Economic Development and Finance
Standing Committee Meeting Agenda
Monday, July 8, 2019
Immediately upon adjournment of earlier committee

Location:
Municipal Office Building
701 N 7th Street
Kansas City, Kansas 66101
5th Floor Conference Room (Suite 515)

Name	Absent
Commissioner Tom Burroughs, Chair	☐
Commissioner Brian McKiernan	☐
Commissioner Gayle E. Townsend	☐
Commissioner Ann Brandau-Murguia	☐
Commissioner James Walters	☐
Jeff Bryant, BPU Member	☐

I. **Call to Order/Roll Call**

II. **Revisions to July 8, 2019 Agenda**

III. **Approval of standing committee minutes from April 29, 2019.**

IV. **Committee Agenda**

Item No. 1 - REPORT: FIRST QUARTER BUDGET TO ACTUALS
Synopsis: First Quarter 2019 Budget to Actuals Report, submitted by Kathleen VonAchen, Chief Financial Officer; and Reginald Lindsey, Budget Manager.

For information only.
Tracking #: 19846

Item No. 2 - REPORT: FIRST QUARTER BUDGET REVISIONS
Synopsis: First Quarter Budget Revision Report, submitted by Reginald Lindsey, Budget Manager.

For information only.
Tracking #: 19847

Item No. 3 - RESOLUTION: FIRE APPARATUS LEASE PURCHASE TURN-IN AGREEMENT WITH PNC EQUIPMENT FINANCE, LLC
Synopsis: A resolution authorizing the UG to enter into one or more lease purchase

agreements with PNC Equipment Finance, LLC, the proceeds of which will be used to pay the costs of acquiring six fire apparatuses, submitted by Kathleen VonAchen, Chief Financial Officer.

It is requested that this item be fast tracked to the July 11, 2019 full Commission meeting.
Tracking #: 19802

Item No. 4 - RESOLUTION: NRA SPECIAL PROJECT APPLICATION
Synopsis: A resolution approving an NRA Special Project Application for the renovation and revitalization of the former YMCA building at 900 North 8th Street, submitted by Katherine Carttar, Director of Economic Development.

It is requested that this item be fast tracked to the July 11, 2019 full commission meeting.
Tracking #: 19817

Item No. 5 - ORDINANCE/RESOLUTION: HOME RULE ECONOMIC DEVELOPMENT INCENTIVE AND DEVELOPMENT AGREEMENT FOR THE BOULEVARD LOFTS PROJECT
Synopsis: Ordinance and Resolution approving and adopting a Home Rule Economic Development Incentive and adopting the development agreement for the Boulevard Lofts Project, submitted by Katherine Carttar, Director of Economic Development.
Tracking #: 19850

Item No. 6 - RESOLUTION: SMALL BUSINESS UPDATE AND AMEND UG SMALL BUSINESS GRANT PROGRAM
Synopsis: A resolution amending the UG Small Business Incentive Matching Grant Program, submitted by Katherine Carttar, Director of Economic Development.
Tracking #: 19851

Item No. 7 - RESOLUTION: KC FOODIE PARK DEVELOPMENT AGREEMENT
Synopsis: A resolution approving the development agreement for the KC Foodie Park Logistics Center, submitted by Katherine Carttar, Director of Economic Development.
Tracking #: 19856

Item No. 8 - ORDINANCE: TERMINATE 2007 MIDTOWN TIF PROJECT PLAN
Synopsis: An ordinance terminating the Redevelopment Project Plan for the Midtown Redevelopment District, repealing Ordinance No. O-29-07, submitted by Katherine Carttar, Director of Economic Development.
Tracking #: 19858

Item No. 9 - RESOLUTION: SETTING A PUBLIC HEARING DATE REGARDING MIDTOWN REDEVELOPMENT DISTRICT

Synopsis: A resolution setting a public hearing date of August 29, 2019, to consider the following actions, submitted by Katherine Carttar, Director of Economic Development.

- Division of the Midtown Redevelopment District into four redevelopment project areas
- Amend the redevelopment district plan
- Adopt Project Area 1 Redevelopment Project Plan

Tracking #: 19859

V. **Public Agenda**

VI. **Adjourn**

ECONOMIC DEVELOPMENT AND FINANCE
STANDING COMMITTEE MINUTES
Monday, April 29, 2019

The meeting of the Economic Development and Finance Standing Committee was held on Monday, April 29, 2019, at 6:27 p.m., in the 5th Floor Conference Room of the Municipal Office Building. The following members were present: Commissioner Burroughs, Chairman; Commissioners McKiernan, Townsend, Walters; and Jeff Bryant, BPU Board Member. Commissioner Murguia absent. The following officials were also in attendance: Gordon Criswell and Melissa Sieben, Assistant County Administrators; Patrick Waters, Senior Attorney; Kathleen VonAchen, Chief Financial Officer; Chris Slaughter, Land Bank Manager; Angie Lawson, Deputy Chief Counsel; Alan Howze, Knowledge Director; Reginald Lindsey, Budget Manager; Wendy Green, Assistant Counsel; Katherine Carttar, Director of Economic Development; Andrea Parra, Deputy County Treasurer; Tib Laughlin, Director of General Services; and Jay Doleshal, Sergeant-At-Arms.

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

Approval of standing committee minutes from March 4, 2019. **On motion of Commissioner McKiernan, seconded by Commissioner Townsend, the minutes were approved.** Motion carried unanimously.

Committee Agenda:

Item No. 1 – 19716…RESOLUTION: SECOND AMENDMENT TO LEGENDS WEST LAWN DEVELOPMENTAGREEMENT

Synopsis: A resolution adopting the Second Amendment to Legends West Lawn Development Agreement, submitted by Katherine Carttar, Director of Economic Development. The amendment extends the date of completion for the West Lawn project from March 31, 2019 to June 30, 2019. Original Development Agreement approved February 8, 2018. First Amendment approved January 4, 2019.

Katherine Carttar, Director of Economic Development, said this is a resolution adopting a second amendment to the Legends West Lawn Development Agreement. We had come before you back in January to ask for a bit of an extension. Then I believe you're all aware of the horrendous weather we had this fine winter, which put a pretty big damper on construction moving forward. The Legends folks have requested an extension to June 30th.

Rendering

I would like to quickly show you kind of where this is, what the final process will look like, but did want to assure you that things are moving along.

As you can see, this is just taken today. There is lots of construction going. They're moving fast and furiously and hope to, certainly, exceed the June 30th date that we're requesting the extension for. Also, Mark, Sherwin, here, is from the Legends and is here to answer any questions you have about the progress as well as what the final product will look like.

Chairman Burroughs said I will state that Commissioner Walters and myself went out and visited the site and had a meeting. I do see that additional construction has occurred since our meeting just 7 to 10 days ago. **Mark Sherwin, Legacy Development**, said yes. **Chairman Burroughs** said the weather has been a tremendous factor. I see the pool that you're putting in. **Ms. Carttar** said you can tell that was today. **Mr. Sherwin** said we have some weather that's coming in this week that's going to put a damper on some things, but we're working through it. I'm meeting with our contractor. We've got on-site supervision. I try to be at the project as many as two to three times during the week. Even with the horrendous weather, we still got our work cut out for us and I want to make sure that we stay on track and meet our commitment.

Chairman Burroughs asked do you believe the timeframe is concise enough for you to meet the deadline. **Mr. Sherwin** said yes. **Chairman Burroughs** asked despite the monsoon. **Mr. Sherwin** said yes, despite the monsoon. Of course, we all can't predict mother nature, but as long as we don't continue to have weeks of rain like we're going to have this week, I don't see a problem. We're pushing ahead and trying to push to get more crews out there as well. **Chairman Burroughs** said thank you for your due diligence and seeing the project done on time.

Action: **Commissioner Walters made a motion, seconded by Commissioner McKiernan, to approve.** Roll call was taken on the motion and there were five "Ayes," Burroughs, McKiernan, Townsend, Walters, Bryant.

Item No. 2 – 19719…RESOLUTION: TURNER LOGISTICS DEVELOPMENT AGREEMENT

Synopsis: A resolution adopting and authorizing approval of the development agreement for the Turner Logistics Center, submitted by Katherine Carttar, Director of Economic Development.

Katherine Carttar, Director of Economic Development, said I'm going to ask Brett Miles from North Point to come up and we're going to give you a little presentation of a project that we're really excited about at Turner Diagonal, and just kind of give you some updates of where we are and some specifics about this project and development agreement that we hope to have approved.

Brent Miles, NorthPoint Development, said we've been excited about this project for some time. It's been a roller coaster. We were denied multiple times federal funds. A lot of hard work and determination and probably some luck, I guess and we've pulled it off. Tonight, as I've been joking with Katherine, we're almost to the starting line.

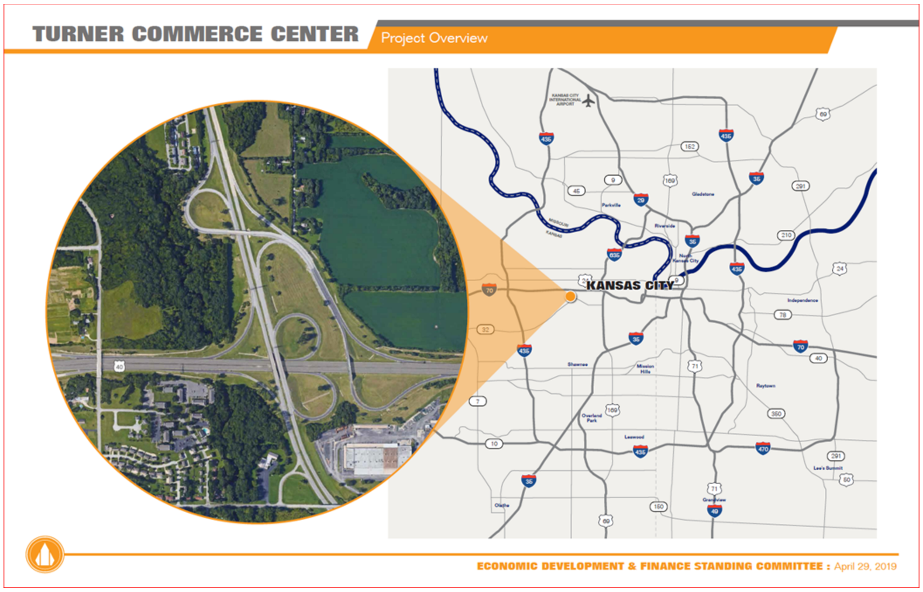
For many of you know us. We've obviously did the redevelopment of the former GM plant in Fairfax. We did the redevelopment of the public levy, in the Fairfax District. Commissioner Townsend, I think, you and I toured that one multiple times.

We were set for a logistics park in this area and that ultimately became a land sale to Amazon, as many of you may remember. We had bought the land for Amazon from Country Club Bank out of foreclosure. It was a failed residential development. Those of you have heard me say it multiple times, it took me a lot of work to get it. I didn't want to sell it, but when Amazon came along with 4,000 jobs, as you know, I have a near and dear place in my heart for this community.

We sold the land that became Amazon and immediately began by purchasing land to the north of that, North of I-70. We didn't have an interchange and so we did a little bit backwards; bought land without infrastructure and then fought really hard to get the federal grant and great match with the Unified Government and KDOT.

A little bit about us. Many of you know me but since our inception, we were started about eight years ago, which is when I left here from Wyandotte County. We've grown up a little bit. We're the second largest industrial landlord in the United States. We have 62M sq. ft. that we own in 15 states. We have about 164 industrial clients across the country. I wake up and I don't even believe it myself. We're the largest landlord to General Motors across the United States, largest landlord to Chewy.com, Adidas, Patagonia, Caterpillar, you can see the list of clients there.

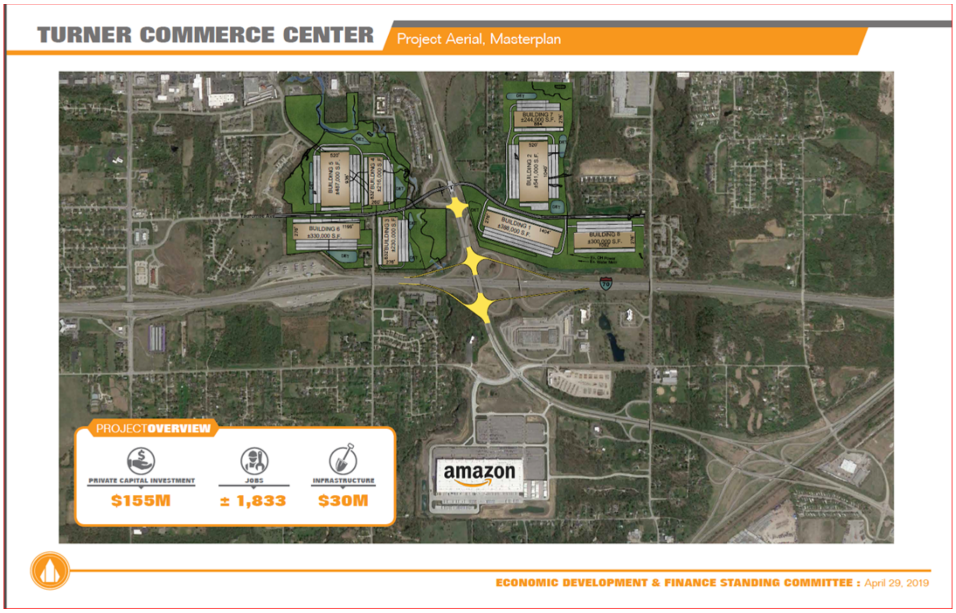
We go build a building and lease it and do a good job and be honest and then go do it again. I think the reason that I put this up here specifically is having a national developer with this park, we would be reaching out to our whole list of 164 customers from across the US and say, if you're thinking about Kansas City, here's a new park that you may not know is coming on line. I think that this park, from the logistics and labor standpoint, could really hit the niche for a lot of these companies that are looking for new homes and second homes and third homes. We're excited about the project.



Many of you know, again, I just use the simple terms. The spaghetti bowl is what I call the exciting Turner infrastructure that's there now.

With the new federal grant, that becomes a clean diversion diamond interchange. All of that existing infrastructure and spaghetti will go away. That was, obviously, historically related to the toll system. Many of you who grew up here know the history of that and when it moved. It kept moving west.

We're pleased that this is going to be coming out and we've got new infrastructure going in.



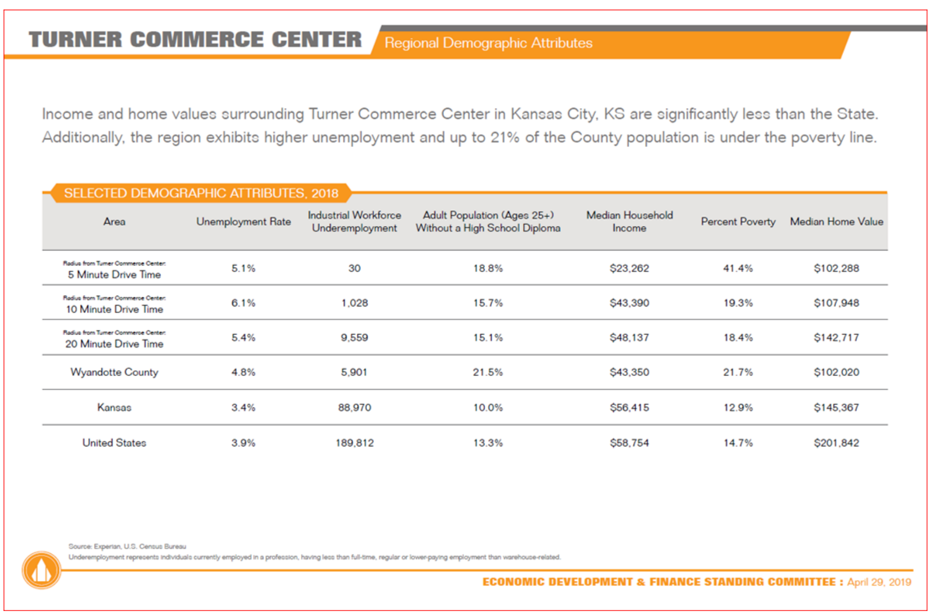
Obviously, you can see the Amazon aerial there, but there is our plan. It's about $150M investment from us, that doesn't count what the tenants put inside the building, so much greater than $155M. We're conservative, we think, with our estimates on permanent jobs at 1,800 permanent jobs. That would obviously include more than that with construction jobs. Then the infrastructure, you're right around $30M to $32M with the federal grant, the KDOT match, and then Katherine will talk about the UG portion and how we're repaying that over time to meet the local match here as well.

The park is about 2M sq. ft. We estimate that'll take somewhere between five and seven years to build out. Again, having an intimate knowledge of this community, I can only think of a few projects, maybe others can correct me, I'd say, east of probably 78th St., this large KU Med, GM, obviously Amazon sitting right here. This would be in probably the top four or five. There would probably be those who debate me, but this is in a highly distress censes tract that I consider as urban. You'll see that here in some slides that I have. This is a significant capital investment and job creator for this area.

Those of you who have driven by Kaw Point, you know what these building look like. These are what I call institutional grade Class A, concrete tilt buildings. These are pictures taken from Riverside Horizons, which is a similar size park that we have on the Missouri side.

These are out at LPKC Logistics Park. These are much, much bigger buildings than what we propose here at Turner.

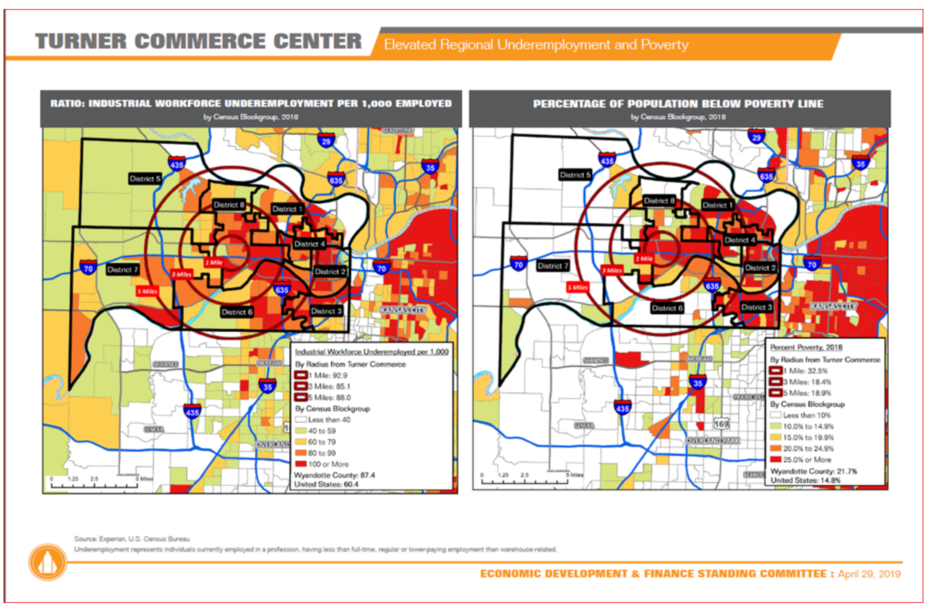
Obviously, you have a policy that rewards. There's bonus provisions in your policy. Obviously, we're hitting the capital investment of above $50M. We've blown past that. This is in a highly distress census tract. We've agreed to the maximum bonus for the local minority women, which we've had a great track record in Wyandotte County with all our projects from the apartments at Village West, down into our redevelopment projects in Fairfax, and then we're meeting the environmental designs, sustainability, development criteria, as well.



Area	Unemployment Rate	Industrial Workforce Underemployment	Adult Population (Ages 25+) Without a High School Diploma	Median Household Income	Percent Poverty	Median Home Value
Radius from Turner Commerce Center: 5 Minute Drive Time	5.1%	30	18.8%	$23,262	41.4%	$102,288
Radius from Turner Commerce Center: 10 Minute Drive Time	6.1%	1,028	15.7%	$43,390	19.3%	$107,948
Radius from Turner Commerce Center: 20 Minute Drive Time	5.4%	9,559	15.1%	$48,137	18.4%	$142,717
Wyandotte County	4.8%	5,901	21.5%	$43,350	21.7%	$102,020
Kansas	3.4%	88,970	10.0%	$56,415	12.9%	$145,367
United States	3.9%	189,812	13.3%	$58,754	14.7%	$201,842

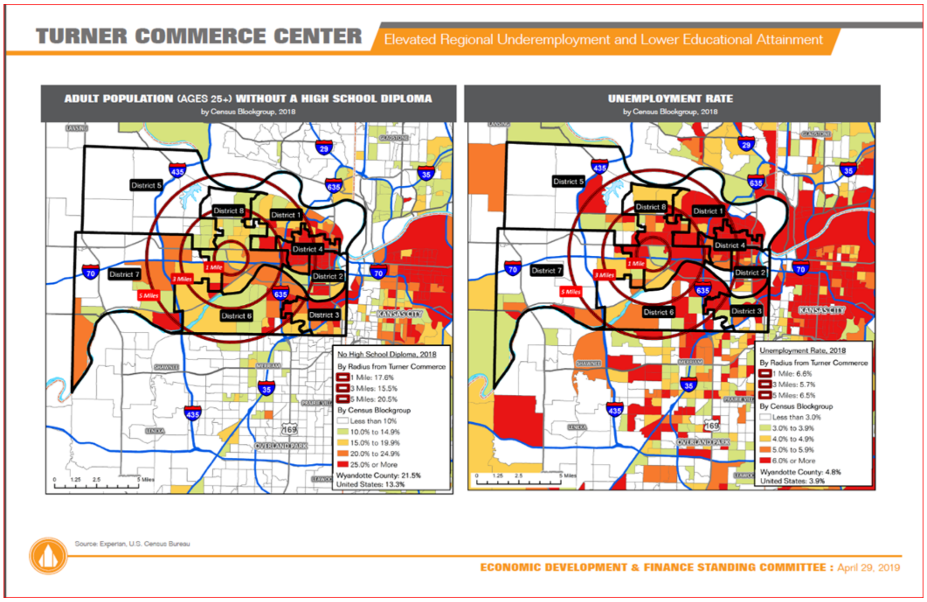
This is important to me. We think Turner has—everybody says in our world, it doesn't have a good labor score and a good labor score means availability. I think you've probably heard some updates from Greg Kindle and his group about Amazon's, local hire, total number of jobs, total number of applicants to jobs. I thought this was an interesting stat for us which was that 5, 10, and, 20-minute drive. Just the census tracts around us and the industrial workforce, unemployment, underemployment.

I think Amazon's sitting right around 750 local employees, is what Greg had mentioned to me. So, if you think about that 10-minute drive and what we can potentially do with our project, obviously, our project is going to affect those with manufacturing will pay higher, but let's say even on the low scale, you're talking about wages probably in that $14 to $18 an hour job. Again, personally, knowing the community, there's a lot of folks who are working two part-time jobs working fast food, underemployed, maybe trying to be students as well. That's a real niche for a lot of these jobs here which is if you can go from $8 to $18 an hour, what impact does that have on your home, on your education, on your house.

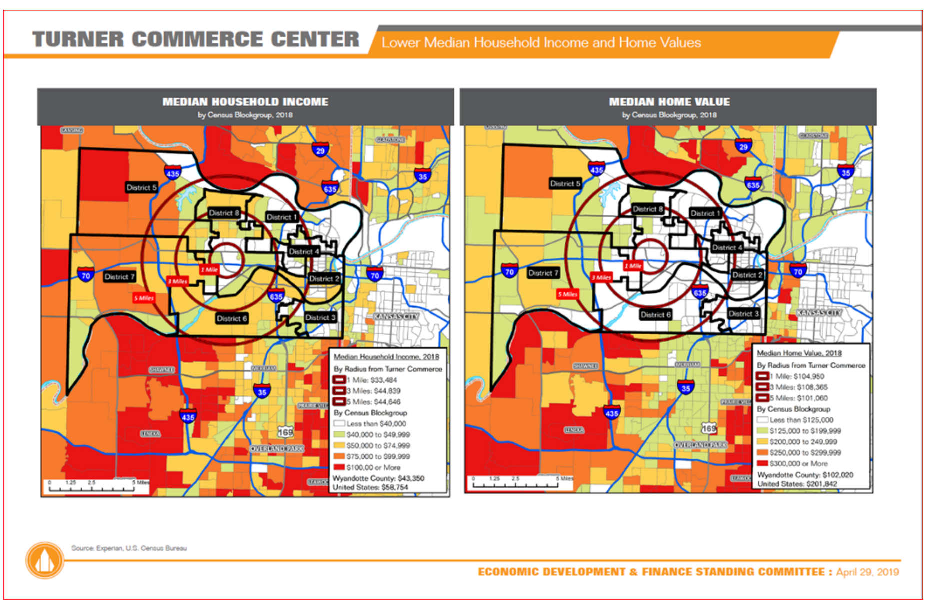


I'll share these, I don't want to waste more of your time with this, but I think it was interesting. We sit in a really unique place of where we're at with the two at-large districts. Obviously, we know the boundaries of those. If you look at that 5, 10, 15 and 20-minute ring, how it really affects almost all districts in terms of who are folks from Wyandotte County who are going to be working in these facilities.

We're sitting really at the epic center of great transportation. Obviously, you and the transit authority, or whatever you want to call it, done made great strides for the bus transit system which will, obviously, we'll be able to take advantage of here with this site.

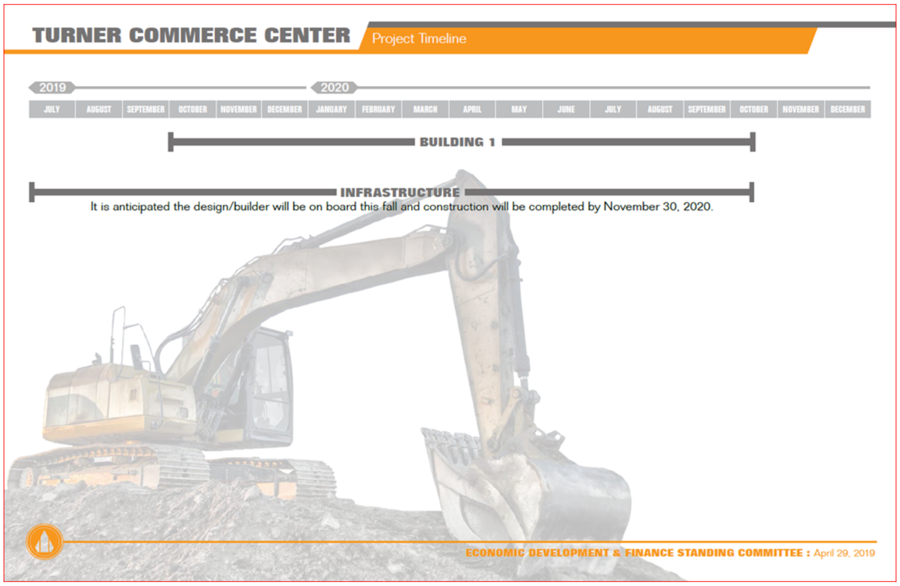


I think one other thing is how it plays into the community college. We'll have a lot of people sitting here that will need training and trying to complete their degree with these jobs.



Again, we can share these and go in depth. I'd be happy to meet with each one of you, but we've drawn a lot of labor and data statistics on each one of your districts and kind of, what we think, our impact will be in terms of jobs and what that means, obviously. We're a big believer in one of the best social programs is a job and pride and what that means.

Then, maybe talk a little bit about the infrastructure. While we're here tonight, and Katherine can talk about this a little bit in her deal points is, we're waiting on that commitment from the UG so that we can get the federal funding in place.

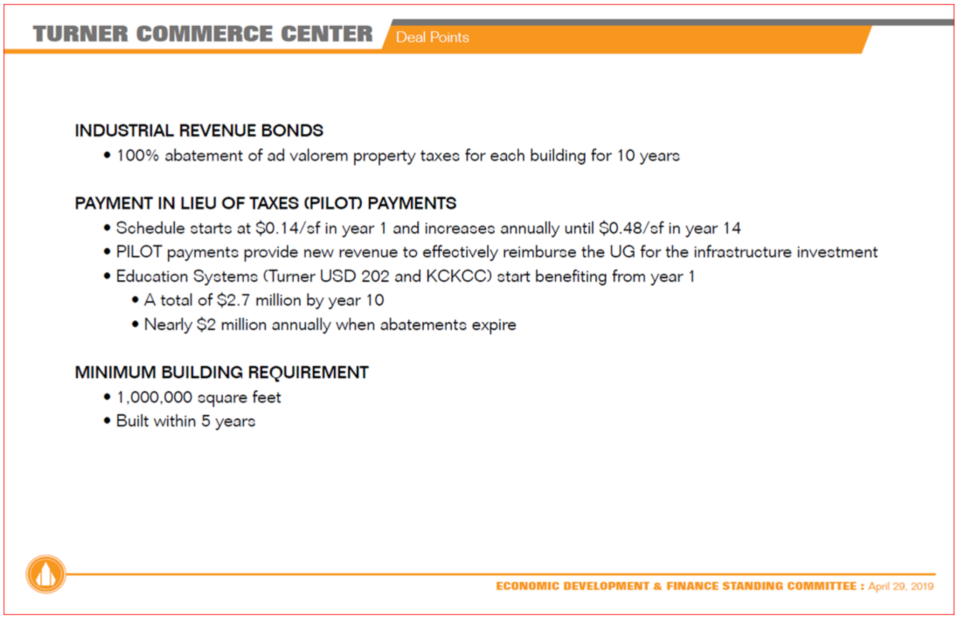


When I say that I had lost hope, I'd been to DC five or six times literally, lobbying, lobbying and lobbying for this interchange. I just did not think it was going to happen. I won't share anymore political views, but I just didn't think it was going to happen.

To get the award, honestly, in my career, was one of my top five days of my whole career when I got the call that said, we've got the award. It was really surprising to me. I did not know what we we're going to do.

Timeline wise is that we'll be working directly with the UG and KDOT so that we'll time the opening of the first building with the opening of the interchange so that when that thing is open, our building will be ready. We'll start marketing and prospecting first thing this summer and into the winter so that we're already trying to fill companies for building one. Hopefully, we've got enough traction that maybe we're doing more than one or one or two buildings right off the start for when that interchange opens.

Ms. Carttar said I get the fun, dry part. That's all the pretty slides. I just hit the deal points.



What we are doing tonight is requesting resolution to adopt and authorize the approval of the development agreement for the Turner Logistic Center. Just to go over kind of what that means in terms of how we are making this deal happen. We're looking at industrial revenue bonds. That would be 100% abatement of the ad valorem property tax for each building for 10 years. However, I want to be clear what that means. We will also have a payment in lieu of taxes. While it is 100% abatement, NorthPoint will be paying a per sq. ft. tax, basically. It's not technically a tax because it's a payment in lieu of tax. The schedule starts at $0.14 per sq. ft. in year one and increases annually until year 14 when they're at $0.48 per sq. ft. This is not an insignificant amount.

What we really like about how this deal works is there's a lot of motivation for NorthPoint to get these buildings going quickly. Which then, also, is beneficial to us because then the faster they're built, the faster they're on the tax rolls. I think this is one of those agreements that, I think, really is mutually beneficial. What we are looking at when we came up with that schedule is with the infrastructure, the Unified Government is kind of fronting $7.5M for that. $13.8M will come from the federal government. NorthPoint is putting in $1.5M, KDOT $7.5M and the Unified Government $7.5M.

This is an infrastructure project that probably should have been done 40 years ago when the toll booths were moved by the Turnpike Authority. We're excited that this is something that's a long time coming. By having it paired with this project, we're kind of able to automatically have a revenue generator so that over the coming years, we can actually kind of pay ourselves back.

Not only are we getting good jobs, a lot of investment, we also get a new interchange paid for.

Also, with the payment in lieu of taxes, those get split between all the taxing jurisdictions as a normal property tax would. Another really positive thing about this is from the first year, Turner School District, as well as KCK Community College, will be benefiting from this project. I calculated in, by year 10, if we stay on the schedule that's proposed, the education systems will receive $2.7M. Then once all of the buildings are off from year one, they'll start receiving money. Then, once all the abatements have expired, then they'll actually be getting nearly $2M annually which is a significant amount of money.

Commissioner McKiernan said I just want to make sure that I understand. In terms of the construction of the new interchange. **Ms. Carttar** said yes. **Commissioner McKiernan** said you said we're going to put in $7.5M into that construction, but the PILOT will effectively go to make our bond payment on that $7.5M. Is that how I understand it? **Ms. Carttar** said yes.

Ms. Carttar said then finally, we have worked into the deal a minimum building requirement. We feel very confident that NorthPoint has always kind of exceeded expectations and certainly met them at the very least. This is just something that we like to put in to make ourselves feel better, just in case there some catastrophic something, I don't even want to say it. We're looking at a minimum building requirement of a million sq. ft. built within five years.

Commissioner Walters asked how is the $0.14 per year PILOT calculated. **Ms. Carttar** said we basically looked at what we wanted to get out of this; the $7.5M and then, between Brent and I, worked on a number of different iterations of—in your packet, you can see the year-by-year of how the PILOT changes. That was determined as a good starting point as a place where Brent felt like he could get some early tenants in there. Then, also it increases pretty rapidly so that we make sure within a couple of years, we're getting some real payback. **Commissioner Walters** said it sounds like our goal was just to payback the cost of the interchange instruction. **Ms. Carttar** said through the PILOTs. Then, of course, at the end, it's about 15 years if it kind of works out, then, obviously, we'll get property tax.

Commissioner Walters asked how does $.14 per sq. ft. compare to other PILOTs for similar projects in other cities around this area. **Ms. Sherwin** asked would you like for me to answer that. **Ms. Carttar** said yes. **Commissioner Walters** said I'll defer. **Mr. Sherwin** said what we look at is we compare these two projects in size to Northland Park. Projects we have: Northland Park, Three Trails, and what we call Southview. Northland Park and Three Trails are in Kansas City, Missouri, Belton is in Southview. Our PILOT in Belton is $0.05, it's a 1% annual escalator, a much higher escalator. Northland Park and Three Trails are $0.08 year one, and they're fixed at $0.08 per ten years. Then they move to about the $0.48, $0.50 for year ten. At Northland Park, you're 13 at Three Trails. In Kansas you are limited to your fixed PILOT per building for 10 years. You're not limited to that on the Missouri side.

Commissioner Walters said those are a couple that are less. Are there any that are higher? **Mr. Sherwin** asked on fixed PILOT, Edgerton would be higher. I call it an apple to oranges comparison. We pay $0.62 PILOT in Edgerton, but that is a bond issuance fee that's calculated. The city uses that to pay off their portion. We refunded the money for the infrastructure there, which was last to guess, thirty something million, forty something million dollars, that is paid to the city and then repaid to repay the infrastructure for the bonds. Probably not a good comparison that's why I didn't use it.

Commissioner Walters said this at first blush, I'm a little disappointed as I think as maybe Commissioner McKiernan is. Yes, I love the project. It's going to be great for our community. It's disappointing that it will have so little impact to our overall tax structure or revenue structure. It'll just pay for replacing a bridge that we had to tear down and some improvements to the interchange that KDOT should have made, as you said, 40 years ago, when they took out all the toll booths. It's certainly good for the community to get development.

Ms. Carttar asked can I just follow up really quick. Just to be clear, those are kind of during the PILOT payments. Once we are out of that, ten years per building. Once we're done with that, then just the Unified Government's portion of that once this is all on the tax roll will be over a $1.5M annually. **Commissioner McKiernan** said I'll reiterate what Commissioner Walters just said. I have fussed quite a bit lately about projects where we get nothing out of it and yet, we are expected to provide infrastructure around the project; Public Safety surfaces around and to the project. It doesn't give us any capital to work with and improving other parts of our community. We take it just for the amenity value. In this case, the amenity is great, because we are going to get a lot of jobs.

As Commissioner Walters said, I'll say, you know what okay. At least we are going to get paid back. We're not going to be on the hook for the infrastructure improvements, specifically the diverging dime of the interchange. At least we're not going to be on the hook for that and I guess I'll take that. I do like the fact that we're looking at less than 20 years for this to graduate and for us to start getting the full tax revenue from this. At some point, we need something in addition to the jobs. We need something in addition to the amenities. We need some capital that we can use for the overall improvement of infrastructure and neighborhoods across the entirety of the Unified Government. I appreciate what you're doing because this is going to have a benefit from day one. It's not quite the economic financial benefit that I would ideally like to have but ultimately, I do think this is a good project.

Jeff Bryant, BPU Board Member, said first, I would imagine that we will at least only see sales tax revenue from the businesses that go in. **Mr. Miles** said you would see a limited amount of sales tax, probably the BPU PILOTs would be--that's something that probably should be calculated. We can bring that to full commission. There is a benefit there. Again, I hear you and I hear you, Commissioner.

This may insight a riot with you, but it is my opinion, so I at least want to say it. You did have an obligation for Riverview. You did have an obligation for Riverview and we went to KDOT and got out of that obligation. There was $7.5M that you were going to budget in the capital expenditure that you didn't have to budget. We did trade, I think we traded Amazon and no obligation out of you for a payment out of us. I know that's a big picture and I have a slanted view, but that is my opinion still. I can understand your perspective but I think Riverview—something had to be done as the Jersey barriers were about ready to fall off that thing. It's been a stretched-out timeline, but that is still the evolution of this project, in my opinion.

BPU Board Member Bryant said since you brought up the PILOT, the numbers up here are they separate and apart from any potential reduction of PILOT rate that the Commission would apply? **Mr. Miles** said yes. **BPU Board Member Bryant** said my hope would be that the PBU rate, the PILOT rate that is applied to the BPU bills, would come down over time. I know that they've been sitting higher and was actually promised to a lot of the rate payers in Wyandotte County for a few years. My hope would be that there will be a point that they will come down. When we had our rate increases, you guys saw the benefit of that increased revenue from that.

I know at the end of the day it's a total number of dollars that are brought in by all the different taxing sources in Wyandotte County. I think it's important that we really watch the PILOT rate. It can and it has a major impact on upon decisions of businesses to move into Wyandotte County. I'm hoping that those numbers are separate and apart so if the rate comes down, those numbers stay the same. **Ms. Carttar** said right. **Mr. Miles** said it gets really confusing that you use PILOT in the tax thing and BPU PILOTs is the same term but they are separate, yes. **BPU Board Member Bryant** said the PILOT fee. **Mr. Miles** said that's exactly right. **BPU Board Member Bryant** said if you'd like to look at it. Although it is a fee, many in the county don't look at it like that. **Mr. Miles** said yes.

BPU Board Member Bryant said my other question would be about the infrastructure and the infrastructure needs that will come from the BPU. To do a project like this, I know that on the northeast side of the interchange, there is no infrastructure in there for water and power that had been ran. There's going to be significant costs that are going to be board by the BPU for this project to get them to the land that NorthPoint is going to be working on.

Has the BPU staff already been involved in the early stages of this project and are aware of the costs that are going to hit us? I do not remember any of this ever being brought up in front of the Board as far as costs that we're going to be seeing and incurring. It's definitely not in our 2019 budget. **Mr. Miles** said yes, usually, with a project of this size. Continental is our engineer. They interact with BPU a lot. I know that they have been interacting with BPU over the interchange and this project.

Typically, because of the size of the users that we see here, we usually see a revenue justification. We pay, for example Village West, we pay for conduit. There isn't typically a cost born by you. Typically, a project this size generates enough power that we work out a cost justification agreement with the staff, typically. **BPU Board Member Bryant** said I'm looking more at the water side because I know we're going to have to run some major mains to feed. **Mr. Miles** said I don't know about water. I don't know that detail, but I can follow up with you on that. **BPU Board Member Bryant** said yes, I would be interested to know just how much the BPU is aware, the staff is aware. **Mr. Miles** said if not, we'll make sure Continental, Phil and Phil Junior, work with Pat and Jen and the other folks too.

Chairman Burroughs said just for the committee's clarification, there is a $1.5M private contribution that will be coming forward into this project too made by NorthPoint. That is a cash infusion toward that total amount. 6.5, I'm looking at page eight. It's says intentionally deleted. Do we know what section that was that was intentionally deleted? **Mr. Miles** said let me see. **Chairman Burroughs** said that's something you can get back to me. I just want to know what part of the contract was deleted for this specific contract. If it's going to be deleted moving on for the entire development.

Then, I do want to bring attention to the construction workforce. Brent, you made comment about ancillary opportunities for our local community. I sincerely appreciate and respect that because it's about the return on investments of our county's tax dollars to ensure that we take care of the job opportunities for our residents first. We really do hope that many of those would be filled by the local labor organizations and our skilled workforce. I know it can't be mandated, but I would hope there would be strong consideration to the underemployed skilled workforce that we have in our community that can contribute greatly to the ongoing construction and renovation of the property proposed. **Mr. Miles** said understood.

Like I said, we've had four or five development agreements with you and have exceeded the L/M/W. Even though it's not a requirement, we have exceeded my promises to Commissioner Kane. **Chairman Burroughs** said I appreciate that. As Commissioner of this community, I do want to see that return on investment for our families to be able to bump up that average median cost of a home in Wyandotte County; that they'll want to invest. Hopefully, the workers, while they're here doing construction work, may find how nice and welcoming Wyandotte County is and choose to become a resident of our community through that opportunity.

Commissioner Townsend said just a point of clarification. On the street, how many buildings will there be? One continuous building? **Mr. Miles** said no, there will be multiple buildings. Maybe we can go back to the master plan. Again, this will evolve as we work through Rob in final planning and BPU infrastructure planning. I will generally note that we are in acquisition mode for more houses in this area. I won't be giving any specifics but some of these buildings could grow. Generally, what you see there is, what do you got, an eight-building plan.

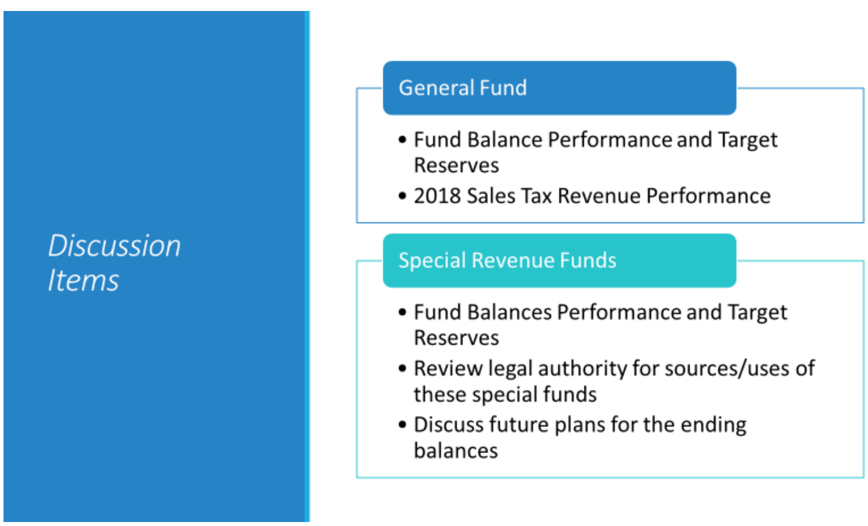
As you can see, labeled building one, two and I think we switch over here building three. This stick of butter is obviously an individual building. **Commissioner Townsend** said okay. **Mr. Miles** said it'll take us some time. Kaw Point, to put it in perspective, you and I drove through Kaw Point and you thought that was a really large building. This one, one of our smaller buildings here is bigger than Kaw Point. That's Kaw Point just, almost dead on, right there in size. **Commissioner Townsend** said good, thank you.

Lori Reeves, 516 N. 75th Ter., said we've noticed that there's been a lot of surveying on that area. I live in the Crestmoore Downs there, by the parking area, off of I-70. I'm wondering how far is that going to come in. Is that going to include our homes? I live at 75th Ter., so basically, we live in Crestmoore Downs, behind Quick Trip, back over by the hotel. I'm kind of a ways from that. **Ms. Carttar** said that won't be included in this project. **Ms. Reeves** said it won't. Are there plans for something else that's in the area, is that why they're surveying and there are all the stakes in our area? **Ms. Carttar** said not that I'm aware of, but I can certainly check on that for you.

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Walters, to approve.** Roll call was taken on the motion and there were five "Ayes," Burroughs, McKiernan, Townsend, Walters, Bryant.

Item No. 3 – 19721…REPORT: 2018 RESERVES AND FUND BALANCE

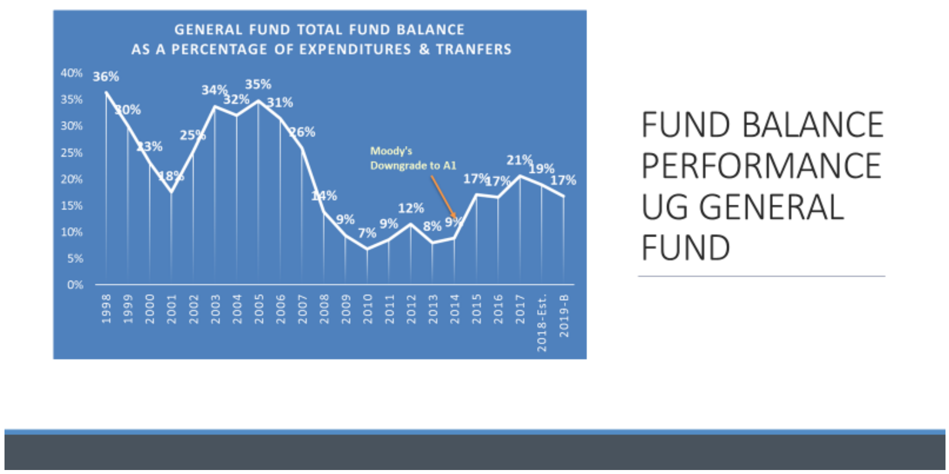
Synopsis: Review of final 2018 fund balances for all funds, submitted by Kathleen VonAchen, Chief Financial Officer.



Kathleen VonAchen, Chief Financial Officer, said as I discussed at the last EDF meeting, today we're going to be presenting the 2018-year end fund balances, for the General Fund and for the

Special Revenue Funds. We'll start this off. What we're going to discuss, first, we're going to break this up by General Fund and Special Revenue Funds. On the general funds side, we're going to just have a discussion of the performance of the fund balance and our target reserves. We're also going to add in a little discussion of the sales tax revenue performance during 2018.

For the Special Revenue Funds, not only are we talking about the fund balance, performance and the targets, but we're going to review briefly the legal authority for the uses and sources of those special funds and any kind of future plans for the ending balance.



Rather than showing you a financial statement what we decided to do was present you a historic view of the General Funds total fund balance as a percentage of expenditures and transfers. This is how we review the performance of our fund balance. As you know, and we'll talk about this later, the target, as adopted by all of you and our fund balance reserve policy, was to have two months of operating expenditures on hand in case of emergencies or to provide us the liquidity throughout the year to pay our bills.

Two months' worth of expenditures roughly equates to 17%. Our estimate for 2018 is that we'll be reaching that. We are estimating to have 19% in fund balance, 19% of their expenditures reserved in our fund balance. Now when I say estimate, it's because the final audit won't be presented for your acceptance until June. For the most part, it's pretty final.

Right now, we're at 19%. We did drop down from 21% the year before. The reason for that is that revenues and transfers in, less expenditures and transfers out, came up to a net negative of \$1M. There were \$210M in General Fund Revenues and \$211M in General Fund Expenditures. This, of course, is on a modified accrual basis. What does that mean? Cash basis is very much based on the money coming in and the money going out within the respected 12 months. When we look at modified accrual, we're taking into account, for example, sales tax. The state collects the sales tax on behalf of local governments. The activity of the sale, the retail activity point of sale, for example, are occurring in December. We don't actually receive it until February. This is one example where on a modified accrual basis, we would accrue the cash we received in February to the prior year. Of course, the same goes on the top of the year.

There are many other kinds of examples on this spending side too. It's a way to, in accounting, to properly record the activity in the year in which it occurred. That's the difference there.

UG GENERAL FUND RESERVE POLICY

ADOPTED JUNE 2018

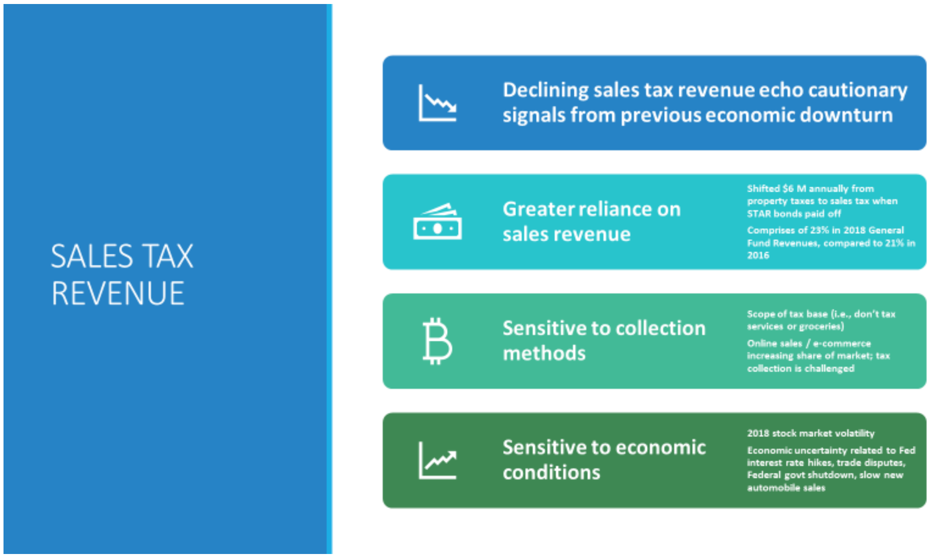
General Fund Reserve

Operating Reserve:	2-months of on-going operating expenditures, or 17%
Economic Uncertainty / Emergency Reserve:	1-month of on-going expenditures, or 8%
Total Fund Balance Reserves:	3-months of on-going expenditures, or 25%

Compliance

- Measurement at December 31st as part of annual financial audit
- If target level of reserves are not being met **or likely to not be met at some point within a five-year time horizon**, then during the annual budget process, fund balance levels will be provided to the Mayor and Board of Commissioners
- Should the projected year-end fund balance **be below the reserve amounts,** a **plan to replenish the reserves would be established** to achieve reserve levels **over a five year period**

This is just a reminder of the General Fund Reserve Policy. As I mentioned, we had as a target the 17%. We also have in the policy the option of achieving over the future a potential additional month for emergencies, economic uncertainties and such. One of the key components that I wanted to point out is also, at some time during the year when it may become apparent that we're not going to be meeting our target, the Budget staff will come forward, as part of the budget process, and let you all know and come up with a plan. If we do dip into the fund balance because there is some economic condition that requires that or based on your approval, there is, in the policy, provisions for replenishing the fund balance back to the operating reserve chart of two months over a five year period based on a long-range plan.



I wanted to talk about sales tax. You know, at the last monthly meeting of our committee, we presented to you the Q4, the fourth quarter budget versus the actual report. As you know, that's all based on a cash basis and the budget that you develop and review during the course of the entire year. It's all based on a cash basis. What we noticed is that, just in the General Fund, sales taxes collected and a variety of other funds, but right now, we're just—during the conversation we had about a month ago, we were reviewing the budget for the sales tax estimate. We reported that $3M did not come in that we expected or was below the estimate. That was for all three of the General Funds, the city, the county and Parks and Recs doesn't have any sales tax.

Those kinds of declines were kind of surprising to all of us, especially given the strong performance that occurred in the first six months of 2018. This decline in sales tax kind of echoed a cautionary tale of what we viewed during the recession from 10 years ago. When we walk through this, we're going to talk a little bit more about that, and I hope to relieve some of your concerns.

There is one thing that I did want to mention. Right now, we have a greater reliance. Our operations are relying more on sales tax revenue because when we paid off the STAR bonds, as you know, a lot of talk about this $12M in STAR bond revenue. Well, again, let me remind you $3M or almost $4M of it was actually dedicated for dedicated sales tax and for EMS. Actually, the STAR bond amount coming into the General Fund was $9M. Over 2017, 2018 and 2019, two mills each of those years were reduced. The rough equivalent of that is $6M.

We got $9M more in property and in sales tax, and then we reduced our property tax by roughly $6M. The net is a $3M addition to the revenue base, just to give you an idea. Our reliance on sales tax is increasing. We have a very diversified revenue structure. As I mentioned before, $210M in revenue. The shift that I'm talking about only changed the reliance on sales tax in 2016, 21% to 2018, 23%. If you look at 2017, and given the strong sales tax performance in 2017, 2017 was around 26%. Just some information for you.

The other point is that sales taxes are very sensitive to collection methods, not in Kansas, but in a lot of states. It kind of depends on the scope of the tax base. In Kansas, we don't tax services or groceries. The other thing is that online sales, we believe, has maybe contributed to a shifting of the amount of revenues we've collected on in sales tax**.** E-Commerce has an increasing share of the market of retail, and collection of that sales tax has been challenged.

The very last thing I wanted to mention is that sales tax is very sensitive to economic conditions. When we first looked at why we didn't get that $3M that we expected. I asked my staff to review what we call the entity files. That's a file of all the vendors, how much they pay every month for the past year, trying to figure out which vendors perhaps went bankrupt, which ones left, what major vendors impacted the reduction. We really couldn't find anything in particular. We decided, well maybe it was because of the growth in online sales. Maybe, perhaps, it's macro-economic conditions. That is what we're concluding in the end. I'm going to show you a couple of slides that kind of support that conclusion.

Generally speaking, you can read it in all the news media. Last year, the stock market was very volatile and there was a lot of the economic uncertainty. The feds were increasing interest rates which does, in a sense, inhibit business growth. There were trade disputes, the federal government shutdown, and slow automobile sales. Quite a bit going on in the last six months of last year.

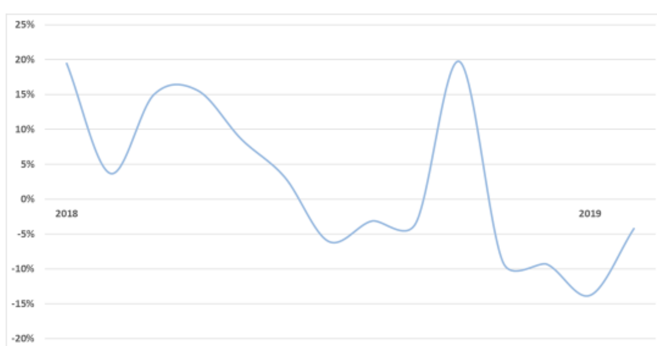
US CENSUS BUREAU RETAIL SALES REPORT

Year-over-Year % Monthly Change in 2018

We've looked at the US Census Bureaus' Retail Sales Report. This is something all the folks that work in the stock market look at every month. What we're looking at actually is the percentage difference between the prior years' month for that month and this month and this year's month. They call that year-over-year percentage monthly change. For example, if I collected $100 in 2017 in January and then in January 2018, I collected $110, then that would be a 10% increase. That's how this works. This is the slope of the graph in all of 2018. It starts out, and you can see how it lumps, there's a big sloping up here at the beginning and then it drops down. There's a hump in October then it starts to pick up the beginning of 2019.

WYANDOTTE COUNTY/ CITY OF KANSAS CITY, KS

Sales Tax Revenue Year-over-Year % Monthly Change in 2018



This is how Wyandotte County looks. What we have, same figures. Now these are based on all total distributions from the state to us. We have roughly $50M over the year; $50M including all

UG wide. All the sales tax, including dedicated sales tax and such, but excluding the STAR bonds.

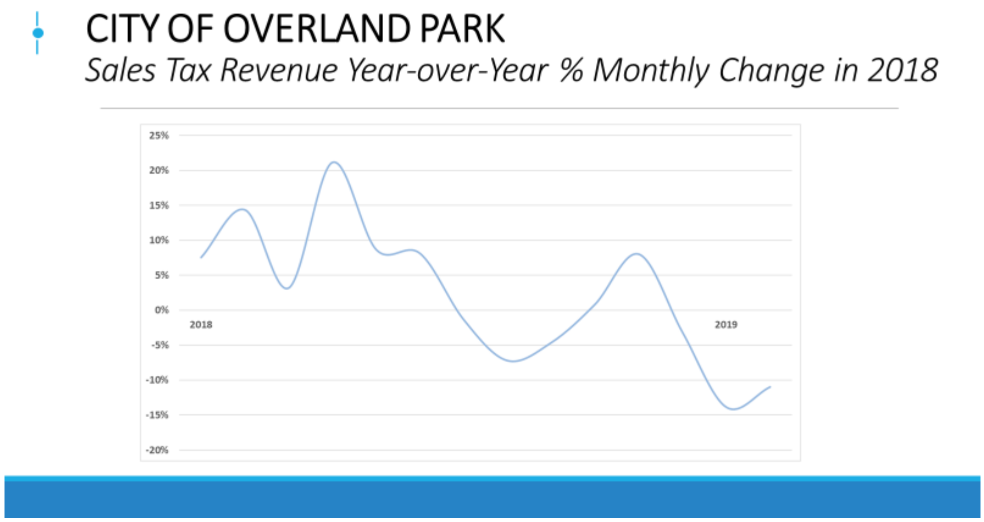
Commissioner Walters asked what is (inaudible). **Ms. VonAchen** said in January, there was a 19% increase. In February, a 3.5, 3.7 % increase. **Commissioner Walters** said you wouldn't happen to know what it was for the whole year, average for the year. **Ms. VonAchen** said well, the point of this exercise is that, there was growth at the beginning of the year and then declined at the end. The averaging doesn't explain the total picture.

BPU Board Member Bryant said without the actual number of dollars that are purchased during each of those representative months, I mean, a 20% increase on a million-dollar month is different than a 5% decrease on a $10M a month. Without having the actual dollars per month, it's hard to really relate that into a pattern.

Ms. VonAchen said this represents $50M worth of retail revenue collections throughout the entire year. It compares it with the prior year for that roughly same amount. **BPU Board Member** Bryant said well I understand, but what I'm saying is like where that large spike is, where it's 20% above, closer to 2019 on the other end. Is that the Black Friday shopping of November? How many dollars is that 20% above the dollars that were spent the year before? **Ms. VonAchen** said alright, well I have all that information.

March and April increased 15% and that's roughly the same increase that occurred. I'm going to show you another city in a moment. Then we have the decline that starts. May was at 9%, June was at 3%, July was 6%, and then there was an anomaly in October and that's because the October 2017 number was uncharacteristically low. We also have a lump in the census bureau in October as well, a jump up as well. Then it drops down again, we're at negative 9% in December, a negative 9% in January. January is negative 14% and then February is negative 4.

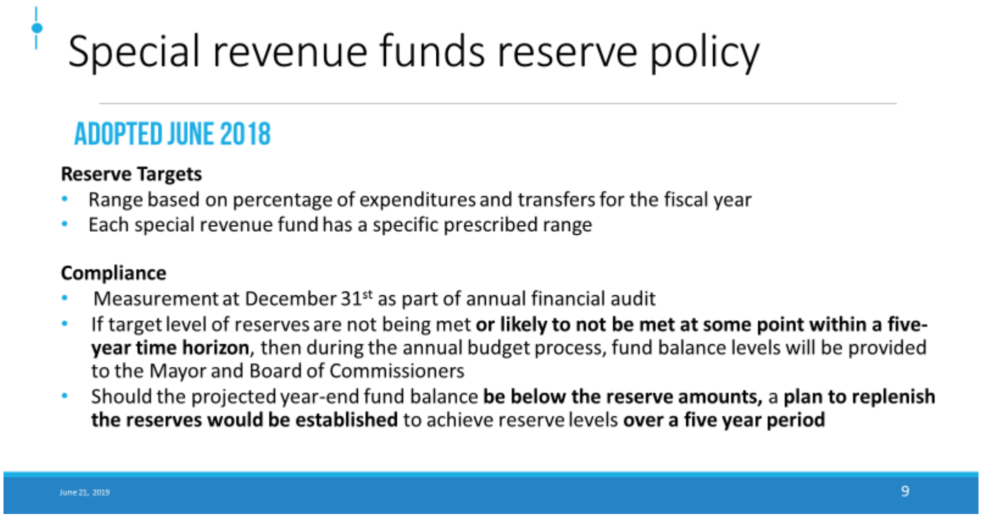
Let me explain. The figures that I'm showing you are based on the month in which the retail sale occurred. All of us here in Finance we don't see that until two months afterwards. These declines that occurred in May, June and July we didn't see until July, August, September. While we were forming the budget, we were looking at the prior years. **BPU Board Member Bryant** said, Kathleen, without reference dollars, this graph really doesn't tell me anything except that people shop more in March of 2018 than they did in March 2017, spent more dollars. It doesn't tell me reference wise how many more dollars or how many fewer dollars in any given months. We can look at the total year-over-year spend and just tell our percentage from that. **Ms. VonAchen** said I'm happy to provide it to you. I don't have it with me on this graph.



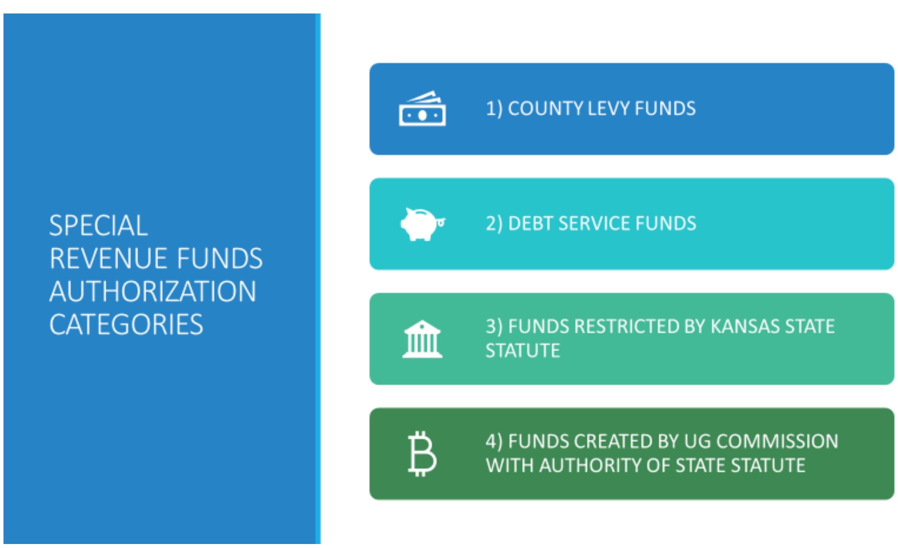
Now here's Overland Park. Same slope see Wyandotte County, Overland Park. This is my point is that this is a kind of a national, regional thing. It's not any individual vendor. It's not necessarily something that occurred just in Wyandotte County. Just to give you an idea. That's all my point is. By the way, I've been reading and doing some research. We've talked with some economist and the thought is that although there isn't—we're not going to see a rebound of the growth that we saw at the first six months of 2018.

We are going to see some growth; it will be more modest in 2019. Although these negative declines look pretty dyer, as I mentioned, it was a very volatile time. The stock market was woofing up and down. The feds were increasing the rates, the federal government shutdown, and so forth. Those are things that are not predicted in the future for 2019. Of course, we don't get information. The latest we have is February and right now we're in April. As we get information, we update our estimates and we do the best we can with the information we have.

Right now, I'm anticipating that we'll probably be, baring any kind of further analysis, probably going to be adding a 2% growth rate off of the 2018 actuals. **BPU Board Member Bryant** said to me, I think the biggest concern in the sales tax revenue would be what is the state and federal government doing to standardize the collection of sales taxes from municipalities in reference to this. I think online shopping is going to become more and more the norm and brick and mortars are becoming less and less. We've seen that with the ones that have gone bankrupt and are closing. It just seems like as far as brick and mortars are going, it's becoming more of a lean toward the mom and pop shop mentality. That's not where the heavy retail dollars are going to be found. **Ms. VonAchen** said that is very concerning, and all of the governments are looking at that closely.



The next section here, we're going to talk about the Special Revenue Funds. We have a reserve policy for them as well. It's not really based on the months of operations, but rather a range for each of the specific funds. For the most part, it has the same provisions in terms of replenishing the fund once you dip into it and then also, you know, monitoring throughout the year.



Last year during one of our workshops during the budget process, we kind of walked through the authorization of all these Special Revenue Funds. As a means of communicating or discussing what are the obligations that we have to adhere to, that are imposed to us by the state or other bodies for these Special Revenue Funds. The reason that they are special revenues is because the revenue you collect is dedicated for specific purposes within certain caveats. There are four categories. We're not going to go into this super detail because we've already gone through this six months ago, or maybe eight or nine months ago. There is the County Levy Funds, the Debt Service Funds, the funds restricted by Kansas State Statute, and then funds created by the UG Commission with the authority of State Statute.

2018 Expenditure and Transfers & Fund Balances for Special Revenue Funds
Special Revenue Funds' Resources Dedicated for Legally Authorized Uses (refer to CAFR for details of dedicated/ restricted uses)
Source: 2018 Draft Non-Major Governmental Funds' Financial Statements

	FY 2018 Expenditures & Transfers-out	FY 2018 Ending Total Fund Balance	Fund Balance as a % of Expenditures & Transfers-out	Target Reserve Range (as a % of Expenditures & Transfers-out)	Fund Balances in Excess of Highest Reserve Target Range
Developmental Disability	$ 451,033	$ 377,282	84%	10% to 15%	$ 309,627
Elections	$ 1,295,572	$ 447,585	35%	10% to 15%	$ 253,249
Health Department	$ 3,114,257	$ 538,427	17%	10% to 15%	$ 71,288
Mental Health	$ 540,000	$ 105,969	20%	10% to 15%	$ 24,969
Special Programs for Elderly (Aging)	$ 1,931,285	$ 52,120	3%	10% to 15%	$ (237,573)
Totals	**$ 7,332,147**	**$ 1,521,383**	**21%**		**$ 421,561**

COUNTY LEVY FUNDS

2018 Fund Balances generally exceed fund balance targets, except for the Aging Fund that fell below the highest target. These funds are accumulating resources for potential caseload increases and expected increasing costs in the near-future.

The first ones are the County Levy Funds and we have five of them: Developmental Disability Elections, the Health Department, Mental Health, and the Aging Fund or the special Programs for the Elderly. What we've provided here is, as promised, a listing of the total amount of dollars spent, including transfers out, for each of those funds. The ending estimated ending fund balance for 2018, what percent of that is. The percentage of the fund balance into the transfers and expenditures.

Then over here is the target that's in the policy. This is the amount that in which it exceeds the highest. What I did was, I took 15% of expenditures and then I subtracted out the amount that is in the fund balance. This is how much more in excess of the target these funds are. Each of these have a property tax levy, that's why they're property tax levy funds, that support these functions. This is the information you are looking for.

I did want to point out that if we were perhaps to make some adjustments to the revenue level, in order to diminish this excess amount in some of the respective funds, what we'd recommend is, we would change the mill rate within these or shift mill rates amongst these funds in 2020 because you can't do it in 2019. The mill rate has already been certified and set. We're not recommending anything necessarily; we're just suggesting that would be the means of doing that.

You can see that the Aging Fund is barely keeping up. It's at 3%. Of course, Reggie has a little information. He may be able to answer more specific questions about why some of these balances are being accumulated. Generally speaking, it's because they anticipate potential increases in caseload or increase cost in the future. Of course, the best way to determine as part of the budget process to determine if there is excess that we need to recommend maybe some shifting in mill rates, would be actually to look at the '19 ending fund balance. That's what we do as part of the budget process.

BPU Board Member Bryant said would the recommendation or proposed recommendation of staff be that the mill levy in general, for the County Levy Funds stay totally the same but it's just a shifting of buckets. **Ms. VonAchen** said we don't really have a recommendation right now because we're in the middle of developing the budget process. **Chairman Burroughs** said if I may answer that. That would be Finance Committee's position, as well as the full Commission, to come forward with determining if those mills need to the adjusted into what categories specifically. As far as commingling the funds and keeping the total mill levy, the total mill levy maybe the same, but they may be different for each fund. When you see funds that are overfunded by a tremendous percentage, either you spend them for the projects that they are mandated to be spent on, the option you have is to lower the mill rate that the monies that are collected to go into that fund. You can't commingle the funds. We couldn't, basically, move developmental disabilities down to the seniors for the elderly. What we could do is bump up the mill levy for the elderly and lower the one for either the Health Department or Elections or something along those lines. Kathleen, if I understand correctly, we have $421,561 in excess of our statutorily mandated monies set aside in our reserves. **Ms. VonAchen** said with these five funds. **Chairman Burroughs** said with these five funds, okay, thank you. **Ms. VonAchen** said that's correct.

The next one we're going to, by the way, you know we have some information here on each of the funds and the statutory authority.

COUNTY LEVY FUNDS – LEGAL AUTHORITY

- *K.S.A. 19-101a et seq.* granted home rule powers to counties in 1974, and, like cities, counties may use home rule powers as a basis for a property tax levy as described in *K.S.A.19-117*. Authority of county commissioners to issue levies under *K.S.A. 70-1802*.
- **Developmental Disabilities Fund** – *K.S.A. 19-4004, 19-4007 and 19-4011* to provide services such as: job placement services for disabled and developmentally disabled clients; vocation services to help clients gain wage earning job skills; services to help individuals learn independent living skills; and a preschool designed to prepare disabled children for the school experience.
- **Election Fund** – *K.S.A. 19-3435a, 25-2201a, and 39-417* to provide necessary funding for the payment of the salaries and expenses of the office of the election commissioner and election expenses. K.S.A. 19-3424(c) states The board of county commissioners shall consider the request in the same manner as other departments and agencies of the county and shall approve and adopt a budget for the office of election commissioner within the county budget in an amount determined by the board of county commissioners to be sufficient and adequate for the performance of the duties of the office and the conduct of elections as required by law.
- **Health Department Fund** – *K.S.A. 65-204* for the purpose of providing funds to assist in carrying out health laws, rules and regulations of the county and to provide funds for capital expenditures for county health purposes.
- **Mental Health Fund** – *K.S.A. 19-4004, 19-4007 and 19-4011* purpose of contracting services with nonprofit corporations to provide either mental health services or services for clients with mental health needs.
- **Aging Fund** – *K.S.A. 12-1680* to provide funds for service programs for the elderly for three senior centers, providing two transportation systems, educating and monitoring clients with health needs.

By the way, the actual mill rates for these respective funds, or all the funds frankly, is provided in the front part of the budget documents. You can look. It's in the summary of the financial section.

2018 Expenditure and Transfers & Fund Balances for Special Revenue Funds
Special Revenue Funds' Resources Dedicated for Legally Authorized Uses (refer to CAFR for details of dedicated/ restricted uses)
Source: 2018 Draft Non-Major Governmental Funds' Financial Statements

	FY 2018 Expenditures & Transfers-out	FY 2018 Ending Total Fund Balance	Fund Balance as a % of Expenditures & Transfers-out	Target Reserve Range (as a % of Expenditures & Transfers-out)	Fund Balances in Excess of Highest Reserve Target Range
City Bond & Interest Fund	$ 28,151,405	$ 15,098,564	54%	5% to 10%	$ 12,283,424
TIF-related Debt Service funds	$ 3,636,426	$ (5,078,207)	-140%	NA	$ (5,441,850)
County Bond & Interest Fund	$ 3,016,297	$ 4,734,574	157%	5% to 10%	$ 4,432,944
Totals	**$ 34,804,128**	**$ 14,754,931**	**42%**		**$ 11,274,518**

DEBT SERVICE FUNDS

2018 Fund Balances exceed fund balance targets for the City & County Bond & Interest funds, although the combined 15 different TIF debt service funds did not meet the 10% target ($2M in revenues are collected compared to $3.6M expensed.). In the first 2 months of the fiscal year, over $6.5 million is spent in debt interest payments and a higher reserve is needed to meet the liquidity needs. Significant transfers have been made from the County General fund to County B&I to shift the savings in contract beds to reduce the level of debt for the Juvenile Center.

Now, what we're going to talk about are the Debt Service Funds. I'm going to pass this on to my Deputy Finance, or Chief Financial Officer, Debbie Jonscher.

Debbie Jonscher, Deputy Chief Financial Officer, said the next set of funds we're going to talk about are the Debt Service Funds. Currently, there are two Debt Service, we have a City Bond and Interest Fund and a County Bond and Interest Fund. As you can see up there, there are three lines up there. We've separated out the TIF portion of the City Bond and Interest Fund. Any TIF projects that have debt related to them, we track those separately in a sub fund that rollup to the City Bond and Interest Fund.

These funds are—collect both property tax revenues as well as the City Bond and Interest has Enterprise Fund transfers for debt that's issued for the Enterprise Funds. The County Bond and Interest has Public Building Commission lease revenue included in there. These have the same information that Kathleen had shown with the previous funds. It shows the expenditures and then the ending fund balance here, as well as the percentages.

I did want to note over here, we're showing that the balance in the City Bond and Interest Fund in excess of the reserve target is about $12.2M; However, the TIF related projects, as you can see, are in a negative $5.4M balance. When they roll up together, the total is actually the net of the two, which is around $7M.

I did want to note on the TIFs that the revenue that comes in for the TIF revenue is about $2M. You can see the expenditures for 2018 are at 3.6. There's a difference of about $1.6M there. The Midtown TIF, which we just refinanced a little over a week ago, I think about two weeks ago, was a TIF project being tracked. It had debt service requirements but there was no TIF revenue being generated on the project. The debt service payments for that were about $1.4M, that's almost the entire difference there. The other $200,000 is probably a little bit split between the other projects.

Commissioner McKiernan said I'm sorry. We didn't need to stop them, but this is interesting. It's an interesting snapshot at a point in time. I was just going to say that before I would consider making any shifts to mill rates or anything like that, I'd want to see overtime what's the longitude in the picture; what's the year-over-year. Is it consistently high? Is it consistently low? Is it high one year above the next? This is very interesting. I think it would suggest that we have quite a bit of money in excess of what our reserve policy is, but kind of tempered by what's the year-over-year picture look like.

Ms. Jonscher said I did want to note that on these City Bond and Interest Fund, we do bring in about $20M in tax revenues, and about $9M in transfers. There's another $3M probably in other revenues, motor vehicle tax revenues.

On the County Bond and Interest Fund, you'll note that expenditures, fund balance here is about $4.7M. Expenditures were a little over $3M. With our target there, we are sitting in a fund balance in excess of our target of about $4.4M. I will note for that fund that the debt for the Juvenile Center, the Public Building Commission debt for that project is hitting this fund. We are transferring money from savings on the County General Fund side to cover a portion of that debt or cover that debt. We are making transfers in 2017. We transferred $1.5M in 2018. We transferred a million with debt service payments, annually, of about $1.7M starting in 2019.

Chairman Burroughs said I do have a question in reference to that. We saved, I think we heard one of your presentation earlier this year, that we had saved some money by not spending it in 2018. My question would be, if we're saving that, the moneys, the $1.5M, is this also some of that savings coming from reissuing bonds at a lower rate? Is that some of the savings you're talking about. **Ms. Jonscher** said no. The savings that was estimated on the inmate housing, the savings that we were generating from not having to farm out as many inmates. We were using that. We dedicated that toward the debt service payment of the new Juvenile Center. **Chairman Burroughs** said thank you for that clarification.

Ms. VonAchen said I did want to point out that, you had asked us for some more detailed information of the transfers that took place at the end of 2018, as well as project balances or the status of projects. We are working on that. We haven't finalized. In fact, Doug is reviewing that so you'll be getting it in a few days.

DEBT SERVICE FUNDS

- *Statute Citations:*
  - *K.S.A. 12-1774* authorizes county commissions to levy a property tax and designate the specific purpose for repayment of general obligation debt.
  - K.S.A 10-113 requires cities to make tax levies sufficient to pay GO Bonds
  - *K.S.A. 10-117(a)* restricts the transfer of resources out of the bond and interest fund until all outstanding bond issues have been extinguished.
- Restricted Use of Revenues:
  - Outstanding bond documents have pledged these revenues for debt repayment.
  - *"Funds shall be used solely for the payment of principal and interest on the Bonds".*
  - *"Whenever all bond issues have been completely retired the governing body of the municipality, which issued such bonds, is hereby authorized to transfer any unexpended balance of money in such bond and interest fund to the general fund of the municipality".*
- County Bond & Interest Fund has extra in reserves due to the transfers from the County General Fund from savings on reduced outside inmate bed contracts ($1.5 million in 2017 and $1.0 million in 2018). Debt service payments for Juvenile Center are approximately $1.7 million annually begin in 2019.

Ms. Jonscher said this is just some of the statutes that govern the Debt Service Funds. I did want to note that statutes do require that the city make tax levies sufficient to support the bonds. It also restricts the transfer of resources out of the Bond and Interest Fund until all outstanding bond issues have been extinguished. The excess money that is currently sitting there can only be used for the payment of principal and interest payments on outstanding debt.

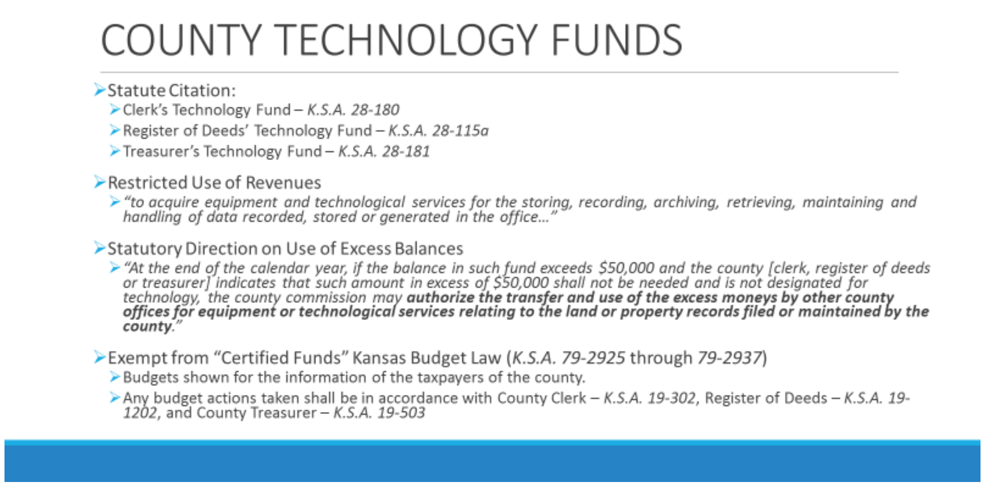
2018 Expenditure and Transfers & Fund Balances for Special Revenue Funds
Special Revenue Funds' Resources Dedicated for Legally Authorized Uses (refer to CAFR for details of dedicated/ restricted uses)
Source: 2018 Draft Non-Major Governmental Funds' Financial Statements

	FY 2018 Expenditures & Transfers-out	FY 2018 Ending Total Fund Balance	Fund Balance as a % of Expenditures & Transfers-out	Target Reserve Range (as a % of Expenditures & Transfers-out)	Fund Balances in Excess of Highest Reserve Target Range
County Clerk Technology	$ 10,242	$ 121,813	1189%	5% to 10%	$ 120,789
County Treasurer Technology	$ 21,266	$ 122,869	578%	5% to 10%	$ 120,742
Court Trustee	$ 462,609	$ 712,957	154%	8% to 12%	$ 657,444
Register of Deeds Technology	$ 114,087	$ 189,007	166%	5% to 10%	$ 177,598
Special Wyandotte 911	$ 601,333	$ 602,268	100%	5% to 10%	$ 542,135
Special Alcohol Program	$ 337,151	$ 905,329	269%	5% to 10%	$ 871,614
Special Parks & Recreation	$ 528,800	$ 150,895	29%	3% to 5%	$ 124,455
Special Street & Highway	$ 7,086,245	$ 2,015,133	28%	3% to 5%	$ 1,660,821
Totals	**$ 9,161,733**	**$ 4,820,271**	**53%**		**$ 4,275,598**

FUNDS RESTRICTED BY KANSAS STATUTES

The next set of the funds that we want to cover are funds restricted by state statute. Here we've got several different funds. We've got several Technology Funds: the Clerk, the County Clerk, the County Treasurer, and the Register of Deeds Technology Funds; as well as the Court Trustee, the Special 911 Fund, Special Alcohol, Park and Rec's Funds, and then the Street and Highway.

Within all of these funds, the same information that we've provided before. We're currently looking at fund balance in excess of the target reserve of about $4.2M. I'm going to go into a little bit of detail on each one of these funds and what they're restricted for.



The County Technology Funds. The revenue that's collected is a fee on filing documents with the Register of Deeds. Each of these funds get a portion of that fee. Those fees are restricted to acquire equipment and technology services for storing, recording, maintaining, handling of data generated in the offices.

I did want to note there is statutory language regarding the direction on the use of excess balances. At the end of a calendar year, if a balance in one of these funds exceeds $50,000 and the Clerk in each of these areas indicates that the amount in excess of $50,000 isn't needed for technology within those offices, the Commission can authorize the transfer to use that money for other county offices, but it must be used for equipment and technology services relating to land or property records filed and maintained by the county.

COURT TRUSTEE FUND

- Statute Citation – *K.S.A. 20-380*
- Fee Revenue:
  - 1) Not to exceed 5% of (child) support payments, as determined by the chief judge
  - 2) Based on hourly cost of office operations for provision of service with written agreement of the payee, or
  - 3) From restitution, not to exceed authorized by the attorney general pursuant to *K.S.A. 75-719*
- Restricted Use of Revenues:
  - Fund operations to provide suitable quarters for the office of court trustee, furnish stationery and supplies, and such furniture and equipment as shall, in the discretion of the chief judge, be necessary for the use of the court trustee in accordance with *K.S.A. 20-375 et seq* to enforce the duties of child support administration.
  - All payments made by the secretary for children and families pursuant to *K.S.A. 23-3113,* and amendments thereto, or any grants or other monies received which are intended to further child support enforcement goals or restitution goals shall be deposited in the court trustee operations fund.

The Court Trustee Fund receives fees related to child support payment and restitution payments. These are restricted for fund operations to fund the office of the Court Trustee and in the discretion of the chief judge, necessary for the use of the Court Trustee to enforce duties in the child support administration.

SPECIAL ALCOHOL FUND & SPECIAL PARKS & RECREATION FUND

- Statute Citation – *K.S.A. 79-41a04*
- Fee Revenue:
  - 10% of gross receipts derived from the sale of alcoholic liquor by any club, caterer, drinking establishment, public venue or temporary permit holder, and the acquisition costs of any alcoholic liquor served as samples by clubs and drinking establishments.
- State Allocation of Tax Revenues to City/County:
  - *"70% of the amount which is collected pursuant to this act"*
  - 1/3rd to City General Fund, 1/3rd to Special Alcohol and Drug Program Fund and 1/3rd to Special Parks and Recreation Fund
- Restricted Use of Revenues
  - **Special Alcohol Fund** – *"shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers."*
  - **Special Parks & Recreation Fund** – *"may be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities."*

The Special Alcohol and the Special Parks and Rec Funds. These receive the alcohol tax. This is 10% of gross receipts derived from the sale of alcohol. It is split. A third of it goes to the City General Fund, a third of it goes to the Special Alcohol Fund, and then a third goes to the Special Parks and Rec Fund. The funds within the Special Alcohol are to be expended for the purpose of alcoholism and drug abuse prevention and education and for Parks and Rec, the purchase establishment, and maintenance of parks and recreational facilities.

SPECIAL STREET & HIGHWAY FUND

- Statute Citation
  - K.S.A. 12-1,119 creation of street and highway fund by ordinance
- State Allocation of Tax Revenues:
  - Revenues are received from the State of Kansas from motor fuel tax collections. Allocations are based on population of the city and county
- Restricted Use of Revenues
  - Funds are to be used for the construction, reconstruction, alteration, repair and maintenance of city streets and highways.

The Street and Highway Fund gets all their revenue from the motor fuel tax collections. The allocations for the city and county are based on population. Those funds are also restricted to be used for construction and maintenance of city streets and highways, Special 911 Fund.

SPECIAL WYANDOTTE 911 FUND

- Statute Citation – K.S.A. 12-5362 et seq (Kansas 911 Act)
- Fee Revenue: $0.53 per month per subscriber account (telephone number capable of accessing 911) applies to hardwire, wireless and VoIP telephones.
- State Allocation of Tax Revenues:
  - 82% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information
- Restricted Use of Revenues
  - (1) Implementation of 911 services;
  - (2) Purchase of 911 equipment and upgrades;
  - (3) Maintenance and license fees for 911 equipment;
  - (4) Training of personnel;
  - (5) Monthly recurring charges billed by service suppliers;
  - (6) Installation, service establishment and nonrecurring start-up charges billed by the service supplier;
  - (7) Charges for capital improvements and equipment or other physical enhancements to the 911 system; or
  - (8) The original acquisition and installation of road signs designed to aid in the delivery of emergency service. Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities. Such costs shall also not include expenditures to purchase subscriber radio equipment.

This one receives a fee from all fund subscriber accounts. We got here listed the state allocation for the revenues and then all the different restrictions on the uses of those revenues.

Ms. VonAchen asked do you have any question on the balances on these? **Commissioner McKiernan** said I don't really have any questions other than I think one of the reasons that this originally came up was a concern that we might be collecting money in excess of what it takes to pay that fund's annual bills and maintain an adequate reserve. These data would seem to suggest we are collecting money that is well in excess of what it takes to pay that funds annual bills and maintain an adequate reserve. Unless I'm missing, and again, I want to temper that with, what are the fluctuations from year to year on this? These data certainly suggest to me that we are going to need to do some reconsidering of the funds we collect and store for paying these particular bills.

Ms. VonAchen said I think there maybe, just to point out the $1.6M excess for the Special Street and Highway, those are for various on-going projects. Some of those funds may actually have already been budgeted for but various projects that were in mid-completion. **Chairman Burroughs** said I think what comes out from the budget subcommittee, the questions that were brought forward in reference to the $4.2M of excess reserves that we have in those accounts.

I just want to look at the Chief Clerk Technology account as an example here for discussion. Definitely, we're over the amount, the percentage of reserves. If there's a technology need in that agency or that department, those monies should be spent to do that. If we're holding back spending those dollars to sweep them at the end of the in excess of 50,000, that is a really nontransparent way business is being conducted. I'm not saying that's the case. In a previous slide, we saw the excess of $50,000. If we were in a budget crisis, I could see someone coming forward to the County Clerk and stating you're not going to need that money this year are you. I am sweeping those dollars. At the same time, the Clerk may need the Technology Funds to update his system to make sure that we are a city of the first class providing first-class amenities and proper services for our community. The money is there and that's what it should be appropriated for.

I think that was some of the questions in reference to the $4.2M of reserves that we see over here and all of the out of balance reserves that we see in the balance column. If I'm wrong, I'd hope one of the other commissioners would correct me, but I believe that was some of the discussion we had in our budget subcommittee.

Ms. VonAchen said I do know that the City Clerk would very much like, or the County, the UG Clerk actually, would very much like to pursue a comprehensive document management program. The cost of that sort of program, it exceeds the $120,000. **Reginald Lindsey, Budget Manager**, said what they're doing is storing the money up. The $120,000, they're storing the money up so they can purchase the document management system that Kathleen is referring to.

Chairman Burroughs said if that's the case, it does look like we have a revenue stream to build those balances. Why don't we enter into a contract that provides an update in that technology and pay a nice lump sum up front and then pay a payment, a yearly payment for a year or two. If we need that technology to make our business more streamlined or more professional to provide the services that our community needs—I mean, we have, I understand technology is expensive, but at the same time, we see an excess of $4.2M sitting over here.

What my concerns are, I have seen sweeps occur. I'm not saying here at the Unified Government. I have seen sweeps occur when times get hard. It's easy to identify those funds that have excess balances in them. Even though they are meant to do other things, our concern as Commissioners would be, if that technology is definitely in need of update, then we need a timeline as to when it will be completed and a cost analysis. That might put us at ease as to why we're seeing 1189% percentage in reserves when we're only supposed to be at 5% to 10%.

Alan Howze, Knowledge Director, said you're accurate. I'll just use the Clerk Technology Fund as an example, because I think it's illustrative of the challenge which is that the document management system is an order of magnitude larger than what is available. What we've been looking at, and we are actively looking at, that as an air enterprise wide solution. This would be one of several—General Fund dollars that would then be combined together in order to provide both the initial project funding needed for it as well as, as you alluded to, the stream of funding unit behind that in order to pay the soft remaining. I very much take your point about we're putting targets at risk for future sweeps should the situation change. At the same time, we're trying to put together a project in that specific area where we can provide comprehensive document management solution. That will be well in excess of the available fund dollars in this particular account.

Commissioner McKiernan said so what you're saying is, these numbers are meaningless to me. Meaningless because every time we bring up a particular number there's a, yes but that goes along with it. Yes, but we're saving up money for some cool stuff. I don't know, it's just hard for me to understand these numbers we say that we have targeted 5% to 10%, and we've have got 1189%, yes but, we're saving up for some cool stuff. That's not immediately obvious. Anyone like me who's not dealing on this on a daily basis, but yet is charged with making sure that these monies are a wise use of the resources that we get, has a really hard time doing it. Oh, well, that's okay. I'm done.

Chairman Burroughs said I think you sense the concern that the Finance Committee has had in reference to these numbers when we were going through the budget process. I really hope that next budget cycle we look at these funds. As we requested maybe in the past, one of the requests was hypothetically, the County Clerk technology person come in and advise us to what he's looking at. What the expense will be to replace that system and what we can do to find the revenues available so we can be partners in this process. This leads to, I would call a speculation at best. We want to be able to trust the numbers. When I see a $4.2M balance over here in reserve funds, I see sidewalks not being addressed, I see playgrounds not being addressed, I see parks going underfunded. I know those dollars don't speak to that, all of them, but that's what I see. If that's not what we are seeing, then we need that clarification for the public to understand why those dollars are setting idle in those accounts.

Mr. Howze said that perhaps we can come back to it. I think part of the challenge, seeing this as well, is we're mixing just as we did last time, I think we're mixing capital outbreaks. When we talk about a target reserve range, that's in an operating budget kind of frame of mind. You've got a reserve and you want to keep that in case, but what we're seeing in these technology fund balances in the particular, is they act more capital projects where they accumulate over time and then they get spent. At one point in time after 5 or 7 years of accumulation, we're kind of mixing both types in a way that I think is introducing**.** **Ms. VonAchen** said actually these particular Special Revenue Funds are set up to pay for both operating and capital, that's why it's that way. **Melissa Sieben, Assistant County Administrator**, said unfortunately they don't bring in enough money annually to pay on all of them, at least the County Clerk's Fund to pay for anything but technology upgrades. It's not being used for personnel.

Commissioner McKiernan asked aren't they setting a target reserve for an operating fund, not for a capital accumulation fund. **Ms. VonAchen** said when we were going through the reserve policy, what we did because we had so much to do, we updated 10 policies. One of the things we talked about was just changing making sure all the funds are in place and changing, updating the names of the funds, which we're not. Then, in the future, examining whether we should have a discussion about changing some of these percentages. The percentages are the same as they have been in the past. It's been entirely up to you how much the percentage, the range should be.

Chairman Burroughs said Kathleen, I want to thank you because the Finance Committee came to you and said we want to see numbers before we saw percentages. You put the dollar amounts in there. I really appreciated how; it was a little confusing at first when I was trying to decipher how you came to the end column. After you explained it, then it made sense of what I'm looking at. You've taken expenses out and is this what's over once you put the maximum percentage amount in there. I appreciate that.

I believe there's no nefarious reason about these numbers. It's very concerning to some of us when we see $4.2M sitting idle and we know that we have technology needs, we know we have other needs, and to see that money sitting there when we know it probably either has to come out as General Fund or something if its not enough, we need to know that. We want to partner with the Administrator to address our needs, but first and foremost, we want to do it in a transparent manner. **Ms. VonAchen** said this is the beginning, introductory presentation. It's the beginning of the discussion is how I see it. As we continue through the budget process or in the coming month, we can come back and provide better information about any kind of perspective plans for some of these balances. It's just the beginning.

Chairman Burroughs said I appreciate that. It may be as Finance Committee, we don't need to breakdown into a subcommittee and two or three of us meet with individuals of these departments to find out just what it is their needs may be. Then we could be their voice to determine how we want to go about setting the budget when it comes time for the next budget meeting. **Ms. VonAchen** said I'm sure that they would welcome that, absolutely.

2018 Expenditure and Transfers & Fund Balances for Special Revenue Funds					
Special Revenue Funds' Resources Dedicated for Legally Authorized Uses (refer to CAFR for details of dedicated/ restricted uses)					
Source: 2018 Draft Non-Major Governmental Funds' Financial Statements					
	FY 2018 Expenditures & Transfers-out	FY 2018 Ending Total Fund Balance	Fund Balance as a % of Expenditures & Transfers-out	Target Reserve Range (as a % of Expenditures & Transfers-out)	Fund Balances in Excess of Highest Reserve Target Range
Jail Commissary	$ 4,726	$ 239,718	5072%	8% to 12%	$ 239,151
Special Dedicated Sales Tax	$ 11,317,724	$ 4,050,334	36%	5% to 10%	$ 2,918,562
Special Assets Fund	$ 2,856,385	$ 2,282,700	80%	5% to 10%	$ 1,997,062
Tourism & Convention	$ 1,414,776	$ 5,561,812	393%	3% to 5%	$ 5,491,073
Environmental Trust	$ 1,015,764	$ 1,373,260	135%	10% to 15%	$ 1,220,895
Totals	**$ 16,609,375**	**$ 13,507,824**	**81%**		**$ 11,866,743**

CREATED BY UG COMMISSION WITH AUTHORITY OF STATE STATUTE

Ms. Jonscher said I just got one last section of funds. These are funds that were created by the UG Commission with the authority of state statutes. We've got the GO Commissary, the Special Dedicated Sales Tax, the Special Asset Fund, Tourism and Convention, and Environmental Trust. I'll just go through these real quick.

JAIL COMMISSARY FUND

- Statute Citation – *K.S.A. 75-3728 (e) and (f)*
- Fee Revenue: Moneys of canteen funds and work therapy funds
- Restricted Use of Revenues
  - Record the sales of health care, hygiene, clothing, food and snack products to inmates at the Adult Detention Center. In addition to the expenses of purchasing items for resale, the profits, if any, are to be used to directly benefit the inmates.

The jail commissary comes from money—the revenue is from the sale of products for the inmates. The funds are to be used directly to benefit the inmates.

DEDICATED SALES TAX FUND

- On April 13, 2010 Kansas City, Kansas voters approved a 10-year 3/8 cent sales tax.
- Fee Revenue:
  - 3/8 cent sales tax started on July 1, 2010 and is scheduled to terminate on June 30, 2020, unless voters approve a continuance of the tax for an additional 10 years.
  - The tax generates over $10 million annually.
- Restricted Use of Revenues
  - Funds are dedicated for the purposes of financing Public Safety operations and Neighborhood Infrastructure improvements, including the construction, repair and maintenance of roads, curbs and sidewalks.
  - $2.1 million of the 2017 fund balance is committed to be spent in 2018.

Dedicated sales taxes, the 3/8 cent sales tax that started in July of 2010. In 2018 it was renewed by a public vote for another 10 years. This fund generates about $10M annually and it goes towards public safety operations and neighborhood infrastructure projects.

SPECIAL ASSET FUND

- Resolution No. 8-6-15
- Fee Revenue: record revenues associated with the sale of significant government assets, including land and buildings
- Restricted Use of Revenues: Committed to the specific purposes
  - Debt payments related to the asset sale
  - Operating and/or capital expenditures associated with a UG-owned asset
  - Future land and building acquisition costs
  - Capital equipment purchases and infrastructure-related expenditures associated with a UG-owned asset

The Special Asset Fund was created to record revenues associated with the sale of government assets. The two assets that we currently have used this fund for were the sale of the theater and the sale of the downtown hotel. The funds are held within this fund and then we're using those for economic development projects.

TOURISM AND CONVENTION FUND

- Charter Ordinance– **03-08**
- Fee Revenue: 8% of hotel and motel transactions.
- Restricted Use of Revenues
  - Promotion of conventions and tourism within the Kansas City, Kansas

Tourism and Convention is the transient Guest Tax. It's 8% of hotel and motel transactions and it's used for the promotion of convention and tourism within Kansas City, KS.

ENVIRONMENTAL TRUST FUND

- Ordinance No. 65837
- Fee Revenue:
  - *"authorizing the creation of the City of Kansas City, Kansas solid waste environmental liability fund for the purpose of setting aside moneys in trust to finance any environmental liability arising from the collection and disposal of residential and municipal solid waste".*
- Restricted Use of Revenues
  - Payment of any environmental cost or liability associated with solid waste collection and disposal
  - All moneys deposited in the fund shall be held in trust until expended for such purpose or until the fund shall terminate. Upon termination of the Fund moneys held may be applied to any lawful governmental purpose of the City.
  - Termination of the Fund: the Fund shall terminate ten years after the expiration of the term of the City solid waste contract.

The Environmental Trust Fund, the revenues from there come from a portion of the trash collections. These help to mitigate costs related to environmental liabilities.

Commissioner Walters said I have an observation. I think I have a little bit of the frustration that Brian has because it sounds like based on what you're telling us is that we can make some adjustments to the mill levy to reduce those reserves based on, the size of those current reserves. I guess there might be a couple of caveats to that. One, it sounds like you based all those reserve recommendations on 2018 expenditures. It might be the expenditures in that particular year might have been abnormal or something. Maybe it's a five-year average or something like that.

The second caveats might be that we need to build up reserves for a future expenditure. At that point, I think it would be good to ask for approval to do that rather than just to stockpile money and have never talked to any commissioner about it at, and just assume that at some point at a future date, a Commission will authorize that expenditure. It seems like the cart is a little bit ahead of the horse when we start stockpiling money without an approved plan for how to spend it. That's just a couple of observations.

Ms. VonAchen said one of the policies you adopted was a long-range financial policy. That's actually what you're talking about. We definitely want to expand the long-range financial policies to beyond the General Funds so other operating funds and perhaps we can do for each of all of these funds.

Chairman Burroughs said, Kathleen and staff, I do want to thank you for the work you put into this presentation. I know there had been some requests that are a little bit different probably what you're used to presenting. I think what we have established here this evening my putting it into a monetary amount seeing the totals, we see almost $20M in reserve funds sitting idle. Rather they're earmarked or not, we don't know. We see the policy on each one rather it be UG policy or state statute, but that criteria should be communicated to the Commission so that we can partner with you to help get this budget more streamlined and that the resources are going to the projects and to the departments and the agencies as mandated by the mill levy and/or by policy. We want to partner with you in doing that, but we can't if we don't have a thorough understanding. It makes it a little more difficult. I sincerely appreciate the effort and work you put forward putting that monetary value in there. I think it really helps seeing the financial picture versus just the percentages I remember seeing when I first came in.

Commissioner Townsend said I just have one question and I think this is a timing issue. Listening to what my other commissioners have said, we're looking at 2018 numbers. We've already, last year, gone through the budget cycle for the year we're currently in. The only impact we could really have is on 2020, what's coming up. Is it possible to have these kinds of numbers shown but what happened in 2019? I guess year-to-date because to me, that would make the most sense if we're talking about making some changes so that certain funds can be lowered or the target reserves we're talking about; freeing up actual money so you can do sidewalks and curbs and all the other things that our constituents want to see. Is it possible to do that? I know you've got a whole year here, but I don't know that that really helps me understand where we can go based on what's happening right now.

Ms. VonAchen said so what you're asking, from what I understand, is that you might like to see so through April for example, April 2019, year-to-date. **Commissioner Townsend** said of the current year. This is something that, to me, would make, we got the whole year, but if we're even considering making some changes that would impact the next budget we have yet to do, I think that might give us a better idea of what's happening. **Ms. VonAchen** said that would make sense if the revenues come in consistently throughout the year, but some don't. For example, the property tax comes in, half of it comes in January and the other half basically in June. Different revenues come in at different times.

We do, it's Reggie's office puts together the budgets to actual report that shows you how the status or the performance of the budget of the funds at each quarter. That's where you get that information. I'm not remembering if the report has fund balances for these funds. We probably have to change the report, that last page of the report we would have to change it a little bit. **Commissioner Townsend** said I'm familiar what the report that you're talking about. It just seems to me if you had something that's current and is relevant as that, coupled with these figures as the chairman has mentioned, that we could have a more immediate impact based on more current knowledge of what's happening to those funds as we go into whatever the next budget cycle is.

Reginald Lindsey, Budget Director, said also in the budget, document, all those funds you see the fund balance is up until the next budget cycle so we have like the fund balances up until 2019 in there in the budget documents and the financial summary section.

BPU Board Member Bryant said I think another thing that might be helpful would be in those areas that do have excess reserves in it, knowing is there a plan for specific projects and what are the threshold of dollars needed for that plan mean, when you see one that's 470% and its $1M already over in reserve. Maybe there is a specific project that they are waiting to get to and they're going to come and ask permission. It would be good for the Commission to know this is the project that we're shooting for and those are the dollars we expect it to be and that's why. Then it takes out a little bit of that mystery. **Ms. VonAchen** said tonight, we had a lot of agenda items and we didn't want to be here until 11 or 12. **BPU Board Member Bryant** said well, I agree. **Ms. VonAchen** said we're happy to do that as part of the budget process. Our next meeting is June and we can provide that. **BPU Board Member Bryant** said I mean, just going into budget knowing so that funds don't get or mill levies don't get shuffled that would affect a project they're hoping to have at a future date.

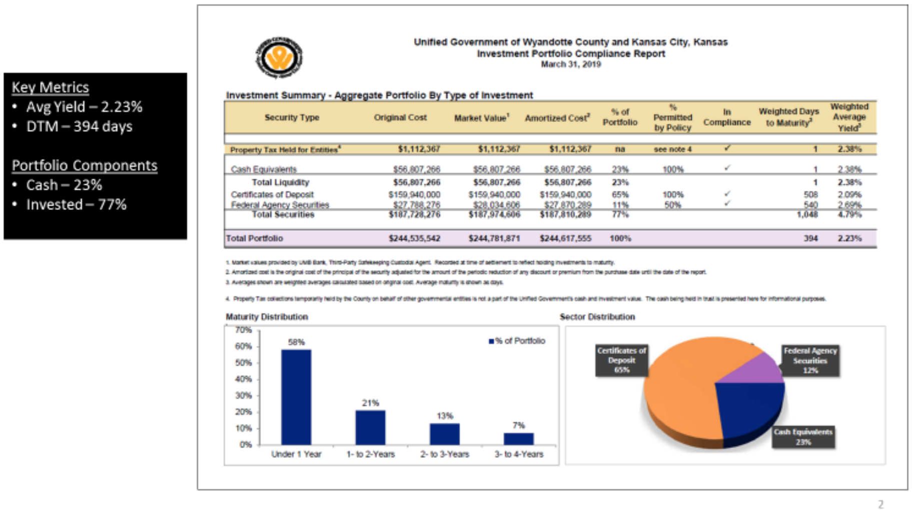
Chairman Burroughs said, Kathleen, I will state this. I will commit, as chair, to meet with you during the summer months prior to the June meeting to sit down and work through some of this so that we can look at the kind of information that maybe some of us will need to expedite your presentations and to ensure that we're all talking in the same language when we see these budgets and the questions can be answered as we work through them. I commit to partnering with you and staff sitting down walking through those fund balances and finding out what targets are sitting out there that need to hit a certain financial threshold so that we can move past that adjustment on the percentage of balance. If we have to, we'll make it a number of meetings, but I'll make myself available. **Ms. VonAchen** said excellent. That's very kind of you.

Action: Information only.

Item No. 4 – 19692… REPORT: FIRST QUARTER 2019 INVESTMENT REPORT

Synopsis: Summary of investments for First Quarter 2019, submitted by Kathleen VonAchen, Chief Financial Officer, and Andrea Parra, Deputy Treasurer.

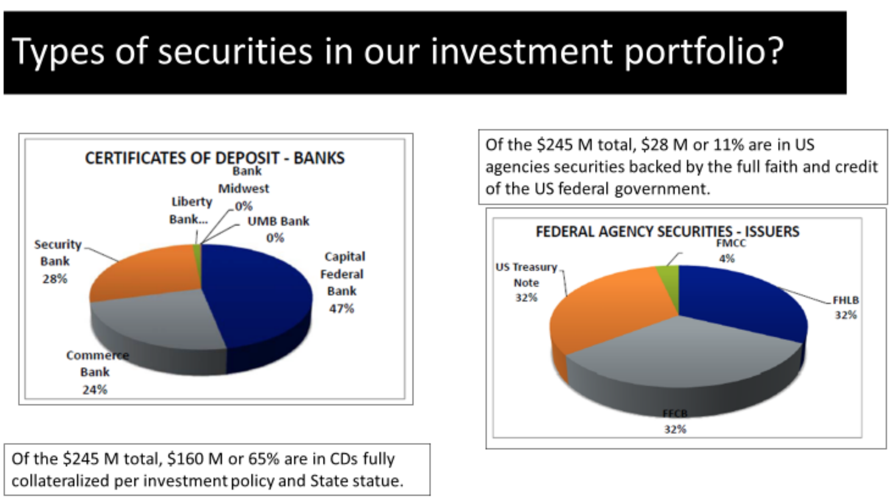
Rick Mikesic, Director of Revenue/County Treasurer, said we appreciate your time, we will respect your time. We will be as brief but and informative as possible. Do not feel that you can't ask any questions of us. Feel free to ask any questions you might have. I am going to have Andrea Parra start the presentation. Andrea is the Deputy Treasurer. She is also Cash Manager so she is going to give us the start.



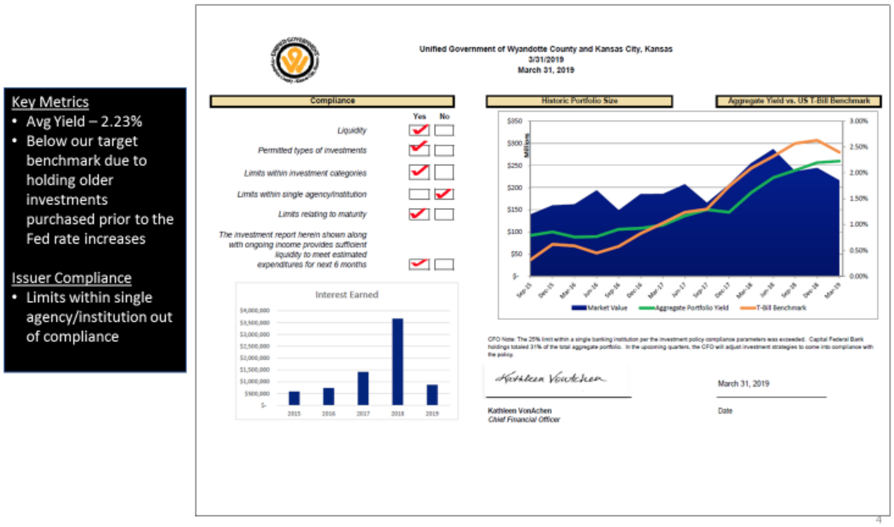
Security Type	Original Cost	Market Value[1]	Amortized Cost[2]	% of Portfolio	% Permitted by Policy	In Compliance	Weighted Days to Maturity[3]	Weighted Average Yield[3]
Property Tax Held for Entities[4]	$1,112,367	$1,112,367	$1,112,367	na	see note 4	✓	1	2.38%
Cash Equivalents	$56,807,266	$56,807,266	$56,807,266	23%	100%	✓	1	2.38%
Total Liquidity	$56,807,266	$56,807,266	$56,807,266	23%			1	2.38%
Certificates of Deposit	$159,940,000	$159,940,000	$159,940,000	65%	100%	✓	508	2.09%
Federal Agency Securities	$27,788,276	$28,034,606	$27,870,289	11%	50%	✓	540	2.69%
Total Securities	$187,728,276	$187,974,606	$187,810,289	77%			1,048	4.79%
Total Portfolio	$244,535,542	$244,781,871	$244,617,555	100%			394	2.23%

1. Market values provided by UMB Bank, Third-Party Safekeeping Custodial Agent. Recorded at time of settlement to reflect holding investments to maturity.
2. Amortized cost is the original cost of the principal of the security adjusted for the amount of the periodic reduction of any discount or premium from the purchase date until the date of the report.
3. Averages shown are weighted averages calculated based on original cost. Average maturity is shown as days.
4. Property Tax collections temporarily held by the County on behalf of other governmental entities is not a part of the Unified Government's cash and investment value. The cash being held in trust is presented here for informational purposes.

Andrea Parra, Deputy Treasurer, said like he said, I will make this brief. There's not much to it. A lot of it is presented every quarter. Just a few key items I want to go off of. Quick summary, our average yield for quarter one was 2.23%. Then, as you see, the days to maturity is 394 days. Of the total portfolio, we're at about 23% cash, the remaining 77% is investments.



The next slide is going to be our types of securities. Of the $245M portfolio, we have about $160M, is just about 65% in CDs, fully collateralized. Then of this same $245M portfolio, about $28M or 11% is in US agencies, also secured by faith and credit of the US federal government.



The next slide I have is a slide regarding compliance. As noted before, our yield is 2.3%. We are below the target benchmark due to some of the holdings we still have that are prior to the fed rate increases. We have become in noncompliance with one institution since lowering the rate to 25%. In calculation for the quarter two, we would bring that limit back down below 25% and be back in compliance for June's quarter.

What transactions occurred in Q1?

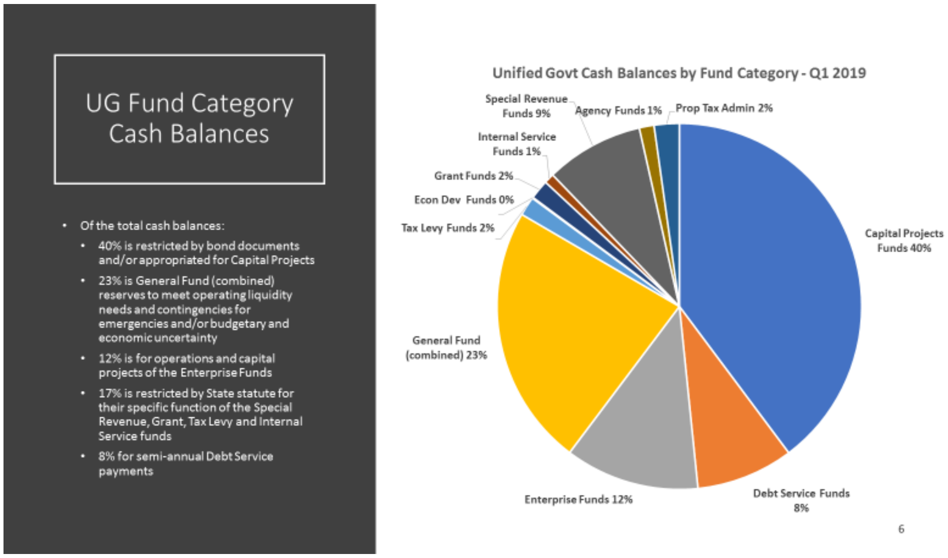
Unified Government of Wyandotte County and Kansas City, Kansas
3/31/2019
1st Quarter 2019 - January 1, 2019 - March 31, 2019

Quarterly Transactions Detail - Aggregate Portfolio

Settlement Date	CUSIP	Issuer	Coupon	Maturity Date	Par	Original Cost
Thru Q4	NA	UMB, Wyandotte Operating	2.377%	3/29/2019	(54,601,993)	(54,601,993)
Thru Q4	NA	UMB, Wyandotte Health Reserve	2.377%	3/29/2019	692,633	692,633
Cash Equivalents					**(53,909,360)**	**(53,909,360)**
1/10/2019	343009489	Commerce Bank	2.570%	1/20/2020	15,000,000	15,000,000
1/10/2019	115003065	Security Bank of KC	2.550%	1/11/2021	5,000,000	5,000,000
1/10/2019	115003066	Security Bank of KC	2.550%	1/11/2021	5,000,000	5,000,000
Purchases					**25,000,000**	**25,000,000**
8/18/2017	66000543	Commerce Bank	1.320%	2/19/2019	(1,000,000)	(1,000,000)
3/26/2015	70127695	Capital Federal Bank	1.510%	3/15/2019	(4,000,000)	(4,000,000)
Calls/Maturities					**(5,000,000)**	**(5,000,000)**
Total					**(33,909,360)**	**(33,909,360)**

5

The last slide is just going to be the transactions that occurred in quarter one. As you see, we did make three purchases totaling $25M, all certificates of deposits, and then two CDs matured, equaling $5M.



Mr. Mikesic said what the prior slides are showing is the cash holdings of the Unified Government as a whole and where we have invested those dollars. What this slide is presenting is the breakdown on where that cash is sitting inside the variety of funds that we have in the Unified Government. You will notice 40% is sitting in the Capital Project Fund. That's where cash is. Kathleen was talking about fund balances here; we're actually talking about the cash, which is different but can be related at times.

The General Fund combined is 23%. The City General has about 13½ % of that, and the County has about 9½ % of that 23%. From there, you see the breakdown of the varieties of funds that we have. That gives you a general idea of where the cash balances are sitting in the various funds.

Mr. Mikesic said that is pretty close to about all we had to present as far as the slides. We have a few more comments to come. I did want to mention that we have been discussing this presentation. This is a presentation that's required by our investment policy. We are required to come and provide this information, but we also have some flexibility on what we provide in this information. We've been discussing about changes that we might consider. We would welcome any comments that you might have so that we can consider that as we build toward making some changes to the report to try to ensure its as informative as possible.

Jeff Bryant, BPU Board Member, said for myself, I'm metrics driven. I see the numbers. I know that the only thing that I've seen that has been out of compliance is the one investment group that holds a large portion, I know, that it should have some maturities coming up that will bring it into alliance. A lot of it is just a quick dashboard that tells me this is what our target is and this is where we are in relationship to our targets.

Chairman Burroughs said I really do appreciate the effort you put forth on return on investment. I really do. I know those have been very trying economic time for CDs and bonds, and the pay has been almost 0% interest over the last handful of years. I know it's been quite a challenge to everyone dealing with budgetary issues. I sincerely appreciate and respect the work that you all have done to ensure we get the best return on our investment.

Ms. Parra said actually to kind of butt up to that, this is the last formal slide that we presented. Rick, myself, and Kathleen just completed what I'm just calling the local bank tour. We reviewed what would have been the 16 eligible financial institutions that have branches here in the county. We met with 13 of them to kind of just prep them for what they were going to see from me in the next few months. Letting them know that we're getting through getting them essentially recertified to become eligible bidders.

Additionally, giving them the local emphasis offer of a one-year investment $235,000. Just kind of let them know who we are, our names, putting names to those that we have not met, faces for people that I've worked with in the last few months, but really let them know that we're here to do our due diligence to make sure that we give this opportunity for any bank in the county to come in and start working with me. That was finished in March. I sent out those letters on the 5th of April. They're all due back to me by the 3rd of May. That's going to be if they read our policy, agree to the terms, and if they want to bid or not. The key factor there is that we wanted to just give this to you as information. In next quarter you're going to see some additional diversified financial institutions coming into play with that.

I've already gotten five banks bidding on that local emphasis that have never bid with us before. Not to say that meeting with them changed anything, but I think its just showing them that we have roots and we're here to really work with them and vice versa.

Mr. Mikesic said for some institutions, our CD investments are not really into their business model. We may never get a bid from them or some of them might just be on the edge. We just realized last year, after watching the process, that we didn't get much response or enough response and that's why we came up with the idea, let's go meet them and let them know what we're doing. They can choose whether to be apart of it or not, obviously, but at least we've done what we could to make sure they knew who we were and what we needed from them. We're cautiously optimistic that the next time we go out for bid, we might see some additional banks participating.

Ms. VonAchen said I wanted to just comment that since I've started here three years ago it's been a very big priority of mine to diversify the banks in which we work with. Basically, we were only seeing sides of all the bids from three or four banks. Frankly, former Commissioner Walker also expressed his concern about that too.

I applaud all the work that Rick and Andrea have done to achieve that end. **Chairman Burroughs** said it also goes back to the return to the General Fund when you refinance your bonds and find a better rate. It's always cost savings and cost avoidance. It's much appreciated. It provides really those hard-earned dollars back into the community. It's the taxpayers' money and we just want to be good stewards. I applaud each and every one of you for the work that you do. **Mr. Mikesic** said thank you.

Ms. VonAchen said I might point out that the graph on the bar chart, on page two of four, shows the amount of revenue collected in interest earnings in '18 was over $3.5M, which is substantially more than the amount collected in 2017, just shy of $1.5M. Of course, that's because the federal funds rate increase. Those are dollars that have really helped, assist our financial decision mainly in the three General Funds, the Sewer Fund, and the Capital Projects Fund.

Commissioner Townsend said just one question. In your meetings with the banks, and, again, I applaud you also for going out there so these individual institutions could put a name with the face. Is it up to the banks as to how much they want to participate in the program or how is that decided the amount of participation? **Mr. Mikesic** said they are, for lack of a better term, enrolling currently for the next year to be eligible to participate. When we send bids out, we will send them to all those that are eligible to bid. They can choose to take the entire amount. They can choose to offer to take a portion of the amount, or they can choose to take none of the amount and not even submit a bid. That is completely up to their discretion.

Commissioner Townsend said I'm queuing in on one of my banks. Over the years, it seems that the amount of participation, I'll put it that way, seems to be pretty constant. So that would be by their choice. **Mr. Mikesic** said of course. Just because they submit a bid doesn't mean they will get the contract or the placement as well. If their bid isn't the best bid, they may not get the placement. Which did occur, the institution that was over the limit, when was that, in the fall?

One of our institutions that is over our ratio of 30%, they did submit a good bid but we did not take them because we already had so much money placed with them. There's a couple of different factors involved on whether the bid will be placed with a given bank or not. They fully make the choice about what they choose to bid on.

Action: Information only.

Item No. 5 – 19720…POLICY: BUDGET REVISION POLICY

Synopsis: Review of approved Budget Policy, submitted by Reginald Lindsey, Budget Manager.

Reginald Lindsey, Budget Manager, said when we last met on April 1st, I presented the budget revisions to you all and then some questions came up as far as the budget policies that we have. There were a few items on my Budget Revision Report that did not come back when they were supposed to. Then there were also some questions about the discretionary policy. What we did was provide you the minutes from December 2, 2013. We just kind of wanted to open up and see if you all wanted to discuss those minutes or if you wanted to kind of go through the policy and see exactly what you wanted to do.

Chairman Burroughs said I'll leave that up to the other members of the committee. If I remember correctly, the biggest point of discussion was the aggregate presentation that was made at the end of the quarter, or at the end of the year budget cycle that presented all of the discretionary expenditures above $50,000 that were granted by the administrator; and to see those at the end of the year with no explanation. I think that was some of the concern and committee, correct me if I'm wrong on that, but I believe that was the discussion. Was it the $50,000? This was some of the questions. **Mr. Lindsey** said there were some items that did come back that were approved by County Administrator and the Mayor. They were considered emergencies and they needed to come back in the next EDF Committee, but they did not come back until April. I know there were some questions about that. Then there were also some questions about what was considered discretionary also, from what I remember, and there could have been some other things.

Chairman Burroughs said I appreciate the budget policy to being presented. I look at back and it's dated 2013. **Mr. Lindsey** said it came to the committee on December 2, 2013, and then it went to the full Commission on December 19, 2013. **Chairman Burroughs** said I would just state to the Committee if this is something of concern, that we take an opportunity to review these and come forward with any suggestions or changes, and then we'll visit with staff and the other commissioners bring forward a work product.

Commissioner McKiernan said I've gone back and I've read the minutes of our 2013 meeting. I think one of the questions that always comes up is, was this truly an emergency for health and safety because that's the caveat on which the County Administrator and the Mayor can approve more the $50,000. I'm sure for each of those expenditures of more that 50, they can justify that it was an emergency for health and safety. What I would just ask is the policy does say it'll be reported back to us at our next meeting and we do just that so that we don't let a long period of time elapse before it comes back. We are then hit with multiple months worth. That would be my only request is that we actually do try to bring it back the next meeting. **Mr. Lindsey** said we'll make sure we do that. **Ms. VonAchen** said yes, we promise to do that.

Chairman Burroughs said I would assume that there would be an explanation as to why those funds were such an emergency. I think there was some speculation as to how those funds were being spent. We just want to ensure that if the policy is in place and it hasn't been reviewed in six years, maybe we need to increase the amount of money that can be spent or maybe we'll look at additional criteria for reporting purposes. Just again, once again about transparencies.

Action: Information only.

Adjourn

Chairman Burroughs adjourned the meeting at 8:23 p.m.

mbb

Staff Request for Commission Action

Tracking No. 19846

Full Commission Meeting Date: NA
Committee: Economic Development & Finance

Date of Standing Committee Action: 7/8/19 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
6/25/2019	Kathleen VonAchen, Debbie Jonscher	x5186, x5847	kvonachen@wycokck.org, djonscher@wycokck.org	Finance
Item Description: First Quarter of Fiscal Year 2019 Budget to Actuals Report is provided for informational purposes only. No action is required.				
Action Requested: For information only.				
Budget Impact: (if applicable) Amount: Source: Included In Budget: Other (explain):				
Attachments List: 1st Quarter Quarterly Report				

UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS

Quarterly Financial Report

First Quarter of 2019

The Unified Government has completed the first quarter of the 2019 fiscal year which began in January 2019. This report summarizes the activities of the General Funds, and is not meant to be inclusive of all finance and accounting transactions. We hope this report provides the community with an overview of the Unified Government's financial performance.

The General Funds consist of the City General Fund, the County General Fund, and the Consolidated Parks Fund. They are the primary operating funds of the Unified Government and are used to account for a majority of operating activities. Other large funds, such as the Emergency Medical Services Fund, Dedicated Sales Tax Fund, Sewer Enterprise Fund and the Street & Highway Fund, account for a good portion of the remaining financial activities.

The total 2019 Original Budget is $376.4M which consists of $221.5M for the General Funds, $58.1M for Other Tax Levy Supported Funds and $96.7M for Non-Tax Levy Supported Funds. The General Fund Budget does not include the annual appropriation for debt service contingency of $9.88M.

This report focuses on the General Funds. Financial performance of all other funds may be found on the last page.

CONSOLIDATED GENERAL FUND BALANCE

In measuring financial performance, it is recommended to review the collection and spending of resources through the current period and compare this information with the prior fiscal year for the same period. The following table is the financial overview of the Consolidated General Fund for the period first quarter period of 2018 in comparision to the same period in 2019. This data includes all three general funds.

CONSOLIDATED GENERAL FUND	FY 2018			FY 2019		
numbers in 000's	Budget	1st Qtr YTD Actual	% of budget	Budget	1st Qtr YTD Actual	% of budget
Revenues	$ 206,909	$ 70,209	33.9%	$ 216,507	$ 71,541	33.0%
Expenditures	$ 208,468	$ 51,189	24.6%	$ 219,475	$ 51,764	23.6%
Net Alloc & Transfers	$ 1,325	$ 331	25.0%	$ 185	$ 46	25.0%
Net Change	$ (234)	$ 19,351		$ (2,783)	$ 19,823	
Balance, Start of Year	$ 19,046	$ 19,046		$ 25,785	$ 25,785	
Balance Year-to -Date	$ 18,812	$ 38,397		$ 23,002	$ 45,608	

Table 1: Consolidated General Fund Schedule of Revenues, Expenditures and Changes in Fund Balance

- Collected revenues are 0.9% lower than the 2018 first quarter primarily due collection of sales tax coming in 5.2% below target.
- Expenditures for the first quarter actuals were 2.4% below budgets compared to 0.4% below budgeted levels for the same period of the prior year.
- The beginning fund balances are on a cash basis and are based on anticipated starting fund balances during the mid-year budget cycle.
- The General Fund's Revenues and Expenditures do not include the annual appropriation for debt service contingency of $9.88M.

CITY GENERAL FUND REVENUES

The City General Fund is the principal operating account of Kansas City, KS. Revenue is received from taxes, fees, intergovernmental revenue, charges for services, and other sources. The General Fund is used to support general operations, including Police, Fire, Municipal Court, Public Works, general services functions and administrative programs. General Fund revenues are also used to finance the purchase of equipment and capital projects not financed with debt.

City General Fund Revenues *numbers in 000s*	2019 Original Budget	2019 1st Qtr YTD Actual	% Rev Collected
Property Tax	$ 22,619	$ 13,194	58.3%
Sales Tax	$ 47,956	$ 9,516	19.8%
Other Tax	$ 56,123	$ 14,523	25.9%
Permits/Licenses	$ 1,295	$ 162	12.5%
Intergovernmental Revenues	$ 704	$ 413	58.7%
Charges for Service	$ 10,928	$ 2,739	25.1%
Fines, Forfeits, Fees	$ 3,413	$ 905	26.5%
Misc. & Transfers-In	$ 5,969	$ 954	16.0%
Total	**$ 149,006**	**$ 42,407**	**28.5%**

Table 2: City General Fund YTD Revenues as a % of Budget

Twenty eight percent (28.5%) of actual City General Fund revenue has been collected through March 31, 2019; 3.5% higher than the 25% quarterly target. *Table 2* shows the actual collections by major revenue source category and the percent collected compared to the budget. *Table 3* shows that the revenues are slightly below the level of revenues collected for the same period last year with increases for Franchise Taxes helping offset unanticipated reductions in Sales Taxes.

Tax Revenue collections are at 29.4% of the original budget. Property taxes amounts to $13.2M or 58.3% of projected property tax revenues. The first half of property tax payments are made at the beginning of the year. Sales and use tax revenues are at $9.5M or 19.8% of projections for the quarter; 5.2% below target. Franchise and Other taxes ended the quarter in line with targets reaching 25.9% of the budgeted levels.

City General Fund Revenues *numbers in 000s*	2018 1st Qtr YTD Actual	2019 1st Qtr YTD Actual	Increase/ Decrease
Property Tax	$ 13,376	$ 13,194	$ (181)
Sales Tax	$ 10,667	$ 9,516	$ (1,151)
Other Tax	$ 13,678	$ 14,523	$ 845
Permits/Licenses	$ 152	$ 162	$ 10
Intergovernmental Revenues	$ 418	$ 413	$ (5)
Charges for Service	$ 2,654	$ 2,739	$ 85
Fines, Forfeits, Fees	$ 923	$ 905	$ (18)
Misc. & Transfers-In	$ 917	$ 954	$ 37
Total	**$ 42,784**	**$ 42,407**	**$ (378)**

Table 3: City General Fund Revenues Year to Year Comparison

Permits & Licenses collections include landlord rental licenses and Right-of-way permits. Collections are at 12.5% of targeted revenues; a comperable pace to what was recieved last year for the 1st quarter.

Charges for Service include residential trash fees and building inspection fees ended the quarter at 25.1%, in line with the 1st quarter target.

Fines, Forfeits, Fees include Municipal Court revenue and are 1.5% above the 25% revenue target for the 1st quarter. This is due to Misc Fines Forefeitures and Fees receipts ending 34% above the targeted level of YTD 2019 collections.

Misc. & Transfers-In include interest, reimbursements, sale of land and indirect charges and ended 9% below target. These revenues fluctuate throughout the year.

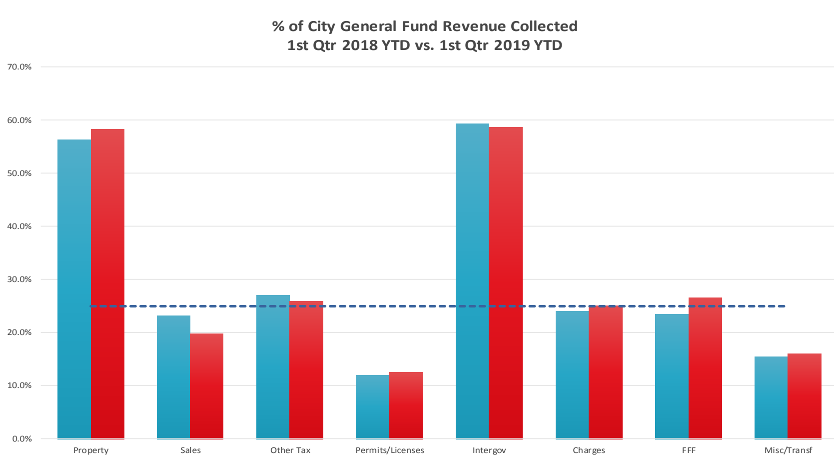


Figure 1: City General Fund Prior Year vs. Current Year

CITY GENERAL FUND EXPENDITURES

City General Fund Expenditures *numbers in 000s*	2019 Original Budget	2019 1st Qtr YTD Actual	% of Estimate
Personnel	$ 111,551	$ 27,110	24.3%
Services	$ 22,786	$ 4,072	17.9%
Supplies	$ 5,575	$ 937	16.8%
Grants, Claims	$ 5,157	$ 247	4.8%
Misc. & Transfers-Out	$ 1,767	$ 181	10.2%
Capital Outlay	$ 4,133	$ 616	14.9%
Total	**$ 150,969**	**$ 33,162**	**22.0%**

Table 4: City General Fund YTD Expenditures as a % of Budget

Personnel expenditure spend rate is 24.3% or 0.7% below the target for the 1st Quarter. Significant snow overtime is being offset by a higher than anticipated vacancy rate for the quarter.

Services expenses ended 7.1% lower than the quarter target level through operational savings and timings on contractual expenses. Major expenses paid in this category are transit contract fees, software maintenance, clearance and demo fees, city jail expenses, and the trash contract.

Supplies are below budget target by 8.2%, or $457k due to operational savings with the most notable savings being in lower than anticipated Auto Parts and the timing of the union clothing contractual payments.

Grants, Claims ended at 4.8% of budgeted amounts, a savings of 95.22%. This is primarily due to lower than budgeted legal claims and judgements; an obligatory expense that varies from year to year as well as the timing on our grants distributions being later in the year.

City General Fund Expenditures *numbers in 000s*	2018 1st Qtr YTD Actual	2019 1st Qtr YTD Actual	Increase/ Decrease
Personnel	$ 26,005	$ 27,110	$ 1,105
Services	$ 5,019	$ 4,072	$ (947)
Supplies	$ 821	$ 937	$ 116
Grants, Claims	$ 401	$ 247	$ (154)
Misc. & Transfers-Out	$ 130	$ 181	$ 50
Capital Outlay	$ 530	$ 616	$ 86
Total	**$ 32,906**	**$ 33,162**	**$ 256**

Table 5: City General Fund Expenditures Year to Year Comparison

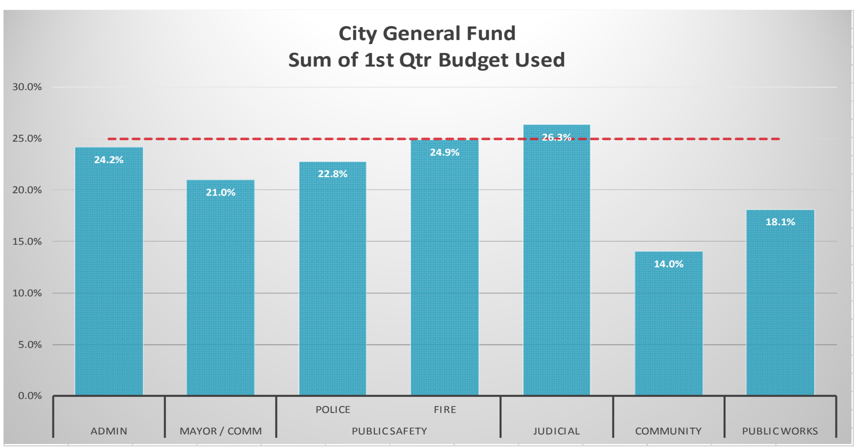


Figure 2: City General Fund Dept. Expenditures as a % of Budget

Misc & Transfers-Out ended the 1st Quarter at 10.2%. This category primarily consists of contingencies that are transferred if needed during the year and transfers-out which are spread by quarter through the year.

Capital Outlay spend rate ended the the 1st quarter at 14.9%. Capital equipment makes up 17.8% of the capital outlay budget at $1.3M. The remaining $2.8M in the capital budget is set aside for capital projects.

Most Departments are in line with spending targets for the 1st Quarter. Judicial services are coming in over target due to personnel expenses at 29% of their budget due to staffing transitions. Community spending came in significantly less than targets at 13.2% with a remaining budget of 78.5%; The most significant item impacting this trend is the ATA Contract with a $4M budget having no expenditures hit in the 1st Quarter.

COUNTY GENERAL FUND REVENUES

The County General Fund is the principal operation account of Wyandotte County. Revenue is received from taxes, fees, intergovernmental revenue, charges for services, and other sources. The County General Fund is used to support general operations including Emergency Management, Sheriff, Emergency Dispatch, Court programs, Public Works, general services functions, and administrative programs. General Fund revenues are also used to finance the purchase of capital equipment and capital projects which are not debt financed.

County General Fund Revenues *numbers in 000s*	2019 Original Budget	2019 1st Qtr YTD Actual	% Rev Collected
Property Tax	$ 37,467	$ 21,999	58.7%
Sales Tax	$ 7,573	$ 1,465	19.3%
Other Tax	$ 9,746	$ 3,026	31.0%
Permits/Licenses	$ 1,092	$ 206	18.8%
Intergovernmental Revenues	$ 66	$	0.2%
Charges for Service	$ 1,746	$ 372	21.3%
Fines, Forfeits, Fees	$ 2,708	$ 616	22.8%
Misc. & Transfers-In	$ 2,940	$ 678	23.1%
Total	**$ 63,337**	**$ 28,362**	**44.8%**

Table 6: County General Fund YTD Revenues as a % of Budget

County General Fund revenue ended 2019 first quarter exceeding the budgeted revenue targets by 19.8%. *Table 6* shows the actual collections by major revenue source category and the percent collected compared to the budget. *Table 7* shows where revenues are trending in comparison to the same period last year with revenues coming in 6.1% higher than prior year totals.

Tax Revenue collections are at 58.7% of the 2019 original target budget, 1.09% higher than the 2018 first Quarter. Sales Tax ended the first quarter at 19.3%, 5.7% lower than targeted and Other Tax revenue above 6% target. The first half of property tax payments are made at the beginning of the year.

Permits & Licenses collected 6.2% below target in the 2019 first quarter. This category consists of Auto Licenses, Auto License Fees and Antique Vehicle Licensing.

County General Fund Revenues *numbers in 000s*	2018 1st Qtr YTD Actual	2019 1st Qtr YTD Actual	Increase/ Decrease
Property Tax	$ 20,156	$ 21,999	$ 1,843
Sales Tax	$ 1,657	$ 1,465	$ (192)
Other Tax	$ 3,131	$ 3,026	$ (106)
Permits/Licenses	$ 207	$ 206	$ (1)
Intergovernmental Revenues	$	$	$ ()
Charges for Service	$ 376	$ 372	$ (4)
Fines, Forfeits, Fees	$ 451	$ 616	$ 165
Misc. & Transfers-In	$ 742	$ 678	$ (64)
Total	**$ 26,720**	**$ 28,362**	**$ 1,642**

Table 7: County General Fund Revenues Year to Year Comparison

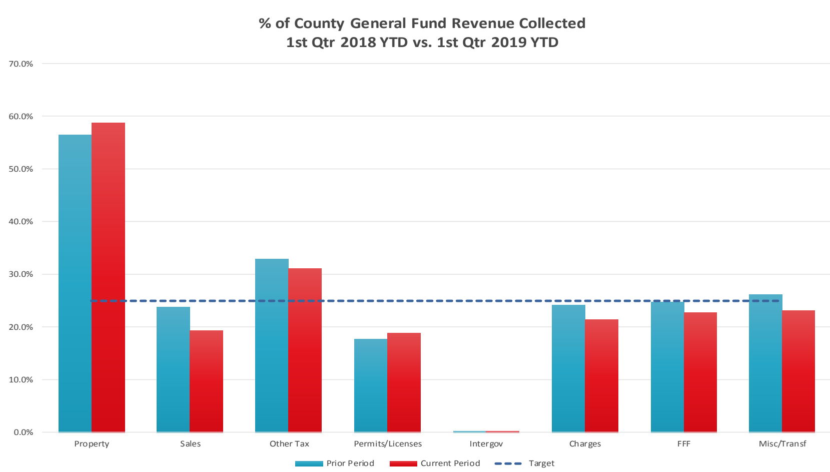


Figure 3: County General Fund Prior Year vs. Current Year

Charges for Service collections trended 3.7% below target for the first quarter. Jail Fees primarily makes up 77% of year-to-date revenue. This category is below target due to only two months being processed in the 1st Quarter.

Fines, Forfeits, Fees includes officer fees, treasurer fees, and development agreement penalties; collections came in 2.2% lower target with lower Muncipal Court Revenues being offset by higher Development Penalties.

Miscellaneous Revenue ended the 2019 first quarter at 1.9% below target due to a lower collection rate for interest on

COUNTY GENERAL FUND EXPENDITURES

County General Fund Expenditures *numbers in 000s*	2019 Original Budget		2019 1st Qtr YTD Actual		% of Estimate
Personnel	$	44,564	$	10,550	23.7%
Services	$	13,403	$	5,844	43.6%
Supplies	$	1,635	$	135	8.2%
Grants, Claims	$	1,262	$	451	35.7%
Misc. & Transfers-Out	$	1,663	$	340	20.4%
Capital Outlay	$	1,404	$	71	5.1%
Total	**$**	**63,932**	**$**	**17,390**	**27.2%**

Table 9: County General Fund YTD Expenditures as a % of Budget

Personnel expenditures ended the 2019 first quarter 1.3% lower than bugeted levels. This includes overtime pay of personnel expensing 54.5% of the 2019 original budget with staffing shortages in Sheriff jail operations.

Services expenditures ended the first quarter 18.6% above target. Major expenses paid in this category are attorney and lawyers, external prisoner housing, and prisoner medical contracts. Prisoner medical contracts expensed 93% of the 2019 original budget due to obligating the contract at the start of the year.

Supplies ended the first quarter 16.8% below budgeted levels. Major expenses paid in this category are natural gas, fuel, and auto parts. Natural Gas ended the first quarter at 32.6% of budget.

Grants, Claims ended the first quarter at 10.7% above target of budget while expending $117,000 more than in the same period prior year. This is primarily due to the timing of grant payments being paid out at the start of the year.

County General Fund Expenditures *numbers in 000s*	2018 1st Qtr YTD Actual		2019 1st Qtr YTD Actual		Increase/ Decrease	
Personnel	$	10,278	$	10,550	$	272
Services	$	5,848	$	5,844	$	(4)
Supplies	$	278	$	135	$	(143)
Grants, Claims	$	333	$	451	$	117
Misc. & Transfers-Out	$	102	$	340	$	238
Capital Outlay	$	276	$	71	$	(205)
Total	**$**	**17,115**	**$**	**17,390**	**$**	**275**

Table 10: County General Fund Expenditures Year to Year Comparison

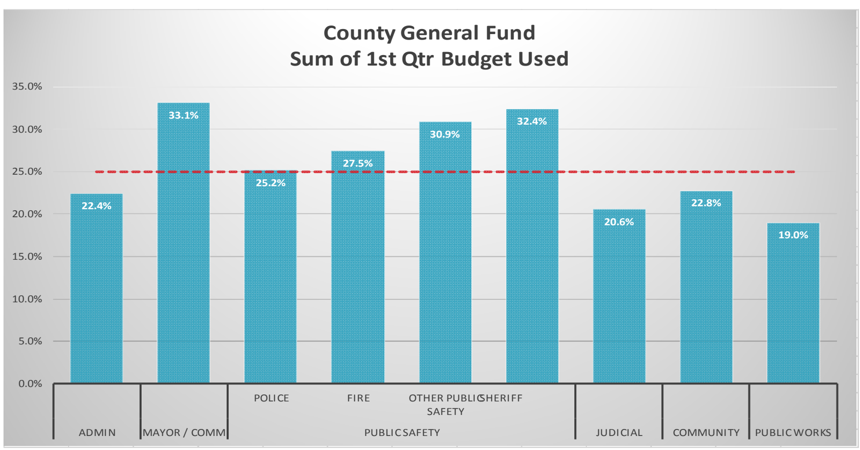


Figure 4: County General Fund Dept. Expenditures as a % of Budget

Misc. & Transfers-Out ended 2019 first quarter at 20.4% of budget expended; This budget includes contingencies that are transferred to other catgories if needed.

Capital Outlay is 19.9% below the target for the first quarter. Capital equipment makes up 94.9% of the capital outlay budget and has expended 5% of it's budget with projects expending 5.1% of their budgets for 2019.

The majority of Departments are in line with spending targets for the year. Mayor and Commission, and Fire Dispatch are exceeding first quarter targets for their expenditures due to higher than budgeted costs in personnel and overtime. Sheriff is over target due to the 1st quarter obligation of inmate medical costs as well as higher than anticipated inmate housing farmout costs for the quarter.

CONSOLIDATED PARKS GENERAL FUND REVENUES

The Consolidated Parks General Fund combines the former City and County Park's Department budget into one operating fund. This fund is used for the operation of parks, parkways, recreational areas and facilities under the supervision of the Director of Parks and Recreation. The three divisions of this fund include: Administration, Parks, and Recreation.

All park and recreation user fees, rentals, contracts and lease revenues will be allocated to this fund. In addition to a county tax levy, this fund receives an annual appropriation from the city general fund shown under Intergovernmental Revenues.

Parks General Fund Revenues *numbers in 000s*	2019 Original Budget	2019 1st Qtr YTD Actual	% Rev Collected
Property Tax	$ 1,671	$ 982	58.8%
Other Tax	$ 330	$ 110	33.5%
Intergovernmental Revenues	$ 3,700	$ -	0.0%
Charges for Service	$ 502	$ 81	16.1%
Misc. & Transfers-In	$ 101	$ 117	115.4%
Total	**$ 6,420**	**$ 1,309**	**20.4%**

Table 10: Consolidated Parks General Fund YTD Revenues as a % of Budget

Consolidated Parks General Fund revenue is 4.6% below target. *Table 10* shows the actual collections for the major revenue sources and the percent collected compared to the budget. *Table 11* shows that the revenues were stable with a slight increase in Property Tax revenue from the first quarter of 2018 to the same quarters prior year revenues.

Tax Revenue collections are at 58.8% of the 2019 original budget. Half of property tax payments are expected to be collected at the beginning of the year. This is a 2.3% higher rate of collection for this point then the 1st quarter of 2018.

Intergovernmental Revenues ended 2019 first quarter with 100% remaining budget. This is a transfer that is done towards the end of the year.

Parks General Fund Revenues *numbers in 000s*	2018 1st Qtr YTD Actual	2019 1st Qtr YTD Actual	Increase/ Decrease
Property Tax	$ 900	$ 982	$ 82
Other Tax	$ 112	$ 110	$ (2)
Intergovernmental Revenues	$ -	$ -	$ -
Charges for Service	$ 156	$ 81	$ (75)
Misc. & Transfers-In	$ 100	$ 117	$ 17
Total	**$ 1,268**	**$ 1,309**	**$ 40**

Table 11: Consolidated Parks General Fund Revenues Year to Year Comparison

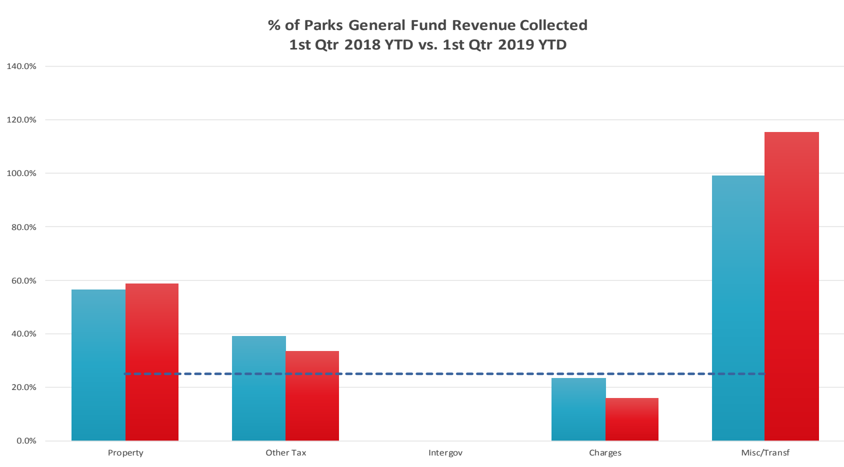


Figure 5: Consolidated Parks General Fund Prior Year vs. Current Year

Charges for Service include park shelter and field rentals and ended the first quarter 8.9% below target. *Table 11* shows that the revenues are 1.8% lower the the same period of the prior year.

Miscellaneous Revenue ended first quarter at 15.4% above the target of budgeted collections. This is in line with the same period of the prior year.

Revenues overall are in line with collections in the prior year.

CONS. PARKS GENERAL FUND EXPENDITURES

Parks General Fund Expenditures *numbers in 000s*	2019 Original Budget	2019 1st Qtr YTD Actual	% of Estimate
Personnel	$ 4,465	$ 1,019	22.8%
Services	$ 1,112	$ 559	50.2%
Supplies	$ 535	$ 145	27.0%
Grants, Claims	$ 12	$ -	0.0%
Misc. & Transfers-Out	$ 56	$ -	0.0%
Capital Outlay	$ 465	$ 7	1.6%
Total	**$ 6,645**	**$ 1,730**	**26.0%**

Table 12: Consildated Parks General Fund YTD Expenditures as a % of Budget

Personnel expenditures for 2019 first quarter ended in line with the original budget coming in just 2.2% lower than budget. Personnel costs trend up over the summer months with additional summer/seasonal potitions.

Services ended the first quarter 25.2% above target. This is primarily due to emergency repairs and maintenance of buildings.

Supplies exceeded budget targets by 2% due to fish stocking costs hitting in the 1st quarter, comprising 54% of year to date expenditures.

Misc. & Transfers-Out ended the first quarter with zero actuals.

Parks General Fund Expenditures *numbers in 000s*	2018 1st Qtr YTD Actual	2019 1st Qtr YTD Actual	Increase/ Decrease
Personnel	$ 1,002	$ 1,019	$ 17
Services	$ 109	$ 559	$ 450
Supplies	$ 191	$ 145	$ (46)
Grants, Claims	$ 2	$ -	$ (2)
Misc. & Transfers-Out	$ -	$ -	$ -
Capital Outlay	$ 97	$ 7	$ (90)
Total	**$ 1,400**	**$ 1,730**	**$ 329**

Table 13: Consolidated Parks Expenditures Year to Year Comparison

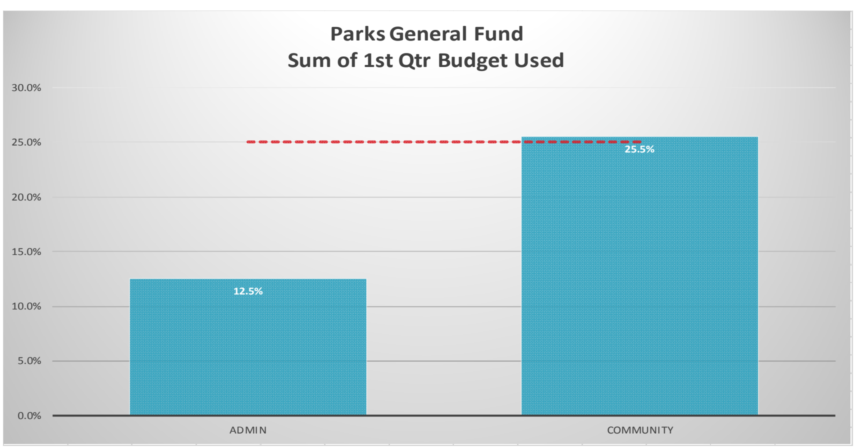


Figure 6: Parks General Fund Dept. Expenditures as a % of Budget

Capital Outlay ended the first quarter at 1.6% of budgeted expenditures. Capital equipment makes up 47%, or $220K, of the capital outlay budget. Capital equipment has a 100% remaining budget. Capital projects make up 52%, or $245,000, of the capital budget. These are typically single expense items that can happen at any point throughout the year.

Parks and Recreation, or Community Services, is a majority of the Consolidated Parks Fund making up 99.8% of the fund. Spending for Parks and Recreation is in line spending targets for the original budget.

Budget to Actual through March 31st 2019
First Quarter

	REVENUES *numbers in 000's*					EXPENDITURES *numbers in 000's*				
Tax Levy Funds	2019 Original Budget		2019 YTD Actual		% of Budget	2019 Original Budget		2019 YTD Actual		% of Budget
City General Fund	$	158,887	$	41,871	26.4%	$	160,850	$	32,984	20.5%
City Bond & Interest	$	33,971	$	14,042	41.3%	$	34,852	$	7,123	20.4%
County General Fund	$	63,337	$	28,362	44.8%	$	63,932	$	17,050	26.7%
Cons. Parks General Fund	$	6,420	$	1,309	20.4%	$	6,645	$	1,730	26.0%
County Bond & Interest	$	4,753	$	1,746	36.7%	$	5,351	$	243	4.5%
CIFI	$	-	$	-		$	-	$	-	
Aging	$	1,868	$	814	43.6%	$	1,894	$	487	25.7%
Developmental Disabilities	$	522	$	278	53.3%	$	598	$	55	9.2%
Elections	$	1,309	$	686	52.4%	$	1,502	$	196	13.0%
Health	$	3,268	$	1,354	41.4%	$	3,512	$	888	25.3%
Mental Health	$	612	$	334	54.6%	$	580	$	135	23.3%
Total UG Tax Levy Funds	**$**	**274,947**	**$**	**90,796**	**33.0%**	**$**	**279,715**	**$**	**60,891**	**21.8%**
Other Funds	2019 Original Budget		2019 YTD Actual		% of Budget	2019 Original Budget		2019 YTD Actual		% of Budget
Alcohol	$	530	$	147	27.7%	$	788	$	80	10.1%
Clerk Technology	$	45	$	8	17.5%	$	50	$	1	1.5%
Court Trustee	$	410	$	128	31.2%	$	588	$	91	15.5%
Dedicated Sales Tax	$	10,635	$	2,391	22.5%	$	10,822	$	2,511	23.2%
Emergency Medical Services	$	11,433	$	2,516	22.0%	$	11,474	$	2,137	18.6%
Environmental Trust	$	1,078	$	264	24.5%	$	1,130	$	240	21.2%
Jail Commissary	$	25	$	7	28.7%	$	60	$	-	0.0%
Parks & Recreation	$	530	$	147	27.7%	$	546	$	129	23.7%
Public Levee	$	335	$	101	30.3%	$	387	$	16	4.1%
Register of Deeds Technology	$	160	$	32	19.7%	$	130	$	-	0.0%
Sewer System	$	42,713	$	9,299	21.8%	$	49,560	$	9,852	19.9%
Special Assets	$	-	$	-		$	850	$	-	0.0%
Stadium	$	293	$	45	15.3%	$	661	$	109	16.5%
Stormwater	$	3,740	$	863	23.1%	$	4,720	$	527	11.2%
Street & Highway	$	7,080	$	1,783	25.2%	$	7,650	$	2,060	26.9%
Sunflower Hills Golf Course	$	685	$	20	2.9%	$	681	$	261	38.4%
Travel & Tourism	$	3,863	$	852	22.1%	$	5,703	$	1,114	19.5%
Treasury Technology	$	45	$	8	17.5%	$	19	$	-	0.0%
Wyandotte County 911	$	823	$	200	24.3%	$	867	$	90	10.4%
Total Other Funds	**$**	**84,423**	**$**	**18,810**	**22.3%**	**$**	**96,687**	**$**	**19,216**	**19.9%**
Total Funds	**$**	**359,370**	**$**	**109,606**	**30.5%**	**$**	**376,402**	**$**	**80,107**	**21.3%**
County Library	$	3,091	$	1,695	54.8%	$	3,205	$	1,692	52.8%
Total ALL Funds	**$**	**362,461**	**$**	**111,301**	**30.7%**	**$**	**379,608**	**$**	**81,799**	**21.5%**

Staff Request for Commission Action

Tracking No. 19847

Full Commission Meeting Date: NA

Committee: Economic Development & Finance

Date of Standing Committee Action: 7/8/19 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
6/25/2019	Reginald Lindsey	x5292	rlindsey@wycokck.org	Finance

Item Description:
First Quarter Budget Revision Report is provided for informational purposes only. No action is required.

Action Requested:
For information only.

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

Attachments List:
1st Quarter 2019 Summary of Budget Revisions

BUDGET REVISIONS $10,000 OR GREATER - FIRST QUARTER 2019 *(For information only)*

ENTRY	FUND	DEPARTMENT	CMIP/OPERATING	DESCRIPTION	FUNDING SOURCE	AMOUNT	DATE APPROVED
1	City General	Knowledge	Operating	Virus & Malware Protection	Inside Department	$20,000	March 5, 2019
2	Sunflower Enterprise	Sunflower Hills	Operating	Golf Carts	Inside Department	$15,487	March 12, 2019
				GRAND TOTAL		**$35,487**	

Staff Request for Commission Action

Tracking No. 19802

Full Commission Meeting Date: Fast track to 7/11/19

Committee: Economic Development & Finance

Date of Standing Committee Action: 7/8/19 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
6/7/2019	Kathleen VonAchen	x5186	kvonachen@wycokck.org	Finance

Item Description:

A resolution authorizing the Unified Government of Wyandotte County/Kansas City, Kansas, to enter into a lease purchase / turn-in agreement with PNC Equipment Finance, LLC, for the acquisition of six fire apparatuses. Submitted by Kathleen VonAchen, Chief Financial Officer.

It is requested that this item be fast tracked to the July 11, 2019 full Commission meeting.

Action Requested:

Approve

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

Resolution Pierce Turn-In Lease FINAL, Kansas Rider-turnin, Pierce Turn-In Doc Template

RESOLUTION NO. R-__-19

RESOLUTION AUTHORIZING THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ENTER INTO ONE OR MORE LEASE PURCHASE AGREEMENTS WITH PNC EQUIPMENT FINANCE, LLC, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS OF ACQUIRING CERTAIN EQUIPMENT.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the "Unified Government") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State as a consolidated city-county having all the powers, functions and duties of a county and a city of the first class; and

WHEREAS, pursuant to applicable law, the governing body of the Unified Government (acting as a city of the first class) ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Unified Government; and

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more Lease-Purchase Agreements ("Leases") in the principal amount not exceeding $4,500,000 for the purpose of acquiring certain fire trucks consisting of four (4) pumpers and two (2) aerial apparatus ("Equipment") to be described in the Leases is appropriate and necessary to the functions and operations of the Unified Government; and

WHEREAS, PNC Equipment Finance, LLC ("Lessor") shall act as Lessor under said Leases.

NOW, THEREFORE, **BE IT RESOLVED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT:**

Section 1. Either one of the Mayor/CEO or County Administrator (each an "Authorized Representative") acting on behalf of the Unified Government, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the documents presently before the Governing Body. Each Authorized Representative acting on behalf of the Unified Government is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Leases as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Unified Government to execute and deliver agreements and documents relating to the Leases on behalf of the Unified Government.

Section 3. The aggregate original principal amount of the Leases shall not exceed $4,500,000 and shall bear interest as set forth in the Leases and the Leases shall contain such options to purchase by the Unified Government as set forth therein.

Section 4. The Unified Government's obligations under the Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Lease and the Unified Government's obligations under the Leases shall not constitute general obligations of the Unified Government or indebtedness under the Constitution or laws of the State of Kansas.

Section 5. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED by the governing body of the Issuer on July ___, 2019.

(SEAL)

____
Mayor/CEO

ATTEST:

____
Clerk

STATE OF KANSAS ADDENDUM*
TO

LEASE-PURCHASE AGREEMENT NO. «LEASENUMBER» DATED AS OF «SYSTEMDATE»

LESSEE:
«LesseeName»
«LesseeStreet»
«LesseeCSZ»

LESSOR:
PNC Equipment Finance, LLC
155 E. Broad St. B4-B230-05-7
Columbus, Ohio 43215

For and in consideration of the mutual promises and agreements contained in the Lease to which this Addendum is attached, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Each capitalized term used, but not defined, herein shall have the same meaning as when such term is used in the Schedule to the Lease-Purchase Agreement described above (collectively, the *"Lease"*).

2. Certificate of Compliance with Kansas Law. Lessee hereby agrees to complete, execute and deliver to Lessor with respect to each Lease, on the date of its execution and delivery, a Certificate of Compliance with Kansas Law in substantially the form attached to this Addendum as *Attachment 1.*

IN WITNESS WHEREOF, Lessor and Lessee have each caused this State of Kansas Addendum to be duly executed and delivered as of this __ day of __________, ____.

LESSEE:
«LESSEENAME»

By: ____________________________
Printed Name: ___________________
Title:___________________________

LESSOR:
PNC EQUIPMENT FINANCE, LLC

By: _____________________________
Printed Name: ____________________
Title: ___________________________

* For use with Kansas counties, townships, cities, municipal universities, school districts, community colleges, drainage districts and other taxing districts or political subdivisions that are supported with tax funds, but not the State of Kansas or any of its agencies or institutions.

ATTACHMENT 1 TO
STATE OF KANSAS ADDENDUM

CERTIFICATE OF COMPLIANCE WITH KANSAS LAW

LESSEE: «LESSEENAME»

LEASE-PURCHASE AGREEMENT NO. «LEASENUMBER» DATED AS OF «SYSTEMDATE»

THE UNDERSIGNED ACKNOWLEDGES AND REPRESENTS FOR AND ON BEHALF OF LESSEE THAT FOR THE PURPOSES OF THE KANSAS CASH-BASIS LAW, K.S.A. SECTIONS 10-1101 *ET SEQ.*:

(a) the amount or capital cost required to purchase the Equipment if paid for by cash would be $_________;

(b) the annual average effective interest cost under the Lease to which this Certificate relates is ___%; and

(c) the amount included in the Rent Payments for service, maintenance, insurance or other charges exclusive of the capital cost and interest cost is $__________.

DATED this ____ day of ____________, ______.

AUTHORIZED SIGNATURE: X ________________________________

PRINTED NAME: X ________________________________

TITLE: X ________________________________

Lease-Purchase Agreement
Between
«LesseeName» and
PNC Equipment Finance, LLC

Document Index

- ❑ Lease-Purchase Agreement – Sign and provide title on the last page
- ❑ State of Kansas Addendum – Sign and tile
- ❑ Schedule A-1 to Lease-Purchase Agreement – Sign and title
- ❑ End of Lease Term Options Rider – Sign and title
- ❑ Resolution – The resolution must reflect the title(s) of the individual(s) who have authorization to sign the documents.
- ❑ Incumbency Certificate – List your authorized signor(s) and title(s); have secretary or appropriate trustee attest to the information and signature(s) provided by signing and printing his/her name, title and date. **The person who validates the signatures should not sign the lease documents.** The resolution must reflect the title(s) of the individual(s) who have authorization to sign the documents.
- ❑ Opinion of Counsel Letter – Enclosed is a template. Please ask your attorney to prepare on his/her letterhead, and include all of the items in the template.
- ❑ Titled Vehicle Guidelines **-** The terms of your contract specify that the Lender be listed as the lienholder and hold the original title during the term of the lease. Please refer to this document to guide you through the transfer of title and vehicle registration process.
- ❑ Insurance Request Form – Fill in your insurer's information and sign. Please contact your insurer, prior to delivery, to obtain a certificate of insurance. Please enclose the certificate with the signed documentation or have the insurer fax the certificate directly to me.
- ❑ Four Party Agreement – Sign and title.
- ❑ Delivery & Acceptance Certificate – At point of delivery, fill out this form and fax it to me. Please return the original via US Postal Service.
- ❑ IRS FORM 8038-G – Sign, date, and title
- ❑ Minutes of Governing Body (approving the purchase & finance of equipment) – Please return a copy with the documents.
- ❑ Invoice for advance payment – please send your check in the amount of $«AdvancePayment», made payable to PNC Equipment Finance, LLC.
- ❑ Sales Tax Exemption Certificate – Please provide an up to date State Sales Tax Exemption Certificate.
- ❑ Sales Contract or Purchase Order - Please provide a copy of the Sales Contract to enter into with Pierce Manufacturing or a copy of the Purchase Order.

E05

LEASE-PURCHASE AGREEMENT <u>«LeaseNumber»</u>

(“Turn-In” Lease for Pierce Equipment)
Dated as of «AccrualDate»

Lessee Name: <u>«LesseeName»</u>

Lessee Street Address: <u>«LesseeStreet» «LesseeCSZ»</u>

1. **EQUIPMENT LEASE**. Subject to the terms of this Lease, Lessee leases the Equipment from PNC Equipment Finance, LLC (“Lessor”). This Lease’s term (“Lease Term”) begins on the date Lessor designates below (the “Acceptance Date”) and, unless terminated early as expressly provided herein, continues until Lessee fully pays and performs all of its obligations hereunder.

2. **CERTAIN DEFINITIONS**. All terms defined herein apply equally to both the singular and plural form of such terms. (a) “Equipment” means the property described in the Schedule, together with all attachments, additions, accessions, improvements, replacements and substitutions thereto. (b) “Lien” means any security interest, lien, mortgage, encumbrance, attachment levy, other judicial process or claim of any nature whatsoever by or of any person. (c) “Lease” means this Lease-Purchase Agreement, together with the Schedule and the exhibits, schedules and addenda attached hereto and thereto and made a part hereof. (d) “Schedule” means the Schedule A-1 executed by Lessee and Lessor that is attached to this Lease.

3. **RENT PAYMENTS**. Lessee will pay to Lessor the rent payments as set forth in the Schedule (“Rent Payments”). Part of each Rent Payment represents the payment of interest as set forth in the Schedule. Lessee’s obligation to pay Rent Payments, including interest therein, accrues as of the Accrual Date stated in the Schedule. Rent Payments will be paid in U.S. dollars, without notice or demand, at Lessor’s office (or such other place as Lessor designates from time to time in writing). <u>**EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 5, THE OBLIGATION TO PAY RENT PAYMENTS IS ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND IS NOT SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON**</u>. If Lessor receives any payment from Lessee after the due date, Lessee shall pay Lessor on demand as a late charge 5% of such overdue amount, limited, however, to the maximum legal amount.

4. **ACCEPTANCE; FUNDING CONDITIONS**. (a) <u>**As between Lessee and Lessor, Lessee agrees that (i) Lessee has received and inspected all Equipment; (ii) all Equipment is in good working order and complies with all purchase orders, contracts and specifications; (iii) Lessee accepts all Equipment for purposes of this Lease “as-is, where-is”; and (iv) Lessee waives any right to revoke its acceptance**</u>. (b) Lessor has no obligation to pay the Purchase Price of the Equipment as stated in the Schedule (the “Purchase Price”) unless all reasonable conditions established by Lessor (“Funding Conditions”) have been satisfied, including, without limitation, the following: (i) Lessee has signed and delivered the Schedule; (ii) no Event of Default shall have occurred and be continuing; (iii) no material adverse change shall have occurred in the Internal Revenue Code of 1986, as amended, and the related regulations and rulings (collectively, the “Code”); (iv) no material adverse change shall have occurred in the Lessee’s financial condition or any supplier of the Equipment; (v) all representations of Lessee herein remain true, accurate and complete; and (vi) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor: (A) evidence of required insurance coverage; (B) an opinion of Lessee’s counsel; (C) reasonably detailed invoices for the Equipment; (D) Uniform Commercial Code (UCC) financing statements; (E) copies of resolutions by Lessee’s governing body duly authorizing this Lease and incumbency certificates for the person(s) who have signed this Lease; (F) such documents and certificates relating to the tax-exempt interest payable hereunder (including, without limitation, IRS Form 8038G or 8O38GC) as Lessor may request; and (G) such other documents and information previously identified by Lessor or otherwise reasonably requested by Lessor. Lessee authorizes Pierce Manufacturing Inc. (“Manufacturer”) or its dealer to complete the manufacturer’s statement of origin (MSO) and/or the certificate of title (COT) relating to the Equipment with Lessor’s first sole Lien noted thereon and to deliver such MSO or COT directly to Lessor.

5. **TERMINATION FOR NON-APPROPRIATION**. (a) Lessee represents and warrants: that it has appropriated and budgeted the funds to make all Rent Payments for the remainder of the fiscal year in which the Lease Term commences and that it currently intends to make Rent Payments for the full Lease Term if funds are

appropriated for the Rent Payments in each succeeding fiscal year. Without contractually committing itself to do so, Lessee reasonably believes that moneys in an amount sufficient to make all Rent Payments can, and will lawfully be, appropriated therefor. Lessee directs the person in charge of its budget requests to include the Rent Payments payable during each fiscal year in the budget request presented to Lessee's governing body for such fiscal year; provided, that Lessee's governing body retains authority to approve or reject any such budget request. All Rent Payments shall be payable out of the general funds of Lessee or out of other legally appropriated funds. The Lease will not be a general obligation of Lessee and shall not constitute a pledge of either Lessee's full faith and credit or of Lessee's taxing power. (b) If Lessee's governing body fails to appropriate sufficient funds in any fiscal year for Rent Payments or other payments due hereunder and if other funds are not legally appropriated for such payments, a "Non-Appropriation Event" will be deemed to have occurred. If a Non-Appropriation Event occurs, then: (I) Lessee shall give Lessor immediate notice of such Non-Appropriation Event; (ii) on the Return Date, Lessee shall return to Lessor all of the Equipment, at Lessee's sole expense, in accordance with Section 19; and (c) the Lease shall terminate on the Return Date without penalty to Lessee, provided, that Lessee shall pay all Rent Payments and other amounts payable under the Lease for which funds shall have been appropriated, provided further, that Lessee shall pay month-to-month rent at the rate set forth in the Schedule for each month that Lessee fails to so return the Equipment. "Return Date" means the last day of the fiscal year for which appropriations were made for the Rent Payments due hereunder.

6. **NO WARRANTY BY LESSOR**. Lessor hereby assigns to Lessee any assignable manufacturer's or supplier's warranties. Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's sole expense. **The Equipment is sold "AS IS". LESSEE ACKNOWLEDGES THAT LESSOR DID NOT MANUFACTURE THE EQUIPMENT. LESSOR DOES NOT REPRESENT THE MANUFACTURER, OWNER, OR DEALER, AND LESSEE SELECTED THE EQUIPMENT BASED UPON LESSEE'S OWN JUDGMENT. LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE OR AS TO THE EQUIPMENT'S VALUE, DESIGN, CONDITION, USE, CAPACITY OR DURABILITY. LESSEE AGREES THAT REGARDLESS OF CAUSE, LESSOR IS NOT RESPONSIBLE FOR, AND LESSEE WILL NOT MAKE ANY CLAIM AGAINST LESSOR FOR, ANY DAMAGES, WHETHER CONSEQUENTIAL, DIRECT, SPECIAL OR INDIRECT INCURRED BY LESSEE IN CONNECTION WITH THE EQUIPMENT OR THIS LEASE-PURCHASE AGREEMENT. NEITHER THE MANUFACTURER, THE DEALER, NOR ANY SALESPERSON, EMPLOYEE OR AGENT OF THE DEALER OR MANUFACTURER, IS LESSOR'S AGENT OR HAS ANY AUTHORITY TO SPEAK FOR LESSOR OR TO BIND LESSOR IN ANY WAY.** Lessee agrees that (a) all Equipment will have been purchased in accordance with Lessee's specifications from manufacturer's and suppliers selected by Lessee, (b) Lessor is not a manufacturer or dealer of any Equipment and has no liability for the delivery or installation of any Equipment, (c) Lessor assumes no obligation with respect to any manufacturer's or supplier's product warranties or guaranties, (d) no manufacturer or supplier or any representative of either is an agent of Lessor, (e) any warranty, representation, or agreement made by any manufacturer or supplier or any representative thereof shall not be binding upon Lessor, and (f) Lessor is paying the Purchase Price solely in connection with this Lease.

7. **TITLE; SECURITY INTEREST**. (a) Solely for purposes of compliance with New Jersey Administrative Code Section 5:34-3.3, and subject to Lessor's security interest therein, and all of Lessor's other right hereunder including, without limitation, Sections 5, 18 and 19, ownership of Equipment described in this Lease shall be with Lessor and held as collateral security for the Secured Obligations. For all other purposes, including for purposes of state and local taxation, accounting and budgeting, operation, use, third party liability, worker's liability, insurance and titling under applicable vehicle titling laws in the State of New Jersey, the ownership of and title to all the Equipment described in each Lease shall be with Lessee. For purposes of applicable state law, Lessee agrees that Lessee shall be identified as the title holder of the Equipment on any certificates of title and other ownership registration documents (the "Certificates of Title") issued for any item of Equipment which constitutes a motor vehicle, a vehicle or a trailer (hereinafter, a "vehicle") and Lessee agrees that Lessor shall be identified as having its first and sole Lien noted on each Certificate of Title for each vehicle under applicable state law. The filing or recording of UCC financing statements and Certificates of Title are not intended to negate Lessor's ownership of the Equipment for purposes of compliance with New Jersey Administrative Code Section 5:34-3.3, but are intended to give public notice of Lessor's rights in the Equipment.

(b) As collateral security for the Secured Obligations, Lessee hereby grants to Lessor a first priority security interest in the Equipment (now existing or hereafter acquired) and any and all proceeds thereof. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, UCC financing statements. (c) "Secured Obligations" means Lessee's obligations to pay all Rent Payments and all other amounts due and payable hereunder and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due, or existing or hereafter arising) of Lessee hereunder.

8. **MAINTENANCE; OPERATION**. At its sole expense, Lessee will: (a) repair and maintain the Equipment in good condition and working order in accordance with manufacturer's instructions; (b) supply and install all replacement parts or other devices when required to so maintain the Equipment or when required by applicable law or regulation, which parts or devices shall automatically become part of the Equipment; (c) use all Equipment in a careful manner in the normal course of its operations and only for the purposes for which it was designed in accordance with the manufacturer's warranty requirements; and (d) comply with all laws and regulations relating to the Equipment. Lessor will not provide any maintenance or other service for any Equipment. Lessee will not make any alterations, additions or improvements ("Improvements") to any Equipment without Lessor's prior written consent unless the Improvements may be readily removed without damage to the operation, value or utility of the Equipment, but any such Improvements not removed prior to this Lease's termination shall automatically become part of the Equipment.

9. **LOCATION; INSPECTION**. The Equipment will not be removed from, or if the Equipment is rolling stock, its permanent base will not be changed from, the location specified in the Schedule (the "Location") without Lessor's prior written consent which will not be unreasonably withheld. The Equipment is, and will remain, personal property and will not be deemed to be affixed or attached to real estate or any building. Upon reasonable notice, Lessor may enter the Location or elsewhere during normal business hours to inspect the Equipment.

10. **LIENS; SUBLEASES; TAXES**. (a) Lessee will keep all Equipment free and clear of all Liens except those Liens created hereunder. Lessee shall not sublet or lend any Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. (b) Lessee will pay when due all Taxes which may now or hereafter be imposed upon any Equipment or its ownership, leasing, rental, sale, purchase, possession or use, upon the Lease or upon any Rent Payments or any other payments due under the Lease. If Lessee fails to pay such Taxes when due, Lessor has the right, but not the obligation, to pay such Taxes. If Lessor pays any such Taxes, Lessee will, upon demand, immediately reimburse Lessor therefor. "Taxes" means present and future taxes, levies, duties, assessments or other governmental charges that are not based on the net income of Lessor, whether they are assessed to or payable by Lessee or Lessor, including, without limitation (i) sales, use, excise, licensing, registration, titling, gross receipts, stamp and personal property taxes, and (ii) interest, penalties or fines on any of the foregoing.

11. **RISK OF LOSS**. (a) Lessee bears the entire risk of loss, theft, damage or destruction of the Equipment in whole or in part from any reason whatsoever ("Casualty Loss"). No Casualty Loss to any Equipment shall relieve Lessee from the obligation to make any Rent Payments or to perform any other obligation hereunder. Proceeds of any insurance recovery will be applied to Lessee's obligations under this Section 11. If a Casualty Loss occurs to any Equipment, Lessee shall immediately notify Lessor, and Lessee shall, unless otherwise directed by Lessor, immediately repair the same. (b) If Lessor determines that any item of Equipment has suffered a Casualty Loss beyond repair ("Lost Equipment"), Lessee shall either (i) immediately replace the Lost Equipment with similar equipment in good repair, condition and working order free and clear of any Liens (except Lessor's Liens), in which event such replacement equipment shall automatically be Equipment hereunder, and deliver to Lessor true and complete copies of the invoice or bill of sale covering the replacement equipment; or (ii) on the earlier of 60 days after the Casualty Loss or the next scheduled Rent Payment date, pay Lessor (A) all amounts owed by Lessee hereunder, including the Rent Payments due on or accrued through such date plus (B) an amount equal to the Termination Value as of the Rent Payment date (or if the Casualty Loss payment is due between Rent Payment dates, then as of the Rent Payment date preceding the date that the Casualty Loss payment is due) set forth in the Schedule. If Lessee is making such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Rent Payment and Termination Value to be paid by Lessee with respect to the Lost Equipment and a revised Schedule. (c) To the extent not prohibited by State law, Lessee shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses (including reasonable attorney's fees), damages or losses arising under or related to any Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof. These obligations of Lessee shall survive any expiration or termination of this Lease. Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses (including attorney's fees), damages or losses which arise directly from events occurring after any Equipment has been returned by Lessee to Lessor in accordance with the terms hereof or which arise directly from Lessor's gross negligence or willful misconduct.

12. **INSURANCE**. (a) Lessee at its sole expense shall at all times keep all Equipment insured against all Casualty Losses in an amount not less than the Equipment's Termination Value. Proceeds of insurance covering damage or loss of any Equipment shall be payable to Lessor as loss payee. (b) The Total Sale Price as set forth

on the Schedule does not include the payment of any premium for any liability insurance coverage for bodily injury and/or property damage caused to others and no such insurance will be purchased by Lessor. (c) Lessee at its sole expense shall at all times carry public liability and third party property damage insurance in amounts reasonably satisfactory to Lessor protecting Lessee and Lessor from liabilities for injuries to persons and damage to property of others relating in any way to any Equipment. Proceeds of such public liability or property insurance shall be payable first to Lessor as additional insured to the extent of its liability and then to Lessee. All insurers will be reasonably satisfactory to Lessor. Lessee will promptly deliver to Lessor satisfactory evidence of required insurance coverage and all renewals and replacements thereof. Each insurance policy will require that the insurer give Lessor at least 30 days prior written notice of any such cancellation of such policy and will require that Lessor's interests remain insured regardless of any act, error, misrepresentation, omission or neglect of Lessee. The insurance maintained by Lessee shall be primary without any right of contribution from insurance which may be maintained by Lessor.

13. **PURCHASE OPTION**. Upon 60 days prior written notice by Lessee to Lessor and if no Event of Default then exists, Lessee may purchase the Equipment on any Rent Payment due date by paying to Lessor all Rent Payments then due (including accrued interest, if any) plus the Termination Value amount set forth on the Schedule for such date. Upon satisfaction by Lessee of the foregoing purchase conditions, Lessor shall release its Lien on the Equipment and Lessee shall retain its title to such Equipment "AS-IS, WHERE-IS", without representation or warranty by Lessor, express or implied, except for a representation that the Equipment is free and clear of any Liens created by Lessor.

14. **REPRESENTATIONS AND WARRANTIES**. Lessee represents and warrants that: (a) Lessee has full power, authority and legal right to execute and deliver the Lease and to perform its obligations under the Lease, and all such actions have been duly authorized by appropriate findings and actions of Lessee's governing body; (b) the Lease has been duly executed and delivered by Lessee and is a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms; (c) the Lease is authorized under, and the authorization, execution and delivery of the Lease complies with, all applicable federal, state and local laws and regulations (including, but not limited to, all open meeting, public bidding and property acquisition laws) and all applicable judgments and court orders; (d) the execution, delivery and performance by Lessee of its obligations hereunder will not result in a breach or violation of, nor constitute a default under, any agreement, lease or other instrument to which Lessee is a party or by which Lessee's properties may be bound or affected; (e) there is no pending, or to the best of Lessee's knowledge threatened, litigation of any nature which may have a material adverse effect on Lessee's ability to perform its obligations under the Lease; and (f) Lessee is a state, or a political subdivision thereof, as referred to in Section 103 of the Code, and Lessee's obligation hereunder constitutes an enforceable obligation issued on behalf of a state or a political subdivision thereof.

15 **TAX COVENANTS**. Lessee covenants that it: (a) shall comply with all of the requirements of Sections 149(a) and 149(e) of the Code, as they may be amended from time to time, including, but not limited to, executing and filing Internal Revenue Form 8038G or 8038GC, as the case may be, and any other information statements reasonably requested by Lessor; (b) shall not do (or cause to be done) any act which will cause, or by omission of any act allow, the Lease to be an "arbitrage bond" within the meaning of Section 148(a) of the Code or the Lease to be a "private activity bond" within the meaning of Section 141(a) of the Code; and (c) shall not do (or cause to be done) any act which will cause, or by omission of any act allow, the interest portion of any Rent Payments to be or become includable in gross income for federal income taxation purposes under the Code. (d) If Lessor either (i) receives notice, in any form, from the IRS; or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor and approved by Lessee, which approval Lessee shall not unreasonably withhold, that Lessor may not exclude the interest component of any Rent Payment under a Tax-Exempt Lease from federal gross income because Lessee breached a covenant contained herein, then Lessee shall pay to Lessor, within thirty (30) days after Lessor notifies Lessee of such determination, the amount which, with respect to Rent Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of all Rent Payments under such Tax-Exempt Lease due through the date of such event) that are imposed on Lessor as a result of the loss of the exclusion, will restore to Lessor the same after-tax yield on the transaction evidenced by such Tax-Exempt Lease (assuming tax at the highest marginal corporate tax rate) that it would have realized had the exclusion not been lost. Additionally, Lessee agrees that upon the occurrence of such an event with respect to a Tax-Exempt Lease, it shall pay additional rent to Lessor on each succeeding Rent Payment due date in such amount as will maintain such after-tax yield to Lessor. Lessor's determination of the amount necessary to maintain its after-tax yield as provided in this subsection (b) shall be conclusive

(absent manifest error). Notwithstanding anything in a Tax-Exempt Lease to the contrary, any payment that Lessee is required to make pursuant to this subsection (b) shall be made only from Legally Available Funds.

16. **ASSIGNMENT**. (a) Lessee shall not assign, transfer, pledge, hypothecate, nor grant any Lien on, nor otherwise dispose of, this Lease or any Equipment or any interest in this Lease or Equipment. (b) Lessor may assign its rights, title and interest in and to this Lease or any Equipment, and/or may grant or assign a security interest in this Lease and its Equipment, in whole or in part, to any party at any time. Any such assignee or lien holder (an "Assignee") shall have all of the rights of Lessor under the applicable Lease. **LESSEE WILL NOT ASSERT AGAINST ANY ASSIGNEE ANY CLAIMS, ABATEMENTS, SETOFFS, COUNTERCLAIMS, RECOUPMENT OR ANY OTHER SIMILAR DEFENSES WHICH LESSEE MAY HAVE AGAINST LESSOR**. Unless Lessee agrees otherwise in writing, any such assignment transaction shall not release Lessor from any of Lessor's obligations under this Lease. An assignment or reassignment of any of Lessor's rights, title or interest in the Lease or its Equipment will be enforceable against Lessee only after Lessee receives a written notice of assignment which discloses the name and address of each such Assignee. For purposes of Section 149 of the Code, Lessee hereby appoints Lessor (or Lessor's designee) as the book entry and registration agent to keep a complete record of any and all assignments of this Lease. Lessee agrees to acknowledge in writing any such assignments if so requested. (c) Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

17. **EVENTS OF DEFAULT**. "Event of Default" means the occurrence of any one or more of the following: (a) Lessee fails to make any Rent Payment (or any other payment) as it becomes due hereunder, and any such failure continues for 10 days after the due date thereof; (b) Lessee fails to perform any of its obligations under Sections 10(a), 12, or 16(a); (c) Lessee fails to perform or observe any other condition or agreement to be performed or observed by it hereunder and such failure is not cured within 30 days after receipt of Lessor's written notice thereof; (d) any statement, representation or warranty made by Lessee herein or in any writing delivered by Lessee in connection therewith proves at any time to have been false or misleading in any material respect as of the time when made; (e) Lessee applies for, or consents to, the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or a substantial part of its assets, or a petition for relief is filed by Lessee under any federal or state bankruptcy, insolvency or similar law, or a petition in a proceeding under any federal or state bankruptcy, insolvency or similar law is filed against Lessee and is not dismissed within 60 days thereafter; or (f) Lessee shall be in default under any other lease or under any other financing agreement executed at any time with Lessor.

18 **REMEDIES**. (a) If any Event of Default occurs, Lessor may, at its option, do one or more of the following: (i) require Lessee to pay all amounts then currently due hereunder and all remaining Rent Payments to become due hereunder, together with interest on such amounts at the rate of 12% per annum (but not to exceed the highest rate permitted by applicable law) from the date of Lessor's demand for such payment; (ii) require Lessee to promptly return all Equipment to Lessor in the manner set forth in Section 19, (iii) enter upon the premises where any Equipment is located and repossess such Equipment without demand or notice, without any court order or other process of law and without liability for any damage occasioned by such repossession; (iv) sell, lease or otherwise dispose of any Equipment, in whole or in part, in one or more public or private transactions, and if Lessor so disposes of any Equipment, Lessor will retain the entire proceeds of such disposition free of any claims of Lessee, provided, that if the net proceeds of the disposition of all the Equipment exceeds the applicable Termination Value plus the amounts payable by Lessee under this Section's clauses (a)(i) and (a)(vii), then such excess amount shall be remitted by Lessor to Lessee; (v) terminate, cancel or rescind this Lease as to any and all Equipment; (vi) exercise any other right, remedy or privilege which may be available to Lessor under applicable law or, by appropriate court action at law or in equity, Lessor may enforce any of Lessee's obligations under the Lease; and/or (vii) require Lessee to pay all of Lessor's out-of-pocket costs and expenses incurred as a result (directly or indirectly) of the Event of Default and/or of Lessor's actions under this Section, including, without limitation, any attorney fees and expenses and any costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of any Equipment. (b) None of the above remedies is exclusive, but each is cumulative and in addition to any other available remedy. Exercise of one or more remedies will not preclude its exercise of any other remedy. No delay or failure in exercising any remedy hereunder shall operate as a waiver thereof nor as an acquiescence in any default. No single or partial exercise of any remedy precludes any other exercise thereof or the exercise of any other remedy.

19. **EQUIPMENT RETURN**. If Lessor is entitled to obtain possession of any Equipment under the provisions of this Lease or if Lessee is obligated at any time to return any Equipment, then (a) title to the Equipment shall vest in Lessor immediately upon Lessor's notice thereof to Lessee, and (b) Lessee shall, at its sole expense and

risk, immediately de-install, disassemble, pack, crate, insure and return the Equipment to Lessor (all in accordance with applicable industry standards) at any location in the continental United States selected by Lessor. The Equipment shall be in the same condition as when Lessee received it (except reasonable wear, tear and depreciation resulting from normal and proper use); shall be in good operating order and maintenance as required hereunder; shall be free and clear of any Liens (except Lessor's Lien); and shall comply with all applicable laws and regulations. Until the Equipment is returned as required above, this Lease shall remain in full force including, without limitation, the obligations to pay Rent Payments and to insure the Equipment. Lessee will execute and deliver to Lessor all documents reasonably requested by Lessor to evidence the transfer of the Equipment's legal and beneficial title to Lessor and to evidence the termination of Lessee's interest in the Equipment.

20. **LAW GOVERNING**. **Each lease shall be governed by the laws of the state of the lessee (The "State").**

21. **FINANCIAL INFORMATION; INDEMNITY; POWER OF ATTORNEY**. As soon as they are available after their completion in each fiscal year of Lessee during the Lease Term, Lessee will deliver to Lessor upon Lessor's request the publicly available annual financial information of Lessee. Lessee shall indemnify, hold harmless and, if Lessor requests, defend Lessor and its shareholders, affiliates, employees, dealers and agents against all Claims directly or indirectly arising out of or connected with (a) the manufacture, installation, use, lease, possession or delivery of the Equipment, (b) any defects in the Equipment, any wrongful act or omission of Lessee, or its employees and agents, or (c) any claims of alleged breach by Lessee of this Lease-Purchase Agreement or any related document. "Claims" means all losses, liabilities, damages, penalties, expenses (including attorney's fees and costs), claims, actions and suits, whether in contract, tort or otherwise. Lessee hereby appoints Lessor its true and lawful attorney-in-fact (with full power of substitution) to (i) prepare any instrument, certificate of title or financing statement covering the Equipment or otherwise protecting Lessor's interest in the Equipment, to sign Lessee's name with the same force and effect as if signed by Lessee, and to file same at the proper location(s); and (ii) make claims for, receive payment of, and execute and endorse all documents, checks or drafts for loss, theft, damage or destruction to the Equipment under any insurance.

22. **MISCELLANEOUS**. (a) All section headings in the Lease are for reference only and do not define or limit the scope of any provision hereof. (b) This Lease may be executed in several counterparts, each of which shall be deemed an original, but all of which shall be deemed one instrument. Only one counterpart of this Lease will be marked "Lessor's Original". All other counterparts will be deemed duplicates. An assignment of, or security interest in, this Lease may be created through transfer and possession only of the counterpart marked "Lessor's Original". (c) This Lease constitutes the entire agreement between the parties with respect to the lease of the Equipment. This Lease shall not be modified or amended except with the written consent of Lessee and Lessor. Any provision of this Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease. (d) All notices to be given hereunder shall be in writing and either personally delivered or mailed by regular or certified mail or sent by an overnight courier delivery company to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notices shall be deemed to have been received 5 days after mailing if sent by regular or certified mail, or on the next business day if sent by overnight courier, or on the day of delivery if delivered personally.

23. ANTI-MONEY LAUNDERING/INTERNATIONAL TRADE LAW COMPLIANCE.

Lessee represents and warrants to Lessor, as of the date of this Master Lease, the date of each advance of proceeds pursuant to this Master Lease, the date of any renewal, extension or modification of this Master Lease or any Lease, and at all times until this Master Lease and each Lease has been terminated and all amounts thereunder have been indefeasibly paid in full, that: (a) no Covered Entity (i) is a Sanctioned Person; (ii) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person; or (iii) does business in or with, or derives any of its operating income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; (b) the proceeds of any Lease will not be used to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; (c) the funds used to repay any Lease are not derived from any unlawful activity; and (d) each Covered Entity is in compliance with, and no Covered Entity engages in any dealings or transactions prohibited by, any laws of the United States, including but not limited to any Anti-Terrorism Laws. Lessee covenants and agrees that it shall immediately notify Lessor in writing upon the occurrence of a Reportable Compliance Event.

As used herein: "Anti-Terrorism Laws" means any laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering, or bribery, all as amended, supplemented or replaced from time to time; "Compliance Authority" means each and all of the (a) U.S. Treasury Department/Office of Foreign Assets Control, (b) U.S. Treasury Department/Financial Crimes Enforcement Network, (c) U.S. State Department/Directorate of Defense Trade Controls, (d) U.S. Commerce Department/Bureau of Industry and Security, (e) U.S. Internal Revenue Service, (f) U.S. Justice Department, and (g) U.S. Securities and Exchange Commission; "Covered Entity" means Lessee, its affiliates and subsidiaries, all guarantors, pledgors of collateral, all owners of the foregoing, and all brokers or other agents of Lessee acting in any capacity in connection with this Master Lease or any Lease; "Reportable Compliance Event" means that any Covered Entity becomes a Sanctioned Person, or is indicted, arraigned, investigated or custodially detained, or receives an inquiry from regulatory or law enforcement officials, in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or self-discovers facts or circumstances implicating any aspect of its operations with the actual or possible violation of any Anti-Terrorism Law; "Sanctioned Country" means a country subject to a sanctions program maintained by any Compliance Authority; and "Sanctioned Person" means any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person or entity, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any order or directive of any Compliance Authority or otherwise subject to, or specially designated under, any sanctions program maintained by any Compliance Authority.

24. USA PATRIOT ACT NOTICE.

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each lessee that opens an account. What this means: when Lessee opens an account, Lessor will ask for the business name, business address, taxpayer identifying number and other information that will allow Lessor to identify Lessee, such as organizational documents. For some businesses and organizations, Lessor may also need to ask for identifying information and documentation relating to certain individuals associated with the business or organization.

25. HEAVY-DUTY VEHICLE GREENHOUSE GAS EMISSION REDUCTION REGULATION.

(a) If the equipment leased pursuant to the Lease is a tractor, the Lessee of this heavy-duty tractor understands that when using a heavy-duty tractor to pull a 53-foot or longer box-type trailer on a highway within California, the heavy-duty tractor must be compliant with <u>sections 95300-95312, title 17, California Code of Regulations</u>, and that it is the responsibility of the Lessee to ensure this heavy-duty tractor is compliant. The regulations may require this heavy-duty tractor to have low-rolling-resistance tires that are U.S. Environmental Protection Agency (U.S. EPA) SmartWay Verified Technologies prior to current or future use in California, or may entirely prohibit use of this tractor in California if it is a model year 2011 or later tractor and is not a U.S. EPA SmartWay Certified Tractor.

(b) If the equipment leased pursuant to the Lease is a trailer, the Lessee of this box-type trailer understands that when using a heavy-duty tractor to pull a 53-foot or longer box-type trailer on a highway within California, the box-type trailer must be compliant with <u>sections 95300-95312, title 17, California Code of Regulations</u>, and that it is the responsibility of the Lessee to ensure this box-type trailer is compliant. The regulations may require this trailer to have low-rolling-resistance tires and aerodynamic technologies that are U.S. Environmental Protection Agency SmartWay Verified Technologies prior to current or future use in California.

(c) Notwithstanding anything in the Lease to the contrary, the Lease does not prohibit the Lessee from modifying the trailer, at Lessee's cost, to be compliant with the requirements of the California Heavy-Duty Vehicle Greenhouse Gas Emission Reduction Regulation.

26. **IMPORTANT INFORMATION ABOUT PHONE CALLS**. By providing telephone number(s) to Lessor, now or at any later time, Lessee authorizes Lessor and its affiliates and designees to contact Lessee regarding Lessee account(s) with Lessor or its affiliates, whether such accounts are Lessee individual accounts or business accounts for which Lessee is a contact, at such numbers using any means, including but not limited to placing calls using an automated dialing system to cell, VoIP or other wireless phone number, or leaving prerecorded messages or sending text messages, even if charges may be incurred for the calls or text messages. Lessee consents that any phone call with Lessor may be monitored or recorded by Lessor.

OPTIONS AT END OF LEASE TERM. At the end of the Lease Term, Lessee shall have the options set forth in the End-Of-Lease Term Options Rider that is attached to and made a part of the Lease if and only if said End-Of-Lease Term Options Rider has been executed by Lessee, Lessor and Manufacturer or Manufacturer's designee.

«LesseeName»
("Lessee")

By:_____________________________________

Title:___________________________________

«LesseeStreet»
«LesseeCSZ»

PNC Equipment Finance, LLC
("Lessor")

By:_____________________________________

Title____________________________________

155 East Broad Street, B4-B230-05-7
Columbus, OH 45215

SCHEDULE A-1 TO LEASE-PURCHASE AGREEMENT

This Schedule A-1, (the "Schedule") is attached and made a part of the Lease-Purchase Agreement No. «LeaseNumber», together with all exhibits, schedules, addenda, and other attachments thereto, executed by Lessee and Lessor (the "Lease"). Unless otherwise defined herein, capitalized terms will have the same meaning ascribed to them in the Lease. To the extent that there is any conflict between the terms of the Lease and this Schedule, the terms of this Schedule shall control.

1. **EQUIPMENT DESCRIPTION.** As used in the Lease, "Equipment" means all of the property described in this Schedule and all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto.

2. **ESSENTIAL USE; CURRENT INTENT OF LESSEE.** Lessee represents that the use of the Equipment is essential to Lessee's proper, efficient and economic functioning or to the services that Lessee provides to its citizens and the Equipment will be used by Lessee only for the purpose of performing its governmental or proprietary functions consistent with the permissible scope of its authority. Lessee currently intends for the full Lease Term: to use the Equipment; to continue this Lease; and (if applicable) to make Rent Payments if funds are appropriated in each fiscal year by its governing body.

3. **BANK QUALIFIED.** LESSEE CERTIFIES THAT IT HAS DESIGNATED THIS LEASE-PURCHASE AGREEMENT AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265(b)(3) OF THE CODE, THAT IT HAS NOT DESIGNATED MORE THAN $10,000,000 OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDAR YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDAR YEAR WILL NOT EXCEED $10,000,000.

4. **EQUIPMENT LOCATION & DESCRIPTION.**

«LesseeName»

«EquipStreet»

«EquipCSZ»

«EquipCounty» County

«EquipmentDescription»

VIN # «VIN»

5. **LEASE PAYMENT SCHEDULE.**

(a) Accrual Date: «AccrualDate»

(b) Amount Financed:

i.	Equipment Purchase Price	$ «PurchasePrice»
ii.	Purchase Price Deductions	$«Down pymt»
	Prepay Discounts	$ «VendorDiscounts»
	Trade In	$ «TradeIn»
iii.	Total Amount Financed (Cash Sale Price minus Purchase Price Deductions)	$ «AmountFinanced»

(c) Payment Schedule:

Accrual Date: «AccrualDate»

Rent Payment Number	Rent Payment Date	Rent Payment Amount	Interest Portion	Principal Portion	Termination Value

«LesseeName»
(“Lessee”)

By:_______________________________________

Title:______________________________________

PNC Equipment Finance, LLC
(“Lessor”)

By:_______________________________________

Title:______________________________________

FORM OF OPINION OF COUNSEL

(To Be Typed on Attorney's Letterhead Stationary)

Date: «AccrualDate»

Lessee: «LesseeName»

Lessor: PNC Equipment Finance, LLC

Re: Lease-purchase Agreement No. «LeaseNumber» dated «AccrualDate», by and between the above-named Lessee and the above-named Lessor

Gentlemen:

I have acted as counsel to Lessee with respect to the Lease Schedule, the Lease-Purchase Agreement and all other agreements described above or related thereto (collectively, the "Agreements") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Agreements and such other documents as I have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents, it is my opinion that:

1. Lessee is a political subdivision of the State of «FullStateName» (the "State") duly organized, existing and operating under the Constitution and laws of the State.

2. Lessee is authorized and has power under State law to enter into all of the Agreements, and to carry out its obligations thereunder and the transactions contemplated thereby.

3. The Agreements and all other documents related thereto have been duly authorized, approved, and executed by and on behalf of Lessee, and each of the Agreements is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal law affecting creditor's remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.

4. The authorization, approval and execution of the Agreements and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable Local, State and Federal laws (including open meeting laws and public bidding and property acquisition laws).

5. To the best of my knowledge, there is no litigation or proceeding pending before any court, administrative agency or governmental body, that challenges: the organization or existence of Lessee; the authority of its officers; the proper authorization; approval and execution of any of the Agreements or any documents relating thereto; the appropriation of monies to make payments under the Agreements for the current fiscal year; or the ability of Lessee otherwise to perform its obligations under the Agreements and the transactions contemplated thereby.

6. Lessee is a political subdivision of the State as referred to in Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder.

Lessor, its Assignee and any of their assigns may rely upon this opinion.

Very truly yours,

Attorney

INSURANCE COVERAGE DISCLOSURE

PNC Equipment Finance, LLC, LESSOR

«LesseeName», LESSEE

RE: INSURANCE COVERAGE REQUIREMENTS

1. In accordance with the Lease-Purchase Agreement, Lessee certifies that it has instructed the insurance agent named below (please fill in name, address, and telephone number):

____

____

____

to issue:

a. All Risk Physical Damage Insurance on the leased Equipment evidenced by a Certificate of Insurance naming PNC Equipment Finance, LLC and/or its assigns as Loss Payee.

Coverage Required: Termination Value Specified

b. Public Liability Insurance evidenced by a Certificate of Insurance naming PNC Equipment Finance, LLC and/or its assigns as an Additional Insured.

Minimum Coverage Required:

$1,000,000.00 per occurrence
$2,000,000.00 aggregate bodily injury liability
$1,000,000.00 property damage liability

Proof of insurance coverage will be provided to PNC Equipment Finance, LLC, 995 Dalton Ave, Cincinnati, OH 45203; prior to the time that the property is delivered to Lessee.

OR

2. Pursuant to the Lease-Purchase Agreement, Lessee represents and warrants, in addition to other matters under the Lease-Purchase Agreement, that it is lawfully self-insured for: (check to indicate coverage)

a. All risk, physical damage in the amount specified in 1(a) above.

b. Public liability for not less than the amounts specified in 1(b) above.

Lessee has attached a signed letter describing self-insurance.

LESSEE: «LesseeName»

By: ___________________________________ Title: _____________________________________

INSURANCE INFORMATION

Please provide the following information to your insurance company to help expedite receipt of the necessary coverage:

ITEMS WHICH NEED TO BE REFLECTED ON INSURANCE CERTIFICATE:

- PNC Equipment Finance, LLC must be named Lender Loss Payee and Additional Insured
- 30 Days' Notice of Cancellation
- Not Less than $2,000,000.00 limits on liability
- Certificate must reflect a short equipment description
- Certificate must reflect an expiration date

Certificate Holder Information:

PNC Equipment Finance, LLC, its successors and/or all assigns
995 Dalton Ave.
Cincinnati OH 45203

Please send a FAX copy of certificate to «DocSpecialist» at 1-800-678-0602.

The original should be mailed to the same at:

PNC Equipment Finance, LLC
995 Dalton Ave.
Cincinnati OH 45203

Please call «DocSpecialist» at 1-800-820-9041, ext. «PhoneOption», if you have any questions.

END-OF-LEASE TERM OPTIONS RIDER
(Including "Turn In" Option)

Lease-Purchase Agreement Number «LeaseNumber» Dated «AccrualDate»

Lessee: «LesseeName»

Balloon Rent Payment: $«BalloonPaymentAmount» (Payable at the End of the Lease Term)

Reference is made to the above Lease-Purchase Agreement together with its Schedule A-1 and all related agreements ("Lease") between PNC Equipment Finance, LLC ("Lessor") and the above Lessee ("Lessee"). Unless otherwise defined herein, capitalized terms defined in the Lease shall have the same meaning when used herein. Lessee and Lessor agree that this Rider is attached to and made a part of the Lease.

1. **THREE OPTIONS AT THE END OF THE LEASE TERM**. At the end of the Lease Term, Lessee shall have the following three options **(provided, that if Lessee fails to furnish the advance written notice as required in paragraphs 3 or 4 below, then Lessee shall automatically be obligated to pay in full the amounts set forth in paragraph 2 below)**: (i) Lessee may pay the Balloon Rent Payment and all other amounts set forth in paragraph 2 below; or (ii) subject to the requirements of paragraph 3 below, Lessee may turn in the Equipment to Pierce Manufacturing Inc. ("Pierce") and Lessee shall agree to acquire a new fire truck supplied by Pierce or Pierce's designated dealer; or (iii) subject to the requirements of paragraph 4 below, Lessee may re-finance the Balloon Rent Payment.

2. BALLOON RENT PAYMENT. Unless Lessee has made an effective and timely election under paragraphs 3 or 4 below, at the end of the Lease Term, Lessee shall pay Lessor the Balloon Rent Payment together with all other unpaid Rent Payments and all other amounts then due and payable by Lessee under the Lease and thereafter the Lease shall terminate in accordance with Section 13 of the Lease. "Balloon Rent Payment" means the amount set forth above as the Balloon Rent Payment. Lessee expressly agrees that if it fails to furnish the advance written notice as required in paragraphs 3 or 4 below, then Lessee shall automatically be obligated to pay to Lessor in full the amounts set forth in this paragraph 2.

3. "TURN-IN" OPTION WITH RETURN & MAINTENANCE REQUIREMENTS. If and only if Lessee sends written notice to Lessor and Pierce that Lessee elects to exercise Lessee's rights under this paragraph 3 **at least 18 months (but no more than 24 months)** before the end of the Lease Term, then Lessee agrees for the benefit of both Lessor and Pierce that: (a) Lessee shall return the Equipment to Pierce in accordance with subparagraphs 3.1 and 3.2 below; (b) Lessee shall enter into a binding contract with Pierce (or Pierce's designated dealer) to acquire a Replacement Fire Truck in accordance with subparagraph 3.4 below; and (c) Lessee shall pay in full all amounts set forth in subparagraphs 3.1, 3.2 and 3.3 below. If and only if (i) Lessee complies in full with all of the requirements of this paragraph 3, then Lessee shall not be obligated to pay Lessor the Balloon Rent Payment at the end of the Lease Term. Lessee acknowledges that Pierce is the intended third party beneficiary of the terms and conditions of this paragraph 3, and Lessee agrees that Pierce, directly in its own name and for its own benefit, may demand performance of and enforce any or all of Lessee's obligations as set forth in this paragraph 3

3.1 If Lessee has made an effective and timely election under the above terms of this paragraph 3, then at the end of the Lease Term, Lessee shall return the Equipment to Pierce at a location selected by Pierce and Lessee agrees for the benefit of both Lessor and Pierce that the Equipment shall comply with the following return and maintenance conditions on such date, all as determined by Pierce in its sole discretion: (1) during the Lease Term, Lessee shall have properly maintained the Equipment, including, without limitation, all oil supplies, lubrication, brake and hydraulic fluids, refrigeration fluids, filters and pollution control devices of the Equipment; (2) all paint shall be in normal condition without excessive scratches, dents and chips, all graphics must be professionally removed so that the exterior is in "trade-in" condition, and any paint or body repair exceeding $500.00 shall be completed at Lessee's expense; (3) all electrical components shall be fully operational and shall pass the Pierce QSD113 electrical test (or its reasonable equivalent as determined by Pierce); (4) all pumps must pass NFPA standard 1911 third-party certification (or its reasonable equivalent as determined by Pierce); (5) engines shall perform according to original equipment manufacturer (OEM) specifications without excessive fluid leaks or blow by (as specified in the owner's manual or its equivalent); (6) the transmissions shall shift properly at rated loads and speeds and the mechanical drivelines, differentials and final drives shall be in good condition without leaks or excessive vibration; (7) air conditioning units shall be fully functional and cooling to their rated capacity; (8) all environmental equipment shall be fully functional; (9) the engine and exhaust systems shall conform to all federal and state emissions standards; (10) replacement parts installed on the Equipment shall have been supplied by approved OEM suppliers; (11) all brakes shall have at least 50% remaining useful life; (12) each tire shall have at least 50% remaining useful life, shall be of original size and rated capacity and shall not have any material damage, and any tire not satisfying said standards shall be replaced at Lessee's expense; (13) frame and structural members must be structurally sound and without breaks or cracks; (14) glass shall not be cracked or broken; (15) batteries must hold their rated charge for 72 hours; (16) any cost to repair damage to the chassis interior (including seat surfaces, headliners, door panels, dash and radio equipment mounting) exceeding $500.00 shall be paid by Lessee; (17) aerials must pass NFPA standard 1914 third-party certification (or its reasonable equivalent as determined by Pierce); (18) any cost exceeding $1,000.00 in total to repair physical damage to hose bed areas, cross lays, compartment interiors and tread plate surfaces shall be paid by Lessee; (19) all gauges and meters shall be fully operational; (20) Lessee shall pay all out-of-pocket costs incurred by Pierce or its agent to transport the Equipment to the location specified by Pierce and to insure the Equipment during such transportation; and (21) Lessee shall have maintained the Equipment in compliance with Section 8 of the Lease.

3.2 At the time of Lessee's return of the Equipment to Pierce, (a) Lessee shall provide a historical record of all maintenance and repairs of the Equipment and periodic lubrication analyses done during the Lease Term in order to verify Lessee's compliance with the foregoing return and maintenance conditions, and (b) Lessee shall transfer good title to the Equipment free and clear of all Liens to PNC Equipment Finance, LLC (or its designee) and deliver a Certificate of Title and such other documents as PNC Equipment Finance, LLC reasonably requests in connection with such transfer of title. Within 20 days of Lessee's return of the Equipment, Pierce and/or its authorized agents will conduct a comprehensive road test, take lubrication testing samples from the engine, transmission and differential (and such lubricant tests must show no contaminants or excessive metal particles) and conduct other tests in order to determine whether the Equipment complies with the foregoing return and maintenance requirements and Lessee shall pay all costs and expenses necessary to make the Equipment comply with the foregoing return and maintenance requirements. All sums due under this paragraph 3 shall be paid to Pierce promptly upon Pierce's written demand and if said sums are not so paid by Lessee within 10 days from the demand date, Lessee shall pay Pierce on demand as a late charge 5% of such overdue amount, limited, however, to the maximum legal amount.

3.3 If Lessee intends to exercise its rights under this paragraph 3 and if at the time of Lessee's return of the Equipment to Pierce at the end of the Lease Term the mileage recorded on the Equipment's odometer is greater than the Maximum Mileage noted below, then Lessee shall pay to Pierce an excess usage fee amount equal to the Excess Usage Fee stated below for each mile in excess of the Maximum Mileage stated below:

Maximum Mileage at the End of the Lease Term: «MaximumMileage» miles

Excess Usage Fee: «ExcessUsageFee» per mile

3.4 No later than 18 months before the end of the Lease Term, Lessee shall have entered into a binding written contract with Pierce or Pierce's designated dealer (which contract remains in effect at all relevant times) to acquire a new fire truck (a "Replacement Fire Truck") from Pierce or Pierce's designated dealer; provided, that (a) the terms and conditions of said contract shall be reasonably satisfactory to Pierce or Pierce's designated dealer, and (b) the acquisition cost of the Replacement Fire Truck shall not be less than the Balloon Rent Payment; and the acquisition shall be financed by PNC Equipment Finance, LLC.

3.5 After careful consideration of the Lessor's Cost of the Equipment, of the length of the Lease Term, of the physical, technical and performance characteristics of the Equipment, of the anticipated obsolescence of and Lessee's intended use of the Equipment, and of all other relevant factors, Lessee represents and warrants to Lessor and Pierce that Lessee has no current fixed intention to exercise its option under this paragraph 3.

3.6 If Pierce determines that the "turn-in" conditions set forth herein have not been satisfied by Lessee, then the "turn-in" option of Lessee set forth in this paragraph 3 shall be void and Lessee shall be obligated to pay to PNC Equipment Finance, LLC in full the amounts set forth in paragraph 2 above.

4. **RE-FINANCE OPTION**. If and only if Lessee sends written notice to Lessor that Lessee elects to exercise Lessee's rights under this paragraph 4 **at least 3 months (but no more than 6 months)** before the end of the Lease Term, then Lessor agrees to re-finance the Balloon Rent Payment with Lessee so long as all of the following conditions are satisfied in full: (a) Lessor in its sole discretion approves in writing the extension of credit to Lessee in connection with said re-financing; (b) the interest rate and term of the re-financing shall be mutually acceptable to Lessor and Lessee (provided, that if for any reason Lessor and Lessee fail to agree on the interest rate and term for the re-financing, then Lessor shall have no obligation to re-finance the Balloon Rent Payment); (c) Lessee shall execute and deliver to Lessor such agreements as Lessor reasonably requires for such re-financing including, but not limited to, (i) an amendment of the Lease and its Schedule to reflect the terms of the re-financing approved by Lessor; (ii) no Event of Default under the Lease shall have occurred and be continuing; (iii) no material adverse change shall have occurred in the Internal Revenue Code of 1986, as amended, and the related regulations and rulings (collectively, the "Code"); (iv) all representations of Lessee in the Lease remain true, accurate and complete; and (v) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor (A) evidence of required insurance coverage; (B) an opinion of Lessee's counsel; (C) copies of resolutions by Lessee's governing body authorizing the re-financing of the Lease and incumbency certificates for the person(s) who will sign the required documents for the re-financing; (D) such documents and certificates relating to the tax-exempt interest payable in connection with the re-financing (including, without limitation, IRS Form 8038G or 8038GC) as Lessor may request; and (E) such other documents and information as are reasonably requested by Lessor.

«LesseeName» (Lessee Name)	PNC Equipment Finance, LLC ("Lessor")
By: ______________________________	By: ______________________________
Title: ______________________________	Title: ______________________________

Pierce Manufacturing Inc., solely for the purposes of acknowledging the Balloon Rent Payment and its status as Third-Party beneficiary under certain terms of this Agreement.

By: ______________________________

Title: ______________________________

RESOLUTION

Municipality/Lessee: «LesseeName»

Principal Amount Expected To Be Financed: $«AmountFinanced»

WHEREAS, the Municipality is a political subdivision of the State in which Municipality is located (the "State") and is duly organized and existing pursuant to the Constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Municipality ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Municipality.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more Lease-Purchase Agreements ("Leases") in the principal amount not exceeding the amount stated above for the purpose of acquiring the property ("Equipment") to be described in the Leases is appropriate and necessary to the functions and operations of the Municipality.

WHEREAS, PNC Equipment Finance, LLC ("Lessor") shall act as Lessor under said Leases.

NOW, THEREFORE, Be It Ordained by the Governing Body of the Municipality:

Section 1. Either one of the ______________________ OR ______________________ (each an "Authorized Representative") acting on behalf of the Municipality, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Municipality. Each Authorized Representative acting on behalf of the Municipality is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Municipality to execute and deliver agreements and documents relating to the Leases on behalf of the Municipality.

Section 3. The aggregate original principal amount of the Leases shall not exceed the amount stated above and shall bear interest as set forth in the Leases and the Leases shall contain such options to purchase by the Municipality as set forth therein.

Section 4. The Municipality's obligations under the Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Lease and the Municipality's obligations under the Leases shall not constitute general obligations of the Municipality or indebtedness under the Constitution or laws of the State.

Section 5. As to each Lease, the Municipality reasonably anticipates to issue not more than $10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the calendar year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED on this ________________, 2019.

The undersigned Secretary/Clerk of the above-named Municipality hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Municipality, that the foregoing resolutions were duly adopted by said Governing Body of the Municipality at a meeting of said Governing Body and that such resolutions have not been amended or altered and are in full force and effect on the date stated below.

LESSEE: «LesseeName»

____ [SEAL]
Signature of Secretary/Clerk of Municipality

Print Name: ____________________________________

Official Title: ____________________________________

Date: ____________________________________

CERTIFICATE OF INCUMBENCY

Lessee: «LesseeName»

Lease Schedule No.: «LeaseNumber» Dated: «AccrualDate»

I, the undersigned Secretary/Clerk identified below, do hereby certify that I am the duly elected or appointed and acting Secretary/Clerk of the above Lessee (the "Lessee"), a political subdivision duly organized and existing under the laws of the State where Lessee is located, that I have the title stated below, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

[NOTE: Use same titles as Authorized Representatives stated in Resolutions.]

______________________	______________________	______________________
Name	Title	Signature
______________________	______________________	______________________
Name	Title	Signature

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such Lessee as of the date set forth below.

____ [SEAL]

Signature of Secretary/Clerk of Lessee

Print Name: ______________________________

Official Title: ______________________________

Date:____________________________________

FOUR PARTY AGREEMENT

Dated as of «AccrualDate»

Lessee means «LesseeName»

"Lease Schedule" means Lease Schedule No. «LeaseNumber» dated «AccrualDate», together with its Schedule A-1.

"Pierce" means Pierce Manufacturing Inc., the manufacturer of the Equipment.

"Supplier" means: «Supplier»

Reference is made to the Lease Schedule ("Lease Schedule") and to the Lease-Purchase Agreement ("Master Lease") identified in said Lease Schedule, described above between PNC Equipment Finance, LLC ("Lessor") and the Lessee identified above which relates to Equipment described in Schedule A-1 to the Lease Schedule ("Equipment") to be manufactured by Pierce and supplied by Supplier, an authorized dealer of Pierce fire equipment. For good and valuable consideration, receipt of which is hereby acknowledged, Lessee, Lessor, Pierce and Supplier hereby agree as follows:

1. Notwithstanding anything to the contrary in the Lease Schedule, Lessee hereby notifies Lessor that the Equipment has not yet been delivered to Lessee and the Equipment has not yet been accepted by Lessee for purposes of the Lease Schedule. Lessee agrees to execute and deliver to Lessor a Delivery and Acceptance Certificate in the form attached hereto as Exhibit A upon the circumstances set forth in said Certificate.

2. All parties agree that the Purchase Price of the Equipment shall be as set forth below if said Purchase Price is paid on or before the Advance Payment Date set forth below:

Purchase Price:	$«PurchasePrice»
Vendor Discounts:	$«VendorDiscounts»
Advance Payment Date:	«AccrualDate»

3. Upon execution of the Lease Schedule and delivery of all documents required by Lessor, Lessee agrees that it shall pay the Lessee Down Payment stated below and Lessor agrees that it shall pay the balance of the Purchase Price (the "Amount Financed") stated below. Lessee agrees that the Lease Term and Lessee's obligation to pay Rent Payments shall commence on the date set forth in the Lease Schedule notwithstanding the delivery of the Equipment at a later date.

Lessee Down Payment:	$«Downpymt»
Trade In:	$«TradeIn»
Amount Financed:	$«AmountFinanced»

4. (a) Supplier anticipates that it shall deliver the Equipment to Lessee by the **Anticipated Delivery Date** set forth below.

Anticipated Delivery Date: «AnticipatedDelDate»

(b) Supplier anticipates that it shall deliver the Equipment to Lessee no later than the **Outside Delivery Date** set forth below and that such Equipment shall comply with all specifications and requirements of Lessee and with the terms and conditions of any purchase order/purchase agreement relating thereto.

Outside Delivery Date: «OutsideDelDate»

5. If for any reason whatsoever Supplier fails to deliver the Equipment to Lessee as set forth in **subparagraph 4(b)** of this Agreement by the Outside Delivery Date for any piece of Equipment (the "Delayed Equipment"), and the Lessee has not agreed to revise the Outside Delivery Date with respect to such Delayed Equipment, then Pierce hereby agrees as follows only for the Delayed Equipment:

(a) On the first business day after the Outside Delivery Date, Pierce shall pay to Lessee the Lessee Down Payment for the Delayed Equipment plus interest at the Prime Rate plus one percent (1%) per annum from the Advance Payment Date to the date of such payment;
(b) On the first business day after the Outside Delivery Date, Pierce shall pay to Lessor for the Delayed Equipment the Amount Financed plus interest at the Prime Rate plus one percent (1%) per annum from the Advance Payment Date to the date of such payment; and
(c) "Prime Rate" means the prime rate of interest as published from time to time in the Wall Street Journal.

If there is more than one piece of Equipment subject to the Lease, and some of the Equipment is delivered in accordance with subparagraph 4(b) of this Agreement, the payments owed pursuant to the Lease shall be modified to reflect only the obligations due on the Equipment that was delivered pursuant to subparagraph 4(b). The new payment obligation will be determined based on the amount financed for the Equipment delivered to the Lessee, and based on the interest rate in effect as of the date of Lease commencement.

6. If Pierce makes the payments described in **paragraph 5** for the Delayed Equipment under the circumstances set forth above and if Lessee has otherwise paid and performed its obligations under the Lease Schedule as of such payment date for the Delayed Equipment, then Lessee and Lessor agree that the Lease Schedule shall terminate as of the date of such payments by Pierce as to the Delayed Equipment only. Lessee's obligations shall continue unabated for the Equipment that was delivered pursuant to subparagraph 4(b). Pierce expressly agrees that the Lease Schedule identified herein shall be a "Lease" as such term is used in the Program Agreement, as amended, between Pierce and Lessor.

7. Supplier agrees that a performance bond (the "Performance Bond") will be issued which names Supplier as Principal, the Lessee as Obligee and the Lessor as Additional Obligee. The Performance Bond will apply solely to the terms and conditions of the purchase order/purchase agreement, including related equipment specifications and warranties, as issued by the Lessee and accepted by Pierce. The "Contract Date" referred to in the Performance Bond shall be the date of this Agreement.

8. Except as expressly set forth herein, the Lease Schedule and terms and conditions of the purchase order/purchase agreement for the Equipment remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the duly authorized officers of the parties set forth below execute this Agreement as of the date first written above.

«LesseeName»
("Lessee")

By: ____________________________________

Title: ___________________________________

PNC Equipment Finance, LLC
("Lessor")

By: ____________________________________

Title: ___________________________________

Pierce Manufacturing Inc.
("Pierce")

By: ____________________________________

Title: ___________________________________

«Supplier»
("Supplier")

By: ____________________________________

Title: ___________________________________

Exhibit A

DELIVERY & ACCEPTANCE CERTIFICATE

Lease-Purchase Agreement: «LeaseNumber»

Reference is made to the above Lease-Purchase Agreement (“Lease”), which has been executed and delivered by the undersigned Lessee (“Lessee”) and PNC Equipment Finance, LLC (“Lessor”). This Certificate amends and supplements the terms and conditions of the Lease-Purchase Agreement and is hereby made a part of the Lease. Unless otherwise defined herein, capitalized terms defined in the Lease-Purchase Agreement shall have the same meaning when used herein; provided, that “Equipment” shall mean the Equipment described in the Schedule A-1 and in any attachment or exhibit to this Certificate.

Notwithstanding anything to the contrary, expressed or implied, in the Lease or its Schedule A-1, Lessee agrees as follows:

1. ACCEPTANCE OF EQUIPMENT. As of the Acceptance Date stated below and as between Lessee and Lessor, Lessee hereby agrees that: (a) Lessee has received and inspected all Equipment; (b) all Equipment is in good working order and complies with all purchase orders, contracts and specifications; (c) Lessee accepts all Equipment for purposes of the Lease “as-is, where-is”; and (d) Lessee waives any right to revoke such acceptance.

ACCEPTANCE DATE:___________________________

2. RENT PAYMENTS. Lessee hereby agrees that Lessee will pay the Rent Payments for the Equipment in the amounts and on the dates specified in Schedule A-1 to the Lease.

«LesseeName»
(“Lessee”)

By: __________________________________

Title: __________________________________

PNC EQUIPMENT FINANCE

Guidelines and Expectations
for Titled Vehicle Leasing

Thank you for choosing **PNC Equipment Finance, LLC ("PNCEF")** for your vehicle financing needs. Please refer to the Guidelines and Expectations outlined below to guide you through the transfer of title and vehicle registration process.

FOR OUR LESSEES/BORROWERS:

Sales Tax Exemption Certificate (for Leases only)

- If your business is eligible for sales tax exemption status, please provide a Sales Tax Exemption Certificate to PNCEF prior to signing your lease documentation. For tax exempt over-the-road trucks, please provide an ICC Carrier Certificate in addition to the Sales Tax Exemption form.

If the Lessee/Borrower is completing title work and/or registration:

- The vendor or prior vehicle owner will provide you with a completed MSO or Title and Title Application. You are responsible for all additional costs/fees associated with titling and registration. Such payments are not built in to your Lease/Loan.

FOR VENDORS OR PRIOR VEHICLE OWNERS:

Proof of Origination/Ownership

- Please provide PNCEF with a copy of the FRONT side of the MSO, or Current Title and Title Application.

If the Vendor or Prior Owner is completing title work and/or registration…

- PNCEF must receive a copy of the Title Application and BACK SIDE of the Title/MSO showing Lessee/Borrower as Owner and PNCEF as Lienholder *prior to releasing funds*.

TITLE INFORMATION:

- New title listing PNCEF should appear as follows:

  Owner: «LesseeName»

  Lienholder: "PNC Equipment Finance, LLC"

Original Titles/MSO

- All Original Titles (or Lien Statements, when applicable) listing Lessee/Borrower as Owner and PNCEF as Lienholder must be mailed to PNCEF within 60 days of registration. PNCEF will retain all titles subject to the terms of the Lease/Loan.

Mail Title/MSO(s) to the following address:

- PNC Equipment Finance, Attn: Collateral Department, 995 Dalton Avenue, Cincinnati, OH 45203
- For questions, please call our Client Care Department at 513-455-2323

Staff Request for Commission Action

Tracking No. 19817

Full Commission Meeting Date: Fast track to 7/11/19
Committee: Economic Development & Finance

Date of Standing Committee Action: 7/8/19
(If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
6/20/2019	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description:

Adopt a Resolution for the approval of the NRA Special Project for the renovation and revitalization of the former YMCA Building at 900 North 8th Street.
Present Resolution to Full Commission on July 11th.

It is requested this this item be fast tracked to the July 11, 2019 full Commission meeting.

Action Requested:
Adopt Resolution and move to Full Commission on 7/11/19.

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

Attachments List:
Y Lofts NRA Resolution, BOC Letter, NRA Application

RESOLUTION NO. ___________

A RESOLUTION APPROVING A SPECIAL PROJECT APPLICATION FOR A REBATE PURSUANT TO THE NEIGHBORHOOD REVITALIZATION ACT PLAN FOR REDEVELOPMENT OF THE FORMER YMCA BUILDING AT 900 N. 8TH ST.

WHEREAS pursuant to K.S.A. 12-17,114 et seq the Board of Commissioners adopted an amended Neighborhood Revitalization Act ("NRA") on February 20, 2018; and

WHEREAS, the Plan requires Commission approval for Special Projects over Three Million Dollars ($3,000,000.00) in construction costs; and

WHEREAS, Special Projects are eligible for consideration of up to a twenty (20) year rebate starting at seven-five percent (75%) and increased by ten percent (10%) if the applicant meets or exceeds the Local/Minority/Woman ("LMW") business enterprise goals set by the Unified Government; and

WHEREAS, Y Lofts, LP. has submitted the NRA application for the redevelopment of the former YMCA building located at 900 North 8th Street into 44 senior, 55 and over, residential units, attached hereto as Exhibit A; and

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

Section 1. The Unified Government Board of Commissioners hereby approves the Special Project application submitted by the Y Lofts as set forth herein.

Section 2. The term of the NRA rebate shall be for twenty (20) years.

Section 3. The rebate shall be set at seven-five percent (75%) and increased by ten percent (10%) if the applicant meets or exceeds the Local/Minority/Woman ("LMW") business enterprise goals set by the Unified Government, attached hereto as Exhibit B.

Section 4. That the County Administrator and any other employees or agents of Unified Government are authorized to approve the applicant and execute any other certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS THIS ______DAY OF ____________, 2019.

____
David Alvey
Mayor/CEO

ATTEST:

____
Unified Government Clerk

DEPARTMENT OF ECONOMIC DEVELOPMENT
Unified Government of Wyandotte County/Kansas City, Kansas

701 North 7th Street, Ste. 421
Kansas City, Kansas 66101

Phone: (913) 573-5730
Fax (913) 573-5745

MEMORANDUM

TO: District 2 Commissioner McKiernan
At-Large, District 2 Commissioner Burroughs

FROM: Stephanie Moore SM
Management Analyst

DATE: June 18, 2019

RE: **Neighborhood Revitalization Act (NRA) multi-family project**

The Neighborhood Revitalization Act (NRA) 2018 – 2020 Plan allows existing multi-family renovation projects to participate in the NRA program, only if the District Commissioner and the At-Large District Commissioner approve an applicant's request.

The Economic Development Department received an NRA application, from Mr. Kelley Hrabe with Y Lofts, LP who is requesting your approval to participate in the NRA program for the renovation of the former YMCA building.

- Y Lofts located at 900 North 8th Street, Kansas City, Kansas 66101.

The renovation cost is estimated to be $8.9 million, and when completed, all 44 units will be affordable with the following estimated rents and unit count:

- 1 bedroom/1 bath $355-$700 (29)
- 2 bedroom/1 bath $430-$900 (15)

Currently, the UG is showing the taxes are satisfied for 2019.

Our department recommends the approval of participation in the NRA program for Mr. Kelley Hrabe with Y Lofts, LP.

If you concur with this recommendation, please sign the bottom of the memo indicating as such and please return to my attention.

Brian McKiernan
District 2 Commissioner McKiernan

Tom B
At-Large, District 2 Commissioner Burroughs

cc: Doug Bach, County Administrator
Katherine Carttar, Economic Development Director

13. Applicants appealing their appraised values may jeopardize their eligibility for NRA participation for that year and following tax years and may initially encounter a one (1) year delay in determining their eligibility for NRA participation.

14. A copy of the certification for transfer (NRA Transfer of Deed form at the end of the application) must be used when transferring the NRA tax rebate. The certification should be completed when the property is sold and then sent to the Economic Development Department, Attention: NRA Program Staff, 701 North 7th Street, Suite 421, Kansas City, Kansas 66101. In such situations, the occupant may then be eligible to receive the NRA tax rebate pursuant to all other program criteria.

Part 1, Section A: General Information

The applicant is responsible for the following information and documentation when submitting an NRA application:

1. Application information
2. Property Area, Type, and Use
3. Improvement
4. Building Permits
5. Construction Time Line
6. Demolition of Structures
7. TIF District and Tax Credits
8. Application Fee
9. Utilization of Local, Minority, or Woman Owned Business Enterprise
10. Historic Designation
11. Pre and Post Construction, Renovation, or Expansion Requirements
12. Applicant Signature and Date

Part 2, Section A: Completed by applicant (Please type or Print)

Application Information

Date 3/18/19 20 19

Applicant's Name Y Lofts, LP Phone: 816-686-2416

Email Address khrabe@prairiefiredg.com

Applicant's mailing address 770 E 5th St - KCMO - 64106

Owner's name Y Lofts, LP Phone: 816-686-2416

Owners Mailing address 770 E 5th St - KCMO - 64106

Project property address 900 N 8th Street

Are you the owner of the property____Yes x___No? Note: will purchase as soon as parking lot issue is resolved with UG

Are you the developer x____Yes____No?

Developer's name Kelley Hrabe

Company Prairie Fire Development Group, LLC Phone (816-)686-2416

Check Box if there are 20 or less Full Time Employees ☒

Parcel Identification Number: 81331 School District: KCK

(Take Parcel ID number and legal description from your tax statement or call the Unified Government Clerk at 573-2874)

Legal Description of Parcel: (Use additional sheets if necessary)

81331 - B129 S 35FT L4. ALL L5 TO L6 B129 L47 & L48

See Exhibit A - Parcels

Property Area, Type, and Use *(check all that apply)*

A. The Project is located in: (Refer to Map)

- Area 1 ☒
- Area 2 East ◯
- Area 2 East–State Avenue East Corridor ◯
  - Area 2 East–State Avenue West Corridor ◯
  - Area 2 East–Leavenworth Road Corridor ◯
- Area 2 West ◯
- Area 3 ◯
- Area 4 ◯

B. The Special Project Area is: Retail in Nature ____, Environmentally Contaminated X, Historical X

C. The Project is: New Construction ____, Renovation X, Expansion ______

D. The Project is: Residential __X__, Commercial _____, Office __X__, Industrial, _____, Retail ___, Historic __X__, Environmentally Contaminated __X__

E. End use will be: Owner Occupied______, Rental __X__, Leased ______

Improvements

Describe the Improvements (Be specific):
See Exhibit B - Project Narrative

Building Permit

Estimated cost of improvement: $ 8.9 million

Building permit value: $ 6.2 million

Construction Time Line

Construction commences on Sept 1 __,2019

Projected Date of competition Nov 1 __,2020 (estimate)

Demolition of Structure(s)

List buildings to be demolished: N/A
(Use another sheet of paper if needed)

If demolishing residential structures complete the following:

- Number of dwelling units: _______________(List tenants if known occupying the building when purchased, or present tenants and note the date of occupancy or relocation. If needed, use a separate sheet of paper and attach it to this application)

- Demolition-permit number: (Attach copy of permit): ________________

TIF District or Tax Credits

Is the project or property within a TIF Redevelopment District? Yes____ No __X__

TIF name ____________________________

Are you planning on applying for any tax credits? Yes X No_____

Which type of tax credits? Housing Tax Credits, Historic Tax Credits

Application Fee

An application fee of $1,000.00 is required for all commercial, industrial, office, retail, historical, and environmentally contaminated projects. If the project is in a Special Projects Area and the construction cost is over $10 million, the application fee is $2,000.00. Checks will be made to the Unified Government Treasurer.

Utilization of Local, Minority, and Women Owned Business Enterprise

Yes X No____ (Applicant will contact the UG Contract Compliance Department for goals)

Historic Designation

Yes X No____ (Please attach proof of Historic State and or Federal designation) Exhibit C - Part 1

Note: Part 1 has been approved; Part 2 will be submitted in April 2019

Pre and Post Construction, Renovation, or Expansion Requirements

The following required documentation must be submitted with the application prior to any construction, renovation, or expansion to be eligible for the NRA tax rebate program:

1. A copy of the building permit that shows the estimated cost (this is not the permit that is posted on site)
    a. In some cases, permits are in stages. As an example: footings or demolition will come first before the building permit will be issued
    b. All permits must be submitted. As an example: a building permit prior to any construction/renovation/expansion
2. Application fee (*if applicable)*
3. Pictures of proposed interior/exterior improvement area
4. A picture of the property with address (*if an existing structure)*
5. An aerial map showing the parcel/property

6. Plans/Renderings:
   a. Residential new - pdf of house plans
   b. Residential renovation/addition – project renderings (this can be what was submitted to Building Inspections Department)
   c. Commercial new – pdf of architectural front elevation drawing
   d. Commercial renovation/expansion – pdf of interior/exterior project renderings – this can be what was submitted to Building Inspections Department

7. A list of improvement cost or improvement bid estimates

Prior to receiving a rebate, the following required documentation must be submitted:

1. A Certificate of Occupancy (CO) or an approved Final Inspection Form signed by the Building Inspections Division of NRC

2. Pictures of the completed improvement

3. Receipts or certification of construction expenses

Applicant Signature and Date

Submitted By: Kelley Hrabe ____ [signature] ____ Date: 5/13/19

(Please Print) *(Please Sign)*

DO NOT WRITE BELOW THIS LINE - *FOR OFFICE USE ONLY*

Staff Review of Application

1st submission

Date application came into this office: March 18, 2019

Application completed in full and all documentation is attached: Yes X No ____

Comments: 2nd submission, with only the building on MAY 13, 2019

Approved: X Denied: ____

[signature]

Staff Request for Commission Action

Tracking No. 19850

Full Commission Meeting Date: 7/25/19

Committee: Economic Development & Finance

Date of Standing Committee Action: (If none, please explain): 7/8/19

Publication Required: Yes 7/18/2019

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
6/26/2019	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description:

Ordinance and Resolution Approving and Adopting a Home Rule Economic Development Incentive and Adopting the Development Agreement for the Boulevard Lofts Project.

Action Requested:

Approve and fast-track to July 11th Full Commission

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

Ordinance and Resolution Approving and Adopting the Boulevard Lofts DA, Blvd Lofts DA final draft - for 7-8 ED&F

Published in the *Wyandotte Echo* ________________

ORDINANCE NO. O-________________
RESOLUTION NO. R-________________

AN ORDINANCE AND RESOLUTION APPROVING AND ADOPTING A HOME RULE ECONOMIC DEVELOPMENT INCENTIVE AND ADOPTING THE DEVELOPMENT AGREEMENT FOR THE BOULEVARD LOFTS PROJECT

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 new residential development in the northeast area, 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, Boulevard Lofts, LP ("Developer") desires to build new, high quality, affordable apartments at or about the area of 8th and Washington and 8th and Everett in Kansas City, Kansas (the "Project"); and

WHEREAS, the timely redevelopment of the Property is in the best interests of the parties and the health, safety, and welfare of the Unified Government's residents; and

WHEREAS, the parties agree that the Project is not financially feasible without the public-private partnership as set forth in the Development Agreement attached hereto as Exhibit 1, in which the Wyandotte County and Kansas City, Kansas portion of the real property taxes collected from the Property are used to reimburse certain eligible Project costs, and therefore desire to enter into the Agreement to provide necessary financing for the Project.

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

Section 1. That the Unified Government Board of Commissioners hereby adopts the Development Agreement for the Boulevard Lofts Project in substantially the form attached hereto as Exhibit 1.

Section 2. That the Unified Government hereby approves and adopts the use of its home rule powers to use the Wyandotte County and Kansas City, Kansas portion of the real property taxes collected from the Property to reimburse certain eligible Project costs, as set forth in the Development Agreement.

Section 3. That the County Administrator is hereby authorized to execute in the name of the Unified Government of Wyandotte County/Kansas City, Kansas, the Development Agreement, and any other certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and that the County Administrator and all other Unified Government officials are authorized to take any further action necessary to carry out and comply with the intent of this Resolution.

APPROVED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, THIS _____ DAY OF JULY 2019.

____

David Alvey, Mayor/CEO

Attest:

____

Unified Government Clerk

DEVELOPMENT AGREEMENT

FOR

THE BOULEVARD LOFTS PROJECT

between the

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

and

Boulevard Lofts, LP

DATED AS OF ____________, 2019

DEVELOPMENT AGREEMENT FOR

THE BOULEVARD LOFTS PROJECT

THIS AGREEMENT is entered into between the **UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS**, a municipal corporation organized and existing pursuant to the laws of the State of Kansas as a consolidated city-county having all the powers, functions and duties of a county and a city of the first class (the **"Unified Government"**), and **BOULEVARD LOFTS, LP,** a Kansas limited partnership, and together with the Unified Government, the "Parties"), and is dated as of the date set forth on the cover page of this Agreement.

RECITALS

WHEREAS, the Developer wishes to design, develop, and construct the Project on real property generally located at 819 Everett Avenue; 821 Everett Avenue; 829 Everett Avenue; 841 Everett Avenue; 847 Everett Avenue; 849 Everett Avenue; 851 Everett Avenue; 830 Washington Avenue; and 1304 H N 8th Street, all properties located in Kansas City, Wyandotte County, Kansas (the "Project Site"), as generally depicted on Exhibit A, as attached hereto;

WHEREAS, the Developer owns the Project Site and has all rights to occupy and develop the Project Site as set forth herein;

WHEREAS, the Unified Government recognizes that there is need for new, high quality affordable residential options in the northeast area of Kansas City, Kansas and that the Project will stimulate the growth of new businesses in the area and further revitalize the northeast area.

WHEREAS, development of the Project on the Project Site would create jobs, stimulate the Unified Gove1runent economy through additional real property taxes, sales taxes, and other indirect spending at nearby businesses from residents living at the Project Site, all of which would promote the public good, health, and welfare within Wyandotte County; and

WHEREAS, the Parties agree that the Project is not financially feasible without the public-private partnership as set forth in this Agreement and therefore the Parties wish to enter into this Agreement to provide the necessary financing for the Project.

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

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

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

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

B. All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles.

C. All references herein to "generally accepted accounting principles" refer to such principles in effect on the date of the determination, certification, computation, or other action to be taken hereunder using or involving such terms.

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

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

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

G. The representations, covenants, and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section.

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

"Action" has the meaning set forth in **Section 8.01**.

"Affiliate" means any person, entity, or group of persons or entities which controls the Developer, which the Developer controls or which is under common control with the Developer. As used herein, the term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise.

"Agreement" means this Agreement, as amended from time to time.

“Annual gross rent” means the annual total of all rents collected for all units in the project.

"Applicable Law and Requirements" means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by Governmental Authorities. Applicable Law and Requirements shall include, without limitation, the Kansas Cash-Basis Law (K.S.A. § 10-1101, et. seq.) and the budget provisions found at K.S.A. § 79-2925 *et. seq*.

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

"City" means the City of Kansas City, Kansas.

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

"County" means Wyandotte County, Kansas.

"Developer" means Boulevard Lofts, LP, a Kansas limited partnership, and any successors and assigns approved or otherwise permitted pursuant to this Agreement.

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

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

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

"Excusable Delays" means any delay beyond the reasonable control of the Party affected, caused by damage or destruction by fire or other casualty, power failure, strike, unavailability of labor or materials, delays in the processing of Permitted Subsequent Approvals as a result of unreasonable delay on the part of the applicable Govern mental Authorities, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or abnormal duration, tornadoes, and any other events or conditions, which shall include but not be limit ed to any litigation interfering with or delaying the construction of all or any portion of the Project in accordance with this Agreement, which in fact prevents the Party so affected from discharging its respective obligations hereunder. Notwithstanding the foregoing, the parties hereby understand and agree that "Excusable Delays" shall not include delays resulting from the inability of a Party to obtain financing or to proceed with its obligations under this Agreement because of a lack of funds.

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

"Governmental Authorities" means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, depa1tments, bodies or authorities of any type of any governmental unit (federal, state or local) whether now or hereafter in existence.

“Investor-approved rent” means the estimated annual total of all rents to be collected for all units in the Project for the year, as those rents were calculated by the project investor and based on the appraisal. Such amount is increased by a factor of two percent from year to year, as set forth in Exhibit J.

“KHRC-approved rent” means the annual total of all rents authorized by the Kansas Housing Resources Corporation for all units in the project for the year. Such amount is increased by a factor of two percent from year to year, as set forth in Exhibit J.

"Parties" means the Developer and the Unified Government and their successors and assigns.

"Pay As You Go" has the meaning set forth in Section 3.03.

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

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

"Project" means the design, development, and construction of fifty (50) affordable housing units on the Project Site to be known as the "Boulevard Lofts".

"Project Budget" means the project budget as prepared and designed by the Developer, as set forth in Exhibit E.

"Project Costs" means the costs of designing, developing, and constructing the Project, as estimated in the Project Budget.

"Project Site" has the meaning set forth in the Recitals hereto to the extent acquired by the Developer in its sole discretion.

"Reimbursable Project Costs" means all costs that are certified for reimbursement by the Unified Government as set forth herein, as set forth in Exhibit F.

"Reimbursable Project Costs Cap" means $200,000 in Reimbursable Project Costs. The Reimbursable Project Costs Cap shall be subject to reduction as set forth in Section 3.07 and Exhibit F of this Agreement.

"Real Property Tax Revenues" means the revenues actually received by the Unified Government from the real property taxes levied by Wyandotte County and by the City of Kansas City, Kansas against those portions of the Project Site occupied by Developer from time to time.

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

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

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

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

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

ARTICLE II

REPRESENTATIONS AND WARRANTIES

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

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

B. No Defaults or Violation of Law. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

C. No Litigation. There is no litigation, proceeding or investigation pending or, to the knowledge of the Unified Government, threatened against the Unified Government with respect to this Agreement. In addition, no litigation, proceeding or investigation is pending or, to the knowledge of the Unified Government, threatened against the Unified Government seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Unified Government to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity, or performance by the Unified Government of the terms and provisions of this Agreement.

D. Governmental or Corporate Consents. Other than the resolution approved by the Unified Government's Commission to authorize the execution and delivery of this Agreement, no other consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution and delivery by the Unified Government of this Agreement.

E. No Default. No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the Unified Government under this Agreement.

Section 2.02. Representations of the Developer.

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

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

B. No Defaults or Violation of Law. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

C. No Litigation. No litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the Project, the Developer or, except as disclosed to the Unified Government, any officer, director, member, or shareholder of the Developer. In addition, no litigation, proceeding, or investigation is pending or, to the knowledge of the Developer, threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer, of the terms and provisions of this Agreement.

D. No Material Change. (1) The Developer has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement and (2) there has been no material adverse change in the business, financial position, prospects, or results of operations of the Developer, which could affect the Developer's ability to perform its obligations pursuant to this Agreement from that shown in the financial information provided by the Developer to the Unified Government prior to the execution of this Agreement.

E. Governmental or Corporate Consents. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery, and performance by the Developer of this Agreement, other than Permitted Subsequent Approvals.

F. No Default. No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the Developer under this Agreement, or any other material agreement or material instrument to which the Developer is a party or by which the Developer is or may be bound .

G. Approvals. Except for Permitted Subsequent Approvals, the Developer has received and is in good standing with respect to all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to conduct and to continue to conduct its business as heretofore conducted by it and to own or lease and operate its properties as now owned or leased by it. Except for Permitted Subsequent Approvals, the Developer has obtained all certificates, licenses, inspections, franchises, consent s, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to acquire, construct, equip, operate, and maintain the Project. The Developer reasonably believes that all such certificates, licenses, consents, permits, authorizations, or approvals which have not yet been obtained will be obtained in due course.

H. Construction Permits. Except for Permitted Subsequent Approvals, all governmental permits and licenses required by applicable law to construct, occupy, and operate the Project have been issued and are in full force and effect or, if the present stage of development does not allow such issuance, the Developer reasonably believes, after due inquiry of the appropriate governmental officials, that such permits and licenses will be issued in a timely manner in order to permit the Project to be constructed.

I. Compliance with Laws. The Developer is in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations, and requirements of every duly constituted governmental authority, commission, and court applicable to any of its affairs, business, and operations as contemplated by this Agreement.

J. Other Disclosures. The information furnished to the Unified Government by the Developer in connection with the matters covered in this Agreement are true and correct and do not contain any untrue statement of any material fact and do not omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

K. Project. The Developer represents and warrants that the Project Site is sufficient to construct the Project as contemplated in this Agreement.

Section 2.03. Developer's Acquisition of the Project Site. At the time that this Agreement is executed, Developer represents that it has already purchased or has the contractual right to purchase fee simple title to all the real property within the Project Site. All of the real property to be acquired by the Developer, subject to the rights of assignment under **Article VII**, shall be held in the name of the Developer and shall be subject to the terms, conditions and covenants contained in this Agreement immediately upon acquisition and prior to any encumbrances placed thereon.

ARTICLE III

REIMBURSEMENT OF PROJECT COSTS

Section 3.01. Project Costs, Generally. In consideration for the Developer's agreement to construct the Project, the Unified Government agrees to reimburse the Developer for Reimbursable Project Costs, subject to the Reimbursable Project Costs Cap, and subject to all of the terms and conditions of this Agreement, including the pre-conditions for reimbursement as set forth herein. The Parties anticipate that the Developer will be reimbursed on a Pay As You Go basis as further set forth in this Agreement. Though neither party has given the other any assurances or guarantees regarding the Real Property Tax Revenues or reimbursements to be paid pursuant to the terms of this Agreement, the parties hereby agree that the Reimbursable Project Costs Cap and the incentives set forth herein were based upon the estimated reimbursable project costs set forth in Exhibit F, attached hereto.

Section 3.02. Developer to Advance Costs. Upon Developer's determination to move forward with the design, development, and construction of any phase of the Project, the Developer agrees to advance all Project Costs as necessary to complete such phase of the Project, all subject to the Developer's right to terminate this Agreement as set forth in Section 7.03(c).

Section 3.03. Unified Government's Obligation to Reimburse Developer.

A. Source of Reimbursement. Subject to the terms of this Agreement and the conditions in this Section, and provided that no Developer Event of Default has occurred hereunder that has not been timely cured, then the Unified Government hereby agrees to reimburse Developer for Reimbursable Project Costs on a "Pay As You Go" basis in a total amount not to exceed the Reimbursable Project Costs Cap. On a bi-annual basis, the Unified Government hereby agrees that Developer shall be reimbursed for its

Reimbursable Project Costs solely from the Real Property Tax Revenues available at such time (the "Pay As You Go" method). The Parties agree that all reimbursement to the Developer shall be made only on a Pay As You Go basis, and nothing in this Agreement shall in any way obligate the Unified Government to issue bonds or other obligations to reimburse Developer. The Parties also agree that nothing in this Agreement shall in any way obligate the Unified Government to reimburse Developer for (i) any cost that is not a Reimbursable Project Cost, or (ii) any Reimbursable Project Costs in excess of the Reimbursable Project Costs Cap.

B. Timing of Reimbursement. The Unified Government shall have no obligation to reimburse Developer until Real Property Tax Revenues, as applicable, are available. Subject to the terms and conditions set forth in this Agreement, the Unified Government hereby agrees to make bi-annual reimbursement payments to Developer from the available Real Property Tax Revenues (with the first payment on or before March 31st and the second payment on or before June 30th) as follows:

C. Conditions for Reimbursement. The Parties hereby understand and agree that the Unified Government shall have no obligation to reimburse the Developer for any Reimbursable Project Costs if:

(i) Developer has not yet completed and opened the facility for business and is actively leasing units to the public. This shall be a precondition to any reimbursement of Reimbursable Project Costs hereunder.

(ii) Subsequent to opening for business, the Project shall fail to Continuously Operate (as defined in **Section 5.03** below) on the Project Site.

(iii) Developer shall transfer the Project Site, or without complying with the terms and conditions of **Article VII** hereof, including without limitation, any required consent or approval of the Unified Government.

(iv) A Developer Event of Default shall occur hereunder and has not been timely cured.

Additionally, the parties hereby understand and agree that the reimbursements set forth in this Agreement shall be subject to annual appropriation by the Unified Government's Commission.

Term and Percentage of Reimbursement. Subject to the Reimbursable Project Costs Cap, Real Property Tax Revenues associated with the following portions of the Project Site shall be made available to Developer on a Pay As You Go basis to reimburse Reimbursable Project Costs in accordance with the terms as follows, as well as all other terms of this Agreement: a portion of Unified Government's Real Property Tax Revenues (The City of Kansas City, Kansas and Wyandotte County only) until such time as the Reimbursable Project Costs Cap is met, subject to the limitation set forth in **Section 3.08**.

The 10-year term for Real Property Tax Revenues for the Project shall commence on January 1 of the year in which the County first fully appraises the completed project improvements for such Project, or upon such earlier date upon mutual agreement of the Unified Government and Developer.

D. Outside Date for Reimbursement. Notwithstanding anything else set forth in this Agreement to the contrary, the Parties hereby agree that the reimbursements contemplated herein shall end on or before the date on which Developer is reimbursed with Real Property Tax Revenues for tax year 2030. In no event shall the Unified Government make any reimbursements of Real Property Tax Revenues after such time.

Section 3.04. Developer Reimbursement Process.

A. All requests for reimbursement of Reimbursable Project Costs shall be made in a Certificate of Reimbursable Project Costs in substantial compliance with the form attached hereto as **Exhibit C**. Requests for reimbursement shall be submitted by the Developer to the Unified Government (or its designated representatives) as a package. The Developer shall provide itemized invoices, real estate contracts, lien waivers, receipts, or other information reasonably requested, if any, to confirm that any such cost has been paid and qualifies as a Reimbursable Project Cost, and shall further provide a summary sheet detailing the costs requested to be reimbursed. Such summary sheet shall show the date such cost was paid, the payee, a brief description of the type of cost paid, and the amount paid. The Developer shall provide such additional information as reasonably requested by the Unified Government (or its designated representatives) to confirm that such costs have been paid and qualify as Reimbursable Project Costs.

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

C. The Unified Government shall have 30 calendar days after receipt of any Certificate of Reimbursable Project Costs to review and respond by written notice to the Developer. If the submitted Certificate of Reimbursable Project Costs and supporting documentation demonstrates that (1) the request is for valid Reimbursable Project Costs, (2) the work has been completed and the expense has been paid, (3) Developer is not in material default under this Agreement, and (4) there is no fraud on the part of the Developer; then the Unified Government shall reasonably approve the Certificate of Reimbursable Project Costs. If the Unified Government reasonably disapproves of the Certificate of Reimbursable Project Costs, the Unified Government shall notify the Developer in writing of the reason for such disapproval within such 30-day period. Approval of the Certificate of Reimbursable Project Costs will not be unreasonably withheld.

Section 3.05. Right to Inspect and Audit. The Developer agrees that, up to one year after completion of the Project and opening for leasing to the public, the Unified Government, with reasonable advance notice and during normal business hours, shall have the right and authority to review, audit, and copy, from time to time, all the Developer's books and records relating to the Reimbursable Project Costs associated with the Project (including, but not limited to, all general contractor's sworn statements, general contracts, subcontracts, material purchase orders, waivers of lien, paid receipts and invoices).

Section 3.06. Limitation on Unified Government's Payment Obligations. Notwithstanding any other term or provision of this Agreement, the Unified Government's obligation to reimburse the Developer for Reimbursable Project Costs shall be limited to available Real Property Tax Revenues and shall not be payable from any other source.

Section 3.07. Reduction of Caps. The parties agree that in the event that Developer fails to meet the LBE/MBE/WBE goals set forth in **Exhibit I**, the Reimbursable Project Costs Cap shall be reduced as set forth therein.

Section 3.08. Full and Partial Payment Authorized. Notwithstanding any other provision of this Agreement to the contrary, Reimbursable Project Costs shall be paid as follows:

A. An amount equal to one hundred percent (100%) of the Real Property Tax Revenues for the year, less the Unified Government Administrative Fee, if the annual gross rent is an amount that is equal to or less than the Investor-approved rent for the year;

B. An amount equal to seventy-five percent (75%) of the Real Property Tax Revenues for the year, less the Unified Government Administrative Fee, if the annual gross rent is an amount that is greater than the Investor-approved rent for the year but less than the KHRC-approved rent for the year; or

C. An amount equal to fifty percent (50%) of the Real property Tax Revenues for the year, less the Unified Government Administrative Fee, if the annual gross rent is an amount that is equal to or greater than the KHRC-approved rent for the year.

ARTICLE IV

THE PROJECT

Section 4.01. Undertaking of Developer. Developer hereby agrees, subject to the terms and conditions hereinafter provided, to construct, complete, and operate the Project, subject to the Developer's right to terminate this Agreement at any time under Section 7.03(c) hereof, at which time the Parties shall have no further obligations hereunder. The performance of all activities by Developer hereunder shall be as an independent contractor and not as an agent of the Unified Government, except as otherwise specifically provided herein.

Section 4.02. Project Budget. Upon construction of the Project, in whole or in part, it shall be constructed substantially in accordance with the Project Budget.

Section 4.03. Design of Project. In order to further the development of the Redevelopment District, the Unified Government hereby authorizes the Developer to construct, or cause to be constructed, the Project according to the final Plans approved by the Unified Government.

Section 4.04. Rights of Access. Representatives of the Unified Government shall have the right of access to the Project Site, without charges or fees, at normal construction hours during the period of construction, for the purpose of ensuring compliance with this Agreement, including, but not limited to, the inspection of the work being performed in constructing, renovating, improving, equipping, repairing, and installing the project, so long as they comply with all safety rules. Except in case of emergency, prior to any such access, such representatives of the Unified Government will check in with the on-site manager. Such representatives of the Unified Government shall carry proper identification, shall insure their own safety, shall assume the risk of injury, and shall not interfere with the construction activity.

ARTICLE V

USE OF THE PROJECT SITE

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

A. No Tax-Exempt Organizations. This Agreement shall be terminated if the Developer sells or leases any property within the Project Site to a tax-exempt organization, except that this prohibition shall not prevent the granting of any temporary or permanent easements necessary to facilitate the construction of the Project, and fu1ther provided, that such sale or lease shall be permitted if the transaction does not impact the tax status of the property or if a payment in lieu of taxes agreement mutually agreeable to the Pa1ties is established, or if the UG otherwise consents to such sale or lease.

Section 5.02. Operation of Project. The parties hereby agree as follows:

A. The Project shall comply with all applicable building and zoning, health, environmental, and safety codes and laws, and all other Applicable Laws and Regulations. The Developer shall, at its own expense, secure or cause to be secured any and all permits which may be required by the Unified

Government and any other governmental agency having jurisdiction for the construction and operation of the Project, including but not limited to obtaining all necessary rental licenses and paying any necessary fees to obtain required permits and licenses.

Section 5.03. Continuous Operation. Developer hereby agrees that after the opening of the Project, Developer shall thereafter "Continuously Operate" by continuously conducting business on the Project Site during the Term of this Agreement For purposes of this Agreement, “Continuously Operate” shall mean leasing residential units to members of the public for habitation year round, without interruption except for such unavoidable stoppages due to emergency repair work, fire, or damage and destruction caused by acts of nature.

Section 5.04. Taxes, Assessments, Encumbrances and Liens.

A. So long as the Developer owns real property within the Project Site, the Developer shall pay when due all real estate taxes and assessments on the property it owns within the Project Site. In the event that the Developer shall fail to pay all such applicable real estate taxes and assessments, the parties understand and agree that the Unified Government may suspend all reimbursements of Reimbursable Project Costs during any time that such real estate taxes and assessments on the property the Developer owns within the Project Site remain unpaid. Notwithstanding the foregoing, nothing contained in this Agreement shall prohibit the Developer from contesting the assessed value of the properties, improvements or the taxes thereon in good faith by appropriate proceedings; provided however that (i) Developer shall pay any and all amounts that are contested under protest while any such proceedings are pending, and (ii) the Unified Government shall suspend all reimbursements of Real Property Tax Revenues during any time that such proceedings are pending final resolution. The Developer and any other owners of real property within the Project Site shall promptly notify the Unified Government in writing of a protest of real estate taxes or valuation of the Developer's or such other owners' property within the Project Site.

B. Subject to **Section 5.06**, Developer agrees that no mechanics' or other liens shall be established or remain against the Project or Project Site, or the funds in connection with any of the Project, for labor or materials furnished in connection with any acquisition, construction, additions, modifications, improvements, repairs, renewals, or replacements so made. However, the Developer shall not be in default if mechanics' or other liens are filed or established and the Developer contests in good faith said mechanics' liens and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom. The Developer hereby agrees and covenants to indemnify and hold harmless the Unified Government in the event any liens are filed against the Project as a result of acts of the Developer, its agents or independent contractors.

C. Developer hereby covenants and agrees that it shall not take any actions or adopt any practices or procedures which are designed to, or which may or will have the effect of, eliminating, reducing or diverting in any way any [sales taxes, use taxes, and/or] property taxes payable to the Unified Government [or the State] in connection with sales made or services from, in or on and about the Project Site.

Section 5.05. Financing During Construction; Rights of Holders.

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

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

C. Notice of Default to Mortgage Holders. With respect to any mortgage granted by Developer as provided herein, whenever the Unified Government shall deliver any notice or demand to Developer with respect to any breach or default by the Developer in completion of construction of the Project, the Unified Government shall at the same time deliver to each holder of record of any mortgage authorized by this Agreement a copy of such notice or demand, but only if Unified Government has been requested to do so in writing by Developer .

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

Section 5.06. 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, sexual orientation, gender identity, marital status, age, disability, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Project Site, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Project 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 Project or any part thereof. The covenants contained in this Section shall remain for so long as this Agreement is in effect.

ARTICLE VI

REIMBURSEMENT OF REIMBURSABLE PROJECT COSTS

Section 6.01. Unified Government's Administrative Fee. Prior to the calculation of the first bi-annaul reimbursement in any calendar year of any Reimbursable Project Costs to Developer as set forth herein from time to time, the parties hereby agree that the Unified Government shall first pay itself an administrative fee of $2,000 for such calendar year (the "Unified Government Administrative Fee"). Such administrative fees shall have priority over reimbursement of Reimbursable Project Costs but shall not be applied to the Reimbursable Project Costs Cap.

Section 6.02. Disbursement of Real Property Tax Revenues. All disbursements of Real Property Tax Revenues shall be made only to reimburse Reimbursable Project Costs. The Unified Government shall have sole control of such disbursements.

ARTICLE VII

ASSIGNMENT; TRANSFER

Section 7.01. Transfer of Obligations.

A. The rights, duties and obligations hereunder of the Developer may not be assigned, in whole or in part, to another entity, without the prior approval of the Unified Government Commission by resolution following verification by the Unified Government Chief Counsel that the assignment complies with the terms of this Agreement. Any proposed assignee shall have qualifications and financial responsibility, as reasonably determined by the County Administrator, necessary and adequate to fulfill the obligations of the Developer with respect to the portion of the Project Site being transferred. Any proposed assignee shall, by instrument in writing, for itself and its successors and assigns, and expressly for the benefit of the Unified Government, assume all of the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject (or, in the event the transfer is of or relates to a portion of the Project Site, such obligations, conditions and restrictions to the extent that they relate to such portion). The Developer shall not be relieved from any obligations set forth herein unless and until the Unified Government specifically agrees to release the Developer. The Developer agrees, at Developer's cost, to promptly record all assignments in the office of the Register of Deeds of Wyandotte County, Kansas, in a timely manner following the execution of such agreements. The terms of **Section 5.0l(A)** shall apply to any transfers to entities exempt from property taxation.

B. The Parties' obligations pursuant to this Agreement, unless earlier satisfied, shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named and shall be construed as a covenant running with the land, enforceable against the purchasers or other transferees as if such purchaser or transferee were originally a party and bound by this Agreement. Notwithstanding the foregoing, no tenant of any part of the Project Site shall be bound by any obligation of the Developer solely by virtue of being a tenant; provided, however, that no transferee or owner of property within the Project Site except the Developer shall be entitled to any rights whatsoever or claim upon the reimbursements of Sales Tax Revenues or the Real Property Tax Revenues as set forth herein, except as specifically authorized in writing by the Developer.

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

Section 7.02. Developer Reorganization. Nothing herein shall prohibit (or require Unified Government approval to allow) the Developer from forming additional development or ownership entities to replace or joint venture with the Developer for the purpose of business and/or income tax planning; provided that one or more of the principals of the Developer maintains management control of any new or restructured company. The Developer shall provide the Unified Government written notice of any such restructuring within thirty (30) days of any such restructuring.

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

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

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

C. Notwithstanding the foregoing, Developer may terminate this Agreement at any time and thereafter transfer or sell the real property that makes up the Project Site without any Unified Government approval or consent.

ARTICLE VIII

GENERAL COVENANTS

Section 8.01. Indemnification of Unified Government.

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

1. the acquisition of the Project Site;

2. the management, design, construction, development and completion of the Project by the Developer,

3. the use or occupation of the Project Site by Developer or anyone acting by, through, or under the Developer;

4. damage or injury, actual or claimed, of whatsoever kind or character to persons or property occurring or allegedly occurring in, on, or about the Project Site;

5. any breach, default, or failure to perform by the Developer under this Agreement;

6. any act by an employee of the Unified Government at the Project Site which is within or under the control of the Developer or pursued for the benefit of, or on behalf of, the Developer;

7. the Developer's actions and undertaking in implementation of the Project or this Agreement; and

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

This section shall not apply to negligence or willful misconduct of the Unified Government or its officers, employees or agents. This section includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act (**"CERCLA"**; 42 U.S.C. Section 9601, et seq.), (ii) the Resource Conservation and Recovery Act (**"RCRA"**; 42 U.S.C. Section 6901, et seq.), (iii) Article 34, Chapter 65, K.S.A., and all amendments thereto, and any other Applicable Laws and Requirements at the Project Site or any other place where Developer owns or has control of real property pursuant to any of Developer's activities under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA to assure, protect, hold harmless, and indemnify Unified Government from liability.

B. In the event any suit, action, investigation, claim, or proceeding (collectively, an **"Action"**) is begun or made as a result of which the Developer may become obligated to one or more of the Unified Government Indemnified Parties hereunder, the Unified Government Indemnified Party shall give prompt notice to Developer of the occurrence of such event, but the failure to notify Developer will not relieve Developer of any liability that it may have to a Unified Government Indemnified Party. After receipt of such notice, Developer may elect to defend, contest, or otherwise protect a Unified Government Indemnified Party against any such Action, at the cost and expense of Developer, utilizing counsel approved by a Unified Government Indemnified Party. The Unified Government Indemnified Party shall have the right, but not the obligation, to participate, at the Unified Government Indemnified Party's own cost and expense, in the defense thereof by counsel of the Unified Government Indemnified Party's choice. In the event that Developer shall fail timely to defend, contest or otherwise protect a Unified Government Indemnified Party against such Action, the Unified Government Indemnified Party shall have the right to do so, and (if such defense is undertaken by the Unified Government Indemnified Party after notice to Developer asserting Developer's failure to timely defend, contest, or otherwise protect against such Action), the Unified Government Indemnified Party may submit any bills for fees and costs received from its counsel to Developer for payment for services that were rendered no sooner than thirty (30) days after such notice is provided to Developer, and within thirty (30) business days after such submission of such bills for fees and costs, Developer shall transfer to the Unified Government Indemnified Party sufficient funds to pay such bills. Developer acknowledges that such bills may be redacted to delete any information which would constitute attorney-client communication or attorney work product.

C. A Unified Government Indemnified Party shall submit to Developer any settlement proposal that the Unified Government Indemnified Party shall receive. Developer shall be liable for the payment of any amounts paid in settlement of any Action to the extent that Developer consents to such settlement. Neither Developer nor the Unified Government Indemnified Party will unreasonably withhold its consent to a proposed settlement.

D. Developer expressly confirms and agrees that it has provided this indemnification and assumes the obligations under this Agreement imposed upon Developer in order to induce the Unified Government to enter into this Agreement. To the fullest extent permitted by law, a Unified Government Indemnified Party shall have the right to maintain an action in any court of competent jurisdiction to enforce and/or to recover damages for breach of the rights to indemnification created by, or provided pursuant to, this Agreement, and the right to apply any deposit or other funds submitted by Developer to the Unified Government Indemnified Party in payment of the damages suffered by it, as is necessary to protect the Unified Government Indemnified Party from loss. If such court action is successful, the Unified Government Indemnified Party shall be reimbursed by Developer for all fees and expenses (including attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, defense, settlement, or appeal of such action).

E. The right to indemnification set forth in this Agreement with respect to events or circumstances that occurred or arose during the term of this Agreement shall survive the termination of this Agreement.

Section 8.02. Non-liability of Officials, Employees and Agents of the Unified Government. No recourse shall be had for the reimbursement of the Project Costs or for any claim based thereon or upon any representation, obligation, covenant, or agreement contained in this Agreement against any past, present or future official, officer, employee or agent of the Unified Government, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officials, officers, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

Section 8.03. Power of the Unified Government. Notwithstanding anything set forth herein to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent rights and powers of the Unified Government to act in its capacity as a public body. Further, nothing herein shall relieve the Developer from complying with all Applicable Laws and Requirements.

Section 8.04. LBE/MBE/WBE Employment Opportunity Goals. Developer agrees to comply with the goals set forth on Exhibit I attached hereto and made a part hereof, in order to identify and provide employment opportunities for local businesses and contractors, women and local minority owned businesses in connection with the Project.

ARTICLE IX

DEFAULTS AND REMEDIES

Section 9.01. Developer Event of Default. Subject to **Section 9.05**, the occurrence and continuance of any of the following events shall constitute a **"Developer Event of Default"** hereunder:

A. Subsequent to opening for business, the Project shall fail to Continuously Operate (as defined in **Section 5.03**) on the Project Site.

B. Developer shall transfer the Project Site or this Agreement without complying with the terms and conditions of **Article VII** hereof, including without limitation, any required consent or approval of the Unified Government

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

Section 9.02. Unified Government Event of Default. Except as further provided herein, and subject to **Section 9.05**, a **"Unified Government Event of Default"** shall mean a Default in the performance of any obligation or breach of any other covenant or agreement of the Unified Government in this Agreement (other than a covenant or agreement, a default in the performance, or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of 30 days after there has been given to the Unified Government by the Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied and the Unified Government is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the Unified Government shall immediately upon receipt of such notice diligently commence to remedy such default or breach (but in all events within such 30-day period) and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 9.03. Remedies Upon a Developer Event of Default.

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

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

2. The Unified Government may pursue any available remedy at law or in equity by suit, action, mandamus, or other proceeding to enforce and compel the specific performance of the duties and obligations of the Developer as set forth in this Agreement, to enforce or preserve any other rights or interests of the Unified Government under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the Unified Government resulting from such Developer Event of Default, all subject to the Developer's right to terminate this Agreement at any time under Section 7.03(c) hereof, at which time the Parties shall have no further obligations hereunder.

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

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

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

E. In the event of such default, the Unifi ed Government may take such actions, or pursue such remedies, as exist hereunder, or at law or in equity, and Developer covenants to pay and to indemnify the Unified Government against all reasonable costs and charges, including attorney's fees, lawfully and reasonably incurred by or on behalf of the Unified Government in connection with the enforcement of such actions or remedies.

Section 9.04. Remedies Upon a Unified Government Event of Default.

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

1. The Developer shall have the right to terminate this Agreement, at which time neither party shall have any further obligations hereunder.

2. The Developer may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the Unified Government as set forth in this Agreement, to enforce or preserve any other rights or interests of the Developer under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the Developer resulting from such Unified Government Event of Default.

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

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

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

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

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

ARTICLE X

GENERAL PROVISIONS

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

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

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

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

Section 10.05. Agreement Controls. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

Section 10.06. Conflicts of Interest.

A. No member of the Unified Government's governing body or of any branch of the Unified Government's government that has any power of review or approval of any of the Developer's undertakings shall participate in any decisions relating thereto which affect such person's personal interest or the interests of any corporation or partnership in which such person is directly or indirectly interested. Any person having such interest shall immediately, upon knowledge of such possible conflict, disclose, in writing, to the Unified Government the nature of such interest and seek a determination with respect to such interest by the Unified Government and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

B. 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. Developer further represents that, to its best knowledge and belief, no officer, employee or agent of the Unified Government who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision making process or gain insider information with regard to the Project, has or will have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 10.07. Term. Unless earlier terminated as provided herein, this Agreement shall remain in full force and effect until the earlier to occur of: (i) Developer has received reimbursement from the UG for all Reimbursable Project Costs, subject to the Reimbursable Project Costs Cap; and (ii) the term of Real Property Tax Revenues reimbursement to Developer for all portions of the Project Site have expired, or (iii) the outside dates for reimbursement set forth in **Section 3.03(D)** hereof.

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

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

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

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

Section 10.12. Notice. All notices and requests required pursuant to this Agreement shall be sent as follows:

To the Unified Government:

Unified Government Clerk Municipal Building

701 North 7th Street

Kansas City, Kansas 66101

With a copy to:

Chief Counsel

Legal Department

Municipal Building

701 North 7th Street

Kansas City, Kansas 66101

To the Developer:

Boulevard Lofts, LP

Attn: Kelley Hrabe

770 East 5th Street

Kansas City, Missouri 64106

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

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

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

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

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

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ______________________________________

David Alvey

Mayor/CEO

(Seal)

ATTEST

By: ______________________________

Unified Government Clerk

ACKNOWLEDGEMENT

STATE OF KANSAS	**)**	
	)	**ss.**
COUNTY OF WYANDOTTE	**)**	

BE IT REMEMBERED, that on this _____ day of _________, 2019, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came David Alvey, Mayor/CEO of the Unified Government of Wyandotte County/Kansas City, Kansas, a municipal corporation organized and existing pursuant to the laws of the State of Kansas as a consolidated city-county having all the powers, functions and duties of a county and a city of the first class, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said Unified Government, and such person duly acknowledged the execution of the same to be the free act and deed of said Unified Government.

WITNESS my hand and official seal.

____

Notary Public

My Commission Expires:

____

[SEAL]

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

BOULEVARD LOFTS, LP, a Kansas limited partnership

By: BOULEVARD LOFTS GP, LLC, a Kansas limited liability company, its General Partner

By:____________________________________
Kelley Hrabe, Manager

ACKNOWLEDGEMENT

STATE OF KANSAS)
) ss.
COUNTY OF WYANDOTTE)

BE IT REMEMBERED, that on this _____ day of _________, 2019, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kelley Hrabe, Manager of Boulevard Lofts GP, LLC, a limited liability company existing pursuant to the laws of the State of Kansas, the General Partner of Boulevard Lofts, LP, a limited partnership (the "Partnership") existing pursuant to the laws of the State of Kansas who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said Partnership, and such person duly acknowledged the execution of the same to be the free act and deed of said Partnership.

WITNESS my hand and official seal.

____
Notary Public

My Commission Expires:

____

[SEAL]

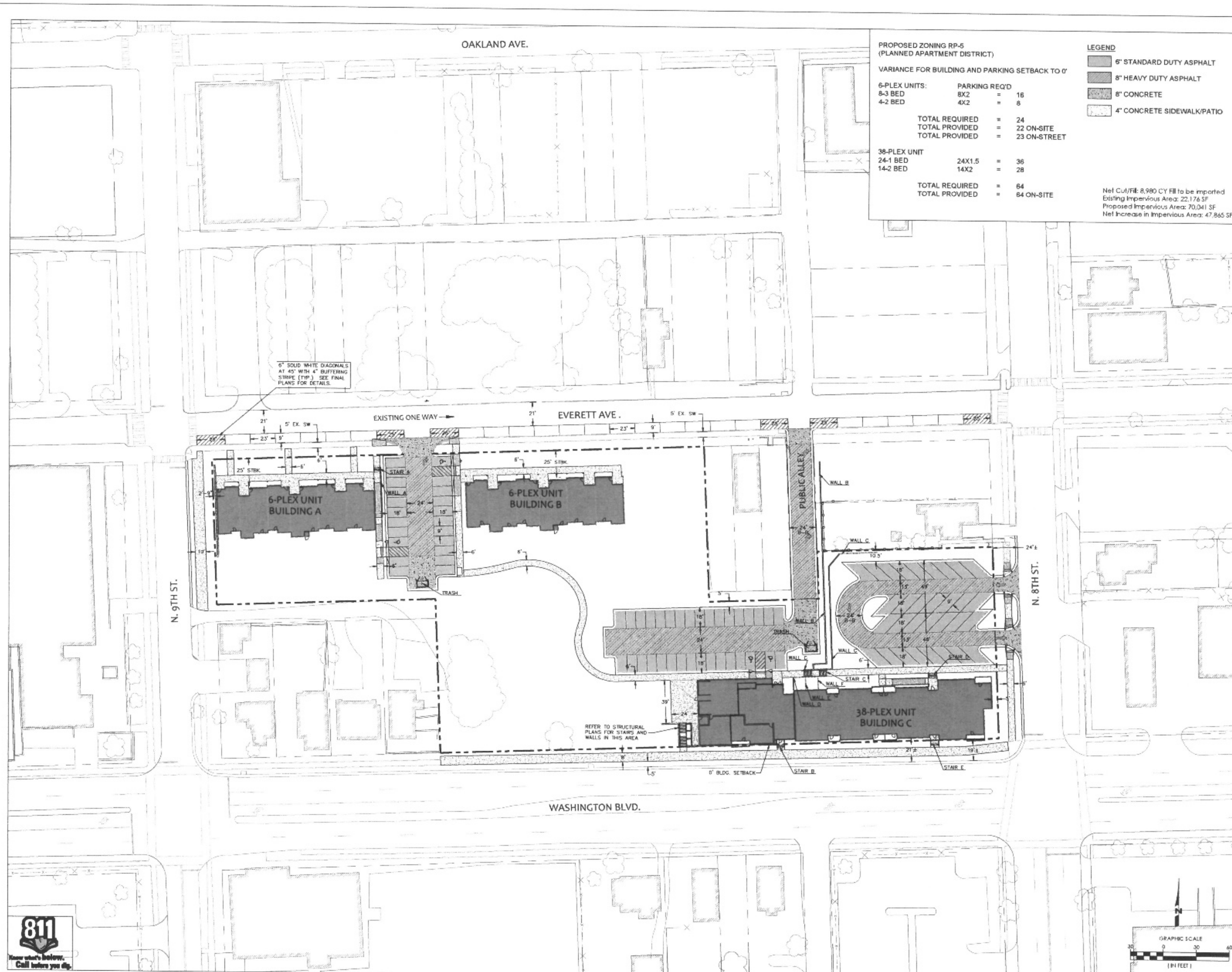
EXHIBIT A

LEGAL DESCRIPTION OF PROJECT SITE

LOT 1, BOULEVARD LOFTS, A SUBDIVISION IN KANSAS CITY, WYANDOTTE COUNTY, KANSAS.

<u>EXHIBIT B</u>

DEPICTION OF PROJECT SITE / CONCEPT PLAN



PROPOSED ZONING RP-5
(PLANNED APARTMENT DISTRICT)

VARIANCE FOR BUILDING AND PARKING SETBACK TO 0'

6-PLEX UNITS:	PARKING REQ'D		
8-3 BED	8X2	=	16
4-2 BED	4X2	=	8
TOTAL REQUIRED		=	24
TOTAL PROVIDED		=	22 ON-SITE
TOTAL PROVIDED		=	23 ON-STREET
38-PLEX UNIT			
24-1 BED	24X1.5	=	36
14-2 BED	14X2	=	28
TOTAL REQUIRED		=	64
TOTAL PROVIDED		=	64 ON-SITE

LEGEND

- 6" STANDARD DUTY ASPHALT
- 8" HEAVY DUTY ASPHALT
- 8" CONCRETE
- 4" CONCRETE SIDEWALK/PATIO

Net Cut/Fill: 8,980 CY Fill to be imported
Existing Impervious Area: 22,176 SF
Proposed Impervious Area: 70,041 SF
Net Increase in Impervious Area: 47,865 SF

Prairie Fire Boulevard Lofts
8th St. & Washington Blvd
Kansas City, KS 66101
20150303

odimo
601 e 63rd no 205
kc mo 64110 | 816.708.1500
odimo.us

owner
Attn: Kelley Hrabe + Jared Nook
Prairie Fire Development Group, LLC
770 E. 5th Street
Kansas City, MO 64106
816.686.2416
khrabe@prairiefiredg.com

architect
Attn: Ashley W. Sadowski, AIA
Odimo LLC
601 E 63rd Street #205
Kansas City, MO 64110
816.708.1504
asadowski@odimo.us

mep engineering
Attn: David Deathreage
PKMR Engineers
13300 W 98th St
Lenexa, KS 66215
913.312.0151
david.deatherage@pkmreng.com

structural engineering
Attn: Grant K. Polley, PE
Apex Engineers, Inc.
1625 Locust Street
Kansas City, MO 64108
816.421.3222
grant@apex-engineers.com

civil engineering
Attn: Brian Lavery, PE
CC Engineers, Inc.
11006 Parallel Pkwy
Kansas City, KS 66109
903.642.6642
bl@ccengineers.com

landscape design
Attn: Brett Spangler
Vireo
929 Walnut, Suite 700
Kansas City, MO 64106
816.777.3008
brett@bevireo.com

02/08/2019

REV	DATE	ISSUED FOR
	11.27.18	PERMIT SET

SITE PLAN

C200

B.43 P.88 L-0088 2019R-05586

FINAL PLAT

BOULEVARD LOFTS

A REPLAT OF LOTS 3 THROUGH 6, 10 THROUGH 27, AND 36 THROUGH 48, AND THAT PART OF THE ALLEYS ADJACENT THERETO, ALL IN BLOCK 87 OF WYANDOTTE CITY, A SUBDIVISION IN THE CITY OF KANSAS CITY, WYANDOTTE COUNTY, KANSAS

All of Lots 3 through 6 along with the adjacent 10 feet of right-of-way of Eighth Street vacated in Ordinance No. 1016, and all of Lots 10 through 27 along with the adjacent 10 feet of right-of-way of Everett Avenue vacated in Ordinance No. 336, and all of Lots 36 through 48, and all of the public alley between Lot 48 and Lots 4, 5 and 6, and all of the public alley between Lots 10 through 19 and 36 through 45, and all of the south half of the public alley adjacent to Lots 46, 47 and 48, all being in Block 87, WYANDOTTE CITY, a subdivision in the City of Kansas City, Wyandotte County, Kansas, being more particularly described as follows: beginning at the southwest corner of Lot 36, Block 87, WYANDOTTE CITY, thence North 02 degrees 08 minutes 32 seconds West, with the west line of said Lot 36, and its northerly prolongation, a distance of 141.00 feet to the southeast corner of Lot 20, Block 87; thence South 87 degrees 51 minutes 28 seconds West, with the south line of Lots 20 through 27, a distance of 200.00 feet to the southwest corner of said Lot 27, said point also being on the east right-of-way line of N. 9th Street, as it now exists; thence North 02 degrees 08 minutes 32 seconds West, with the east right-of-way line of N. 9th Street and the west line of said Lot 27, and its northerly prolongation, a distance of 133.00 feet to a point on the south right-of-way line of Everett Avenue as established by Ordinance No. 336; thence North 87 degrees 51 minutes 28 seconds East, with the south right-of-way line of Everett Avenue, as it now exists, a distance of 450.00 feet to the northeast corner of Lot 10, Block 87; thence South 02 degrees 08 minutes 32 seconds East, with the east line of Lot 10, and its southerly prolongation, a distance of 142.00 feet to the centerline of an existing public alley; thence North 87 degrees 51 minutes 28 seconds East, with the centerline of said existing alley, and its easterly prolongation, a distance of 100.00 feet to the southwest corner of Lot 3, Block 87; thence North 02 degrees 08 minutes 32 seconds West, with the west line of said Lot 3 Block 87, a distance of 44.00 feet to the northwest corner of said Lot 3 Block 87; thence North 87 degrees 51 minutes 28 seconds East, with the north line of said Lot 3 and its easterly prolongation, a distance of 160.00 feet to a point on the west right-of-way line of N. 8th Street, as established by Ordinance No 1016; thence South 02 degrees 08 minutes 32 seconds East, with the west right-of-way line of N. 8th Street, as it now exists, a distance of 176.00 feet to a point on the north right-of-way line of Washington Boulevard as it now exists; thence South 87 degrees 51 minutes 28 seconds West, with the north right-of-way line of Washington Boulevard and the south line of Lots 6, and 48 through 36, all of Block 87, a distance of 510.00 feet to the point of beginning. The above described tract contains 136,460 square feet, or 3.13 acres.

* to a point 10.00 feet north of...

Building Setback
9th Street – 0'
Everett Ave – 25'
8th Street – 0'
Washington Blvd – 0'

Parking Setback
9th Street – 25' from street line
Everett Ave – 10' from street line
8th Street – 20' from street line
Washington Blvd – 25' from street line

AREA TABLE	SQUARE FEET	ACRES
LOT 1	136,460	3.13
RIGHT-OF-WAY	0	0
TOTAL	136,460	3.13

OWNERS CERTIFICATION AND DEDICATION

We, the undersigned, certify that we are the owners of the above described land, and that we have caused these tracts of land to be subdivided as shown on this plat that it shall hereafter be known as BOULEVARD LOFTS

An easement is hereby granted to the City of Kansas City, Wyandotte County, Kansas, and all public utility companies duly licensed to do business in the City of Kansas City, Wyandotte County, Kansas, to enter upon, construct and maintain poles, wires, anchors, etc. upon, over and under those areas outlined and designated on this plat as "Utility Easement" (U/E), "Storm Sewer Easement", and "Sanitary Sewer Easement".

The undersigned owner of the above described tract of land hereby consent and agree that the Governing Body of any special assessment district shall have the power to release land herein before dedicated for streets and public ways, or parts thereof, for public use, from the lien and effect of any special assessment shall be reapportioned.

That portion reserved for public use as roads and utility easements, the easements, extent and direction of which are shown on this plat, are hereby dedicated to the public use forever.

Lot 1 is to be used as a Multi-Family development.

Liquid waste from the project will utilize the existing sanitary sewer system that exits the property to the north.

The detention facility shall be owned and maintained by the owners of the lots, tracts, and parcels shown within this plat.

All of the public alley between Lots 10 through 19 and 36 through 45, and the south half of the public alley north of and adjacent to Lots 46 through 48, and all of the public alley between Lots 48 and 4 through 6 are to be vacated with this plat.

The error of closure is 1:250,000.

Theory of Location – The east line of Block 87 was established by holding the two found monuments at the northeast and southeast corners of Lot 4. The west line of Block 87 was established by using the two found monuments on the west side of N. 9th Street and paralleling that line 80 feet east. The north and south lines of Block 87 west established by holding the monument at the northeast corner of Lot 4 and the spike nail found in the alley and using that line as the offset north and south as the north and south line of the block.

If public improvements or maintenance within public storm sewer easements affects any private drainage lines and structures within those easements, the private drainage lines and structures shall be restored at the owner's expense.

SITE LOCATION MAP
NOT TO SCALE

SURVEYOR\ENGINEER:
Continental Consulting Engineers, Inc.
11006 Parallel Parkway, Suite 1
Kansas City, Kansas 66109
Samuel J. DePriest, PLS
Brian Lowery, PE

OWNER/DEVELOPER:
Boulevard Lofts, LP
770 E 5th Street
Kansas City, MO 64106

SYMBOL LEGEND

○ Found property corner as noted

◈ Set 1/2" x 24" rebar with cap CCEI 2013000041

State of Kansas, County of Wyandotte, SS:

This is to certify that this instrument was filed for record in the Register of Deeds Office, on this 8 day of May, 2019, at 4:00 p.m. o'clock and is duly recorded.

Nancy W. Burns, Register of Deeds

Suzie Nelson, Deputy

COUNTY SURVEYOR

This survey has been reviewed for filing, pursuant to KSA 58-2003, 58-2005, and 58-2011 for content only and is in compliance with those provisions. No other warranties are extended or implied.

Reviewed by ______ Date 4-5-19
Brent E. Thompson, KS PLS #1277

The dedications shown hereon, if any, are accepted this 25 day of April, 2019

______ Mayor/CEO
David Alvey

______ Unified Clerk
Bridgette D. Cobbins

STATE OF KANSAS
WYANDOTTE COUNTY/KANSAS CITY
Entered in transfer record in my office
This 25 Day of April, 2019
Unified Government Clerk
By Carol ______ Deputy

Recommended for approval by the Wyandotte County/Kansas City, Kansas Engineer, this

9 day of April, 2019

______ "County Engineer"
Troy Shaw, PE

This plat of Boulevard Lofts, has been submitted to and approved by the Wyandotte County/Kansas City, Kansas Planning Commission.

Dated this ____ day of ________, 2019

Wyandotte County/ Kansas City, Kansas
Planning Commission

By ______, Chairman
~~Joanne Huey~~ JEFF CARSON

______, Secretary
Robin H. Richardson, AICP

Boulevard Lofts, LP, a Kansas limited partnership

By: Boulevard Lofts GP, LLC, a Kansas limited liability company

______
Kelley Hrabe, Manager

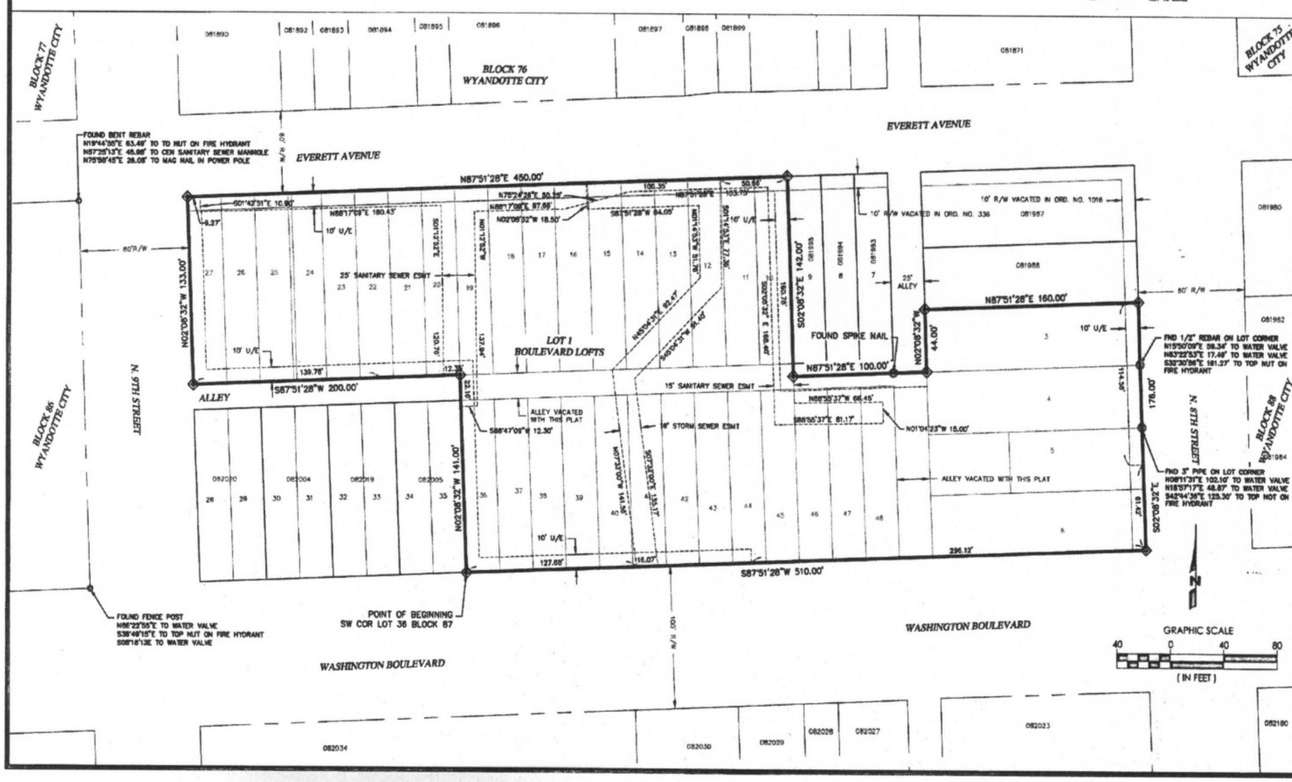
Wyandotte County, State of Kansas, SS

Be it remembered on this 15th day of March, 2019, before me, a notary public in and for said County and State, came Kelley Hrabe, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

My Appointment expires 4/23/19 ______
Notary Public

SURVEYOR'S CERTIFICATE
I hereby certify that I am a duly Registered Land Surveyor under the laws of the State of Kansas, and that to the best of my knowledge this survey meets or exceeds the current minimum standards for property boundary surveys, and that said survey was conducted under my direct supervision.
Samuel J. DePriest, Kansas P.L.S. No. 1351

SAMUEL J. DePRIEST LICENSED LS-1351 KANSAS LAND SURVEYOR



FINAL PLAT
BOULEVARD LOFTS
KANSAS CITY, WYANDOTTE COUNTY, KANSAS

DATE: DECEMBER 28, 2018 | DRAWN BY: HD | SCALE: AS SHOWN
REVISIONS: REVISED FEB. 11, 2019 PER COUNTY SURVEYOR'S COMMENTS

SHEET NO. 1 | TOTAL SHEETS 1

12/12/2018 5:01 PM
E:\CIVIL 30\BLVD LOFTS\Boulevard Lofts Final Plat.dwg-Layout2

<u>EXHIBIT C</u>

FORM OF CERTIFICATE OF REIMBURSABLE PROJECT COSTS

<u>CERTIFICATE OF REIMBURSABLE PROJECT COSTS</u>

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

Attention: County Administrator

RE: Boulevard Lofts Project

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement between the Unified Government and the Developer, dated ______, 2019.

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

1. Each item listed on Schedule 1 hereto is a Reimbursable Project Cost and was incurred in connection with the cons

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

3. Each item listed on Schedule 1 has not previously been paid or reimbursed from Real Property Tax Revenues, and no part thereof has been included in any other certificate previously filed with the Unified Government.

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

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

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

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

8. All of the Developer's representations set forth in the Agreement remain true and correct as of the date hereof.

Dated this ________ day of _______________, 2019.

BOULEVARD LOFTS, LP, a Kansas limited partnership

By: BOULEVARD LOFTS GP, LLC, a Kansas limited liability company, its General Partner

By:____
Kelley Hrabe, Manager

Approved for Payment this __________ day of ____________, 2019.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ____

Title: ____

SCHEDULE 1

TO

CERTIFICATE OF REIMBURSABLE PROJECT COSTS

Description of Project Costs:

<u>EXHIBIT D</u>

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

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

CERTIFICATE OF SUBSTANTIAL COMPLETION

The undersigned, Boulevard Lofts, LP, a Kansas limited partnership (the "Developer"), pursuant to that certain Development Agreement for the Boulevard Lofts Project dated as of _________________, 2019, between the Unified Government of Wyandotte County/Kansas City, Kansas (the "Unified Government") and the Developer (the "Agreement"), hereby certifies to the Unified Government as follows:

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

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

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

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

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

6. The Unified Government's acceptance and the recordation of this Certificate with the Wyandotte County Register of Deeds shall evidence the satisfaction of the Developer's obligations to construct this phase of the Project.

This Certificate shall be recorded in the office of the Wyandotte County Recorder of Deeds. This Certificate is given without prejudice to any rights against third parties which exist as of the date heretofor which may subsequently come into being.

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

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

BOULEVARD LOFTS, LP, a Kansas limited partnership

By: BOULEVARD LOFTS GP, LLC, a Kansas limited liability company, its General Partner

By:____
Kelley Hrabe, Manager

ACCEPTED:

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: _______________________________________

Name: _____________________________________

Title: _____________________________________

(Insert Notary Form(s) and Legal Description)

EXHIBIT E

PROJECT BUDGET

BOULEVARD LOFTS BUDGET		
Land and Building Acquisition	$ 149,200	1.4%
Construction "Hard" Costs	$ 7,668,750	72.1%
Developer Fee	$ 800,000	7.5%
Developer Overhead	$ 100,000	
Soft Costs	$ 1,686,532	15.9%
Reserves	$ 227,000	2.1%
TOTAL USES OF FUNDS	**$ 10,631,482**	**100.0%**

EXHIBIT F

REIMBURSABLE PROJECT COSTS

Item	**Amount**	**Comment**
Acquisition	$150.000.00	Property Devleoper had to acquire to meet code requirements
Public alley improvements	$20,000.00	Improvements to the public alley off of Everett Ave.
Right of Way improvements	$20,000.00	Landscaping, curbs, lights, etc.
Everett Ave. clean-up	$10,000.00	Clean up on the existing land bank properties
Total	**$200,000.00**	

EXHIBIT G

DESIGN STANDARDS

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1. Compliance with the City-wide master plans.

2. Compliance with the design criteria and material board approved by the Director of Planning.

EXHIBIT H

RESTRICTED LAND USES WITHIN THE PROJECT SITE

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1. Any use which emits an obnoxious odor, noise, or sound which can be heard or smelled outside of any building in the Project (except that this provision shall not prohibit normal cooking odors which are associated with a first-class restaurant operation);
2. Any operation primarily used as a storage warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation;
3. Any "second hand" store" or "surplus" store, thrift shop or other business principally engaged in the sale of used merchandise;
4. Any mobile home park, trailer court, labor camp, junkyard or stockyards (except that this provision shall not prohi
5. Any dumping, disposing, incineration, or reduction of garbage (exclusive of garbage compactors located near the rear of any building);
6. Any fire sale, going out of business sale, bankruptcy sale (unless pursuant to a court order) or auction house operation;
7. Any central laundry, central dry-cleaning plant or laundromat (except that this provision shall not prohibit nominal supportive facilities for on-site services oriented to pickup and delivery by the ultimate consumer as the same may be found in first-class shopping centers);
8. (Reserved)
9. Any bowling alley or skating rink;
10. Any movie theater, night club or live performance theater;
11. Any veterinary hospital or animal raising facility (except that this prohibition shall not prohibit pet shops or pet supply superstores and veterinary services which are incidental thereto);
12. Any mortuary, funeral home or crematory;
13. Any adult book store, adult video store, adult movie theater or other establishment selling, renting or exhibiting pornographic materials or drug-related paraphernalia (except that this provision shall not prohibit the operation of a bookstore or video store which carries a broad inventory of books or videos and other materials directed towards the interest of the general public [as opposed to specific segment thereof]);
14. Any bar or tavern without a full-service kitchen.
15. Any flea market, amusement or video arcade, pool or billiard hall, car wash, tattoo parlor or dance hall (except that this provision shall not prohibit a restaurant from including video games as an incidental use to its operations);
16. With respect to spaces over 5,500 square feet, any training or educational facility, including, but not limited to, beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers (except that this provision shall not prohibit on-site employee training [whether for employment at the Project or at another business location of such occupant] by an occupant incidental to the conduct of its business at the Project);
17. Any church, school, day care center or related religious or educational facility or religious reading room;

18. Any massage parlor (except that this provision shall not prohibit massages in connection with a beauty salon, health club or athletic facility); and
19. Any casino or other gambling facility or operation, including but not limited to, off-track or sports betting parlors, table games such as black-jack or poker, slot machines, video gambling machines and similar devices, and bingo halls (except that this provision shall not prohibit government sponsored gambling activities or charitable gambling activities if such activities are incidental to the business operation being conducted by the occupant)

EXHIBIT I

LBE/WBE/MBE PARTICIPATION AND EMPLOYMENT OPPORTUNITY AGREEMENT

This Exhibit sets forth the guidelines for the utilization of local business, minority, and women enterprises and local resident, minority, and women participation and equal employment opportunity referenced in **Section 8.2** of the Boulevard Lofts Development Agreement (the "**Agreement**") between the Unified Government of Wyandotte County/Kansas City, Kansas (the "**UG**") and Boulevard Lofts, LP, a Kansas limited partnership (the "**Developer**"). The parties agree as follows:

I. SCOPE

These procedures are applicable to the Construction of the Project, including but not limited to all aspects of the construction of the Improvements and all related facilities, including labor, materials and supplies, and construction-related services, but not including: (i) Specialized Services; or (ii) legal, architectural and pre-construction consulting services already performed or contracted for prior to the Effective Date of the Agreement (as defined therein), which shall specifically be excluded from both the numerator and the denominator in determining whether the Construction goals set forth herein have been met.

II. DEFINITIONS

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

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

B. "**Construction**" means all aspects of the construction of the Improvements, all related facilities, and the Project, including labor, materials and supplies, and construction-related services, whether performed or contracted for by or on behalf of Developer; provided, however, “Construction” shall not include: (i) services performed or associated with tenant improvements or any services requested by tenants of the Project, provided that this exception shall only apply to tenants who are third parties unaffiliated with Developer; (ii) Specialized Services; (iii) Professional Services; or (iv) legal, architectural and pre-construction consulting services already performed or contracted for prior to the Effective Date of the Agreement.

C. "**Contractor**" means the Proposer selected by Developer for the design, development, or construction of the Project.

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

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

F. "**Minority Business Enterprise or MBE**" means a business of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and/or whose day-to-day management is under the control of a person who is a member of an American ethnic minority group including African-American, Asian-Indian, Asian-Pacific, Hispanic and Native American.

G. "**Professional Services**" means advisory or consulting activities including, but not limited to, architectural, engineering, legal, accounting, financial, marketing, environmental studies, and financial services contracted for by or on behalf of Developer for the design, development, and construction of the Project but specifically excluding: (i) professional services that have historically been sourced and performed at the holding company level by Developer (such as legal and accounting services, for example); (ii) Specialized Services; (iii) Construction; and (iv) legal, architectural and pre-construction consulting services already performed or contracted for prior to the Effective Date of the Agreement.

H. "**Proposer**" means a person who submits a proposal in response to a solicitation for proposals issued by Developer or one of its Contractors with respect to the design, development, or construction of the Project, or with respect to ongoing maintenance and operations of the Project.

I. "**Specialized Services**" means expertise, services, or products, the application of which are unique to the construction of the Project and which are only available through sole or limited source providers or national vendors. Specialized Services shall also include the services provided by the Contractors and designers who have been involved with and have previous experience on similar projects with Developer and which Developer has engaged or intends to engage to perform similar services for the Project.

K. "**Women Business Enterprise or WBE**" means a business of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and/or whose day-to-day management is under the control of one or more women who are U.S. citizens or legal resident aliens.

III. DESIGN, DEVELOPMENT, AND CONSTRUCTION OF THE PROJECT

A. GOALS FOR LBE/MBE/WBE PARTICIPATION.

1. Project Design, Development, and Construction Goals.

Developer will use its Best Efforts to meet the following goals based upon the total cost of Construction of the Project and all related facilities undertaken by Developer, but not including Specialized Services. In no event shall Developer be required to incur higher costs as a result of its commitment to attempt to meet such goals. In the event Developer obtains bids for any aspect of the Project for which a bid by a Proposer qualifying as an LBE, MBE, or WBE is not the lowest or best bid, Developer shall not be required to meet the LBE/MBE/WBE participation percentage goals for that aspect of the Project. These goals are based upon a disparity study performed for the Kansas City Metropolitan Area for LBE, MBE, and WBE participation. These goals are not to act as quotas or set asides.

	Construction
LBE	5%
MBE	5%
WBE	5%

It is the intent of the UG to give preference to the utilization of LBEs so long as all other factors relating to the award of an individual contract are equal. If the factors relating to an award of an individual contract are equal, Developer shall give preference to the utilization of LBEs over the utilization of MBEs and WBEs. The Developer shall strive to meet each individual goal listed.

2. Contract Specific Goals.

The parties agree that the goals are set forth for Construction of the Project as a whole, excluding Specialized Services, and the UG will reasonably agree to different specific goals for specific contracts or portions of contracts to be awarded by Developer, when proposed by the Developer, relating to the Construction of the Project, based upon the availability of qualified LBEs and certified MBEs and WBEs to perform the specific scopes of work delineated in Developer's Project Utilization Plan (as described herein).

3. **<u>Eligibility for Credit.</u>**

a. Only LBE businesses that are qualified and/or MBE or WBE businesses that are certified or undergoing certification at the time of submittal of the subject bid or proposal and ultimately certified as MBEs or WBEs by the Kansas Department of Commerce, State of Missouri, Missouri Department of Transportation, City of Kansas City, Missouri, MidAmerica Minority Business Development Council, Women's Business Enterprise National Council, or any other public or private entity reasonably acceptable to the UG and the Developer (each an "approved" business), may be counted towards the participation goals in Section III.A.1. above.

b. In the event that a contract has been awarded on the Project to an approved LBE/MBE/WBE business, and such LBE/MBE/WBE business later becomes unapproved prior to the completion and acceptance of all the work to be provided under such contract, then Developer shall nonetheless receive credit towards the goal for that the entire portion of work performed or services provided up to the point such business becomes unapproved.

4. **<u>Construction Workforce.</u>**

a. Recruitment and outreach. Developer will use its Best Efforts to employ and to ensure its Contractors employ Local Residents, minorities, and women in all aspects of the Construction of the Project except for Specialized Services. These efforts shall include but not be limited to:

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

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

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

Documentation of these and any other steps taken shall be submitted to the UG prior to the beginning of the bidding process.

b. Employment Procedures. Developer and its Contractors shall implement equal employment opportunity hiring and job action procedures as those terms are commonly understood.

B. DEVELOPMENT AND PROJECT UTILIZATION PLANS.

1. Submissions, Content, and Fulfillment of Project Utilization Plan.

a. Fourteen (14) calendar days before the solicitation of the first proposal for the Construction of part of the Project, which is issued by Developer after the execution of the Agreement, Developer will submit a Project Utilization Plan to the UG for review and approval. The Project Utilization Plan shall be on the form attached to this Exhibit as Attachment A or on another form provided or approved by the UG. This Project Utilization Plan shall set forth, to the best of Developer's knowledge: all categories of work that will be covered within solicitations that Developer or its Contractors intend to issue for all Construction providers necessary for the construction of the Project; an estimate of the dollar value of all work covered by these solicitations; an estimate of the dollar value of work within each identified work category; the dollar value of the work for each identified work category that is projected to be performed by LBEs, MBEs and WBEs; any known potential joint ventures with LBEs, MBEs, and WBEs within each identified work category; an overall schedule of all work projected to be performed related to the design, development, and construction of the Project, laid out sequentially over time; and the actions Developer intends to take, with respect to each of these solicitations, to make its Best Efforts to meet the goals set forth in Section III.A.1. of this Exhibit.

b. Developer, in the Project Utilization Plan, shall designate one person as the Project Manager to serve as the point of contact with the UG on all matters related to the Project Utilization Plan. Developer shall provide the Project Manager's name, physical office address, e-mail address, and phone number to the UG. The Project Manager shall be an individual with administrative authority with regard to enforcement of the stipulations located within this Exhibit.

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

i. Certified MBE and WBE prime Contractor Proposers may count their own participation toward a goal for which they qualify, and may divide their own participation between two goals, but their participation may not be double-counted. These prime Contractor Proposers shall receive credit towards the goals for the dollar value of the contract.

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

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

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

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

2. <u>Evaluation of Project Utilization Plans.</u>

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

b. Changes to the Project Utilization Plan after its initial submission to the UG shall be reviewed and approved or rejected by the UG within thirty (30) days following submission of the same by Developer, and such changes shall be deemed to be approved by the UG if not rejected within such thirty (30) day period.

C. CONTRACT AWARD COMPLIANCE PROCEDURES.

1. Solicitation Documents.

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

2. Developer's Report of Solicitation Results.

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

3. UG Review of Developer's Report of Solicitation Results.

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

b. For each Project Utilization Plan goal that is not achieved, Developer shall be deemed to have used "**Best Efforts**" to meet the Project Utilization Plan goals for construction set forth in Section III.A.1. of this Exhibit if Developer shall have taken substantially all the following actions:

i. Developer is seeking or has sought timely assistance of the UG to identify qualified LBEs, MBEs, and WBEs;

ii. Developer is advertising or has advertised contract opportunities in local, minority, and women media;

iii. Developer is providing or has provided reasonable written notice of opportunities and informational meetings to approved LBEs, MBEs, and WBEs;

iv. Developer is following up or has followed up initial solicitations of interest by contacting LBEs, MBEs, and WBEs;

v. Developer is segmenting or has segmented portions of the work to increase the likelihood of LBE/MBE/WBE participation, where feasible;

vi. Developer is providing or has provided interested LBEs, MBEs, and WBEs with timely and accurate information about the plans, specifications, requirements, deadlines, and bidding procedures of the contracts;

vii. Developer is negotiating or has negotiated in good faith with interested LBEs, MBEs, and WBEs, not rejecting them as unqualified without sound reasons, based on a thorough review of their capabilities and prior work histories;

viii. If applicable, Developer is seeking or has sought to educate and assist LBEs, MBEs, and WBEs in obtaining bonding, lines of credit, or insurance required to perform the contract; and

ix. Developer is working or has worked with local, minority, and women contracting, professional, civic, and community organizations, government officers, or any other organization or persons, as identified by the UG, that provide assistance in the recruitment of LBEs, MBEs and WBEs.

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

4. Signed Contracts.

Within twenty-one (21) working days of provision of the UG's evaluation of the Report to Developer, the Project Manager shall submit signed contracts with successful Proposers to the UG.

D. SUBCONTRACTOR RELATIONS.

1. Documentation of Subcontracting Agreements.

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

2. Documentation of Schedules.

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

3. Substitutions, Additions, or Deletions.

Where a substitution for a LBE/MBE/WBE subcontractor must occur after submission of proposals by the Project Manager to the UG, the Project Manager must submit the proposed change or substitution to the UG for review. The UG shall have no authority to approve or reject any change or substitution. The sole purpose of the review by the UG shall be to determine whether the LBE/MBE/WBE should be counted toward achievement of the goals of Section III.A.1.

IV. UG'S ASSISTANCE TO DEVELOPER

The UG shall use its best efforts to provide assistance to Developer in fulfilling its obligations as set forth in this Exhibit. Developer assumes all responsibility for its Best Efforts in meeting the goals and complying with the procedures and processes set forth herein. The UG assumes no duty or responsibility to the Developer with respect to Developer's fulfillment of the goals set forth in this Exhibit by reason of the provision of assistance to Developer. Examples of assistance the UG may provide include but are not limited to:

A. providing information and technical assistance regarding the Project to Developer and its agents, including Contractors, subcontractors, LBEs, MBEs, WBEs, officials, and other interested persons;

B. developing and maintaining a registry of approved LBE/MBE/WBE businesses;

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

D. updating Developer and its agents on current or proposed affirmative action legislation that may affect the Project;

E. recommending contract specific goals, as appropriate;

F. providing assistance in pre-award activities, such as provision of model or example Project Utilization Plans and work segmentation;

G. reviewing Developer, Contractor, and subcontractor performance and LBE/MBE/WBE participation on the Project;

H. providing advice relative to utilization and compliance matters;

I. conducting compliance reviews and audits of LBE/MBE/WBE participation;

J. evaluating requests for substitutions, additions, and deletions;

K. assisting Developer and its agents in addressing issues related to the goals and procedures set forth in this Exhibit;

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

M. reviewing complaints from LBEs, MBEs WBEs, Contractors, subcontractors, and any other interested persons regarding these goals and procedures;

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

O. reviewing and approving utilization plans and contract award submittals.

V. DEVELOPER COMPLIANCE RECORDS AND REPORTS.

A. RECORDS.

Developer shall maintain those records as may reasonably be required to demonstrate compliance with (and/or its Best Efforts to comply with) the goals and procedures set forth in this Exhibit. These records shall be available to the UG upon reasonable notice.

B. DEVELOPMENT AND PROJECT UTILIZATION PLAN REPORTS.

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

C. REMEDIES.

If Developer should fail to provide a Report required by this Exhibit, and fail to cure such failure within thirty (30) days after receipt of written notice from the UG specifying such failure, then such failure to cure shall constitute an event of default and the UG shall have those remedies set forth in Section 9 of the Agreement. In addition, the UG shall have the right to stop processing reimbursement requests until Developer complies with reporting requirements.

If, after reviewing Developer's Reports, the UG believes that the participation goals contained in this Exhibit have not been met, and that the Best Efforts described herein have not been met, then the UG shall inform Developer of this determination in writing. If, within thirty (30) days following its receipt of said written determination from the UG, Developer fails to demonstrate to the UG's reasonable satisfaction that either: (i) the goals contained in this Exhibit have been met; or (ii) the goals contained in this Exhibit may not have been met but the Best Efforts described herein have been met, then the UG shall have the right to reduce the Reimbursable Project Cap Costs to One Hundred Fifty Thousand Dollars and NO/100 ($150,000.00) as the UG's sole and exclusive remedy for such failure. The UG shall also have the right to renegotiate LBE, MBE, and WBE goals for future construction projects.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS	**BOULEVARD LOFTS, LP**
By:______________________________	By:______________________________
Douglas G. Bach	Name:____________________________
County Administrator	Title:_____________________________
Date:__________________________, 2019	Date:______________________, 2019

<u>Attachment A</u>

Unified Government **Date:_________________**

Project Utilization Plan

Project Name:_______________________________

Bid Package	Estimated Contract Value	Estimated LBE Value	Estimated LBE %	Estimated MBE Value	Estimated MBE %	Estimated WBE Value	Estimated WBE %	Total Combined Value	Total Combined %

DIVERSITY TOTAL	**0**			**0**	**#DIV/0!**	**0**	**#REF!**		

Attachment B

LBE/MBE/WBE Utilization Report

LBE/MBE/WBE - UTILIZATION REPORT

CONSTRUCTION

Month, Year

APPLICABLE TRADES

	Goal		Actual
Total by Classification	0.00%	LBE	0.00%
	0.00%	MBE	0.00%
	0.00%	WBE	0.00%

Discipline	Subcontractor/Supplier Name	Original Contract Value	Change In Contract Value	Total Contract (Excluding CCIP)	LBE		MBE		WBE		Ceritifying Agency or Local Zip Code
					$	%	$	%	$	%	
Bid Package #1											
Bid Package #2											
Bid Package #3											
Bid Package #4											
Bid Package #5											
Total Applicable Contract Volume Awarded To Date											
					$	%	$	%	$	%	
					TOTAL - LBE		TOTAL - MBE		TOTAL - WBE		

Attachment C

LBE/MBE/WBE COMPLIANCE

SUMMARY REPORT

EXPENDITURES FOR REPORTING PERIOD

GOODS SUPPLIES and OTHER SERVICES	**Total**	**Class**	**Percent**	**Comments**
Total $ Awarded				
Total $ Expended				
Total $ MBE		% MBE		
Total $ WBE		%WBE		
Total $ M/WBE		%M/WBE		

MINORITY AND WOMEN EMPLOYEES

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

Name & Address	Trade	Classification	Date Hired	Sex	Ethnic Origin

EXHIBIT J

TABLE OF KHRC-APPROVED RENTS AND INVESTOR-APPROVED RENTS FOR TAX YEARS 2020 THROUGH 2030

	Inflation	Tax Year 2020	Tax Year 2021	Tax Year 2022	Tax Year 2023	Tax Year 2024
KHRC-approved rents	2%	Partial	$453,660.00	$462,733.20	$471,987.86	$481,427.62
Investor-approved rents	2%	Partial	$442,380.00	$451,227.60	$460,252.15	$469,457.20

	Tax Year 2025	Tax Year 2026	Tax Year 2027	Tax Year 2028	Tax Year 2029	Tax Year 2030
KHRC-approved rents	$491.056.17	$500,877.30	$510,894.84	$521,112.74	$531,534.99	$542,165.69
Investor-approved rents	$478,457.20	$488,423.27	$498,191.73	$508,155.57	$518,318.68	$528,685.05

Staff Request for Commission Action

Tracking No. 19851

Full Commission Meeting Date: 7/25/19

Committee: Economic Development & Finance

Date of Standing Committee Action: 7/8/19 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
6/26/2019	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description:
SMALL BUSINESS LIAISON WILL PRESENT AN UPDATE ON THE SMALL BUSINESS PROGRAMING AND RESOLUTION TO AMEND THE SMALL BUSINESS GRANT

Action Requested:
REQUEST AN APPROVAL TO BE FORWARDED TO FULL COMMISSION

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

Attachments List:
Resolution adopting Amendment to UG Small Business Pilot Program, UG Small Business Incentive Changes

RESOLUTION NO.____________

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas ("Unified Government") is committed to fostering an environment where small businesses can grow and prosper; and

WHEREAS, the Economic Development Department has created the UG Small Business Incentive Pilot Program Plan to provide grants to small businesses; and

WHEREAS, the governing body of the Unified Government conducted a public hearing on October 1, 2015 and adopted the Plan; and

WHEREAS, the UG Small Business Incentive Pilot Program Plan was adopted by Resolution R-62-15; and

WHEREAS, the governing body desires to amend the UG Small Business Incentive Pilot Program Plan.

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

1. The Unified Government Board of Commissioners hereby approves the amended UG Small Business Grant Program, in substantially the form attached hereto as Exhibit 1.

2. The Mayor/CEO, County Administrator, and the Unified Government's other officers, agents, and employees are hereby authorized and directed to take such further action, and to execute such other documents, certificates, and instruments as may be necessary or desirable to carry out and comply with the intent of the Resolution.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT THIS ______ DAY OF JULY, 2019.

____
Unified Government Clerk

UG Small Business ~~Incentive Pilot Program Plan~~ Grant

TABLE OF CONTENTS

Preface

In recent years, there have been significant changes in Kansas City, Kansas, including public infrastructure improvements, a new transit hub, and new businesses. In order to encourage continued growth, the Unified Government of Wyandotte County/Kansas City, Kansas ("UG") Economic Development Department is implementing the UG Small Business ~~Incentive Pilot Program ("Pilot Program")~~Match Grant. ~~The Pilot Program targets areas with businesses located in certain corridors, such as the downtown corridor and older urban areas of Kansas City, Kansas.~~ The Program will be administered through the Small Business Liaison.

SECTION 1 – ~~Pilot Program~~ Goal

To administer the UG ~~small~~ Small ~~business~~ Business ~~grant~~ Grant to qualified applicants that own an existing small business - ~~one hundred (100)~~twenty-five (25) or fewer employees, that are primed for expansion and moving to the next level in business and job growth.

SECTION 2 – Pilot Program Target Area

The ~~Pilot Program~~Small Business Grant will target traditional commercial corridors and areas such as the downtown corridor and older urban areas of Kansas City, Kansas.

SECTION 3 – ~~Pilot Program~~ Strategy

The ~~Pilot Program~~ strategy is to promote small business activity for the target areas through a one-time reimbursable grant to applicants.

The UG will provide grants of ~~$2,500 to $10,000~~$1,000 to $10,000 to applicants in need of one or more of the grant types. The award amount will be based on need and the qualified matching investment.

Types of grants for qualified applicants that own an existing small business that are primed for expansion and moving to the next level in business and job growth:

~~1. Commercial lease rate subsidy (up to 6 months and not to exceed $10,000)~~

~~a) Store front repairs are strategically tied to the placement of an existing business primed to expand to the next level in business and job growth.~~
~~b) Move to certain corridors within our community (UG discretion)~~

~~2.~~ Cost related to an expansion, purchase or lease

a) Renovation costs (sheetrock, flooring, painting, etc.)
b) Façade and minor roof repairs (painting, sealing, etc.)
c) Inventory costs (other than office supplies, etc.)
d) Equipment cost (miscellaneous equipment, etc.)
e) Marketing (webpage, signage, etc.)

Grant applications that will be denied:

1. Home based businesses
2. Liquor stores, Pay-day loans, Hookah and Vap shops.
3. Bars and establishments that sell alcohol with less than 50% in food sales (sites with state and federal license for production and distribution may apply)
4. Seed capital
5. New businesses operating less than one year

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~~6. No job creation~~

UG Goals:

1. Helps stimulate growth and new investment
2. Helps with small business/neighborhood vitality
3. ~~An economic gardening strategy~~
4. Urban innovation
5. Coordination with other public and private groups
6. Business in an older urban area of Kansas City, KS

The UG will make every effort to market the program online, brochures, and through selected partnering organizations.

SECTION 4 – ~~Pilot~~ Program Funding ~~Source~~

~~The initial funding source for the Pilot Program was the 2015 Amended and 2016 Proposed Budgets. Subsequently, a percentage of the UG Industrial Revenue Bond ("IRB") issuance fees will fund the Pilot Program. The chart below provides an example of how IRB issuance fees could replenish Pilot Program funds. The UG retains the right to request more funding from time to time.~~

IRB Issuance Fees	UG Maintains	Program Funding	
1st	$25,000.00	$0.00	
2nd	$12,500.00	$12,500.00	
3rd	$12,500.00	$12,500.00	capped at $50,000
4th	$25,000.00	$25,000.00	
	$25,000.00	$0.00	

The amount allocated annually will be divided equally between grant cycles.

SECTION 5 – ~~Pilot Program~~ Application Procedure

1. Obtain an application from the UG Economic Development Department web page at wycokck.org. See EXHIBIT A.

2. Submit a completed application (Cycle 1 deadline April 1st, Cycle 2 deadline August 1st) and the following supporting documentation to the UG Economic Development Department located at 701 North 7th Street, Suite 421, Kansas City, Kansas 66101:

   a) Business Plan with a minimum 3 yrs. of financial projections
   b) A detailed one page business summary of how the grant is to fill a gap in financing
   c) A signed copy of the lease agreement or real estate contract (*if applicable*)
   d) Previous year business taxes
   e) Occupational tax certificate

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f) If registered with the Secretary of State's office, a copy of the certificate
g) Documentation of the requested items with pricing

3. Applications will be reviewed for compliance not more than three weeks after an application is received.

4. Applicant will be scheduled for an interview to discuss the request. If the applicant is requested to turn in more documentation, the applicant will have no more than two weeks to submit the documentation or the application will be denied.

5. The UG reserves the right to request additional information, make additional stipulations, and/or deny the application.

SECTION 6 – ~~Pilot Program Grant Approval and Award~~Application Deadline

The Economic Development Department will review applications twice a year.

- Cycle 1 deadline- April 1st
- Cycle 2 deadline- August 1st

Applications will be reviewed based on their alignment with the previous listed UG Goals. Small Business Liaison will present all qualified applications to the Program Advisory Committee. The Committee will make recommendation to the County Administrator for approval or denial.

~~The Economic Development Department will review and score applications based on a matrix system EXHIBIT B and the interview questions for compliance to see if the application qualifies for a grant. The review and approval or denial process will proceed utilizing the internal controls depicted on EXHIBIT C.~~

SECTION 7 – ~~Pilot Program Oversight/Advisory Board~~Program Advisory Committee

~~The Pilot Program will have an UG advisory board initially consisting of members from the UG. As the Pilot Program matures, the advisory board will include members from selected partnering organizations.~~ The UG Small Business Grant will have a UG advisory board consisting of members from the UG and partnering organizations. The board will be chaired by the Small Business Liaison and include a representative from Planning and Zoning, Neighborhood Resource Center, Wyandotte Economic Development Council and KCK Chamber.

SECTION 8 – Marketing

The Grant will be marketed through the Small Business Liaison and Economic Development staff through the Unified Government website, social media and community engagement events.

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SECTION 8 – Pilot Program Reporting

~~Economic Development staff~~Small Business Liaison will report semi-annually to the Economic Development & Financing Standing Committee on the ~~Pilot~~ Small Business Grant's~~Program's~~ activity.

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EXHIBIT A

Small Business Grant Application

Date _____________ ____, 20___

~~Name ___________________________________ Phone ____________~~

Company Name __________________________ Phone ____________

~~Mailing Address ____~~

Business Address____

Name ___________________________________ Phone ____________

Mailing Address ____

Email ____

Business Inception Date: _______________

Type of Business: A. _____ Retail B. _____ Office C. _____ Manufacturing
D. _____ Other

If other, please describe: ____

Requested Grant Amount: ~~A. _____ $2,500 B. _____ $5,000 C. _____ $10,000~~ _________

Grant Type: ____

Applicant:

By signing below, the applicant agrees to adhere to all procedures in the ~~Revised 1/1/17 UG~~ Small Business Grant ~~Incentive Pilot Program~~ Plan:

Submitted by: __________________ _________________ ________ ___, 20___
(Print name) (Signature) (Date)

<u>DO NOT WRITE BELOW THIS LINE - *FOR OFFICE USE ONLY*</u>

Date application came into this office: _____________ ___, 20___

Application completed in full and all documentation is attached: Yes ____ No ____

~~Staff initials ____~~

~~EXHIBIT B~~

~~Point Matrix~~

~~Score Range and Potential Grant Eligibility: Maximum points allowed are 30. The grant amount awarded is directly tied to the business need.~~

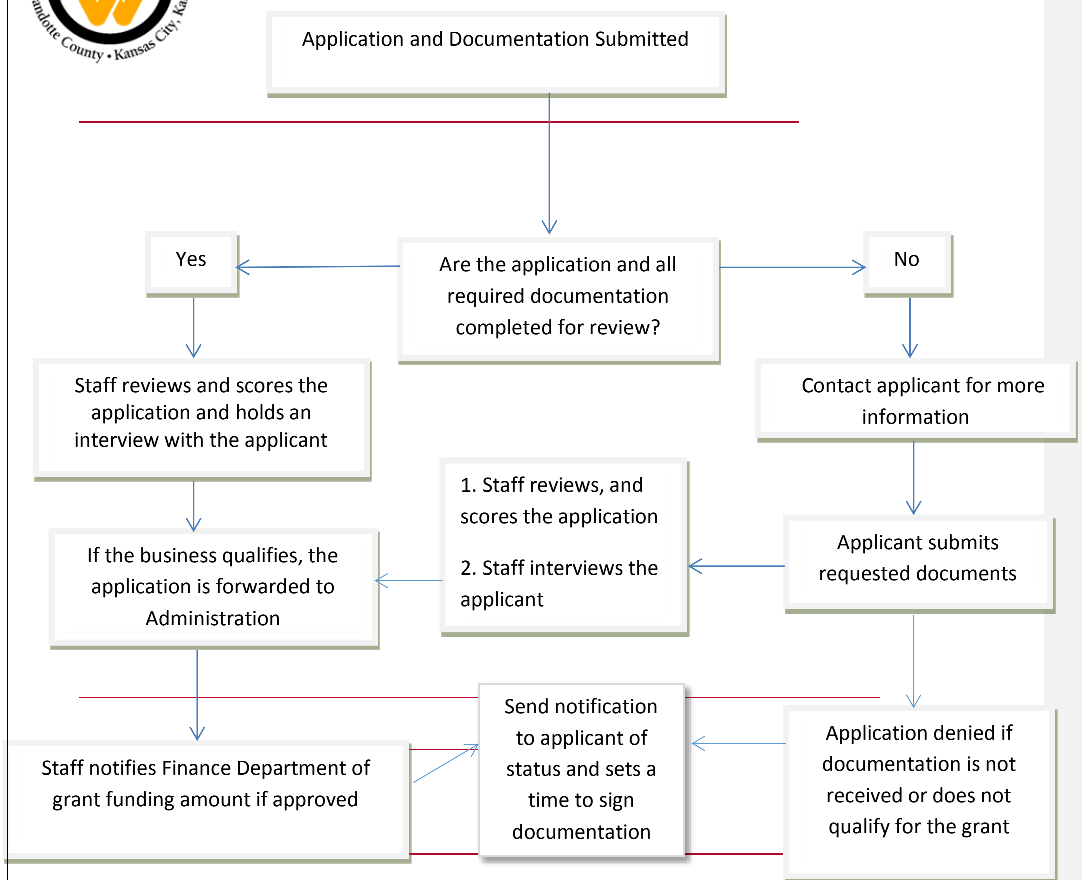
~~1-10 points = $2,500~~
~~11-20 points = $5,000~~
~~21-30 points = $10,000~~

~~Applicant~~		~~Kansas City, KS~~
~~1. Documentation~~		
~~a. Completed Application~~	**~~Required~~**	
~~b. Supporting documentation with the application~~	**~~Required~~**	
~~2. Business~~	**~~Max Pts.~~**	**~~Application~~**
~~a. Existing business in Wyandotte County~~	~~5~~	~~0~~
~~b. Existing business moving to Wyandotte County~~	~~4~~	~~0~~
~~3. Purchase/Lease Rate Subsidy/Lease~~		
~~a. Purchase of building~~	~~5~~	~~0~~
~~b. Commercial lease rate subsidy~~	~~4~~	~~0~~
~~c. Commercial lease~~	~~3~~	~~0~~

~~**3. Façade and Minor Roof Repair / Renovation**~~		
~~a. Façade and minor roof repair due to an expansion, purchase of a structure or lease~~	~~3~~	~~0~~
~~b. Interior renovation due to an expansion, purchase of a structure or lease~~	~~3~~	~~0~~
~~**4. Inventory/Equipment/Marketing**~~		
~~a. Inventory~~	~~2~~	~~0~~
~~b. Equipment~~	~~2~~	~~0~~
~~c. Marketing~~	~~2~~	~~0~~
~~**5. Investment**~~		
~~a. Investment amount $0 -$10,000~~	~~1~~	~~0~~
~~b. Investment amount $10,001 - $50,000~~	~~3~~	~~0~~
~~c. Investment amount $50,001 and up~~	~~4~~	~~0~~
~~**6. Employees**~~		
~~a. Number of employees the first year – one point per employee up to 2 employees~~	~~1 – 2~~	~~0~~
~~b. Current Wyandotte County employee residency~~	~~2~~	~~0~~
~~**Comment:**~~		~~**points**~~

~~EXHIBIT C~~

~~Process~~



Staff Request for Commission Action

Tracking No. 19856

Full Commission Meeting Date: TBD
Committee: Economic Development & Finance

Date of Standing Committee Action: 7/8/19 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
6/26/2019	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development
Item Description: A RESOLUTION ADOPTING AND AUTHORIZING APPROVAL OF THE DEVELOPMENT AGREEMENT FOR THE KC FOODIE PARK LOGISTICS CENTER				
Action Requested: APPROVAL AND EVENTUAL ADVANCEMENT TO FULL COMMISSION				
Budget Impact: (if applicable) Amount: Source: Included In Budget: Other (explain):				
Attachments List: Scavuzzo_s Executive Summary (6_27_19), KC Foodie Park Development Agreement				

6/27/19 EXECUTIVE SUMMARY
KC FOODIE PARK DEVELOPMENT AGREEMENT

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1. **Parties**. The UG; Scavuzzo's, Inc., a Kansas corporation d/b/a Scavuzzo's Food Service Company ("Scavuzzo's"), and KC Foodie Park, LLC, a Delaware limited liability company, an affiliate of Scavuzzo's ("Developer").

2. **The Project Site**. The Project Site is the former Indian Springs Shopping Center site -- eighty one (81) acres of real property bounded on the north side by State Avenue, on the east side by Interstate 635, on the south side by Interstate 70, and on the west side by North 47th Street in Kansas City, Kansas (the "Project Site"). The Project Site is already in a tax increment finance ("TIF") district for a project that never materialized and so the existing TIF project plan will need to be terminated and replaced with a new project plan for the project described in this Agreement.

3. **The Project**. The Project is to be designed, constructed and developed as a first-class mixed use development consisting of the following components: (a) an approximately 266,000 square foot industrial building with potential for expansion (the "Food Service Center"); (b) an approximately 26-acre solar energy field designed to provide energy for the Food Service Center (the "Solar Field"); (c) approximately 12,000 square feet of neighborhood retail, entertainment, and/or restaurant uses across approximately three (3) pad sites fronting State Avenue (the "Retail Improvements"); (d) additional commercial buildings with total square footage ranging from approximately 15,000 square feet to 45,000 square feet of food services and other commercial users, as generally described in Section 2.2(d) and with potential uses described in **Exhibit O** (the "Additional Commercial Buildings"); and (e) an approximately 60,000 square foot multi-tenant office building which would serve as a headquarters location for Scavuzzo's and Developer (the "Office Building") .

4. **Phases; Minimum Improvements and Timing.** The TIF District, as amended, would include 4 different TIF Project Areas and the Project would be constructed in 4 corresponding Phases:

(a) Project Area 1 – Phase 1 – The Food Service Center. Phase 1 includes both the Food Service Center and the Solar Field, but only the Food Service Center is really contractually required as a part of the "Minimum Improvements" for Phase 1. But Developer is required to deliver the 266,000 square foot (with potential for expansion) state-of-the-art, automated warehouse and distribution facility for the preparation, packaging and distribution of Scavuzzo's and others' high-quality products, along with approximately 34,000 square feet of first-class, industrial grade office space for employees of Scavuzzo's and Scavuzzo's Affiliates in Phase 1 and to do so on a schedule. Specifically, Developer is required to closing on the Project Area 1 property by December 31, 2019 and to commence construction within 60 days after closing. Developer is required to complete the Phase 1 Minimum Improvements no later than 2 years after closing, which is an outside date of December 31, 2021.

(b) Project Area 2 – Phase 2 – The State Avenue Retail Improvements. Phase 2 requires Minimum Improvements of 12,000 square feet of neighborhood retail, entertainment and/or restaurant uses on approximately three (3) pad sites located on State Avenue, which Retail Improvements Developer expects to cost approximately Three Million Dollars ($3,000,000) of capital investment. However, the Agreement does allow Developer to deliver less than 12,000 square feet of Retail Improvements if and to the extent that (i) the smaller Retail Improvements concepts and uses still require no less than Three Million Dollars ($3,000,000) of capital investment, and (ii) the UG's County Administrator first reviews and approves the smaller amount of Retail Improvements square footage. Developer is required to bring the Commission a Project Plan for Project Area 2 not later than July 15, 2021 and to close on the property for Project Area 2 no later than December 31, 2021. Developer is contractually required to commence construction of the Phase 2 Retail Improvements no later than 60 days after closing and to complete the same on or before that date which is 36 months after the Phase 1 closing (meaning an outside completion date of December 31, 2022).

(c) Project Area 3 – Phase 3 – Commercial Uses. Phase 3 requires Developer to complete at least 15,000 s.f. of commercial buildings in Project Area 3. The uses for Commercial Buildings are generally described on **Exhibit N**, but for purposes of Minimum Improvements for Phase 3, the commercial buildings are to be either (i) restaurants, grocery, hotels, healthcare or entertainment uses, (ii) home delivery food service uses, or (iii) food service providers who may or may not be strategic business partners of Scavuzzo's, but who – along with Scavuzzo's – would help to create a "food service facility campus" at the Project Site. Developer is required to bring the Commission a Project Plan for Project Area 3 no later than July 15, 2022 and to close on the Project Area 3 property no later than December 31, 2022. Developer is contractually required to commence construction on Phase 3 no later than 60 days after closing and to complete the same on or before that date which is 36 months after the Phase 3 closing (meaning an outside completion date of December 31, 2025).

(d) Project Area 4 – Phase 4 – the Office Building. Phase 4 requires Developer to build an approximately four (4) story Class-A multi-tenant office building with approximately 60,000 square feet, located within the Phase 4 Property of the Project Site, which Office Building will serve as the Scavuzzo's administrative office headquarters, and may include such features as a test kitchen, conference rooms, culinary arts programming, and may also be leased to other third-party tenants. Section 2.8 of the Agreement requires that with certain limited exceptions, Scavuzzo's may not relocate its headquarters outside of Wyandotte County for the life of this Agreement. Developer is required to bring the Commission a Project Plan for Project Area 4 no later than July 15, 2024 and to close on the Project Area 4 property no later than December 31, 2024. Developer is contractually required to commence construction on Phase 4 no later than 60 days after closing and to complete the same on or before that date which is 24 months after the Phase 4 closing (meaning an outside completion date of December 31, 2026).

5. **What Happens if Developer Does Not Deliver the Various Components of the Project on Time?** This particular Agreement is pretty dynamic on this subject. The answer to this important question is as follows:

(a) Failure to Close. If Developer fails to timely close on Project Area 1 (the Food Service Center) by December 31, 2019, after applicable notice and cure periods, either party could terminate this Agreement altogether. If Developer timely closes on Project Area 1, but subsequently fails to timely close on Phase 2 (the State Ave. Retail), Phase 3 (the Commercial Buildings), or Phase 4 (the Office Building), then Developer loses its rights to get that property for the UG or to develop those respective phases or to receive incentives related to the same.

(b) Reversionary Interests. Because the UG is giving Developer the ground for each of the four Project Areas for free (technically $100 for each of the 4 sites), in Section 2.4(b), the UG reserves the right to take the undeveloped portions of the property back if we have a closing and then the Developer fails to perform.

(c) Termination of Incentives. In the case of failure to complete the Minimum Improvements for each particular Phase of the Project, the UG has the right to terminate or reduce the Developer's access to the incentives described below:

(i) Phase 1: If Developer fails to complete the Food Service Center on time, then the UG can terminate Developer's access to TIF Financing from Phase 1 or terminate this Agreement altogether – foreclosing any opportunities for the other phases described below.

(ii) Phase 2: If Developer fails to deliver the Minimum Improvements for State Ave. Retail on time, then the UG can reduce the CID Proceeds, or terminate the Agreement as to Phase 2. Additionally, Section 4.2(d)(iii) provides that the UG can establish and Alternative TIF Fund and divert 10% of the TIF proceeds to this Alternative TIF Fund that would be controlled by the UG and used for other purposes. Further, if Developer still has not delivered the Minimum Improvements for State Ave. one (1) year after the deadline, 20% of the TIF would be diverted to the Alternative TIF Fund, and the same thing would happen in subsequent years up to 50% of the TIF (meaning 30% if more than 2 years late, 40% if more than 3 years late and 50% if more than 4 years).

(iii) Phase 3 and 4: If Developer fails to timely deliver the Minimum Improvements for Phase 3 (the Commercial Buildings) or Phase 4 (the Office Building), then the TIF Cap and CID proceeds (both described below) would be reduced by 10% each. However, Sections 2.7 and 2.8 do allow the Developer to earn back a portion of the TIF Cap and CID equal to 5% if Developer eventually delivers the Minimum Improvements for that respective phase within 60 months of the Completion Date.

6. **Incentive Financing Provided**. In addition to contributing the land at almost no cost, the UG is offering the following incentives to stimulate the development of the Project:

(a) Tax Increment Financing ("TIF"). The Agreement would provide that 100% of incremental real property taxes from the TIF District (over the 2006 base year when the District was established) would be available to reimburse Developer on a pay-as-you-go basis for TIF eligible expenses. Each Project Area in the TIF District would get a 20 year TIF collection period, commencing on the date that the TIF Project Plan is adopted by the Commission. In this Agreement, the TIF is only to be used for hard construction costs for site work and/or infrastructure (along with interest at 6.5%) and is only available to Developer on a pay-as-you-go basis without the opportunity to issue bonds. TIF financing would also be limited in the following ways:

(i) reimbursement would be paid on a 50/50 basis between private funds and the available TIF and CID proceeds to ensure that at all times, the UG will not have paid more incentive proceeds to Developer than the amount of project costs paid by private funds; and

(ii) the maximum amount of TIF reimbursements available to Developer is capped (the "TIF Cap"), and the TIF Cap is increased as and when Developer timely delivers the various components of the Project. Specifically, the TIF Cap begins at $11.3M and increases to $19.4M when Developer timely completes the State Ave. retail in Phase 2 and again up to $27.8M when and if Developer timely completes the Office Building in Phase 4. In Section 4.2(d)(ii), Developer can further increase the cap by three additional amounts incrementally in Phase 3, depending on how many square feet of Commercial Buildings that they complete in Phase 3. If Developer delivers more than 45,000 s.f. in Phase 3, the TIF Cap could increase by as much as $6.9M. If Developer met all of these thresholds, the TIF Cap could be a maximum amount of $34.7M.

(b) Community Improvement District ("CID"). The Agreement also contemplates the creation of a CID sales tax of 1% on retail sales to be added on top of the base sales taxes within the CID District (which encompasses the entire site), the proceeds of which may be used for pay-as-you-go financing to the Developer. The CID pay-as-you-go financing in this Agreement is only for use on site work, infrastructure improvements and other hard construction costs for retail improvements in Project Area 2 (State Ave. retail) and Project Area 3 (Commercial Buildings). The CID would also be pay-as-you-go only (without an opportunity for bonds), but the CID revenues not be capped during the term. However, the CID would also be limited in a couple of important ways:

(i) the CID collection period ends twenty 22 years from the date that the CID sales tax is first imposed;

(ii) reimbursement would be paid on a 50/50 basis between private funds and the available incentive proceeds to ensure that at all times, the City will not have paid more CID proceeds to Developer than the amount of project costs paid by private funds; and

7. **Term/Use and Operation**. The term of this Agreement runs for the entire life of the CID and the until the end of the 20 year collection period for the last of the TIF Project Areas. During the term, Developer has agreed to all of the UG's standard use and operation requirements in Article 7, including restrictions on uses (7.2(c)), compliance with law (7.5), payment of taxes (7.6), insurance (7.10), and indemnification (7.12).

8. **MBE/WBE/LBE**. Developer has agreed to the following participation goals for construction of the Project:

	Construction	Professional Services
LBE	18%	18%
MBE	15%	13%
WBE	7%	8%

If, upon completion of any Phase of the Project, Developer or its assignees shall have failed to use best efforts to meet the LBE/MBE/WBE goals, then the UG shall have the right to reduce the TIF Cap by 2.5% for each of Construction and Professional Services.

9. **Assignment/Transfer**. In general, Section 7.13 provides that Developer cannot sell, mortgage or transfer the site or the Project without UG approval, which approval would be at the UG's reasonable discretion. However, the UG does agree that Developer may make leases to tenants in the retail improvements in Phase 2, the Commercial Buildings in Phase 3 and the Office Building in Phase 4. The parties also agree that Developer may freely sell or ground lease sites in Project Area 2 and Project Area 3 to end users to plan to develop and open on those locations within 2 years of any such transfer. Developer may also make assignments to affiliates and in fact plans to make such an assignment to Scavuzzo's Foodie Campus, LLC for the Food Service Center in Phase 1.

10. **Default**. The default provisions are generally consistent with what the UG has in other development agreements; however, this one is unique in that 9.2 makes clear that the UG's rights and remedies for failure to timely file project plans, commence construction or complete construction on the various phases are really limited to the remedies generally described in Section 5 of this Executive Summary.

KC FOODIE PARK DEVELOPMENT AGREEMENT

THIS KC FOODIE PARK DEVELOPMENT AGREEMENT (the "Agreement") is made as of the _____ day of _______________, 2019 (the "Effective Date") between the Unified Government of Wyandotte County/Kansas City, Kansas (the "UG"), and KC Foodie Park, LLC, a Delaware limited liability company ("Developer"). Scavuzzo's, Inc., a Kansas corporation d/b/a Scavuzzo's Food Service Company ("Scavuzzo's") hereby joins in this Agreement for the limited purpose of joining in Developer's obligations pertaining to Project Area 1 following completion of the Food Service Center and as further set forth in Section 7.13 below.

RECITALS:

A. Developer wishes to design, develop, and construct or cause to be designed, developed, or constructed a first-class mixed use development consisting of the following components: (i) an approximately 266,000 square foot industrial building (with potential for expansion), as more fully described in Section 2.2(a) hereof (the "Food Service Center"); (ii) an approximately 26-acre solar energy field designed to provide energy for the Food Service Center, as more fully described in Section 2.2(b) hereof (the "Solar Field"); (iii) approximately 12,000 square feet of neighborhood retail, entertainment, and/or restaurant uses across approximately three (3) pad sites, as more fully described in Section 2.2(c) hereof (the "Retail Improvements"); (iv) additional commercial buildings with total square footage ranging from approximately 15,000 square feet to 45,000 square feet of food services and other users, as more fully described in Section 2.2(d) hereof (the "Additional Commercial Buildings"); and (v) an approximately 60,000 square foot multi-tenant office building, as more fully described in Section 2.2(e) hereof (the "Office Building"), (collectively, the "Project," as further defined in Section 2.2 below), all on approximately eighty one (81) acres of real property bounded on the north side by State Avenue, on the east side by Interstate 635, on the south side by Interstate 70, and on the west side by North 47th Street in Kansas City, Kansas (the "Project Site"), as legally described on **Exhibit A-1** and generally depicted on **Exhibit A-2** attached hereto.

B. Developer does not yet own the Project Site. The UG owns the Project Site, including the undermined portions of the Project Site which the UG owns by and through the Wyandotte County Land Bank (the "WCLB"). The UG and/or the WCLB will convey the Project Site to Developer as more particularly set forth in Section 2.4 below, subject to certain terms and conditions more fully set forth therein.

C. The UG has the authority to create a tax increment financing ("TIF") district pursuant to K.S.A. 12-1770 *et seq.*, as amended from time to time (the "TIF Act") for the purpose of financing certain economic development projects. On December 21, 2006, the UG established the Midtown Redevelopment District (the "Original TIF District") by adoption of Ordinance No. O-139-06 (the "Original TIF District Ordinance"). The Original TIF District includes the Project Site as well as certain other real property to the north and west of the Project Site (the "Additional Property"), all as legally described and generally depicted in the Original TIF District Ordinance.

D. The Original TIF District Ordinance set forth a district plan for a "mixed-use project consisting of the construction of one or more large retail 'box' stores, one or more smaller retail stores and restaurants, one or more office or commercial buildings, and multi-family and single family residential units and homes and related parking facilities" (the "Original District Plan"). On March 22, 2007, the UG adopted the Redevelopment Project Plan for the Midtown Redevelopment District (the "Original Project Plan") by adoption of Ordinance No. O-29-07 (the "Original Project Plan Ordinance"). Consistent with the

Original District Plan, the Original Project Plan contemplated the construction of approximately 477,000 square feet of retail/service space; 200,000 square feet of "big box" retail space; 360,000 square feet of office space in four (4) or more buildings; two (2) hotels; 280 residential units; 20,000 square feet of entertainment space; and public athletic/recreational facilities.

E. On _______________, 2019, the UG held a public hearing to consider amending the Original District Plan to provide for the construction and development of the Project, including the uses contemplated in Recital A above, in four (4) separate project areas (the "Amended District Plan") (as amended, the "TIF District"). On _______________, 2019, the UG approved the Amended District Plan, among other things, through the adoption of Ordinance No. O-_____-19 (the "Amended TIF District Ordinance"). A copy of the Amended TIF District Ordinance is attached hereto as **Exhibit B**. The Amended District Plan identifies four (4) separate and distinct project areas: (i) Project Area 1, which includes the Food Service Center and the Solar Field ("Project Area 1"); (ii) Project Area 2, which includes the Retail Improvements ("Project Area 2"); (iii) Project Area 3, which includes the Additional Commercial Buildings ("Project Area 3"); and (iv) Project Area 4, which includes the Office Building ("Project Area 4") (each a "Project Area" and collectively, "Project Areas"). A legal description of the boundaries of the TIF District is set forth on **Exhibit C-1** attached hereto, and a map generally depicting the boundaries of the TIF District as well as each Project Area is attached hereto as **Exhibit C-2**. The Additional Property will constitute Project Area 5 within the TIF District, as described in the Amended District Plan and the Amended TIF District Ordinance, but is not included within any conveyance or development obligations contemplated by this Agreement.

F. Also on _______________, 2019, the UG held a public hearing in connection with Developer's proposed Redevelopment Project Plan for Project Area 1 of the TIF District (the "Project Area 1 Plan"), pursuant to the TIF Act. The Project Area 1 Plan provides, among other things, for the collection of Incremental Real Property Taxes (as defined in Section 4.2(a) below) within the TIF District to be disbursed to and used by Developer on a pay-as-you-go basis to reimburse certain TIF Eligible Expenses (as defined in Section 4.2 below). On _______________, 2019, the UG terminated the Original Project Plan and approved and adopted the Project Area 1 Plan for the TIF District through the adoption of Ordinance No. O-____-19 (the "TIF Project Area 1 Ordinance") pursuant to the TIF Act. A copy of the TIF Project Area 1 Ordinance is attached hereto as **Exhibit D**.

G. In addition to the TIF financing described above, the UG also has the authority to create one or more community improvement districts (each a "CID" and collectively, the "CIDs") pursuant to K.S.A. 12-6a26 *et seq*., as amended from time to time (the "CID Act") for the purpose of financing certain economic development-related projects. Under the CID Act, the owners of more than fifty-five percent (55%) of the land (by area and assessed value) within the boundaries of a proposed CID may petition the UG to request the creation of a CID and to impose an additional CID sales tax on the sale of tangible personal property at retail or the rendering or furnishing of services which are taxable within the boundaries of the CID in order to pay for or reimburse the costs of a portion of a CID project.

H. Developer will collaborate to submit a petition (the "CID Petition") to the UG requesting the formation of a CID encompassing all of the Project Site (the "Retail CID"), and all of the revenues from the CID shall be used to pay for site improvements and hard construction costs for retail improvements in Project Area 2 and Project Area 3. A map generally depicting the boundaries of the Retail CID is attached hereto as **Exhibit E-1**, and a legal description of the proposed Retail CID is attached hereto as **Exhibit E-2**.

I. Upon submission of the CID Petition, the UG shall consider the creation of the Retail CID through passage of an ordinance (the "Retail CID Ordinance") pursuant to the CID Act; and if approved by the UG's Commission in its sole discretion, the Retail CID Ordinance would be attached hereto as **Exhibit F**. Developer has indicated that its CID Petition would request the imposition of a CID sales tax of one percent (1%) within the Retail CID (the "Retail CID Sales Tax") to be collected and disbursed by the UG on a pay-as-you-go basis to reimburse certain CID Eligible Expenses (as defined in Section 4.3 below) for the Retail Improvements within the Retail CID.

J. In connection with the Project, Developer has also requested industrial revenue bond ("IRB") financing for certain project costs pursuant to K.S.A. 12-1740 *et seq.* Pursuant to the terms and conditions set forth in Section 4.10 below, the parties hereby agree that Developer may use IRB financing to obtain an exemption on sales taxes for construction materials, equipment and furnishings for the Project, but not for abatement of ad valorem taxes.

K. Development of the Project should attract new retail, office and commercial development, as well as attracting new industrial and manufacturing facilities to the community, and stimulate the economy of Wyandotte County through employment, additional taxes and other indirect spending in the community, all of which would promote the public good, health, and welfare within Wyandotte County.

L. The parties agree that the Project is not financially feasible without the public-private partnership as set forth in this Agreement, and therefore the parties wish to enter into this Agreement to provide the necessary financing for the Project.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the UG and Developer hereby agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Interpretation. In this Agreement, unless a clear contrary intention appears:

(a) the singular number includes the plural number and vice versa;

(b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;

(c) reference to any gender includes each other gender;

(d) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;

(e) reference in this Agreement to any article, section, appendix, annex, schedule or exhibit means such article or section thereof or appendix, annex, schedule or exhibit thereto;

(f) each of the items or agreements identified on the attached Index of Exhibits are deemed part of this Agreement to the same extent as if set forth herein;

(g) "hereunder", "hereof", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article, section or other provision thereof;

(h) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and

(i) relative to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding."

1.2 Accounting Terms. Unless expressly otherwise provided, accounting terms shall be construed and interpreted, and accounting determination and computations shall be made, in accordance with GAAP.

1.3 Legal Representation of the Parties. This Agreement was negotiated by the parties hereto with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party shall not apply to any construction or interpretation hereof or thereof.

1.4 Definitions. All capitalized terms used in this Agreement shall have the meanings ascribed to them in Annex 1 attached hereto and made a part hereof, or as otherwise provided herein.

ARTICLE 2
THE PROJECT

2.1 Undertaking of Developer. Developer hereby agrees, subject to the terms and conditions hereinafter provided, to develop, construct, complete, and operate the Project (or to cause the same to be developed, constructed, completed, and operated). The performance of all activities by Developer hereunder shall not be as an agent of the UG, except as otherwise specifically provided herein.

2.2 Development of the Project Site. Prior to Closing on the conveyance of the Phase 1 Property, Phase 2 Property, Phase 3 Property and/or Phase 4 Property, as applicable (and as defined below in Section 2.4), to Developer as set forth in Sections 2.4 and 5.1, the UG and Developer hereby agree that Developer shall have the right but not the obligation to develop the Project as described below. If and to the extent that Developer closes on the portion of the Project Site associated with any Phase of the Project, then Developer shall then be contractually obligated in this Agreement to construct and complete all of the components of the Project in that particular Phase as more particularly set forth below in Section 2.3. Developer hereby contemplates that all of the infrastructure, buildings, parking facilities and other improvements constituting the Project, as described in this Section 2.2 and as generally depicted on **Exhibit G** attached hereto (the "Improvements"), shall be developed, constructed, completed, and operated on the Project Site in substantial accordance and compliance with the terms and conditions of this Section 2.2 and the final site plan approvals as may be granted or amended from time to time by the UG's Planning Commission or other relevant bodies if any (the "Development Plan"). On and subject to the terms and provisions set forth in this Agreement, Developer shall have the sole right to, and shall be responsible for, design, construction, equipment and completion of the Improvements, and shall operate and use the Improvements in the manner described herein, all in accordance with the terms of this Section 2.2 and all other Applicable Laws and Requirements. The parties further agree that the "Project" shall include the following:

(a) The "Food Service Center" shall be deemed to mean and include an approximately 266,000 square foot (with potential for expansion) state-of-the-art, automated warehouse and distribution facility for the preparation, packaging and distribution of Scavuzzo's and others' high-quality products, including without limitation the distribution of packaged foods, butchered meats and fresh foods, as well as restaurant supplies and equipment, and approximately 34,000 square feet of first-class, industrial grade office space for employees of Scavuzzo's and Scavuzzo's Affiliates, along with Scavuzzo's customers and vendor partners, all of which shall be constructed and completed on the Phase 1 Property of the Project Site; the Food Service Center may also include a "test kitchen";

(b) The "Solar Field" shall be deemed to mean a utility-scale, ground-mounted, photovoltaic system located on approximately 26 acres of the undermined portion of the Project Site on the Phase 1 Property, which Solar Field will provide solar energy pursuant to a separate agreement with the Board of Public Utilities (the "BPU"), which separate agreement is a condition precedent to Developer constructing the Solar Field as set forth in Section 3.1(a)(vii) below;

(c) The "Retail Improvements" shall be deemed to mean no less than 12,000 square feet of neighborhood retail, entertainment and/or restaurant uses on approximately three (3) pad sites located on State Avenue within the Phase 2 Property of the Project Site, which Retail Improvements Developer expects to cost approximately Three Million Dollars ($3,000,000) of capital investment; provided, however, that the parties hereby understand and agree that Developer may construct, complete and deliver less than 12,000 square feet of Retail Improvements if and to the extent that (i) the smaller Retail Improvements concepts and uses still require no less than Three Million Dollars ($3,000,000) of capital investment to construct and complete, and (ii) the UG's County Administrator first reviews and approves the smaller amount of Retail Improvements square footage;

(d) The "Additional Commercial Buildings" shall be deemed to mean a range of approximately 15,000 to 45,000 square feet of office, hotel and/or retail buildings to be located within the Phase 3 Property of the Project Site, which Additional Commercial Buildings shall be used for (i) other high-quality food service providers who may or may not be strategic business partners of Scavuzzo's, but who – along with Scavuzzo's – would help to create a "food service facility campus" at the Project Site, or (ii) for the uses described on **Exhibit N** attached hereto;

(e) The "Office Building" shall be deemed to mean an approximately four (4) story Class-A multi-tenant office building with approximately 60,000 square feet, located within the Phase 4 Property of the Project Site, which Office Building will serve as the Scavuzzo's administrative office headquarters, and may include such features as a test kitchen, conference rooms, culinary arts programming, and may also be leased to other third-party tenants;

(f) The "Initial Infrastructure" means all of the infrastructure improvements, including without limitation, sitework, sewer, stormwater and water main improvements, irrigation systems, sidewalks, drives and other pedestrian and vehicular thoroughfares which are necessary to support the Food Service Center;

(g) The "Other Infrastructure" means all of the infrastructure improvements, including without limitation, sitework, sewer, stormwater and water main improvements, irrigation systems, sidewalks, drives and other pedestrian and vehicular thoroughfares which are necessary to support the Improvements in the various Phases of the Project, respectively, which were not otherwise provided by Developer in the Initial Infrastructure; and

(h) The "Parking Improvements" in the Project shall be deemed to mean surface parking improvements containing the number of spaces required by the Applicable Laws and Requirements for each of the Improvements.

(i) Developer recognizes, stipulates and agrees that its signage shall be subject to all Applicable Laws and Requirements, and any special use permits granted by the UG's Commission. Developer may develop sign criteria for the entire Project Site.

(j) Developer's development, design and construction of the Improvements shall in all respects comply with the Plans and Specifications (as defined in Section 6.2).

(k) The Project described in this Section 2.2 and Section 2.3 below shall not be amended or modified without the prior written consent of the UG, which consent shall not be unreasonably withheld, and shall be granted or denied in accordance with all Applicable Laws and Requirements.

2.3 Phasing of the Project. The parties agree that the Project is contemplated to be constructed in multiple phases (each a "Phase" or collectively "Phases"), as described below. The parties hereby agree that the Phases shall be as follows:

(a) Phase 1: The design, construction and development of (i) the Food Service Center; (ii) the Solar Field; (iii) the Initial Infrastructure, and (iv) any Parking Improvements required to park the Food Service Center and Solar Field, all as generally depicted on **Exhibit G** attached hereto, shall constitute a first Phase of the Project ("Phase 1");

(b) Phase 2: The design, construction and development of (i) the Retail Improvements; (ii) any Other Infrastructure not previously provided in the Initial Infrastructure, and (iii) any Parking Improvements required to park the Retail Improvements, all within Project Area 2 of the TIF District and the Retail CID, as generally depicted on **Exhibit G** attached hereto, shall constitute the second Phase of the Project ("Phase 2"); and

(c) Phase 3: The design, construction and development of (i) the Additional Commercial Buildings, (ii) any Other Infrastructure, and (iii) any Parking Improvements required to park the Additional Commercial Buildings, all within Project Area 3 of the TIF District as generally depicted on **Exhibit G** attached hereto, shall constitute the third Phase of the Project ("Phase 3");

(d) Phase 4: The design, construction and development of (i) the Office Building, (ii) any Other Infrastructure, and (iii) any Parking Improvements required to park the Office Building, all within Project Area 4 of the TIF District as generally depicted on **Exhibit G** attached hereto, shall constitute the fourth Phase of the Project ("Phase 4").

2.4 Transfer of Project Site to Developer. The UG and/or the WCLB owns the real property that comprises the Project Site. Subject to the terms and conditions hereof and satisfaction of the conditions set forth in Section 3.1 below, Developer shall close on acquisition of the portion(s) of the Project Site needed for each respective Phase of the Project prior to commencing construction on the applicable Phase. The portions of the Project Site needed for each Phase are legally described on **Exhibit H** attached hereto (including the "Phase 1 Property", the "Phase 2 Property", the "Phase 3 Property" and the "Phase 4 Property"). At Closing (as defined in Section 5.1 below) for each respective Phase, the UG shall convey (and with respect to the undermined portions of the Phase 1 Property, the UG shall cause the WCLB to convey the Phase 1 Property, Phase 2 Property, Phase 3 Property and/or the Phase 4 Property, as applicable, to Developer pursuant to one or more quitclaim deeds (each, a "Deed" and collectively, "Deeds"), subject only to the provisions set forth in this Section 2.4 and in the balance of this Agreement and subject to the Permitted Encumbrances (as defined in Annex 1). In consideration for each Deed, Developer shall pay an amount equal to One Hundred Dollars ($100) (the "Purchase Price") at Closing. The parties hereby further agree as follows:

(a) Developer's Investigations. For a period of one hundred twenty (120) days after the Effective Date (the "Due Diligence Period"), the UG shall allow Developer access to the Project Site for purposes of inspecting the Project Site, including the right to testing of same (the "Investigations"); provided, however, that: (i) Developer must schedule such Investigations with the UG; (ii) Developer shall provide the UG with a copy of any written reports resulting from the Investigations within thirty (30) days of completion of the Investigations; (iii) Developer and the UG (subject always to the Kansas Open Records Act, K.S.A. 45-215 *et seq.*; Kansas Open Meetings Act, K.S.A. 75-4317 *et seq.*; and rules of discovery) will maintain the results of any such Investigations confidential, except to such third-party consultants, lenders, investors or attorneys as reasonably necessary to advise Developer with regard to the Investigations; (iv) Developer shall repair any and all damage caused by the Investigations, and shall restore the Project Site to the condition it was in prior to such Investigations; and (v) Developer agrees to indemnify and hold the UG and the WCLB, and their agents, officers, contractors and employees (the "UG Parties") harmless from any and all injuries, losses, liens, claims, judgments, liabilities, costs actually incurred, expenses or damages (including reasonable attorneys' fees and court costs) sustained by or threatened against the UG (and/or the UG Parties) which result from or arise out of any Investigations by Developer or its authorized representatives pursuant to this Section 2.4(a). Notwithstanding any provision herein to the contrary, the indemnity contained in the preceding sentence shall survive the termination of this Agreement or the Closing. If Developer is not satisfied in all respects as to the condition of the Project Site in its sole discretion, then Developer shall have the right, exercisable by written notice given to the UG on or before the expiration of the Due Diligence Period, to terminate this Agreement. In the event that Developer shall elect not to exercise its right to terminate this Agreement pursuant to this Section 2.4(a) before expiration of the Due Diligence Period, then Developer shall be deemed to have waived this condition and accepted the Project Site "**as is, where is**," without representations or warranties from the UG or the WCLB of any kind whatsoever. Developer hereby agrees that it is relying solely on its own Investigations of the Project Site and not on any information provided or to be provided by the UG, its officers, or agents, and that if Developer does not exercise its right to cancel and terminate under this Section 2.4(a), or the other conditions set forth in Section 3.1 below, then Developer understands and agrees that Developer shall be deemed and considered to be fully and completely satisfied with the Project Site and all parts and aspects thereof.

(b) Right of Reversion. Developer hereby agrees that the Phase 1 Property, Phase 2 Property, Phase 3 Property and/or Phase 4 Property, as applicable, shall be subject to a right of reversion in favor of the UG (a "Reversionary Interest") in the event that, subject to Force Majeure: (i) commencement of construction of the applicable Phase of the Project has not occurred on or before the applicable Commencement Date set forth in Section 6.10 below; and/or (ii) construction of the applicable Phase of the Project timely commenced, but completion of construction of the Phase 1 Minimum Improvements (as defined in Section 2.5 below), the Phase 2 Minimum Improvements (as defined in Section 2.6 below), the Phase 3 Minimum Improvements (as defined in Section 2.7 below) and the Phase 4 Minimum Improvements (as defined in Section 2.8 below), as applicable, has not occurred on or before the applicable Completion Date set forth in Section

6.11 below; provided that, if construction has commenced on the Phase 1 Minimum Improvements, Phase 2 Minimum Improvements, Phase 3 Minimum Improvements, or Phase 4 Minimum Improvements, as applicable, but Substantial Completion has not occurred on all of such Improvements by the applicable Completion Date set forth in Section 6.11 below, then (x) the Reversionary Interest shall only apply to that portion of the Phase 1 Property, Phase 2 Property, Phase 3 Property and/or Phase 4 Property, as applicable, on which construction has not been Substantially Completed, and (y) the UG shall not exercise its Reversionary Interests on any portions of the Improvements if and to the extent that Developer has commenced construction and is diligently pursuing the same to completion (for a period not to exceed twelve (12) months after the Completion Date). In order to exercise the Reversionary Interest, the UG shall first give to Developer a written notice of default and an additional sixty (60) days to cure (the "Reversionary Interest Notice") which shall specifically state that the UG is invoking the Reversionary Interest remedy, and in that case, if Developer fails to remedy the default in question within the additional sixty (60) days, the UG shall have the right, in its discretion, to exercise its Reversionary Interest as to any applicable portion(s) of the Phase 1 Property, Phase 2 Property, Phase 3 Property and/or Phase 4 Property, as applicable. The UG shall not reimburse Developer for any losses or costs associated with the UG's exercise of its Reversionary Interest. Notwithstanding the foregoing or anything in this Agreement to the contrary, the Reversionary Interest shall automatically be released for any portion(s) of the Project Site on which construction has commenced and Substantially Completed, and the UG shall execute and deliver to Developer a quitclaim deed or such other documents as may be necessary to evidence the release of the Reversionary Interest promptly thereafter (but in any event, no later than ten (10) business days following a request by Developer for the same. For purposes of this Agreement, the words "commence construction" and "commencement of construction" shall mean the issuance of appropriate permits for the relevant Improvements and Developer's undertaking of a continuous program of construction for such Improvements.

2.5 Developer's Obligations to Construct and Complete the Phase 1 Improvements. If and to the extent that Developer closes on the Phase 1 Property, Developer hereby covenants and contractually agrees to fully construct and complete: (a) the Food Service Center, as described in Recital A and Section 2.2(a) above; and (b) the Initial Infrastructure, as described in Section 2.2(f) above (collectively, the "Phase 1 Minimum Improvements"). Developer hereby agrees to complete the Phase 1 Minimum Improvements on or before the Completion Date set forth in Section 6.11(a) below. Subject to Force Majeure, if Developer shall fail to timely complete any of the Improvements constituting the Phase 1 Minimum Improvements in accordance with the Completion Date set forth in Section 6.11(a) below, then the UG may: (i) exercise its Reversionary Interest as to all applicable portion(s) of the Phase 1 Property pursuant to the Reversionary Interest Notice as provided in Section 2.4(b) hereof; (ii) terminate Developer's access to the Pay-Go TIF Financing (as defined in Section 4.2(d) below) generated by the Phase 1 Property; and/or (iii) terminate this Agreement and exercise any other applicable remedies under Section 9.2 below.

2.6 Developer's Obligations to Construct and Complete the Phase 2 Improvements. If and to the extent that Developer closes on the Phase 2 Property, Developer hereby covenants and contractually agrees to fully construct and complete: (a) the Retail Improvements, as described in Recital A and Section 2.2(c) above; and (b) the Other Infrastructure in Phase 2 of the Project, as described in Recital A and Section 2.2(g) above (collectively, the "Phase 2 Minimum Improvements"). Developer hereby agrees to complete the Phase 2 Minimum Improvements on or before the Completion Date set forth in Section 6.11(b) below. Subject to Force Majeure, if Developer shall fail to timely complete any of the Improvements constituting the Phase 2 Minimum Improvements in accordance with the Completion Date set forth in Section 6.11(b) below, then the UG may: (i) exercise its Reversionary Interest as to all applicable portion(s) of the Phase 2

Property pursuant to the Reversionary Interest Notice as provided in Section 2.4(b) hereof; (ii) divert TIF Proceeds to the Alternative TIF Fund pursuant to the terms of Section 4.2(d)(iii) below); (iii) reduce the CID Proceeds (as defined in Section 4.3(d)(ii) below); or (iv) terminate this Agreement with respect to the Phase 2 Property.

2.7 Developer's Obligations to Construct and Complete the Phase 3 Improvements. If and to the extent that Developer closes on the Phase 3 Property, Developer hereby covenants and contractually agrees to fully construct and complete: (a) at least fifteen thousand (15,000) square feet of the Additional Commercial Buildings in the categories # 1 and # 2 of the list of Additional Commercial Building uses set forth on **Exhibit N** or as described in Section 7.2(c)(xxv)(i); and (b) the Other Infrastructure in Phase 3 of the Project, as described in Section 2.2(g) above (collectively, the "Phase 3 Minimum Improvements"). Developer hereby agrees to complete the Phase 3 Minimum Improvements on or before the Completion Date set forth in Section 6.11(c) below. Subject to Force Majeure, if Developer shall fail to timely complete any of the Improvements constituting the Phase 3 Minimum Improvements in accordance with the Completion Date set forth in Section 6.11(c) below, then the UG may: (i) exercise its Reversionary Interest as to all applicable portion(s) of the Phase 3 Property pursuant to the Reversionary Interest Notice as provided in Section 2.4(b) hereof; (ii) reduce the TIF Cap by ten percent (10%); (iii) reduce the CID Proceeds (as defined in Section 4.3(b) below) by ten percent (10%) for each reimbursement disbursed to Developer; and/or (iv) terminate this Agreement with respect to the Phase 3 Property. Notwithstanding the foregoing, if Developer shall fail to timely complete all of the Phase 3 Minimum Improvements on or before the Completion Date and the UG reduces the TIF Cap and CID Proceeds as set forth in the prior sentence, then Developer may earn reinstatement of five percent (5%) of the TIF Cap and CID Proceeds if and to the extent that Developer shall complete all of the Phase 3 Minimum Improvements on or before a date that is 60 months of the Completion Date therefor.

2.8 Developer's Obligations to Construct and Complete the Phase 4 Improvements. If and to the extent that Developer closes on the Phase 4 Property, Developer hereby covenants and contractually agrees to fully construct and complete: (a) the Office Building, as described in Recital A and Section 2.2(e) above; and (b) the Other Infrastructure in Phase 4 of the Project, as described in Section 2.2(g) above (collectively, the "Phase 4 Minimum Improvements"). Developer hereby agrees to complete the Phase 4 Minimum Improvements on or before the Completion Date set forth in Section 6.11(d) below.

(a) Subject to Force Majeure, if Developer shall fail to timely complete any of the Improvements constituting the Phase 4 Minimum Improvements in accordance with the Completion Date set forth in Section 6.11(d) below, then the UG may: (i) exercise its Reversionary Interest as to all applicable portion(s) of the Phase 4 Property pursuant to the Reversionary Interest Notice as provided in Section 2.4(b) hereof; (ii) reduce the TIF Cap by ten percent (10%); and/or (iii) terminate this Agreement with respect to the Phase 4 Property. Notwithstanding the foregoing, if Developer shall fail to timely complete all of the Phase 4 Minimum Improvements on or before the Completion Date and the UG reduces the TIF Cap as set forth in the prior sentence, then Developer may earn reinstatement of five percent (5%) of the TIF Cap if and to the extent that Developer shall complete all of the Phase 4 Minimum Improvements on or before a date that is 60 months of the Completion Date therefor.

(b) Also, if at any time during the Term, Developer, Scavuzzo's, or any Affiliate of Developer or Scavuzzo's shall develop, construct, lease or otherwise acquire an alternative headquarters facility outside of Wyandotte County, Kansas, then the parties hereby agree that the UG will also have the following remedies, in the UG's sole and absolute discretion: (x) terminate Developer's access to the Pay-Go TIF Financing; (y) reduce the TIF Cap; and/or (z) terminate this Agreement and exercise any other applicable remedies under Section 9.2 below.

(i) For purposes hereof, the parties hereby understand and agree that Developer, Scavuzzo's, and Affiliates of Developer may have small offices and personnel located in other locations outside of the Kansas City metropolitan area, provided that such offices are not the headquarters facility for Developer, Scavuzzo's, and/or any of its Affiliates.

(ii) If and only to the extent that all of the Phase 1 Minimum Improvements, Phase 2 Minimum Improvements, Phase 3 Minimum Improvements, and Phase 4 Minimum Improvements have been completed, and thereafter Developer, Scavuzzo's and/or any of their Affiliates are acquired by a larger company with greater net worth than that of Developer, Scavuzzo's or the Affiliate acquired by said company (the "Acquiring Company"), and the headquarters facility (or a portion thereof) is relocated to and consolidated with the headquarters of the Acquiring Company, then the UG agrees that it will not exercise the remedies described in Section 2.8(b) above.

2.9 General Agreements. Developer agrees to promptly and completely perform each and all of its duties and obligations under this Agreement and the other Transaction Documents (as defined in Annex 1). The UG agrees to promptly and completely perform each and all of its duties and obligations under this Agreement and the other Transaction Documents.

ARTICLE 3
CONDITIONS

3.1 Conditions. The issuance and delivery to Developer of any public financing contemplated under the terms of this Agreement shall be subject to the following conditions precedent (the "Public Financing Conditions"):

(a) Phase 1 Conditions.

(i) Private Financing. Developer shall secure and provide evidence of immediately available private funds which, when added to the TIF Proceeds (as defined in Section 4.2(b) below), are sufficient to complete the Phase 1 Minimum Improvements. Developer shall provide evidence of such private funds in form and substance verifiable and approved by the UG's County Administrator in his reasonable discretion, in the form of: (x) cash funds held in a bank account; or (y) private equity and/or a closed loan from a financial institution that is ready, willing and able to provide construction draws for the Project, subject only to normal and customary draw conditions that are reasonably approved by the UG.

(ii) Acquisition of the Phase 1 Property. Developer shall close on its acquisition of the Phase 1 Property subject to Sections 2.4 and 5.1, or the UG shall have waived this requirement (in whole or in part) in writing, in its sole discretion;

(iii) TIF District Approval. The UG's Commission shall have approved the TIF District by approval of the Amended TIF District Ordinance described in Recital E above, or Developer shall have waived this requirement in writing;

(iv) IRBs. The UG's Commission shall have approved a Resolution of Intent for the IRB financing described in Section 4.10 below, or Developer shall have waived this requirement in writing;

(v) Final Site Plan Approval. Developer shall have obtained all final site plan approvals and any other required approvals for Phase 1 Minimum Improvements as required by all Applicable Laws and Requirements; and

(vi) Project Plan Approval. The UG's Commission shall have approved the Project Area 1 Plan.

(vii) [BPU Agreement. Prior to construction and development of the Solar Filed, Developer and BPU shall enter into a written agreement to govern Developer's operation of the Solar Field and the use and transmission of energy therefrom, which agreement shall be acceptable to the UG and the BPU in their respective sole discretion, or the UG shall have waived this condition in writing.]

(b) Phase 2 Conditions.

(i) Private Financing. With respect to that portion of the Phase 2 Minimum Improvements that Developer intends to construct (as opposed to a third party), Developer shall secure and provide evidence of immediately available private funds which, when added to the TIF Proceeds and CID Proceeds (as defined in Section 4.3(b) below), are sufficient to complete the Phase 2 Minimum Improvements that Developer intends to construct (as opposed to a third party). Developer shall provide evidence of such private funds in form and substance verifiable and approved by the UG's County Administrator in his reasonable discretion, in the form of: (x) cash funds held in a bank account; or (y) private equity and/or a closed loan from a financial institution that is ready, willing and able to provide construction draws for the Project, subject only to normal and customary draw conditions that are reasonably approved by the UG.

(ii) Acquisition of the Phase 2 Property. Developer shall close on its acquisition of the Phase 2 Property subject to Sections 2.4 and 5.1, or the UG shall have waived this requirement (in whole or in part) in writing, in its sole discretion;

(iii) CID Approval. The UG's Commission shall have approved the Retail CID by approval of the Retail CID Ordinance described in Recital I above, or Developer shall have waived this requirement in writing;

(iv) IRBs. The UG's Commission shall have approved a Resolution of Intent for the IRB financing described in Section 4.10 below, or Developer shall have waived this requirement in writing;

(v) Final Site Plan Approval. Developer shall have obtained all final site plan approvals and any other required approvals for the Phase 2 Minimum Improvements that Developer intends to construct (as opposed to a third party) as required by all Applicable

Laws and Requirements;

(vi) Project Plan Approval. The UG's Commission shall have approved the Project Area 2 Plan; and

(vii) Retail Leases. Developer shall provide to the UG copies of leases or purchase agreements with reputable retail users for at least sixty-five percent (65%) of the Phase 2 Minimum Improvements square footage.

(c) Phase 3 Conditions.

(i) Private Financing. With respect to that portion of the Phase 3 Minimum Improvements that Developer intends to construct (as opposed to a third party), Developer shall secure and provide evidence of immediately available private funds which, when added to the TIF Proceeds and CID Proceeds (as defined in Section 4.3(b) below), are sufficient to complete the Phase 3 Minimum Improvements that Developer intends to construct (as opposed to a third party). Developer shall provide evidence of such private funds in form and substance verifiable and approved by the UG's County Administrator in his reasonable discretion, in the form of: (x) cash funds held in a bank account; or (y) private equity and/or a closed loan from a financial institution that is ready, willing and able to provide construction draws for the Project, subject only to normal and customary draw conditions that are reasonably approved by the UG.

(ii) Acquisition of the Phase 3 Property. Developer shall close on its acquisition of the Phase 3 Property subject to Sections 2.4 and 5.1, or the UG shall have waived this requirement (in whole or in part) in writing, in its sole discretion;

(iii) Amendment to Agreement. The UG and Developer shall have agreed upon the scope and specifications for the Additional Commercial Buildings, as described in Section 2.7, which scope and specifications shall be memorialized in an amendment to this Agreement.

(iv) CID Approval. The UG's Commission shall have approved the Retail CID by approval of the Retail CID Ordinance described in Recital I above, or Developer shall have waived this requirement in writing;

(v) IRBs. The UG's Commission shall have approved a Resolution of Intent for the IRB financing described in Section 4.10 below, or Developer shall have waived this requirement in writing;

(vi) Final Site Plan Approval. Developer shall have obtained all final site plan approvals and any other required approvals for the Phase 3 Minimum Improvements that Developer intends to construct (as opposed to a third party) as required by all Applicable Laws and Requirements;

(vii) Project Plan Approval. The UG's Commission shall have approved the Project Area 3 Plan; and

(viii) Retail Leases. Developer shall provide to the UG copies of leases or purchase agreements with reputable retail users for at least sixty-five percent (65%) of the

Phase 3 Minimum Improvements square footage.

(d) Phase 4 Conditions.

(i) Private Financing. Developer shall secure and provide evidence of immediately available private funds which, when added to the TIF Proceeds (as defined in Section 4.2(b) below), are sufficient to complete the Phase 4 Minimum Improvements. Developer shall provide evidence of such private funds in form and substance verifiable and approved by the UG's County Administrator in his reasonable discretion, in the form of: (x) cash funds held in a bank account; or (y) private equity and/or a closed loan from a financial institution that is ready, willing and able to provide construction draws for the Project, subject only to normal and customary draw conditions that are reasonably approved by the UG.

(ii) Acquisition of the Phase 4 Property. Developer shall close on its acquisition of the Phase 4 Property subject to Sections 2.4 and 5.1, or the UG shall have waived this requirement (in whole or in part) in writing, in its sole discretion;

(iii) IRBs. The UG's Commission shall have approved a Resolution of Intent for the IRB financing described in Section 4.10 below, or Developer shall have waived this requirement in writing;

(iv) Final Site Plan Approval. Developer shall have obtained all final site plan approvals and any other required approvals for Phase 4 Minimum Improvements as required by all Applicable Laws and Requirements;

(v) Project Plan Approval. The UG's Commission shall have approved the Project Area 4 Plan; and

(vi) Office Leases. Developer shall provide to the UG copies of leases with Scavuzzo's and -- if necessary -- reputable users for at least fifty percent (50%) of the space in the Office Building.

3.2 Termination. In the event that the Phase 1 Conditions set forth in Section 3.1(a) above are not met or waived on or prior to the Phase 1 Property Closing Deadline set forth in Section 5.1 below, then either party hereto shall have the right to terminate this Agreement, but such failure shall not be an event of default hereunder. Upon any such termination of this Agreement: (i) this Agreement shall terminate, and (ii) except as specifically set forth herein, the parties hereto shall have no further duty, obligation, or liability each to the other hereunder, and without limiting the generality of the foregoing, Developer shall be solely liable and responsible for all of its costs and expenses incurred by it with respect to this Agreement and the transactions contemplated hereby, and except for the fees and expenses of the UG to be paid for by Developer pursuant to that certain Funding Agreement dated as of [December 15, 2017], as amended, and the provisions of this Agreement, the UG shall be solely liable and responsible for all costs and expenses incurred by it with respect to this Agreement and the transactions contemplated hereby.

3.3 Satisfaction of Conditions. Upon satisfaction of the Public Financing Conditions for each of Phase 1, Phase 2, Phase 3, and Phase 4 set forth in Section 3.1 above, the UG shall, at the request of Developer, issue a certificate or a letter confirming and agreeing the Public Financing Conditions for such Phase have been fully satisfied for purposes of this Agreement, and the parties agree that such Public

Financing Conditions with respect to such Phase shall be deemed to be fully satisfied for all purposes of this Agreement thereafter.

ARTICLE 4
FINANCING — SOURCE OF FUNDS

4.1 Public Financing; Source of Funds. Reference is hereby made to the Total Project Budget attached hereto as **Exhibit I**, and by this reference made a part hereof. The costs of the Project (the "Project Costs") will be funded in part by public incentives, including TIF Proceeds (as defined in Section 4.2(b) below), CID Proceeds (as defined in Section 4.3(b) below), and IRBs, as well as private equity and debt. Developer, its successors and assigns, using private equity and debt (the "Private Funds"), will initially advance all of the costs for the design, development and construction of the Project, or applicable portions thereof in accordance with this Agreement. Developer, subject to the terms and conditions of this Agreement, shall be reimbursed for certain TIF Eligible Expenses (as defined in Section 4.2 below) and CID Eligible Expenses (as defined in Section 4.3 below) paid for by Developer, its successors or assigns, from and to the extent of the TIF Proceeds and CID Proceeds collected during the Term.

4.2 TIF District. It is contemplated by the parties that the Project shall be funded in part by TIF Proceeds. Developer has identified certain Project Costs which may be reimbursed with TIF Proceeds if and to the extent that such Project Costs are for land acquisition or hard construction costs for site work and/or or infrastructure, identified as "TIF Project Costs" in the Total Project Budget, and eligible for payment or reimbursement pursuant to the TIF Act (the "TIF Eligible Expenses"). In connection with the TIF District, the parties hereby agree as follows:

(a) Incremental Real Property Taxes. Subject to the terms and conditions of this Agreement and the Amended TIF District Ordinance, the UG hereby agrees that the TIF Eligible Expenses may be financed and reimbursed with Pay-Go TIF Financing (as defined in Section 4.2(d) below) from the Incremental Real Property Taxes collected within the TIF District. Pursuant to the provisions of the Project Area 1 Plan (and any subsequent approved redevelopment project plans for each additional Project Area) and the TIF Act, including, but not limited to, Section 12-1775(a) of the TIF Act, all real property located within the TIF District is subject to assessment for annual Real Property Taxes (as defined in Annex 1). Real Property Taxes shall be due in arrears, with half due on December 20th and half due on May 10th of each year in which said amount is required to be paid, and will be considered delinquent if not paid by such dates of each such year or as otherwise determined by Applicable Laws and Requirements. The obligation to pay Real Property Taxes shall be a covenant running with the land and shall create a lien in favor of the UG on each such tax parcel as constituted from time to time and shall be enforceable against Developer and its successors and assigns in ownership of property in the TIF District. The "Incremental Real Property Taxes" means that amount of Real Property Taxes collected from within the TIF District that exceeds the amount of Real Property Taxes collected from the Base Year Assessed Valuation of the real property within the TIF District. For purposes hereof, the term "Base Year Assessed Valuation" means the assessed valuation of all real properties within the boundaries of the TIF District on December 21, 2006 (the date the TIF District was established). The Base Year Assessed Valuation of the real property within the TIF District is Nine Hundred Fifty Six Thousand Two Hundred Twenty Four Dollars ($956,224).

(b) TIF Proceeds. The revenues received from the Incremental Real Property Taxes, less the TIF Administrative Fee (as defined in Section 4.2(f) below), constitute the "TIF Proceeds". Except as set forth in Section 4.2(d)(iii) below, the TIF Proceeds shall be used to pay or reimburse

Developer for the TIF Eligible Expenses, subject to the limitations in the TIF Act and provided that none of the TIF Proceeds shall be used to pay for anything but site work, infrastructure and other hard construction costs without the prior approval of the UG, in its sole discretion.

(c) Property Tax TIF Fund. Subject to the provisions set forth in Section 4.2(d)(iii) below, during the existence of the TIF District, all Incremental Real Property Taxes generated within the TIF District shall be deposited into a separate fund (the "Property Tax TIF Fund"), which shall be established and administered by the UG in compliance with this Agreement and all Applicable Laws and Requirements.

(d) Pay-Go TIF Financing. Subject to the terms and conditions of this Agreement (including Section 4.2(d)(iii) below), the parties hereby agree that all of the TIF Proceeds shall be disbursed by the UG to Developer from the Property Tax TIF Fund on a pay-as-you-go basis ("Pay-Go TIF Financing") to reimburse Developer for TIF Eligible Expenses, if and to the extent that: (1) there are sufficient TIF Proceeds in the Property Tax TIF Fund, (2) Developer has fully satisfied all of the conditions set forth in Section 4.6 below, (3) Developer has not already been reimbursed for TIF Eligible Expenses in an amount equal to the TIF Cap (as defined in Section 4.2(d)(ii) below), and (4) the Term has not yet expired. The parties further agree as follows:

(i) TIF Collection Period. The Incremental Real Property Taxes shall be collected within each Project Area of the TIF District for a period that commences on the effective date of the ordinance approving a TIF Project Plan for each such Project Area (the "TIF Project Area Commencement Date") and ending on that date which is the earlier of the following: (i) the date that Developer has been reimbursed for all TIF Eligible Expenses by Pay-Go TIF Financing in an amount equal to the TIF Cap, or (ii) twenty (20) years from the TIF Project Area Commencement Date (the "TIF Collection Period"), provided however that in no event shall the TIF Collection Period for any of the Project Areas end later than August 1, 2044. Notwithstanding anything to the contrary herein, the parties acknowledge and agree that collection of Incremental Real Property Taxes within each Project Area is limited to a period of twenty (20) years from the respective TIF Project Area Commencement Date, and the UG shall have the right to remove a Project Area from the TIF District upon expiration of the Project Area's TIF Collection Period. In other words, the UG shall remove Project Area 1 from the TIF District twenty (20) years after the TIF Project Area Commencement Date for Project Area 1, and upon such removal, the UG shall revise the Base Year Assessed Valuation of the TIF District to reflect the Base Year Assessed Valuation of the remaining real property within the TIF District. The UG shall repeat this process to remove Project Area 2, Project Area 3 and Project Area 4 from the TIF District twenty (20) years after the TIF Project Area Collection Date for Project Area 2, Project Area 3 and Project Area 4, respectively. At the end of the TIF Collection Period, the parties understand and agree that the UG shall no longer deposit Incremental Real Property Taxes into the Property Tax TIF Fund, and Developer shall have no further access to such Incremental Real Property Taxes to reimburse or pay for TIF Eligible Expenses.

(ii) TIF Cap. The TIF Proceeds available to Developer for reimbursement of TIF Eligible Expenses through Pay-Go TIF Financing shall in no event exceed Eleven Million Three Hundred Sixteen Thousand Three Hundred Thirty-Three Dollars ($11,316,333) (the "TIF Cap"). However, the parties hereby understand and agree that if and to the extent that (x) Developer shall timely complete and open the Phase 2 Minimum

Improvements as described in Section 6.11(b), the TIF Cap shall be increased by Eight Million One Hundred Thirty Seven Thousand Seven Hundred Seventy Dollars ($8,137,770) for a total TIF Cap of Nineteen Million Four Hundred Fifty Four Thousand One Hundred Three Dollars ($19,454,103); and (y) Developer shall timely complete and open the Phase 4 Minimum Improvements as described in Section 6.11(d), the TIF Cap shall be increased by Eight Million Four Hundred Twenty Eight Thousand Four Hundred Ninety Nine Dollars ($8,428,499) for a total TIF Cap of Twenty Seven Million Eight Hundred Eighty Two Thousand Six Hundred Two Dollars ($27,882,602). For Phase 3, the parties hereby agree that if and to the extent that (A) Developer shall timely complete and open the Phase 3 Minimum Improvements as described in Section 6.11(c), the TIF Cap described in the prior sentence shall be increased by Two Million Nine Hundred Thousand Dollars ($2,900,000); (B) Developer shall complete and open at least 15,000 square feet of Additional Commercial Buildings beyond the Phase 3 Minimum Improvements (at least 30,000 square feet of Additional Commercial Buildings) on or before that date which is one hundred and twenty (120) months after the Closing on the Phase 3 Property, the TIF Cap described in the prior sentence shall be increased by another Two Million Dollars ($2,000,000; an additional $4,900,000 of TIF Cap for Phase 3), and (C) Developer shall complete and open at least 30,000 square feet of Additional Commercial Buildings beyond the Phase 3 Minimum Improvements (at least 45,000 square feet of Additional Commercial Buildings) on or before that date which is one hundred and twenty (120) months after the Closing on the Phase 3 Property, the TIF Cap described in the prior sentence shall be increased by another Two Million Dollars ($2,000,000; an additional $6,900,000 of TIF Cap for Phase 3). The TIF Cap shall, for all purposes set forth herein, operate as a cap on the use of TIF Proceeds for reimbursement of any and all TIF Eligible Expenses. Once Developer has received an amount equal to the TIF Cap in reimbursements of TIF Eligible Expenses through Pay-Go TIF Financing, the parties understand and agree that the Developer's access to the Pay-Go TIF Financing shall thereafter terminate.

(iii) Alternative TIF Fund; Reduction of Available TIF Proceeds. The parties hereby understand and agree that the timely construction of the Retail Improvements is critical to the UG, and an important condition to the UG's agreements to provide access to the TIF Proceeds hereunder. Accordingly, Developer hereby understands and agrees that Developer's access to 100% of the TIF Proceeds is hereby expressly conditioned upon Developer's timely completion and opening of the Phase 2 Minimum Improvements on or before the Completion Date set forth in Section 6.11(b) below. Notwithstanding anything set forth in this Agreement to the contrary, if Developer shall fail to complete and open the Phase 2 Minimum Improvements on or before the Completion Date described in Section 6.11(b) below, then the UG shall establish an alternative TIF Fund (the "Alternative TIF Fund") and an amount equal to ten percent (10%) of the TIF Proceeds shall be diverted to the Alternative TIF Fund. Further, Developer understands and agrees that if any such failure to complete and open the Phase 2 Minimum Improvements shall continue after the Completion Date set forth in Section 6.11(b) below, then: (a) if the Phase 2 Minimum Improvements shall not be opened by a date that is one (1) year after the Completion Date in Section 6.11(b), then an amount equal to twenty percent (20%) of the TIF Proceeds shall be diverted to the Alternative TIF Fund; (b) if the Phase 2 Minimum Improvements shall not be opened by a date that is two (2) years after the Completion Date in Section 6.11(b), then an amount equal to thirty percent (30%) of the TIF Proceeds shall be diverted to the Alternative TIF Fund; (c) if the Phase 2 Minimum Improvements shall not be opened by a date that is three (3) years after the Completion Date in Section 6.11(b), then an amount equal to forty percent (40%) of the TIF Proceeds shall be diverted to the Alternative TIF Fund; and finally, (d) if the Phase 2 Minimum Improvements shall not be opened by a date that is four (4) years after the Completion Date in Section 6.11(b), then an amount equal to fifty percent (50%) of the TIF Proceeds shall be diverted to the Alternative TIF Fund. Developer understands and agrees that it shall not have access to any TIF Proceeds in the Alternative TIF Fund, which may be used by the UG for eligible TIF costs and expenses within the TIF District in the UG's sole and absolute discretion. If any funds are diverted to the Alternative TIF Fund pursuant to the terms hereof, once the Phase 2 Minimum Improvements are completed, no further TIF Proceeds will be diverted to the Alternative TIF Fund thereafter.

(iv) Interest on TIF Project Costs. The UG and Developer hereby understand and agree that Developer shall be entitled to reimbursement for interest on its TIF Eligible Expenses, which interest shall not exceed the lesser of (a) Developer's actual private financing costs for such TIF Eligible Expenses, or (b) six and one-half percent (6.5%). Additionally, Developer hereby understands and agrees that for all Phases of the Project, reimbursable interest on TIF Eligible Expenses shall commence to accrue when any such TIF Eligible Expenses are certified, except: (x) if the Phase 2 Minimum Improvements are not completed by the relevant Completion Date set forth in Section 6.11 hereof, interest shall not begin to accrue on TIF Eligible Expenses related to Phase 1 and Phase 2 until the Phase 2 Minimum Improvements have been completed; and (y) if the Phase 3 Minimum Improvements or Phase 4 Minimum Improvements are not completed by the relevant Completion Date set forth in Section 6.11 hereof, interest shall not begin to accrue on TIF Eligible Expenses in that particular Phase until the Minimum Improvements for that Phase have been completed.

(v) Conditions for Reimbursement. Developer shall not receive any reimbursements from Pay-Go TIF Financing unless and until the conditions precedent set forth in Section 4.6 have been fully satisfied or waived by the UG, upon which satisfaction or waiver Developer shall be reimbursed from Pay-Go TIF Financing as provided in this Agreement.

(e) No TIF Bonds. Developer hereby understands and agrees that all reimbursements to the Developer hereunder shall be made only from Pay-Go TIF Financing, and nothing in this Agreement shall in any way obligate the UG to issue bonds or other obligations to reimburse Developer for the TIF Eligible Expenses or any other Project Costs.

(f) TIF Administrative Fee. The Incremental Real Property Taxes deposited into the Property Tax TIF Fund shall be used from time to time to pay an annual administrative fee for the TIF District (the "TIF Administrative Fee"). The TIF Administrative Fee shall be an amount equal to the greater of Seven Thousand Five Hundred Dollars ($7,500) per year or one percent (1%) of the Incremental Real Property Taxes deposited into the Property Tax TIF Fund from time to time during the Term. The TIF Administrative Fee shall be due and payable on the date the Incremental Real Property Taxes are received by the UG.

(g) Deadlines to Propose Redevelopment Project Plans for Project Areas. The parties hereby agree that Developer shall propose redevelopment project plans for Project Areas 2, 3 and 4 to be advanced to the UG's Commission for consideration on or before the deadlines set forth below:

(i) Project Area 2 Deadline: July 15, 2021 (the "Project Area 2 Plan Deadline");

(ii) Project Area 3 Deadline: July 15, 2022 (the "Project Area 3 Plan Deadline"); and

(iii) Project Area 4 Deadline: July 15, 2024 (the "Project Area 4 Plan Deadline").

If Developer should fail to submit a redevelopment project plan for Project Area 2, Project Area 3 and/or Project Area 4 to be considered by the UG's Commission on or before the applicable deadline set forth above, then Developer hereby understands and agrees that rights to any Pay-Go TIF Financing for the applicable Project Area shall be automatically waived by Developer and of no further force and effect.

4.3 Retail CID. It is contemplated by the parties that the CID Proceeds shall only be used to pay for the costs of retail improvements within Project Area 2 and Project Area 3 of the Project. Developer has identified certain hard site improvement and construction costs which may be reimbursed with CID Proceeds as set forth in the Total Project Budget as "CID Project Costs", which is attached as **Exhibit I**, and are eligible for payment or reimbursement pursuant to the CID Act (the "CID Eligible Expenses"). In connection with the Retail CID, the parties hereby agree as follows:

(a) Retail CID Sales Tax. Subject to the terms and conditions of this Agreement and the Retail CID Ordinance, the UG hereby agrees that the CID Eligible Expenses may be financed and reimbursed with Pay-Go CID Financing (defined below in Section 4.3(d)) from the imposition of the Retail CID Sales Tax in the amount of one percent (1%) on the sale of tangible personal property at retail or rendering or furnishing of services which are taxable pursuant to the Kansas Retailers' Sales Tax Act (K.S.A. 79-3601 *et seq.*) from only those revenues received from within the Retail CID. Developer agrees to provide to the Kansas Department of Revenue (the "DOR") a list of tenants within the Retail CID within the timeframes required by the DOR, so that the DOR can notify tenants within the Retail CID of their requirement to collect the Retail CID Sales Tax. At the time the list of tenants is provided to the DOR, Developer shall also provide a copy to the UG.

(b) CID Proceeds. The revenues received from the imposition of the Retail CID Sales Tax, less the Retail CID Administrative Fee (as defined in Section 4.3(f) below), shall be collected and deposited into a Retail CID Fund (as defined in Section 4.3(c) below) and then such CID Proceeds shall be used to pay or reimburse Developer for the CID Eligible Expenses, subject to the limitations in the CID Act and provided that none of the CID Proceeds shall be used to pay for anything but site work, infrastructure and other hard construction costs for retail improvements within Project Area 2 and Project Area 3 without the prior approval of the UG, in its sole discretion.

(c) Retail CID Fund. During the existence of the Retail CID, all CID Proceeds generated within the Retail CID shall be deposited into a separate fund (the "Retail CID Fund"), which shall be established and administered by the UG in compliance with this Agreement and all Applicable Laws and Requirements.

(d) Pay-Go CID Financing. The parties hereby agree that the CID Proceeds shall be disbursed by the UG to Developer quarterly from the Retail CID Fund on a pay-as-you-go basis ("Pay-Go CID Financing") to reimburse Developer for the CID Eligible Expenses, if and to the extent that: (1) there are sufficient CID Proceeds in the Retail CID Fund, (2) Developer has fully satisfied all of the conditions set forth in Section 4.6 below, and (3) the Retail CID Collection Period has not yet expired. The parties further agree as follows:

(i) Retail CID Collection Period. The Retail CID Sales Tax shall be collected within the Retail CID for a period that commences on the date that the Retail CID Sales Tax is first imposed within the Retail CID up to and concluding upon that date which is twenty-two (22) years from the date that the Retail CID Sales Tax is first imposed, or the termination of this Agreement, whichever is earlier (the "Retail CID Collection Period"). At the end of the Retail CID Collection Period, the parties understand and agree that the Retail CID shall thereafter terminate, the Retail CID Sales Tax shall terminate and no longer be levied or collected within the Retail CID, and the UG shall promptly take any action required to so terminate the Retail CID and the Retail CID Sales Tax.

(ii) Conditions for Reimbursement. Developer shall not receive any reimbursements from Pay-Go CID Financing unless and until the conditions precedent set forth in Section 4.6 have been fully satisfied or waived by the UG, upon which satisfaction or waiver Developer shall be reimbursed from Pay-Go CID Financing as provided in this Agreement.

(e) No CID Bonds. Developer hereby understands and agrees that all reimbursements to the Developer hereunder shall be made only from Pay-Go CID Financing, and nothing in this Agreement shall in any way obligate the UG to issue bonds or other obligations to reimburse Developer for the CID Eligible Expenses or any other Project Costs.

(f) Retail CID Administrative Fee. A portion of the CID Proceeds from the Retail CID shall be used to pay an administrative fee in an amount equal to one percent (1%) of the CID Proceeds actually received by the UG from the DOR (the "Retail CID Administrative Fee"), and Developer hereby understands and agrees that such Retail CID Administrative Fee shall be withheld by the UG prior to depositing the balance of the CID Proceeds into the Retail CID Fund. As and when there are sufficient CID Proceeds from the Retail CID to pay the Retail CID Administrative Fee, such Retail CID Administrative Fee shall have first priority to available CID Proceeds.

4.4 50/50 Limitation. The TIF Proceeds and CID Proceeds collectively available to Developer for reimbursement of TIF Eligible Expenses and CID Eligible Expenses at any given time shall be limited to an amount which is equal to one half (1/2) of the amount of Project Costs which have been paid from Private Funds. In other words, the reimbursement of TIF Eligible Expenses from Pay-Go TIF Financing and the reimbursement of CID Eligible Expenses from Pay-Go CID Financing are to be paid, collectively, on a 50/50 basis between Private Funds and the available TIF Proceeds and CID Proceeds, and there shall not at any time during the Term be more Project Costs paid with TIF Proceeds and CID Proceeds than the amount of Project Costs paid by Private Funds and not reimbursed with TIF Proceeds and CID Proceeds, if any (the "50/50 Limitation"). However, the parties understand and agree that for purposes of this provision, Private Funds which are spent on land, legal fees and construction period interest shall not be included in the calculation of Private Funds for purposes of calculating the 50/50 Limitation. By way of illustrative example of the 50/50 Limitation, if at a given point in time, Developer has incurred Project Costs (including any TIF Eligible Expenses and CID Eligible Expenses, but excluding land acquisition, legal fees, and/or construction period interest) to date of $200 (none of which has been reimbursed with TIF Proceeds and/or CID Proceeds), then Developer's maximum reimbursement for TIF Eligible Expenses and/or CID Eligible Expenses from Pay-Go TIF Financing and/or Pay-Go CID Financing is $100. However, the parties further understand and agree that if at a given point in time, Developer has incurred $225 of Project Costs, of which $125 are TIF Eligible Expenses and/or CID Eligible Expenses and $100 are not TIF Eligible Expenses or CID Eligible Expenses (and are not land acquisition, legal fees, and/or construction period interest), then: (i) at that particular time, no more than $100 of TIF Eligible Expenses and/or CID Eligible Expenses may be reimbursed with TIF Proceeds and/or CID Proceeds, but (ii) if Developer later incurs an additional $25 of Project Costs which are paid with Private Funds, then the remaining $25 of TIF Eligible Expenses and/or CID Eligible Expenses may be reimbursed with TIF Proceeds and/or CID Proceeds. Payment of Project Costs from Private Funds shall be evidenced to the UG as set forth in Section 4.7 below.

4.5 Percentage Limitation. In addition to the TIF Cap and the 50/50 Limitation set forth above, the parties hereby agree that upon completion of the Minimum Improvements and submittal of the final Certificates of Expenditure by Developer pursuant to Section 4.7 below, the TIF Cap shall be reduced if and to the extent that the TIF Eligible Expenses and CID Eligible Expenses shall be more than twenty five percent (25%) of the total Project Costs (including the Private Funds therefor). In other words, if and to the extent that the TIF Eligible Expenses and CID Eligible Expenses shall collectively be more than twenty five percent (25%) of the total Project Costs, then Developer hereby agrees that the TIF Cap shall be proportionately reduced so that the TIF Eligible Expenses and CID Eligible Expenses shall not be more than twenty five percent (25%) of the total Project Costs.

4.6 Conditions Precedent to Reimbursements. Developer hereby understands and agrees that even when TIF Proceeds and CID Proceeds have begun to be collected by the UG, the UG will hold and not disburse to Developer any reimbursements for TIF Eligible Expenses from Pay-Go TIF Financing and/or any reimbursements for CID Eligible Expenses from Pay-Go CID Financing, unless and until the conditions precedent set forth below have been fully satisfied as determined by UG in its sole reasonable discretion:

(a) The UG has approved Certificate(s) of Expenditures for such TIF Eligible Expenses and/or CID Eligible Expenses;

(b) Developer shall have achieved Substantial Completion (as defined in Annex 1) of the Phase 1 Minimum Improvements for reimbursements for TIF Eligible Expenses from Pay-Go TIF Financing; and

(c) Developer shall have achieved Substantial Completion (as defined in Annex 1) of the Phase 2 Minimum Improvements for reimbursements for CID Eligible Expenses from Pay-Go CID Financing; and

(d) Developer shall be in full compliance with the terms and conditions of this Agreement and shall not be in default hereunder, nor shall there be conditions, actions or omissions of Developer which will, with the passage of time, become occurrences of default hereunder; provided however, that Developer's failure to meet a deadline in this Agreement shall only affect the conditions precedent for disbursement of TIF Proceeds and/or CID Proceeds from the Project Area to which the deadline applied.

4.7 Certificate(s) of Expenditures for Reimbursement from TIF Proceeds and CID Proceeds. The parties hereby agree as follows:

(a) Certificate of Expenditures. In order to receive payment or reimbursement for Project Costs from Pay-Go TIF Financing or Pay-Go CID Financing, Developer shall submit a certificate of expenditures in the form attached hereto as **Exhibit J** (each, a "Certificate of Expenditures") attesting to the expenditure of Project Costs in accordance with the procedure set forth below. Developer may submit a separate Certificate of Expenditures each month, but no more than one time per month, for each of the Property Tax TIF Fund and the Retail CID Fund. Additionally, Developer shall require that no transferee, purchaser, or lessee of any portion of the Project Site otherwise provide Certificate(s) of Expenditures to the UG, except through Developer or except as otherwise approved by the UG and Developer.

(b) Procedures for Certification of Expenditures. The UG or a representative of the UG shall review the Certificate(s) of Expenditures to be made in connection with the Project Costs for approval or denial of the same as follows:

(i) Developer shall submit to the UG a Certificate of Expenditures setting forth the amount for which certification is sought and identification of the relevant Project Costs and the appropriate source of public financing proceeds (Property Tax TIF Fund and/or Retail CID Fund) for payment of such Project Costs. Developer shall certify to the UG that it shall only use the TIF Proceeds and/or CID Proceeds for the designated Project Costs described in the Certificate of Expenditures and that such proceeds shall not be commingled with other sources or uses. Developer shall further certify to the UG that it will only use: (i) the TIF Proceeds for TIF Eligible Expenses, and (ii) the CID Proceeds for CID Eligible Expenses.

(ii) Each Certificate of Expenditures shall be accompanied by such bills, contracts, invoices, lien waivers and other evidence as the UG shall reasonably require to document appropriate payment.

(iii) The Certificate of Expenditures shall be accompanied by a report regarding any LBE/MBE/WBE participation associated with the costs requested for payment or reimbursement in the Certificate of Expenditures.

(iv) The UG reserves the right to, at reasonable times and upon reasonable notice, have its engineer or other agents, consultants or employees inspect all the items set forth in Section 4.7(b)(ii) above as reasonably necessary to determine that the expenses therein are valid, eligible and properly incurred and constitute TIF Eligible Expenses and/or CID Eligible Expenses (as the case may be).

(v) The UG shall have sixty (60) calendar days after receipt of any Certificate of Expenditures to review and respond by written notice to the Developer. If the UG disapproves of the Certificate of Expenditures, the UG shall notify the Developer in writing of the reason for such disapproval within such sixty (60) day period, in which event the Developer shall have the right to revise and re-submit the Certificate of Expenditures to address the UG's reason for disapproval, and the UG will review and approve the revised Certificate of Expenditures within thirty (30) calendar days after receipt of the re-submitted Certificate of Expenditures. Approval of any Certificate of Expenditures will not be unreasonably withheld, conditioned, or delayed.

(c) Third Party Oversight/Management. The parties hereby understand and agree that the process to approve Certificate(s) of Expenditures and properly disburse the TIF Proceeds and

CID Proceeds is important to the UG and the Developer for various reasons. Accordingly, the parties hereby understand and agree that the UG may retain outside third party representatives to manage and/or provide oversight to this process and Developer hereby agrees to fully cooperate with any such third party representatives in this process and to pay the UG's costs for retaining such third parties.

4.8 Reimbursement Priority. All payments or reimbursements of whatever kind from the UG to the Developer under this Agreement shall be made in the following priority:

(a) First, to the UG, to the extent permitted by Applicable Laws and Requirements, as payments by the Developer for any amounts due and owing to the UG; provided, however, the UG shall first provide Developer with advance written notice specifying the amount(s) in question, and afford Developer a period of ten (10) days following its receipt of such notice in which to pay such amount(s) from Private Funds, including, without limitation: (i) all amounts delinquently due or owing, including all taxes, fees, or fines and including any interest and penalty thereon, by Developer to the UG under this Agreement, under any other agreement between Developer and the UG, or under any Applicable Laws and Requirements; (ii) all actual out of pocket costs incurred (and any interest or penalty thereon) by the UG in entering into, operating under, or enforcing this Agreement, including reasonable attorneys' fees; (iii) indemnification of the UG for any indemnity obligation owed by Developer (or any Affiliate) to the UG, and any interest or penalty thereon; and (iv) any reimbursement due to the UG on account of any prior overpayment or over-reimbursement to Developer under this Agreement, under any other agreement between Developer and the UG, or under any Applicable Laws and Requirements; and

(b) Second, to Developer for the actual amounts to which Developer is entitled by the other provisions of this Agreement.

4.9 Line Items. The parties hereby agree that increases or decreases in line item amounts in the columns labeled "TIF Eligible Expenses" or "CID Eligible Expenses" in the Total Project Budget as set forth on **Exhibit I** may be made by Developer as long as: (a) no such increase represents more than a fifteen percent (15%) change per line item, unless otherwise approved by the County Administrator or its designee, and (b) prior to requesting reimbursement for any such line item change(s), Developer provides the County Administrator's office with a modified Total Project Budget reflecting such change(s).

4.10 IRBs. Developer has requested IRB financing in order to pay certain Project Costs pursuant to K.S.A. 12-1740 *et seq.* Subject to all Applicable Laws and Requirements and subject further to compliance by Developer with all of the UG's requirements for the issuance of IRBs, the parties hereby agree that Developer may use IRB financing to obtain an exemption on sales taxes for construction materials, equipment and furnishings for the Project. However, the parties hereby understand and agree that IRB financing shall not be used for abatement of ad valorem taxes for the Project or the Project Site. Developer agrees to pay all costs and expenses related to the issuance of the IRBs, including without limitation the UG's IRB issuance fees.

ARTICLE 5
CLOSING

5.1 Closing. The term "Closing" as used in this Agreement shall be deemed to mean the dates on which Developer shall close on the acquisition of the Phase 1 Property, Phase 2 Property, Phase 3 Property and/or Phase 4 Property. Developer shall provide written notice to the UG prior to the proposed Closing date for each of the Phase 1 Property, Phase 2 Property, Phase 3 Property and Phase 4 Property and use commercially reasonable efforts to do so at least thirty (30) days in advance thereof, and upon receipt of Developer's written notice, the UG shall initiate the procedures necessary to cause the transfer of the Phase 1 Property, Phase 2 Property, Phase 3 Property and/or Phase 4 Property, as applicable. Notwithstanding anything herein to the contrary, Closing must occur on the property for the respective Phases on or before the dates set forth below:

(a) Phase 1 Property Closing Deadline: December 31, 2019;

(b) Phase 2 Property Closing Deadline: December 31, 2021;

(c) Phase 3 Property Closing Deadline: December 31, 2022; and

(d) Phase 4 Property Closing Deadline: December 31, 2024.

If Closing on the Phase 1 Property does not occur on or before the Phase 1 Property Closing Deadline set forth above, either party shall have the right to terminate this Agreement as set forth in Section 3.2 above. If Closing on each of the Phase 2 Property, Phase 3 Property and/or Phase 4 Property does not occur on or before the respective Property Closing Deadline set forth above, then Developer shall, after the applicable notice and cure period set forth in Section 9.1(b), lose the rights to (i) acquire the Phase 2 Property, Phase 3 Property and/or Phase 4 Property, as applicable; (ii) develop the applicable Phase of the Project; and (iii) reimbursement from Pay-Go TIF Financing and/or CID Proceeds from Pay-Go CID Financing for the applicable Phase of the Project (as set forth on the Total Project Budget). In addition, if Developer shall fail to close on the properties for the various Phases described above by the respective Property Closing Deadlines, then the UG shall have the right to partner with other developers to develop the Phase 2 Property, Phase 3 Property and/or Phase 4 Property, as applicable, and apply the TIF Proceeds and/or CID Proceeds generated by the applicable Phase as incentives for use by the other developers; provided, however, that if the Retail CID Collection Period has not yet commenced, the UG shall have the option to terminate the Retail CID and/or change the date that the Retail CID Sales Tax is first imposed within the Retail CID. Notwithstanding anything to the contrary herein, none of the deadlines set forth in this Agreement shall apply to the Solar Field portion of the Project Site.

ARTICLE 6
CONSTRUCTION OF IMPROVEMENTS AND INFRASTRUCTURE IMPROVEMENTS

6.1 Architect. Developer shall select such architects, engineers and other design professionals and consultants as are necessary to provide construction documents and construction oversight services for the Improvements. All agreements respecting architectural and engineering services shall be between Developer and such Persons, and a copy of each such agreement shall be timely provided to the UG upon a request for the same.

6.2 Design and Plans and Specifications. Developer shall, as soon as practicable, provide the UG with plans and specifications for the Improvements (the "Plans and Specifications"), which Plans and Specifications shall include cost estimates for the Improvements, the design of which is compatible with the Development Plan, the Project Area 1 Plan (and the approved redevelopment project plans for each additional Project Area) and all Applicable Laws and Requirements. Developer recognizes, stipulates and agrees that the Plans and Specifications will be presented to and subject to approval by the appropriate Government Authorities (as defined in Annex 1) in accordance with Applicable Laws and Requirements. Without the prior written approval of the appropriate Government Authorities, there shall be no Material Changes (as defined in Annex 1) to the Plans and Specifications subsequent to the initial approval.

6.3 General Contractor and Construction Documents. Developer shall select one or more general contractors (the "General Contractor") for the Improvements. Developer represents that its construction documents relative to the Improvements (the "Construction Documents") will require and provide for (a) the design, development, construction, equipping and completion of the Improvements (or applicable portion thereof) in accordance with this Agreement, the Development Plan, the Project Area 1 Plan (and the approved redevelopment project plans for each additional Project Area), the Plans and Specifications and all Applicable Laws and Requirements; (b) a guaranteed maximum price, or other commercially reasonable payment structure acceptable to Developer; and (c) guaranteed Substantial Completion not later than the Completion Date (with such penalties for nonperformance as Developer reasonably deems necessary).

6.4 Implementation of Construction Documents. Developer agrees with the UG that it will: (a) perform its duties and obligations under the Construction Documents and (b) enforce the obligations of all other parties thereunder.

6.5 Terms and Requirements for Improvements. The contracts for all Improvements in the Project shall comply with all Applicable Laws and Requirements. Any Material Changes to the Improvements require the prior approval of the UG in accordance with Applicable Laws and Requirements. The UG, or its designee, shall have the right to inspect, observe, and oversee the construction of the Improvements in order to ascertain and determine the requirements of this Agreement have been met. Developer shall obtain the UG's approval of all change orders relating to the Improvements that result in a Material Change.

6.6 Responsibility for Design and Construction. Developer shall, subject to the terms of this Agreement, the Development Plan and the Project Area 1 Plan (and the approved redevelopment project plans for each additional Project Area), have the sole right, and the responsibility, to design, manage, construct and operate the Project. Developer shall receive no separate fee from the UG for acting as construction manager or developer of the Project.

6.7 Payment and Performance Bonds. If required by Applicable Laws and Requirements for the Improvements, the General Contractor shall be required under the Construction Documents to furnish and maintain in full force and effect performance and labor and material payment bonds in the full amount of the project cost, as set forth in the Construction Documents. The bonds shall be in form and substance and issued by a corporate surety reasonably satisfactory to Developer, Developer's lender, and the UG.

6.8 Permits and Reviews. Developer hereby recognizes, stipulates and agrees that: (a) in the design, construction, completion, use or operation of the Improvements, Developer, or its General Contractor, shall procure and pay for any and all permits, licenses or other forms of authorizations that are, from time to time, required by Applicable Laws and Requirements; and (b) nothing herein shall be construed as any release by the UG of the responsibility of Developer to comply with, and satisfy the requirements of, all Applicable Laws and Requirements.

6.9 Periodic Meetings with Developer. From the Effective Date until Substantial Completion of the Project, Developer hereby agrees to meet with the UG at such intervals as Developer, the UG and any such designee of the UG shall mutually agree or reasonably request, and not more frequently than monthly, to review and discuss the design, development and construction of the Improvements and the Project. Additionally, Developer agrees that it shall report monthly to the UG on its leasing prospects and activity for the Retail Improvements until such time as the Phase 2 Minimum Improvements have been completed and opened, and the UG agrees that all information shared regarding potential commercial users will be kept confidential, subject to the requirements of the Kansas Open Records Act and any other Applicable Laws and Requirements.

6.10 Commencement Dates. Developer hereby agrees that, subject only to Force Majeure, Developer shall:

(a) "Commence Construction" (as defined in the Annex of Definitions) of the Phase 1 Minimum Improvements of the Project as described in Section 2.5 on or before that date which is sixty (60) days after Closing on the Phase 1 Property;

(b) Commence Construction of Phase 2 Minimum Improvements of the Project as described in Section 2.6 on or before that date which is sixty (60) days after Closing on the Phase 2 Property;

(c) Commence Construction of Phase 3 of the Project as described in Section 2.7 on or before that date which is sixty (60) days after Closing on the Phase 3 Property; and

(d) Commence Construction of Phase 4 of the Project as described in Section 2.8 on or before that date which is sixty (60) days after Closing on the Phase 4 Property.

Each of the foregoing is a "Commencement Date" hereunder, and collectively, the "Commencement Dates".

6.11 Completion Dates. Developer further agrees that, subject only to Force Majeure, Developer shall:

(a) Substantially Complete the Phase 1 Minimum Improvements within twenty-four (24) months after the Closing on the Phase 1 Property;

(b) Substantially Complete the Phase 2 Minimum Improvements within thirty six (36) months after the Closing on the Phase 1 Property;

(c) Substantially Complete the Phase 3 Minimum Improvements within thirty six (36) months after the Closing on the Phase 3 Property; and

(d) Substantially Complete the Phase 4 Minimum Improvements within twenty-four (24) months after the Closing on the Phase 4 Property.

Each of the foregoing is a "Completion Date" and collectively, the "Completion Dates".

ARTICLE 7
USE AND OPERATION

7.1 Term. The Term of this Agreement shall commence on the Effective Date and shall expire on that date which is the later of: (a) the last day of the Retail CID Collection Period, or (b) the last day of the TIF Collection Period (the "Term"). Notwithstanding the foregoing or anything in this Agreement to the contrary, the UG hereby agrees that Developer may terminate this Agreement by thirty (30) days prior written notice to the UG at any time during the Term of this Agreement after completion of the Minimum Improvements. Upon any such termination by Developer, the parties hereby agree that the UG may, in its discretion, terminate: (i) reimbursements to Developer through Pay-Go TIF Financing, (ii) reimbursements to Developer through Pay-Go CID Financing, (iii) the Retail CID, and/or (iv) the TIF District.

7.2 Use and Operation. Developer covenants that at all times during the Term, it will, at its expense:

(a) Use the Project only for a first-class mixed use development, including industrial, distribution and manufacturing, hotel, warehouse, office, restaurant and retail uses, multi-family residential, and solar energy production (the "Permitted Uses"). Notwithstanding the foregoing, Developer hereby understands and agrees that (i) it shall be expressly prohibited to use, develop or allow the use of any portion of the Project Site other than Project Area 1 for industrial, distribution, warehouse and/or manufacturing uses, and (ii) it shall be expressly prohibited for Developer (or anyone operating by or through Developer) to sell or resell solar energy to tenants of the Project or other third parties.

(b) Conduct its business at all times in a dignified quality manner and in conformity with first-class industry standards and in such manner as to help establish and maintain a high reputation for the Project.

(c) Additionally, Developer hereby understands and agrees that the nature of the retail uses within the TIF District and Retail CID were critical to the UG's creation of same. Accordingly, the parties hereby agree that the following uses shall be prohibited within the TIF District and Retail CID, except as otherwise provided herein or with the prior written approval of the UG:

(i) Any use which is offensive by reason of odor, fumes, dust, smoke, noise, or pollution, or which constitutes a nuisance or is hazardous by reason of fire or explosion, or injurious to the reputation of the Project, as determined by the UG and Developer in their reasonable discretion.

(ii) A car wash facility (except where operated as part of a high-quality and reputable gas station or convenience store).

(iii) A facility primarily used as a storage warehouse operation, mini-warehouse, or freight terminal, except that this provision shall not be deemed to include the operation within the TIF District of the Food Service Center or loading docks attached to the Additional Commercial Buildings.

(iv) A facility for the assembling, manufacturing, refining, or smelting, drilling, mining, exploring or the producing of oil, gases or other minerals.

(v) Any use which involves the long-term raising, breeding, and keeping of any animals or poultry.

(vi) Salvage or reclamation yards and the storage of inoperative vehicles.

(vii) Any pawn shop or "second hand" store; provided, however, that the foregoing restriction shall not in any way prohibit the operation of high quality antique or so-called vintage stores.

(viii) Any mobile home park, camp ground, trailer court, or labor camp;

provided, however, that the foregoing restriction shall not be applicable to: (1) the temporary use of construction trailers during periods of construction, reconstruction or maintenance; or (2) trailers, delivery trucks or recreational vehicles of invitees, guests, and participants of the Project.

(ix) Any dumping, disposing, incineration or reduction of garbage; provided, however, that this prohibition shall not be applicable to garbage compactors located near the rear of any building within the TIF District and/or Retail CID, or elsewhere within the TIF District and/or Retail CID subject to the approved final Development Plan, the Project Area 1 Plan (and the approved redevelopment project plans for each additional Project Area) and in compliance with all Applicable Laws and Requirements.

(x) Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation (but this provision shall not restrict the absolute freedom of an owner of any portion within the TIF District and/or Retail CID to determine its own selling prices nor shall it preclude second-hand sales or the conduct of periodic seasonal sales, promotional or clearance sales, all of which are specifically permitted).

(xi) Any central laundry, or laundromat; provided, however, this prohibition shall not be applicable to a drop-off and pickup facility, or a central laundry or laundromat that complies with Environmental Regulations (as defined in Annex 1) and other Applicable Laws and Requirements.

(xii) Any automobile, truck or equipment dealerships of any kind, including without limitation, facilities with permanent sales, leasing or displays of any automobile, truck, trailer or recreational vehicle, except for in conjunction with promotions, displays, and other marketing activities (subject to Applicable Laws and Requirements).

(xiii) Any body shop repair operation, engine repair or vehicle repair facility for all vehicles, including motorcycles, unless ancillary to new vehicle sales (if such new vehicle sales are entirely interior or are approved by the UG under subparagraph (xii) above, provided however that a non-commercial vehicle repair building shall be allowed for use in connection with the Food Service Center in Project Area 1.

(xiv) Any mortuary or funeral home.

(xv) Any establishment selling or exhibiting pornographic materials or which sells drug-related paraphernalia or which exhibits either live or by other means to any degree, nude or partially clothed dancers or wait staff and/or any massage parlors or similar establishments; except that this provision shall not be deemed to preclude the operation within the TIF District and/or Retail CID of either a nationally or regionally recognized high-quality book store, or a drug store or pharmacy, or a department within a retail store offering for sale its usual or customary inventory of books, magazines and/or related pharmaceutical materials.

(xvi) A nightclub, which shall be deemed to mean any bar, restaurant, club or other establishment that derives seventy percent (70%) or more of its gross receipts from the sale of alcoholic beverages.

(xvii) Any store selling tobacco products, CBD products, electronic or vapor smoking devices or paraphernalia; provided that this restriction is not intended to prohibit a grocery store, drug store, high-quality and reputable gas station or convenience store, or other businesses where such products are sold but are not relevant to the business's primary source of revenue.

(xviii) Any hookah bars or other establishment with a primary focus on smoking.

(xix) Pay-day or title loan facilities.

(xx) Any seasonal tax preparation facilities; provided however, for purposes of clarity, nothing herein is intended to prohibit independent certified public accountants with office space in the Project.

(xxi) Any store or business that uses "street marketing" of any kind, including without limitation, inflatable signs or characters, people dressed in costume, holding signs or wearing sandwich-boards or otherwise advertising directly to pedestrians or vehicular traffic.

(xxii) Any precious metals facilities, except for and excluding high quality jewelry stores that purchase precious metals as an ancillary part of their business operations.

(xxiii) A flea market.

(xxiv) For a period commencing on the Effective Date and ending on that date which is ten (10) years after Developer closes on the Phase 3 Property, any restaurant or retail store which is located within one (1) mile of intersection of State Avenue and 47th Street (which restriction shall be deemed to include an additional location or a relocation of any such restaurant or retail store);

(xxv) Project Area 3 of the Project Site may only be used for (i) food service providers who may or may not be strategic business partners of Scavuzzo's, but who – along with Scavuzzo's – would help to create a "food service facility campus" at the Project Site, or (ii) for the uses described on **Exhibit N** attached hereto;

(xxvi) Any use not permitted by the applicable zoning ordinance of the UG.

The foregoing list of prohibited uses is not intended to supplant the requirements and/or prohibition of uses stated within the UG's Code of Ordinances. The UG's Commission may grant variances to the restrictions set forth in this Section 7.2(c) from time to time in its sole and absolute discretion. At the first Closing, or within thirty (30) days thereafter, Developer and the UG shall execute a document which shall memorialize the restrictions set forth in this Section 7.2(c) and record the same against the real property within the TIF District and/or Retail CID, which restrictions shall be effective and run with the land for the Term of this Agreement.

7.3 Development Plan. During the Term, Developer agrees that it shall perform and comply with each and all of the terms and provisions of the Development Plan and not suffer or permit any default or breach of any such terms or provisions of the Development Plan.

7.4 Maintenance and Use. During the Term, Developer shall cause the Project, and all parts thereof, the Project Site and all other of its property used or useful in the conduct of its business and operations on the Project Site, to be maintained, preserved and kept in good repair and working order and in a safe condition, consistent at all times with other first-class mixed use developments in the greater metropolitan Kansas City area, and will make all repairs, renewals, replacements and improvements necessary for the safe, efficient, and advantageous conduct of its business and operations on the Project Site. Developer may make additions, alterations and changes to the Project so long as such additions, alterations and changes are made in compliance with all Applicable Laws and Requirements, the Development Plan, and the Project Area 1 Plan (and the approved redevelopment project plans for each additional Project Area), and as long as the same do not materially adversely affect Developer's ability to perform its obligations under this Agreement. Developer agrees to set aside on its books such reasonable reserves for future maintenance and capital expenditures.

7.5 Compliance. Developer shall conduct its affairs and carry on its business and operations in such a manner as to comply with all Applicable Laws and Requirements, and to observe and conform to all valid orders, regulations or requirements (including, but not limited to, those relating to safety and health) of any Government Authorities applicable to the conduct of its business and operations and the ownership of the Project; provided, however, that nothing contained in this Agreement shall require Developer to comply with, observe and conform to any such law, order, regulation or requirement of any Government Authorities so long as the validity thereof shall be contested by Developer in good faith by appropriate proceedings, and provided that Developer shall have set aside on its books adequate reserves in accordance with GAAP or secured adequate bonding with respect to such contest and such contest shall not materially impair the ability of Developer to meet its obligations under this Agreement. Developer agrees to promptly pay any and all fees and expenses associated with any safety, health or other inspections required under this Agreement or imposed by Applicable Laws and Requirements, unless contested in good faith with the assurances provided in the preceding sentence.

7.6 Payment of Taxes and Other Charges. During the Term, Developer and each successor owner within the Project shall pay or cause to be paid as they become due and payable all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon parcels owned by the Developer or upon any income therefrom, including, but not limited to, any taxes, assessments, or other governmental charges levied, assessed or imposed on the Project, the Project Site, and/or the Improvements. Ad valorem property taxes shall be due in arrears, with half due on December 20th and half due on May 10th of each year in which such amount is required to be paid, and will be considered delinquent if not paid by such dates of each such year or as otherwise determined by Applicable Laws and Requirements. The UG's remedies for any failure to pay taxes, assessments and other governmental charges (including ad valorem property taxes) as set forth herein shall be limited to those remedies that are available to the UG in its capacity as a tax collection authority under Applicable Laws and Requirements. Notwithstanding the foregoing, Developer hereby understands and agrees that if Developer shall fail to timely pay its ad valorem property taxes for a parcel, then Developer's access to the IRB financing and disbursements from the Property Tax TIF Fund and Retail CID Fund for the Project may be suspended until such taxes are paid in full. Nothing herein is intended to restrict Developer's right to file property tax appeals as long as such taxes are paid under protest when the subject property taxes are due and owing during the pendency of an appeal.

7.7 Payment of Obligations. During the Term, Developer shall promptly pay or otherwise satisfy and discharge all of its obligations and all demands and claims against it as and when the same become due and payable, unless the validity, amount or collectability thereof is being contested in good faith or unless the failure to comply or contest would not materially impair its ability to perform its obligations under this Agreement nor subject any material part of the Project to loss or forfeiture.

7.8 Liens and Encumbrances. During the Term, except for a Permitted Mortgage (as defined in Annex 1), Developer shall not create or incur or permit to be created or incurred or to exist any mortgage, lien, security interest, charge or encumbrance upon the Project, or any part thereof, and shall promptly cause to be discharged, challenged or terminated all mortgages, liens, security interests, charges and encumbrances that are not Permitted Encumbrances or a Permitted Mortgage. Notwithstanding the foregoing, any Permitted Mortgage shall be subject to the terms and conditions of this Agreement, including without limitation, Section 7.2 of this Agreement.

7.9 Licenses and Permits. During the Term, Developer shall procure and maintain all licenses and permits, and allow all inspections and/or investigations required by Applicable Laws and Requirements or otherwise necessary in the operation of its business and affairs in, on or about the Project. Developer hereby acknowledges and agrees that WCLB staff may conduct inspections of the undermined portions of the Phase 1 Property every sixty (60) days. These inspections by WCLB shall comply with the provisions of Section 7.15 below.

7.10 Insurance. During the Term, Developer shall maintain or cause to be maintained insurance with respect to the portions of the Project which it owns and operations covering such risks that are of an insurable nature and of the character customarily insured against by organizations operating similar properties and engaged in similar operations (including but not limited to property and casualty, worker's compensation, general liability and employee dishonesty) and in such amounts as, in the reasonable judgment of Developer, are adequate to protect Developer, the UG and the Project, but in no event in an amount less than that required by the Insurance Specifications attached hereto as **Exhibit K**, and made a part hereof, or as otherwise required by the terms of the Transaction Documents. Each policy or other contract for such insurance shall: (i) name the UG as an additional insured (with respect to liability insurance and only in an amount equal to Five Hundred Thousand Dollars ($500,000)), and (ii) contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least thirty (30) days after written notice of cancellation to Developer and each other insured, additional insured, loss payee and mortgage payee named therein. The rights of the UG to any insurance proceeds shall be subject and subordinate to the rights of any Permitted Mortgagee (as defined in Annex 1).

7.11 Condemnation. If at any time during the Term, title to the whole or substantially all of the Improvements shall be taken in condemnation proceedings or by right of eminent domain, Developer, at its sole discretion, may terminate this Agreement as of the date of such taking. For purposes of this Section 7.11, "substantially all of the Improvements" shall be deemed to have been taken if the UG and Developer, each acting reasonably and in good faith, determine that the untaken portion of the Project, including the Parking Improvements, cannot be practically and economically used by Developer for the purposes and at the times contemplated by this Agreement.

7.12 Indemnity. Developer shall pay and indemnify and save the UG and its governing body members, directors, officers, employees and agents harmless from and against all loss, liability, damage or expense arising out of: (a) the acquisition of the Project Site; (b) the design, construction and completion of the Project by Developer; (c) the use or occupation of the Project by Developer or anyone acting by, through or under it; (d) damage or injury, actual or claimed, of whatsoever kind or character occurring after Closing, to persons or property occurring or allegedly occurring in, on or about the Project; (e) any breach, default or failure to perform by Developer under this Agreement following any notice and cure period provided herein; (f) any act by an employee of the UG (and WCLB) at the Project Site which are within or under the control of Developer or pursued for the benefit of or on behalf of Developer; and (g) any claims or challenges related to the legality of the approval of, or terms contained in the planning, zoning, platting or other governmental approvals necessary for this Project, this Agreement, the Development Plan, the Project Area 1 Plan (and the approved redevelopment project plans for each additional Project Area), the TIF District, the Retail CID, the formation of the TIF District and collection of the Incremental Real Property Taxes and the terms thereof, the formation of the Retail CID and imposition of the Retail CID Sales Tax and the terms thereof, and of the public financing structure contemplated by this Agreement. Developer shall also pay and indemnify and save the UG and its governing body members, directors, officers, employees and agents harmless of, from and against, all costs, reasonable counsel fees, expenses and liabilities incurred by them or by Developer in any action or proceeding brought by reason of any such claim, demand, expense, penalty or fine. If any action or proceeding is brought against the UG or its governing board members, directors, officers, employees or agents by reason of any such claim or demand, Developer, upon notice from the UG, covenants to resist and defend such action or proceeding on demand of the UG or its governing body members, directors, officers, employees or agents. Notwithstanding the foregoing, no party benefited by this indemnity shall be indemnified against liability for damage arising out of bodily injury to persons or damage to property caused by the said party's own respective willful and malicious acts or omissions or gross negligence. The foregoing covenants contained in this Section 7.12 shall be deemed continuing covenants, representations and warranties for the benefit of the UG and any successors and assigns of the UG, and shall survive the termination, satisfaction or release of this Agreement, or any other instrument with respect to liability or claims arising during the Term.

7.13 Prohibition on Sales, Etc. Except for Permitted Encumbrances and a Permitted Mortgage and as otherwise provided herein, during the Term, Developer will not, without the prior written consent of the UG, which will not be unreasonably withheld: (a) assign, sell, lease, mortgage or otherwise transfer the Project Site, the Improvements or equipment that comprise the Project or any part thereof or any direct interest therein; (b) merge with or into another corporation or sell or transfer to another corporation substantially all of its assets; or (c) assign this Agreement. Any such assignment, sale, lease, mortgage, merger or other transfer which is consented to by the UG shall be an "Approved Assignment" and the assignee, purchaser, lessee, mortgagee or transferee shall be an "Assignee". The UG shall have the right to grant or withhold its consent to any of the aforesaid in its reasonable discretion after inquiry and delivery of information to the UG as to whether the proposed Assignee has sufficient financial wherewithal and experience to successfully complete and operate the Project according to the terms hereof (or, if applicable, to the portion of the Project related to the portion of the Project Site involved). If there is an Approved Assignment, the Assignee shall assume and agree to pay and perform each and all of the terms and provisions hereof as it relates to the Project and the Project Site (or, if applicable, to the portion of the Project and Project Site involved) by entering into an Acknowledgement and Assumption Agreement in the form set forth on **Exhibit M**, which shall be recorded against the Project Site, at which time the Developer will be released from any and all obligations hereunder related to that portion of the Project Site if and only to the extent the Assignee fully assumes all such obligations. Notwithstanding the foregoing, the parties hereby agree as follows:

(a) Developer may, subject always to the terms of this Agreement, in the ordinary course of its business, but without the prior written approval of the UG, make leases of portions of the Retail Improvements, the Additional Commercial Buildings and the Office Building to reputable tenants;

(b) Developer may, subject always to the terms of this Agreement, in the ordinary course of its business, but without the prior written approval of the UG, sell or ground lease pad sites within Project Area 2 and Project Area 3 to end users who plan to develop and open on such pad sites within two (2) years of such sale or ground lease (the "End Users"), provided however, that (i) the End User shall assume and agree to pay and perform each and all of the terms and provisions hereof as it relates to the portion of the Project Site involved by entering into an Acknowledgement and Assumption Agreement in the form set forth on **Exhibit M**, which shall be recorded against the Project Site, and (ii) the End User will commit to complete and open their project on the pad site within two (2) years of closing. In the event of a transfer to an End User, following the recording of the Acknowledgement and Assumption Agreement, Developer will be released from all obligations hereunder related to that portion of the Project Site.

(c) Developer may, without further approval of the UG, but still subject to this Section 7.13, transfer all or a portion of the Project Site to a transferee entity provided that the Controlling Person or Entity of such transferee entity is also the Controlling Person or Entity of the Developer (an "Affiliate Transfer"); provided that such transferee entity: (i) assumes or guarantees all of Developer's obligations under this Agreement with respect to all portions of the Project transferred, and (ii) remains liable jointly and severally with Developer therefor (an "Affiliate Transfer"), unless the UG specifically agrees to release Developer in writing in its sole discretion.

(d) Developer shall deliver to the UG notice of any Affiliate Transfer within fifteen (15) days prior to such transfer. For purposes hereof, the term "Controlling Person or Entity" with respect to any entity means a Person or entity who, under Applicable Laws and Requirements, possesses all authority and power necessary to lawfully act on behalf of and bind such entity, over the objection of all other holders of any other interest in such entity, to fulfill the obligations of Developer under this Agreement.

(e) The parties acknowledge and agree that it is Developer's intent to transfer the Phase 1 Property (except for the Solar Field) to Scavuzzo's Foodie Campus, LLC, a Kansas limited liability company ("SFC"), or assign its right hereunder to acquire such land from the UG, prior to commencement of construction of the Food Service Center, at which time SFC will enter into and record against the Project Site an Acknowledgment and Assumption Agreement, and then lease the Food Service Center to Scavuzzo's. Upon completion of these contemplated transfers, each of Developer, Scavuzzo's (as long as Scavuzzo's owns or leases the Food Service Center) and SFC hereby agree and confirm that they would be jointly and severally liable to the UG for the performance of the obligations of "Developer" pertaining to the Food Service Center as set forth in this Agreement, as amended from time to time.

7.14 Utilities. During the Term, all utility and utility services used by Developer in, on or about the Project shall be paid (or caused to be paid) for by Developer, and Developer shall, at no cost to the UG, procure any and all permits, licenses or authorizations necessary in connection therewith.

7.15 Access. During the Term, Developer hereby recognizes, acknowledges and agrees that the UG, and its duly authorized representatives and agents (including the WCLB), shall have the right to enter the Project at reasonable times and upon reasonable notice, to substantiate compliance with this Agreement or, to the extent Developer has failed to cure any breach within applicable notice and cure periods, to cure any defaults under this Agreement. In exercising its rights hereunder, the UG shall use reasonable efforts to avoid unreasonable interference with the operation of the Project. Except as otherwise provided in this Agreement, the UG shall pay all costs it incurs under this provision. Nothing contained in this Section 7.15 shall restrict or impede the right of the UG to enter the Project pursuant to any Applicable Laws and Requirements.

7.16 Environmental Matters. Developer hereby agrees that by Closing on the acquisition of any portion of the Project Site, Developer shall assume responsibility for the costs of any remediation of any environmental conditions upon such portion of the Project Site. Further, Developer shall not store, locate, generate, produce, process, treat, transport, incorporate, discharge, emit, release, deposit or dispose of any Hazardous Substance (as defined in Annex 1) in, upon, under, over or from the Project in violation of any Environmental Regulation; shall not permit any Hazardous Substance to be stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited, disposed of or to escape therein, thereupon, thereunder, thereover or therefrom in violation of any Environmental Regulations; shall cause all Hazardous Substances to be properly removed therefrom and properly disposed of in accordance with all applicable Environmental Regulations; shall not install or permit to be installed any underground storage tank therein or thereunder in violation of any Environmental Regulation; and shall comply with all other Environmental Regulations which are applicable to the Project. Developer shall indemnify the UG against, shall hold the UG harmless from, and shall reimburse the UG for, any and all claims, demands, judgments, penalties, fines, liabilities, costs, damages and expenses, including court costs and attorneys' fees incurred by the UG (prior to trial, at trial and on appeal) in any action against or involving the UG, resulting from any breach of the foregoing covenants or from the discovery of any Hazardous Substance, in, upon, under or over, or emanating from, the Project, whether or not Developer is responsible therefor, it being the intent of Developer and the UG that the UG shall have no liability or responsibility for damage or injury to human health, the environment or natural resources caused by, for abatement and/or clean-up of, or otherwise with respect to, Hazardous Substances, which arises subsequent to Closing on a portion of the Project Site that was transferred at such Closing. The foregoing covenants contained in this Section 7.16 shall be deemed continuing covenants, representations and warranties for the benefit of the UG and any successors and assigns of the UG, and shall survive the termination, satisfaction or release of this Agreement, or any other instrument. Any amounts covered by the foregoing indemnification shall bear interest from the date incurred at the Prime Rate (as defined in Annex 1) plus two percent (2%), or, if less, the maximum rate permitted by law, and shall be payable on demand.

7.17 Power of the UG. Notwithstanding anything set forth herein to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent rights and powers of the UG to act in its capacity as a public body. Further, nothing herein shall relieve Developer from complying with all Applicable Laws and Requirements.

ARTICLE 8
SPECIAL PROVISIONS

8.1 Special Agreements of Developer.

(a) Developer recognizes, stipulates and agrees that it will actively market and advertise the Project in the Kansas City Metropolitan area and regionally.

(b) During the Term, Developer agrees to actively participate in the civic, charitable, educational, philanthropic and economic development of the Kansas City, Kansas/Wyandotte County community in activities of its choice. Without limiting the generality of the foregoing, Developer specifically agrees that during the Term, Developer shall be an active, dues-paying member in good standing with the KCK Area Chamber of Commerce and the Wyandotte Economic Development Council. Developer further agrees to encourage its tenants and transferees to join and become dues-paying members of the Wyandotte Economic Development Council.

8.2 LBE/MBE/WBE Employment Opportunity Goals. Developer agrees to use its "Best Efforts" to comply with the goals set forth on **Exhibit L** (as the term "Best Efforts" is defined therein), attached hereto and made a part hereof, in order to identify and provide employment opportunities for local businesses and contractors, women and local minority owned businesses.

ARTICLE 9
DEFAULT AND REMEDIES

9.1 Default Provisions. Developer shall be in default under this Agreement if:

(a) Developer fails to make any of the payments of money required by the terms of this Agreement or any of the Transaction Documents, and Developer fails to cure or remedy the same within twenty (20) days after the UG has given Developer written notice specifying such default; or

(b) Developer fails to keep or perform any covenant or obligation herein contained on Developer's part to be kept or performed, and Developer fails to remedy the same within sixty (60) days after the UG has given Developer written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by Developer within such period and diligently pursued until the default is corrected; or

(c) Developer shall file a voluntary petition under any bankruptcy law or an involuntary petition under any bankruptcy law is filed against any such party in a court having jurisdiction and said petition is not dismissed within sixty (60) days; or Developer generally is not paying its debts as such debts become due; or Developer makes an assignment for the benefit of its creditors; or a custodian, trustee or receiver is appointed or retained to take charge of and manage any substantial part of the assets of Developer and such appointment is not dismissed within sixty (60) days; or any execution or attachment shall issue against Developer whereupon the Project, or any part thereof, or any interest therein of Developer under this Agreement shall be taken and the same is not released prior to judicial sale thereunder (each of the events described in this subparagraph being deemed a default under the provisions of this Agreement); or

(d) Developer breaches the representations and warranties set forth in this Agreement and fails to cure or correct same within fifteen (15) days following Developer's receipt of written notice from the UG specifying such breach.

In the event of such default, the UG may take such actions, or pursue such remedies, as exist hereunder, or at law or in equity, and Developer covenants to pay and to indemnify the UG against all reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of the UG in connection with the enforcement of such actions or remedies, provided that the UG is the prevailing party in such actions.

9.2 Rights and Remedies. Upon the occurrence and continuance of a Developer default, subject to any applicable notice and cure periods as described in Section 9.1 above, the UG shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law (except that with respect to Developer defaults related to the failure to meet redevelopment project plan filing deadlines, acquire land from the UG, commence construction, or complete construction, this Section shall not apply and the specific remedies provided in this Agreement for any such defaults, including but not limited to those in Section 2.4, 2.5, 2.6, 2.7, 2.8, 4.2(g), and 5.1, shall apply):

(a) Whenever any default by Developer shall have occurred and be continuing, subject to applicable cure periods as set forth above, the UG may: (i) refuse to approve any further Certificate of Expenditures or make any further reimbursements of TIF Eligible Expenses and/or CID Eligible Expenses unless and until such default is cured by the Developer; (ii) refuse to approve any further IRB financing; (iii) terminate Developer's access to the Pay-Go TIF Financing; (iv) terminate the Retail CID, the Retail CID Sales Tax, and/or Developer's access to the Pay-Go CID Financing; (v) reduce the TIF Cap and/or CID Proceeds available to Developer; (vi) terminate this Agreement; and/or (vii) use any remedies provided to the UG under the Transaction Documents. The rights and remedies reserved by the UG hereunder and those provided by law shall be construed as cumulative and continuing rights, no one of which shall be exhausted by the exercise of any one or more of such rights or remedies on any one or more occasions.

(b) The UG may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the specific performance of the duties and obligations of the Developer as set forth in this Agreement, to enforce or preserve any other rights or interests of the UG under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the UG resulting from such Developer default.

(c) In the event of such default by Developer, the UG may take such actions, or pursue such remedies, as exist hereunder or at law or in equity and Developer covenants to pay and to indemnify the UG against all reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of the UG in connection with the enforcement of such actions or remedies, provided that the UG is the prevailing party as determined by a court with jurisdiction over the matter.

(d) The rights and remedies reserved by the UG hereunder and those provided by law shall be construed as cumulative and continuing rights, no one of which shall be exhausted by the exercise of any one or more of such rights or remedies on any one or more occasions. If a default by Developer occurs under this Agreement and is continuing, the UG may take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance by Developer of any provision of this Agreement. The UG shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. Failure by the UG to enforce any such rights shall not be deemed a waiver thereof.

(e) Notwithstanding the foregoing or anything in this Agreement to the contrary, the parties hereby expressly acknowledge and agree that, under no circumstances, will Developer ever be liable for any remote or consequential damages including without limitation lost tax revenues, arising out of or in any way related to this Agreement.

(f) Other than in the case of an Affiliate Transfer, following the transfer of a portion of the Project Site pursuant to the terms of Section 7.13 hereof, including the recording of an Acknowledgment and Assumption Agreement against the Project Site, a default under an Acknowledgment and Assumption Agreement shall not be a default under this Agreement with respect to Developer and thus Developer’s rights under this Agreement, including, without limitation, the right to collect TIF Proceeds and CID Proceeds, shall not be affected. Notwithstanding the foregoing, Developer hereby understands and agrees that it shall in all cases remain fully responsible for the construction commencement and completion deadlines set forth in this Agreement and Developer understands and agrees that all of the UG's rights, remedies and the other consequences for failure to construct and complete the Improvements described in this Agreement shall remain in full force and effect.

9.3 Default by the UG. The UG shall be in default under this Agreement if the UG fails to keep or perform any covenant or obligation herein contained on the UG's part to be kept or performed, and the UG fails to remedy the same within thirty (30) days after Developer has given the UG written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the UG within such period and diligently pursued until the default is corrected. If a default by the UG occurs under this Agreement and is continuing, Developer may take whatever action at law or in equity as may appear necessary or desirable, in Developer's discretion, to enforce performance and observance by the UG of any provision of this Agreement; provided, however, that the UG's liability for monetary amounts shall be limited to the actual amount, if any, in question, and under no circumstances shall the UG be liable for any remote or consequential damages. Developer shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceedings in equity.

In the event of such default, Developer may take such actions, or pursue such remedies, as exist hereunder or at law or in equity; and if Developer is the prevailing party in an action to enforce its remedies hereunder, Developer shall be entitled, subject to Applicable Laws and Requirements, to reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of Developer in connection with the enforcement of such actions or remedies.

ARTICLE 10
MISCELLANEOUS

10.1 Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

10.2 Force Majeure. In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of acts of God, strikes, lockouts, unavailability of sufficient trade laborers, failure of power or other insufficient utility service, riots, insurrection, environmental remediation required by the appropriate Government Authorities, discovery of cultural, archeological or paleontological resources or endangered species, any lawsuit seeking to restrain, enjoin, challenge or delay construction, failure of the UG to timely approve the Plans and Specifications, the Construction Documents, war, terrorism or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement ("Force Majeure"), then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section10.2 shall not be applicable to delays resulting from the inability of a party to obtain financing or to proceed with its obligations under this Agreement because of a lack of funds.

10.3 Covenants of Parties.

(a) Representations and Warranties of Developer. Developer represents and warrants to the UG as follows:

(i) Organization. Developer is a Developer limited liability company duly formed and validly existing under the laws of the state of its formation. Developer is duly authorized to conduct business in each other jurisdiction in which the nature of its properties or its activities requires such authorization. Developer shall (1) preserve and keep in full force and effect it's corporate or other separate legal existence and (2) remain qualified to do business and conduct its affairs in the State and each jurisdiction where ownership of its property or the conduct of its business or affairs requires such qualification.

(ii) Authority. The execution, delivery and performance by Developer of this Agreement are within Developer's powers and have been duly authorized by all necessary action of Developer.

(iii) No Conflicts. Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof, will contravene the organizational documents of Developer or any provision of law, statute, rule or regulation to which Developer is subject, or to any judgment, decree, license, order or permit applicable to Developer, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of any indenture, mortgage, deed of trust, agreement or other instrument to which Developer is a party, by which Developer is bound, or to which Developer is subject.

(iv) No Consents. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Governmental Authority or regulatory body or third party is required for the due execution and delivery by Developer of this Agreement. Other than approvals that may be required for the construction and operation of the Solar Fields, no consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Governmental Authority or regulatory body or third party is required for the performance by Developer of this Agreement or the consummation of the transactions contemplated hereby except for zoning, building and other customary permits to be obtained from the UG or other governmental units.

(v) Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of Developer, enforceable against Developer in accordance with the terms hereof.

(b) Representations and Warranties of the UG.

(i) Authority. The execution, delivery and performance by the UG of this Agreement are within its powers and have been duly authorized by all necessary action.

(ii) No Conflicts. Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof, will contravene the ordinances, rules, regulations of the UG or the laws of the State nor result in a breach, conflict with or be inconsistent with any terms, covenants, conditions or provisions of any indenture, agreement or other instrument by which the UG is bound or to which the UG is subject.

(iii) No Consents. Except as set forth in Section 3.1(a)(iii)-(v), (b)(iii)-(v), (c)(iii)-(v) and (d)(iii)-(iv), no consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authority or regulatory body or third party is required for the due execution and delivery by the UG of this Agreement. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authorities or regulatory body or third party is required for the performance by the UG of this Agreement or the consummation of the transactions contemplated hereby.

(iv) Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of the UG enforceable against the UG in accordance with its terms.

10.4 Amendments. This Agreement may be amended, changed or modified only by a written agreement duly executed by the UG and Developer.

10.5 Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State.

10.6 Invalidity of Any Provisions. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

10.7 Headings. The Article and Section headings shall not be treated as a part of this Agreement or as affecting the true meaning of the provisions hereof.

10.8 Execution of Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Hand signatures transmitted by electronic mail in portable document format (PDF) or similar format shall also be permitted as binding signatures to this Agreement.

10.9 Time. Time is of the essence in this Agreement.

10.10 Consents and Approvals. Wherever in this Agreement it is provided that the UG or Developer shall, may or must give its approval or consent, the UG or Developer shall not, unless specifically herein provided otherwise, unreasonably withhold, condition, delay or refuse to give such approvals or consents. It is agreed, however, that the sole right and remedy for Developer or the UG in any action concerning the other's reasonableness will be action for declaratory judgment and/or specific performance, and in no event shall either such party be entitled to claim damages of any type or nature in any such action.

10.11 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes if (i) delivered by nationally recognized overnight delivery service; (ii) delivered by electronic mail (with follow up within two (2) business days by United States Mail or by nationally recognized overnight delivery service); or (iii) delivered in person, in each case if addressed to the parties set forth below:

The Unified Government Clerk
The Unified Government of Wyandotte County/Kansas City, Kansas
701 North 7th Street, Suite 323
Kansas City, Kansas 66101
Telephone: (913) 573-5260
Email: bcobbins@wycokck.org

with a copy to:

Kenneth J. Moore, Esq.
Chief Counsel
The Unified Government of Wyandotte County/Kansas City, Kansas
701 North 7th Street, Suite 961
Kansas City, Kansas 66101
Telephone: (913) 573-5060
Email: kjmoore@wycokck.org

And a copy to:

Douglas G. Bach
County Administrator
Unified Government of Wyandotte County/Kansas City, Kansas
701 North 7th Street, 9th Floor
Kansas City, Kansas 66101
Telephone: (913) 573-5030
Email: dbach@wycokck.org

And a copy to:

Todd A. LaSala, Esq.
Stinson Leonard Street LLP
1201 Walnut Street, Suite 2900
Kansas City, Missouri 64106
Telephone: (816) 842-8600
Email: todd.lasala@stinson.com

and to Developer at:

KC Foodie Park, LLC
6550 Kansas Avenue
Kansas City, KS 66111
Attn: Richard Scavuzzo
Telephone: (816) 806-4301
e-mail: richard@scavuzzos.com

with a copy to:

Curtis J. Petersen, Esq.
Polsinelli, PC
6201 College Boulevard, Suite 500

Overland Park, Kansas 66211
Telephone: (913) 234-7458
Email: cpetersen@polsinelli.com

All notices given by: (i) nationally recognized overnight delivery service, or (ii) electronic mail, and followed up by regular United States mail or nationally recognized overnight delivery service in accordance with the above procedures, shall be deemed duly given one (1) business day after they are so delivered. All notices given in person shall be deemed duly given when delivered.

10.12 Real Estate Commissions. Each party hereby agrees to indemnify and hold harmless the other from and against: (i) any and all, losses, liens, claims, judgments, liabilities, reasonable costs, expenses or damages (including reasonable attorneys' fees and court costs) of any kind or character arising out of or resulting from any duty or responsibility to pay any commission or make any other payment by either Developer or the UG; or (ii) arising out of or resulting from any agreement, arrangement or understanding alleged to have been made by Developer or on its behalf, or by the UG or on its behalf, with any other broker, agent or finder in connection with this Agreement or the transactions contemplated hereby. Notwithstanding anything to the contrary contained herein, this Section 10.12 shall survive the Closing or any termination of this Agreement.

10.13 Entire Agreement. Together with the Exhibits hereto, this Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes and replaces all prior oral or written agreements concerning the subject matter hereof.

10.14 Run with the Land. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, successors and assigns and shall run with the land. However, Developer shall remain liable in the event of a violation of any of the terms or restrictions set forth in Sections 7.8 and 7.13. At Closing, the parties shall record a memorandum describing this Agreement in the land records of Wyandotte County, Kansas.

10.15 Electronic Storage. The parties agree that the transactions described herein may be conducted and related documents may be received, sent or stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall 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.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

UG:

THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By:____
David Alvey, Mayor/CEO

STATE OF KANSAS)
) SS.
COUNTY OF WYANDOTTE)

This instrument was acknowledged before me on ____________________, 2019, by David Alvey as Mayor/CEO of the Unified Government of Wyandotte County/Kansas City, Kansas.

Printed Name: ___________________________
Notary Public in and for said State
Commissioned in ____________ County

My commission expires
____

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CORE/0501343.0141/149644396.10

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

DEVELOPER:

KC FOODIE PARK, LLC, a Delaware limited liability company

By: ___________________________________
Printed Name: __________________________
Title: ________________________________

STATE OF _________________)
) SS.
COUNTY OF _______________)

This instrument was acknowledged before me on ____________________, 2019, by _________________________, as ____________________ of KC Foodie Park, LLC, a Delaware limited liability company.

Printed Name: __________________________
Notary Public in and for said State
Commissioned in ____________ County

My commission expires

____

JOINDER OF SCAVUZZO'S, INC.

SCAVUZZO'S, INC., a Kansas corporation d/b/a **SCAVUZZO'S FOOD SERVICE COMPANY** ("Scavuzzo's"), hereby joins in this Agreement for the limited purpose of joining in Developer's obligations pertaining to Project Area 1 following completion of the Food Service Center, and Scavuzzo's hereby agrees to be jointly and severally liable with Developer for the performance of the obligations of "Developer" pertaining to Project Area 1 as set forth in this Agreement, as amended from time to time.

SCAVUZZO'S, INC., a Kansas corporation d/b/a **SCAVUZZO'S FOOD SERVICE COMPANY**

By: ___________________________________
Printed Name: __________________________
Title: _________________________________

STATE OF ________________)
) SS.
COUNTY OF ______________)

This instrument was acknowledged before me on ____________________, 2019, by _________________________, as ____________________ of Scavuzzo's, Inc., a Kansas corporation d/b/a Scavuzzo's Food Service Company.

Printed Name: ___________________________
Notary Public in and for said State
Commissioned in ____________ County

My commission expires

____

ANNEX 1
DEFINITIONS

"Additional Commercial Buildings" means a range of approximately 15,000 to 45,000 square feet of office and/or retail buildings to be located within the Phase 3 Property of the Project Site, as described in Recital A and Section 2.2(d).

"Additional Property" means that certain real property to the north and west of the Project Site that is included within the TIF District but is not included within any conveyance or development obligations contemplated by this Agreement, as described in Recitals C and E.

"Affiliate" means any person, entity or group of persons or entities which controls Developer, which Developer controls or which is under common control with Developer. As used herein, the term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise. However, the parties understand and agree that the term "Affiliate" shall not include passive investors or capital partners without day to day operational control of the Project.

"Affiliate Transfer" means a transfer by Developer of all or a portion of the Project Site, and/or all or any portion of Developer's rights and/or obligations under this Agreement, to a transferee entity whose Controlling Person or Entity is also the Controlling Person or Entity of the Developer, as described in Section 7.13(a).

"Agreement" means this Development Agreement by and between the UG and Developer.

"Alternative TIF Fund" means the separate fund and account that the UG will establish to collect portions of the TIF Proceeds to be diverted if Developer fails to complete and open the Phase 2 Minimum Improvements, as described in Section 4.2(d)(iii).

"Amended District Plan" means the district plan for the TIF District set forth in the Amended TIF District Ordinance, as described in Recital E.

"Amended TIF District Ordinance" means Ordinance No. O-_____-19 adopted by the UG on _______________, 2019, as described in Recital E and a copy of which is attached hereto as **Exhibit B**.

"Applicable Laws and Requirements" shall mean any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by government authorities, and all requirements of any insurers. Applicable Law and Requirements shall include, without limitation, the Development Plan, the Kansas Cash Basis Law (K.S.A. 10-1100 *et seq.*) and Budget Law (K.S.A. 75-2935 *et seq.*).

"Approved Assignment" means any assignment, sale, lease, mortgage, merger or other transfer which is consented to by the UG pursuant to Section 7.13.

"Assignee" means the assignee, purchaser, lessee, mortgagee, or transferee of an Approved Assignment pursuant to Section 7.13.

"Base Year Assessed Valuation" means the assessed valuation of all real properties within the boundaries of the TIF District on December 21, 2006 (the date the TIF District was established), as described in Section 4.2(a).

"BPU" means the Kansas City Board of Public Utilities.

"Certificate of Expenditures" means those certain certificates submitted by Developer for reimbursement of TIF Eligible Expenses from Pay-Go TIF Financing and/or reimbursement of CID Eligible Expenses from Pay-Go CID Financing, as described in Section 4.7(a) and the form of which is attached hereto as **Exhibit J**.

"CID" or "CIDs" means community improvement district(s) established by the UG pursuant to the CID Act and this Agreement.

"CID Act" means K.S.A. 12-6a26 *et seq.*, as amended.

"CID Eligible Expenses" means those certain Project Costs identified in the Total Project Budget as "CID Project Costs", which is attached as **Exhibit I**, and are eligible for payment or reimbursement pursuant to the CID Act, as described in Section 4.3.

"CID Petition" means that certain petition to be submitted by Developer to request the formation of the Retail CID, as described in Recital H.

"Closing" means the date on which Developer shall close on the acquisition of the Phase 1 Property, Phase 2 Property, Phase 3 Property and/or Phase 4 Property, as applicable, as described in Section 5.1.

"Commence Construction" and "Commencement of Construction" shall mean the issuance of appropriate permits for the relevant Improvements and Developer's undertaking of a continuous program of construction for such Improvements, as described in Section 2.4(b).

"Commencement Date" or "Commencement Dates" means the date(s) by which Developer shall "commence construction" of the Phases of the Project, as described in Section 6.10.

"Completion Date" or "Completion Dates" means the applicable date(s) identified for completion of construction of the Phases of the Project, as described in Section 6.11.

"Construction Documents" means the Developer's construction documents relative to the Improvements, as described in Section 6.3.

"Controlling Person or Entity" means a person or entity who, under Applicable Laws and Requirements, possesses all authority and power necessary to lawfully act on behalf of and bind such entity, over the objection of all other holders of any other interest in such entity, to fulfill the obligations of Developer under the Agreement, as described in Section 7.13(b).

"Deed" or "Deeds" means one or more quitclaim deeds by which the WCLB conveys the undermined portions of the Phase 1 Property to Developer, as described in Section 2.4.

"Developer" means KC Foodie Park, LLC, a Delaware limited liability company.

"Development Plan" means the plan for the Improvements agreed to by Developer and the UG, as described in Section 2.2.

"DOR" means the Kansas Department of Revenue.

"Due Diligence Period" means that certain period in which Developer shall complete its Investigations, as described in Section 2.4(a).

"Effective Date" means the date of this Agreement first above written.

"Environmental Regulation" means any and all present and future laws, statutes, ordinances, rules, regulations and orders of any Government Authorities having jurisdiction over the parties hereto or any portion of the Project Site and pertaining to the protection of human health, hazardous substances, pollution, or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and as the same may be further amended from time to time (hereinafter collectively called "CERCLA").

"Food Service Center" means an approximately 266,000 square foot (with potential for expansion) state-of-the-art, fully-automated warehouse and distribution facility for the distribution of Scavuzzo's and others' products, inclusive of approximately 34,000 square feet of first-class, industrial grade office space, as described in Recital A and Section 2.2(a).

"Force Majeure" is defined in Section 10.2.

"GAAP" means generally accepted accounting principles.

"General Contractor" means the general contractor(s) selected by Developer for the Improvements, as described in Section 6.3.

"Government Authority" or "Government Authorities" shall mean any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence.

"Hazardous Substance" means any substance that is defined or listed as a hazardous or toxic substance and which is regulated as such or may form the basis of liability under any present or future Environmental Regulation, or that is otherwise prohibited or subject to investigation or remediation under any present or future Environmental Regulation because of its hazardous, toxic, or dangerous properties, including, without limitation, (i) any substance that is a "hazardous substance" under CERCLA, and (ii) petroleum, natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), only to the extent that the constituents of such synthetic gas are released or threatened to be released into the environment.

"Improvements" means those certain improvements to be constructed in the Project, as described in Section 2.2 and generally depicted on **Exhibit G** attached hereto.

"Incremental Real Property Taxes" means that amount of Real Property Taxes collected from the real property within the TIF District that is in excess of the amount of Real Property Taxes collected from the Base Year Assessed Valuation of the real property within the TIF District as determined in accordance with the TIF Act, as described in Section 4.2(a).

"Initial Infrastructure" means all of the infrastructure improvements, including without limitation, sitework, sewer, stormwater and water main improvements, irrigation systems, sidewalks, drives and other pedestrian and vehicular thoroughfares which are necessary to support the Food Service Center, as described in Section 2.2(f).

"Insurance Specifications" means Developer's insurance requirements in connection with the Project, as described in Section 7.10 and more fully set forth in **Exhibit K**.

"Investigations" means the Developer's inspections of the Project Site, including the right to testing of same, as described in Section 2.4(a).

"IRB" means industrial revenue bond financing pursuant to K.S.A. 12-1740 *et. seq*.

"Material Changes" means any substantial change to any agreement, plan or other document referred to herein, which change would require changes to Developer's permits or approval of the appropriate government authorities or is required by Applicable Laws and Regulations.

"Minimum Improvements" means, collectively, the Phase 1 Minimum Improvements, Phase 2 Minimum Improvements, Phase 3 Minimum Improvements and Phase 4 Minimum Improvements.

"Office Building" means an approximately 60,000 square foot multi-tenant office building, as described in Recital A and Section 2.2(e).

"Original District Plan" means the district plan for the Original TIF District set forth in the Original TIF District Ordinance, as described in Recital D.

"Original Project Plan" means the Redevelopment Project Plan for the Midtown Redevelopment District, as described in Recital D.

"Original Project Plan Ordinance" means Ordinance No. O-29-07 adopted by the UG on March 22, 2007 to approve the Original Project Plan, as described in Recital D.

"Original TIF District" means the Midtown Redevelopment District established by the UG through the adoption of the Original TIF District Ordinance, as described in Recital C.

"Original TIF District Ordinance" means Ordinance No. O-139-06 adopted by the UG on December 21, 2006 to establish the Original TIF District, as described in Recital C.

"Other Infrastructure" means all of the infrastructure improvements necessary to support the Improvements in the various Phases of the Project, which were not otherwise provided by Developer in the Initial Infrastructure, as described in Section 2.2(g).

"Parking Improvements" means any parking improvements for the Project, as described in Section 2.2(h).

"Pay-Go CID Financing" means a method of financing pursuant to which certain CID Eligible Expenses are paid and/or reimbursed without notes or bonds, and the costs are reimbursed as CID Proceeds are deposited into the Retail CID Fund, as described in Section 4.3(d).

"Pay-Go TIF Financing" means a method of financing pursuant to which certain TIF Eligible Expenses are paid and/or reimbursed without notes or bonds, and the costs are reimbursed as TIF Proceeds are deposited into the Property Tax TIF Fund, as described in Section 4.2(d).

"Permitted Encumbrances" means any liens, restrictions, claims, easements, rights-of-way, encroachments, reservations, or other matters or encumbrances affecting the Phase 1 Property, Phase 2 Property Phase 3 Property and/or Phase 4 Property, which are acceptable to Developer in its sole discretion.

"Permitted Mortgage" means any mortgage placed on the Phase 1 Property, Phase 2 Property, Phase 3 Property and/or Phase 4 Property or any part thereof in connection with any construction or permanent financing of the Project.

"Permitted Mortgagee" means the holder of the Permitted Mortgage.

"Permitted Uses" means a first-class mixed use development, which may include industrial, distribution and manufacturing, warehouse, office, restaurant and retail uses, multi-family residential, and solar energy production; provided, however, that industrial, distribution, warehouse and/or manufacturing uses are limited to Project Area 1, as described in Section 7.2(a).

"Person" shall mean any natural person, firm, partnership, association, corporation, limited liability company, trust, entity, public body or government or other entity.

"Phase" or "Phases" means the multiple phases of construction of the Project, as described in Section 2.3.

"Phase 1" means the design, construction and development of (i) the Food Service Center, (ii) the Solar Field, and (iii) the Initial Infrastructure, and (iv) any Parking Improvements required to park the Food Service Center and Solar Field, as described in Section 2.3(a) and generally depicted on **Exhibit G** attached hereto.

"Phase 1 Minimum Improvements" means those certain Improvements that Developer is obligated to fully construct and complete in Phase 1 of the Project, as described in Section 2.5.

"Phase 1 Property" means the portion of the Project Site needed for Phase 1, as described in Section 2.4 and legally described on **Exhibit H** attached hereto.

"Phase 1 Property Closing Deadline" means the date by which Closing must occur on the Phase 1 Property, as more fully described in Section 5.1.

"Phase 2" means the design, construction and development of (i) the Retail Improvements, (ii) any Other Infrastructure not previously provided in the Initial Infrastructure, and (iii) any Parking Improvements required to park the Retail Improvements, all on the Phase 2 Property, as described in Section 2.3(b) and generally depicted on **Exhibit G** attached hereto.

"Phase 2 Minimum Improvements" means those certain Improvements that Developer is obligated to fully construct and complete in Phase 2 of the Project, as described in Section 2.6.

"Phase 2 Property" means the portion of the Project Site needed for Phase 2, as described in Section 2.4 and legally described on **<u>Exhibit H</u>** attached hereto.

"Phase 2 Property Closing Deadline" means the date by which Closing must occur on the Phase 2 Property, as described in Section 5.1.

"Phase 3" means the design, construction and development of (i) the Additional Commercial Buildings, (ii) any Other Infrastructure, and (iii) any Parking Improvements required to park the Additional Commercial Buildings, all on the Phase 3 Property, as described in Section 2.3(c) and generally depicted on **<u>Exhibit G</u>** attached hereto.

"Phase 3 Minimum Improvements" means those certain Improvements that Developer is obligated to fully construct and complete in Phase 3 of the Project, as described in Section 2.7.

"Phase 3 Property" means the portion of the Project Site needed for Phase 3, as described in Section 2.4 and legally described on **<u>Exhibit H</u>** attached hereto.

"Phase 3 Property Closing Deadline" means the date by which Closing must occur on the Phase 3 Property, as described in Section 5.1.

"Phase 4" means the design, construction and development of (i) the Office Building, (ii) any Other Infrastructure, and (iii) any Parking Improvements required to park the Office Building, all on the Phase 2 Property, as described in Section 2.3(d) and generally depicted on **<u>Exhibit G</u>** attached hereto.

"Phase 4 Minimum Improvements" means those certain Improvements that Developer is obligated to fully construct and complete in Phase 4 of the Project, as described in Section 2.8.

"Phase 4 Property" means the portion of the Project Site needed for Phase 4, as described in Section 2.4 and legally described on **<u>Exhibit H</u>** attached hereto.

"Phase 4 Property Closing Deadline" means the date by which Closing must occur on the Phase 4 Property, as described in Section 5.1.

"Plans and Specifications" means the plans and specifications for the Improvements, as described in Section 6.2.

"Private Funds" means private equity and debt used to pay the costs for the design, development and construction of the Project, as described in Section 4.1.

"Project" means the design, development, and construction of certain improvements on the Project Site for a first-class mixed use development, as described in Recital A and Sections 2.2 and 2.3.

"Project Area" or "Project Areas" means Project Area 1, Project Area 2, Project Area 3, and/or Project Area 4 of the TIF District, as described in Recital E.

"Project Area 1" means the Project Area of the TIF District consisting of the Food Service Center and the Solar Field, as described in Recital E and generally depicted on **<u>Exhibit C-2</u>** attached hereto.

"Project Area 1 Plan" means the Redevelopment Project Plan for Project Area 1 of the TIF District, as described in Recital F.

"Project Area 2" means the Project Area of the TIF District consisting of the Retail Improvements, as described in Recital E and generally depicted on **Exhibit C-2** attached hereto.

"Project Area 2 Plan Deadline" means the date by which Developer shall submit a redevelopment project plan for Project Area 2 to the UG, as described in Section 4.2(g)(i).

"Project Area 3" means the Project Area of the TIF District consisting of the Additional Commercial Buildings, as described in Recital E and generally depicted on **Exhibit C-2** attached hereto.

"Project Area 3 Plan Deadline" means the date by which Developer shall submit a redevelopment project plan for Project Area 3 to the UG, as described in Section 4.2(g)(ii).

"Project Area 4" means the Project Area of the TIF District consisting of the Office Building, as described in Recital E and generally depicted on **Exhibit C-2** attached hereto.

"Project Area 4 Plan Deadline" means the date by which Developer shall submit a redevelopment project plan for Project Area 4 to the UG, as described in Section 4.2(g)(iii).

"Project Costs" means the costs of acquiring, designing, developing, constructing and completing the Project, as described in Section 4.1 and more particularly set forth on **Exhibit I** attached hereto.

"Project Site" means that property legally described on **Exhibit A-1** and generally depicted on **Exhibit A-2**, as described in Recital A.

"Prime Rate" means the rate of interest announced from time to time by Security Bank of Kansas City, or any successor to it. If such bank, or any successor to it, ceases to announce a prime rate, the UG shall designate a reasonably comparable financial institution for purposes of determining the Prime Rate.

"Property Tax TIF Fund" means the separate fund and account established by the UG for collection of the Incremental Real Property Taxes collected within the TIF District, as described in Section 4.2(c).

"Public Financing Conditions" means the conditions precedent to the issuance and delivery to Developer of any public financing contemplated under the terms of the Agreement, as described in Section 3.1.

"Purchase Price" means the One Hundred Dollars ($100) to be paid by Developer to the UG at Closing for each of the Phase 1 Property, Phase 2 Property, Phase 3 Property and Phase 4 Property, as described in Section 2.4.

"Real Property Taxes" means all taxes levied on an ad valorem basis upon land and Improvements within the TIF District.

"Resolution of Intent" means that certain master resolution of intent indicating the UG's intention to grant to Developer the IRB financing, as described in Section 3.1(a)(iv), (b)(iv), (c)(iv) and (d)(iii).

"Retail CID" means the Project Site. The Retail CID is generally depicted on **Exhibit E-1** and legally described on **Exhibit E-2** attached hereto.

"Retail CID Administrative Fee" means the annual administrative fee for the Retail CID, as described in Section 4.3(f).

"Retail CID Collection Period" means the period of time in which the Retail CID Sales Tax is imposed and collected within the Retail CID, as described in Section 4.3(d)(i).

"Retail CID Fund" means the separate fund and account established by the UG for collection of the CID Proceeds collected within the Retail CID, as described in Section 4.3(c).

"Retail CID Ordinance" means the ordinance adopted by the UG to create the Retail CID, as described in Recital I. A copy of the Retail CID Ordinance shall be attached hereto as **Exhibit F** following approval by the UG.

"Retail CID Sales Tax" means the CID sales tax of one percent (1%) imposed within the Retail CID on the sale of tangible personal property at retail or rendering or furnishing of services which are taxable pursuant to the Kansas Retailers' Sales Tax Act (K.S.A. 79-3601 *et seq.*), as described in Recital I and Section 4.3(a).

"Retail Improvements" means approximately 12,000 square feet of neighborhood retail, entertainment, and/or restaurant uses across approximately three (3) pad sites, as described in Recital A and Section 2.2(b).

"Reversionary Interest" means the right of reversion in favor of the UG pertaining to the Phase 1 Property, Phase 2 Property, Phase 3 Property and Phase 4 Property in the event that Developer fails to meet the conditions set forth in Section 2.4(b).

"Reversionary Interest Notice" means the written notice of default provided by the UG to Developer in order to exercise the Reversionary Interest, as described in Section 2.4(b).

"Scavuzzo's" means Scavuzzo's, Inc., a Kansas corporation d/b/a Scavuzzo's Food Service Company.

"SFC" means Scavuzzo's Foodie Campus, LLC, a Kansas limited liability company.

"Solar Field" means an approximately 26 acre solar energy field designed to provide energy for the Food Service Center, as described in Recital A and Section 2.2(b).

"State" means the State of Kansas.

"Substantial Completion" means the stage in the progress of the construction of the Project, or as to any particular portion thereof, when construction is sufficiently complete so that the Project or such particular portion can be occupied or utilized for its intended use (which shall be evidenced by the receipt a temporary certificate of occupancy).

"Term" means the term of this Agreement as set forth in Section 7.1.

"TIF" means tax increment financing.

"TIF Act" means K.S.A. 12-1770 *et seq.*, as amended.

"TIF Administrative Fee" means the annual administrative fee for the TIF District, as described in Section 4.2(f).

"TIF Cap" means the limitation on TIF Proceeds available to Developer for reimbursement of TIF Eligible Expenses through Pay-Go TIF Financing, as described in Section 4.2(d)(ii).

"TIF Collection Period" means the period of time in which the Incremental Real Property Taxes is collected within the TIF District, as described in Section 4.2(d)(i).

"TIF District" means the Original TIF District, as amended by the Amended TIF District Ordinance, as described in Recital E. The TIF District is legally described on **Exhibit C-1** and generally depicted on **Exhibit C-2** attached hereto.

"TIF Eligible Expenses" means those certain Project Costs identified by Developer which may be reimbursed with TIF Proceeds if and to the extent that such Project Costs are for land acquisition, hard construction costs for site work and/or or infrastructure, identified as "TIF Project Costs" in the Total Project Budget, and eligible for payment or reimbursement pursuant to the TIF Act, as described in Section 4.2.

"TIF Proceeds" means the revenues received from the Incremental Real Property Taxes, as described in Section 4.2(b).

"TIF Project Area 1 Ordinance" means Ordinance No. O-_____-19 adopted by the UG on ________________, 2019 to approve the Project Area 1 Plan, as described in Recital F.

"Transaction Documents" means the lease, along with any bond trust indentures, bond purchase agreements, tax compliance agreements, financing agreements, and other similar documents executed and delivered by the parties in connection with the IRB financing.

"Total Project Budget" means the budget attached hereto as **Exhibit I**.

"UG" means the Unified Government of Wyandotte County/Kansas City, Kansas.

"UG Parties" means the UG and the WCLB, and their agents, officers, contractors and employees, as described in Section 2.4(a).

"WCLB" means the Wyandotte County Land Bank.

INDEX OF EXHIBITS

EXHIBIT A-1

Project Site – Legal Description

EXHIBIT A-2

Project Site – Map

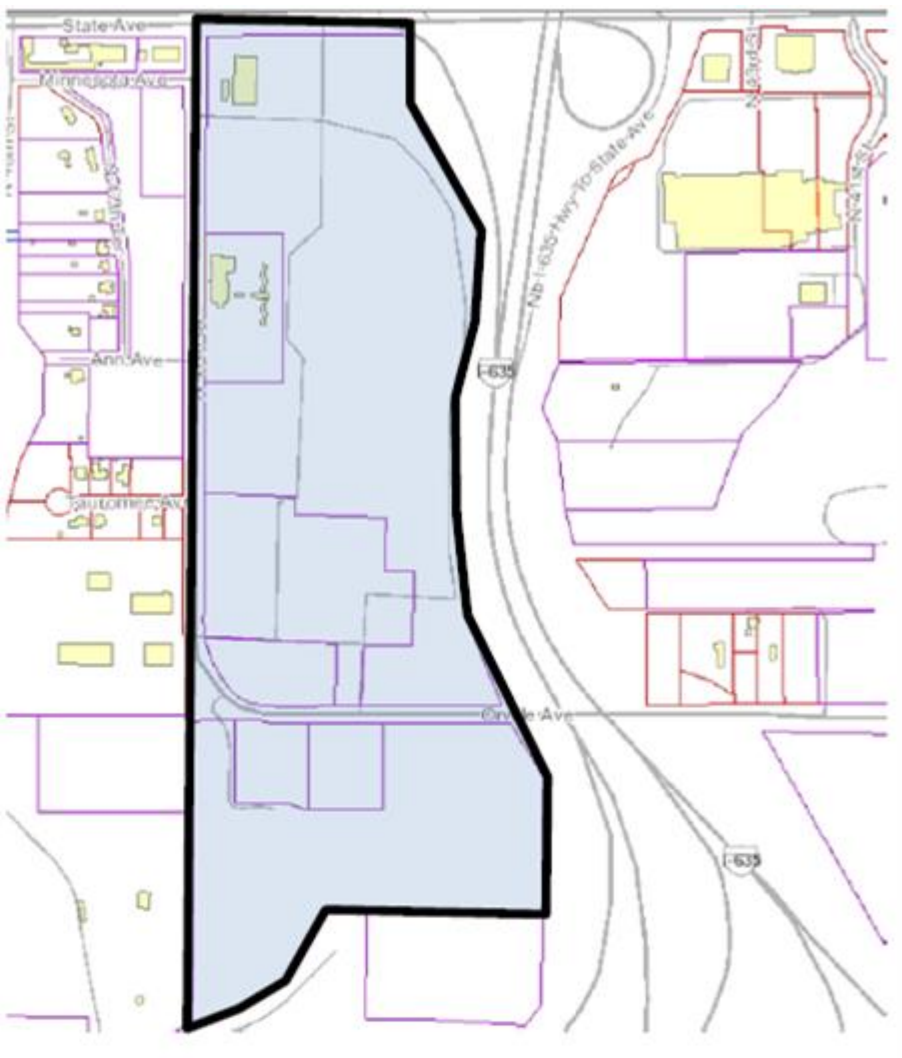


EXHIBIT B

Amended TIF District Ordinance

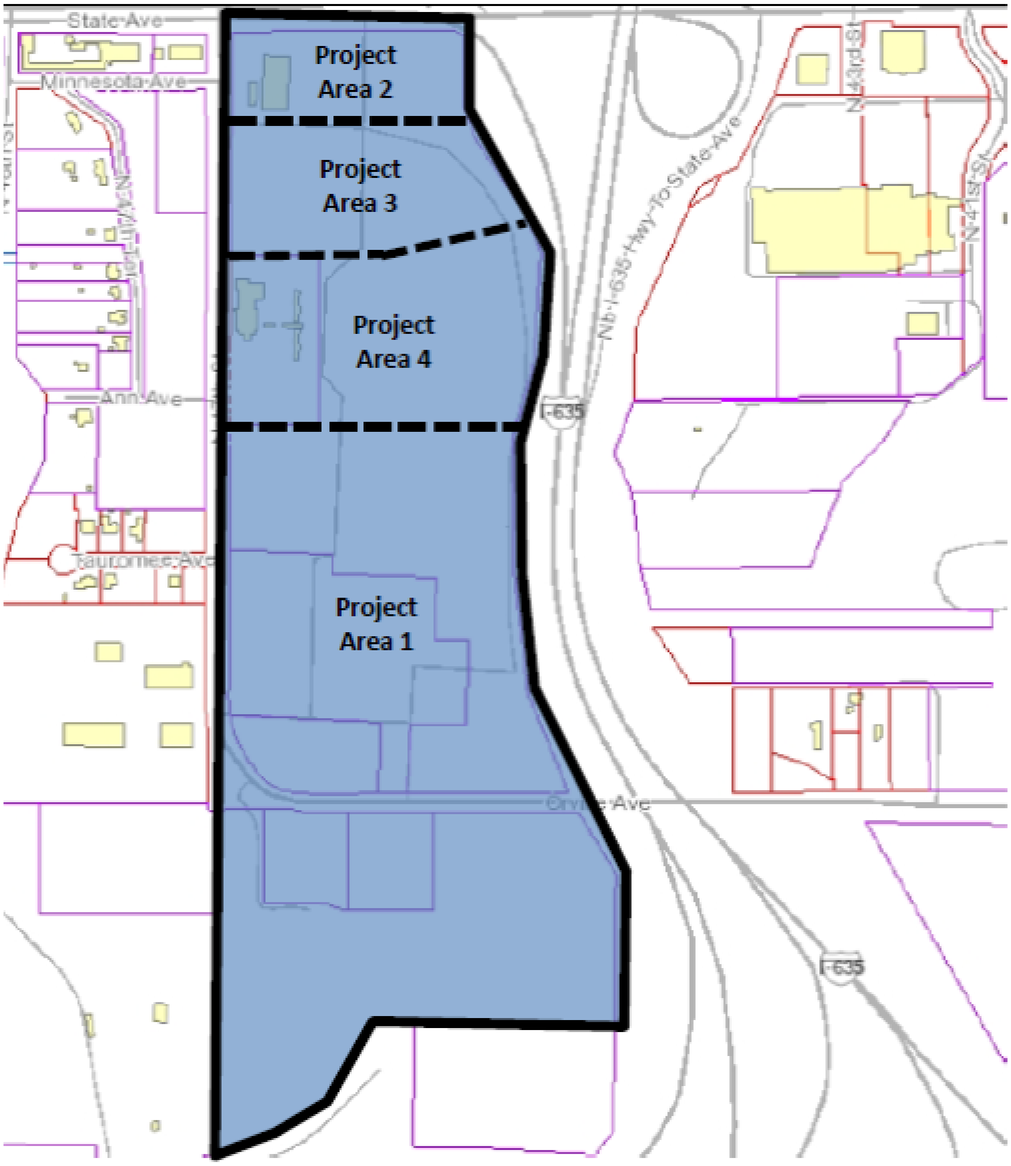
[To be attached.]

<u>EXHIBIT C-1</u>

TIF District – Legal Description

EXHIBIT C-2

TIF District – Map



<u>EXHIBIT D</u>

TIF Project Area 1 Ordinance

[To be attached.]

EXHIBIT E-1

Retail CID – Map

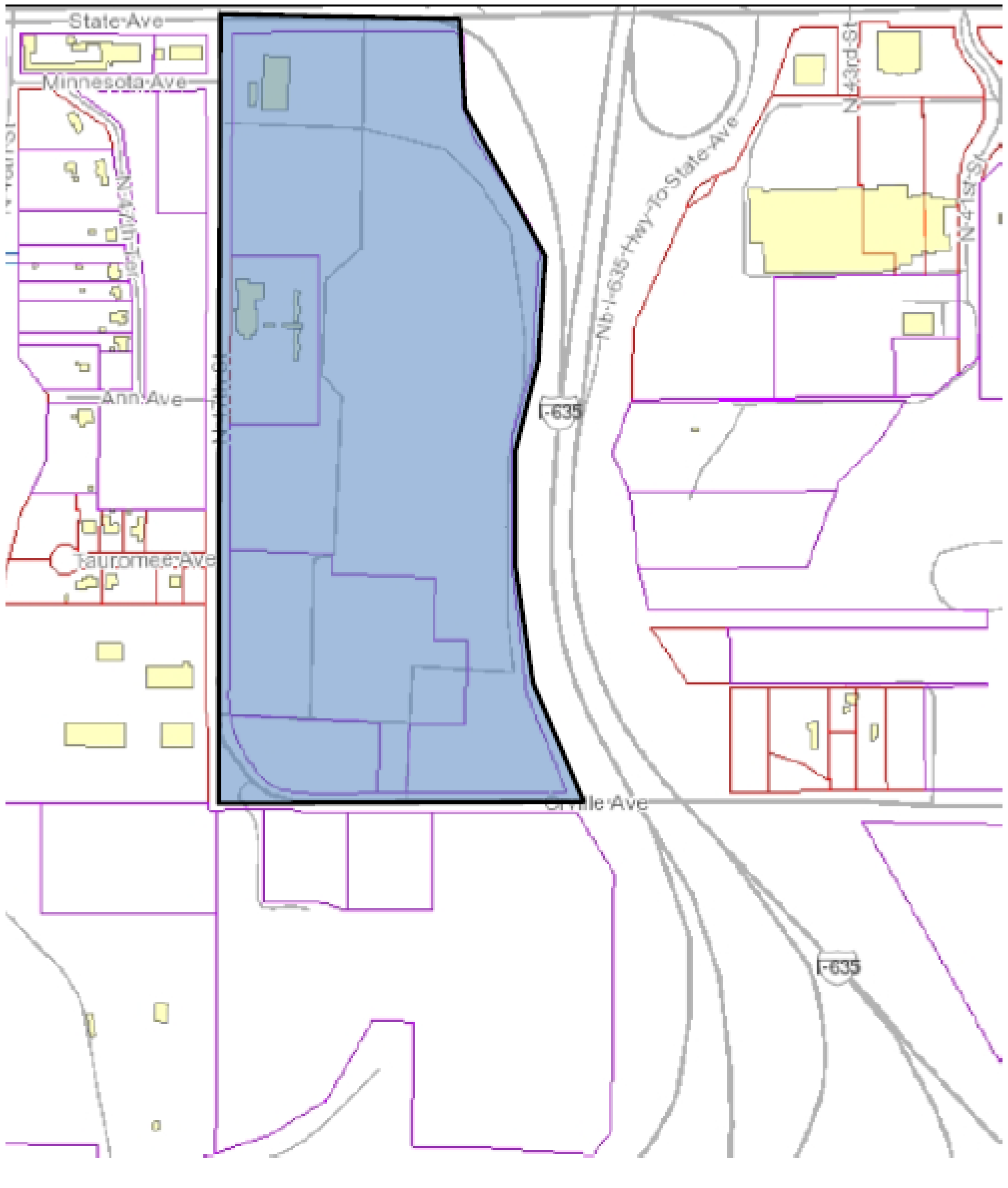


EXHIBIT E-2

Retail CID – Legal Description

EXHIBIT F

Retail CID Ordinance

[To be attached.]

EXHIBIT G

Improvements – Depiction

EXHIBIT H

Legal Descriptions of Phase 1 Property, Phase 2 Property and Phase 3 Property

EXHIBIT I

Total Project Budget

SCAVUZZO'S
SOURCES AND USES

Project Sources and Uses

	Project Cost*	Total	Projected TIF Reimbursed Costs	Projected CID Reimbursed Costs	Projected Developer Private Costs	Projected Third Party Costs
PA1	**Distribution/Office (Food Service Center)**					
	Land Acquisition	$ -				
	Sitework/Infrastructure*	$ 11,316,333	$ 9,675,201		$ 1,641,132	
	Building Construction	$ 27,171,618			$ 27,171,618	
	FF&E	$ 62,389,088			$ 62,389,088	
	Soft Costs/Other	$ 8,612,984			$ 8,612,984	
	Subtotal	$ 109,490,023	$ 9,675,201	$ -	$ 99,814,822	$ -
	**Includes sitework for solar park.*					
PA2	**Restaurant/Retail**					
	Land Acquisition	$ -				
	Sitework/Infrastructure	$ 1,950,000	$ 1,950,000			
	Building Construction and FF&E	$ 2,700,000		$ 585,044		$ 2,114,956
	Soft Costs/Other	$ 420,000				$ 420,000
	Subtotal	$ 5,070,000	$ 1,950,000	$ 585,044	$ -	$ 2,534,956
PA3	**Retail**					
	Land Acquisition	$ -				
	Sitework/Infrastructure	$ 2,000,000	$ 2,000,000			
	Building Construction and FF&E	$ 3,850,000		$ 2,000,000	$ 1,850,000	
	Soft Costs/Other	$ 1,400,000			$ 1,400,000	
	Subtotal	$ 7,250,000	$ 2,000,000	$ 2,000,000	$ 3,250,000	$ -
PA4	**4-Story Office**					
	Land Acquisition	$ -				
	Sitework/Infrastructure	$ 4,000,000	$ 3,000,000		$ 1,000,000	
	Building Construction and FF&E	$ 7,500,000			$ 7,500,000	
	Tenant Improvements	$ 3,900,000			$ 3,900,000	
	Soft Costs/Other	$ 3,000,000			$ 3,000,000	
	Subtotal	$ 18,400,000	$ 3,000,000	$ -	$ 15,400,000	$ -
	TOTAL PROJECT COSTS	**$140,210,023**	**$16,625,201**	**$2,585,044**	**$118,464,822**	**$2,534,956**
		Total	**Projected TIF Reimbursed Costs**	**Projected CID Reimbursed Costs**	**Projected Developer Private Costs**	**Projected Third Party Costs**
		% of Project Costs	12%	2%	84%	2%

EXHIBIT J

Form of Certificate of Expenditures

CERTIFICATE OF EXPENDITURES

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

Re: KC FOODIE PARK

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement for KC FOODIE PARK dated as of ______________, 2019 (the "Agreement") between the Unified Government and the Developer.

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

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

2. These Project Costs have been paid by the Developer, successors, assigns, tenants, or transferees and are reimbursable under the Agreement.

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

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

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

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

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

8. All of the Developer's representations set forth in the Agreement remain true and correct as of the date hereof.

Dated this ____ day of _________________, 20____.

KC FOODIE PARK, LLC, a Kansas limited liability company

By: ____________________________________
Name: __________________________________
Title: __________________________________

Approved for Payment this ____ day of ___________, 20_____:

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ___________________________________

Title: ___________________________________

SCHEDULE 1
TO
CERTIFICATE OF EXPENDITURES

Description of Project Costs	Cost	Payee	Designate as Redevelopment Project Costs

Total Costs:

EXHIBIT K

Insurance Specifications

1. Worker's Compensation. Developer may self-insure, to the extent allowed by applicable law. The self-insured retention shall be that which is standard in the industry. Developer will then purchase excess Worker's Compensation Insurance with statutory limits over the self-insured retention. If self-insurance is not available under applicable state law, coverage will be purchased in accordance with the statutory requirements.

2. Comprehensive General Liability. Developer will purchase and maintain with primary limits of $3,000,000.

3. Automobile Liability. Developer will purchase and maintain with primary limits of $1,000,000.

4. Excess Liability. Developer will purchase and maintain excess liability insurance in an amount not less than $5,000,000.

5. Special Perils Form Property Insurance. Developer will purchase on a replacement cost basis. Deductibles and limits will be standard to those in the industry, and the policy shall include an "Agreed Amount" endorsement. Earthquake and flood insurance, as well as fired vessel, boiler and machinery, and underground collapse, may be required by the UG as additional perils, but only to the extent required by Developer's lender for the Project.

EXHIBIT L

LBE/MBE/WBE Goals and Requirements

This Exhibit sets forth the guidelines for the utilization of local business, minority, and women enterprises and local resident, minority, and women participation and equal employment opportunity referenced in **Section 8.2** of the KC Foodie Park Development Agreement (the "**Agreement**") between the Unified Government of Wyandotte County/Kansas City, Kansas (the "**UG**") and KC Foodie Park, LLC, a Kansas limited liability company (the "**Developer**"). The parties agree as follows:

I. SCOPE

These procedures are applicable to the Construction of, and the Professional Services for (as such terms are defined hereof) the Project, including but not limited to all aspects of the construction of the Improvements and all related facilities, including labor, materials and supplies, and construction-related services, but not including: (i) Specialized Services; or (ii) legal, architectural and pre-construction consulting services already performed or contracted for prior to the Effective Date of the Agreement (as defined therein), which shall specifically be excluded from both the numerator and the denominator in determining whether the Construction and Professional Services goals set forth herein have been met.

II. DEFINITIONS

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

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

B. "**Construction**" means all aspects of the construction of the Improvements, all related facilities, and the Project, including labor, materials and supplies, and construction-related services, whether performed or contracted for by or on behalf of Developer; provided, however, "Construction" shall not include: (i) services performed or associated with tenant improvements or any services requested by tenants of the Project, provided that this exception shall only apply to tenants who are third parties unaffiliated with Developer; (ii) Specialized Services; (iii) Professional Services; or (iv) legal, architectural and pre-construction consulting services already performed or contracted for prior to the Effective Date of the Agreement.

C. "**Contractor**" means the Proposer selected by Developer for the design, development, or construction of the Project.

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

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

F. "**Minority Business Enterprise or MBE**" means a business of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and/or whose day-to-day management is under the control of a person who is a member of an American ethnic minority group including African-American, Asian-Indian, Asian-Pacific, Hispanic and Native American.

G. "**Professional Services**" means advisory or consulting activities including, but not limited to, architectural, engineering, legal, accounting, financial, marketing, environmental studies, and financial services contracted for by or on behalf of Developer for the design, development, and construction of the Project but specifically excluding: (i) professional services that have historically been sourced and performed at the holding company level by Developer (such as legal and accounting services, for example); (ii) Specialized Services; (iii) Construction; and (iv) legal, architectural and pre-construction consulting services already performed or contracted for prior to the Effective Date of the Agreement.

H. "**Proposer**" means a person who submits a proposal in response to a solicitation for proposals issued by Developer or one of its Contractors with respect to the design, development, or construction of the Project, or with respect to ongoing maintenance and operations of the Project.

I. "**Specialized Services**" means expertise, services, or products, the application of which are unique to the construction of the Project and which are only available through sole or limited source providers or national vendors. Specialized Services shall also include the services provided by the Contractors and designers who have been involved with and have previous experience on similar projects with Developer and which Developer has engaged or intends to engage to perform similar services for the Project.

K. "**Women Business Enterprise or WBE**" means a business of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and/or whose day-to-day management is under the control of one or more women who are U.S. citizens or legal resident aliens.

III. <u>DESIGN, DEVELOPMENT, AND CONSTRUCTION OF THE PROJECT</u>

A. GOALS FOR LBE/MBE/WBE PARTICIPATION.

1. Project Design, Development, and Construction Goals.

Developer will use its Best Efforts to meet the following goals based upon the total cost of Construction of, and Professional Services for, the Project and all related facilities undertaken by Developer, but not including Specialized Services. In no event shall Developer be required to incur higher costs as a result of its commitment to attempt to meet such goals. In the event Developer obtains bids for any aspect of the Project for which a bid by a Proposer qualifying as an LBE, MBE, or WBE is not the lowest or best bid, Developer shall not be required to meet the LBE/MBE/WBE participation percentage goals for that aspect of the Project. These goals are based upon a disparity study performed for the Kansas City Metropolitan Area for LBE, MBE, and WBE participation. These goals are not to act as quotas or set asides.

	Construction	Professional Services
LBE	18%	18%
MBE	15%	13%
WBE	7%	8%

It is the intent of the UG to give preference to the utilization of LBEs so long as all other factors relating to the award of an individual contract are equal. If the factors relating to an award of an individual contract are equal, Developer shall give preference to the utilization of LBEs over the utilization of MBEs and WBEs. The Developer shall strive to meet each individual goal listed.

2. <u>Contract Specific Goals.</u>

The parties agree that the goals are set forth for Construction of, and Professional Services for, the Project as a whole, excluding Specialized Services, and the UG will reasonably agree to different specific goals for specific contracts or portions of contracts to be awarded by Developer, when proposed by the Developer, relating to the Construction of the Project, based upon the availability of qualified LBEs and certified MBEs and WBEs to perform the specific scopes of work delineated in Developer's Project Utilization Plan (as described herein).

3. <u>Eligibility for Credit.</u>

a. Only LBE businesses that are qualified and/or MBE or WBE businesses that are certified or undergoing certification at the time of submittal of the subject bid or proposal and ultimately certified as MBEs or WBEs by the Kansas Department of Commerce, State of Missouri, Missouri Department of Transportation, City of Kansas City, Missouri, MidAmerica Minority Business Development Council, Women’s Business Enterprise National Council, or any other public or private entity reasonably acceptable to the UG and the Developer (each an "approved" business), may be counted towards the participation goals in Section III.A.1. above.

b. In the event that a contract has been awarded on the Project to an approved LBE/MBE/WBE business, and such LBE/MBE/WBE business later becomes unapproved prior to the completion and acceptance of all the work to be provided under such contract, then Developer shall nonetheless receive credit towards the goal for that the entire portion of work performed or services provided up to the point such business becomes unapproved.

4. <u>Construction Workforce.</u>

a. Recruitment and outreach. Developer will use its Best Efforts to employ and to ensure its Contractors employ Local Residents, minorities, and women in all aspects of the Construction of, and Professional Services for, the Project except for Specialized Services. These efforts shall include but not be limited to:

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

ii. working with local community organizations, minority and women's community organizations, and other appropriate organizations to seek qualified

Local Residents, minorities, and women (a list of these organizations may be provided by the UG upon request); and

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

Documentation of these and any other steps taken shall be submitted to the UG prior to the beginning of the bidding process.

b. **Employment Procedures.** Developer and its Contractors shall implement equal employment opportunity hiring and job action procedures as those terms are commonly understood.

B. DEVELOPMENT AND PROJECT UTILIZATION PLANS.

1. Submissions, Content, and Fulfillment of Project Utilization Plan.

a. Fourteen (14) calendar days before the solicitation of the first proposal for the Construction of part of the Project, which is issued by Developer after the execution of the Agreement, Developer will submit a Project Utilization Plan to the UG for review and approval. The Project Utilization Plan shall be on the form attached to this Exhibit as Attachment A or on another form provided or approved by the UG. This Project Utilization Plan shall set forth, to the best of Developer's knowledge: all categories of work that will be covered within solicitations that Developer or its Contractors intend to issue for all Construction and Professional Services providers necessary for the construction of the Project; an estimate of the dollar value of all work covered by these solicitations; an estimate of the dollar value of work within each identified work category; the dollar value of the work for each identified work category that is projected to be performed by LBEs, MBEs and WBEs; any known potential joint ventures with LBEs, MBEs, and WBEs within each identified work category; an overall schedule of all work projected to be performed related to the design, development, and construction of the Project, laid out sequentially over time; and the actions Developer intends to take, with respect to each of these solicitations, to make its Best Efforts to meet the goals set forth in Section III.A.1. of this Exhibit.

b. Developer, in the Project Utilization Plan, shall designate one person as the Project Manager to serve as the point of contact with the UG on all matters related to the Project Utilization Plan. Developer shall provide the Project Manager's name, physical office address, e-mail address, and phone number to the UG. The Project Manager shall be an individual with administrative authority with regard to enforcement of the stipulations located within this Exhibit.

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

i. Certified MBE and WBE prime Contractor Proposers may count their own participation toward a goal for which they qualify, and may divide their own participation between two goals, but their participation may not be double-counted. These prime Contractor Proposers shall receive credit towards the goals for the dollar value of the contract.

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

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

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

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

2. Evaluation of Project Utilization Plans.

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

b. Changes to the Project Utilization Plan after its initial submission to the UG shall be reviewed and approved or rejected by the UG within thirty (30) days following submission of the same by Developer, and such changes shall be deemed to be approved by the UG if not rejected within such thirty (30) day period.

C. CONTRACT AWARD COMPLIANCE PROCEDURES.

1. Solicitation Documents.

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

2. <u>Developer's Report of Solicitation Results.</u>

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

3. <u>UG Review of Developer's Report of Solicitation Results.</u>

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

b. For each Project Utilization Plan goal that is not achieved, Developer shall be deemed to have used "**Best Efforts**" to meet the Project Utilization Plan goals for construction and Professional Services set forth in Section III.A.1. of this Exhibit if Developer shall have taken substantially all the following actions:

i. Developer is seeking or has sought timely assistance of the UG to identify qualified LBEs, MBEs, and WBEs;

ii. Developer is advertising or has advertised contract opportunities in local, minority, and women media;

iii. Developer is providing or has provided reasonable written notice of opportunities and informational meetings to approved LBEs, MBEs, and WBEs;

iv. Developer is following up or has followed up initial solicitations of interest by contacting LBEs, MBEs, and WBEs;

v. Developer is segmenting or has segmented portions of the work to increase the likelihood of LBE/MBE/WBE participation, where feasible;

vi. Developer is providing or has provided interested LBEs, MBEs, and WBEs with timely and accurate information about the plans, specifications, requirements, deadlines, and bidding procedures of the contracts;

vii. Developer is negotiating or has negotiated in good faith with interested LBEs, MBEs, and WBEs, not rejecting them as unqualified without sound reasons, based on a thorough review of their capabilities and prior work histories;

viii. If applicable, Developer is seeking or has sought to educate and assist LBEs, MBEs, and WBEs in obtaining bonding, lines of credit, or insurance required to perform the contract; and

ix. Developer is working or has worked with local, minority, and women contracting, professional, civic, and community organizations, government officers, or any other organization or persons, as identified by the UG, that provide assistance in the recruitment of LBEs, MBEs and WBEs.

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

4. <u>Signed Contracts.</u>

Within twenty-one (21) working days of provision of the UG's evaluation of the Report to Developer, the Project Manager shall submit signed contracts with successful Proposers to the UG.

D. SUBCONTRACTOR RELATIONS.

1. <u>Documentation of Subcontracting Agreements.</u>

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

2. <u>Documentation of Schedules.</u>

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

b. For Professional Services contracts, Developer must present a written schedule of when the LBE/MBE/WBE consultants will be working on the Project. This written schedule shall be provided to the UG prior to the Closing (as defined in the Agreement).

3. Substitutions, Additions, or Deletions.

Where a substitution for a LBE/MBE/WBE subcontractor must occur after submission of proposals by the Project Manager to the UG, the Project Manager must submit the proposed change or substitution to the UG for review. The UG shall have no authority to approve or reject any change or substitution. The sole purpose of the review by the UG shall be to determine whether the LBE/MBE/WBE should be counted toward achievement of the goals of Section III.A.1.

IV. UG'S ASSISTANCE TO DEVELOPER

The UG shall use its best efforts to provide assistance to Developer in fulfilling its obligations as set forth in this Exhibit. Developer assumes all responsibility for its Best Efforts in meeting the goals and complying with the procedures and processes set forth herein. The UG assumes no duty or responsibility to the Developer with respect to Developer's fulfillment of the goals set forth in this Exhibit by reason of the provision of assistance to Developer. Examples of assistance the UG may provide include but are not limited to:

A. providing information and technical assistance regarding the Project to Developer and its agents, including Contractors, subcontractors, LBEs, MBEs, WBEs, officials, and other interested persons;

B. developing and maintaining a registry of approved LBE/MBE/WBE businesses;

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

D. updating Developer and its agents on current or proposed affirmative action legislation that may affect the Project;

E. recommending contract specific goals, as appropriate;

F. providing assistance in pre-award activities, such as provision of model or example Project Utilization Plans and work segmentation;

G. reviewing Developer, Contractor, and subcontractor performance and LBE/MBE/WBE participation on the Project;

H. providing advice relative to utilization and compliance matters;

I. conducting compliance reviews and audits of LBE/MBE/WBE participation;

J. evaluating requests for substitutions, additions, and deletions;

K. assisting Developer and its agents in addressing issues related to the goals and procedures set forth in this Exhibit;

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

M. reviewing complaints from LBEs, MBEs WBEs, Contractors, subcontractors, and any other interested persons regarding these goals and procedures;

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

O. reviewing and approving utilization plans and contract award submittals.

V. DEVELOPER COMPLIANCE RECORDS AND REPORTS.

A. RECORDS.

Developer shall maintain those records as may reasonably be required to demonstrate compliance with (and/or its Best Efforts to comply with) the goals and procedures set forth in this Exhibit. These records shall be available to the UG upon reasonable notice.

B. DEVELOPMENT AND PROJECT UTILIZATION PLAN REPORTS.

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

C. REMEDIES.

If Developer should fail to provide a Report required by this Exhibit, and fail to cure such failure within thirty (30) days after receipt of written notice from the UG specifying such failure, then such failure to cure shall constitute an event of default and the UG shall have those remedies set forth in Section 9.2 of the Agreement. In addition, the UG shall have the right to stop processing draw requests until Developer complies with reporting requirements.

If, after reviewing Developer's Reports, the UG believes that the participation goals contained in this Exhibit have not been met, and that the Best Efforts described herein have not been met, then the UG shall inform Developer of this determination in writing. If, within thirty (30) days following its receipt of said written determination from the UG, Developer fails to demonstrate to the UG's reasonable satisfaction that either: (i) the goals contained in this Exhibit have been met; or (ii) the goals contained in this Exhibit may not have been met but the Best Efforts described herein have been met, then the UG shall have the right to reduce the TIF Cap by an amount equal to two and one-half percent (2.5%) (applied separately to Construction and Professional Services) as the UG's sole and exclusive remedy for such failure. The UG shall also have the right to renegotiate LBE, MBE, and WBE goals for future construction projects.

KANSAS

By:______________________________	By:______________________________
Douglas G. Bach	Name:____________________________
County Administrator	Title:____________________________
Date:_______________________, 2019	Date:_______________________, 2019

Attachment A

Unified Government **Date:________________**

Project Utilization Plan

Project Name:_____________________________

Bid Package	Estimated Contract Value	Estimated LBE Value	Estimated LBE %	Estimated MBE Value	Estimated MBE %	Estimated WBE Value	Estimated WBE %	Total Combined Value	Total Combined %
DIVERSITY TOTAL	**0**			**0**	**#DIV/0!**	**0**	**#REF!**		

Attachment B
LBE/MBE/WBE Utilization Report

LBE/MBE/WBE - UTILIZATION REPORT

Month, Year

CONSTRUCTION

	Goal		Actual
Total by Classification	0.00%	LBE	0.00%
	0.00%	MBE	0.00%
	0.00%	WBE	0.00%

APPLICABLE TRADES

Discipline	Subcontractor/Supplier Name	Original Contract Value	Change In Contract Value	Total Contract (Excluding CCIP)	LBE		MBE		WBE		Ceritifying Agency or Local Zip Code
					$	%	$	%	$	%	
Bid Package #1											
Bid Package #2											
Bid Package #3											
Bid Package #4											
Bid Package #5											
Total Applicable Contract Volume Awarded To Date											
					$	%	$	%	$	%	
					TOTAL - LBE		TOTAL - MBE		TOTAL - WBE		

Exhibit L - 13

Attachment C

LBE/MBE/WBE COMPLIANCE

SUMMARY REPORT
EXPENDITURES FOR REPORTING PERIOD

GOODS SUPPLIES and OTHER SERVICES	Total	Class	Percent	Comments
Total $ Awarded				
Total $ Expended				
Total $ MBE		% MBE		
Total $ WBE		%WBE		
Total $ M/WBE		%M/WBE		

MINORITY AND WOMEN EMPLOYEES

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

Name & Address	Trade	Classification	Date Hired	Sex	Ethnic Origin

EXHIBIT M

Form of Acknowledgment and Assumption Agreement

EXHIBIT N

Additional Commercial Building Use Categories

Subject always to the restrictions set forth in Section 7.2(c) of the Agreement, the parties agree that the following uses may be developed, constructed and operated in Project Area 3:

Category # 1 - Home Delivery Food Services. Businesses that provide retail ingredients and/or meal delivery services directly to consumers at their homes.

Category # 2 – Restaurants, Grocery, Hotels, Healthcare and Entertainment.

A. Restaurants and Entertainment. Eating and drinking establishments including sit down restaurants and fast-casual restaurants and restaurants that include entertainment components like bowling, bocce, pickleball and/or video gaming.

B. Grocery store. A retail store offering fresh foods and produce as well as non-perishable foods, prepared and packaged foods; which store may include a bakery, butcher and/or deli. A grocer may also carry cleaning and other household products. Perishable foods must constitute at least 15% of the items stocked on the shelf space of the grocery store.

C. Hotels. Limited service or full service hotels, but not motel uses.

D. Healthcare. Doctors and dentist offices, urgent care facilities and wellness centers and pharmacies.

Category # 3 – Multifamily. Market rate apartments and condominium uses.

Category # 4 - Fitness. Fitness clubs, gymnasiums, boxing facilities, martial arts, dance and/or yoga studios

Category # 5 – Soft Goods Retail. Retail stores selling, among other things, clothing, shoes, sporting goods, pet supply stores, home goods and/or home improvement supplies, jewelry stores, photography and framing stores, cellular service and electronics stores, hobby stores and retail service concepts like travel agents, high-quality hair salons, barber shops, and nail salons.

Category # 6 - Early Childhood Education. Schools, daycare facilities and other early education concepts including Montessori schools, pre-schools, kindercare and play places.

Category # 7 – Education and Career Placement. Adult education, training and placement facilities, including technology centers, culinary arts facilities, tutoring and placement centers, temporary agencies and military recruitment centers.

Staff Request for Commission Action

Tracking No. 19858

Full Commission Meeting Date: 7/25/19

Committee: Economic Development & Finance

Date of Standing Committee Action: 7/8/19
(If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
6/27/2019	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description:
A ORDINANCE TERMINATING THE 2007 MIDTOWN TIF PROJECT PLAN

Action Requested:
APPROVE AND ADVANCE TO 7/25/19 FULL COMMISSION

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

Attachments List:
Ordinance Repealing 2007 Midtown TIF Project Plan (07-25-2019 Meeting)

(Published in ***The Wyandotte Echo*** on August 1, 2019)

ORDINANCE NO. ____

AN ORDINANCE OF THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS TERMINATING THE REDEVELOPMENT PROJECT PLAN FOR THE MIDTOWN REDEVELOPMENT DISTRICT, REPEALING ORDINANCE O-29-07 AND REMOVING CERTAIN PROPERTY FROM THE MIDTOWN REDEVELOPMENT DISTRICT.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the "Unified Government"), acting in its capacity as a city of the first class, adopted Resolution No. R-145-06 on November 16, 2006, declaring blight within the City; and

WHEREAS, the Unified Government, acting in its capacity as a city of the first class, established a redevelopment district, consisting of a single development project area (the "Midtown Redevelopment District") pursuant to K.S.A. 12-1770 et seq. as amended (the "Act") pursuant to Ordinance No. O-139-06 on December 21, 2006; and

WHEREAS, after notice and public hearing as required by the Act, the Unified Government adopted Ordinance No. O-29-07 on March 22, 2007, approving the Redevelopment Project Plan for the Midtown Redevelopment District (the "Project Plan"); and

WHEREAS, the Project Plan was never undertaken or implemented and the Unified Government desires to terminate the Project Plan; 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 is a duly organized and existing municipal corporation under the laws of the State of Kansas, is a consolidated city-county having all the powers, functions and duties of a county and of a city of the first class, and is a city within the meaning of the Home Rule Amendment; and

WHEREAS, there is no enactment of the Kansas legislature which provides the procedure to terminate an approved redevelopment plan when such plan has not been undertaken or implemented; and

WHEREAS, the Unified Government has determined that it is necessary and desirable to adopt this Ordinance to terminate the Project Plan; and

WHEREAS, the Unified Government has determined that certain property should be removed from the Midtown Redevelopment District; and

WHEREAS, the property to be removed from the Midtown Redevelopment District consists of the real property shown on the map attached hereto as **Exhibit A** and legally described on **Exhibit B**; and

WHEREAS, the remaining property in the Midtown Redevelopment District shall consist of the real property shown on the map attached hereto as **Exhibit C** and legally described on **Exhibit D.**

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

SECTION 1. The Governing Body hereby finds that the Project Plan was never undertaken or implemented, and that the Project Plan should now be terminated.

SECTION 2. The Governing Body hereby finds and determines that the real property shown on the map attached hereto as **Exhibit A** and legally described on **Exhibit B** should be removed from the Midtown Redevelopment District, and from and after the effective date of this Ordinance, the remaining property in the Midtown Redevelopment District shall consist of the real property shown on the map attached hereto as **Exhibit C** and legally described on **Exhibit D**.

SECTION 3. The Governing Body further finds and determines that the real property to be removed as described in **Exhibits A and B** constitutes more than 15% of the land area within the Midtown Redevelopment District, as originally created pursuant to Ordinance No. O-139-06 adopted on December 21, 2006. Therefore, pursuant to K.S.A. 12-1771(g), the base year assessed value of the Midtown Redevelopment District shall be revised to reflect the base year assessed valuation of the remaining real property as of the date of the original establishment of the Midtown Redevelopment District.

SECTION 4. The Mayor/CEO, County Administrator, Unified Government Clerk and other officials and employees of the Unified Government, including the Chief Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Ordinance.

SECTION 5. Ordinance No. O-29-07 is hereby repealed.

SECTION 6. This Ordinance shall become effective from and after its passage by the Governing Body, signature by the Mayor/CEO, and publication once in the official City newspaper.

PASSED by the Governing Body of the Unified Government this July 25, 2019.

SIGNED by the Mayor/CEO this July 25, 2019.

____
Mayor/CEO

ATTEST:

____
Unified Government Clerk

Exhibit A

Map of Property to be Removed from the Midtown Redevelopment District

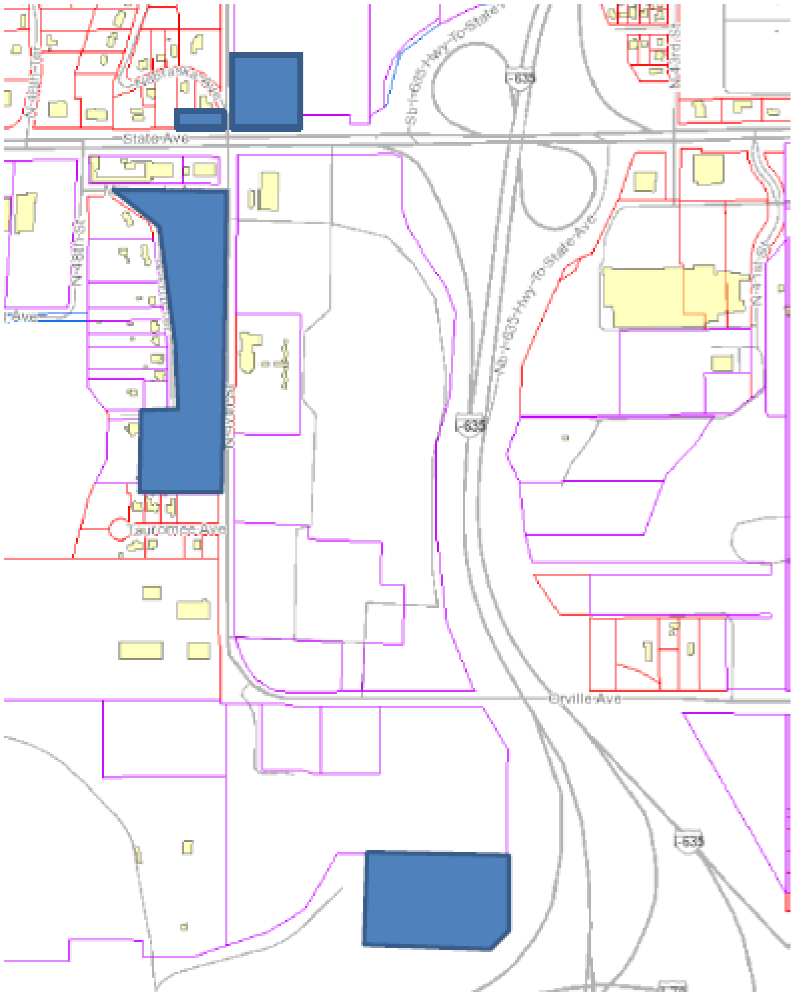


Exhibit B

Legal Description of Property to be Removed from the Midtown Redevelopment District

Exhibit C

Map of Revised Midtown Redevelopment District Boundaries

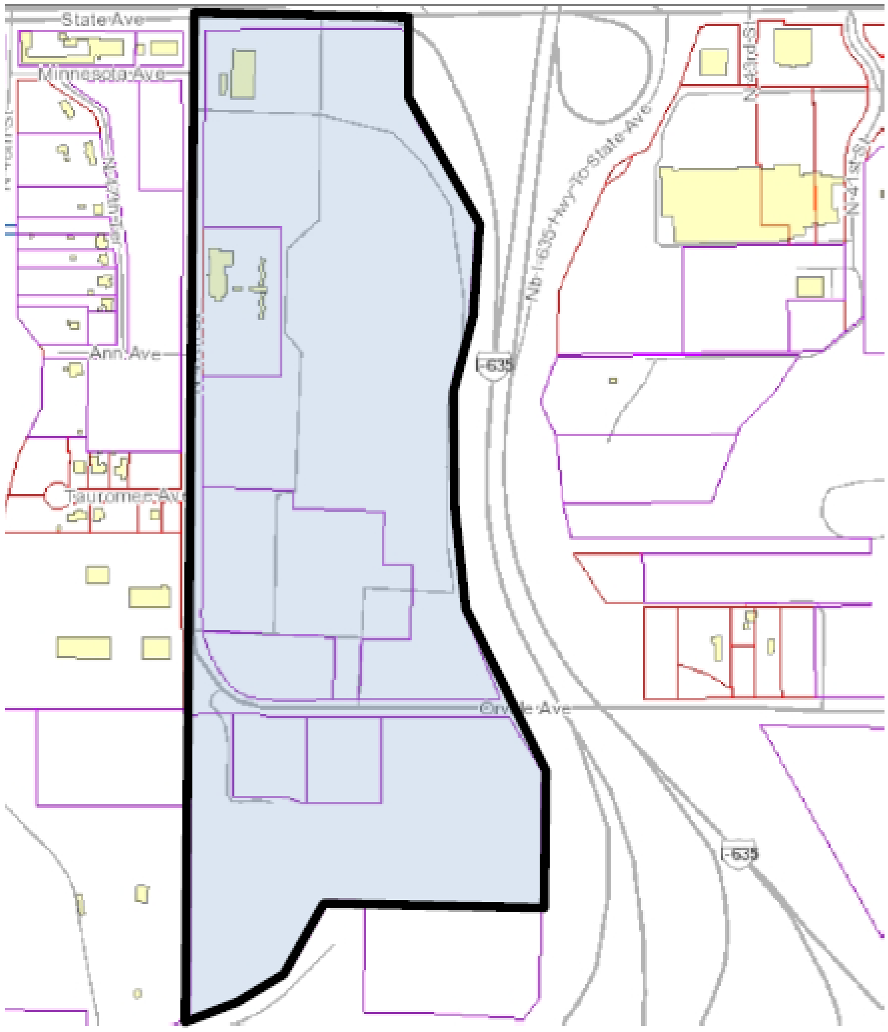


Exhibit D

Legal Description of Revised Midtown Redevelopment District Boundaries

Staff Request for Commission Action

Tracking No. 19859

Full Commission Meeting Date: 7/25/19
Committee: Economic Development & Finance

Date of Standing Committee Action: 7/8/19 (If none, please explain):

Publication Required: Yes

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
6/27/2019	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description: RESOLUTION CALLING FOR A PUBLIC HEARING ON MIDTOWN TIF DISTRICT AMENDMENT AND PROJECT AREA 1 PROJECT PLAN
Action Requested: APPROVAL AND ADVANCE TO 7/25/19 FULL COMMISSION
Budget Impact: (if applicable) Amount: Source: Included In Budget: Other (explain):
Attachments List: Project Area and Plan Resolution (07-25-2019 Meeting), Doc2

(Published in ***The Wyandotte Echo*** on August 15, 2019)

RESOLUTION NO. ____

A RESOLUTION OF THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS ESTABLISHING THE DATE AND TIME OF A PUBLIC HEARING REGARDING THE DIVISION OF A REDEVELOPMENT DISTRICT INTO 4 REDEVELOPMENT PROJECT AREAS, ADOPTION OF AN AMENDED REDEVELOPMENT DISTRICT PLAN AND ADOPTION OF THE PROJECT AREA 1 REDEVELOPMENT PROJECT PLAN PURSUANT TO K.S.A. 12-1770 ET SEQ.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the "Unified Government"), acting in its capacity as a city of the first class, established a redevelopment district, consisting of a single development project area (the "Midtown Redevelopment District") pursuant to K.S.A. 12-1770 et seq. as amended (the "Act") pursuant to Ordinance No. O-139-06 on December 21, 2006; and

WHEREAS, on July 25, 2019, the Unified Government adopted Ordinance No. O-____-19 removing certain property from the Midtown Redevelopment District boundaries; and

WHEREAS, the Unified Government is considering the division of the new Midtown Redevelopment District into four (4) separate redevelopment project areas, the adoption of an amended redevelopment district plan and the adoption of the Tax Increment Financing Redevelopment Project Plan (Midtown Redevelopment District – Project Area 1 dated July 1, 2019 (the "Project Area 1 Redevelopment Project Plan") pursuant to the Act.

WHEREAS, on July 8, 2019 the Planning Commission of the Unified Government made a finding that the Project Area 1 Redevelopment Project Plan is consistent with the intent of the Unified Government's comprehensive plan for the development of the Unified Government; and

WHEREAS, a copy of the Project Area 1 Redevelopment Project Plan has been delivered by the Unified Government to the Board of County Commissioners and to the Board of Education of U.S.D. No. 500, Wyandotte County, Kansas (Kansas City); and

WHEREAS, the Unified Government Commission desires to establish August 29, 2019 as the date for the public hearing to consider the division of the Midtown Redevelopment District into four (4) redevelopment project areas, the adoption of an amended redevelopment district plan and the adoption of the Project Area 1 Redevelopment Project Plan and authorize dissemination of notice as required by the Act.

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

SECTION ONE: Notice is hereby given that a public hearing will be held by the Unified Government to consider the division of the Midtown Redevelopment District into four (4) redevelopment project areas, the adoption of an amended redevelopment district plan and the adoption of the Project Area 1 Redevelopment Project Plan on August 29, 2019 in the Commission Chambers, lobby level of the Municipal Office Building located at 701 North 7th Street, Kansas City, Kansas, commencing at 7:00 p.m.

SECTION TWO: The revised boundaries of the Midtown Redevelopment District (per Ordinance No. O-___-19) are legally described on the attached **Exhibit A.**

SECTION THREE: A map of the Midtown Redevelopment District and each of the proposed redevelopment project areas is attached hereto as **Exhibit B**.

SECTION FOUR: The amended redevelopment district plan for the Midtown Redevelopment District provides for redevelopment projects within four redevelopment project areas and described as follows:

Project Area 1.

The buildings and facilities to be constructed or improved in Project Area 1 may be described in a general manner as (1) a warehouse and distribution facility, inclusive of office space, (2) a utility-scale, ground-mounted, photovoltaic system, and (3) parking and associated public and private infrastructure.

Project Area 2.

The buildings and facilities to be constructed or improved in Project Area 2 may be described in a general manner as commercial development consisting of inline retail, retail pad sites, parking, and associated public and private infrastructure.

Project Area 3.

The buildings and facilities to be constructed or improved in Project Area 3 may be described in a general manner as commercial development consisting of retail, office and other commercial buildings, hotel or other lodging accommodations, multi-family residential units, parking and associated public and private infrastructure.

Project Area 4.

The buildings and facilities to be constructed or improved in Project Area 4 may be described in a general manner as a commercial development consisting of some or all of the following uses: retail, office and other commercial buildings, parking and associated public and private infrastructure.

SECTION FIVE: Copies of the Project Area 1 Redevelopment Project Plan, including a summary of the feasibility study, the relocation assistance plan and financial guarantees of the developer and a description and map of the Midtown Redevelopment District and the redevelopment project areas are available for inspection during regular office hours in the offices of Unified Government Clerk, Municipal Office Building, 701 N. 7th Street, Kansas City, Kansas, Monday through Friday (other than holidays) between 8:00 p.m. and 5:00 p.m.

SECTION SIX: The Unified Government Clerk shall give all notices as required by the Act.

SECTION SEVEN: The Mayor/CEO, County Administrator, Unified Government Clerk and other officials and employees of the Unified Government, including the Chief Counsel, and Gilmore & Bell, P.C., Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this resolution.

SECTION EIGHT: This Resolution shall become effective upon its adoption by the Governing Body of the Unified Government.

ADOPTED by the Governing Body of the Unified Government of Wyandotte County/Kansas City, Kansas this July 25, 2019.

SIGNED by the Mayor/CEO this _______ day of July, 2019.

____
Mayor/CEO

ATTEST:

____
Unified Government Clerk

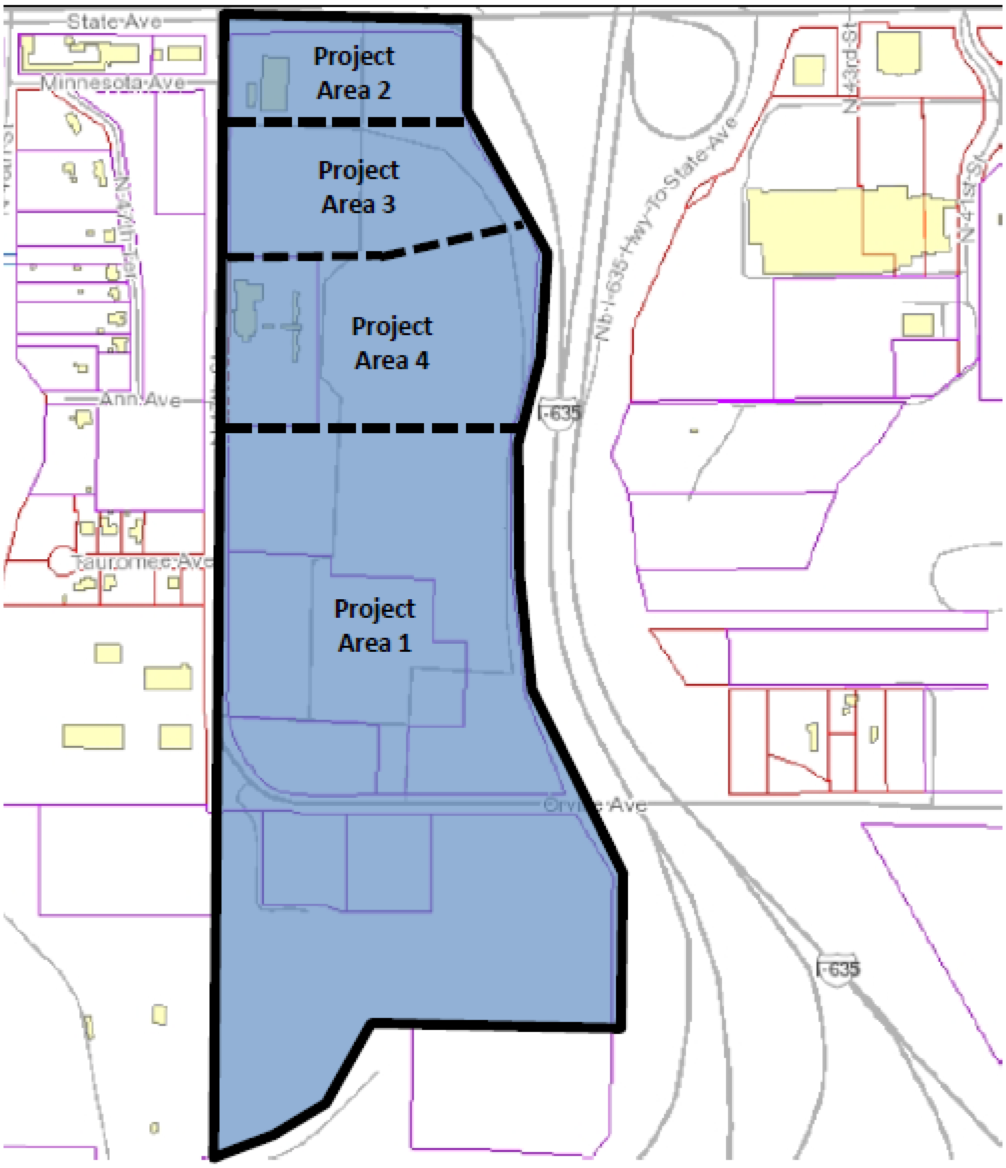
(SEAL)

EXHIBIT A

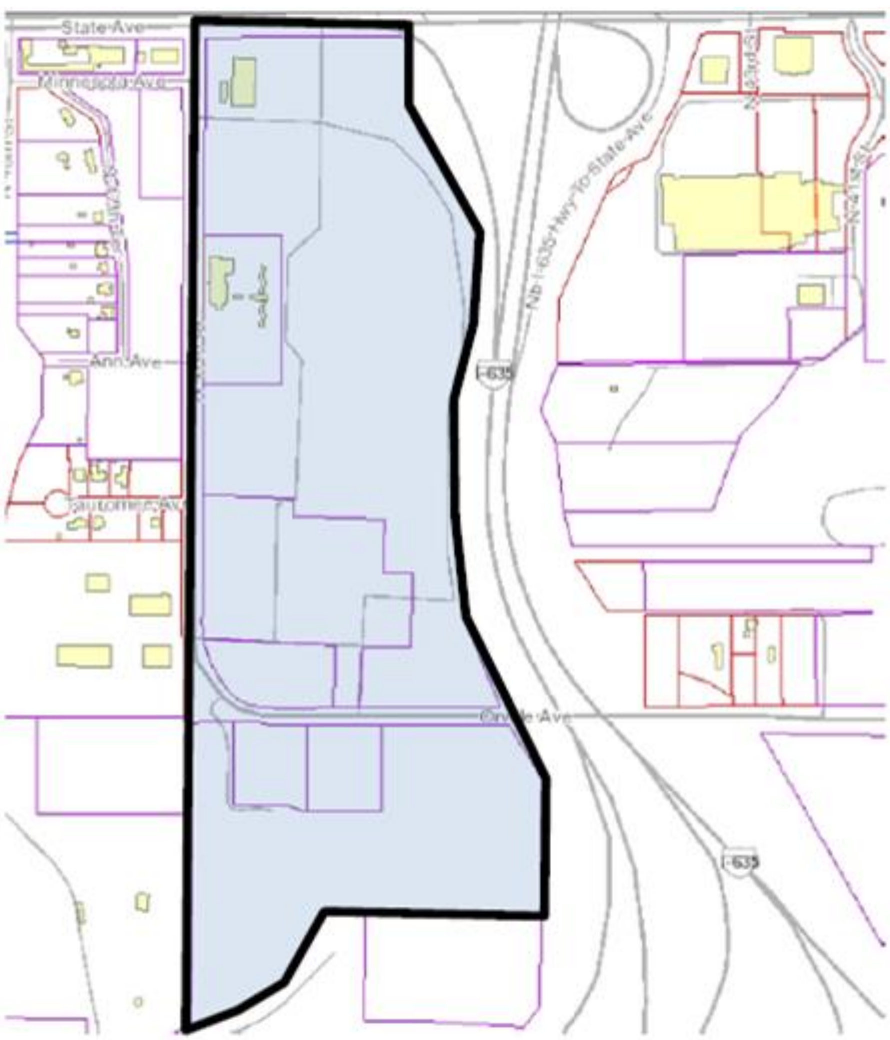
LEGAL DESCRIPTION OF REVISED MIDTOWN REDEVELOPMENT DISTRICT

EXHIBIT B

MAP OF REVISED REDEVELOPMENT DISTRICT AND REDEVELOPMENT PROJECT AREAS




RENEWABLE ENERGY CENTER
SCAVUZZO'S FOODSERVICE CENTER
FUTURE EXPANSION
FUTURE EXPANSION
SCAVUZZO'S HQ OFFICE
NORTH
0 125' 250' 500' 750'


State Ave
Minnesota Ave
Ann Ave
I-635
I-635
Orville Ave
Nb I-635 Hwy To State Ave