Economic Development and Finance Committee
Standing Committee Meeting Agenda
Monday, September 30, 2013
5:15 PM

Location:
Municipal Office Building
701 N 7th Street
Kansas City, Kansas 66101
6th Floor Training Room

Name Absent
Vacant
Commissioner Brian McKiernan, Chair
Commissioner Gayle Townsend
Commissioner Ann Brandau-Murguia
Commissioner James Walters
David Alvey - BPU

I. Call to Order / Roll Call

II. Approval of standing committee minutes from August 26, 2013.

III. Committee Agenda

Item No. 1 - COMMUNICATION: COMPREHENSIVE FINANCIAL POLICIES

Synopsis:
A communication recommending discussion and future adoption of comprehensive financial policies, submitted by Lew Levin, Chief Financial Officer. The three policies are entitled: Budget, Revenue and User Fee, and Expenditure.
Tracking #: 130333
Item No. 2 - RESOLUTION: MASTER EQUIPMENT LEASE PURCHASE AGREEMENT

Synopsis:
A resolution approving a Master Equipment Lease Purchase Agreement with Banc of America Public Capital Corp. implementing the financing tool previously approved in the CMIP budget to pay the costs of acquiring and installing certain equipment, submitted by Debbie Jonscher, Finance.
Tracking #: 130328

Item No. 3 - ORD: PREVAILING WAGE REQUIREMENTS DUE TO STATE ACTION

Synopsis:
An ordinance repealing Section 2-295 of the UG Code of Ordinances regarding prevailing wage in compliance with state law, submitted by Misty Brown, Legal.
Tracking #: 130337

Item No. 4 - COMMUNICATION: ESCALADE HEIGHTS REDEVELOPMENT DISTRICT

Synopsis:
A communication requesting termination of the original developer agreement in favor of the new terms and conditions outlined in the amended agreement regarding Escalade Heights Redevelopment District, submitted by Marlon Goff, Economic Development.
Tracking #: 130335

Item No. 5 - RESOLUTION: INTENT TO ISSUE IRBS FOR ASSISTED LIVING ASSOC.

Synopsis:
A resolution of intent to issue $17.5M in sales tax construction IRBs for Assisted Living Associates LLC proposal for a 120 room assisted living facility within the Hazelwood Development area at 113th & Parallel, submitted by George Brajkovic, Economic Development Director. The commission approved $15M in IRBs via Ordinance O-66-12 on 12/20/12; however, the project has grown in scale and costs thus necessitating the increase in IRBs.
Tracking #: 130331
Item No. 6 - RESOLUTION: INTENT TO ISSUE IRBS FOR PREMIER INVESTMENTS

Synopsis:
A resolution of intent to issue $9.3M in sales tax construction IRBs for Premier Investments, LLC, the Wilhite family, for the redevelopment of one block east of S. 7th St. Trwy (bound by Packard St. on the west, Osage Ave. on the south, S. 4th St. on the east, and Shawnee Ave. on the north) located in the Armourdale area, submitted by George Brajkovic, Economic Development Director. The developer proposes construction of a 170,000 sq.ft. industrial building for lease.
Tracking #: 130330

Item No. 7 - RESOLUTION: INTENT TO ISSUE IRBS FOR NORTHPOINT DEV.

Synopsis:
A resolution of intent to issue $10M in sales tax construction IRBs for NorthPoint Development's project at Central Industrial Park (CIP), the 80 acre former RACER Trust site in Fairfax, submitted by George Brajkovic, Economic Development Director. This is the first project at this CIP for a 70,000 sq.ft. manufacturing building for Inergy, a supplier of fuel tanks.
Tracking #: 130327

Item No. 8 - RESOLUTION: RAINBOW REAL ESTATE CID #2

Synopsis:
A resolution setting a public hearing date of 11/7/13 to consider Rainbow Real Estate Partners LLC petition for CID #2 for 39th & Rainbow TIF Project Areas 1 and 2, as contemplated by the original development agreement, submitted by George Brajkovic, Economic Development Director.
Tracking #: 130332

Item No. 9 - RESOLUTION: DOWNTOWN GROCERY STORE

Synopsis:
A resolution establishing a blight finding for a proposed downtown grocery store development by RH Johnson near 11th & State Avenue, and scheduling a public hearing date of 11/21/13 to consider the creation of a TIF and CID district, submitted by Marlon Goff, Economic Development.
Tracking #: 130336
Item No. 10 - COMMUNICATION: CITY VISION PROJECT AT 6TH & NEBRASKA

Synopsis:
A communication regarding the request of City Vision for various UG commitments relative to their proposed multifamily project on UG owned property at 6th & Nebraska, submitted by George Brajkovic, Economic Development Director.

Tracking #: 130338

Item No. 11 - COMMUNICATION: WYANDOTTE PLAZA REDEVELOPMENT PROJECT

Synopsis:
A communication stating it would be beneficial to the overall project funding to modify the flow of funds for future project costs associated with the Wyandotte Plaza redevelopment project at 78th & State, submitted by George Brajkovic, Economic Development Director.

Documents forthcoming

Tracking #: 130334

IV. Goals and Objectives

V. Adjourn
ECONOMIC DEVELOPMENT AND FINANCE
STANDING COMMITTEE MINUTES
Monday, August 26, 2013

The meeting of the Economic Development and Finance Standing Committee was held on Monday, August 26, 2013, at 5:19 p.m., in the 6th Floor Human Resources Training Room of the Municipal Office Building. The following members were present: Acting Chairman Murguia; Commissioners Markley, McKiernan, Townsend, and BPU Board Member David Alvey.

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

II. Approval of standing committee minutes from July 8, 2013. On motion of Commissioner McKiernan, seconded by Commissioner Townsend, the minutes were approved. Motion carried unanimously.

III. Committee Agenda:

Item No. 1 – 130294…RESOLUTION: SALE OF FIRE DAMAGED PROPERTIES

Synopsis: Adopt resolution authorizing the sale of 1402 Central Ave. and 4 N. 14th St. under K.S.A. 79-2811 in the amount of $18,234 to Maydelin Martell, submitted by Brandy Nichols, Legal. On July 7, 2011, emergency demolition of buildings located on these properties occurred due to fire damage.

Action: Commissioner McKiernan made a motion, seconded by Commissioner Townsend, to approve. Roll call was taken on the motion and there were five “Ayes,” Alvey, Markley, Murguia, Townsend, McKiernan.

Brandy Nichols, Legal, said this is a resolution. K.S.A. 79-2811 authorizes the commission, upon vote, to sell properties that are eligible for tax sale to parties for economic development purposes. This property was the apartment complex that burned down that we did the demo on. The demo lien is $97,000. This is the one that we discussed about insurance and things. The offer came in at $18,234 which the property at 1402 appraised for $13,090 and 4 N. 14th St.
appraised for $6,890. It is just shy of the appraised value; although by doing this, you wipe away the demolition lien. **Acting Chairman Murguia** said I am just curious. What was the demolition lien? **Ms. Nichols** said $97,000. **Acting Chairman Murguia** said wow! **Commissioner Townsend** said that was the cost to demolish. **Ms. Nichols** said that’s the cost to demolish; and emergency demolitions cost more because, of course, there is no time to do any sort of safety to determine if there is hazards to abate. You just have to treat it as hazardous.

**Commissioner McKiernan** said I have asked this before; I will ask it again. Is there any way we can tie permits, licenses, the ability to do business with the requirement to at least have enough insurance to tear down the building if it becomes unsafe so we don’t have everybody and their brother walking away from unsafe buildings? **Ms. Nichols** said I believe we were looking at the business licensing portion of it. I don’t recall where that is right at this time. I’ll have to follow-up with you. **Commissioner McKiernan** said but we do believe it could be possible to tie a business license to a requirement to have insurance at least enough to demolish the building. **Ms. Nichols** said I believe that is possible maybe strong. Looking into it to ensure if we can or cannot maybe more— **Commissioner McKiernan** said I would like to make this a very high priority and I would like to follow-up on this routinely and quickly. I am just stunned that somebody can have a building, doing business, making revenue and then walk away if that building becomes unsafe. **Commissioner Markley** said you have to have it on your car. **Commissioner McKiernan** said exactly. **Ms. Nichols** said I will work on that with Colin Welsh, who is the neighborhood attorney. **Commissioner McKiernan** said that would be marvelous.

Have these two properties already been through a tax sale? **Ms. Nichols** said no, they actually have not. Because it was such a high value and it is the neighboring property that wants to use it. I did drive by. We don’t have any knowledge of Code Enforcement complaints. It is a business. She is an insurance agent. We brought it to you instead of going through tax sale and open market to see if that would be something you would want to do. **Commissioner McKiernan** said Ms. Martell is great, no doubt about it. I would love to see a building on that lot rather than a parking lot but that’s my own deal.

So K.S.A 79-2811 does allow us to sell a property even if it is eligible for tax sale, even if it has not yet been through a tax sale? **Ms. Nichols** said yes. **Commissioner McKiernan** said if

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Ms. Nichols said there are other purposes, economic development, affordable housing and community development. Commissioner McKiernan said that is good to know. Acting Chairman Murguia said good to know, I agree. I did not know that. I thought we had to wait for a tax sale. Commissioner McKiernan said I thought we did too. Ms. Nichols said there are some difficulties that we are looking at. The problem with the tax sale is the constitutional due process requirement. I have worked with Ken Moore on this issue. We have actually worked with Judge Duncan who does our tax sales to try to think of a way because it is somewhat concerning to just be able to sale it out from under an owner and ensure that we do due process. We worked on it with Doug Bach and George Brajkovic too. It is kind of an exciting statute if we can figure out how to protect everyone’s constitutional rights, which is where we are kind of stuck at this point in time. Commissioner McKiernan said for me this is superb. We have a lot of properties. If we could do some sort of facilitated transfer, it would shorten the timeline back to productive use by potentially years and it would really eliminate a lot of the hassles that we go through. If we could just figure out a way to do this, again, protecting everybody’s rights and due process. I think this is a powerful tool that we should be using much more often than we are.

Acting Chairman Murguia said and in agreement with that, Commissioner McKiernan, in some urban areas where we have these issues, property is still marketable. What happens is when we put it up for tax sale, oftentimes it gets bid on by people that don’t have the same interest as others. Actually, I can think of a very specific example on Strong Ave. The building burned and we had to demolish it. He refused to pay his taxes and this would have been a perfect solution that was never brought to my attention or anyone else’s. How long have we known about 79-2811? Ms. Nichols said I think we have known about it for quite some time. I don’t know that all of the conditions were right. I am a neighborhood attorney that left neighborhoods to come into delinquent taxes. We also have a different commission focus than we had in the past. We may have known about it for a while; I don’t want to say that we didn’t. It may just be coming back up as a potential, especially if you combine it with the delinquent tax statute that it says if a property is vacant, you actually have a one-year redemption period instead of a two-year redemption period.
Acting Chairman Murguia said I was just going to say that I completely support what Commissioner McKiernan is saying about wanting to know if we can develop a policy around and requiring property owners to have insurance. Normally I don’t believe that would come in front of this standing committee but given that it piggy-backs on something we were already working on, when do you think you could come back to us with some more information in regards to whether or not that could be a proposed policy? Ms. Nichols said Colin and I could come back on the next standing committee with a least some discussion of it. I think we would want to include our Abandoned Housing Task Force.

Ken Moore Deputy Chief Counsel, asked can I offer something. This statute has been around for years. It was around before consolidation. The former County Commission used it quite extensively, but the problem they found was that you cannot get title insurance for any of these properties because they want the notice, provisions, whatever. We actually had to assist with a lot of quiet title actions on properties that the former county sold to try to get those where they had marketable titles. All we give you is a quick claim deed. Unlike a regular deal, this is an alternative form of a tax sale. Unlike the regular tax sales where you publish notice and you go through all the—you try to get personal service and everything on all the people so that way you have a better argument that everyone has notice and you get a clean title. This is kind of an abbreviated process. It’s a closed process. By that I mean it’s not an open market type bidding. The problem is on the backside. Now they have this property but they can’t get a mortgage or loan. They can’t do anything really because they can’t show that they have more than one piece of the title.

Commissioner Markley said but even if we go through all the same notice activities that we would for a tax sale, we could still get the property back occupied or back to somebody who cares about it hands faster doing it this way than if we do a tax sale and somebody buys it who doesn’t have the interest that we have or who is just a property investor, the bank or whoever. They are still going to have the vacant property there. So using this, even if we did all the same notice we would have to do for a regular tax sale, it is still a better deal for us because it gets it back in the hands of someone we know wanted it bad enough to come to us and do this directed sale. Mr. Moore said my recollection is, it still has to be eligible for a tax sale. It has to meet the same criteria for a tax sale. It is just that it is a closed transaction instead of an open market

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auction. We control it. **Commissioner Markley** said it gives us a better buyer because we can control the buyer, so yes.

** Acting Chairman Murguia** said I would just say that the key to urban redevelopment is control. Yes, because if you have to go to a tax sale and bid, some people will just come to bid to either raise your bid or get it as high as they can, or they will come and just sit on it and then we have to go through the whole process again which is another three years before its eligible for a tax sale. I would agree, Commissioner Markley. I hear what you are saying, Ken, but I think it is definitely faster. **Mr. Moore** said it has a lot of advantages, it definitely does, but again, we found on the backside that now they have this property and then they can’t—we had people that were building houses from the organization. They are actually building houses on it, but they couldn’t sale them because they couldn’t finance them. **Commissioner Markley** said if you are giving all the same notices, shouldn’t you still be able to get…**Ms. Nichols** said the tax sale property actually still has to go through a quiet title process after they buy it at our tax sale. **Mr. Moore** said or they have to wait a year. ** Acting Chairman Murguia** asked are you telling me there is no way to get through this if we go through this process, or are you just saying that it takes longer. We control it, but it takes longer. **Mr. Moore** said it depends on what the person wants to do. Like in this case, to put a parking lot, she is probably not getting any financing to do it. If someone comes up at whatever period of time and willing to take at risk—but if you are going out to get private financing, you may find that the bank is not going to give it to you. As long as the person getting the property knows that because they have to jump through the hoops, then it is a great tool.

**Ms. Nichols** said the couple that we put in front of you has no other, that we have found, other encumbrances on the title. If you had one that had a couple of mortgages or liens or something, that might not be one. ** Acting Chairman Murguia** asked does those encumbrances on the title ever just go away with time. **Ms. Nichols** said well it depends; it would be a mortgage that they have to release. Those are typically what you would find. I have some work already and Ken, as you can tell, can come up better with a marketable title. We will put together a memo.

**Commissioner McKiernan** said wasn’t the last question though about tying the insurance to the business license. ** Acting Chairman Murguia** said yes. **Commissioner McKiernan** said so we
have to relate the other issue then to see if we can move that one forward as well. **Ms. Nichols** said I think the insurance one will have a faster answer whereas the 79-2811 will require a little more work. **Acting Chairman Murguia** asked can we just put them both on for the next meeting time and if you are not ready with the 79-2811, then you will just tell us that you need more time but you can move forward with the policy on the insurance. Is that okay? **Ms. Nichols** said yes, I think the 79-2811 you would definitely want to talk to your Abandon Housing Taskforce and maybe even get some opinions of title companies. **Acting Chairman Murguia** said okay.

**BPU Board Member Alvey** said suppose there is a vacant building and someone speculates I am going to purchase this building and retain it for perhaps future use. In the meantime, they have to purchase insurance for it. Would that act as a deterrent to someone as an additional expense that they are not ready to invest in it further to carry insurance on it? **Doug Bach, Deputy County Administrator**, said I would contend there would probably be a con against moving down that direction, but that is probably part of the things we’ll have to look at. I mean what’s practical business insurance and what is demolition insurance. How cost prohibitive is that? **Commissioner McKiernan** said we just need to weigh the pros and cons because to get stuck for this bill when it’s three in the morning and we make the decision that building has got to come down. **BPU Board Member Alvey** said I am not suggesting don’t do it, I am just trying to think through what someone on the other side is trying to maybe purchase a building, put together a group of parcels to do something with it. **Acting Chairman Murguia** said, Brandy, you will look at some of those cons also when you give us a presentation. These might be some negatives… **Ms. Nichols** said myself or Colin Welsh, yes. **Acting Chairman Murguia** said that’s fine. I don’t care who brings it forward.

**Commissioner Townsend** said I want to make sure I understand these numbers. The $97,000 was the actual cost to demolish both of these properties and I was seeing this demolition lien of $112,000. What’s the difference? **Ms. Nichols** said there are $16,000 of fees on there that I was not able to find out. I don’t know if that is interest and penalties, but it is associated with that lien. The lien and the fees are the $112,000, but the amount of actual delinquent taxes—they paid their taxes up until it burned. The actual delinquent taxes on 4 N. 14th St. are just under $3,000 and on 1402 just under $300. The delinquent taxes themselves are right around the

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$3,300. **Commissioner Townsend** asked does the UG get stuck with this $112,000. **Ms. Nichols** said that was the cost to do the emergency demolition.

**Commissioner Townsend** asked what does Mr. Johnson have outstanding; just the tax. **Ms. Nichols** said the taxes and the liens. Through this process he actually submitted an affidavit so that we can show we have noticed to Mr. Johnson, which will be included with your packet next time. I just got it today. He won’t receive any money out of this. The offer will go in as if it is delinquent taxes. **Commissioner Townsend** said he is only on the hook for $3,300 approximately. **Ms. Nichols** said no. If he was still on it, he would be on the hook for the full amount; but if we go to tax sale, then it goes on the open market. Since this was a neighboring property that wanted to use it for a parking lot, we brought that to you to see if you wanted to do a directive type tax sale rather than it going on a bidding where anyone can bid on it.

**Commissioner Townsend** asked the amount that we are being offered is $18,234 and you said the appraisal came in at what. **Ms. Nichols** said 1402 Central is $13,090 and 4 N. 14th St. is $6,890. The offer is $1,746 less than the total appraised value.

Roll call was taken on the motion to approve and there were five “Ayes,” Alvey, Markley, Murguia, Townsend, McKiernan.

**Item No. 2 – 970146…QUARTERLY INVESTMENT REPORT AND BUDGET REVISIONS**

**Synopsis:** Second Quarter 2013 investment report and budget revisions $10,000 or greater, submitted by Lew Levin, Chief Financial Officer.

**Lew Levin, Chief Financial Officer,** said I believe we presented this report to newly elected commissioners for the first quarter, but just to remind you, this is our quarterly investment report. No action is required. It is just a review of our current investments. This report is being presented in August. We did not have a standing committee meeting the prior month. At the end of June, at the end of the second quarter, we see we had total investments of $177M and our average return on our investments was approximately 0.5%. Our projected earnings for this year will be approximately $900,000 and that is consistent with where we were last year. The second part of the report is the budget revision report.

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Action: For information only.

Item No. 3 – 130259...COMMUNICATION: COMPARISON OF 2012 AUDITED FUND BALANCES

Synopsis: Comparison of the 2012 audited fund balances with policy goal, submitted by Rick Mikesic, Accounting Manager, and Lew Levin, Chief Financial Officer.

Lew Levin, Chief Financial Officer, said I just briefly saved the second part of that packet that includes budget revisions of $10,000 or more that occurred during the second quarter. Reginald Lindsey is here to respond to any questions on that item. Acting Chairman Murguia said thanks for drawing our attention to that. Commissioners, do you specifically have questions about the budget revisions that Lew is mentioning? Okay, go ahead and move on. Mr. Levin said I am going to let Rick lead the presentation on the next item.

Richard (Rick) Mikesic, Accounting Manager, said last year we came before the commission to have fund balance policies approved and those were approved and we have established policy and that was done last year. After that was completed and we got through all of our year-end work and we had final numbers for the 2011 financials, we came before this committee and presented for informational purposes a comparison of where the fund balance came out at the end of 2011 and how it compared with the policies that were established earlier in the year. Tonight, we come back to present the 2012 fund balance that we have from our final financial figures and how it relates to the policy, and the goals that were set in the policy last year. I hope you have all of those in front of you. I am not going to go line by line. I will give a brief summation. We can talk all you would like on them.

Briefly, if you look at the combined general fund balances for 2012, you will see the balance was $9.7M. In 2011 it was $4.7M and in 2010 for informational purposes that gives you a view of the three year period. It was only $1.8M; it has gone up quite a bit. It has gone from only 1.1% in 2010 up to 5.6% of expenditures in 2012. You’ll see as it is noticed in red, it means it is still below the policy that was established at 10%. It is improving and it is going in the right
direction, but it is still not where we would like to see it and it still doesn’t meet the policies that were set last year.

The next section is special revenue funds. In blue are the ones that are over the levels that were set in the policies and in red are the ones that are under the levels set. You’ll see that generally the special revenue funds have balances above the policies that were set. They kind of fall into the opposite of where the general fund balances are. Debt service, towards the bottom, you’ll see the city debt service fund falls within the range that was established with the policies, and the county debt service fund is over the range that was set in the policy. That is it in a nutshell. I would be happy to answer any questions that you might have in addition to that.

**Acting Chairman Murguia** asked if anyone had any questions. You can take a minute to look at it.

**BPU Board Member Alvey** said I think I asked this question last time. The 10% is recommended by GAP. These policy goals are set in accord with some national standard? **Mr. Mikesic** said Lew, I’ll let him address that question. **Mr. Levin** said yes. We receive recommendations from both the Government Finance Officers Association (GFOA) as well as our credit agencies. One of the very first questions we have on our credit calls with Moody Standard & Poors is they ask us do we still have a fund balance policy in place and where we are within the policy. Our credit agencies really look at the number at the very bottom of the page, the gap basis. Let’s say it is a slightly different method of accounting. You can see on the gap basis, our number did exceed at the end of 2012, the 10% level.

**BPU Board Member Alvey** said as you move forward, they are looking for the progress year to year in those fund balances and it turns into a positive outlook on the credit report. **Mr. Levin** said correct. **Acting Chairman Murguia** asked are there any more questions in regard to that? That was also just for informational purposes; no action necessary.

**Action:** For information only.

**Item No. 4 – 130292…REPORT: INTERNAL CONTROLS OVER FINANCIAL REPORTING**
**Synopsis:** Independent auditor’s report on internal controls over financial reporting and on compliance in accordance with Government Auditing Standards – Federal Grant Award Findings, submitted by Lew Levin, Chief Financial Officer.

**Lew Levin, Chief Financial Officer,** said I’ll just make a brief introduction. To my right is Shelly Hammond, with our HEH, our external auditor firm. When we were before you in June, I think, Commissioner Murguia, you asked when we complete our federal grant audit portion of our overall audit that you inquired if Shelly could come before this committee and present the findings. I’ll also introduce Reed Partridge of the Legislative Auditor’s Office that worked with Shelly and her firm in conducting the federal grant audit.

**Shelly Hammond, HEH,** said I believe you were distributed previously a copy of our draft of our report. As Lew mentioned, this is our report on the federal grants compliance. When we came before you previously, we reported on the financial segment part of the audit. This report is specific as it pertains to internal controls and compliance specifically for federal grant reporting purposes. I am going to go through a few highlights in the report. If there is something I skip that you are curious about, let me know.

I first want to kind of explain where certain information is in the report; where some key information is that you would find useful. I hope my page numbers are the same as yours and I hope they haven’t changed somewhere since you got your draft. On page 8, hopefully it is your page 8, is a list of the federal programs that we specifically looked at this year. We do not test every single federal dollar that the Unified Government gets. The OMB which is the Federal Office of Management and Budget has audit standards that we are required to follow. They tell us the methodology that we are required to use in terms of grants we are required to select. There are a variety of factors. I won’t get into the details, but this is the outcome. These are the specific grants we tested this year if you are curious as to which ones specifically got tested.

If you are curious as to all of the federal grant dollars spent by the Unified Government, that list is near the end of the report. It starts on page 26. There are three pages that is just a comprehensive list of all federal expenditures made by the Unified Government during the fiscal year ending in 2012. That list is at the back if you are curious to see what all of those federal dollars were. But again the list on page 8 is the list of ones we then tested. We corrected some page numbers. We have been fixing grammatical things and page formatting so it is possible like
I said that my page numbers may have changed. Acting Chairman Murguia said this is the only list. There is not another page. Ms. Hammond asked is near the very back. Yes, that is the list. Acting Chairman Murguia said but I meant there is not a page 26 that I am also missing. Ms. Hammond said no, I think my page numbers are just off from yours. Acting Chairman Murguia said okay, good, because I reviewed it. I just didn’t have a page 26 either. Ms. Hammond said we obviously got that fixed after I sent the draft out so I apologize. Acting Chairman Murguia said okay.

Ms. Hammond said then what you will find, and I will take you back to page 9, and again hopefully looking at Lew’s copy, my page 9 is the same as your page 9. What you will find then is two sections in this report and I am going to skip this section too, but I’ll explain why. In the OMB report we are required to include any finding we had on the financial statement audit in addition to any findings we have as it relates to the grant compliance audit. Section 2 here, you have seen before. These are the exact same findings we came before you and talked about when we reported on the financial statements and this has not changed. This is just a copy of what you previously saw. That is why I am going to skip through that because we have previously discussed that.

If you move to Section 3 which starts on page 14, this is where we then start the discussion about any findings that may have pertained to the federal grant specifically. I’ll walk through each one of these and then I will be glad to take any questions. You’ll see there is a lot of information for each one of these findings. There is a lot of detail here. Generally the way they are structured is at that the top it lists specifically which grant the finding pertains to. It will talk about what the condition was, in other words what we found. It will describe what the criteria was against which we measured our testing. If there are any question costs, it would mention that. We then also provide any additional context which is just additional discussion surrounding why this may have happened. Near the bottom, you will also find a management response, which is effectively a corrective action plan. Like I said, there is a lot of information in each one of these. What I am going to touch on is just a brief discussion of the finding and maybe some of the context.

The very first item on page 14 which is Finding 2012-3, related to salary expenditures. What this pertains to is if you have employees who are working and charging their time to multiple federal grant programs, there is an allocation process that must be followed to make sure
their time is being properly distributed and that was not being done in accordance with the OMB requirements. That pertains to the CDBG and Home programs. Again, you will see further additional context description down at the bottom. Most of those funds are being charged to the CDBG program, but you will also see in the context that most of the federal dollars are in that program anyway. We provide that as context description for whatever federal agency or state agency might then get this report. If they want to have follow-up, that will give them some idea of what the potential issue could be and give them some additional information pertaining to that.

Finding 2012-4, which starts on the next page, this pertains to what is called the SAFER Program which is funding that the Unified Government got to hire additional police officers. There is a requirement with that funding that the Unified Government maintain a certain number of police officers with this additional funding, and that threshold has not been met. Now having said that, I would direct you to the context and the management response because there are very good reasons in my mind for why that has not been met. Lew and I have had discussions about this extensively. Our jobs as auditors and our directive under the OMB requirements are to report anything that is out of compliance with the requirements of the grant. It is then up to the state or federal agency that provides the money to the Unified Government to determine if they think it is a significant concern or not to them because they are the ones providing you the funding.

This finding was included in here last year and the federal agency that oversees this program did provide a response back to the Unified Government. This is discussed in the management response section indicating that the finding we reported last year was not a concern to them basically. The finding they provided back is that they considered the finding closed. Lew asked me why are we including it again this year. Again, it kind of goes back to the concept of the federal agency closed last year’s finding, we are required to report any non-compliance. It would be my expectation that the federal agency is going to close this one similar to what they did last year. We are, again, required to provide a written report of that because it is technically not in compliance and then, again, it is up to the federal agency to determine if they consider it to be an issue.

**Acting Chairman Murguia** said I just want to interrupt you really quickly about this grant specifically. You understand—and you are talking really fast, which is fine. **Ms. Hammond** said tell me to slow down. **Acting Chairman Murguia** said you can keep—that’s fine. I am August 26, 2013
going to slow you down. I want to back up just a minute on this. Ms. Hammond said absolutely. Acting Chairman Murguia said we had a SAFER grant where we were to have so many firefighters and because of people retiring, and other things, we didn’t meet the number of firefighters we were supposed to have. We brought it to the federal government’s attention and they said that is okay, we forgive you. They said we forgive you, but did they say get in compliance or did they say no, what’s going on is okay. I will tell you—well before you answer Lew, this goes back to Commissioner Townsend’s question way back when we talked about the grant for police, attrition, retirement and all of those factors that play into these grants. If they are going to forgive us for that, why would we not take those grants? It’s a bigger question for me. Ms. Hammond said I will just say before Lew responds, I don’t recall the specific wording of the response. We have a copy of that and Lew does as well. In terms of how they worded their response back to the Unified Government, I don’t recall specifically how they worded that in their response last year.

Mr. Levin said this one I believe is slightly different from the police grant, the COPS grant. We have a history—actually going back to 2010 with Homeland Security on this grant. We are required to maintain a level of sworn firefighters and we have maintained it. The question is, do we have that level of firefighters every single day of the year. What we have in communication from Homeland Security back to 2010 is that they understand there is a recruitment process for hiring and training firefighters. They use language that we understand that it may be as much as a six month process and they believe that is reasonable. If we exceeded that six month process and we did not have a recruit class that brought us back to the level of that authorized strength, I believe then it would be an issue with them. As long as we have an active recruitment process and we’re following a timetable, they recognize it is not practical to hire firefighters and train them one at a time. They’ve recognized the approach that we’ve taken that we go through a recruit process that may take several months and that we hire a class for training at a single time. Doug has been involved also and if you have any additional comments, Doug.

Mr. Bach said one thing I would say is that SAFER did come back to us and looked at it and said our annual cycle they felt was too long if we were projecting or looking at drops in some of our numbers of sworn firefighters in position. This year coming into it, as part of the process for our current SAFER grant, we went through and worked out with them kind of a dual process.

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Currently we have new recruits on, but then we will track and follow with a second class next year at the beginning of the year. Where we have like one started in July, we’ll start again probably in February rather than go all the way around again. If we don’t have the vacancies that we are anticipating, then we would hold and probably go out.

We went through and talked to them about that. The difference, I think, from what Shelly looks at is what is technically and I guess you look at the point are we staffed to that point every day of the year to be in compliance or not. They realize, as Lew pointed out, that is not possible. If you do have a deficiency, can you take steps to improve over where you were and that’s what’s we worked out with them this year. That is why they came back with the finding to say that. We get in compliance so it is not like we are out of compliance for a long time. We get into compliance and as we look through it, we say here is how we can shorten our time that we are out of compliance.

**Acting Chairman Murguia** said I understand your answer, but we do the same thing with police and I will just tell you that we have certain recruitment periods and we train groups of them all at the same time. I am just saying, I would hate to miss out on a grant opportunity for police if we can use the same logic for police that we use for this. I understand that the COPS grant versus a SAFER grant, but if the federal government is willing to work with us and recognize that at times that will just be what the situation is. I am just saying that is something we should definitely look into. **Mr. Levin** said I think the government would recognize that also for COPS, but once we accept the grant, even if we fall below it, we have to shortly sometime thereafter get back to that level. We don’t really have the latitude to manage our resources. **Mr. Bach** said and also in that one you have to immediately make your initial hire, to which we were going to have to pay 25%. There is an immediate budget cost to it and then each year 50%, 75%. There may be some points where we are out of compliance in the sense that if we have no one on board, but they are not reimbursing us either during that because we have to have our additional 25%. The structure works a little bit different, in the way that one works.

**Ms. Hammond** said I will move on to the next item, which is Finding 2012-5 that starts on page 16. This particular finding relates to the Revolving Loan Fund. This is a program that the Unified Government took over from a local agency about two or three years ago. I am trying to remember the exact timing. This particular finding is effectively, in my opinion, an outcome of

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some poor recordkeeping from the prior entity that was doing the recordkeeping. The Unified Government has taken a number of steps which are discussed in the management response on the next page to repair, if you will, the books and records related to those outstanding loans. This is similar to the prior item. There is still effectively some noncompliance in place so, therefore, we do have to report it. I would tell you that we recognize that the Unified Government has taken, I think at least in my mind personally—we can’t put this in the report and provide our opinion, but the steps they should have taken since taking that program over to do what they can to try to get into compliance. At the end of the day, there is still a lack of compliance and that primarily relates to certain loan documentation not being present. Again, that was kind of poor recordkeeping from the prior entity. Acting Chairman Murguia asked who was that prior entity. We’re talking around it. Ms. Hammond said refresh my memory. Mr. Brajkovic said Citywide. Ms. Hammond said that does sound right. Mr. Levin said, George, it was Citywide. Acting Chairman Murguia asked they are a lending institution. They are a bank? Ms. Hammond said I believe they were non-profit. Mr. Bach said they were a formed lending institution put in place, I believe, in 1986 when this program started. The guidelines set, I believe, by EDA at that time required that we have a non-public entity that operated it. They changed a lot over the last 30 years. When we came back into this and started digging here into this a few years ago, we found that one, it wasn’t effectively getting loans out to the community like we wanted to was probably the main reason why we got into it. Then when we did, we started to find that their recordkeeping wasn’t what it should be so we transferred it out. As you are aware from sitting on the committee, well, those of you that were here, they still do require us to have a semi-private sector oversight so we changed our relationship to be with WYDEC. We took over all the in-house and the cleaning of it. We will never correct this finding would be my opinion there. These are records we can’t clean up because we don’t know what the answers are to them. As long as we have these outstanding pieces, they will be reflected in this report as long I’ll say from a management perspective. I don’t want any new ones added to it. As we go forward, we should continue to keep it clean going forward.

Ms. Hammond said the second component of that, Doug actually kind of touched on, relates to a requirement to have a certain amount of the funds loaned out at any particular time. That has fallen short as well. Again, I think Doug mentioned that monies weren’t getting loaned out as the Unified Government had desired and that is also a requirement of the program. That is part B of August 26, 2013
this finding as not meeting that required minimum threshold for having a certain amount of the funds always lent out because that is the objective of the program is to loan those funds. The Unified Government has started loaning additional funds and initiating new loans to start to move in that direction. Part B could potentially be resolved at some point. Point A might be an issue.

**Acting Chairman Murguia** said real quickly, Commissioner Townsend, when Doug said WYDEC—I know you are still learning all the different organizations. That is Greg Kendall’s group. **Commissioner Townsend** said I was trying to sort that out. There is another community group that sounded very similar with some churches. **Mr. Bach** said that was WIFDIF. **Commissioner Townsend** said thank you. **Mr. Bach** said that was pretty close. **Ms. Hammond** said it almost sounds the same. **Acting Chairman Murguia** said don’t hesitate to ask those questions because if it makes you question it, you should know. **Commissioner Townsend** said that one wouldn’t have made any difference with that. I know it was just a similar sounding one, but thank you.

**Ms. Hammond** said the next item, Finding 2012-6, is on page 18. Again, this was a similar issue in two different grant programs. It related to having adequate supporting documentation for certain administrative costs. For both of these particular grant programs the federal grant compliance requirements allow administrative cost to be charged to the program. In that sense, administrative costs are allowed to be reimbursed under the grant program; however, what was found for one particular loan was that amounts being claimed—as an example, in the program it allows you to claim up to 7% of administrative costs. I’ll just use that as an example and what was being claimed was 7%, but the supporting documentation for what made up those administrative costs was not present.

In another situation, the other grant was a slightly different situation. The amount claimed for reimbursement was in excess of what was recognized in the financial records as administrative costs. Again, that was because the grant actually allowed you to get reimbursed for more funding. The program was taking advantage of that, but federal grant compliance requirements state that even if a program allows you to claim, let’s say 7% in administrative costs, you actually have to incur 7% in administrative costs and have underlying support for that. That was the issue in this case that while you can take those administrative funds, there needs to be adequate supporting documentation to support that.

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Commissioner Townsend said it just raises a question I had about allocation and going back particularly to the community block grant. Maybe this is the wrong forum to ask this. I don’t want to belabor this meeting, but I’ll say it for the record and somebody can tell me who to talk to later. For instance, when we had administrative costs for someone like in Ms. Miller’s group and they are working on multiple projects. What is the mechanism used to allocate time spent, because that was an issue earlier. Just for the record I will talk to someone about that later.

Commissioner McKiernan said I just want to confirm that we are establishing internal controls to prevent this. Mr. Levin said on the CDBG side, Wilba is working currently with HUD auditors to establish procedures that are approved by HUD so they can implement within the office.

Acting Chairman Murguia said I have a more specific question about this money. My question is clearly when you look at the first finding that you talked about in reference to CDBG money, we’re spending almost a million dollars in administrative costs. We are spending almost a million of our CDBG dollars just in administrative costs. Am I reading that right? Ms. Hammond said I don’t know that all—I would have to go back and look. Those are total salaries charged to the program. I couldn’t tell you that, that was necessarily all administrative costs. Some of that is going to be program related. I couldn’t tell you for sure how much would be just administrative oversight versus more specifically program related. That is just total salaries charged, because the issue is allocation of salaries.

Acting Chairman Murguia said maybe if I put it this way. Regardless, this is money that really was intended for the community that we are spending a million dollars of it to pay people to do a job. Mr. Bach said salaries. Ms. Hammond said salaries, yes. Acting Chairman Murguia asked what do we get. Just shy of $3M or do we get $2.8M. Clearly, that is way more than 7%. Just for everybody so they understand that, I think what you are saying when you say that it’s okay with the federal government to spend up to 7% you are itemizing by project and then you are taking 7% of whatever that project is, which is clearly at this point getting close to 50%. Ms. Hammond said let me be clear. The 7% pertained to the specific finding that we were discussing on page 18. Each particular federal grant program will have different requirements for what you
are allowed to charge for administrative expenses. That 7% I mentioned was specific to program 14228 which is a portion of the Community Development Block Grants. It is actually the Neighborhood Stabilization Program is what that particular aspect is.

I think the 81128 program which is the Energy Efficiency Conservation Block Grants program is talked about on page 18 that allows for 10%. Again, each program might be different. The CDBG program that you see on page 14 is actually a different program that may not have those specific limitations on administrative costs. I think there is a limit on administrative costs for that program. I don’t recall what it is off the top of my head. They may be different from program to program.

**Acting Chairman Murguia** said my only point with that we have some new commissioners who may not understand that’s how it works. Yes, for each program that you run or for each way that you set up the money that you distribute, there is a percentage that you can use for administrative cost, Just know when people tell you it’s a low number like 7% or 10%, we are nowhere close to spending our total allocation of CDBG dollars at 7% or 10%. When you are trying to set policy for us to know about each individual grant, is impossible. I think what is more important is when we are setting policy around this money, we need to understand that do we want to pay people to do a job or do we want to do something different with that money. That is all I am saying. Do we actually want to get it out into the community where it is actually doing something? I just want people to be clear that right now we are paying salaries, a million bucks for that. **Ms. Hammond** said again, I couldn’t tell you exactly what that money was being spent on other than it was for salaries. **Acting Chairman Murguia** said that’s all I care about. It wasn’t installing a swing set, it wasn’t building an affordable house, it wasn’t rehabbing an affordable home, it wasn’t doing anything. It wasn’t fixing a curb or putting in curb and sidewalk, it was paying people to maybe work on some of those ideas.

**Ms. Hammond** said the other thing I would point out and I am going to refer you back to the list of grants at the end to get the numbers right because you mentioned just under $3M dollars for the CDBG program. That is correct for one aspect of the CDBG program. If you look back—I think your page was 17, mine is 26 at the schedule on the back that listed all the federal programs. It is actually almost $4M that got spent in program 14218 which is the CDBG program that we are looking at. It was actually a higher number. I just wanted to make

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Ms. Hammond said the last thing I would point out as it related to that first finding—this was the core of our finding was that those salary dollars really need to be allocated better to the multiple programs. While $816,000 is being allocated to CDBG, in the end, those folks are spending time working on many other programs and that time should be charged to those other programs. It is all being charged within your system to CDBG, but they are really working on many, many other programs. That is the gist of the finding is to allocate that time better, spread that costs in accordance with the OMB requirements and also internally, maybe for your own assessment, on how much in salaries is being worked on for all the different programs those folks work on. Acting Chairman Murguia said agreed. It is difficult to set good policy around money when you don’t know those details.

Ms. Hammond said Finding 2012-7, I am on page 19 now for the next item, relates to what is called suspension and debarment checks. This is Finding 2012-7 and anytime an entity that receives federal funds hires a contractor or a vendor for more than $25,000, there is a requirement that the Unified Government makes sure that contractor or vendor is not what you called suspended or barred from doing business with the federal government. If they have done something illegal, for example, they may not be allowed to do business where they get federal funds. There is a verification process that is required to be done to check to see if that vendor is on a suspended or debarred list. There is a list the federal government keeps to check that. For
the most part, we found that was being done; however, we did find a couple of instances where those verification checks had not been completed. If you look in the context on page 20, it will describe specifically what those were. There was one particular contractor with the Neighborhood Stabilization Program and two contractors with the EECBG (Energy Efficiency Conservation Block Grant) program.

We found that they were being done with other vendors. There were just these specific ones that we found that the debarment check had not been done. Now I will add to that by saying there is a website where you can check to see if a vendor is suspended or debarred. During the audit process, we did independently go out to that website and made sure that the vendors the Unified Government were using were not in fact suspended or debarred. There was not an issue with hiring an inappropriate contractor. The issue was really just making sure that verification is done during the procurement process.

**Mr. Levin** said I would just like to add one of those vendors on the finding was the Board of Public Utilities. **BPU Board Member Alvey** asked have we been debarred. **Mr. Levin** said no.

**Ms. Hammond** said there is one more. The last one Finding 2012-8. It starts on page 21 and with every federal grant, there are always certain reports that have to be filed. It depends on which grant it is, what types of reports have to be filed back with the feds. This particular finding related to a report that is called the Federal Funding Accounting Transparency Act Report. These are fairly new. They have only been required to be filed since late 2010. This is a new report that has been in place for only a couple of years. We found that certain reports were not filed when they were required to be filed. There was one in the Home Program and two in the CDBG program.

The other thing I would add is the federal government has a website reporting system for where these reports are filed, but has been very inconsistent in any entities ability to use it. We have had a number of problems with entity’s being able to file the reports. That may be causing the problem. I can’t say for sure. The federal government even recognizes that is an issue and has provided us guidance, as auditors, going forward that if our clients can provide some evidence that they made a reasonable good faith effort to attempt to file the report and the system was just down that day or whatever the case might be and, therefore, they couldn’t get the report filed, then we are not going to be required to report it as a finding going forward.

*August 26, 2013*
I don’t know if that is the reason these particular reports were not filed this year, but I just wanted to point that out. The feds do recognize there is an issue with this particular reporting system and so there is kind of an out if you will if the website is down. The reports still need to be filed or attempted to try to file them going forward. That is the last item for this year.

**BPU Board Member Alvey** said I am just curious. At what point is that report back from staff about the procedures and forms that are established. Is there a timeline on that? Is that part of the accountability? **Ms. Hammond** said in each of the management responses, you will see there is a person responsible who the Unified Government has assigned as the person to oversee an anticipated completion date. If Lew wants to add anything to that. **Mr. Levin** said that is correct.

**Acting Chairman Murguia** said thank you very much. There is no action on that item. **Ms. Hammond** said thank you for allowing me to come back and present.

**Action:** For information only

**Item No. 5 – 130293…ORDINANCE: ZION REDEVELOPMENT DISTRICT TERMINATION**

**Synopsis:** An ordinance terminating the Zion Redevelopment District created pursuant to Ordinance No. 65962 and terminating tax increment financing with respect to such redevelopment district, submitted by Lew Levin, Chief Financial Officer.

**Lew Levin, Chief Financial Officer,** said the Mt. Zion TIF was established in 1996, that is when the project plan was approved. I don’t have the exact number of homes that were built. I am thinking in my mind somewhere around forty homes. The commission at that time authorized financing in the amount of $1.34M including interest. The total financing was a little under $2M. We’re receiving currently about $150,000 a year from the tax increment generated by that development. We have received in excess of our total amount debt that we incurred so that project we are able to terminate that district. What that means is that once the commission formally terminates the district, those properties will return to the tax roll. Any excess money

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that is currently held in the account will be distributed to all taxing entities. The approximate amount that will be made available to the Unified Government is $125,000 currently. On an annual basis, given that we’re receiving approximately $150,000 an increment, the Unified Government’s share of that will be somewhere around $75,000. This development can be viewed as a successful TIF. It is a positive action to move forward with termination of that TIF. **BPU Board Member Alvey** said it pays for the demolition. **Commissioner Townsend** asked will the homeowners recognize a difference in their taxes as a result of the abolishment of the TIF. **Mr. Levin** said no. **BPU Board Member Alvey** said this is a great story. You know when this first happened, there were very few projects, especially in the urban core that were moving forward. This really did precipitate some movement elsewhere.

**Mr. Bach** said we’ve had very few residential TIFs that have been this successful. It does point to the fact that the difference you see with a residential TIF is the ability to have someone that comes in as a developer and quickly builds out the whole development. Too often in residential TIFs the problem comes about that you try to run a pro forma but you are subject to all homeowners coming in and deciding whether they are going to build or not and that’s why some of our residential TIFs have failed. The Pala Vista TIF was another successful one we had that went through. Is it paid off Lew? **Mr. Levin** said yes. Turtle Hill was another one that closed we last year. **BPU Board Member Alvey** asked was Melrose a TIF? The industrial park is, but the residential portion of it? I don’t think it was. **Mr. Bach** said I don’t think so.

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

**Item No. 6 – 130296…RESOLUTION: INTENT TO ISSUE IRBS FOR PQ CORPORATION**

**Synopsis:** A resolution of intent to issue $219M in IRBs for PQ Corporation expansion at 1700 Kansas Ave., submitted by George Brajkovic, Economic Development Director.

**George Brajkovic, Economic Development Director**, said this is kind of the story that I wish every project or every company we worked with would come back to you with this type of issue.

*August 26, 2013*
There is a representative from PQ here tonight in case you have any specific questions for them. To make a long story short, those of you that have been on for a while have heard PQ for a while and we have kind of done an ebb and flow for it seems like three years with this company to get them the right level of incentives and keep their project moving forward. The most recent item you heard was in December 2012. You approved an ordinance for $52M in IRBs to get what they called Expansion Eight going.

We never actually issued those bonds and as they started Expansion Eight, parts of it rolled over into Expansion Nine. We sat down with them and worked through their pro forma and determined it would be better for them to combine those two expansions into one bond issuance. Rather than do $52M their new request is for $219M IRB. Again, our goal would be to come back probably in October sometime to talk about the tax abatement, pilot associated with that, and actually hold a public hearing on it. At this time the action would be simply to consider and move forward from this committee to full commission a resolution of intent showing our willingness to issue that amount in IRBs.

Action: BPU Board Member Alvey made a motion, seconded by Commissioner McKiernan, to approve. Roll call was taken and there were five “Ayes,” Alvey, Markley, Murguia, Townsend, McKiernan.

Acting Chairman Murguia said goals and objectives were next on the agenda, but we are going to table those until Commissioner McKiernan is back in charge.

IV. Goals and Objectives

Item No. 1 – 120137…Goals and Objectives

Synopsis: The Unified Government Commission conducted a strategic planning process resulting in specific goals and objectives adopted by the commission on May 17, 2012. Commission has directed that the goals and objectives appear monthly on respective standing committee agendas to assure follow-up and action toward implementation.

August 26, 2013
Economic Development: Foster an environment in which small and large businesses thrive, jobs are created, redevelopment continues, tourism continues to grow, and businesses locate in the community.

V. Adjourn

Acting Chairman Murguia adjourned the meeting at 6:21 p.m.
Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 9/30/2013

(Final ED/F Standing Committee Action -11/4/13)

Proposed for the following Full Commission Meeting Date: 11/21/2013

Confirmed Date: 11/21/2013

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

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<th>Date</th>
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<tr>
<td>9/25/2013</td>
<td>Lew Levin</td>
<td>5186</td>
<td><a href="mailto:mschrick@wycokck.org">mschrick@wycokck.org</a></td>
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Item Description:
Finance Department recommendation to adopt a comprehensive set of Financial Policies, in addition to policies presented in the budget document and others previously adopted by the Commission. Strongly recommended by Government Finance Officers Assoc. and Credit Agencies, these policies are integral to basic government operations, capital and financial planning and should be consistent with Commission goals and objectives.

1) Budget Policy - Policy assists stakeholders involved in budget process understand various stages in formulating and adopting a budget and clarifies for staff, administration, elected officials, and citizens what their roles are in the budget process. Other features include Budget Control System (in place) and Budget Amendment requirements.

2) Revenue and User Fee Policy - addresses revenue diversification; taxpayer equity; conservative forecasting; aggressive tax collection; and tax incentives for economic development.

3) Expenditure Policy - to preserve stability and continuity while maintaining fairness towards services provided to constituents. In addition, expenditure policies support efficiently funding operations, personnel compensation, aligning non-current liabilities with community vision and future pension/OPEB liability increases.

Action Requested:
These Financial policies will be presented to the Economic Development and Finance Standing Committee in groups of three through the remainder of 2013.

Discussion of the three policies listed in description, with adoption proposed for the 11/4/13 ED/F Standing Committee

Publication Required

Budget Impact: (if applicable)

Amount: $

Source:

☑ Included In Budget Policies in budget, but not yet adopted by the Commission.
☐ Other (explain)

File Attachment
September 23, 2013

Finance Department will be presenting nine policies to the Economic Development and Finance Standing Committee over the next three months. Three policies will be submitted to each of the next three Standing Committee meetings for Commission consideration and input. At each meeting, staff will present the policy; a brief summary statement; and overview. The policies are contained in the budget document. The schedule for review of the policies is indicated below.

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<th>Policy</th>
<th>Presenter</th>
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<tr>
<td>September 30th</td>
<td>Budget Policy</td>
<td>Reginald Lindsey</td>
<td>Pref. – PP. 30-33</td>
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<td>September 30th</td>
<td>Revenue and User Fee Policy</td>
<td>Lew Levin</td>
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<td>September 30th</td>
<td>Expenditure Policy</td>
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<td>November 4th</td>
<td>CMIP Policy</td>
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<td>Lew Levin</td>
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<td>November 4th</td>
<td>Long Term Financial Plan Policy</td>
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<td>Lew Levin</td>
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<td>December 2nd</td>
<td>Accounting, Auditing and Financial Reporting</td>
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<td>December 2nd</td>
<td>Economic Development Policy</td>
<td>George Brajkovic</td>
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Budget Process Overview

Municipal governments across the country are charged with the responsibility of targeting limited revenues and scarce resources to viable and productive services. This places the governmental body in the critical position of balancing public interests with public expectations.

The County Administrator is charged with the responsibility of developing an annual operating and capital program budget which serves a variety of functions. First, it acts as a communication device to present the Board of Commissioners financial, strategic, operation and policy goals. Second, it serves as a policy document to outline how funds will be spent. Third, it outlines a financial plan that demonstrates a multi-year focus. Finally, it establishes an operations guide or roadmap for managers and department heads on issues surrounding personnel levels, performance targets and reorganization plans.

The Unified Government budget operates on a cash basis, calendar year from January 1 through December 31. However, adoption of the Annual Operating and Capital Budget takes place no later than August 25th of the prior year, as stipulated by Kansas State Law. In order to meet the August deadline, the annual budget process begins in February. This ensures that there is adequate time set aside for a comprehensive review and analysis of departmental requests. A copy of the 2011 calendar is included in this document.

The “Budget Cycle” has four phases: DEPARTMENTAL SUBMISSION; CONSOLIDATION AND PREPARATION; REVIEW, REVISION AND ADOPTION; AND IMPLEMENTATION. Each phase of the cycle is described as follows:

**Phase 1: Departmental Submission:**
The budget process begins with a Senior Managers Meeting and an orientation on the process, goals and expectations by the County Administrator at the end of the year.

Equipped with the updated schedules and directions the Departments prepare Capital Maintenance and Improvement Project (CMIP) Request, Operating Budgets and New Budget Initiatives.

Submissions include request for the following calendar year and revisions to the current year. (For example: The 2011 process included CMIP requests for 2011 thru 2016, Operating funds for 2012 and to revise 2011.)
Budget Policy

Phase 2: Consolidation and Preparation:
Consolidation and Preparation is a function of the Budget Department and Administrator's Office. As the deadlines for each type of submission approach Budget staff work closely with the departments to insure that accurate and complete requests are submitted with adequate descriptions and justifications that allow a novice reader to understand the request.

The CMIP requests are gathered and batched first so that the Work Group can begin review of all the submissions in a very involved effort to rank and prioritize the requests. The review begins in February and consumes the entire month.

Finally the Operating Budgets are submitted. That includes a line by line submission in every category. Departments may make zero sum changes to supplies and services but genuine increases, new positions or programs must be submitted in a format very similar to the CMIP process, with detailed descriptions and justifications.

After review of the Budget Initiatives the recommended submissions are compiled with the CMIP projects and a budget document is prepared. That Draft is the Administrator's recommended Budget to the Board of Commissioners.

Phase 3: The Review, Revision and Adoption:
The Review, Revision and Adoption process begins with Administrator's Draft Recommendation. The Commission begins their review with a series of Budget Workshops. Through the Workshop process, the Commission reviews the submissions and adds, removes, or modifies items as they shape the budget to meet their goals for the planned Mill Levy Rate. This is an interactive process open to the public that engages the Administrator, Departments, the public and the Commission.

Through the process staff will address questions, concerns, and directives of the Commission until a final budget is reached that meets the Mill Levy target, that the majority of commissioners can agree upon.

Traditionally the Commission completes the process with one or more public hearings before approving a final Budget before the August 15th state deadline. Once approved the final Budget Document will be printed and submitted to the State by the UG Clerk.

Phase 4: Implementation:
The Implementation process happens as various points for the items approved through the Budget Cycle. Re-appropriations from the previous year are generally addressed in the spring and that money is immediately made available to the departments immediately after the requests are approved.
Budget Policy

Items for the revised current year are adjusted by the Budget Office in September, after the approval process is completed. At that same time the Departments are provided with copies of the State Documents, the Annual Operating Budget for the coming year, the CMIP Budget for the next 5 years and the line items and revenue details that support the finished documents.

The implementation process includes year round monitoring of the budget, adjustments, and data collection, including Performance Measures. The Budget Office continues to compile this data and report to the Administrator’s Office. This data is used to help direct the Budget Cycle for the next year.

BUDGET CONTROL SYSTEM

The Unified Government’s budgeting system is a program based and line item budgeting system process. Departments prepare program operating and capital budgets at a detailed object expense level.

All Unified Government Tax Levy Funds are required to balance according to Kansas Stated Statute (K.S.A 79-2967).

The legal level of control is established at the fund level by State statutes which also permit the transfer of budgeted amounts from one object code or purpose to another within the same fund. However funds cannot be transferred between departments without obtaining approval from administration.

The Unified Government further controls spending by requiring that no expenditures be committed that would exceed the amount appropriated for the spending category (eg Personnel Services Commodities Capital) without the department first obtaining approval.

The following types of budget transfers require department director approval and additional approval by the County Administrator’s Office:

- An appropriation of contingency funds.
- An appropriation of reserve funds.
- Transfers that move funds between operating and capital budgets.
- Transfers within a fund that are equal to or greater than $10,000.

The following actions require budget director’s approval before execution:

- Pre Bid Contracts
- Capital Project Contracts
Capital Equipment Purchases
Changing status of an unfunded personnel position to funded or creation of a new personnel position.

The following budgetary controls have been implemented and will be adhered to by all departments and divisions:

- Transfers from the salary accounts require department director, chief financial officer, and County Administrator’s Office approvals.
- Funds may be transferred between other accounts with department director approval.
- Funds may be transferred from one division to another division with both divisions being in the same fund with department director and the transferring division manager approvals.

**Budget Amendments**

*Budget Amendments* require formal approval of the Commission as allowed by State Statute. An Amendment may only be made for previously unbudgeted increases in the revenue other than ad valorem taxes. The UG may authorize an amendment of any current fiscal year budget, at the fund level, for the current fiscal year operating budget.

It is the policy of the UG to amend a fund’s budget for emergencies, federal and state mandates, or other circumstances which could not be anticipated, and only if sufficient funds are available; a budget may not be amended simply because additional revenues become available. If unexpected or unfunded expenditures must be made, department directors are expected to manage their available resources and reevaluate priorities before requesting a budget amendment.

The Chief Financial Officer submits to the Commission a request to amend the budget. The request contains explanations written by the director(s) of the department(s) needing additional funds. The request also includes a proposal for financing the additional expenditures. To do this a notice of public hearing to amend the budget must be published in the local newspaper. At least ten days after the publication the hearing may be held and the governing body may amend the budget at that time.
Revenue & User Fee Policy

Diversification and Stabilization: The goal of Unified Government is to maintain diverse and stable revenue sources. We recognize the way to do that includes property tax, sales tax, and franchise or payment in-lieu of tax (primary revenue sources). Nearly 60% of revenue received by the UG is from the three sources stated above.

Equity: The UG will maintain a sound, consistent, and equitable ad valorem property tax assessment program. Industry may be exempt from property tax abatement and are assessed on all users of water and electric services. Therefore, if a property owner in exempt from property taxes, they pay their equitable share of PILOT payment.

Relation to Economic Development: Tax incentives will be provided to encourage reinvestment to both residential and commercial sectors that stimulate near growth and future financial economic impact to the community.

Delinquent Revenue and Collections: The UG remains vigilant and aggressive in collecting delinquent property taxes in order to achieve year-end account balance.

Non-recurring Revenues: Non-recurring revenues are not used towards funding yearly/ongoing programs. Capital investment towards fund balance is a more appropriate use of the funds.

Forecasting Philosophy: The UG takes a conservative forecasting approach in projecting revenues. Forecasting of revenues should consider prior year trends and current economic conditions. Additionally, revenue forecasting revenue should be monitored on an ongoing basis and adjusted if necessary. The UG’s financial plan of government should be for the general and debt service funds.

New Revenues: New revenues will be evaluated in terms of their fairness, economic impact and cost.
**Expenditure Policy**

**Funding Operations:** The primary goal of the Unified Government should be to offer core services as efficiently as possible. The Unified Government recognizes that to provide its core services in an era of declining revenues and increased costs, taxes might have to increase. As part of the assessed maintenance, the UG adopts a Capital Maintenance Improvement Program for the next 5-years. Equipment and maintenance to be funded over 5-year period with consideration to target expense levels for current year and debt funded projects. Grants will not be used to fill positions for the long-term, but based on the grant funded positions. If the grant concludes, the UG will evaluate the services and position for continuation.

**Personnel Compensation:** The UG recognizes that personnel represent the greatest cost of expense category. All employees will be treated in a fair manner. UG provides compensation package that attracts and retains quality employees and are competitive in the public sector. Funding will be maintained to fund the approved positions and provide merit increases. Staff positions filled using grants approved by the commission should not exceed the authorized level indicated in the funding personnel inventory. The UG will consider the pay-out before filling vacant positions. Overtime will be approved by department administrators before used. Because the largest expense in the Unified Government is related to employee pay and benefits, the Commission recognizes that reduction in those areas might be necessary to minimize the tax burden.

**Funding Non-Current Liabilities:** Asset maintenance and replacement Capital improvement tax dollars should be strategically invested to support the community vision.

**Pensions & OPEBs:** The UG recognize pension/OPEB liability increases as a significant future liability. It is important to review policies to minimize future cost impacts.

**Efficiency and Equity:** Expenditures must be made to have the most impact. Value in providing services will evaluate most effective cost efficient way to provide the service. The UG will consider equally the merits of public or private workers for any given service.
### Staff Request for Commission Action

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

**Date of Standing Committee Action:** 9/30/2013  
(If none, please explain):

**Proposed for the following Full Commission Meeting Date:** 10/17/2013

**Confirmed Date:** 10/17/2013

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

<table>
<thead>
<tr>
<th>Date</th>
<th>Contact Name</th>
<th>Contact Phone</th>
<th>Contact Email</th>
<th>Ref</th>
<th>Department / Division</th>
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</thead>
<tbody>
<tr>
<td>9/24/2013</td>
<td>Debbie Jonscher</td>
<td>5847</td>
<td><a href="mailto:mschrick@wycokck.org">mschrick@wycokck.org</a></td>
<td></td>
<td>Finance</td>
</tr>
</tbody>
</table>

**Contact Name:** Debbie Jonscher  
**Contact Phone:** 5847  
**Contact Email:** mschrick@wycokck.org  
**Ref:**  
**Department / Division:** Finance

**Item Description:**  
A resolution authorizing the Unified Government of Wyandotte County/Kansas City, Kansas, to enter into a lease purchase transaction, the proceeds of which will be used to pay the costs of acquiring and installing certain equipment and to approve the execution of certain documents in connection therewith.

**Action Requested:**  
Adopt resolution

**Publication Required:**

**Budget Impact:** (if applicable)

- **Amount:** $
- **Source:**
  - ☐ Included In Budget  
  - ☐ Other (explain)

---

**File Attachment**

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**File Attachment**
RESOLUTION NO. R-____-13

RESOLUTION AUTHORIZING THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ENTER INTO A LEASE PURCHASE TRANSACTION, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS OF ACQUIRING AND INSTALLING CERTAIN EQUIPMENT AND TO APPROVE THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”) desires to obtain funds to pay the costs of acquiring and installing some or all of the equipment identified on Schedule 1 attached hereto (the “Equipment”); and

WHEREAS, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the Unified Government to enter into an annually renewable Master Equipment Lease Purchase Agreement (the “Lease”) with Banc of America Public Capital Corp, pursuant to which the Unified Government, as lessee, will lease the Equipment from the Banc of America Public Capital Corp, as lessor (“Lessor”), on a year-to-year basis with an option to purchase Lessor’s interest in the Equipment, a form of which is attached hereto.

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

Section 1. Authorization of Lease Transaction. The Unified Government states its intent to lease pursuant to the Lease and pursuant to separate Schedules of Equipment (the “Schedules”) some or all of the Equipment in a maximum principal amount of $7,500,000. The Chief Financial Officer of the Unified Government is hereby authorized to accept the proposal of Banc of America Public Capital Corp for the lease transaction. The Equipment to be leased and the related Schedule will be approved by subsequent resolution(s) of the Board of Commissioners.

Section 2. Authorization and Approval of Unified Government Documents. The Lease and any Schedules are hereby approved in substantially the form submitted to and reviewed by the Board of Commissioners on the date hereof, with such changes therein as are approved by the County Administrator, the County Administrator’s execution of the Lease and any Schedules being conclusive evidence of such approval.

The obligation of the Unified Government to pay Rental Payments (as defined in the Lease) under the Lease and any Schedules is subject to annual appropriation and will constitute a current expense of the Unified Government and will not in any way be construed to be an indebtedness or liability of the Unified Government in contravention of any applicable constitutional, charter or statutory limitation or requirement concerning the creation of indebtedness or liability by the Unified Government, nor will anything contained in the Lease or any Schedule constitute a pledge of the general tax revenues, funds or moneys of the Unified Government, and all provisions of the Lease and any Schedule will be construed so as to give effect to such intent.

The County Administrator is hereby authorized and directed to execute and deliver the Lease and any Schedules on behalf of and as the act and deed of the Unified Government.

Section 3. Further Authority. The Unified Government will, and the officials and agents of the Unified Government are hereby authorized and directed to, take such actions, expend such funds and
execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the Unified Government with respect to the Lease, any Schedules and the Equipment.

Section 4. Effective Date. This Resolution will take effect and be in full force from and after its passage by the Board of Commissioners.

ADOPTED by the Board of Commissioners of the Unified Government of Wyandotte County, Kansas City, Kansas, this ______ __, 2013.

________________________________________
Mark Holland, Mayor/CEO

ATTEST:

________________________________________
Unified Government Clerk

APPROVED AS TO FORM:

________________________________________
Assistant Counsel
## SCHEDULE I

2013-2014 Unified Government Possible Lease Financed Equipment Projects

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<tr>
<th>CMIP Project #</th>
<th>Item/Project</th>
<th>Cost</th>
<th>Term (yrs)</th>
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<td>2549</td>
<td>Patrol Vehicles</td>
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<td>2161</td>
<td>Golf Carts</td>
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**Total**

$7,500,000
MASTER EQUIPMENT LEASE PURCHASE AGREEMENT

MASTER EQUIPMENT LEASE PURCHASE AGREEMENT (this Master Equipment Lease Purchase Agreement, including all exhibits and schedules hereto whether currently in existence or hereafter executed, being hereinafter referred to as the "Agreement") dated as of 1, 2013 and entered into between BANC OF AMERICA PUBLIC CAPITAL CORP, a Kansas corporation ("Lessor"), and the UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, a municipal corporation existing under the laws of the State of Kansas ("Lessee").

RECITALS:

1. Lessee desires to lease certain equipment from the Lessor described in the schedules to this Agreement, substantially in the form of Exhibit A hereto, that currently exist or are hereafter executed from time to time by the parties hereto (such schedules, whether now or hereafter executed, are hereinafter collectively referred to as the "Schedules", and the items of equipment leased to Lessee hereunder, together with all substitutions, proceeds, replacement parts, repairs, additions, attachments, accessories and replacements thereto, thereof or therefor, are hereinafter collectively referred to as the "Equipment") subject to the terms and conditions of and for the purposes set forth in this Agreement.

2. The relationship between the parties shall be a continuing one and items of equipment may be added to the Equipment from time to time by execution of additional Schedules by the parties hereto and as otherwise provided herein.

3. Lessee is authorized under the constitution and laws of the State to enter into this Agreement for the purposes set forth herein.

NOW, THEREFORE, for and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

“Acquisition Costs” means, with respect to any Schedule, the amount paid or to be paid to the Vendor(s) for any portion of the Equipment upon Lessee’s acceptance thereof, including reasonable administrative, engineering, legal, financial and other costs incurred by Lessor, Lessee and Vendor(s) in connection with the acquisition, installation and financing of such Equipment, all of which shall have been approved by Lessor in its sole discretion.

"Agent" means any agent for the Registered Owners, if any, to which all or a portion of Lessor's right, title and interest in, to and under the Agreement and any Schedule or any Equipment may be assigned for the benefit of the Registered Owners.
"Agreement" means this Master Equipment Lease Purchase Agreement, including any exhibit or escrow agreement made a part hereof by the parties hereto, whether currently in existence or hereafter executed, together with any amendments to this Agreement pursuant to Section 13.05.


"Commencement Date" means, with respect to any Schedule, the date when the term of this Agreement with respect to that Schedule and Lessee's obligation to pay rent under that Schedule commence, which date will be the date on which proceeds of a Schedule are first disbursed pursuant to Section 3.01.

"Equipment" means the property listed in the Schedules and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Section 5.04. Whenever reference is made in this Agreement to Equipment listed in a Schedule, that reference shall be deemed to include all replacements, repairs, restorations, modifications and improvements of or to that Equipment.

"Event of Default" means, with respect to any Lease, an Event of Default described in Section 12.01.

"Event of Nonappropriation" means, with respect to any Lease, a nonappropriation by Lessee pursuant to Section 3.03.

"Certificates of Participation" means certificates evidencing a right to receive a pro rata share of Rental Payments and Purchase Price Payments.

"Lease" means, at any time, any Schedule together with the terms and provisions of this Agreement as it relates to such Schedule and the Equipment listed therein, which shall constitute a separate single lease relating to that Equipment.

"Lease Term" means, with respect to any Lease, the Original Term and all Renewal Terms of that Lease.

"Lessee" means the entity described as such in the first paragraph of this Agreement, its successors and its assigns.

"Lessor" means, with respect to each Schedule and the Lease of which that Schedule is a part, (i) if Lessor’s interest in, to and under that Schedule has not been assigned pursuant to Section 11.01, the entity described as such in the first paragraph of this Agreement or its successor, or (ii) if Lessor’s interest in, to and under that Schedule has been assigned pursuant to Section 11.01, the assignee thereof or its successor.

"Maximum Lease Term" means, with respect to any Lease, the Original Term and all Renewal Terms through the Renewal Term including the last Rental Payment date set forth on any Schedule that is a part of that Lease.

"Net Proceeds" means the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorneys' fees) incurred in the collection of such claim or award.
"Original Term" means, with respect to any Lease, the period from the first Commencement Date for any Schedule under that Lease until the end of the budget year of Lessee in effect at that Commencement Date.

"Origination Period" means a period beginning on the date this Agreement is executed and delivered and ending on December 31, 2014.

"Purchase Price" means, with respect to the Equipment listed on any Schedule, the amount that Lessee may, in its discretion, pay to Lessor to purchase that Equipment.

"Registered Owners" means the registered owners of Certificate of Participation.

"Renewal Terms" means, with respect to any Lease, the renewal terms of that Lease, each having a duration of one year and a term coextensive with Lessee's fiscal year.

"Rental Payments" means the basic rental payments payable by Lessee pursuant to Section 4.01.

"Rental Payment Date" means the monthly or quarterly payment dates as shown on the payment schedule attached to each Lease during the duration of the Lease Term.

"Schedule" means any schedule to this Agreement, substantially in the form of Exhibit A hereto, executed from time to time by the parties hereto.

"State" means the state of Kansas.

"Vendor" means a manufacturer of Equipment as well as the agents or dealers of the manufacturer from whom Lessor purchased or is purchasing Equipment.

**ARTICLE II**

Section 2.01. Representations and Covenants of Lessee. Lessee represents, covenants and warrants for the benefit of Lessor and any Registered Owners (as hereinafter defined) as follows:

(a) Lessee is a municipal corporation duly organized and existing under the constitution and laws of the State with full power and authority to enter into this Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.

(b) Lessee has duly authorized the execution and delivery of this Agreement by proper action by its governing body at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement.

(c) This Agreement constitutes the legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.
(d) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof.

(e) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the current fiscal year and to meet its other obligations under this Agreement for the current fiscal year, and such funds have not been expended for other purposes.

(f) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a municipal corporation under the laws of the State.

(g) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment listed on the Schedules that currently exist.

(h) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Agreement or any other document, agreement or certificate which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement.

(i) All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Agreement or in connection with the carrying out by Lessee of its obligations hereunder have been obtained.

(j) The entering into and performance of this Agreement or any other document or agreement contemplated hereby to which Lessee is or is to be a party will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance on any assets of Lessee or the Equipment pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided.

(k) The Equipment described in this Agreement is essential to the function of Lessee or to the service Lessee provides to its citizens. Lessee has an immediate need for the Equipment listed on the Schedules that currently exist and expects to make immediate use of the Equipment listed on the Schedules that currently exist. Lessee's need for the Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish in the foreseeable future including the Maximum Lease Term applicable to such item. The Equipment will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of Lessee's authority.
ARTICLE III

Section 3.01. Lease of Equipment. Lessor hereby demises, leases and lets to Lessee, and Lessee rents, leases and hires from Lessor, the Equipment listed in each Schedule in accordance with this Agreement and that Schedule for the Lease Term for the Lease of which that Schedule is a part. Upon fulfillment of the conditions set forth in Section 3.04, all the proceeds of a Schedule shall be disbursed by means of an electronic transfer to Lessee or the payees designated by the Lessee. Lessee’s obligations under each Schedule shall commence and interest shall begin to accrue on the date the proceeds of that Schedule disbursed by Lessor in accordance with the Lessee’s instructions.

Section 3.02. Continuation of Lease Term. The Lease Term for each Lease may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for an additional Renewal Term up to the Maximum Lease Term for that Lease. At the end of the Original Term and at the end of each Renewal Term until the Maximum Lease Term has been completed for a Lease, Lessee shall be deemed to have exercised its option to continue that Lease for the next Renewal Term unless Lessee shall have terminated that Lease pursuant to Section 3.03 or Section 10.01. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in the Schedules. Lessee currently intends, subject to Section 3.03 and Section 4.02, to continue the Lease Term for each Lease through the Original Term and all Renewal Terms and to pay the Rental Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the entire Lease Term for each Lease can be obtained. The responsible financial officer of the Lessee will do all things lawfully within his or her power to obtain and maintain funds from which the Rental Payments may be made, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable procedures of the Lessee, to have such portion of the budget or appropriation request approved and to exhaust all available reviews and appeals in the event such portion of the budget or appropriation request is not approved. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Agreement for any Renewal Term is solely within the discretion of the then current governing body of Lessee.

Section 3.03. Nonappropriation. Lessee is obligated only to pay such Rental Payments under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee’s then current fiscal year. Should Lessee fail to budget, appropriate or otherwise make available funds to pay Rental Payments under a Lease following the then current Original Term or Renewal Term, that Lease shall be deemed terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least 90 days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If a Lease is terminated in accordance with this Section, Lessee agrees, at Lessee's cost and expense, to peaceably deliver the Equipment then subject to that Lease to Lessor at the location or locations to be specified by Lessor.

Section 3.04. Conditions to Lessor’s Performance Under Schedules. As a prerequisite to the performance by Lessor of any of its obligations pursuant to the execution and delivery of any Schedule, Lessee shall deliver to Lessor the following:

(a) The fully completed and executed Schedule.
(b) An opinion of counsel to Lessee in substantially the form attached hereto as Exhibit B respecting such Schedule and otherwise satisfactory to Lessor.
(c) A Municipal Certificate executed by the Clerk or Secretary or other comparable officer of Lessee, in substantially the form attached hereto as Exhibit C, completed to the satisfaction of Lessor.

(d) All documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate at that time pursuant to Section 6.02.

(e) Such other items, if any, as are set forth in such Schedule or are reasonably required by Lessor.

Proceeds of a Schedule shall be disbursed to Lessee upon presentation to Lessor of the properly executed payment request, a form of which is attached as Exhibit D, executed by Lessee and approved by Lessor, together with an invoice for the Costs of Acquisition of the Equipment referred to in such Schedule. If the amounts available under a Schedule are insufficient to pay for all of the Costs of Acquisition of said Equipment, Lessee shall provide any balance of the funds needed to complete the acquisition of the Equipment. The principal component of each Schedule shall be at least $50,000, and Schedules shall not be entered into more frequently than monthly.

The Lessor hereby agrees to enter into any Schedule during the Origination Period requested by the Lessee at the Lessee's option and not currently in existence. Lessor shall not be obligated to enter into any schedule if there has been any “Event of Default” that has occurred and is continuing under any Lease or if there has been an “Event of Nonappropriation” that has occurred and is continuing under any Lease.

The interest rate component of each Schedule will be determined and fixed five business days prior to funding. The tax-exempt interest rate component shall be determined using the most currently available Federal Reserve Statistical Release H.15 and will be in accordance with the following pricing formula:
The taxable interest rate component shall be determined using the most currently available Federal Reserve Statistical Release H.15 and will be in accordance with the following pricing formula:

<table>
<thead>
<tr>
<th>Term of Schedule</th>
<th>Index for Taxable Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>2-year Treasury Swap x 65% + 80 basis points</td>
</tr>
<tr>
<td>4</td>
<td>2-year Treasury Swap x 65% + 87 basis points</td>
</tr>
<tr>
<td>5</td>
<td>3-year Treasury Swap x 65% + 88 basis points</td>
</tr>
<tr>
<td>6</td>
<td>3-year Treasury Swap x 65% + 99 basis points</td>
</tr>
<tr>
<td>7</td>
<td>4-year Treasury Swap x 65% + 100 basis points</td>
</tr>
<tr>
<td>8</td>
<td>4-year Treasury Swap x 65% + 115 basis points</td>
</tr>
<tr>
<td>9</td>
<td>5-year Treasury Swap x 65% + 112 basis points</td>
</tr>
<tr>
<td>10</td>
<td>5-year Treasury Swap x 65% + 126 basis points</td>
</tr>
</tbody>
</table>

Lessee will cooperate with Lessor in Lessor's review of any proposed Schedule. Without limiting the foregoing, Lessee will provide Lessor with any documentation or information Lessor may request in connection with Lessor's review of any proposed Schedule. Such documentation may include, without limitation, documentation concerning the Equipment and its contemplated use and location and documentation or information concerning the financial status of Lessee and other matters related to Lessee.

ARTICLE IV

Section 4.01. Rental Payments. Lessee shall promptly pay Rental Payments, exclusively from legally available funds, in lawful money of the United States of America to Lessor on each Rental Payment Date, in such amounts and on such dates as set forth in the Schedules. Lessee shall pay Lessor a charge on any Rental Payment not paid on the date such payment is due at the rate of 10% per annum or the maximum amount permitted by law, whichever is less, from such date. As set forth in each Schedule, a portion of each Rental Payment is paid as, and represents payment of, interest.

Section 4.02. Rental Payments to Constitute a Current Expense of Lessee. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in
contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of Lessee.

**Section 4.03. RENTAL PAYMENTS TO BE UNCONDITIONAL.** EXCEPT AS PROVIDED IN **SECTION 3.03**, THE OBLIGATIONS OF LESSEE TO MAKE RENTAL PAYMENTS AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED IN THIS AGREEMENT SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION ANY FAILURE OF THE EQUIPMENT TO BE DELIVERED OR INSTALLED, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE EQUIPMENT OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES.

**ARTICLE V**

**Section 5.01. Delivery, Installation and Acceptance of Equipment.** Lessee shall order the Equipment, cause the Equipment to be delivered and installed at the locations specified in the Schedules and pay any and all delivery and installation costs in connection therewith. When the Equipment listed in any Schedule has been delivered and installed, Lessee shall immediately accept such Equipment and evidence said acceptance by executing and delivering to Lessor a final acceptance certificate in the form attached hereto as a part of **Exhibit D**.

**Section 5.02. Enjoyment of Equipment.** Lessor shall not interfere with Lessee’s quiet use and enjoyment of the Equipment during the Lease Term, except as otherwise expressly set forth in this Agreement.

**Section 5.03. Location; Inspection.** Once installed, no item of the Equipment will be moved from the location specified for it in the Schedule on which that item is listed without Lessor's consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

**Section 5.04. Use and Maintenance of the Equipment.** Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of the Equipment) with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body; provided that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Equipment or its interest or rights under this Agreement.

Lessee agrees that it will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment.
ARTICLE VI

Section 6.01. Title to the Equipment. Upon acceptance of the Equipment by Lessee, title to the Equipment shall vest in Lessee subject to Lessor's rights under this Agreement; provided that title to the Equipment that is subject to any Lease shall thereafter immediately and without any action by Lessee vest in Lessor, and Lessee shall immediately surrender possession of that Equipment to Lessor, upon (a) any termination of that Lease other than termination pursuant to Section 10.01 or (b) the occurrence of an Event of Default with respect to that Lease. It is the intent of the parties hereto that any transfer of title to Lessor pursuant to this Section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee shall, nevertheless, execute and deliver any such instruments as Lessor may request to evidence such transfer.

Section 6.02. Security Interest. To secure the payment of all of Lessee's obligations under this Agreement, Lessee hereby grants to Lessor a security interest constituting a first lien on the Equipment and on all additions, attachments, accessions thereto, substitutions therefor and proceeds therefrom. Lessee agrees to execute such additional documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain its security interest and the security interest of any assignee of Lessor in the Equipment.

Section 6.03. Personal Property. Lessor and Lessee agree that the Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Upon the request of Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

ARTICLE VII

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Equipment free of all liens, charges and encumbrances except those created by this Agreement. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Equipment will be exempt from all property taxes. If the use, possession or acquisition of the Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to the Equipment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Equipment. Lessee shall pay such taxes or charges as the same may become due; provided that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the Lease Term.

Section 7.02. Insurance. Lessor acknowledges that the Lessee is currently self-insured as to both liability and casualty losses or damages, and Lessor agrees that Lessee's current self-insurance program is satisfactory. Lessee will annually provide information about its self-insurance program if requested by Lessor. Lessee agrees that it will either remain self-insured during the Lease Term or will, solely at its option and at its expense, maintain (a) casualty insurance insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the then
applicable Purchase Price of the Equipment, (b) liability insurance that protects Lessor and Lessee from liability in all events in form and amount satisfactory to Lessor and (c) workers' compensation coverage as required by the laws of the State; provided that, with Lessor's prior written consent, Lessee resume at any time a program of self-insurance. Any insurance proceeds from casualty losses shall be payable as hereinafter provided. If Lessee chooses to obtain insurance, Lessee shall furnish to Lessor certificates evidencing such coverage during the Lease Term.

Any such casualty and liability insurance shall be with insurers that are acceptable to Lessor, shall name Lessee and Lessor as insureds and shall contain a provision to the effect that such insurance shall not be canceled or modified materially without first giving written notice thereof to Lessor at least 10 days in advance of such cancellation or modification. Any such casualty insurance shall contain a provision making any losses payable to Lessee and Lessor as their respective interests may appear.

Section 7.03. Financial Information. Lessee will annually provide Lessor with current financial statements as they become available, but in no event later than 270 days after the end of the Lessee’s fiscal year, budgets as they become finally approved (which will serve as proof of appropriation for the ensuing budget year) and such other financial information relating to the ability of Lessee to continue this Agreement as may be requested by Lessor.

ARTICLE VIII

Section 8.01. Damage, Destruction and Condemnation. If (a) the Equipment listed on any Schedule or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair, restoration, modification or improvement of that Equipment, unless Lessee shall have exercised its option to purchase that Equipment pursuant to Section 10.01. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee.

Section 8.02. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, Lessee shall either complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, unless Lessee, pursuant to Section 10.01, purchases Lessor's interest in the Equipment destroyed, damaged or taken and any other Equipment listed in the same Schedule. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing Lessor's interest in the Equipment shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

ARTICLE IX

Section 9.01. DISCLAIMER OF WARRANTIES. LESSEE HAS SELECTED THE EQUIPMENT AND THE VENDORS. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION,
MERCHANDABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT, OR WARRANTY OR REPRESENTATION WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEE'S USE OR MAINTENANCE OF ANY EQUIPMENT OR SERVICE PROVIDED FOR IN THIS AGREEMENT.

Section 9.02. Vendor's Warranties. Lessee may have rights under the contract evidencing the purchase of the Equipment; Lessee is advised to contact the Vendor for a description of any such rights. Lessor hereby assigns to Lessee during the Lease Term all warranties running from Vendor to Lessor. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default hereunder, to assert from time to time whatever claims and rights (including without limitation warranties) related to the Equipment that Lessor may have against the Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the Vendor of the Equipment, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties by the Vendor of the Equipment.

ARTICLE X

Section 10.01. Purchase Option. Lessee shall have the option to purchase Lessor's interest in all of the Equipment listed in any Schedule, upon giving written notice to Lessor at least 60 days before the date of purchase, at the following times and upon the following terms:

(a) On the last Rental Payment Date set forth in that Schedule (assuming this Agreement is renewed at the end of the Original Term and each Renewal Term), if the Agreement is still in effect on such day, upon payment in full of Rental Payments due on such Schedule and the payment of One Dollar to Lessor;

(b) On the Rental Payment Date during the Original Term or any Renewal Term then in effect, upon payment in full to Lessor of the Rental Payments then due on that Schedule plus the then applicable Purchase Price set forth on that Schedule; or

(c) In the event of substantial damage to or destruction or condemnation of substantially all of the Equipment listed in that Schedule, on the day specified in Lessee's notice to Lessor of its exercise of the purchase option upon payment in full to Lessor of the Rental Payments then due under that Schedule plus the then applicable Purchase Price set forth in such Schedule.

ARTICLE XI

Section 11.01. Assignment by Lessor. Lessor's interest in, to and under this Agreement and the Equipment may be assigned and reassigned in whole or in part to one or more assignees by Lessor and, to the extent of its interest, by any Registered Owner, but only with the prior written consent of Lessee; provided that (a) any assignment shall not be effective until Lessee has received written notice, signed by
the assignor, of the name, address and tax identification number of the assignee, and (b) any assignment to or by a Registered Owner shall not be effective until it is registered on the registration books kept by the Agent as agent for Lessee. Lessee shall retain all such notices as a register of all assignees (other than Registered Owners) and shall make all payments to the assignee or assignees designated in such register or, in the case of Registered Owners, to the Agent. Certificates of participation in this Lease may be executed and delivered by the Agent to Registered Owners, if any, provided such certificates of participation are sold only on a private placement basis (and not pursuant to any "public offering") to a purchaser(s) who represents that (i) such purchaser has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment (ii) such purchaser understands neither the Lease nor the certificates will be registered under the Securities Act of 1933, (iii) such purchaser is either an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, or a qualified institutional buyer within the meaning of Rule 144A, and (iv) that it is the intention of such purchaser to acquire such certificates (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interests in the Equipment and in this Agreement. Lessee shall not have the right to and shall not assert against any assignee or Registered Owner any claim, counterclaim or other right Lessee may have against Lessor. Assignments in part may include without limitation assignment of all or a portion of Lessor's right, title and interest in, to and under the Equipment listed in a particular Schedule and all rights in, to and under the Agreement related to that Equipment.

Section 11.02. Assignment and Subleasing by Lessee. None of Lessee's right, title and interest in, to and under this Agreement and in the Equipment may be assigned or encumbered by Lessee for any reason; except that Lessee may sublease all or part of the Equipment if Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor that such subleasing will not adversely affect the exclusion of the interest components of the Rental Payments from gross income for federal income tax purposes. Any such sublease of all or part of the Equipment shall be subject to this Agreement and the rights of the Lessor in, to and under this Agreement and the Equipment.

ARTICLE XII

Section 12.01. Events of Default Defined. Subject to the provisions of Section 3.03, any of the following events shall constitute an "Event of Default" under any Lease:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid under that Lease at the time specified in that Lease;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed under that Lease, other than as referred to in subparagraph (a) above, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;
(c) Any statement, representation or warranty made by Lessee in or pursuant to that Lease or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(d) Any provision of that Lease shall at any time for any reason cease to be valid and binding on Lessee, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by Lessee or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of Lessor, or Lessee shall deny that it has any further liability or obligation under that Lease.

(e) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

Section 12.02. Remedies on Default. Whenever any Event of Default under any Lease exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, declare all Rental Payments and other amounts payable by Lessee under that Lease to the end of the then current Original Term or Renewal Term to be due;

(b) With or without terminating that Lease, Lessor may enter the premises where any Equipment that is subject to that Lease is located and retake possession of that Equipment or require Lessee at Lessee's expense to promptly return any or all of the Equipment to the possession of Lessor at such place within the United States as Lessor shall specify, and sell or lease the Equipment or, for the account of Lessee, sublease the Equipment, continuing to hold Lessee liable for the difference between (i) the Rental Payments and other amounts payable by Lessee under that Lease to the end of the then current Original Term or Renewal Term and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies under this Agreement, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing the Equipment and all brokerage, auctioneers' and attorneys' fees); and
(c) Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under that Lease or as the owner of any or all of the Equipment that is subject to that Lease.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice other than such notice as may be required in this Article.

Section 12.04. Application of Moneys. Any net proceeds from the exercise of any remedy hereunder with respect to any Event of Default under any Lease (after deducting all expenses of Lessor in exercising such remedies including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing Equipment and all brokerage, auctioneer's or attorney's fees) shall be applied to amounts due pursuant to that Lease and other amounts related to that Lease and the Equipment listed in the Schedule with respect to that Lease.

ARTICLE XIII

Section 13.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party), to any assignee at its address as it appears on the registration books maintained by Lessee or by the Agent and to any Registered Owner at its address as it appears on the registration books maintained by the Agent.

Section 13.02. Release and Indemnification. To the extent permitted by law, Lessee shall indemnify, protect, hold harmless, save and keep harmless Lessor from and against any and all liabilities, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and all expenses in connection therewith (including, without limitation, counsel fees and expenses, penalties connected therewith imposed on interest received) arising out of or as (a) result of the entering into of this Agreement, (b) the ownership of any item of the Equipment, (c) the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment, (d) or any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death to any person, and/or (e) the breach of any covenant herein or any material misrepresentation contained herein. The indemnification arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

Section 13.03. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.
Section 13.04. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.05. Amendments, Changes and Modifications. This Agreement may be amended by Lessor and Lessee; provided that no amendment that affects the rights of the Registered Owners shall be effective unless it shall have been consented to by the Registered Owners of a majority, in principal amount, of the Certificates of Participation, if any, then outstanding.

Section 13.06. Execution in Counterparts; Chattel Paper. This Agreement, including each Schedule, may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; except (1) to the extent that various Schedules and this Agreement as it relates thereto constitutes separate Leases as provided in this Agreement and (2) that Lessor’s interest in, to and under any Schedule and the Agreement as it relates to that Schedule and the Equipment listed in that Schedule may be sold or pledged only by delivering possession of the original counterpart of that Schedule marked “Counterpart No. ___,” which Counterpart shall constitute chattel paper for purposes of the Uniform Commercial Code.

Section 13.07. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 13.08. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 13.09. Electronic Transaction. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents will be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means.
IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

(LESSOR)

BANC OF AMERICA PUBLIC CAPITAL CORP

By ________________________________
Title: ______________________________

ADDRESS FOR NOTICES

555 California Street, CA 94104
San Francisco, CA 94104
Telephone: (415) 765-7404
Telecopy: (415) 343-0533
E-mail: tessie.g.panganiban@baml.com
(LESSEE)

UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY,
KANSAS

By ______________________________________
Title: County Administrator

ADDRESS FOR NOTICES

Unified Government of Wyandotte County/
Kansas City, Kansas
Finance Department, Room 330
701 North 7th Street
Kansas City, Kansas  66101
Attention: Lew Levin
Telephone: (913) 573-5186
Facsimile: (913) 573-5003
EXHIBIT A

FORM OF SCHEDULE

COUNTERPART NO. _________ OF __________

LESSOR’S INTEREST IN, TO AND UNDER THIS SCHEDULE AND THE AGREEMENT AS IT RELATES TO THIS SCHEDULE MAY BE SOLD OR PLEDGED ONLY BY DELIVERING POSSESSION OF COUNTERPART NO. ___ OF THIS SCHEDULE, WHICH COUNTERPART NO. ___ SHALL CONSTITUTE CHATTEL PAPER FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE.

SCHEDULE OF EQUIPMENT NO. ___

Re: Master Equipment Lease Purchase Agreement dated as of September 1, 2013 between Banc of America Public Capital Corp, as Lessor, and the Unified Government of Wyandotte County/Kansas City, Kansas, as Lessee.

1. Lease; Defined Terms; Other Terms. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Equipment identified in this Schedule for the term and the Rental Payments set forth in Attachment 1 and upon the terms and subject to the provisions of the above-referenced Master Equipment Lease Purchase Agreement (the "Master Equipment Lease") and this Schedule. All terms used herein have the meanings ascribed to them in the Master Equipment Lease. The Commencement Date for this Schedule is ___________ 20__. The amount of proceeds to be disbursed by Lessor pursuant to this Schedule is $___________.

2. Equipment. The following items of Equipment are hereby included under this Schedule of the Master Equipment Lease.

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Description/Serial No./Model No.</th>
<th>Location</th>
</tr>
</thead>
</table>

3. Payment Schedule. The following is the Rental Payment Schedule and Purchase Price Schedule under this Schedule to the Master Equipment Lease:

a. Rental Payments. The Rental Payments shall be in the amounts set forth in the "Rental Payment" column of the Payment Schedule attached hereto as Attachment 1.
b. *Purchase Price Schedule.* The Purchase Price at any particular time for the Equipment listed in this Schedule shall be the amount set forth for such time in the "Purchase Price" column of the Payment Schedule contained in this Schedule. The Purchase Price is in addition to all Rental Payments then due under this Schedule (including the Rental Payment shown on the same line in the Payment Schedule). Although a Purchase Price is shown for each Payment Number, the Equipment listed in this Schedule may be purchased only as provided and at such times as set forth in *Section 10.01* of the Master Equipment Lease.

4. **Representations, Warranties and Covenants.** Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct as though made on the date of commencement of Rental Payments on this Schedule.

5. **Certification as to Arbitrage and Tax Covenants [USE ONLY IF LEASE IS CONSIDERED A TAX-EXEMPT OBLIGATION].** Lessee hereby represents as follows:

   (a) The estimated total Acquisition Costs of the Equipment listed in this Schedule will not be less than the maximum amount of proceeds to be disbursed under this Lease as set forth in *Paragraph 1* above, and the Lessee reasonably expects to allocate 85% of said maximum amount to expenditures on the Equipment within three years of the Commencement Date of this Schedule.

   (b) The Equipment listed in this Schedule has been ordered or is expected to be ordered within six months of the Commencement Date of this Schedule and the Equipment is expected to be delivered and installed, and the Vendor fully paid, within one year from the Commencement Date of this Schedule.

   (c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments listed in this Schedule, or (ii) that may be used solely to prevent a default in the payment of the Rental Payments listed in this Schedule.

   (d) The Equipment listed in this Schedule has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments listed in this Schedule.

   (e) To the best of our knowledge, information and belief, the above expectations are reasonable.

   (f) Lessee has not been notified of any listing or proposed listing of it by the Internal Revenue Service as an issuer whose arbitrage certificates may not be relied upon.

Lessee will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended, including without limitation Sections 103 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation. Lessee covenants that it will pay or provide for the
payment from time to time of all rebatable arbitrage to the United States pursuant to Section 148 (f) of the Internal Revenue Code of 1986.

6. The Master Equipment Lease. Lessor and Lessee hereby ratify and confirm the Master Equipment Lease. The terms and provisions of the Master Equipment Lease (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated by reference and made a part hereof.

7. Other Provisions.

(a) The capital cost that would be required to purchase the Equipment if paid for by cash would be $______________.

(b) The annual average effective interest cost of this Agreement is ________% per annum.

(c) No Amount is included in rental payments (assuming continuation of this Agreement through the maximum term of the Agreement) for service, maintenance, insurance and other charges exclusive of capital cost and interest cost.

(LESSEE)

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By ________________
Title: County Administrator

(LESSOR)

BANC OF AMERICA PUBLIC CAPITAL CORP

By ________________________________
Name: ______________________________
Title: ______________________________
**ATTACHMENT 1 TO SCHEDULE NO. __**

**PAYMENT SCHEDULE**

<table>
<thead>
<tr>
<th>Rental Payment Date</th>
<th>Rental Payment</th>
<th>Interest Portion</th>
<th>Principal Portion</th>
<th>Purchase Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>_____1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Totals**

|                |                |                  |                   |                |

**EXHIBIT B**

**FORM OF OPINION OF LESSEE'S COUNSEL**

[Closing Date]

Banc of America Public Capital Corp  
555 California Street, CA5-705-04-01  
San Francisco, CA  94104

Re: Schedule of Equipment No. ___ dated ____________, 20__, to Master Equipment Lease Purchase Agreement dated as of September 1, 2013, between ___, as Lessor, and the Unified Government of Wyandotte County/Kansas City, Kansas, as Lessee.

Ladies and Gentlemen:

As counsel to the Unified Government of Wyandotte County/Kansas City, Kansas ("Lessee"), I have examined (a) an executed counterpart of a certain Master Equipment Lease Purchase Agreement, dated as of September 1, 2013, and exhibits thereto by and between Banc Of America Public Capital
Corp ("Lessor") and Lessee (the "Agreement") and Schedule of Equipment No. ___ dated _____________ __ , 20____, by and between Lessor and Lessee (the "Schedule"), which, among other things, provides for the lease to with option to purchase by Lessee of certain property listed in the Schedule (the "Equipment"), (b) an executed counterpart of the resolutions of Lessee which, among other things, authorizes Lessee to execute the Agreement and the Schedule and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions.

Based on the foregoing, I am of the following opinions:

(1) Lessee is a municipal corporation, duly organized and existing under the laws of the State, and has a substantial amount of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power.

(2) Lessee has the requisite power and authority to lease the Equipment with an option to purchase and to execute and deliver the Agreement and the Schedule and to perform its obligations under the Agreement and the Schedule. Under the Kansas Cash Basis Law, K.S.A. 10-1116(b), the Lessee is obligated only to pay periodic payments as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's current budget year.

(3) The Agreement, the Schedule and the other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of Lessee and the Agreement and the Schedule are valid and binding obligations of Lessee enforceable in accordance with their terms except to the extent limited by State and federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of auditors' rights and except no opinion is expressed with respect to provisions for indemnification by the Lessee.

(4) The authorization, approval and execution of the Agreement and the Schedule and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state or federal laws.

(5) There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Agreement or the Schedule or the security interest of Lessor or its assigns, as the case may be, in the Equipment.

(6) This opinion is limited to the matters expressly stated and no opinion is implied or may be inferred beyond such matters. This opinion letter may be relied upon only by the Lessor. No other parties may rely on this opinion without our express written consent. This opinion is issued only with respect to the present status of the law in Kansas and we undertake no obligation or responsibility to update or supplement this opinion in response to subsequent changes in the law or future events affecting the terms of the lease.

All capitalized terms herein shall have the same meanings as in the foregoing Agreement unless otherwise provided herein. Lessor, its successors and assigns, including without limitation any Registered Owners, and any counsel rendering an opinion on the tax-exempt status of the interest components of the Rental Payments, are entitled to rely on this opinion.
Very truly yours,

Jody Boeding
Chief Counsel
EXHIBIT C

MUNICIPAL CERTIFICATE

Re: Schedule of Equipment No. ___ dated ________________ ___, 20____, to Master Equipment Lease Purchase Agreement dated as of September 1, 2013, between Banc of America Public Capital Corp, as Lessor ("Lessor"), and the Unified Government of Wyandotte County/Kansas City, Kansas, as Lessee ("Lessee")

I, the undersigned, the duly appointed, qualified and acting Unified Government Clerk of Lessee do hereby certify as follows:

1. Lessee did, at a meeting of the governing body of Lessee held on ____________, 20____, by motion duly made, seconded and carried, in accordance with all requirements of law, approve and authorize the execution and delivery of the above-referenced Schedule of Equipment No. ___ (the "Schedule") on its behalf by the following named representative of the Lessee, to wit:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dennis Hays</td>
<td>County Administrator</td>
<td>___________________________</td>
</tr>
<tr>
<td>Deborah Jonscher</td>
<td>Assistant Finance Director</td>
<td>___________________________</td>
</tr>
</tbody>
</table>

2. The above-named representative of the Lessee held at the time of such authorization and holds at the present time the office set forth above.

3. The meeting of the governing body of the Lessee at which the Schedule was approved and authorized to be executed was duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval and that the action approving the Schedule and authorizing the execution thereof has not been altered or rescinded.

4. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default (as such term is defined in the above-referenced Master Equipment Lease Purchase Agreement) exists at the date hereof.

5. Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Rental Payments scheduled to come due during the Original Term and to meet its other obligations for the Original Term (as such terms are defined in the above-referenced Master Equipment Lease Purchase Agreement) and such funds have not been expended for other purposes.

6. The fiscal year of Lessee is from January 1 through December 31.
IN WITNESS WHEREOF, I hereunto set my hand and the seal of the governing body of the Lessee the day and year first above written.

Dated: ____________, 20__

Name: Bridgette Cobbins
Title: Unified Government Clerk

(SEAL)
EXHIBIT D

FORM OF PAYMENT REQUEST AND ACCEPTANCE CERTIFICATE

TO:   Banc of America Public Capital Corp
       555 California Street, CA5-705-04-01
       San Francisco, CA  94104

Re:    Schedule of Equipment No. ___ dated _____________ , 20___, to Master Equipment
        Lease Purchase Agreement dated as of  September 1, 2013, between Banc of America
        Public Capital Corp, as Lessor ("Lessor"), and the Unified Government of Wyandotte
        County/Kansas City, Kansas, as Lessee ("Lessee")

Ladies and Gentlemen:

You are hereby requested to pay to the Lessee the sum set forth below in payment of the cost of
the acquisition of the equipment described below.  The amount shown below is due and payable under the
invoice of the Payee attached hereto with respect to the cost of the acquisition of the equipment and has
not formed the basis of any prior request for payment.  The equipment described below is all of the
"Equipment" that is listed in Schedule of Equipment No.___ (the “Schedule”) to the Master Equipment
Lease Purchase Agreement (the "Agreement") described above.

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Serial Number</th>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
</table>

Reference Invoice # __________

Lessee hereby certifies and represents to and agrees with Lessor and the Escrow Agent as
follows:

(1)  The equipment described above has been delivered, installed and accepted on the date
     hereof.

(2)  Lessee has conducted such inspection and/or testing of said equipment as it deems
     necessary and appropriate and hereby acknowledges that it accepts said equipment for all purposes.
(3) No event or condition that constitutes, or with notice or lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof.

(4) If this is the final Payment Request under the Schedule, attached hereto is a fully executed Final Acceptance Certificate.

Dated: ________________.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By ________________________________
Name: ________________________________
Title: ________________________________

APPROVED:

BANC OF AMERICA PUBLIC CAPITAL CORP

By ________________________________
Name: ________________________________
Title: ________________________________
FINAL ACCEPTANCE CERTIFICATE

[THIS CERTIFICATE IS TO BE EXECUTED ONLY WHEN ALL EQUIPMENT HAS BEEN ACCEPTED]

The undersigned hereby certifies that the equipment described above, together with the equipment described in and accepted by Payment Request and Acceptance Certificates previously filed by Lessee with the Lessor, constitutes all of the Equipment subject to Schedule of Equipment No. ___.

Dated: ________________.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By ________________________________________
Name: ________________________________________
Title: ________________________________________
**Staff Request for Commission Action**

**Tracking No. 130337**

- [ ] Revised
- [ ] On Going

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

**Date of Standing Committee Action:** 9/30/2013

(If none, please explain):

**Proposed for the following Full Commission Meeting Date:** 10/17/2013  
**Confirmed Date:** 10/17/2013

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

<table>
<thead>
<tr>
<th>Date</th>
<th>Contact Name</th>
<th>Contact Phone</th>
<th>Contact Email</th>
<th>Ref</th>
<th>Department / Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/25/2013</td>
<td>Misty Brown</td>
<td>5067</td>
<td><a href="mailto:mbrown@wycokck.org">mbrown@wycokck.org</a></td>
<td></td>
<td>Legal</td>
</tr>
</tbody>
</table>

**Item Description:**
An Ordinance repealing Section 2-295 of the Unified Government Code of Ordinances regarding prevailing wage in compliance with State Law.

**Action Requested:**
For approval and forward to Full Commission

![File Attachment]![File Attachment]![File Attachment]

**Publication Required**

- ✔ Publication Required

**Publication Date:**

**Budget Impact: (if applicable)**

- Amount: $
- Source:
  - [ ] Included In Budget
  - ✔ Other (explain) Policy action.
An ordinance relating to prevailing wage requirements, repealing Section 2-295 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas.

WHEREAS, Section 2-295 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas requires the wages paid to workmen, laborers and mechanics be not less than the current prevailing per diem wage rate as required by the Davis-Bacon Act, 40 USC 27(a), or amendments thereto, on all construction projects undertaken by the Unified Government whose total is more than or equal to $15,000.00; and

WHEREAS, state law, HB No. 2069, prohibits cities, counties, or local governmental units from using ordinances, resolutions, or law to require private employers to pay compensation or wages at a higher rate than the state or federal minimum wage unless the higher compensation or wages are required by state or federal law; and

WHEREAS, state law declared that all existing policies contrary to HB No. 2069 enacted by cities and counties are void as of July 1, 2013.

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

Section 1. That Section 2-295 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas be and the same is hereby repealed.

Section 2. That this ordinance shall take effect and be in full force from and after its passage, approval, and publication in in the official newspaper of the Unified Government.
PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, THIS __________ DAY OF __ __________________ 2013.

Mark Holland, Mayor/CEO

Attest:

______________________________
Unified Government Clerk

Approved As To Form:

______________________________
Misty S. Brown, Assistant Counsel
**Staff Request for Commission Action**

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

**Date of Standing Committee Action:** 9/30/2013  
(If none, please explain):

**Proposed for the following Full Commission Meeting Date:**  
10/17/2013  
**Confirmed Date:** 10/17/2013

<table>
<thead>
<tr>
<th>Date: 9/25/2013</th>
<th>Contact Name: Marlon Goff</th>
<th>Contact Phone: 573-5545</th>
<th>Contact Email: <a href="mailto:mgofff@wycokck.org">mgofff@wycokck.org</a></th>
<th>Ref.</th>
<th>Department / Division: Economic Development</th>
</tr>
</thead>
</table>

**Item Description:**  
The TIF plan for project Areas A & B of the Escalade Heights Redevelopment District, approximately Meadowlark Lane & Parallel Parkway, was approved on 7/21/2005 by Ordinance No. 0-52-05. Platte Valley Bank of Missouri is the successor in interest to Escalade Development Company (a party in the original agreement w/ U.G) as it relates to its performance obligations, rights and interests including TIF reimbursements for eligible costs incurred. Platte Valley Bank is the current owner of record for the undeveloped parcels within Project Area B of the Escalade Heights TIF District. Platte Valley Bank of Missouri has agreed to sell the remaining parcels to CHWC as part of a planned development project. Currently, there is no outstanding bond debt associated with the Escalade Heights TIF, and the TIF account has a positive balance. The following is proposed:

- Assignment of existing and future revenue generated from Project Areas A & B to Platte Valley Bank of Missouri
- Total not to exceed $1.023M as a reimbursement of TIF eligible costs including road, sewer and utility infrastructure costs incurred, but not reimbursed to original developer due to performance.
- CHWC will be entitled to a one-time reimbursement of $208,655 in TIF eligible expenses upon completion of 16 "warm white boxes". Construction is scheduled to start November 2013.

**Action Requested:**  
Forward to 10/17/13 Full Commission meeting to consider approval of the following:

1. Termination of the original developer agreement in favor of the new terms and conditions outlined in the amended agreement.

**Publication Required**

**Budget Impact:** (if applicable)

<table>
<thead>
<tr>
<th>Amount: $</th>
<th>Source:</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔ Included In Budget</td>
<td>This action moves the project forward and the developer receives only revenues from current reven...</td>
</tr>
<tr>
<td>✔ Other (explain)</td>
<td>Documents forthcoming;</td>
</tr>
</tbody>
</table>

**File Attachment**
To: Economic Development and Finance Committee  
From: Marlon Goff, Analyst  
RE: Escalade Heights Redevelopment District

1. TIF plan for project areas A & B was approved in 2005 by Ordinance No. 0-52-05

2. Original TIF plan and feasibility study called for the construction of (68) single family homes in Project Area B. To date, only (5) homes have been built. Platte Valley/Country Club Bank is the current owner of the remaining undeveloped parcels.

3. Despite having only (5) of the planned (68) homes built during the first eight years of the TIF term, there is no outstanding bond debt associated with this TIF. Per the terms of the original agreement, reimbursement of TIF eligible costs would only occur upon sequenced delivery of built structures.

4. Platte Valley/Country Club Bank as the successor to the development agreement and interests in the TIF revenues has agreed to sell the land and assign its interest to the development agreement to CHWC. U.G. consent to the assignment is requested under the following terms:

   A. Existing and future TIF revenues generated from Project Area A and the existing (5) homes in Project Area B, are pledged to Platte Valley/Country Club Bank as reimbursement of eligible costs incurred by the previous developer but not released per the terms of the original agreement.
   B. The remaining land area encompassing Project area B (not including the existing 5 homes) will be removed from the TIF
   C. CHWC will build (16) single family homes in Project Area B. Upon completion of those (16) “warm white box” structures, a one-time TIF reimbursement will be made in the amount of $208, 655.
   D. These homes are being funding with LIHTC and must be completed by December 2014.
   E. CHWC will also construct (6) market rate SF homes, and apply for NRA as an incentive (5yr property tax rebate)
   F. The final phase of this development project will deliver up to 50 senior duplex housing units. This phase will be financed with LIHTC and NRA incentives.
ESCALADE HEIGHTS
TERMINATION AND SUBSTITUTION AGREEMENT

THIS AGREEMENT is entered into by and between the UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, (the "UG"), and PLATTE VALLEY BANK OF MISSOURI and CHWC, Inc., (collectively, the "Developer") and is dated and effective as of this ___ day of _______________, 2013. In consideration of the mutual covenants and agreements contained herein, the UG and the Developer hereby agree as follows:

WHEREAS, Platte Valley Bank of Missouri is the owner of certain undeveloped lots and tracts in the Escalade Heights subdivision located at Walker Avenue (approximately 57th Street) and Meadowlark Lane in Kansas City, Kansas, the legal descriptions of which are set forth below:

Lot 1 and Lots 7 through 70, inclusive, and Tracts A, B, C and D in Escalade Heights, a subdivision in the City of Kansas City, Wyandotte County, Kansas, as set out in the Final Plat of Escalade Heights, recorded December 5, 2006, at Book: 42, Page 54, with the Register of Deeds for Wyandotte County, Kansas (the “Property”).

WHEREAS, the Escalade Heights subdivision makes up the entirety of what is called Project Area B of the Escalade Heights Redevelopment District, a tax increment financing (“TIF”) district established by the UG on January 8, 2004, by adoption of Ordinance No. O-3-04, pursuant to K.S.A. 12-1770 et seq.; and

WHEREAS, the UG approved the Escalade Heights Redevelopment Plan for Project Areas A and B on July 21, 2005, by adoption of Ordinance No. O-52-05 (the “Redevelopment Plan”), which in part, provides for the construction of a single-family residential subdivision in Project Area B and describes certain eligible redevelopment project costs; and

WHEREAS, the former owner and developer of Escalade Heights subdivision, Escalade Heights Development Company, Inc., and the UG, were parties to that certain Escalade Heights Redevelopment Project Disposition and Development Agreement dated, August 3, 2006 (“DDA”), which sets forth certain terms and conditions governing the development and financing of eligible redevelopment project costs within Project Area B; and

WHEREAS, Platte Valley Bank of Missouri, is the successor in interest to Escalade Heights Development Company, Inc., as it relates to its performance obligations, and rights and interests in and to the DDA, including the right to receive certain TIF reimbursement payments for eligible redevelopment project costs that it has incurred for financing the construction of streets, sewers, waterlines, and other infrastructure within Project Area B, as
set forth in the DDA; and

WHEREAS, Platte Valley Bank of Missouri, now desires to sell the Property to CHWC, Inc., which intends to construct certain residential units on the undeveloped lots within Escalade Heights subdivision, and the UG desires to facilitate the construction of such residential units; and

WHEREAS, the parties now desire to terminate the DDA and to set forth new terms and conditions for the purpose of, among other things, restructuring the TIF reimbursement payments to have been made under the DDA.

Section 1 Purpose of Agreement. The purpose of this Agreement is to effectuate the Redevelopment Plan for Project Area B of Escalade Heights Redevelopment District, which is attached hereto as Exhibit 1 and is incorporated herein by reference, (hereinafter "Redevelopment Plan") by providing for the redevelopment of certain property, hereafter described, located in the Project Area B, in accordance with the Redevelopment Plan.

The real property to be redeveloped pursuant to this Agreement (the "Site") is specifically described and depicted in the Redevelopment Plan.

This Agreement is entered into for the purpose of redeveloping the Site and not for speculation in land holding.

Completing the redevelopment of the Project pursuant to this Agreement is in the vital and best interests of the Unified Government and the health, safety, and welfare of its residents, and is in accord with the public purposes and provisions of applicable state and local laws.

This Agreement pertains to and affects the ability of the Unified Government to finance its contractual obligations and for all parties to finance and carry out the purposes of this Agreement and the goals of the Redevelopment Plan and is intended to be a Contract within the meaning of K.S.A. 12-101.

Section 2. Restrictions on Transfer and Assignments. The Developer shall not assign or transfer all or any of its rights or duties under this Agreement nor convey the Site without the prior written approval of the Unified Government except for assignments, transfers and conveyances of all or substantially all of Developer's rights and duties under this Agreement and in and to the Site to a subsidiary which is owned by the Developer or any entity owned or controlled, directly or indirectly [the ownership of fifty percent (50%) or more of the partnership interests in, or voting stock of, along with complete management authority, constituting control] by the Developer. Said subsidiary or entity will enter into a written agreement satisfactory to the Unified Government assuming all of the obligations of the Developer hereunder.

The foregoing restrictions on assignment, transfer and conveyance shall not apply to (a) any security interest granted to secure indebtedness to any construction or permanent lender
whose rights shall be as set forth herein; or (b) the leasing of portions of the Site for the uses permitted under the terms of this Agreement, as hereinafter defined.

If, from time to time, the Unified Government's consent to any assignment, transfer or conveyance under the terms of this Agreement is required, or if confirmation that such consent is not required is requested, such consent or confirmation, as the case may be, shall not be unreasonably withheld, and such consent or confirmation shall be deemed granted if not denied in writing within ten (10) days after written request thereof.

Section 3. Indemnity.

The Developer shall defend, indemnify, assume all responsibility for and hold the Unified Government, and its respective elected and appointed officers and employees, harmless from all costs (including attorneys fees and costs), claims, demands or liabilities judgments for injury or damage to property and injuries to persons, including death, which may be caused directly or indirectly by any of the Developer's activities under this Agreement, where such activities or performance thereof be by the Developer or anyone directly or indirectly employed or contracted with by the Developer and whether such damage shall accrue or be discovered before or after termination of this Agreement. This indemnity includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act ["CERCLA"; 42 U.S.C. Section 9601, et seq.], (ii) the Resource Conservation and Recovery Act ["RCRA"; 42 U.S.C. Section 6901 et seq.] and (iii) Article 34, Chapter 65, K.S.A. and all amendments thereto, at any place where Developer owns or has control of real property pursuant to any of Developer's activities under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA to assure, protect, hold harmless and indemnify Unified Government from liability.

Section 4. Unified Government and Other Governments Unified Government Permits. Before commencement of construction or development of any buildings, structures or other work or improvement the Developer shall, at its own expense, secure or cause to be secured any and all permits which may be required by the Unified Government and any other governmental agency having jurisdiction as to such construction, development or work. The Unified Government shall provide all usual assistance to the Developer in securing these permits. Developer shall be required to satisfy only those codes, laws and regulations of general applicability.

Section 5. Rights of Access.

(a) The Developer, for the purpose of assuring compliance with this Agreement, shall let representatives of the Unified Government have the right to access to the Site, without charges or fees, at normal construction hours during the period of
construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements, so long as they comply with all safety rules. Such representatives of the Unified Government shall carry proper identification, shall insure their own safety, assuming the risk of injury and shall not interfere with the construction activity.

Section 6. Local, State and Federal Laws. The Developer shall carry out the provisions of this Agreement in conformity with all applicable local, state and federal laws and regulations.

Section 7. Anti-discrimination During Construction. The Developer, for itself and its successors and assigns, agrees that in construction of the improvements provided for in this Agreement, the Developer shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex marital status, handicap, national origin or ancestry.

Section 8. Taxes, Assessments, Encumbrances and Liens. The Developer shall pay when due all real estate taxes and assessments on the Site. Prior to issuance of a Certificate of Completion pursuant to this Agreement, the Developer shall not place or allow to be placed on the Site or any part thereof any uncontested mechanic's lien, any mortgage, trust deed, encumbrance or lien other than as expressly allowed by this Agreement. Nothing herein contained shall be deemed to prohibit the Developer from contesting the validity or amounts of any tax assessment, encumbrance or lien, nor to limit the remedies available to the Developer in respect thereto.

Section 9. Financing; Rights of Holders. Notwithstanding any other provision of this Agreement, mortgages are permitted for the acquisition, construction, renovation, improvement, equipping, repair and installation of the Project and to secure permanent financing thereafter. However, nothing contained in this paragraph is intended to permit or require the subordination of general property taxes, special assessments or any other statutorily authorized governmental lien to be subordinate in the priority of payment to such mortgages.

Section 10. Prohibition Against Transfer of the Site, the Buildings or Structures. The Developer shall not, except as permitted by this Agreement, without prior written approval of the Unified Government make any total or partial sale, transfer, conveyance, assignment or lease of the Site, until the entire Project is completed. This prohibition shall not prevent the granting of temporary or permanent easements to facilitate the development of the Site or the sale of individual building lots to be developed by the Developer to builders which will then build and sell such residences. Completed homes may also be sold to homebuyers without the written approval of the Unified Government. The builders will assume the Developer’s obligations hereunder to pay real estate taxes on any part of the Site owned by the builder.

Section 11. Covenant for Non-Discrimination. The Developer covenants by and
for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, familial status, marital status, age, handicap, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Developer itself or any person claiming under or though it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, subleases or vendees of the Site.

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

**Section 12. Notices, Demands and Communications Among the Parties.** Written notices, demands and communications among the Unified Government and the Developer shall be sufficiently given by personal service or dispatched by registered or certified mail, postage prepaid, return receipt requested, or overnight courier, to the principal offices of the Unified Government or the Developer described herein. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate. Notwithstanding anything to the contrary contained herein, notice personally served shall be deemed to have been received as of the date of such services or the date service is refused if written verification thereof is received from messenger service attempting such delivery.

**Section 13. Conflicts of Interest.** The Developer warrants that it has not paid or given and will not pay or give any officer, employee or agent of the Unified Government any money or other consideration for obtaining this Agreement.

**Section 14. Enforced Delay; Extension of Times of Performance.**

(a) In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where the party seeking the extension has acted diligently and the delays or defaults are due to events beyond the reasonable control of the party such as but not limited to: default of other party; war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; intergalactic invasion, lack of transportation; litigation; unusually severe weather; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform.

(b) Times of performance under this Agreement may also be extended in writing by the mutual agreement of Unified Government and the Developer.
Section 15. Defaults – General.

(a) Subject to the extensions of time set forth herein, failure or delay by either party to perform any term or provision of this Agreement, after receiving notice and failing to cure, as set forth in paragraph (b) below, constitutes a default under this Agreement. A party claiming a default (claimant) shall give written notice of default to the other party, specifying the default complained of.

(b) The claimant shall not institute proceedings against the other party, nor be entitled to damages if the other party within fourteen (14) days from receipt of such notice, with due diligence, commences to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy within thirty (30) days from the date of receipt of such notice or if such cure, correction or remedy by its nature cannot be effected within such thirty (30) day period, such cure, correction or remedy is diligently and continuously prosecuted until completion thereof.

Section 16. Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 17. Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

Section 18. Damages. If a default is not fully cured by the defaulting party as provided herein the defaulting party shall be liable to the other party for any damages caused by such default, and the non-defaulting party may thereafter (but not before) commence an action for damages against the defaulting party with respect to such default.

Section 19. Specific Performance. If a default under this Agreement is not fully cured by the defaulting party as provided herein the non-defaulting party at its option may thereafter (but not before) commence an action for specific performance of terms of this Agreement.

NOW THEREFORE, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The UG agrees to make a one-time TIF reimbursement payment of $208,665 to CHWC, Inc. upon the construction of 16, “warm white boxes,” as that term is defined in Section 3.3 of the DDA. Provided these 16, “warm white boxes” are constructed on or before the end of 2015, this one-time TIF reimbursement payment shall be made no later than December 31, 2015.
2. The UG hereby assigns all of its rights and interests to the TIF revenue stream generated by Project Area A and Lots 2 through 6 of Project Area B of the Escalade Heights Redevelopment District to Platte Valley Bank of Missouri (its successors and assigns) until an amount equal to $815,000, plus 4% annual interest, has been fully reimbursed. This assignment does not constitute a liability of the UG and the TIF revenues generated by Project Area A and Lots 2 through 6 of Project Area B will only be paid on a “pay-as-you-go basis” during the remaining term of Redevelopment Plan, which term expires on June 16, 2025. Payments to Platte Valley Bank of Missouri from the TIF revenues generated by Project Area A and Lots 2 through 6 of Project Area B shall be made within 45 days of the UG’s receipt of such revenues from the UG Treasurer, which should occur on or about February 15th and July 15th each year, with the first payment commencing on or about February 15, 2014, and continuing thereafter until finally paid. The first payment amount is estimated to be approximately $55,000 and thereafter the semi-annual payments are estimated to be approximately $44,025.59 each, subject to the actual TIF revenue amounts generated by Project Area A and Lots 2 through 6 of Project Area B.

3. The parties agree that the Property shall be removed from the Escalade Heights Redevelopment District and the Escalade Heights Redevelopment Plan for Project Areas A and B.

4. The DDA is hereby terminated, and shall have no further force or effect, as of the effective date of this Agreement.

5. No member, official or employee of the UG shall be personally liable to the Developer, or any successor in interest, pursuant to the provisions of this Agreement, nor for any default or breach by the UG.

6. Any legal actions related to or arising out of this Agreement must be instituted in the District Court of Wyandotte County, Kansas, or, if federal jurisdiction exists, in the Federal District Court in the District of Kansas. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

7. The laws of the State of Kansas shall govern the interpretation and enforcement of this Agreement.

IN WITNESS WHEREOF, The Unified Government, and the Developer have signed this agreement the date first written above.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS
By: __________________________________________

Dennis M. Hays
County Administrator

ATTEST:

________________________
Unified Government Clerk

APPROVED AS TO FORM

_____________________________________
Kenneth J. Moore
Deputy Unified Government Attorney

PLATTE VALLEY BANK OF MISSOURI

_____________________________________
By: _________________________________

CHWC, INC.,
a Kansas not-for-profit corporation

_____________________________________
By: _______________________________
Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 9/30/2013
(If none, please explain):

Proposed for the following Full Commission Meeting Date: 10/17/2013
Confirmed Date: 10/17/2013

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

Date: 9/24/2013
Contact Name: George Brajkovic
Contact Phone: x 5749
Contact Email: gbrajkovic@wycokck.org
Ref: Department / Division: Economic Development

Item Description:
Assisted Living Associates LLC is proposing a $17.5M, 120 room assisted living facility within the Hazelwood Development area at 113th & Parallel in KCK. Previously, the Board of Commissioners had approved $15M in IRBs via O-66-12 on 12/20/12. The Project has grown in scale and cost, and is therefore requesting to increase the issuance amount of IRBs from $15M to $17.5M. The facility is projected to be 100,000 sqft, and includes 40 units dedicated to memory care, and is projected to add 70 new jobs.

Action Requested:
Adopt Resolution of Intent.

☑ Publication Required
Publication Date: 10/24/2013

Budget Impact: (if applicable)

Amount: $58,750.00
Source:
☑ Included In Budget
☐ Other (explain) Issuance fees

File Attachment
RESOLUTION NO. R-13- ___

RESOLUTION DETERMINING THE INTENT OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS IN THE AMOUNT OF APPROXIMATELY $17,500,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL PROJECT FOR THE BENEFIT OF ASSISTED LIVING ASSOCIATES, LLC.

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 industrial 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, Assisted Living Associates, LLC or an affiliate or assignee (the “Company”), has requested that the Unified Government finance the cost of acquiring, constructing and equipping a commercial project as more fully described in the Application consisting of an approximately 120-unit assisted living facility to be located at 2309 North 113th Court (113th and Parallel) (the “Project”) through the issuance of its industrial revenue bonds in one or more series in the amount of approximately $17,500,000, and to lease the Project to the Company or its successors and assigns in accordance with the Act; and

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 industrial revenue bonds under the Act in a principal amount of approximately $17,500,000, 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.

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 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 industrial 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 and equip the Project out of the proceeds of industrial revenue bonds of the Unified Government in a principal amount of approximately $17,500,000 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 industrial revenue bonds to pay the costs of acquiring, constructing 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 actions as may be required to implement the aforesaid.

Section 4. Conditions to Sales Tax Exemption. Prior to delivery of the sales tax exemption certificate for the Project to the Company, the Company shall execute and deliver to the Unified Government the LBE/MBE/WBE Participation Agreement in substantially the form presented at this meeting.

Section 5. 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 industrial revenue bonds.

Section 6. Sale of the Bonds. The sale of the bonds shall be the responsibility of the Company.

Section 7. 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 8. 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 COMPLETENESS OF SUCH INFORMATION.

Section 9. 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 10. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the Unified Government.
ADOPTED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS ON OCTOBER ____, 2013.

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

(Seal)

Attest:

By: ________________________________
    Unified Government Clerk

Resolution of Intent
Hazelwood Assisted Living
Premier Investments LLC, the Wilhite family, is proposing a redevelopment of an area one block east of S 7th St Trfwy, bound by Packard St on the West, Osage Ave on the South, S 4th St on the East, and Shawnee Ave on the North - located in the Armourdale area. The site is comprised of two large parcels, both are underutilized as one is vacant office building, and the other has a small mechanics shop, but is primarily used for tractor trailer storage. Premier has negotiated purchase of both parcels, and is proposing the construction of a $9.3M, 170,000 sqft Industrial building for lease. The Developer is asking for the issuance of IRBs in association with this project.

Action Requested:
Adopt Resolution of Intent.

Publication Required
Publication Date: 10/24/2013

Budget Impact: (if applicable)
Amount: $37,200.00
Source:
- [ ] Included In Budget
- [ ] Other (explain)  Issuance fees; positive development impact
RESOLUTION NO. R-______-13

RESOLUTION DETERMINING THE INTENT OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS IN THE AMOUNT OF APPROXIMATELY $9,300,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING INDUSTRIAL FACILITIES FOR THE BENEFIT OF PREMIER INVESTMENTS, LLC

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, Premier Investments, LLC, a Kansas limited liability company (the “Company”), has submitted to the Unified Government an Application for the Issuance of Industrial Revenue Bonds (the “Application”) requesting that the Unified Government finance the cost of acquiring, constructing, improving and equipping certain industrial facilities as more fully described in the Application located between Osage on the south and Shawnee on the north and west of Packard consisting of an approximately 170,400 square foot industrial building, including land acquisition, associated infrastructure, and personal property (collectively, the “Project”) through the issuance of its revenue bonds in one or more series in the amount of approximately $9,300,000, 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 $9,300,000, 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;

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 $9,300,000 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. 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 COMPLETENESS 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.

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

(Seal)

Attest:

By: ________________________________
    Unified Government Clerk
Staff Request for Commission Action

Tracking No. 130327

Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 9/30/2013
(If none, please explain):

Proposed for the following Full Commission Meeting Date: 10/17/2013
Confirmed Date: 10/17/2013

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

Date: 9/24/2013
Contact Name: George Brajkovic
Contact Phone: x 5749
Contact Email: gbrajkovic@wycokck.org
Ref: 
Department / Division: Economic Development

Item Description:
NorthPoint Development is proposing the first project at Central Industrial Park (CIP) the 80 acre former RACER Trust site in Fairfax, adjacent to the GM plant. The first project is a $10M, 70,000 sqft manufacturing building for Inergy, a GM supplier of fuel tanks. Headquartered in France, Inergy operates 30 production sites around the world. The new proposed plant in KCK is expected to initially create 70 new jobs, but grow to 200 at full build out. Per the Development Agreement, approved by UG Board of Commissioners on 03/21/2013, IRBs, CID and TDD were approved as part of the incentive structure for CIP. At this time, NorthPoint is requesting a Resolution of Intent for $10M in IRBs for the Inergy project.

Action Requested:
Adopt Resolution of Intent.

Publication Required
Publication Date: 10/24/2013

Budget Impact: (if applicable)

Amount: $40,000.00
Source:
- Included In Budget
- Other (explain) Issuance fees

File Attachment
RESOLUTION DETERMINING THE INTENT OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS IN THE AMOUNT OF APPROXIMATELY $10,000,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING INDUSTRIAL FACILITIES FOR THE BENEFIT OF NORTHPOINT DEVELOPMENT, LLC

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, Northpoint Development, LLC, a Missouri limited liability company (the “Company”), has submitted to the Unified Government an Application for the Issuance of Industrial Revenue Bonds (the “Application”) requesting that the Unified Government finance the cost of acquiring, constructing, improving and equipping certain industrial facilities as more fully described in the Application located at 100 Kindleberger Avenue consisting of an approximately 70,000 square foot industrial building, including land acquisition, associated infrastructure, and personal property (collectively, the “Project”) through the issuance of its revenue bonds in one or more series in the amount of approximately $10,000,000, 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 $10,000,000, 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;

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 $10,000,000 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. 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 COMPLETENESS 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.

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

(Seal)

Attest:

By: ________________________________
   Unified Government Clerk

3
Rainbow Real Estate Partners LLC have submitted a Petition for CID #2 for the 39th & Rainbow TIF, Project Areas 1 & 2. The original Development Agreement, approved by the Board of Commissioners on 02/04/10 via O-18-10, anticipated two CID sales tax add-ons within the District itself. The first CID, a 1% sales tax add-on, was approved by the Board of Commissioners on July 12, 2012 via O-41-12. The request for CID #2, is to layer an additional 0.25% sales tax add-on, and is in alignment with the parameters set forth in the Development Agreement. The only exclusion to CID #2, is the new hotel in Phase 1 (Project Area 2 of the TIF).

To implement CID #2, a Public Hearing must be held. In accordance with Statutory requirements, a Resolution setting a public hearing date must be adopted and published. As such, the target date for a Public Hearing is November 7, 2013.

Two Publication dates October 24th and 31st.

Action Requested:
Adopt Resolution setting a Public Hearing date of November 7, 2013.
RESOLUTION NO. R-______-13

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 39TH & RAINBOW COMMUNITY IMPROVEMENT DISTRICT CID #2 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 levy special assessments upon property within the district to finance projects; and

WHEREAS, a petition (the “Petition”) was filed with the Unified Government Clerk on September 13, 2013, proposing the creation of the 39th & Rainbow Community Improvement District (“CID”) under the Act, the imposition of a community improvement district sales tax in order to pay the costs of projects as described in the Petition (the “Projects”); and

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

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”) intends to create the 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 Projects set forth in the Petition and levying the CID Sales Tax, pursuant to the authority of the Act; and further to provide for the giving of notice of said hearing in the manner required by the Act.

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

SECTION 1. Petition. The Governing Body hereby finds and determines that the Petition meets 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 the provisions of the Act, on the advisability of creating the CID, approving the Projects set forth in Petition, and whether to impose a the CID Sales Tax in an amount not to exceed 1.0%, such public hearing to be held on November 7, 2013 at 7:00 p.m., or as soon thereafter as the matter can be heard, at 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 Proposed CID. The legal description of the property to be contained in the proposed CID is set forth on Exhibit A attached hereto and incorporated by reference.
herein. A map generally outlining the boundaries of the proposed CID is attached as Exhibit B hereto, and incorporated by reference herein.

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

SECTION 5. Estimated Cost. The estimated cost of the proposed Projects is $53,015,020.

SECTION 6. Method of Financing. The estimated cost of the proposed Projects, 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 City. The special obligation bonds will be secured by the pledge of money received from the imposition of a community improvement district sales tax in amount not to exceed 0.25% within the proposed CID. There will be no special assessments on property within the boundaries of the CID to pay the costs of the Projects.

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

SECTION 8. Reimbursement. The Unified Government expects to make capital expenditures after the date of this Resolution in connection with the Projects, and the City intends to reimburse itself for such expenditures with the proceeds of obligations in the maximum principal amount of $10,000,000.

SECTION 9. Effective Date. This Resolution shall be effective upon adoption by the Governing Body.


________________________________________
Mayor/CEO

________________________________________
Unified Government Clerk
CERTIFICATE

I, hereby certify that the above and foregoing is a true and correct copy of Resolution No. R-_____-13 of the Unified Government of Wyandotte County/Kansas City, Kansas adopted by the Governing Body on October 7, 2013 as the same appears of record in my office.


____________________________________
Unified Government Clerk
EXHIBIT A

LEGAL DESCRIPTION OF PROPOSED 39TH & RAINBOW COMMUNITY
IMPROVEMENT DISTRICT #2

The following property located in Wyandotte County, Kansas City, Kansas:

Project Area 2/Phase 1:

Unit A, 39Rainbow Phase I, a condominium subdivision in Kansas City, Wyandotte County, Kansas.

Project Area 1/Phase 2:

Lot 1, 39Rainbow II, a subdivision in Kansas City, Wyandotte County, Kansas.

AND, including:

All adjacent right-of-way.
EXHIBIT "B"

MAP OF DISTRICT

Phase 1 / Project Area 2:
District includes Unit A (ground floor) only.
The redevelopment of an approximately two square block area into a mixed-use development potentially containing a hotel and other commercial retail and office space in addition to associated parking and infrastructure. In addition, ongoing maintenance and upkeep of property within the boundaries of the community improvement district shall be a Project eligible for reimbursement.
PETITION FOR THE CREATION OF A
COMMUNITY IMPROVEMENT DISTRICT

TO:    County Commission,
         Unified Government of Wyandotte County/Kansas City, Kansas

The undersigned, being the owners of record, whether resident or not, of the following:

1.  More than fifty-five percent (55%) of the land area contained within the
hereinafter described community improvement district; and
2.  More than fifty-five percent (55%) by assessed value of the land area contained
within the hereinafter described community improvement district.

hereby petition the Unified Government of Wyandotte County/Kansas City, Kansas (the
"Unified Government") to create a community improvement district and authorize the
proposed projects hereinafter set forth, all in the manner provided by K.S.A. 12-6a26, et
seq. (the "Act"). In furtherance of such request, the petitioners state as follows:

1.  GENERAL NATURE

The general nature of the proposed projects (the "Projects") consists of the
redevelopment of an approximately two square block area into a mixed-use
development containing a hotel and other commercial retail and office space in
addition to associated parking and infrastructure. In addition, ongoing maintenance
and upkeep of property within the boundaries of the community improvement district
shall be a Project eligible for reimbursement.

2.  ESTIMATED COST

The estimated or probable cost of the Projects is $53,015,020 plus financing and
interest expense. See the attached EXHIBIT "A" for a detailed budget. In addition,
ongoing costs associated with the operations and maintenance of property within the
boundaries of the community improvement district shall be eligible for reimbursement once the costs detailed on EXHIBIT "A" have been reimbursed in full plus interest.

3.  PROPOSED METHOD OF FINANCING

It is proposed that the Projects be financed through a combination of private equity,
private debt, Tax Increment Financing revenue and CID Pay-as-you-go financing, as
defined in the Act. Petitioners reserve the right to request that the Unified
Government issue Special obligation bonds, as defined in the Act, at a future date in
order to fund the cost of the Projects that had not been reimbursed previously.
4. **PROPOSED AMOUNT OF SALES TAX**

It is being proposed that the Projects be financed in part through the levying of up to a quarter of a percent (0.25%) add-on sales tax as authorized by the Act (the "Sales Tax").

5. **PROPOSED METHOD AND AMOUNT OF ASSESSMENT**

It is not being proposed that the Projects be financed through the levying of assessments.

6. **MAP AND LEGAL DESCRIPTION OF THE PROPOSED DISTRICT**

A map of the proposed community improvement district (the "District") is attached hereto as **EXHIBIT “B”**.

The legal description of the District is attached hereto as **EXHIBIT “C”**.

7. **NOTICE TO PETITION SIGNERS**

*Names may not be withdrawn from this petition by the signers hereof after the city commences consideration of this petition, or later than seven (7) days after the filing hereof with the city clerk, whichever occurs first.*
IN WITNESS WHEREOF, the undersigned petitioners have executed the above foregoing petition to create the district at the dates set forth opposite their respective signatures below:

RAINBOW REAL ESTATE PARTNERS, LLC, a Kansas limited liability company
By: ____________________________
   Owen Buckley
   Manager

RAINBOW REAL ESTATE PARTNERS II, LLC, a Kansas limited liability company
By: ____________________________
   Owen Buckley
   President & CEO

RAINBOW REAL ESTATE II, INC., a Kansas corporation
Its: Sole Member
By: ____________________________
   Owen Buckley
   President & CEO

STATE OF MISSOURI )
COUNTY OF JACKSON ) ss.

BE IT REMEMBERED, that on this 18th day of March, 2013 before me, the undersigned, a Notary Public in and for said County and State, came Owen Buckley, who is known to me to be the same person who executed the within instrument, and such person duly acknowledged the execution of the same.

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

(Seal)
Marta Chastain
Notary Public in and for said County and State

My Commission Expires: 3/22/14
**EXHIBIT “A”**

**ESTIMATED PROBABLE COST OF PROJECTS**

**The CID may be utilized to reimburse any CID Costs to the full extent permitted under the CID Act and the amounts contained herein shall not be construed as caps, subject to any requirements of the Development Agreement entered into by and between the Developer and the UG. As such, Developer reserves the right to allocate/reallocate CID Costs differently than indicated below. In addition, ongoing costs associated with the operation and maintenance of property within the boundaries of the CID shall be CID Costs eligible for reimbursement once the CID Costs described above have been reimbursed plus interest.**

---

**39th and Rainbow**  
**Estimated Budget - Project Area 2 (South Project)**

<table>
<thead>
<tr>
<th>PROPERTY &amp; ACQUISITION COSTS</th>
<th>TOTALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Acquired</td>
<td>$1,000,000</td>
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<tr>
<td>Title</td>
<td>$40,000</td>
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<tr>
<td>Brokerage Fees</td>
<td>$60,000</td>
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<tr>
<td>Planning, Engineering, Permitting &amp; Zoning Fees</td>
<td>$30,000</td>
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<tr>
<td>Home Environmental Survey</td>
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<tr>
<td>ALTA Survey</td>
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<tr>
<td>Appraisal</td>
<td>$15,000</td>
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<tr>
<td><strong>TOTAL ACQUISITION COSTS</strong></td>
<td><strong>$1,345,000</strong></td>
</tr>
</tbody>
</table>

**CONSTRUCTION BUDGET**

**DIRECT COSTS (See Attached for Explanation of Sitework, Parking & Infrastructure):**

- General Conditions
- Site Work
- Concrete
- Masonry
- Steel
- Wood & Habitation
- Thermal & Moisture Protection
- Doors & Windows
- Finishes
- Specialties
- Equipment
- Furnishings
- Special Construction
- Conveying Systems
- Mechanical
- Fire Protection
- Plumbing
- HVAC

**TOTAL DIRECT COSTS** $7,193,132

| Construction Contingency | $501,593 |

| Building Permit Fees | $70,000 |
| Site & Tower Fee/Utility Requisitions | 
| Contractor's Liability Insurance | $35,000 |
| Builder's Risk Insurance | $94,000 |
| Payment & Performance Bond | $50,000 |
| Compensatory Tax | $95,000 |

**TOTAL CONSTRUCTION BUDGET** $8,000,079

| White Box Retail Space Allowances | $190,000 |
| Tenant Improvement & Allowances | $250,000 |

**TOTAL PROJECT BUDGET** $8,270,079
### DEVELOPMENT SOFT COSTS:

<table>
<thead>
<tr>
<th>Architectural &amp; Engineering Fees</th>
<th>$</th>
<th>187,500</th>
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<tbody>
<tr>
<td>Civil Engineering</td>
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<tr>
<td>Landscape Architecture</td>
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<td>8,190</td>
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<tr>
<td>MEP Engineering</td>
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<tr>
<td>Structural Engineering</td>
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<td>Master Planning Design &amp; Engineering</td>
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<tr>
<td>Containable Expense Allowance</td>
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<td>4,725</td>
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**Total Architecture & Engineering:** $ 469,565

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<tr>
<th>Commissions, Marketing &amp; Advertising Fees</th>
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<tbody>
<tr>
<td>Advertising &amp; Project Promotion</td>
<td>$</td>
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<tr>
<td>Ceremonies &amp; Groundbreaking</td>
<td>$</td>
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<tr>
<td>Project Branding &amp; Website</td>
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<tr>
<td>Project Photography</td>
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<tr>
<td>Real Estate Commission</td>
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<tr>
<td>Tenant Inducements</td>
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**Total Commissions, Marketing & Advertising:** $ 150,000

<table>
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<tr>
<th>Studies, Testing &amp; Inspection Costs</th>
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<tbody>
<tr>
<td>Eligible Study for Incentives</td>
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<tr>
<td>City or Municipal Inspection Fees</td>
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<tr>
<td>Construction Special Inspections</td>
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<tr>
<td>Feasibility Studies</td>
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<tr>
<td>Geotechnical Engineering Reports</td>
<td>$</td>
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<tr>
<td>Shop Fabrication Testing &amp; Inspection</td>
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<tr>
<td>Self Savings Testing &amp; Reports</td>
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<tr>
<td>Traffic Study</td>
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**Total Studies, Testing & Inspections:** $ 92,000

<table>
<thead>
<tr>
<th>Permits, Fees &amp; Assessments</th>
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<tbody>
<tr>
<td>Fire Health &amp; Municipal Fees</td>
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<tr>
<td>Gas &amp; Electric Metering Fees</td>
<td>$</td>
</tr>
<tr>
<td>Phone &amp; Data Connections</td>
<td>$</td>
</tr>
<tr>
<td>Plan Check &amp; Review Fees</td>
<td>$</td>
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<tr>
<td>Public Works Permits</td>
<td>$</td>
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<tr>
<td>Sewer Connection Fees &amp; Assessments</td>
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<tr>
<td>Street Closure Permits</td>
<td>$</td>
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<tr>
<td>Utility Relocation Fees</td>
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</table>

**Total Permits, Fees & Assessments:** $ 112,401

<table>
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<tr>
<th>Taxes &amp; Insurance</th>
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<tbody>
<tr>
<td>Property Tax During Construction</td>
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<tr>
<td>Liability/Risk Property Insurance</td>
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<tr>
<td>Performance Bonds</td>
<td>$</td>
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<tr>
<td>Title Insurance</td>
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**Total Taxes & Insurance:** $ 81,300

<table>
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<tr>
<th>Legal Expenses</th>
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</thead>
<tbody>
<tr>
<td>Contracts Review &amp; Negotiation</td>
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<tr>
<td>Debt &amp; Equity Placement</td>
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<tr>
<td>Organizational Documents</td>
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<tr>
<td>New Market Tax Credit</td>
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<tr>
<td>Project Incentives</td>
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<tr>
<td>Property Acquisition &amp; Negotiation</td>
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<tr>
<td>New Markets Tax Credit Consulting</td>
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<tr>
<td>Zoning &amp; Environmental</td>
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**Total Legal Expenses:** $ 300,000
<table>
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<th>Owner Direct Costs</th>
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<tbody>
<tr>
<td>Off-Site Improvements</td>
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<tr>
<td>Construction Management Services</td>
<td>$ 65,446</td>
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<tr>
<td>Design Management Services</td>
<td>$ 39,297</td>
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<td>Project Accounting Services</td>
<td>$ 43,631</td>
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<tr>
<td>Engineering &amp; Investment Services</td>
<td>$ 37,261</td>
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<tr>
<td>Marketing &amp; Advertising Services</td>
<td>$ 21,815</td>
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<tr>
<td>Travel, Project Expenses &amp; Meals</td>
<td>$ 35,000</td>
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Total Owner Direct Costs: $ 292,428

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<thead>
<tr>
<th>Furniture, Fixtures &amp; Equipment</th>
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</thead>
<tbody>
<tr>
<td>FF &amp; E Freight</td>
<td>$ 36,900</td>
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<tr>
<td>FF &amp; E Installation</td>
<td>$ 32,000</td>
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<tr>
<td>FF &amp; E Sales Tax</td>
<td>$ 20,000</td>
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<tr>
<td>FF &amp; E A.I.I.</td>
<td>$ 75,000</td>
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<tr>
<td>Franchising Costs</td>
<td>$ 169,996</td>
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<tr>
<td>Pre-Opening &amp; Working Capital</td>
<td>$ 250,000</td>
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<tr>
<td>Elevator Maintenance Agreements</td>
<td>$ 15,000</td>
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<tr>
<td>Lobby &amp; Common Area Furnishings</td>
<td>$ 80,000</td>
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<tr>
<td>Major Moveables</td>
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</tr>
<tr>
<td>1/2/Computers</td>
<td></td>
</tr>
<tr>
<td>Office Supply Inventory</td>
<td></td>
</tr>
<tr>
<td>Kitchen Equipment</td>
<td></td>
</tr>
<tr>
<td>Telephone System &amp; Security</td>
<td></td>
</tr>
<tr>
<td>Artwork &amp; Common Area</td>
<td></td>
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<tr>
<td>Signage</td>
<td>$ 40,000</td>
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</table>

Total Furniture, Fixtures & Equipment: $ 1,145,580

<table>
<thead>
<tr>
<th>Financing Costs &amp; Interest</th>
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<tbody>
<tr>
<td>Loan Amount</td>
<td>$ 3,950,000</td>
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<tr>
<td>Loan Lifted Amount</td>
<td>$ 1,400,000</td>
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<tr>
<td>Interest Rate Assumed</td>
<td>$ 3,950,000</td>
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<tr>
<td>% of Years Out</td>
<td>$ 383,333</td>
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Total Construction/Development Loan Interest: $ 383,333

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<tr>
<th>Financing Costs</th>
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<tbody>
<tr>
<td>Closing Costs/Origination Fees</td>
<td>$ 50,000</td>
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<tr>
<td>Permanent Loan Placement Fee</td>
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<td>NMTC Fees (Travels)</td>
<td>$ 90,000</td>
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<td>Lender's Inspection Fees</td>
<td>$ 15,000</td>
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<td>Interest Reserve Contingency</td>
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Total Financing Costs: $ 547,350

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<tr>
<th>Development &amp; Management Fees</th>
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<tbody>
<tr>
<td>Development Overhead &amp; Management</td>
<td>$ 785,349</td>
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<tr>
<td>Developer's Fee (Profit)</td>
<td>$ 226,372</td>
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Total Development & Management Fees: $ 1,011,721

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<tr>
<th>Project Soft Cost Contingency</th>
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<tbody>
<tr>
<td></td>
<td>$ 200,000</td>
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</tbody>
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**TOTAL DEVELOPMENT SOFT COSTS:** $ 1,211,721

**TOTAL PROJECT COSTS:** $ 15,478,972
# 39TH AND RAINBOW
ESTIMATED BUDGET - PROJECT AREA 1 (NORTH PROJECT)

<table>
<thead>
<tr>
<th>PROJECT BUDGET:</th>
<th>TOTAL:</th>
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<tbody>
<tr>
<td>ACQUISITION COSTS:</td>
<td></td>
</tr>
<tr>
<td>Land</td>
<td>$1,914,043</td>
</tr>
<tr>
<td>Title</td>
<td>$15,000</td>
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<tr>
<td>Land Acquisition Brokerage fees 3.00%</td>
<td>$118,021</td>
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<tr>
<td>Planning, Incentives, Entitlements &amp; Zoning 6.00%</td>
<td>$235,911</td>
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<tr>
<td>Lease Buy-Outs</td>
<td>$250,000</td>
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<tr>
<td>Phase I Environmental</td>
<td>$10,000</td>
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<tr>
<td>ALTA Surveys</td>
<td>$15,000</td>
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<tr>
<td>Appraisal</td>
<td>$25,080</td>
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<tr>
<td><strong>TOTAL ACQUISITION:</strong></td>
<td><strong>$4,602,976</strong></td>
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**CONSTRUCTION COSTS:**

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<tr>
<th>PROJECT SHELL CONSTRUCTION COSTS:</th>
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<td>Office Supply Inventory</td>
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<td>Kitchen Equipment</td>
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<td><strong>TOTAL PROJECT COSTS:</strong></td>
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</table>
EXHIBIT “B”

MAP OF DISTRICT

Phase 1 / Project Area 2:
District includes Unit A (ground floor) only
EXHIBIT "C"

LEGAL DESCRIPTION OF DISTRICT

Project Area 2 / Phase 1:

Unit A, 39Rainbow Phase I, a condominium subdivision in Kansas City, Wyandotte County, Kansas.

Project Area 1 / Phase 2:

Lot 1, 39Rainbow II, a subdivision in Kansas City, Wyandotte County, Kansas.

AND, including:

All adjacent right-of-way.
In response to RFP No. R2406, the development firm of RH Johnson has requested a formal presentation of their downtown grocery store development, proposed for a site near 11th & State Avenue. The project calls for the creation of both a Tax Increment Financing District (TIF) and Community Improvement District (CID) to be established. The creation of each requires the setting of public hearing(s).

The development proposes the demolition of several vacant and blighted commercial structures and replaced by a new 40,000 sq/ft grocery store and separate retail pad site. The total capital investment is expected to be $11.5M. Staff will present a summary of the proposed deal points and financing structure as part of a TIF Plan, once project costs are finalized.

Action Requested:

Forward to 10/17/13 Full Commission meeting to consider the following:
1. Adopt resolution establishing a blight finding for the proposed district
2. Schedule a public hearing date for 11/21/13, to consider the creation of TIF and CID districts.

Budget Impact: (if applicable)

Amount: $
Source:
☐ Included In Budget
☐ Other (explain) Documents forthcoming
Staff Request for Commission Action

Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 9/30/2013

(If none, please explain):

Proposed for the following Full Commission Meeting Date: 10/17/2013

Confirm Date: 10/17/2013

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

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<tr>
<th>Date:</th>
<th>Contact Name:</th>
<th>Contact Phone:</th>
<th>Contact Email:</th>
<th>Ref:</th>
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<tbody>
<tr>
<td>9/25/2013</td>
<td>George Brajkovic</td>
<td>x 5749</td>
<td><a href="mailto:gbrajkovic@wycokck.org">gbrajkovic@wycokck.org</a></td>
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Item Description:

City Vision is proposing a multifamily project on UG owned property at 6th & Nebraska. The $8.6M project is for 49 units (42 LIHTC, 7 market rate). The largest source of funding is from LIHTC, which received a Resolution of Support from Full Commission on 07/25/13, and represents approximately $6M of the funding for the project. The tax credits won’t be allocated by the State until April 2014. Of the remaining revenue funds, the project is requesting TIF ($310k), a loan from LISC ($650k) to cover the revenue gap, and carrying a private mortgage ($1.6M). The Developer is asking for commitment from the UG to create a TIF District and issue TIF bonds; UG guarantee the LISC loan (pay off within 3 years); gift the UG land, survey and replat the property (parcel currently houses the Willa Gill Center); a 1 year right-of-first refusal for the UG owned site at 600 State Ave.

A funding source to service/pay-off the LISC loan has not been identified/committed.

Action Requested:
Staff and Developer will present the project in detail.

Publication Required

Budget Impact: (if applicable)

Amount: $
Source:
  - Included In Budget
  - Other (explain)

6th Nebraska site aerial.JPG
JPEG Image
388 KB

File Attachment
6th and Nebraska

Section 42 Application Submittal
Staff Request for Commission Action

Tracking No. 130334

Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 9/30/2013

Proposed for the following Full Commission Meeting Date: 10/17/2013

Confirmed Date: 10/17/2013

Proposed structure should offset any additional expense or project backing by the UG. The additional property and sales tax CID will support the revenue flow required for existing debt payments.
FIRST AMENDMENT TO WYANDOTTE PLAZA
REDEVELOPMENT AGREEMENT

This FIRST AMENDMENT TO WYANDOTTE PLAZA AGREEMENT (the "First Amendment") is made and entered into as of this ____ day of October, 2013, by and between the Unified Government of Wyandotte County/Kansas City, Kansas (the "UG") and Legacy Wyandotte, LLC, a Kansas limited liability company (the "Developer").

RECITALS:

A. The UG and Developer have previously entered into that certain Wyandotte Plaza Redevelopment Agreement dated as of July 27, 2012 (the "Agreement"). All capitalized terms which are not otherwise defined herein shall have the meanings assigned to them in the Agreement.

B. On or about February 24, 2012, Bellemore Homes, Inc., as predecessor-in-interest to Developer, submitted the CID Petition, which CID Petition called for a CID sales tax of 1.0% in connection with the Project, but also specifically stated that the petitioner did not propose to finance the Project with levying of any CID special assessments. The CID Petition was approved by the UG on May 17, 2012.

C. Section 4.3 of the Agreement sets forth the terms and conditions governing the imposition and collection of a 1% CID sales tax, but the Agreement does not contemplate any CID special assessments.

D. The parties now desire to modify the Agreement to specifically allow Developer the right to pledge to the holder (the "Lender") of Developer's Permitted Mortgage in the original principal amount of $2,700,000 (the "Loan") the original one-percent (1%) portion of the CID Sales Taxes prior to the Initial Bond Refinancing.

E. The parties also desire to amend the Agreement to provide for: (i) the levy of CID special assessments in certain circumstances, as more particularly set forth herein, and (ii) if necessary, the increase of the CID Sales Tax by up to an additional .50%, as more particularly set forth herein.

F. On or about __________, 2013, Developer submitted to the UG an amended CID petition (the "Amended Petition"), which Amended Petition provides for the levy of CID special assessments and, if necessary, increase the CID Sales Tax in certain circumstances, as more particularly set forth in Section 5 thereof.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree that the Agreement is hereby modified and amended as follows:
1. **Incorporation of Recitals.** The parties hereby agree that the Recitals set forth above are hereby incorporated as though more fully set forth herein.

2. **Pledge of CID Sales Taxes.** Notwithstanding anything set forth in Section 4.2 or the balance of the Agreement to the contrary, the UG hereby understands and agrees that Developer may pledge to Lender its rights in, and access to, the portion of CID Sales Taxes generated by the original one-percent (1%) CID sales tax rate (the “Original CID Sales Tax Portion”), which would otherwise be payable to Developer on a pay-as-you-go basis.

3. **Initial Bond Refinancing; CID Special Assessments.** If and to the extent that the pledge of net revenues from the NRA Rebates and Sales Tax Rebates are insufficient to fully refinance the Initial Bonds and release the UG’s annual appropriation pledge (defined as the "Initial Bond Refinancing" as set forth in Section 4.2(d)), then the UG may, in its discretion, levy a CID special assessment on the property within the District on a per-square-foot-basis pursuant to the terms of the Amended Petition and K.S.A. Section 12-6a30 (the "CID Assessments"). The amount of any such CID Assessments shall be equal to the estimated debt service on the CID Bonds for the following year. Developer hereby agrees that it, and its successors and assigns hereby consent to any CID Assessments, regardless of the benefits to be received by any owner of property within the District and Developer hereby waives is right to prepay the CID Assessments and/or the right to challenge the method of assessments for the CID Assessments.

   3.1. However, if and to the extent that such CID Assessments would exceed an amount equal to 150% of the ad valorem property taxes for the District, then the UG shall increase the CID Sales Tax by an amount not to exceed .50% to generate additional CID Sales Taxes above and beyond the Original CID Sales Tax Portion (the “Additional CID Sales Tax Portion”). In the event that the UG shall increase the CID Sales Tax as set forth herein, then CID revenues shall be drawn equally from the Additional CID Sales Tax Portion and CID Assessments to cover any shortfall required to accomplish the Initial Bond Refinancing. The UG and Developer shall use best efforts to size the Additional CID Sales Tax Portion and CID Assessments such that the aggregate additional annual revenues therefrom shall not exceed the amount of any projected gap and shortfall in the amount needed to pay off Initial Bonds, and release the UG’s annual appropriation pledge (as set forth in Section 4.2(d)). Developer hereby agrees that it, and its successors and assigns hereby consent to any Additional CID Sales Tax Portion, regardless of the benefits to be received by any owner of property within the District.

   3.2. In connection with the foregoing, the parties hereby agree that:

   a. A new definition for "CID Taxes" shall be added to Annex 1 to the Agreement: "CID Taxes" shall be deemed to mean, collectively, CID Sales Taxes (including any additional CID Sales Taxes as set forth in Section 3.1 above) and CID Assessments (as defined in Section 3 of the First Amendment to the Agreement).

   b. Any references within the following Sections in the Agreement to "CID Sales Taxes" shall be amended to "CID Taxes": Section 4.3(b), Section 4.3 (e), Section
4.3(f) and the first sentence (and only the first sentence) of Section 4.3(h), Section 4.3(i), Section 4.6.

c. All references in the Agreement to the "CID Sales Tax Fund" shall be modified to "CID Fund", which CID Fund shall, in addition to the CID Sales Taxes generated within the District, include any revenues from the CID Assessments.

d. The definition of "CID Bonds" in Annex 1 to the Agreement shall be modified and amended to read as follows:

"CID Bonds" means those notes or bonds issued in one or more series and payable, in whole or part, from all or a portion of the CID Sales Taxes or CID Assessments, if any, as described herein.

e. The parties understand and agree that any use of CID Sales Taxes or CID Assessments may cause any bonds issued in connection with the Initial Bonds Refinancing to be taxable.

4. Countersparts. This First Amendment may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

5. Full Force and Effect. Except as modified and amended by this First Amendment, the Agreement shall remain in full force and effect in accordance with the respective terms thereof. The provisions of this First Amendment shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

UG:  

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By:  

Mark Holland, Mayor/CEO
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

DEVELOPER: LEGACY WYANDOTTE, LLC, a Kansas limited liability corporation

By: ________________________________
Printed Name: ________________________________
Title: ________________________________