

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, AUTHORIZING A HOME RULE ECONOMIC DEVELOPMENT GRANT TO KCK 501 MINNESOTA ALL, INC., A KANSAS NON-PROFIT CORPORATION; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS TO FUND THE GRANT; AUTHORIZING A GROUND LEASE AND LEASE AGREEMENT WITH KCK 501 MINNESOTA, INC., A KANSAS NON-PROFIT CORPORATION; AND AUTHORIZING VARIOUS OTHER DOCUMENTS AND ACTIONS, ALL FOR THE PURPOSE OF OBTAINING NEW MARKET TAX CREDITS IN CONNECTION WITH THE DOWNTOWN GROCERY PROJECT.**

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**WHEREAS**, pursuant to Article 12, § 5 of the Constitution of the State of Kansas, the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”) previously passed Charter Ordinance No. 03-09 (the “Charter Ordinance”) relating to certain improvements in the City of Kansas City, Kansas (the “City”), including the acquisition or construction of public buildings and the acquisition of land therefor, and the issuance of general obligation bonds of the Unified Government to finance the costs thereof; and

**WHEREAS**, after publication of the Charter Ordinance according to the law and expiration of the prescribed protest period with no sufficient protest, the Charter Ordinance became effective; and

**WHEREAS**, Article 12, § 5 of the Constitution of the State of Kansas (the “Home Rule Amendment”) empowers cities to determine their local affairs and government and provides that such power and authority granted thereby to cities shall be liberally construed for the purpose of giving to cities the largest measure of self-government; and

**WHEREAS**, the Unified Government, acting in its capacity as a city of the first class, is a city within the meaning of the Home Rule Amendment; and

**WHEREAS**, the governing body of the Unified Government has considered the needs of the City for a downtown grocery store, and associated infrastructure for the stimulation and fostering of economic development in the City and its environs in order to enhance and provide for the general and economic development and welfare of the City and its citizens; and

**WHEREAS**, the Unified Government will develop, construct, equip and acquire an approximately 14,000 square foot grocery store generally located at 5<sup>th</sup> & Minnesota Avenue in the City (the “Project”); and

**WHEREAS**, the Project when constructed will be owned by the Unified Government and operated by The Community Mercantile, Inc. (“The Merc”) pursuant to that certain Grocery Store Management Agreement by and between the Unified Government and The Merc dated August 30, 2018; and

**WHEREAS**, the total costs of the Project are approximately \$7,000,000, with not to exceed \$5,500,000 of such funds provided by Unified Government funds and the balance of such funds to be provided by New Market Tax Credits to be obtained by or on behalf of the Unified Government in connection with the Project; and

**WHEREAS**, the Unified Government hereby finds and determines that it is necessary and advisable to issue general obligation bonds and/or temporary notes in an amount not to exceed \$5,500,000 to pay and provide for the costs of a portion of the Project, including making an economic development grant of such funds to a KCK 501 Minnesota ALL, Inc., a Kansas non-profit corporation, for the purpose of obtaining New Market Tax Credits, all for use in connection with the Project; and

**WHEREAS**, the Unified Government hereby finds and determines that it is necessary and advisable to authorize certain other documents and actions as necessary to obtain New Market Tax Credits for use in connection with the Project.

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

**Section 1. Authorization.** The governing body of the Unified Government hereby finds and determines pursuant to the Home Rule Amendment and the Charter Ordinance that it is necessary and appropriate for the Unified Government to provide for the acquisition, construction and equipping of the Project as described above, and to issue general obligation bonds and/or temporary notes in an amount not to exceed \$5,500,000 to pay and provide for the costs of a portion of the Project, including making an economic development grant to KCK 501 Minnesota ALL, Inc., a Kansas non-profit corporation for the purpose of obtaining New Market Tax Credits, all for use in connection with the Project. The governing body of the Unified Government further finds and determines that the Project and the proposed financing thereof will stimulate and foster economic development in the City and its environs in order to enhance and provide for the general and economic development and welfare of the City and its citizens.

The following documents are hereby approved in substantially the forms presented to the governing body of the Unified Government at this meeting, and the Unified Government is hereby authorized to execute and deliver each of such documents (the “NMTC Documents”) with such changes therein as shall be approved by the officer or officers of the Unified Government executing such documents, such officers’ signatures thereon being conclusive evidence of their approval and the Unified Government’s approval thereof:

(a) Base Lease Agreement dated as of the date stated therein (the “Base Lease”), between the Unified Government, as lessor and KCK 501 Minnesota, Inc., as lessee.

(b) Lease Agreement dated as of the date stated therein (the “Lease Agreement”), between KCK 501 Minnesota, Inc., as lessor the Unified Government, as lessee.

(c) Community Benefits Agreement dated as of the date set forth therein (the “Community Benefits Agreement”) among the Unified Government, KCK 501 Minnesota ALL, Inc., KCK 501 Minnesota, Inc., and the other parties named therein.

**Section 2. Reimbursement.** The Unified Government may make expenditures related to the Project prior to the issuance of general obligation bonds and/or temporary notes described in Section 1 hereof, and the proceeds of such general obligation bonds and/or temporary notes may be used to reimburse expenditures made on or after the date which is 60 days before the date of this Ordinance, pursuant to Treasury Regulation §1.150-2.

**Section 3. Reallocation of Series 2019-I Temporary Notes.** The Unified Government has previously authorized the issuance of its Municipal Temporary Notes, Series 2019-I (the “Series 2019-I Notes”) pursuant to Resolution No. R-4-19. Resolution No. R-4-19 allocated a portion of the Series 2019-I

Notes to the Downtown Grocery Store project as previously authorized by Resolution No. R-52-18 (the “Downtown Grocery Store Project”). Pursuant to Section 504(a) of Resolution No. R-4-19, upon the effective date of this Ordinance, the Unified Government hereby authorizes the substitution of improvements to be financed with proceeds of the Series 2019-I Notes. Specifically, the Unified Government authorizes the reallocation of up to \$2,200,000 of proceeds of the Series 2019-I Notes from the Downtown Grocery Store Project to the purpose of making the economic development grant specified in Section 1 of this Resolution.

**Section 4. Execution of Documents and Further Authority.** The Mayor/CEO of the Unified Government is hereby authorized and directed to execute the NMTC Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, with such changes as the Mayor/CEO deems necessary or appropriate, for and on behalf of and as the act and deed of the Unified Government. The Unified Government Clerk is hereby authorized and directed to attest to and affix the seal of the Unified Government to the NMTC Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance. The Mayor/CEO, County Administrator, Chief Financial Officer, Chief Counsel, Unified Government Clerk and other Unified Government officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

**Section 5. Effective Date.** This Ordinance shall be effective from and after final passage by the governing body, approval and signature by the Mayor and publication once in the official Unified Government newspaper.

**PASSED** by the governing body of the Unified Government of Wyandotte County/Kansas City, Kansas, on June 13, 2019 and **APPROVED AND SIGNED** by the Mayor/CEO.

(SEAL)

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Mayor/CEO

ATTEST:

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Unified Government Clerk