary to complete the Application and to coordinate processing of a loan agreement or agreements for the Loan (collectively, the "Loan Agreements"); provided that the authorization to execute the Loan Agreements shall be subject further resolution of the BPU Governing Body.
Section 3. Effective Date. This Resolution shall take effect and be in full force from and after its adoption by the Board of Directors of the BPU.

ADOPTED by the Board of Directors of the Board of Public Utilities of the Unified Government of Wyandotte County/Kansas City, Kansas, this 15th day of February, 2012.

BOARD OF PUBLIC UTILITIES

By: _______________________________

President

ATTEST:

_______________________________

Secretary
### Item Description:
The Metropolitan Avenue Redevelopment District was established via O-51-11 on November 17, 2011. At this time, the Development team of Argentine Neighborhood Development Association, Ferguson Properties, Inc, and Polsinelli Shughart PC is presenting a Redevelopment Project Plan and Development Agreement for Project Area 1 of said District. The development area 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.

At this time staff is setting out the deal points for discussion and input which will be part of this agreement when it is presented as part of the TIF public hearing. Therefore, attached you will find a summary of the key deal points for this project and the projected calendar to advance this project.

### Action Requested:
- Approve Resolution setting a PH for TIF Plan on April 5, 2012.
- Approve Resolution setting a PH for creation of a CID on April 5, 2012.

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<td>George Brajkovic</td>
<td>x5749</td>
<td><a href="mailto:gbrajkovic@wycokck.org">gbrajkovic@wycokck.org</a></td>
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### Publication Required

Check the box if publication is required.

### Budget Impact: (if applicable)

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File Attachment
Metropolitan Avenue Redevelopment District

Development Agreement for Project Area 1

Summary

2/27/12

Parties: Unified Government (UG) and Argentine Neighborhood Development Association (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.
RESOLUTION NO. R-_____-12

A RESOLUTION CALLING AND PROVIDING FOR THE GIVING OF NOTICE OF A PUBLIC HEARING ON THE ADVISABILITY OF CREATING A COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF KANSAS CITY, KANSAS TO BE KNOWN AS THE METROPOLITAN AVENUE COMMUNITY IMPROVEMENT DISTRICT AND REGARDING THE CITY’S INTENT TO LEVY A COMMUNITY IMPROVEMENT DISTRICT SALES TAX WITHIN SUCH DISTRICT.

WHEREAS, K.S.A. 12-6a26 et seq (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 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 (“CID”) under the Act and the imposition of a community improvement district sales tax in order to pay the costs of the CID Project as described in the Petition; and

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”) intends to create the CID and to levy a community improvement district sales tax in an amount not to exceed 1.0% as requested in the Petition (the “CID Sales Tax”); and

WHEREAS, the Governing Body hereby finds and determines it to be necessary to direct and order a public hearing on the advisability of creating the CID, approving the CID Project set forth in the Petition, and whether to impose the CID Sales Tax in an amount not to exceed 1.0%, such public hearing to be held on April 5, 2012 at 7:00 p.m., or as soon thereafter as the matter can be heard, in the Commission Chambers, lobby level of the Municipal Office Building, 701 North 7th Street, Kansas City, Kansas, under the authority of the Act.

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

Section 1. Petition. The Governing Body hereby finds and determines that the Petition meet the requirements of the Act.

Section 2. Public Hearing. It is hereby authorized, ordered, and directed that the Governing Body shall hold a public hearing, in accordance with the provisions of the Act, on the advisability of creating the CID, approving the CID Project set forth in the Petition, and whether to impose the CID Sales Tax in an amount not to exceed 1.0%, such public hearing to be held on April 5, 2012 at 7:00 p.m., or as soon thereafter as the matter can be heard, in the Commission Chambers, lobby level of the Municipal Office Building, 701 North 7th Street, Kansas City, Kansas, under the authority of the Act.
Section 3. Boundaries of the Proposed CID. The legal description of the property to be contained in the proposed CID is set forth in Exhibit A, attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed CID is attached as Exhibit B hereto, and incorporated herein by reference.

Section 4. Proposed CID Project. The general nature of the proposed project (the “CID Project”) to be funded within the proposed CID are set forth on Exhibit C, attached hereto and incorporated herein by reference.

Section 5. Estimated Cost. The estimated cost of the proposed Project is $600,000.

Section 6. Method of Financing. The estimated cost of the proposed CID Project, plus financing costs and ongoing maintenance and security costs will be financed on a pay-as-you-go basis and/or by the issuance of special obligation revenue bonds of the Unified Government. The special obligation revenue bonds, if issued, will be secured by a pledge of money received from the imposition of a community improvement district sales tax in an amount not to exceed 1.0% within the proposed CID. There will be no special assessments on property within the boundaries of the CID to pay the costs of the CID Project.

Section 7. Notice of Public Hearing. The Unified Government Clerk is hereby authorized, ordered, and directed to give notice of said public hearing by publication of this Resolution in the official newspaper of the Unified Government at least once each week for two consecutive weeks. The second notice shall be published at least seven (7) days prior to the date of the public hearing. The Unified Government Clerk is hereby further ordered and directed to mail a copy of this Resolution, via certified mail, return receipt requested, to all property owners within such proposed CID at least 10 days prior to the date of the hearing.

Section 8. Effective Date. This Resolution shall be effective upon adoption by the Governing Body.

ADOPTED by the Commission of the Unified Government of Wyandotte County/Kansas City, Kansas on March 1, 2012.

[SEAL]

______________________________
Mayor/CEO

Attest:

______________________________
Unified Government Clerk
EXHIBIT A

Legal Description of Proposed CID

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

Map of Proposed CID Boundaries
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.
RESOLUTION NO. R-____-12

A RESOLUTION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY / KANSAS CITY, KANSAS DETERMINING THAT THE UNIFIED GOVERNMENT IS CONSIDERING ADOPTING A REDEVELOPMENT PROJECT PLAN WITHIN A REDEVELOPMENT DISTRICT IN THE CITY OF KANSAS CITY, KANSAS, ESTABLISHING THE DATE AND TIME OF A PUBLIC HEARING ON SUCH MATTER, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH PUBLIC HEARING (METROPOLITAN AVENUE REDEVELOPMENT DISTRICT – PROJECT AREA 1)

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 with in Kansas City, Kansas, thereby promoting the general welfare of the citizens of the State and the Unified Government, by providing for the development and redevelopment of property within Kansas City, Kansas, and the financing related thereto; and

WHEREAS, pursuant to provisions of K.S.A. 12-1770 et seq., as amended (the “Act”), the Unified Government is authorized to adopt redevelopment project plans with established redevelopment districts, as said terms are defined by 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, revenue derived from redevelopment projects, revenues derived from local sales taxes, other revenues described in the Act, or a combination thereof, or from 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. O-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 the Redevelopment Project Plan for Project Area 1 of the Redevelopment District, dated January 25, 2012 (the “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, prior to the adoption of any redevelopment project plan, the governing body of the Unified Government must adopt a resolution stating the Unified Government is considering the adoption of a redevelopment project plan.

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

Section 1. Consideration of Redevelopment Project Plan. The Unified Government is considering the adoption of the Redevelopment Project Plan pursuant to the Act.

Section 2. Redevelopment District. The Unified Government created the Redevelopment District on November 17, 2011 consisting of two (2) Project Areas. A map and legal description of the Redevelopment District is attached hereto as Exhibit A, which is incorporated herein by reference.

Section 3. Proposed Redevelopment Project Plan. The proposed Redevelopment Project Plan for Project Area 1, including a feasibility study, relocation assistance plan, and financial guarantees of the developer and a legal description and map of the area to be redeveloped are public records and are available for public inspection during regular office hours in the office of the Unified Government Clerk, Municipal Office Building, 701 North 7th Street, Kansas City, Kansas. A map and legal description of the proposed Redevelopment Project Area is also attached hereto as Exhibit B.

Section 4. Public Hearing. Notice is hereby given that a public hearing will be held by the Commission to consider the adoption of the Redevelopment Project Plan on April 5, 2012, at the Commission Meeting Room, located at the Municipal Office Building, 701 North 7th Street, Kansas City, Kansas, the public hearing to commence at 7:00 p.m. or as soon thereafter as the Commission can hear the matter. At the public hearing, the governing body will receive public comment on the adoption of the proposed Redevelopment Project Plan, and may, after the conclusion of such public hearing, consider the findings necessary for adopting the Redevelopment Project Plan pursuant to the Act.

Section 5. Notice of Public Hearing. The Unified Government Clerk is hereby authorized and directed to publish this resolution once in the official city newspaper on March 8, 2012. The County Administrator is authorized and directed to mail a copy of this resolution via certified mail, return receipt requested to the board of county commissioners, the board of education of any school district levying taxes on property within the Redevelopment District, and to each owner and occupant of land within Project Area 1, not more than 10 days following the date of the adoption of this resolution.

Section 6. Further Action. The Mayor/CEO, County Manager, Unified Government Clerk, and other official and employees of the Unified Government, including the County Attorney, 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 7. Effective Date. This resolution shall be effective upon its adoption by the Commission of the Unified Government of Wyandotte County/Kansas City, Kansas.
ADOPTED by the Commission of the Unified Government of Wyandotte County/Kansas City, Kansas on March 1, 2012.

[SEAL]

________________________
Mayor/CEO

Attest:

________________________
Unified Government Clerk

Approved as to Form Only:

________________________
County Attorney
EXHIBIT A

Legal Description and Map of 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.
EXHIBIT B

Legal Description and Map of Redevelopment Project 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.
Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 2/27/2012

Proposed for the following Full Commission Meeting Date: 3/15/2012

Item Description:
RED Development LLC is proposing to redevelop Wyandotte Plaza, located at approximately 78th St & State Ave. The redevelopment would include demolition of properties on the east of the center to construct a new 70,000 plus square foot grocery store, façade improvements to entire center, as well as parking lot improvements.

Their proposal is seeking a Local Agreement on Sales Tax, establishment of a 1% CID, and participation in the UG's NRA program. Additionally, the project is seeking UG annual appropriations on a first bond issuance in the amount of $9.5M. After the center has been redeveloped, and bonds can be issued from the new revenue stream generated at the center, the project will obtain permanent financing, ending the UG backing.

Action Requested:
Discuss terms of potential development agreement

Budget Impact: (if applicable)
Amount: $
Source:
☐ Included In Budget
☐ Other (explain)

☑ Publication Required

File Attachment
Wyandotte Plaza – Project Summary Sheet

Parties

- Unified Government (UG) and RED Development (Developer)

Project Description

- RED Development is proposing the acquisition and redevelopment of the Wyandotte Plaza retail center located at 78th & State Avenue.
- The proposed redevelopment of the center would transform the site from an approximate 182,000 to an approximate 220,000 square foot center.
- The proposal includes the demolition of the eastern end of the center for the construction of a new 75,000 square foot grocery store
- The old grocery store space will be converted into two 20,000 -25,000 square foot retailers
- The redevelopment proposes two new pad sites, a new stoplight/turn signal, façade improvements, and complete parking lot improvements.
- Developer agrees to utilize prevailing wage during the construction of the plaza and establish and meet local, minority and women business goals.

Project Budget

- Total Project Costs – $28M

Incentives Structure

- Total project reimbursement proceeds paid from public incentives will be less than 50% of total project cost.
- UG will issue $9.5M in gross bond proceeds supported by annual appropriations in order to produce up to $7.125M net project funding.
- Private bond issue will be done in 2-3 years, replacing UG supported bond issue.
- Developer will finalize site acquisition and demonstrate all project financing prior to release of UG bond dollars.
- CID - 1% @ 22 years
- NRA - 95% rebate of incremental value change @ 20 years
- The local portion of the NEW sales tax increment will be pledged to the project.
**Staff Request for Commission Action**

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

**Date of Standing Committee Action:** 2/27/2012  
(If none, please explain):

**Proposed for the following Full Commission Meeting Date:** 3/15/2012  
**Confirmed Date:** 3/15/2012

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**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 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)
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 1st day of March, 2012.

_________________________________________
Mayor/CEO

(SEAL)

ATTEST:

_________________________________________
Unified Government Clerk
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:

______________________________
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:
**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
## 39TH AND RAINBOW

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

### PROJECT BUDGET:

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### Owner Direct Costs

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<tr>
<td>39th &amp; Rainbow Turn Lane &amp; Signal</td>
<td>$225,000</td>
<td>$150,000</td>
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<td>Rainbow &amp; Marty Signal Improvements</td>
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<td>Sidewalks &amp; Curb to East of Site</td>
<td>$75,000</td>
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### Furniture, Fixtures & Equipment

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<td>Telephone System &amp; Security</td>
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<td><strong>Total Furniture, Fixtures &amp; Equipment:</strong></td>
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### Financing Costs & Interest

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### Development & Management Fees

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<td>Developer’s Profit</td>
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### PROJECT SOFT COST ALLOWANCE

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### TOTAL PROJECT COSTS

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<td>$7,767,645</td>
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**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.
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 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 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 )
    ) 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 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 Lots 18, said point being 40 feet West of the Southeast corner of said Lot 16; thence S 02°02'59" E, a distance of 125.00 feet to the South property line of said Lot 16, said point being 40 feet West of the Southeast corner of said Lot 16; thence S 87°57'01" W, along said South property line a distance of 101.36 feet to the Southwest corner of said Lot 16 and the East right-of-way line of Adams; thence N 02°03'25" W, along said East 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
### 39th Rainbow
#### Phase 2 Analysis

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<th>Property Tax Value Projections</th>
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<table>
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<th>UG Property Tax payments during Incentive Term (20 years)</th>
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<td>UG Share of new increment</td>
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Staff Request for
Commission Action

Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 2/27/2012
(If none, please explain):

Proposed for the following Full Commission Meeting Date: 3/15/2012
Confirmed Date: 3/15/2012

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

Date: 2/22/2012
Contact Name: George Brajkovic
Contact Phone: x5749
Contact Email: gbrajkovic@wycokck.org
Ref: Department / Division: Economic Development

Item Description:
State Avenue 240 LLC (The Developer) is requesting the UG consider the issuance of $38M in Multi Family Revenue Bonds for a 332 unit apartment complex and clubhouse on the north side of State Avenue at approximately 122nd St. The Developer obtained Master Plan amendments to redevelop the area - to include 5 phases of multi family. The Master Plan Amendment also required them to enter into a Development Agreement regarding the Developers responsibility for public infrastructure improvements. Though the project represents a 0% tax abatement, PILOT schedules have been prepared to incent Prevailing Wage and participation rates for L/M/W.
The Resolution of Intent allows the Developer a 6 month period to secure private financing sufficient to complete the project or this Resolution terminates.
The developer will present the project and the phased development approach and speak to their ability to secure the necessary financing to move this project forward.

Action Requested:
Approve Resolution of Intent for bonds.
Approve Resolution for Development Agreement.

☑ Publication Required

Budget Impact: (if applicable)

Amount: $93,750.00
Source: Bond issuance fee, allowed under O-15-01
[ ] Included In Budget
[ ] Other (explain)

[File Attachment]
RESOLUTION DETERMINING THE INTENT OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ISSUE ITS MULTIFAMILY HOUSING REVENUE BONDS IN THE AMOUNT OF APPROXIMATELY $38,000,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING COMMERCIAL FACILITIES FOR THE BENEFIT OF STATE AVENUE 240 LLC (PRAIRIE HEIGHTS AT THE LEGENDS PHASE I)

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”), desires to promote, stimulate and develop the general welfare and economic prosperity of Wyandotte County/Kansas City, Kansas and their inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, the Unified Government is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the “Act”), to issue revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons, firms or corporations; and

WHEREAS, State Avenue 240 LLC, a Kansas limited liability company (the “Company”), has submitted to the Unified Government an Application for the Issuance of Multifamily Housing Revenue Bonds (the “Application”) requesting that the Unified Government finance the cost of acquiring, constructing, improving and equipping certain commercial facilities as more fully described in the Application located on the North side of State Avenue at approximately 122nd Street consisting of a Phase I for an approximately 332-unit apartment complex, including multiple multi-family residential buildings, associated infrastructure, a clubhouse, and other amenities (collectively, the “Project”) through the issuance of its revenue bonds in one or more series in the amount of approximately $38,000,000, and to lease the Project to the Company or its successors and assigns in accordance with the Act;

WHEREAS, it is hereby found and determined to be advisable and in the interest and for the welfare of Wyandotte County/Kansas City, Kansas and their inhabitants that the Unified Government finance the costs of the Project by the issuance of revenue bonds under the Act in a principal amount of approximately $38,000,000, said bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the Unified Government to the Company;

WHEREAS, the Project represents the first phase of the Company’s up to five-phase multi-family development project anticipated by the Master Plan, with subsequent phases tentatively planned for 225 units (“Phase 2”), 284 units (“Phase 3”), 166 units (“Phase 4”), and 225 units (“Phase 5”); and

WHEREAS, the Unified Government intends to approve a resolution of intent to issue Multifamily Housing Revenue Bonds for Phase 2 in substantially similar form, and under substantially similar terms, as the Project, as long as: (a) the Project is completed on or before July 1, 2014; and (b) the Project proves to be a quality, attractive multi-family development as evidenced by its satisfaction of the Multi-Family Design Guidelines recommended by the Unified Government Planning Department Staff as part of Master Plan Amendment #MP-2011-1; and
WHEREAS, any time after the completion of Phase 1, the Unified Government intends to consider issuing Multifamily Housing Revenue Bonds for Phases 3, 4, and/or 5 based on multiple factors, including, but not limited to, a determination as to whether such additional phases will: (a) provide a net economic benefit to the Unified Government; (b) incentivize construction of quality and attractive multi-family housing units; and (c) help provide more quality housing units to Wyandotte County workers with the goal of retaining existing and attracting more Wyandotte County workers to live in Wyandotte County.

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 Project. The Governing Body of the Unified Government hereby finds and determines that the acquiring, constructing, improving and equipping of the Project will promote the general welfare and economic prosperity of Wyandotte County/Kansas City, Kansas, and the issuance of the Unified Government's revenue bonds to pay such costs will be in furtherance of the public purposes set forth in the Act.

Section 2. Intent to Issue Bonds. The Governing Body of the Unified Government hereby determines and declares the intent of the Unified Government to acquire, construct, improve and equip the Project out of the proceeds of revenue bonds of the Unified Government in a principal amount of approximately $38,000,000 to be issued pursuant to the Act.

Section 3. Provision for the Bonds. Subject to the conditions of this Resolution, the Unified Government will (i) issue its revenue bonds to pay the costs of acquiring, constructing, improving and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by ordinance of the Unified Government; (ii) provide for the lease (with an option to purchase) of the Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of said bonds by the Unified Government and take or cause to be taken such other action as may be required to implement the aforesaid.

Section 4. Conditions to Issuance. The issuance of said bonds and the execution and delivery of any documents related to the Bonds are subject to (i) obtaining any necessary governmental approvals; (ii) agreement by the Unified Government, the Company and the purchaser of the bonds upon (a) mutually acceptable terms for the bonds and for the sale and delivery thereof and (b) mutually acceptable terms and conditions of any documents related to the issuance of the bonds and the Project; and (iii) the Company's compliance with the Unified Government's policies relating to the issuance of revenue bonds.

Section 5. Sale of the Bonds. The sale of the bonds shall be the responsibility of the Company.

Section 6. Ad Valorem Tax Abatement. In consideration of the Company’s decision to acquire, construct, improve and equip the Project, the Unified Government hereby agrees to take all appropriate action to request the Kansas Court of Tax Appeals to approve a 100% ad valorem property tax abatement (not including special assessments) for all real property financed with the proceeds of the Bonds.

The Unified Government and the Company shall enter into a Performance Agreement in substantially the form approved by the Governing Body for the Project. The Project financed with the proceeds of the Bonds shall be entitled to a 10-year tax abatement, with the first year of the abatement being the year beginning on the January 1 following the year the Bonds are issued by the Unified Government. The percentage of abatement is subject to adjustment in accordance with the Performance Agreement.
The Company agrees to submit to the Unified Government by March 1st of each year, an annual certification of the Company of the percentage of its employees employed at the Project on the previous December 31st that are residents of Wyandotte County as shown on the records of the Company.

In consideration of the Unified Government’s agreement to request 100% ad valorem property tax abatement, the Company will agree to make an annual fixed payment in lieu of tax to the Unified Government during the term of the abatement for the Project equal to the amounts set forth below:

**Option A:** This is the PILOT with a 0% escalator – this would be the PILOT if the Company met both the goals of Local/Minority/Women Business Enterprises **AND** the Davis-Bacon provisions:

<table>
<thead>
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**Option B:** This is the PILOT with a 1.5% escalator – this would be the PILOT if the Company only met the goals of Local/Minority/Women Business Enterprises **OR** the Davis-Bacon provisions:

<table>
<thead>
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**Option C:** This is the PILOT with a 3% escalator – this would be the PILOT if the Company **DID NOT** meet the goals of neither Local/Minority/Women Business Enterprises nor the Davis-Bacon provisions:

<table>
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**Section 6. Limited Obligations of the Unified Government.** The bonds and the interest thereon shall be special, limited obligations of the Unified Government payable solely out of the amounts derived by the Unified Government under the Lease Agreement and as provided herein and are secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Trustee and in favor of the Owners of the bonds, as provided in the Indenture. The Bonds shall not constitute a general obligation of the Unified Government, the State or of any other political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Unified Government, the State or of any other political subdivision thereof and shall not be payable in any manner by taxation, but shall be payable solely from the funds provided for as provided in the Indenture. The issuance of the bonds shall not, directly, indirectly or contingently, obligate the Unified Government, the State or any other political subdivision thereof to levy any form of taxation therefor or to
make any appropriation for their payment.

**Section 7. Required Disclosure.** Any disclosure document prepared in connection with the offering of the bonds shall contain the following disclaimer:

NONE OF THE INFORMATION IN THIS OFFICIAL STATEMENT, OTHER THAN WITH RESPECT TO INFORMATION CONCERNING THE UNIFIED GOVERNMENT CONTAINED UNDER THE CAPTIONS "THE UNIFIED GOVERNMENT" AND "LITIGATION -- THE UNIFIED GOVERNMENT" HEREIN, HAS BEEN SUPPLIED OR VERIFIED BY THE UNIFIED GOVERNMENT, AND THE UNIFIED GOVERNMENT MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETEENESS OF SUCH INFORMATION.

**Section 8. Further Action.** Counsel to the Unified Government and Gilmore & Bell, P.C., Bond Counsel for the Unified Government, together with the officers and employees of the Unified Government, are hereby authorized to work with the purchaser of the bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the Unified Government all documents necessary to effect the authorization, issuance and sale of the bonds and other actions contemplated hereunder.

**Section 9. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the Unified Government.

**Section 10. Termination of Resolution.** Unless Company provides to the Unified Government by September 4, 2012 (a) a copy of an executed loan commitment (in form and substance satisfactory to the Unified Government) to finance the Project from a lender acceptable to the Unified Government, and (b) evidence that the Company has paid a non-refundable loan commitment fee to such lender for such loan commitment, then this Resolution shall automatically terminate without any further action.

**ADOPTED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS THIS 1ST DAY OF MARCH, 2012.**

By: ________________________________

Mayor/CEO of the Unified
Government of Wyandotte County/
Kansas City, Kansas

(Seal)

Attest:

By: ________________________________

Unified Government Clerk
DEVELOPMENT AGREEMENT

FOR

220 +/- ACRES AT THE NORTHEAST CORNER

OF 126TH STREET AND STATE AVENUE

BETWEEN THE

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

AND

STATE AVENUE 240 LLC

DATED AS OF __________, 2012
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<table>
<thead>
<tr>
<th>Section</th>
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<th>Page</th>
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<tr>
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<td>Infrastructure for which Developer is Financially Responsible</td>
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<td>Section 2</td>
<td>Maintenance of Certain Infrastructure Improvements</td>
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<td>Section 3</td>
<td>Timing of Infrastructure Improvements</td>
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Exhibit A  Legal Description of Property

Exhibit B  Approved Master Plan for Property

Exhibit C  Concept Plan
DEVELOPMENT AGREEMENT
OR
220 +/- ACRES AT THE NORTHEAST CORNER
OF 126TH STREET AND STATE AVENUE

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 STATE AVENUE 240 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, the Developer owns approximately 220 acres of real property generally located at the northeast corner of 126th Street and State Avenue in Wyandotte County, Kansas City, Kansas, as legally described on Exhibit A and generally depicted on Exhibit B attached hereto (the “Property”); and

WHEREAS, on August 25, 2011, the Unified Government approved a master plan amendment that provided for various uses of the Property, including Planned Commercial, Medium Density Residential, Open Space, Planned Commercial Business Park, Business Park, and Public/Semi-Public (the “Master Plan”), all as depicted on Exhibit B attached hereto; and

WHEREAS, the Unified Government does not intend to construct or otherwise pay for the construction of the public or private infrastructure required to develop the Property, and thus the Developer shall be responsible for designing and constructing the public and private infrastructure necessary to develop the Property; and

WHEREAS, the Unified Government’s approval of the Master Plan with respect to the Property was conditioned on the Developer entering into an agreement with the Unified Government to memorialize the Developer’s obligation to construct or otherwise pay for the construction of the public and private infrastructure required to develop the Property; and

WHEREAS, the Parties agree that this Agreement sets forth the Developer’s responsibilities with respect to development of the Property, satisfies the aforementioned condition of the Unified Government, and that the Master Plan is now in full force and effect with respect to the Property.

WHEREAS, the Parties contemplate that the UG will issue Multifamily Housing Revenue Bonds to finance the cost of acquiring, constructing, improving and equipping a commercial facility.

WHEREAS, a concept plan (the “Concept Plan”) is attached hereto as Exhibit C which represents the development plan that was presented by Developer in support of the amendment to the Master Plan. The Concept Plan includes a five-phase multi-family development project,
townhomes, and retail development, and is intended to serve as a helpful visual aid for the terms and concepts below, and Developer is only obligated to develop the streets or other improvements on the Property in accordance with the terms set forth in this Agreement which memorialize the stipulations related to the Master Plan amendment adopted by the Unified Board of Commissioners on August 25, 2011.

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:

Section 1. Infrastructure for which Developer is Financially Responsible. In accordance with the other terms of this Agreement, Developer is responsible for constructing or causing to be constructed the following infrastructure:

a. Public streets. The portions of Delaware Parkway and 122nd Street adjacent to the Property and any other streets located on the Property, which are generally depicted with arrows on the Concept Plan attached hereto as Exhibit C (the “Public Streets”). Developer shall only be responsible for building the half of Delaware Parkway (i.e., two of the planned four lanes) that is directly adjacent to the Property, as well as the median. In constructing the median, the Developer shall not be required to construct the curb and gutter serving as the median’s northern boundary. Rather, the Developer shall leave a reasonable buffer of un-finished median along the northern part of the median area in anticipation that the process of constructing the northern two lanes of Delaware Parkway, to be carried out by the property owner(s) directly north of the Property, will likely disrupt and disturb that portion of the median area. The property owner(s) constructing the northern two lanes of Delaware Parkway shall be responsible for completing construction of the median in conjunction with construction of the northern two lanes of Delaware Parkway. The Unified Government shall accept Developer’s dedication from time to time of any Public Streets as long as such streets meet all requirements and specifications of the Unified Government Code.

b. Traffic signals. The traffic signals at the intersection of 126th Street and Delaware Parkway, and intersection of 122nd Street and State Avenue (the “Traffic Signals”). Developer shall only be responsible for the costs of the Traffic Signals, including design, materials, and installation, to the extent they are warranted under the UG’s standard criteria. Subject to Sections 4(b)(iii) & (iv) hereof, this likely means that Developer will pay for the entire cost of the Traffic Signals.

c. Park & bike trail. Developer will maintain the portion of the Property that is located within a streamway buffer area as a natural open area for use by Developer and the occupants of all or certain portions of the Property. Developer will construct a bike trail, designed and constructed to AASHTO or such other standards mutually agreed upon by Developer and the Unified Government, across such open area and will be responsible for maintaining such open area.

d. Other infrastructure. Private drives, stormwater facilities, sanitary sewers, water and gas mains and service lines, electrical transmission lines, and any other utility
or other private infrastructure located on the Property. Aside from the improvements set forth in this Section 1, the Developer will not be financially responsible for any other public improvements located on or off the Property. With regard to sanitary sewers, it is anticipated that continued development in the areas surrounding the Property may trigger the need for on-site and/or off-site improvements to the current sanitary sewer system. Developer agrees to cooperate with the sanitary sewer authority to pay Developer’s equitable share of the cost of such improvements according to the authority’s normal revenue collection procedures. The intent is for the Developer to pay for one hundred percent (100%) of its sanitary sewer capacity.

e. Collectively, the infrastructure improvements described in this Section 1 are referred to herein as the “Infrastructure Improvements.”

Section 2. Maintenance of Certain Infrastructure Improvements

a. Private Infrastructure Improvements. The Developer shall be responsible for maintaining all private Infrastructure Improvements, including all private stormwater facilities, according to the generally applicable private property maintenance requirements set forth in the Unified Government municipal code. As set forth therein, the Unified Government shall provide the Developer with thirty (30) days written notice and thirty (30) days to cure, or such additional time that is reasonably required to cure such deficiency as long as the Developer diligently pursues such cure until completion, any alleged maintenance deficiency before the Unified Government cures such deficiency and charges the Developer for such work.

b. Public Infrastructure Improvements. Developer shall not be responsible for maintaining the Public Streets, public utilities, or any other Public Infrastructure Improvements.

Section 3. Timing of Infrastructure Improvements

a. In general. The Infrastructure Improvements associated with a particular portion of the Property shall be constructed at Developer’s cost prior to obtaining a certificate of occupancy for structures located on that portion of the Property, except that it shall be within the Unified Government’s administrative discretion to approve a temporary certificate of occupancy pending the completion of such Infrastructure Improvements.

b. Public streets. The portion of the Public Streets associated with a particular portion of the Property shall mean those portions of the Public Streets that are required under the Unified Government Code to provide adequate access to the particular portion of the Property at issue.

c. Traffic signals. The Traffic Signals will not be installed unless and until one or both are warranted under the Unified Government’s normal criteria. If a Traffic Signal is found to be warranted in conjunction with final development plan approval for a parcel within the Property, a certificate of occupancy or temporary certificate of occupancy shall not be issued until such Traffic Signal is installed.
d. **Park & bike trail.** The portion of the natural open area and bike trail thereon associated with a particular portion of the Property shall mean those portions of the natural open area that are directly adjacent to the particular portion of the Property at issue.

### Section 4. Financing of Infrastructure Improvements

a. **Financing tools & incentives:** Certain tools and incentives, including those made available under federal, state, or local law, such as community improvement districts, transportation development districts, improvement districts, and others that provide for add-on sales taxes, special assessments, grants, or other benefits, that now exist or may exist in the future, may be or become available to assist with the payment of costs and/or financing of the costs of the Infrastructure Improvements. Upon request of the Developer, the Unified Government shall cooperate in good faith with the Developer to assist with the application for, consider, and/or approve, as applicable, such tools and incentives.

b. **Traffic Signals:**

   (i) **In general:** Each parcel within the Property shall pay its equitable share of the costs of the Traffic Signals.

   (ii) **Improvement District:** If and when one or both of the Traffic Signals are warranted under the Unified Government’s normal criteria, the Unified Government will then create an improvement district and levy special assessments against the owners of parcels within the Property to pay for the costs of the Traffic Signal(s). The special assessments shall be levied so as to allocate the costs among the parcels on an equitable basis. The Developer, and its successors and assigns, consent to and will cooperate with the improvement district process. The term of the improvement district bonds shall be the maximum term permitted by state law, unless the Developer requests a shorter term.

   (iii) **Southwest Corner of 126th Street and Delaware Parkway:** The property generally located at the Southwest Corner of 126th Street and Delaware Parkway (the “**Offsite Benefitted Property**”) is not yet developed. Developer’s financial commitments herein with regard to such Traffic Signal shall not preclude the Unified Government from requiring the owner of the Offsite Benefitted Property from paying for its equitable share of the Traffic Signal.

   (iv) **Southern Side of State Avenue at 122nd Street:** The southern half of State Avenue in the proximity of 122nd Street and adjacent land to the south is within the City of Bonner Springs, Kansas. If and when the Traffic Signal at State Avenue and 122nd Street is warranted under the Unified Government’s normal criteria and approved for installation under the Unified Government’s normal processes and procedures, the Unified Government shall use good faith efforts to negotiate an intergovernmental agreement with the City of Bonner
Springs under which the City of Bonner Springs provides or causes private parties to provide an equitable share of the funding for the Traffic Signal.

Section 5. Market Rate Apartments. Developer covenants and agrees that any portions of the Property that the Developer develops as multi-family housing will not be marketed as a low-income housing development.

Section 6. Term. Unless earlier terminated by written mutual consent of the Parties, this Agreement shall terminate on January 1, 2030.

Section 7. Amendment. This Agreement may be amended only by the mutual consent of the Parties by the execution of said amendment by the Parties or their successors in interest.

Section 8. Recordation of Agreement. 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. The obligations herein shall run with the land and, upon transfer of all or a portion of the Property, Developer shall be relieved of all obligations hereunder associated with such portion or all of the Property transferred.

Upon sale or other transfer of all or a portion of the Property, Developer will not, without thirty (30) days prior written notice to the UG, (a) assign, sell, lease, sublease, mortgage or otherwise transfer the Property or any part thereof or any interest therein, (b) merge with or into another corporation or sell or transfer to another corporation substantially all of its assets, or (c) assign this Agreement. If there is an assignment during the Term of this Agreement, the assignee shall assume and agree to pay and perform each and all of the terms and provisions hereof. Developer’s failure to provide notice as required under this Section 9 shall not constitute a default by Developer under this Agreement, unless the Unified Government provides notice of the Developer’s failure to timely provide such notice and Developer fails to subsequently provide such notice within thirty (30) days of receipt of such notice from the Unified Government.

Section 10. Kansas Law This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

Section 11. 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 12. Notice All notices and requests required pursuant to this Agreement shall be sent as follows:

To the Unified Government:
Unified Government Clerk
Municipal Building
701 North 7th Street
Kansas City, Kansas 66101

To the Developer:
State Avenue 240 LLC
Attn: George Filios
9640 W. Tropicana
Suite 200
Section 13. Materiality of Recitals

The representations, covenants and recitations set forth in the recitals hereto 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 the body of this Agreement.

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: ________________________________

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 __________, 2011, 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.

STATE AVENUE 240 LLC,
A Kansas limited liability company

By:____________________________
   George Filios, Manager

STATE OF _____________ )
) SS.
COUNTY OF ___________ )

On ______________, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared George Filios, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument as the Manager of STATE AVENUE 240 LLC, a Kansas limited liability company, 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 Property
EXHIBIT B
Approved Master Plan for Property
EXHIBIT C

Concept Plan

THE “PROPERTY”
Authority Under Ordinance O-15-01

Project: State Avenue 240 LLC

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### Staff Request for Commission Action

**Tracking No. 120047**

- □ Revised
- □ On Going

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

**Date of Standing Committee Action:**

(If none, please explain):  
Standing Committee on January 9, 2012 requested to bring recommendations back on 2/2...

**Proposed for the following Full Commission Meeting Date:**  
**Confirmed Date:** 3/1/2012

3/1/2012  

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

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<tr>
<th>Date</th>
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<th>Contact Email</th>
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<td>573-5733</td>
<td><a href="mailto:cbrockman@wycokck.org">cbrockman@wycokck.org</a></td>
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**Item Description:**  
On January 9, 2012 the Economic Development staff presented the Section 42 tax credit applications for a review to Standing Committee. During the review of the applications, the Commissioners directed staff to bring the policy back for review of the policy criteria. In order to begin this discussion, a review of "why" the Unified Government requires the review process is noted in the attached documents. Additionally, staff has listed several areas of discussion that have been brought to our attention regarding the current policy. The following attachments are included:

- Section 42 Discussion Points  
- Current Tax Credit Criteria  
- CHWC letter to Charles Brockman regarding Section 42 Market Rate requesting changes.

**Action Requested:**  
Discussion and recommendations.

- □ Publication Required

**Budget Impact:** (if applicable)

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**File Attachment**
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 68 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.
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  (No Points)

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 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 (20 Points Available)

   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>
</tr>
</thead>
<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>
</tr>
<tr>
<td>40-44%</td>
<td>5</td>
<td>65% or More</td>
<td>10</td>
</tr>
<tr>
<td>45-49%</td>
<td>6</td>
<td></td>
<td></td>
</tr>
</tbody>
</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/patios;
       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 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.
FIGURE C-1
NRA ELIGIBLE AREA

LEGEND
1. Turtle Hill
2. Mt. Carmel
3. Gateway Gardens
4. Tremont
5. Peregrine Falcon
6. Pala Vista
7. East Armourdale
8. Central Armourdale
9. Mission Cliffs

TIF AREA

WYANDOTTE COUNTY

North
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
KANSAS CITY, KANSAS:

1. QUALIFIED CENSUS TRACTS - IRS SECTION 42
2. OTHER LOW-MOD CENSUS TRACTS

FIGURE C-3

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.
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@chwckck.org.

Sincerely,

Annie Trotta
Urban Planner/Project Manager