Economic Development and Finance
Standing Committee Meeting Agenda
Monday, June 6, 2022
5:00 PM

Location: Hybrid

We invite you to view the meeting in person in the 5th-floor conference room, Suite 512, of the Municipal Office Building, 701 N. 7th Street, Kansas City, Kansas, or virtually via a Zoom webinar.

When: Jun 6, 2022 5:00 PM Central Time (US and Canada)
Topic: Standing Committee

Please click the link below to join the webinar:
https://us02web.zoom.us/j/89813720632?pwd=RjJWK1V4TzF1bGR5NVEwQkRVYnU2Zz09
Passcode: 104882
Or One tap mobile:
US: +16699009128, 89813720632 or +12532158782, 89813720632
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799 or 877 853 5257 (Toll Free) or 888 475 4499 (Toll Free)
Webinar ID: 898 1372 0632
International numbers available: https://us02web.zoom.us/u/kdrSvfXmSd

Name	Absent
Commissioner Tom Burroughs, Chair	☐
Commissioner Brian McKiernan	☐
Commissioner Chuck Stites	☐
Commissioner Gayle Towsend	☐
Commissioner Andrew Davis	☐
David Haley, BPU Member	☐

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

II. **Revisions to June 6, 2022 Agenda**

III. **Approval of standing committee minutes from January 3 corrected minutes, and February 7, 2022**

IV. **Committee Agenda**

Item No. 1 - PRESENTATION: MOTOR VEHICLE COUNTY FACILITY FEE

Synopsis: A presentation regarding the $5 county facility fee charged by Treasury for in-person renewal of vehicle tags, submitted by Becky Berger, Treasurer, Andrea Vinyard, Deputy Treasurer, and Rocki Mayes, Management Analyst, Clerical, and Administrative Assessment Manager.

For Information Only.

Tracking #: 211710

Item No. 2 - PRESENTATION: BUDGET REVISIONS IN EXCESS OF $50,000 FOR RADIO REPLACEMENT FOR WYCO AREA FIRE SERVICES.

Synopsis: The current radios in use by the Wyandotte County area fire services are no longer supported by the vendor. A request for procurement of new radios and advancement of timetable with supply chain delays and current radios no longer being supported, Michael Peterson, Assistant Budget Manager.

For Information Only.

Tracking #: 211709

Item No. 3 - PRESENTATION: BUDGET REVISION IN EXCESS OF $50,000 FOR CONSTRUCTION OF NEW TURNER FIRE STATION

Synopsis: Presentation of budget revisions approved under Section IV.B.7(a) of the UG Operating and Capital Budget Policy related to the revised construction cost of the new Turner Fire Station, submitted by Reginald Lindsey, Budget Manager.

Tracking #: 211720

Item No. 4 - RESOLUTION: ROCK ISLAND BRIDGE IRB SALES TAX EXEMPTION

Synopsis: Resolution of Intent to Issue Industrial Revenue Bonds in the amount not to exceed $13,000,000 to finance the costs of acquiring, constructing, improving, and equipping a multi-purpose commercial project for the benefit of Flying Truss, LLC, submitted by Katherine Carttar, Director of Economic Development.

Tracking #: 211712

Item No. 5 - RESOLUTION: TERMINATION OF SCAVUZZO'S FOODIE PARK

Synopsis: Resolution authorizing the approval of the termination of Foodie Park Development Agreement and subsequent amendments submitted by Katherine Carttar, Director of Economic Development.

Tracking #: 211714

Item No. 6 - ORDINANCE: REPEALING 2019 MIDTOWN REDEVELOPMENT PROJECT PLAN

Synopsis: Ordinance repealing the 2019 Midtown Redevelopment Plan, submitted by Katherine Carttar, Director of Economic Development.

Tracking #: 211715

Item No. 7 - RESOLUTION: BROTHERHOOD BANK BUILDING SPECIAL NRA

Synopsis: Resolution approving a special project application for a rebate on incremental property taxes pursuant to the Neighborhood Revitalization Act Plan for redevelopment of the Brotherhood Bank Building at 753 State Ave., Kansas City, KS into residential apartment units and upgraded office space, submitted by Katherine Carttar, Director of Economic Development.

Tracking #: 211716

Item No. 8 - RESOLUTION: BROTHERHOOD BANK BUILDING IRB SALES TAX EXEMPTION

Synopsis: Resolution of Intent to issue bonds in the amount not to exceed $12,000,000 to finance the costs of acquiring, constructing, improving, and equipping a multi-purpose commercial project for the benefit of KDG, LLC, submitted by Katherine Carttar, Director of Economic Development.

Tracking #: 211717

Item No. 9 - CONTRACT: REAL ESTATE PURCHASE AGREEMENT FOR 742 MINNESOTA

Synopsis: Option contract for real estate purchase agreement between KDG, LLC and the Unified Government for the real estate at 742 Minnesota Ave., Kansas City, KS, submitted by Katherine Carttar, Director of Economic Development.

Tracking #: 211718

Item No. 10 - RESOLUTION: CRITERION MULTIFAMILY PROJECT IRB

Synopsis: Resolution of Intent to issue Industrial Revenue Bonds in the amount not to exceed $62,000,000 to finance the costs of acquiring, constructing, improving and equipping a commercial multifamily facility for the benefit of Criterion Development Partners, LLC, submitted by Katherine Carttar, Director of Economic Development.

Tracking #: 211719

V. Public Agenda

VI. Adjourn

ECONOMIC DEVELOPMENT AND FINANCE
STANDING COMMITTEE MINUTES
Monday, January 3, 2022

The meeting of the Economic Development and Finance Standing Committee was held on Monday, January 3, 2022, at 5:00 p.m., remotely via Zoom and on-site. The following members were present: Commissioner Burroughs, Chairman, Commissioners Davis, Townsend, Stites, McKiernan, and BPU Board Member David Haley. The following officials were also in attendance: Emerick Cross, Melissa Sieben, Bridgette Cobbins, and Allen Howze, Assistant County Administrators; Kathleen VonAchen, Chief Financial Officer; Ashley Hand, Director of Strategic Communication; Debbie Jonscher, Deputy CFO; Katherine Carttar, Director, Economic Development; Patrick Waters, Deputy Chief Counsel; Wes McKain, Policy and Development Manager at the Public Health Department; Wendy Green, and SueZanne Bishop, Assistant Counsel; Monica Sparks, Deputy Unified Government Clerk; Terri Kimble and Allie Facio, UG Clerk's Office.

Chairman Burroughs said I do want to welcome to the first meeting of the Economic Development and Finance Standing Committee, newly elected Commissioner Andrew Davis and Chuck Stites, and BPU Board Member Senator David Haley joining us this evening. We do have Commissioner McKiernan, Commissioner Burroughs, Commissioner Townsend joining us this evening, along with multiple staff. Welcome committee to our first meeting of the 2022 January 3rd. So, let's get started.

Before I call the meeting to order, I want to announce that due to COVID-19, some committee members, staff, and the public are attending remotely via Zoom as well as on-site. All participants joining by phone should mute their phones when not speaking to avoid background noise.

During the meeting, please make sure that you announce yourself by name and title every time you speak so that the public that is observing knows who is speaking. This is critical given the number of remote participants and is the current guidance from the Kansas Attorney General.

The public is allowed to participate by Zoom or submit comments by email prior to the meeting and those comments will be included in the record of this meeting. The public also will have an opportunity to provide brief comments from the lobby of the Municipal Office Building.

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

Chairman Burroughs said we do have one revision to tonight's agenda, the removal of Item No. 2. That was the Amendment to the Assignment and Assumption and Development Agreement for the Homefield Development Project. That has been pulled from tonight's Public Agenda.

We have no minutes to approve.

COMMITTEE AGENDA:

Item No. 1 – 211253…APPROVAL: GRANTS BUDGET AUTHORITY FOR FEMA REIMBURSEMENTS RELATED TO COVID-19

Synopsis: Request for approval of budgetary authorization in the Special Grants Fund for FEMA reimbursable expenses related to COVID-19, submitted by Kathleen VonAchen, Chief Financial Officer; and Juliann VanLiew, Public Health Department Director.

Chairman Burroughs said we now have two items this evening. Item no. 1, the Request for Approval of Budgetary Authorization in the Special Grants Fund for FEMA Reimbursement Expenses Related to COVID-19.

At this time, I'll recognize our Finance staff and Juliann VanLiew.

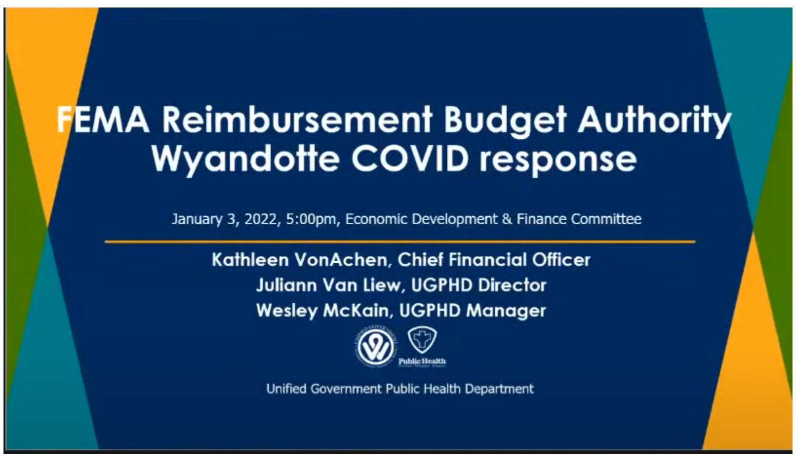
Kathleen VonAchen, Chief Financial Officer, said Commissioner this is Kathleen VonAchen, I'm the Chief Financial Officer. I'll be making this presentation with the assistance of Juliann VanLiew and the folks from the Public Health Department.

Wes McCain, Policy and Development Manager, Public Health Department, said I believe Juliann is in the midst of having a child, right now. I don't know exactly where she's at in that process, but I believe it's somewhere in the process and so I'll be speaking on behalf of the Health Department tonight.

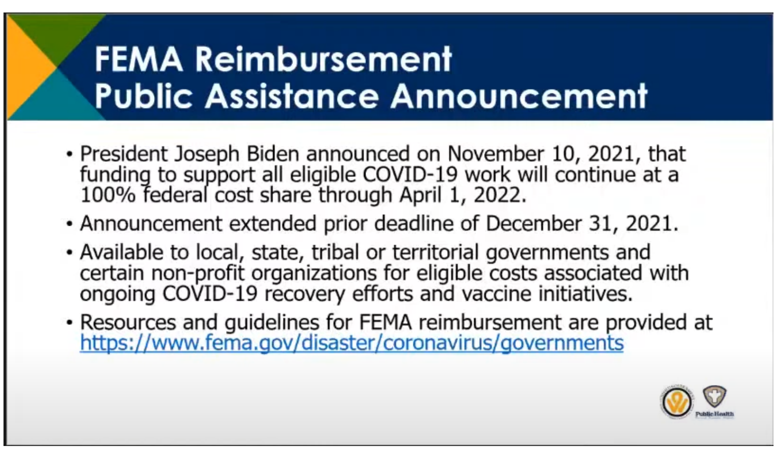
Chairman Burroughs said thank you. I don't think we'll be bothering Ms. VanLiew at this time.
Mr. McCain said I hope not.

Ms. VonAchen said we're going to have Debbie Jonscher put the PowerPoint up on the screen, because I'm calling remotely. Does she have that up on the screen now?

Wes McKain, Policy and Development Manager, said let me go ahead and do that, Katheen, because Debbie was having a hard time with her computer. She asked me to go ahead and do that. Let me share my screen really quick, and hopefully you all can see this without too many issues.

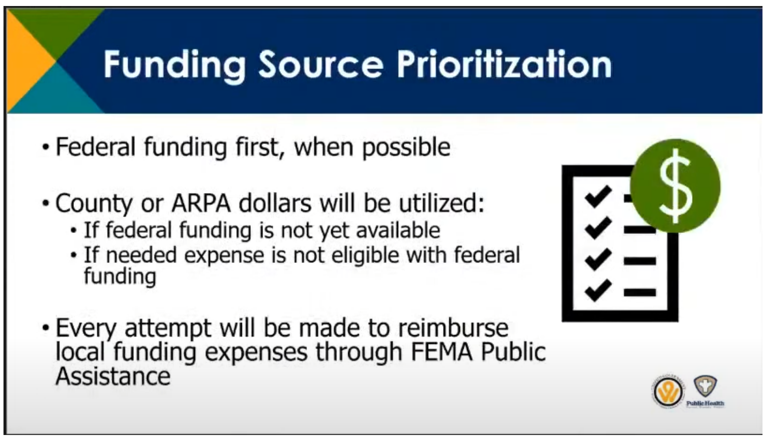


Ms. VonAchen said tonight, we're talking about FEMA reimbursement and we're seeking budget authority and it's all related to our COVID response.

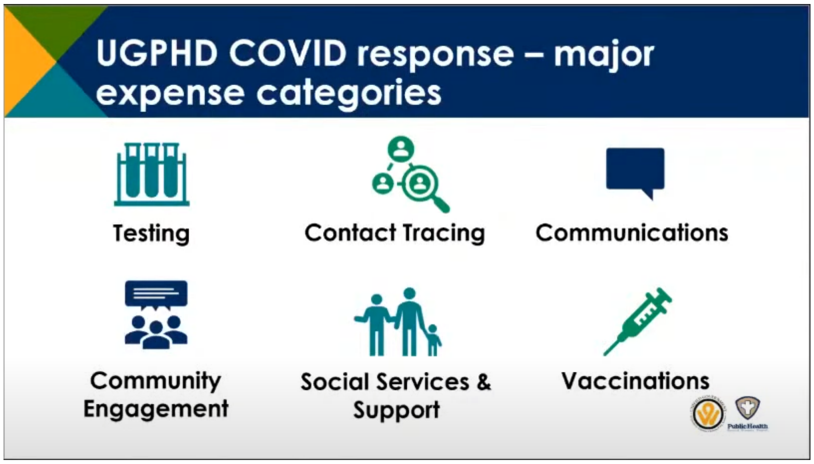


Just to give you an update here, President Biden announced recently in November that funding to support all eligible COVID costs will continue at the 100% federal reimbursement rate through

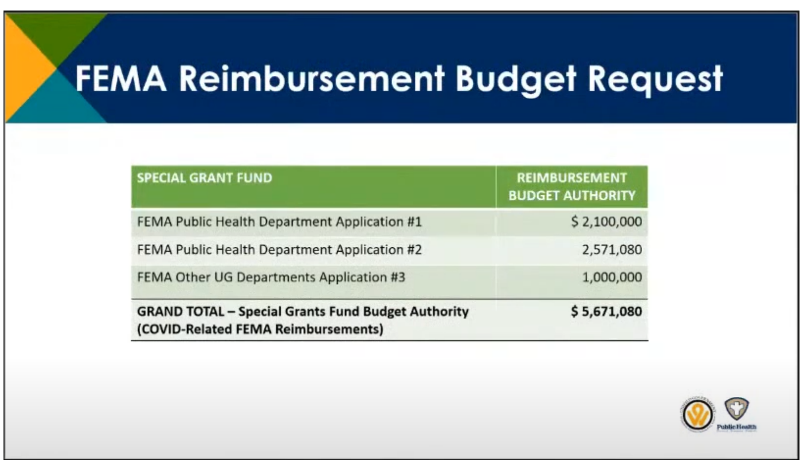
April 1, 2022. That has allowed us a greater flexibility to include a variety of other expenses that could be reimbursed at 100%. This was not an action that we anticipated, so, the November 10th announcement is a great opportunity here for our organization. Initially the announcement was only through December of last year, and it makes available to local and state, territorial governments eligible costs associated with ongoing COVID recovery efforts and the vaccination initiatives. The resources and guidelines are given to us, and they're provided in that website that I've linked in the presentation there below.



We want to make sure that all of you understand that it's our objective, of course, in order to most effectively use the available resources to always seek federal funding first whenever possible, and then secondarily to seek county or ARPA dollars to be utilized for COVID fighting activities. If the federal funding is not yet available, or if the expense is not eligible, then the plan is use county or ARPA funds. Every attempt is being made to reimburse local funding expenses through the FEMA Public Assistance Program. I think that this would be a good slide for Wes to talk about if you don't mind, Wes?

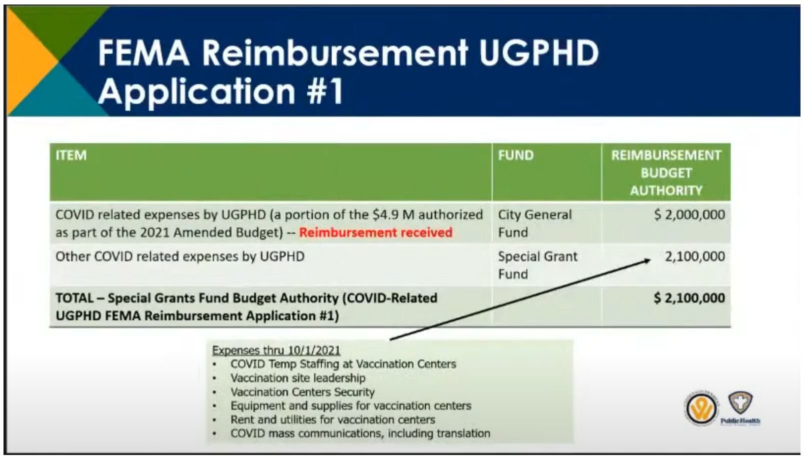


Mr. McKain said yes, I'll just breeze through this. The Commission has seen this slide many times. These are some of the major cost drivers for our COVID expenses at the Public Health Department. One thing I'll mention is that the only - one of the reasons we're really excited about the federal government extending the FEMA reimbursement timeline until the end of March is of these six cost categories, only contact tracing is not eligible for FEMA reimbursement. I don't know the reason for that. Testing, communications, community engagements, social services, and support; not all of them, but some of them, and then, of course, our vaccination centers are all costs which some of which we've incurred, some of which we will incur which we can open up applications with FEMA to send those expenses in. These are not all of our costs, but these are some of the major ones. We certainly don't want to spend American Rescue Plan money on funds that we can get from other sources. We're trying hard not to do that.



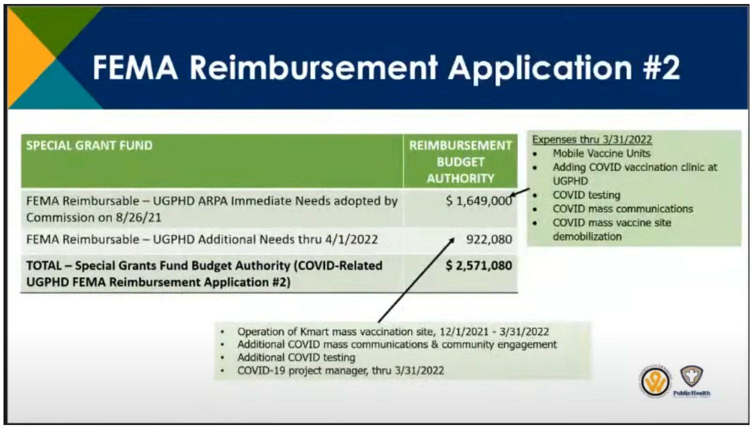
SPECIAL GRANT FUND	REIMBURSEMENT BUDGET AUTHORITY
FEMA Public Health Department Application #1	$ 2,100,000
FEMA Public Health Department Application #2	2,571,080
FEMA Other UG Departments Application #3	1,000,000
GRAND TOTAL – Special Grants Fund Budget Authority (COVID-Related FEMA Reimbursements)	**$ 5,671,080**

Ms. VonAchen said the reimbursement budget authority we're seeking totals $5.67M and it's made up of three different applications. The first application was submitted already in 2021 and we've already received some funds from it. The second and third items are an additional application that we will be submitting very soon. The point of this agenda item is we need the budget authority to spend the funds so that we can later get reimbursed for them. The funding source is the FEMA revenue source coming from them, and the expense would be those costs that are specifically eligible under the FEMA Reimbursement Program.



The first slide talks about the Application #1. Last year, and of course, Wes knows all about this because he's been very involved in it. The total was a combination of two things. Initially, we already received the total was $4.1M, but we've already received $2M. Those were expenses that were incurred in the City General Fund and then reimbursed with FEMA dollars in the amount of around $2M. The additional $2.1M are expenses that are being expensed in the Special Grants Fund. That reimbursement has already been submitted to FEMA, and they have approved most of those, if not all the expenses. It's just a matter of we're awaiting the receipt of that $2.1M. Is that right? **Mr. McKain** said yes, and when we receive the $2.1M, that funding, I believe Kathleen will be depositing into this account.

Ms. VonAchen said that's right. Those costs are listed below in the small box below there which is for COVID staffing at the vaccination sites, for site leadership, for security, for equipment and supplies at the vaccination center, and rent and utilities at the vaccination center, and for other COVID-related communications.



Application #2 is planning to be submitted very soon. I'm going to have Wes talk about this one.

Mr. McKain said I'm really excited about this. There's two lines here. The first is a calculation of the amount of the - the Board of Commissioners allocated on August 26th about $6.9M of American Rescue Plan funding to the Public Health Department. At that time, we did not know all of the things. We weren't as much as knowledgeable of the FEMA process, nor did we know what could be spent, what costs all could be eligible and which ones could not, nor did we know that the deadline would be extended until March. So, we asked for funding through the American Rescue Plan which, upon reviewing it, we see that funding is actually eligible for FEMA reimbursement.

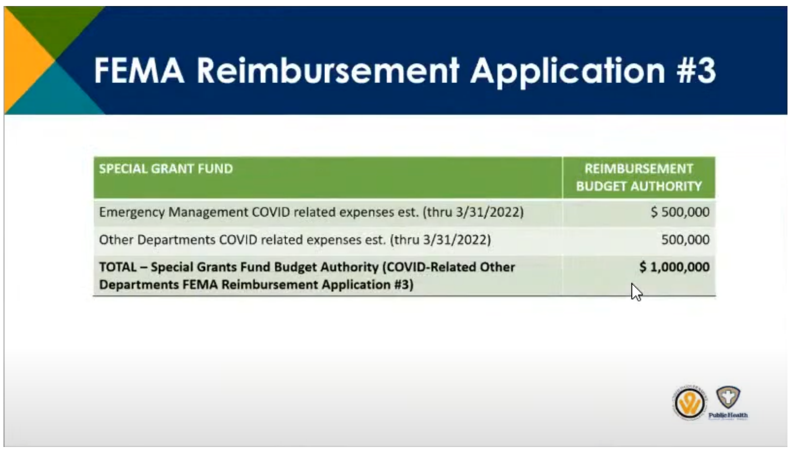
We looked through that $6.9M request and identified about $1.65M that we don't want to spend American Rescue Plan dollars on; we would like to spend money from this Special Grants Fund on. That's cost savings for our American Rescue Plan request, which is great.

You can see some of the expenses that we had asked for through the American Rescue Plan immediate needs allocation on the 26th which are now eligible, or we would like to put instead into this new Grants Fund here in this box. So, mobile vaccine units, adding COVID vaccination to our clinic, testing, communications, and the demobilizing our site. We're really excited about that.

Additionally, there were some other costs that we did not put in there. It wasn't a perfect request. One thing we find is that we sometimes don't know all of our costs before they happen because the virus does what the virus will do and we have to respond. There was an additional, about $900K that we're going to be charged in categories that we did not ask funding for in the immediate needs request. You can see operation of the K-Mart mass vaccination site, additional mass communications, some testing and then a project manager, which is also an eligible expense. So, between those two, and we were anticipating putting those additional needs into a second

ARPA request, which I think most of you have seen. But when we realized that they were eligible for FEMA instead, we took them out.

Some of these, you can see we started the budget timeline on December 1st. Most of these expenses have yet to be incurred. Some of them have been in American Rescue Plan accounts. If the Commission favors this and we move forward, we would then just take the money out of those accounts and put them into the new FEMA-eligible accounts. So, that total is $2.5M.



SPECIAL GRANT FUND	REIMBURSEMENT BUDGET AUTHORITY
Emergency Management COVID related expenses est. (thru 3/31/2022)	$ 500,000
Other Departments COVID related expenses est. (thru 3/31/2022)	500,000
TOTAL – Special Grants Fund Budget Authority (COVID-Related Other Departments FEMA Reimbursement Application #3)	**$ 1,000,000**

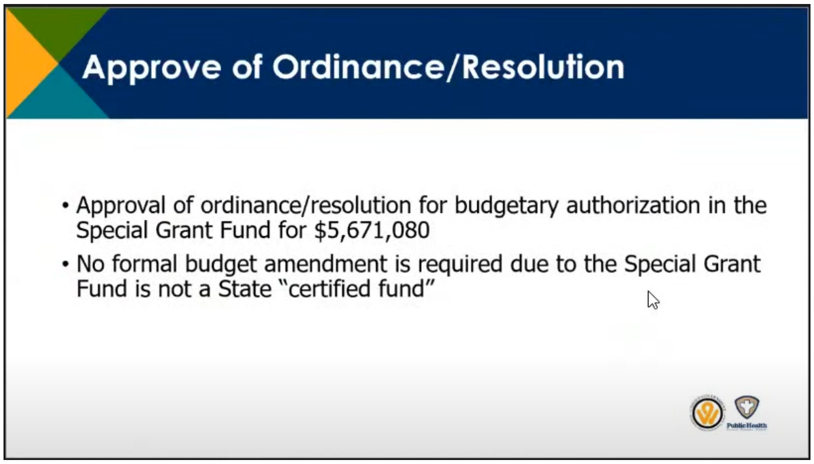
Ms. VonAchen said the next slide is on the third application that we're contemplating pursuing. This is an opportunity for us to do a complete inventory of all the costs that have been incurred in the past that would also be FEMA reimbursable. Our new consultant that came on board several months ago, IParametrics, provided some suggestions of areas where we have been incurring costs to fight COVID that we hadn't anticipated would be FEMA reimbursable. Of course, we can't claim some of these costs if they were, in fact, already reimbursed through the Cares Act.

We think that there may be possibly another $1.0M in expenses over the past 18-24 months that could be reimbursable. Many of those costs, if they have been incurred already in the past, they would have been already incurred in the other operating funds; for example, in the Fire Department or the Police Department. But there may be some other costs into the future that are FEMA reimbursable that are not.

This application is not the Public Health Department at all. It's like all the other departments of the UG. What we've provided here is roughly an estimate of about $1.0M that we still need to go through and do an inventory and identify those costs, but we felt that $1.0M was probably a good estimate for granting some budget authority in the Special Grants Fund for those anticipated future costs that are not related to the Public Health Department. And, of course, we're not going to expense anything that isn't eligible, so if it's far less than $1.0M, then that's fine. That budget authority would just lapse. It's more of an estimate to anticipate future FEMA applications that are not managed or involve the Public Health Department. That's the total application of the three applications 1, 2 and 3.

Mr. McKain said this is another slide that I think the commissioners have seen. I know, I think there's a Thursday update as well, and we tend to include these slides on a lot of the updates. Some of our goals that guide our response, you can see them here: core Public Health functions, making sure we include the community and integrate health equity into our decision-making, make sure that we follow the science; and then very appropriate to tonight's presentation, make sure that we use every resource that we have available.

Some of the things that we've found have been really helpful to our success; early testing, early creation of the Health Equity Task Force, making sure that we're thinking about people as whole people who sometimes need assistance getting vaccinated, who sometimes need assistance following orders, supporting our elective leaders, making sure that we're funding things to the right levels, and then making sure that we're putting vaccination centers across the county so that everybody in our county has the opportunity to become vaccinated if they like to. Those are just kind of the broad overview of our COVID response to date.



Ms. VonAchen said we're seeking your approval for an ordinance/resolution for the budgetary authority in the Special Grants Fund. It's an ordinance and a resolution. It hits both city and county funds, so we need an ordinance and a resolution. There's no formal budget amendment required because the Special Grants Fund is not a State Certified Fund, but we felt given the size of this expense, we felt that it was important that the Commission know about it and accept it, and formally accept it in a resolution or an ordinance. It doesn't show up in the budget document because the Special Grants Fund is not a budgeted fund. I'm happy to answer any questions you might have.

Chairman Burroughs asked does any member of the committee have any questions or comments?

Commissioner Townsend said just a couple of questions and a comment. I'm glad, Madam CEO and Mr. McKain, that you did bring this forward because in reviewing this and having the presentation tonight, it emphasizes for me that role that FEMA plays in how we can be reimbursed and not have to delve into ARPA funds. I'm glad you brought that forward. I don't know that I would have been aware. It takes me back to our last meeting or maybe a couple of meetings ago where I think Madam CEO mentioned that we're still on a learning curve about what could be reimbursed from FEMA, so this kind of brings it home again. More specifically on one of the slides, it's FEMA reimbursement Application #1, at the bottom it had the $4.1M amount.

Ms. VonAchen said I think that's a typo. At the very bottom that's bolded, that should be $4.1M.

Commissioner Townsend said no, that's not the one.

Mr. McKain said let me find it for you, commissioner. This one here, there's the 1, 2, and 3 for the different applications that are making up budget authority. I think the rest of these slides are interest slides.

Commissioner Townsend said okay. Well, in the packet it showed $4.1M as the total Special Grants Fund budget authority. Maybe that was an error. But my question really goes to some of the details below that line. Well, I find it on this one, so I'll use it. The question I have was if you could explain more about what vaccination site leadership is comprised of, that item.

Mr. McKain said of course. So, at one point we had three vaccination centers. One at the Best Buy location at 105th and Parallel, that one closed in June or July, I believe. I don't have that date in front of me. Then we have our K-Mart location which is still open at 78th and State, and we had a National Guard Armory location at about 18th Street Expressway and I-70. That one closed as well in May or so.

Our leadership model has changed. At one point when we were first starting, we had an administrative lead for the sites and we had a medical lead for the sites because those duties were pretty different and our sites were busier at that point. And then overtime, we've shifted and so now we have a nursing manager, Brandi Dickerson, who serves in both roles at our K-Mart site and manages both the administrative components of it and medically. That's just something we learned over time as we got better at it. But those sites leadership costs are really - we had one or two point people who were the commanders, if you will, of the actual sites. Then at one point, Bob Bennett was our overall vaccination lead who really helped manage all of the sites and he left us several months ago. Those are kind of the leadership who if something goes wrong or if the people - who would huddle the team at the beginning of the day and huddle them at the end of the day to give instructions and troubleshoot the items that need to be addressed. Does that answer your question?

Commissioner Townsend said yes, it does. One last question. On what sites are we paying rent? **Mr. McKain** said the only site we're paying rent on right now is the K-Mart site. We're not paying rent on the other ones. At one point we paid rent on the Best Buy site, and we paid rent on - we still pay rent on the K-Mart site. We never paid rent on the National Guard Armory site because they were kind enough to let us use that building for free. So right now, we pay for the K-Mart site and just so you know, that rent payment is about $11K a month for that site.

Commissioner Townsend said okay, thank you. Those are all the questions I had.

Chairman Burroughs said I believe that this is the page that you were referring to because in our pamphlet it does say $4.1 at the bottom, so it's just a typo on the slide.

Mr. McKain said I may be the cause of this typo. What I wanted to draw to is this is the whole application, this $4.1M. We've already received $2.0M of that $4.1M expected reimbursement. And that funding has already been deposited into the City General Fund. We're still waiting to receive an additional $2.1M and those funds will be deposited into this Special Grants Fund. So, I was just trying to draw out that even though the first application was $4.1M completely with kind of splitting it in half, half is going to the City General Fund and then half is going to go to the Special Grants Fund.

Chairman Burroughs said the question I would have in reference to your comment, you said the $2.0M went into the General Fund, but did we utilize ARPA dollars initially and we're just reimbursing ARPA funds? **Ms. VonAchen** said no. Commissioner, the initial $2M, those were expenses of the City General Fund. That was an item that we brought forward to you way back in the beginning of 2021 because there was where you all agreed to spend $2.0M in available Fund Balance from 2020, the prior year, to help the Public Health Department with expenses because at that point, we just really didn't know what was coming, what kind of additional money was coming. That's where that $2.0M came from and that was all expensed in the City General Fund.

Chairman Burroughs said great. That goes back to my question, so we never did reimburse ourselves from the ARPA funding to the General Fund. We're going to use the FEMA dollars to do that and leave ARPA where it's at. **Ms. VonAchen** said that's right. Because ARPA wasn't even known at that point because ARPA came in May.

Commissioner Davis said I just had two questions here. The first one is, can you all give us just more information what the Special Grants Fund is? Just what is kind of the nature of that? My second question is, I guess for all of these different applications, are we also voting on what you all will do with the money once it's been reimbursed or is it for all three applications the money will go back to where it came from and then we'll decide at a later time on what to do with the money that has been reimbursed. I hope that last question makes sense.

Ms. VonAchen said first off, the Special Grants Fund is, we're calling it loosely the Special Grants Fund, but in reality, it's a combination of a whole slew of Grants funds. When we do our financial reporting in the Annual Comprehensive Financial Report, we combine all of the grant funds into one and we call it the Special Grants Fund.

Of the ones that we're talking about, we've created several specifically for FEMA reimbursement. These items will be segregated and separately recorded upon and monitored and accounted for, for our reporting purposes for FEMA. The expenses are incurred, so they need a revenue to pay for them.

When we get the reimbursement, it will be covering the expenses that were incurred. There really isn't extra dollars that you can then reallocate, and except for the fact that of the Reimbursement #2. Some of these dollars were already budgeted in other spots without knowing about the FEMA reimbursement possibility. So, in this instance when we do get approval from the federal government that they accept these as eligible expenses, then these funds will be freed up.

The funds that will be freed up are ARPA funds. I think we talked about that in an email. You had asked some questions. I'm on vacation right now, so I didn't have all the specific dollar amounts in front of me when I responded to your email. You can see here that these dollars, many of them, well especially in this first top line, the $1.6M, those funds were approved as part of the ARPA immediate needs. If FEMA accepts these as eligible expenses, then we won't have to use ARPA funds to cover these costs. So, that will actually free up more ARPA funds that would be available for all of you to reallocate as part of the ARPA Subcommittee.

Commissioner Davis said the application was more specifically what I was going towards. If we do get it, we won't see that money reappear and we will have the authority to reallocate it as we see fit.

Chairman Burroughs said, Kathleen, correct me if I'm wrong, I believe that reallocation would have to go for ARPA-related expenses and not into the General Fund. **Ms. VonAchen** said yes, absolutely. None of this has really, except for that first slide, none of this really has anything to do with the City or the County General Fund.

Chairman Burroughs asked committee, any other questions? I don't see any other hands. At this time, I will ask the Clerk if there were any comments received from the public? **Ms. Facio** said no comments were received.

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Townsend, to approve as submitted.** Roll call was taken and there were six "Ayes," Haley, Davis, Townsend, Stites, McKiernan, Burroughs.

Item No. 2 – 211258…RESOLUTION: AMENDMENT TO ASSIGNMENT AND ASSUMPTION AND DEVELOPMENT AGREEMENT FOR HOMEFIELD DEVELOPMENT PROJECT

Synopsis: A resolution adopting the assignment, assumption and second amended and restated development agreement for the Homefield Project, submitted by Katherine Carttar, Director of Economic Development.

Action: **Removed from Agenda.**

Item No. 3 – 211259…ORDINANCE: TERMINATION OF THE TURNER LOGISTICS CENTER COMMUNITY IMPROVEMENT DISTRICT

Synopsis: An ordinance terminating the Turner Logistics Center Community Improvement District and repealing Ordinance No. O-43-19 due to Turner Logistics completing the Minimum

Building Improvements of 1,000,000 square feet constructed, submitted by Katherine Carttar, Director of Economic Development.

Economic Development & Finance

ORDINANCE: TERMINATION OF THE TURNER LOGISTICS CENTER COMMUNITY IMPROVEMENT DISTRICT

An ordinance terminating the Turner Logistics Center Community Improvement District and repealing Ordinance No. O -43-19 due to Turner Logistics completing the Minimum Building Improvements of 1,000,000 square feet constructed per the Development Agreement.

CID was a back stop to ensure the UG would be reimbursed for our share of the Turner Diagonal interchange if Northpoint did not build the required 1,000,000 square feet by Jan 1, 2025.

Katherine Carttar, Director of Economic Development, said today I've got some really, I think, very good news; something to celebrate. I'll give some context for those new to the committee. The Turner Logistics Center out at I-70 and College, this is a very significant logistics center.

Turner Diagonal

•Completed in December 2020

Public-private partnerships
& how to leverage federal funds via cost sharing

We put this in place - the first piece of this was to have the Turner Diagnol interchange completely redone. You can see what it looks like today with the overlay, and then you have kind of the old ramp as kind of a reminder of what those look like. Then with all this land, particularly to the northeast that had been kind of stuck because you couldn't reach it due to the ramps from I-70. After a number of - and this is a nutshell of what was a very long process, but after a number of federal Grants applications, the Unified Government, KDOT and KTA, as well as NorthPoint, the proposed developer, were awarded just under $14M for this interchange. In addition to that federal funding, there was a requirement for KDOT as well as the UG to provide funding.

The way that we structured the industrial revenue bonds for this was to ensure that we would be paid back for that upfront investment that was our portion of the funds to get this interchange done. All of which is to say, we wanted to ensure that at a very minimum, an absolute minimum, the Unified Government would get reimbursed $8.0M from Turner Logistics. That was the Unified Government's upfront costs for the interchange.

Turner Logistics

$155,000,000 investment
2,789,680 square feet
At least 2,500 jobs

To do that, we determined through a financial study, that they needed to, at a minimum, build a million square feet. We figured if they built a million square feet by January 2025, that would, over those 10 years and with the payment in lieu of taxes schedule that we had put - that actually is every year they have to pay; it's an accelerating schedule - if anyone is interested, we can get it back - at a minimum, they needed to build one million square feet, again, by 2025.

I am thrilled to say that they have exceeded that by four years. They have just been on a building terror. They have built buildings 1, 2 and 3 shown here that equal just over 1.3M square feet, and they have building permits that are getting started on buildings 4 and 5. So by this January 2025, they will probably be at 2.0M square feet by then, at least, I would think. They are well in advance of what we kind of had being the worst-case scenario.

What we did in the development agreement is, you should really look at this, again, at a minimum, goal is to get paid back our costs for the public infrastructure. To do that, if they did not build a million square feet, then at the time that we approve the industrial revenue bonds and the development agreement, we also had a CID that would automatically kick in, in 2025, that would then pay us back, so it would be basically an additional property tax. There are a number of ways you can use CIDs. That would be an additional property tax, but again, would be a way for us to get paid back. The fact that they are so ahead of schedule and met their minimum construction so quickly, we will not only get paid back our $8.0M, but far, far more and there is no need for that backstop that was the CID.

So, today I am requesting - that's what it looks like today, more snow today actually - I'm requesting that we terminate the CID as there is no use for it as we do not need that backstop as they will have more than paid us back. We're in a really great position. This is one of those projects that has exceeded all expectations and timelines, so we really credit NorthPoint with being a great partner on this and building as quickly as possible. We will certainly see a lot of great dividends because of that.

Chairman Burroughs asked committee, any questions? I see no hands. I'll ask the Clerk, are there any members of the public that wish to speak? **Ms. Facio** said no hands are raised and no comments were received.

Chairman Burroughs said this is a bit of good news. It's a great way to start off the year eliminating a CID on the development project; basically three years ahead of time. Kudos.

Action: **Commissioner Townsend made a motion, seconded by Commissioner McKiernan, to approve the resolution as submitted.**

Chairman Burroughs said just for the community's benefit, we are voting to eliminate the CID ahead of time for the Turner Hospital Center.

Roll call was taken and there were six "Ayes," Haley, Davis, Townsend, Stites, McKiernan, Burroughs.

Chairman Burroughs said that will conclude our meeting for this evening of the Economic Development and Finance Standing Committee. We will adjourn and then we will reconvene with Chairman McKiernan and the Neighborhood and Community Development whenever the Chairman is ready to have us move forward.

ADJOURN: Chairman Burroughs adjourned the meeting was adjourned at 5:44 p.m.

am

ECONOMIC DEVELOPMENT AND FINANCE
STANDING COMMITTEE MINUTES
Monday, February 7, 2022

The meeting of the Economic Development and Finance Standing Committee was held on Monday, February 7, 2022, at 5:00 p.m., remotely via Zoom and on-site. The following members were present: Burroughs, Chairman; Commissioners Townsend, McKiernan, Stites, Davis, and David Haley, BPU Member. The following officials were also in attendance: Emerick Cross, Melissa Sieben and Bridgette Cobbins, Assistant County Administrators; Kathleen VonAchen, Chief Financial Officer; Ashley Hand, Director of Strategic Communication; SueZanne Bishop, Assistant Counsel; Debbie Jonscher, Deputy CFO; Patrick Waters, Deputy Chief Counsel; Wendy Green, Assistant Counsel; Monica Sparks, Deputy Unified Government Clerk; Terri Kimble and Allie Facio, Clerk's Office.

Chairman Burroughs said before I call the meeting to order, I want to announce that due to COVID-19, some committee members, staff, and the public are attending remotely via Zoom by as well as on-site. All participants joining by phone should mute their phones when not speaking to avoid background noise.

During the meeting, please make sure that you announce yourself by name and title, every time you speak so that the public that is observing knows who is speaking. This is critical given the number of remote participants and is the current guidance from the Kansas Attorney General.

The public is allowed to participate by Zoom or submit comments by email prior to the meeting and those comments will be included in the record of this meeting. The public also will have an opportunity to provide brief comments from the lobby of the Municipal Office Building.

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

REVISIONS TO FEBRUARY 7, 2022, AGENDA

Chairman Burroughs said it's my understanding we have no revisions to the agenda this evening. So, with that, we'll move right into the Minutes. I would entertain a motion to approve the Minutes from October 11th.

Approval of standing committee minutes from October 11, 2021. **On motion of Commissioner McKiernan, seconded by Commissioner Townsend, the minutes were approved.** Roll call was taken and there were six "Ayes," Haley, Davis, Townsend, Stites, McKiernan, Burroughs.

<u>COMMITTEE AGENDA</u>

Item No. 1 – 211289…RESOLUTION: AMENDING MASTER EQUIPMENT LEASE PURCHASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP.

Synopsis: A resolution authorizing the Unified Government to amend its Master Equipment Lease Purchase Agreement with Banc of America Corp., submitted by Debbie Jonscher, Deputy Chief Financial Officer.

Chairman Burroughs said I'm pleased to see that we have a full committee this evening. We have a short agenda this evening. That takes us to the very first item which is the resolution. With that I'll ask Debbie Jonscher to please make her comments.

Debbie Jonscher, Deputy Chief Financial Officer, said I've got just a short presentation. The resolution tonight is requesting to authorize an amendment to our current Master Equipment Lease Purchase Agreement for 2022.

I do know that we have some new commissioners on the Committee, so I thought I would just give a little background information on the Master Lease Agreement. The lease agreement is the financing tool that we use to finance all of our capital equipment needs. The packet that you received tonight includes the resolution to amend the current agreement. It also includes a list of the equipment that has been approved by the Commission, and it also has the amendment that extends the agreement through the end of this year.

So, just some background information, the agreement is with Banc of America Public Capital Corp. We did sign a new agreement in 2021. The original term of that agreement went through December 31st of 2021, and then the contract allows for several one-year optional amendments. So that's what we are doing, we are bringing forth the amendment for 2022, which would extend the lease agreement through December 31st of 2022. Lease schedules are terms can range anywhere from 3 to 10 years; however, I will say that we have gotten away from the three-year term. A lot of times when we've had equipment that has a life of three years, when we get it lease financed, a lot of time we find that the useful life sometimes, for instance, if it was a patrol vehicle, the useful life may not actually—we may not make it to three years on some of those vehicles if they're used a lot. We don't have as many three-year terms as we did but we do issue 5, 7, and 10-year leases.

The interest rate, there's a formula defined in the agreement and the rate is set approximately one week before the lease schedule closes. I did, just for reference, go ahead and list out the 2021 rates that we got. We did a 5-year, a 7-year and a 10-year with the rates ranging anywhere from 1.6% to 2.04%.

In this year's amendment we did include the equipment list. All equipment that's included is in the CMIP, and it was approved by the UG Commission. The principal amount is $7.6M and I've broken out the different types of vehicles that are included in there, and that list is included in your—I believe it's on page 3 of the packet. It's after the resolution. It does list out all the different types of equipment that we are looking at. So, there were fire vehicles, street vehicles and equipment, parks equipment, and some transit vehicles.

The amendment is also included which extends this agreement through the end of December of 2022. The action tonight would be that we would request approval of the resolution to extend the Master Lease Agreement to December 31st, 2022.

Chairman Burroughs said Committee, you noticed the fire apparatus that we have on lease is our most expensive items, as you can see by the documentation, which makes up the majority of that, but they are leased for the full 10 years. Everything else is between 5 and 7-year leases. This is something that we do every year for those commissioners that are new. I believe with the fire equipment we have to have it be more cost-effective, the rates are very satisfactory. So, with that I'll open it up to any questions that we may have from the committee. I see no hands at this time.

At this time, I'll ask if there were any public comments. **Monica Sparks, Deputy UG Clerk**, said we did not receive any.

Chairman Burroughs said okay, hearing none, one last call for any questions from the Commission? Okay, seeing none, I'd entertain a motion. This is an action item.

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Townsend, to approve as submitted**. Roll call was taken and there were six "Ayes," Haley, Davis, Townsend, Stites, McKiernan, Burroughs.

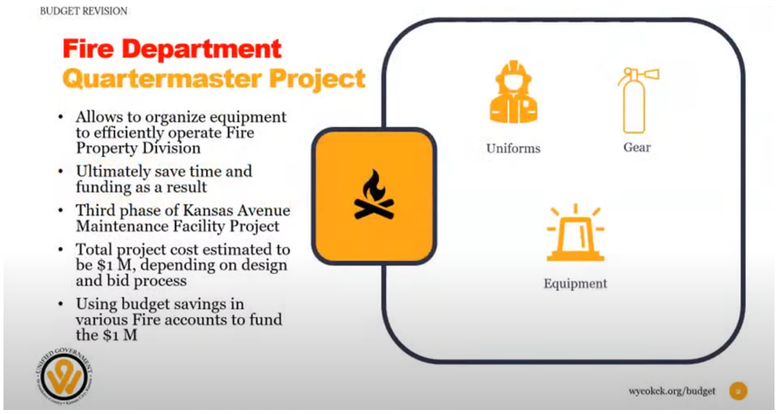
Item No. 2 – 211293…APPROVAL: 2021-2022 BUDGET REVISIONS

Synopsis: Approval to revise the 2021 and 2022 budgets of the Kansas Avenue Fire Maintenance Facility Project to include the Fire Department Quartermaster Project, submitted by Kathleen VonAchen, Chief Financial Officer, and Jack Andrade, Deputy Fire Chief.

Chairman Burroughs said Item No. 2, and I'm going to ask for some assistance here. I do know that was a 4-part prior to this evening's meeting. But I believe it's been broken down to just one. And I believe it's the last item for consideration for approval to revise the 2021-2022 Budgets of the Kansas Avenue Fire Maintenance Facility Project. With that I do have, I believe Kathleen VonAchen and Deputy Fire Chief Jack Andrade, are here to present.

Kathleen VonAchen, Chief Financial Officer, said we have a very short four slide presentation. The representatives from the Fire Department are here to cover some of these slides.

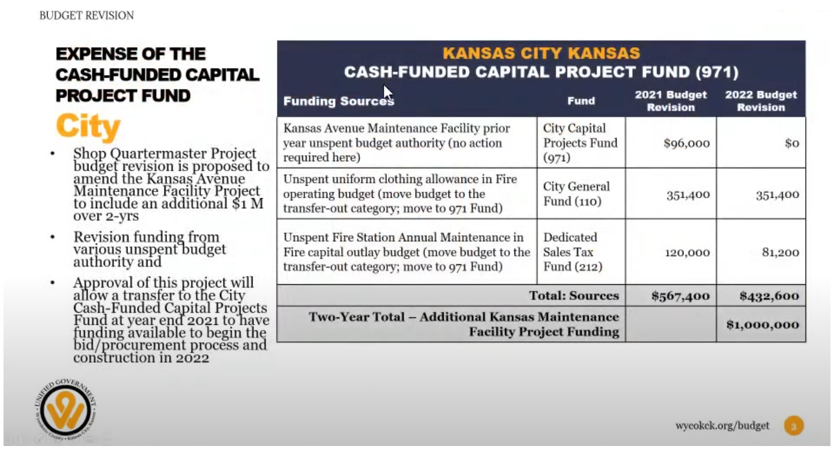
This is a proposed budget revision for 2021 and 2022. It regards the Fire Department's Quartermaster Project.



I'm going to let the Fire Department talk about the Quartermaster Project in more detail here, and then there is a slide outlining the details of the budget revision that's proposed. So, take it away, Fire Department.

Brent Smith, Assistant Chief of Support Services, said this is our current phase of our maintenance facility. Phase 1 was to get it operated as a maintenance shop, Phase 2 was the offices and locker room area, Phase 3 is what we call the quartermaster. What the quartermaster is, is essentially a place for us to store and organize all of our equipment. Out of there we house all of our uniforms for all 445 firefighters, our bunker gear, all of our equipment that we utilize for fighting fires, whether it be nozzles and hoses, and everything of that nature. Another key element of the quartermaster; what we have is a clean room for self-contained breathing apparatus, which allows us to follow the NFPA standards and OSHA is to maintain all of our self-contained breathing apparatus for all our fire testing, allows us to fit testing to make sure that all of our firefighters are wearing the appropriately sized mask. So, ultimately, it's a big area in order to store all of our items that we have out there, it allows us to be much more organized and fluid. It allows us to kind of be a little bit of an analyst of all our equipment, how long it lasts and ultimately helps us control our inventory a little bit better.

This is the third phase as we mentioned. We estimate this to be about a $1M project. We're just finalizing kind of the touches with our architect. As everybody knows, the building construction today is very fluid and the prices change quite frequently. So the next phase will be, once we finish this up with the design aspect, would be to take it out to a construction bid and that will give us a better understanding until we have that, it's really tough to have a concrete number, but we anticipate it to be roughly about $1M to construct this, which will bring us to our next slide.



Just kind of a breakdown of how we got here. We've tried to be responsible with our operating cost, so we've been very strategic in our spending, trying to save up our funding in order to get to this point. We were able to save around $96K in the year 2020 and we amended that into the 2021 Budget. Then you can see we have our City General Fund, and Dedicated Sales Tax. We're able to again, using strategic spending in order to save some money. Additionally, since we lacked the adequate space in order to appropriate appropriately the equipment to store a lot of the stuff, we couldn't spend the money, because we didn't have any place to put that clothing, which means that we have to pretty much--when our firefighters need stuff, we have to order it, and we have to wait for it to come in, versus having it in stock, which as everybody knows that's very difficult these days, especially when some of that equipment is tailored to our firefighters, the exact size that keeps them safe fighting a structure fire. Between that and just being very careful of our spending dollars we've been able to save all the funding you see there. Essentially at this point, we're asking just for a budget revision in order to bring all that money into 2022, and we're hoping to find—just use that plus our current operating dollars over to try to hopefully finalize this project. That's the nuts and bolts of it. I'm open to anybody that have any questions.

Commissioner Davis asked, are there any ongoing costs that you all can predict for this endeavor? **Mr. Smith** said ongoing costs as far as operating the quartermaster afterwards? **Commissioner Davis** said yes. **Mr. Smith** said no, there really won't be any—very much, if anything at all. It would be minimal at best because the quartermaster is actually; it's a structure inside of a structure. I think at 5440 Kansas Avenue we have a big, almost looks like a warehouse. We're going to construct this inside that warehouse. It will be out of the elements—very few—there's electrical and lights and stuff like that. There's a little bit of an HVAC, but overall, it will be very minimal.

Commissioner Townsend said either you or CFO VonAchen can answer this. My basic question is, are we talking about additional funds beyond what was allocated or simply shifting money from one pot to this fund? From one year to another?

Ms. VonAchen said that's correct. It's shifting existing budget from the respective City General Fund and Dedicated Sales Tax Fund into the Cash-Funded Capital Project Fund 971. Then once that shift happens then rolling forward; capital project funding rolls forward anyway, so once it's shifted up to the Capital Project Fund, then they'll be able to spend in 2022.

Commissioner Townsend said in the shifting that you mentioned, were these funds already allocated in some way for use by the Fire Department though? **Ms. VonAchen** said that's correct. The budget that was in the operating lines for uniform allowance and unspent annual maintenance in the Dedicated Sales Tax fund; that budget would then move from those operating lines into the transfer line. Then we'll use that transfer line to move the money out of those 110 and 212 into the 971s.

Chairman Burroughs said I'll ask the Clerk if there was any public comment? **Ms. Sparks** said, we received no comment.

Chairman Burroughs said Mr. Smith, I just want to say thank you for the time you gave me the other day when I came down to view the facility. I can share with you Commission members that they are in need of this quartermaster area. I'll call it a large storeroom to ensure that the integrity of the equipment is dust-free and kept in a safe manner that is conducive to the integrity of the equipment. I think it's extremely important that we provide them the opportunity to do so. I have no objections to advancing this.

Action: **Commissioner Townsend made a motion, seconded by Commissioner Stites, to approve as submitted**. Roll call was taken and there were six "Ayes," Haley, Davis, Townsend, Stites, McKiernan, Burroughs.

PUBLIC AGENDA

Not items discussed.

Adjourn: 5:20 P.M.

am

Staff Request for Commission Action

Tracking No. 211710

Full Commission Meeting Date:
Committee: Full Commission

Date of Standing Committee Action: (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/25/2022	Rocki Mayes	x2995	rmayes@wycokck.org	Treasurer

Item Description:
FOR INFORMATION ONLY: A presentation regarding the $5 county facility fee charged by Treasury for in-person renewal of vehicle tags. Submitted by: Becky Berger, Treasurer, Andrea Vinyard, Deputy Treasurer, and Rocki Mayes, Management Analyst, Clerical, and Administrative Assessment Manager.

Action Requested:
FOR INFORMATION ONLY

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

Attachments List:

Staff Request for Commission Action

Tracking No. 211709

Full Commission Meeting Date: 6/9/2022
Committee: Economic Development & Finance

Date of Standing Committee Action: 6/6/2022 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/24/2022	Michael Peterson			Finance

Item Description:
Requesting approval authorizing budget amendment of $1.7 million in advance of the 2022 Amended Budget Approval to start the procurement and replacement of updated Intrinsically Safe Radios for Fire Services operating within Wyandotte County. Requesting approval authorizing budget amendment of $1.7 million in advance of the 2022 Amended Budget Approval to start the procurement and replacement of updated Intrinsically Safe Radios for Fire Services operating within Wyandotte County, submitted by Michael Peterson, Assistant Budget Manager

Action Requested:
For information only.

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

Attachments List:

Staff Request for Commission Action

Tracking No. 211720

Full Commission Meeting Date: 6/9/2022
Committee: Economic Development & Finance

Date of Standing Committee Action: 6/6/2022 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/25/2022	Reginald Lindsey	x5292	rlindsey@wycokck.org	Finance

Item Description:
Per Budgetary Policy commission review is necessary for discretionary expenditures that exceed $50,000 and do not impact operations or present an immediate health and safety concern. This item is being presented to Economic Development & Finance Standing Committee for a decision to forward to June 9th full Commission meeting. Submitted by Reginald Lindsey, Budget Manager

Action Requested:

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

Attachments List:

Staff Request for Commission Action

Tracking No. 211712

Full Commission Meeting Date: 6/30
Committee: Economic Development & Finance

Date of Standing Committee Action: 6/6 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/25/2022	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description: Resolution of Intent to Issue Industrial Revenue Bonds in the amount not to exceed $13,000,000 to finance the costs of acquiring, constructing, improving and equipping a multi-purpose commercial project for the benefit of Flying Truss, LLC. The benefit of the bonds would be to provide the project with sales tax exemption on construction materials only.
Action Requested: Approval and move to FC 6/30
Budget Impact: (if applicable) Amount: Source: Included In Budget: Other (explain):
Attachments List: Resolution of Intent (UG - Flying Truss)

RESOLUTION NO. R __-22

RESOLUTION DETERMINING THE INTENT OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE AMOUNT OF NOT TO EXCEED $13,000,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING A MULTI-PURPOSE COMMERCIAL PROJECT FOR THE BENEFIT OF FLYING TRUSS, LLC, AND ITS SUCCESSORS AND ASSIGNS (SALES EXEMPTION ONLY)

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

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

WHEREAS, Flying Truss, LLC, a Missouri limited liability company (the "Company"), has submitted to the Unified Government an Application for the Issuance of Industrial Revenue Bonds (the "Application") requesting that the Unified Government finance the cost of acquiring, constructing and equipping a multi-purpose commercial project generally located at the Rock Island Railroad Bridge, as more fully described in the Application (collectively, the "Project") through the issuance of its industrial revenue bonds in one or more series in the amount of not to exceed $13,000,000 (the "Bonds"), and to lease the Project to the Company, or its successors and assigns, in accordance with the Act; and

WHEREAS, it is hereby found and determined to be advisable and, in the interest, and for the welfare of the Unified Government and its inhabitants that the Unified Government finance the costs of the Project by the issuance of the Bonds under the Act in a principal amount of not to exceed $13,000,000, said Bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the Unified Government to the Company.

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

Section 1. Approval of Project. The governing body of the Unified Government hereby finds and determines that the acquiring, constructing, improving and equipping of the Project will promote the general welfare and economic prosperity of the Unified Government, and the issuance of the Bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act. The Project shall be generally located at the Rock Island Railroad Bridge located in the corporate boundaries of the Unified Government, as further described in the Application.

Section 2. Intent to Issue Bonds. The governing body of the Unified Government hereby determines and declares the intent of the Unified Government to acquire, construct and equip the Project out of the proceeds of the Bonds of the Unified Government in the principal amount of not to exceed $13,000,000, to be issued pursuant to the Act.

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

Section 4. Conditions to Issuance. The issuance of the Bonds and the execution and delivery of any documents related to the Bonds are subject to: (i) obtaining any necessary governmental approvals; (ii) agreement by the Unified Government, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project; (iii) the Company's compliance with the Unified Government's policy relating to the issuance of industrial revenue bonds; (iv) the passage and publication of an Ordinance authorizing the issuance of the Bonds; and (v) Company's payment of all of the costs of issuance related to the issuance of the Bonds.

Section 5. Sale of the Bonds. The sale of the Bonds shall be the sole responsibility of the Company; provided, however, arrangements for the sale of the Bonds shall be acceptable to the Unified Government.

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

Section 7. Authorization to Proceed. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into of contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law and upon compliance with the other requirements of this Resolution, the Unified Government will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 8. No Reliance on Resolution. Kansas law provides that the Unified Government may only issue the Bonds by passage of an Ordinance and compliance with other state law requirements. The Unified Government has not yet passed an Ordinance for the Bonds. This Resolution only evidences the intent of the current governing body to issue the Bonds for the Project. The Company should not construe the adoption of this Resolution as a promise or guarantee that the Ordinance for the Bonds will be passed or that the Project will be approved.

Section 9. Termination of Resolution. This Resolution shall terminate three (3) years from the date of the adoption of this Resolution unless (i) the Bonds have been issued for the Project or (ii) a building permit has been issued by the Unified Government for the Project. The Unified Government, upon the written request of the Company, may extend this time period.

Section 10. Benefit of Resolution. This Resolution will inure to the benefit of the Unified Government and the Company. The Unified Government may, at the prior written request of the Company, assign all or a portion of the Company's interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.

Section 11. Further Action. Counsel to the Unified Government and Gilmore & Bell, P.C., Bond Counsel for the Unified Government, together with the officers and employees of the Unified Government, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the Unified Government all documents necessary to effect the authorization, issuance and sale of the bonds and other actions contemplated hereunder.

Section 12. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the governing body of the Unified Government.

[Remainder of page intentionally blank.]

ADOPTED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS ON JUNE 30, 2022.

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

[SEAL]

ATTEST:

By: ______________________________
Unified Government Clerk

Approved as to Form:

By: ______________________________
Chief Counsel

Staff Request for Commission Action

Tracking No. 211714

Full Commission Meeting Date: 6/30
Committee: Economic Development & Finance

Date of Standing Committee Action: 6/6 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/25/2022	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description: Resolution authorizing the approval of the termination of Foodie Park Development Agreement and subsequent amendments.
Action Requested: Approval and move to FC 6/30.
Budget Impact: (if applicable) Amount: Source: Included In Budget: Other (explain):
Attachments List: Resolution authorizing approval of Termination Agreement, Scavuzzo Termination Agreement - final

RESOLUTION NO. ______________________

A RESOLUTION AUTHORIZING THE APPROVAL OF THE TERMINATION OF FOODIE PARK DEVELOPMENT AGREEMENT

WHEREAS, on September 26, 2019, the UG and the Original Developer entered into that certain KC Foodie Park Development Agreement (the "Original Development Agreement"), which Original Development Agreement was joined by Scavuzzo's, whereby Developer proposed to acquire, design, develop, and construct the Project on certain real property located in Wyandotte County, Kansas, which is generally bounded on the north by State Avenue, on the east by Interstate 635, on the south by Interstate 70, and on the west by North 47th Street; and

WHEREAS, the Original Development Agreement has subsequently been amended by that certain First Amendment dated as of December 12, 2019 (the "First Amendment"), that certain Second Amendment dated as of March 12, 2020 (the "Second Amendment"), that certain Third Amendment dated as of August 27, 2020 (the "Third Amendment"), and that certain Fourth Amendment dated as of August 26, 2021 (the "Fourth Amendment"). Collectively, the Original Development Agreement as amended by the First Amendment, Second Amendment, Third Amendment and Fourth Amendment are referred to herein as the "Development Agreement"; and

WHEREAS, among other things, the Development Agreement provided for public financing, including TIF, a CID and IRB financing, and the Development Agreement set forth certain deadlines, including without limitation, a deadline to Commence Construction of the Phase 1 Minimum Improvements; and

WHEREAS, pursuant to the terms of the Development Agreement, on March 31, 2020, the Assignee closed on the acquisition of the Phase 1 Property, and the UG delivered a deed (the "Deed") for said Phase 1 Property to Assignee. The Parties entered into that certain Acknowledgement and Assumption Agreement [Food Service Center] dated as of March 31, 2020 (the "A&A"), pursuant to which Developer acknowledged, assumed and agreed to perform certain of the Developer's obligations covenants and agreements under the Development Agreement as the same pertain to the design, construction, completion and operation of the Food Service Center; and

WHEREAS, though Developer made certain efforts to obtain the required private financing and Commence Construction of the Phase 1 Minimum Improvements, the UG does not agree that Developer ever satisfied its obligation to timely Commence Construction of the Phase 1 Minimum Improvements as defined and required by the Development Agreement. Accordingly, on Febuary 4, 2022, the UG sent an official default letter to Developer articulating the nature of the default and describing the cure periods provided for in the Development Agreement. The relevant cure periods for default have now expired and the UG does not believe that the Developer has cured the defaults described in the February 4, 2022 default letter; and

WHEREAS, without admitting that Developer has failed to cure the default as alleged in Recital E above, the Parties have agreed to terminate the Development Agreement, the

Memorandum and the A&A, and Developer forfeit any and all rights they, or any one or more of them, may have in the Project Site and/or the TIF, CID, IRBs and other public financing described in the Development Agreement, and to transfer the Phase 1 Property back to the UG.

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

Section 1. Authorization. The Unified Government Mayor/CEO is hereby authorized and directed to enter into and execute in the name of the Unified Government of Wyandotte County/ Kansas City, Kansas the Termination of the Foodie Park Development Agreement, in substantially the form attached as Exhibit A, hereto.

Section 2. Further authority. The Mayor, the County Administrator, and the Unified Government's other officers, agents, and employees are hereby authorized and directed to take such further action, and execute such other documents, certificates, and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 3. Effective Date. This Resolution shall be effective upon its adoption by the Unified Government Board of Commissioners.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS THIS 30th DAY OF JUNE 2022.

____
Tyrone A. Garner
Mayor/CEO

ATTEST:

____
Unified Government Clerk

Approved as to Form:

Chief Counsel

TERMINATION OF FOODIE PARK DEVELOPMENT AGREEMENT

THIS TERMINATION OF KC FOODIE PARK DEVELOPMENT AGREEMENT (this "Agreement"), is made and entered into as of _________________, 2022 by and among the **UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS** (the "UG"); **SCAVUZZO'S, INC.**, a Kansas corporation d/b/a Scavuzzo's Food Service Company ("Scavuzzo's"); **SCAVUZZO'S FOODIE CAMPUS, LLC**, a Kansas limited liability company ("Assignee"); and **KC FOODIE PARK, LLC**, a Delaware limited liability company (the "Original Developer"). Collectively, Scavuzzo's, Assignee and the Original Developer are referred to herein as the "Developer", and collectively the UG and Developer are referred to as the "Parties").

RECITALS:

A. On September 26, 2019, the UG and the Original Developer entered into that certain KC Foodie Park Development Agreement (the "Original Development Agreement"), which Original Development Agreement was joined by Scavuzzo's, whereby Developer proposed to acquire, design, develop, and construct the Project on certain real property located in Wyandotte County, Kansas, which is generally bounded on the north by State Avenue, on the east by Interstate 635, on the south by Interstate 70, and on the west by North 47th Street, as legally described on Exhibit A attached to the Original Development Agreement (the "Project Site"). A Memorandum of Agreement [KC Foodie Park Development Agreement] dated as of March 31, 2020 was recorded with the Wyandotte County, Kansas Register of Deeds (the "Register of Deeds") against the Phase 1 Property on April 1, 2020 as Document No. 2020R-04590 (the "Memorandum").

B. The Original Development Agreement has subsequently been amended by that certain First Amendment dated as of December 12, 2019 (the "First Amendment"), that certain Second Amendment dated as of March 12, 2020 (the "Second Amendment"), that certain Third Amendment dated as of August 27, 2020 (the "Third Amendment"), and that certain Fourth Amendment dated as of August 26, 2021 (the "Fourth Amendment"). Collectively, the Original Development Agreement as amended by the First Amendment, Second Amendment, Third Amendment and Fourth Amendment are referred to herein as the "Development Agreement." Capitalized terms which are not otherwise defined herein shall have the meanings assigned to them in the Development Agreement.

C. Among other things, the Development Agreement provided for public financing, including TIF, a CID and IRB financing, and the Development Agreement set forth certain deadlines, including without limitation, a deadline to Commence Construction of the Phase 1 Minimum Improvements.

D. Pursuant to the terms of the Development Agreement, on March 31, 2020, the Assignee closed on the acquisition of the Phase 1 Property, and the UG delivered a deed (the "Deed") for said Phase 1 Property to Assignee for a Purchase Price equal to $100. The Parties entered into that certain Acknowledgement and Assumption Agreement [Food Service Center] dated as of March 31, 2020 (the "A&A"), pursuant to which Assignee acknowledged, assumed and agreed to perform certain of the Developer's obligations covenants and agreements under the

Development Agreement as the same pertain to the design, construction, completion and operation of the Food Service Center. The A&A was recorded with the Register of Deeds against the Phase 1 Property on April 1, 2020 as Document No. 2020R-04592.

E. Though Developer made certain efforts to obtain the required private financing and Commence Construction of the Phase 1 Minimum Improvements, the UG does not agree that Developer ever satisfied its obligation to timely Commence Construction of the Phase 1 Minimum Improvements as defined and required by the Development Agreement. Accordingly, on Febuary 4, 2022, the UG sent an official default letter to Developer articulating the nature of the default and describing the cure periods provided for in the Development Agreement. The relevant cure periods for default have now expired and the UG does not believe that the Developer has cured the defaults described in the February 4, 2022 default letter.

F. Without admitting that Developer has failed to cure the default as alleged in Recital E above, the Parties have agreed to terminate the Development Agreement, the Memorandum and the A&A, and Developer forfeit any and all rights they, or any one or more of them, may have in the Project Site and/or the TIF, CID, IRBs and other public financing described in the Development Agreement, and to transfer the Phase 1 Property back to the UG in accordance with the terms and conditons more fully set forth herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing and in consideration 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 hereby agree as follows:

1. **<u>Incorporation of Recitals</u>**. The Parties understand and agree that the Recitals set forth above are hereby incorporated as though more fully set forth herein.

2. **<u>Termination of Development Agreement and Memorandum</u>**.

2.1 <u>Termination</u>. Upon the Reversionary Closing (as defined in Section 3.2 below), the Parties hereby agree that the Development Agreement and the A&A shall terminate and be of no further force and effect thereafter, except for and subject only to the obligations set forth in Sections 2.4(a), 7.12, 7.16 and 10.12 that specifically survive termination of the Development Agreement and/or the A&A. The Parties hereby agree to record a termination of the Memorandum and the A&A with the Register of Deeds at the Reversionary Closing.

2.2 <u>Release</u>. Subject to Section 2.1 above and the terms and conditions of this Agreement, the Parties hereby acknowledge, as of the date of the Reversionary Closing, the UG and Developer hereby release and discharge each other and their guarantors, partners, officers, employees, agents, successors and assigns from any and all obligations, actions, causes of action, claims, demands, damages, costs, expenses and compensation arising in, out of, or in any manner related to the Development Agreement and/or the A&A. Without limiting the generality of the foregoing, Developer hereby agrees that Developer's release hereunder specifically includes any claims, rights and/or interests in and to (a) any public financing described in the Development Agreement, including the TIF, CID, IRBs or other public financing described therein; and (b) any reimbursements for Developer's costs incurred in connection with the Project, the Project Site and/or the Development Agreement.

3. **Reversionary Closing**.

3.1 UG's Reversionary Interest. The Parties hereby understand and agree that Section 2.4(b) of the Development Agreement and the Deed includes a Reversionary Interest in the Phase 1 Property in favor of the UG, which Reversionary Interest may be exercised by the UG in the event that Developer fails to timely Commence Construction of the Phase 1 Minimum Improvements as defined and required by the Development Agreement.

3.2 Reversionary Closing. On or before July 15, 2022, Developer hereby agrees to transfer and convey the Phase 1 Property (along with any other property owned by Developer in the TIF District) and any Improvements thereon back to the UG by delivery of a special warranty deed to the UG (the "Reversionary Closing"). The UG shall retain, at its sole cost and expense, First American Title Company (the "Title Company") to serve as escrow agent for the Reversionary Closing. The UG shall not be required to pay Developer or reimburse any portion of the Purchase Price in connection with the Reversionary Closing.

3.3. Reversionary Closing Costs. The UG will pay all of the costs associated with the Reversionary Closing except for the following costs and expenses, which shall be paid by Developer on or before the Reversionary Closing: (a) Developer's attorneys fees; (b) any liens, mortgages or other monetary encumbrances burdening the Phase 1 Property; (c) all property taxes for the Phase 1 Property due and payable for 2021; and (d) prorated property taxes for the Phase 1 Property for 2022, prorated as of February 4, 2022. Any property taxes for tax year 2021 or prior to 2021 must be paid in full by Developer prior to the Reversionary Closing. Property taxes for 2022 shall be prorated based on the number of days prior to February 4, 2022 and estimated based on 100% of the property taxes assessed for 2021.

3.4 Other Actions and Documents. The Parties hereby agree to execute and deliver such other documents reasonably requried by the Title Company and take other actions necessary to effectuate the Reversionary Closing.

4. **Termination of Public Incentives**. Developer agrees that the UG may, in its sole discretion, elect to terminate the TIF District, the Project Area 1 Plan, the TIF Project Area 1 Ordinance and/or any other public financing and/or any other ordinances previously approved by the UG in connection with the Project and/or the Development Agreement.

5. **Miscellaneous**.

5.1 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which to the other shall constitute one and the same instrument. Electronic or PDF signatures by the Parties and transmission of the same shall be binding upon the respective Parties whose signatures are transmitted.

5.2 Prior Agreements. This Agreement (and all schedules and exhibits attached hereto) sets forth the entire agreement among the Parties with respect to the subject matter hereof.

5.3 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective Parties hereto.

5.4 Joint Responsibility for Provisions. Both Developer and the UG assume responsibility for the content and form of this Agreement. Therefore, the Parties agree that the rule of judicial interpretation to the effect that ambiguities and/or uncertainties contained in an agreement should be construed against the party who drafted that agreement shall not be applied in the event of any dispute arising from the content of this Agreement.

5.5 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Kansas.

5.6 Time. Time is of the essence with respect to the payment and performance of the obligations set forth herein.

5.7 Amendments. No amendment, change or modification of this Agreement shall be valid unless in writing and signed by the Parties (or any one or more of them) against whom enforcement is sought.

Remainder of page intentionally left blank. Signatures on the following pages.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

UG:

THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ____
Tyrone A. Garner

STATE OF KANSAS)
) SS.
COUNTY OF WYANDOTTE)

This instrument was acknowledged before me on ______________, 2022 by Tyrone A. Garner 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 commision expires
____

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: ____
Richard Scavuzzo, Manager

STATE OF __________________)
) SS.
COUNTY OF ________________)

This instrument was acknowledged before me on ________________, 2022 by Richard Scavuzzo as Manager 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

____

IN WITNESS WHEREOF, the Parties hereto have executed these presents as of the day and year first above written.

ASSIGNEE:

SCAVUZZO'S FOODIE CAMPUS, LLC, a Kansas limited liability company

By: ________________________________
Richard Scavuzzo, Manager

STATE OF _________________)
) SS.
COUNTY OF _______________)

This instrument was acknowledged before me on _______________, 2022 by Richard Scavuzzo as Manager of Scavuzzo's Foodie Campus, LLC, a Kansas limited liability company.

Printed Name: ________________________
Notary Public in and for said State
Commissioned in ____________ County

My commission expires

____

IN WITNESS WHEREOF, the Parties hereto have executed these presents as of the day and year first above written.

SCAVUZZO'S:

SCAVUZZO'S, INC., a Kansas corporation d/b/a **SCAVUZZO'S FOOD SERVICE COMPANY**

By: ________________________________
Richard Scavuzzo, CEO

STATE OF _________________)
) SS.
COUNTY OF _______________)

This instrument was acknowledged before me on _______________, 2022 by Richard Scavuzzo as CEO 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

____

Staff Request for Commission Action

Tracking No. 211715

Full Commission Meeting Date:
Committee: Economic Development & Finance

Date of Standing Committee Action: (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/25/2022	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description:
Ordinance repealing the 2019 Midtown Redevelopment Project Plan, submitted by Katherine Carttar, Director of Economic Development.

Action Requested:
approve and move to FC 6/30

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

Attachments List:
Ordinance Repealing 2019 Midtown TIF Project Plan (UG - Foodie Park) (002)

(Published in ***The Wyandotte Echo*** on July __, 2022)

ORDINANCE NO. ____

AN ORDINANCE OF THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS TERMINATING THE REDEVELOPMENT PROJECT PLAN FOR PROJECT AREA 1 OF 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 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 passed Ordinance No. O-63-19 on September 26, 2019, (i) dividing the Midtown Redevelopment District into four (4) project areas, and (ii) adopting that certain Tax Increment Financing Redevelopment Project Plan (Midtown Redevelopment District – Project Area 1) (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.

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 shall now be terminated.

SECTION 2. 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 3. 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 June 30, 2022.

SIGNED by the Mayor/CEO this June 30, 2022.

____
Mayor/CEO

ATTEST:

____
Unified Government Clerk

Approved as to Form:

By: ______________________________
Chief Counsel

Staff Request for Commission Action

Tracking No. 211716

Full Commission Meeting Date: 6/30
Committee: Economic Development & Finance

Date of Standing Committee Action: 6/6 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/25/2022	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description:
Resolution approving a special project application for a rebate on incremental property taxes pursuant to the Neighborhood Revitalization Act Plan for redevelopment of the Brotherhood Bank Building at 753 State Ave., Kansas City, KS into residential apartment units and upgraded office space.

Action Requested:
Approve and FC 6/30

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

Attachments List:
Resolution Authorizing Brotherhood Bank Special Project NRA, Exhibit A to Resolution Authorizing Special Project Area

RESOLUTION NO. ________________

A RESOLUTION APPROVING A SPECIAL PROJECT APPLICATION FOR A REBATE ON INCREMENTAL TAXES PURSUANT TO THE NEIGHBORHOOD REVITALIZATION ACT PLAN FOR REDEVELOPMENT OF THE BROTHERHOOD BANK BUILDING AT 753 STATE AVE., KANSAS CITY, KANSAS

WHEREAS, pursuant to K.S.A. 12-17,114 *et seq*., the Unified Government Board of Commissioners adopted the 2021-2025 Neighborhood Revitalization Plan (the "NRA Plan") on October 29, 2020; and

WHEREAS, the NRA Plan requires Commission approval for Special Projects in certain designated areas of Kansas City, Kansas that are over three million dollars ($3,000,000) in construction costs and have a Historic Designation by either the State of Kansas or Federal Register; and

WHEREAS, Special Projects are eligible for consideration of up to a seventy-five percent (75%) rebate on the tax increment created by the improvements for up to twenty (20) years, with the option of increasing the rebate to eighty-five percent (85%) by utilizing local, minority, and women owned business ("LBE/MBE/WBE") entities as subcontractors or suppliers; and

WHEREAS, KDG, LLC has submitted an NRA application for the redevelopment of the Brotherhood Bank building located at 753 State Ave., Kansas City, Kansas (the "Property") into approximately twenty-nine (29) residential apartment units and renovated office space (the "Project");

WHEREAS, the Property has been placed on the Register of Historic Places by the State of Kansas as well as the National Register of Historic Places by the Federal Government.

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 hereby approves the Special Project application submitted by KDG, LLC in substantially the form attached as Exhibit A, hereto.

Section 2. The term of the NRA rebate on the incremental taxes shall be for twenty (20) years if KDG, LLC completes the Project and complies with all applicable requirements of the NRA Plan.

Section 3. The NRA rebate on the incremental taxes for the Property shall initially be set at seventy-five percent (75%), which may be increased by ten percent (10%) if the applicant meets or exceeds the LBE/MBE/WBE business enterprise goals set forth by the Unified Government, attached hereto as Exhibit B. The Unified Government County Administrator is authorized to enter into a standard LBE/MBE/WBE Participation Agreement with KDG, LLC based upon these goals.

Section 4. KDG, LLC must be current on all taxes and special assessments for the Property before they are eligible for any rebates, per the policy set forth in the NRA Plan. KDG, LLC must become current on all taxes and special assessments for the Property no later than ten (10) days after entering into their construction loan for the Project in order to be deemed in compliance with this Resolution. Additionally, failure to keep current on taxes after entering into the NRA Plan may cause termination of all rebates, per policy.

Section 5. The Mayor/CEO, County Administrator, and any other employees or agents of the Unified Government are authorized to approve the application and execute any other certificate 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 ______________, 2022.

____
Tyrone A. Garner
Mayor/CEO

ATTEST:

____
Unified Government Clerk

Approved as to form:

____
Chief Counsel

Exhibit B

DEVELOPMENT AND CONSTRUCTION OF THE PROJECT

A. GOALS FOR LBE/MBE/WBE PARTICIPATION

1. Construction and Professional Service Goals.

KDG, LLC will use its best efforts to meet the following goals based upon the total cost of the Project, but not including Specialized Services or Construction or Professional Services already contracted for prior to the Effective Date of this Resolution. In no event shall Developer be required to incur higher costs as a result of its commitment to attempt to meet such goals. These goals are based upon a disparity study performed for the Kansas City Metropolitan Area LBE, MBE and WBE participation. These goals are not to act as quotas or set asides.

	Construction	Professional Services
LBE	18%	18%
MBE	15%	13%
Women	7%	8%

Unified Government of
Wyandotte County
Kansas City, KS 66101
(913) 573-5730

<u>Exhibit D</u> NRA Application, Part 2, Section A: *NRA Application*

Date May 19, 2022

Applicant's Name KDG, LLC Phone: (573) 424-5930

Email Address kevinkearnsdevelopment@gmail.com

Applicant's mailing address 745 State Avenue, Kansas City, KS 66101

Owner's name KDG, LLC Phone: (573) 424-5930

Owners Mailing address 745 State Avenue, Kansas City, KS 66101

Project property address 745 State Avenue and 736 Minnesota Avenue, Kansas City, KS 66101

Are you the owner of the property? Yes ⓧ No ◯ [UG owns 736 Minnesota Avenue]

Are you the developer? Yes ⓧ No ◯

Developer's name KDG, LLC

Company KDG, LLC Phone (573) 424-5930
Check if there are 20 or less Full Time Employees ◯

Parcel Identification Number: 087610; 087608 School District: 500
(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)
To be provided

<u>Property Area, Type, and Use</u> (check all that apply)

A. The Project is in: (Refer to Map)
   Area 1 ⓧ
   Area 2 ◯
   Area 2 East–State Avenue East Corridor ◯
   Area 2 East–State Avenue West Corridor ◯
   Area 2 East–Leavenworth Road Corridor ◯
   Area 3 ◯

Unified Government of
Wyandotte County
Kansas City, KS 66101
(913) 573-5730

B. The Special Project Area is:
Retail ◯, Environmentally Contaminated ◯, Historic ⊗

C. The Project is: New Construction ◯, Renovation ⊗, Expansion ◯

D. The Project is: Residential ⊗, Commercial ◯, Office ⊗, Industrial ◯, Retail◯, Historic ⊗, Environmentally Contaminated ◯

E. End use will be: Owner Occupied ◯, Rental ⊗, Leased ⊗

Improvements

Describe the Improvements (Be specific):

Historic renovation of 745 State Ave. for office and apartments (approximately 29 units); demolition of 736 Minnesota and construction of parking for apartment units at 745 State Ave.

Building Permit
Estimated cost of improvement: $ 20,900,000
Building permit value: $__________

Construction Timeline
Construction commences on Q3 2022
Projected Date of competition Q1 2024 (estimate)

Demolition of Structure(s)
List buildings to be demolished: 736 Minnesota
(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): __________

Tax Credits

Are you planning on applying for any tax credits? Yes ⊗ No ◯

Which type of tax credits? Already awarded historic tax credits

Unified Government of
Wyandotte County
Kansas City, KS 66101
(913) 573-5730

Application Fee

An application fee of $500.00 is required for all multi-family projects.
An application fee of $1,000.00 is required for commercial, industrial, office, retail, historical, and environmentally contaminated projects.
If the project is in a Special Projects Area and the construction cost is over $3 million, the application fee is $2,000.00.
Make checks out to the Unified Government Treasurer.

Utilization of Local, Minority, and Women Owned Business Enterprise

Yes ⊗ No ◯ (Applicant will contact the UG Contract Compliance Department 913-573-5440 for goals)

Historic Designation

Yes ⊗ No ◯ (Please attach proof of Historic State and or Federal designation)

Pre and Post Construction, Renovation, or Expansion Requirements

The following required documentation must be submitted with the application at time of application or within 30 days of construction, renovation, or expansion to be eligible for the NRA tax rebate program:

1. *If applicable*, A copy of the building permit that shows the estimated cost (not the placard that is posted on site)
   a. In some cases, permits are in stages
   b. All permits must be submitted
2. Application fee *(if applicable)*
3. Pre-pictures of proposed interior/exterior improvement areas
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 - house plans
   b. Residential renovation/addition – project renderings-this can be what was submitted to Building Inspections Department
   c. Commercial new – architectural front elevation drawing
   d. Commercial renovation/expansion – 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 post-construction documents must be submitted within 3 months of project completion:

1. Certificate of Occupancy (CO) or approved Final Inspection Slip issued by the Building Inspections Division of NRC
2. Pictures of the completed improvements
3. Receipts or certification of construction expenses

Unified Government of
Wyandotte County
Kansas City, KS 66101
(913) 573-5730

Applicant Signature and Date

Submitted By: KDG, LLC by Kevin Kearns, Member
(Print Name)

(Signature) Date: May 19, 2022

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

Staff Review of Application

Date application came into this office:____________________, 20___

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

Comments: ____________________

Accept ◯ Reject ◯

Authorized Signature____________________

Staff Request for Commission Action

Tracking No. 211717

Full Commission Meeting Date: 6/30
Committee: Economic Development & Finance

Date of Standing Committee Action: 6/6 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/25/2022	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description:
Resolution of Intent to issue bonds in the amount not to exceed $12,000,000 to finance the costs of acquiring, constructing, improving and equipping a multi-purpose commercial project for the benefit of KDG, LLC. The benefit would be for sales tax exemption on construction materials only.

Action Requested:
Approve and move to FC 6/30

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

Attachments List:
Resolution of Intent (UG - KDG, LLC)

RESOLUTION NO. R __-22

RESOLUTION DETERMINING THE INTENT OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE AMOUNT OF NOT TO EXCEED $12,000,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING A MULTI-PURPOSE COMMERCIAL PROJECT FOR THE BENEFIT OF KDG, L.L.C., AND ITS SUCCESSORS AND ASSIGNS (SALES EXEMPTION ONLY)

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

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

WHEREAS, KDG, L.L.C., a Missouri limited liability company (the "Company"), has submitted to the Unified Government an Application for the Issuance of Industrial Revenue Bonds (the "Application") requesting that the Unified Government finance the cost of acquiring, constructing and equipping a multi-purpose commercial project consisting of office uses, approximately 29 multifamily units, and parking facilities located at 745 State Avenue, Kansas City, Kansas 66101 and 736 Minnesota Avenue, Kansas City, Kansas 66101, as more fully described in the Application (collectively, the "Project") through the issuance of its industrial revenue bonds in one or more series in the amount of not to exceed $12,000,000 (the "Bonds"), and to lease the Project to the Company, or its successors and assigns, in accordance with the Act; and

WHEREAS, it is hereby found and determined to be advisable and, in the interest, and for the welfare of the Unified Government and its inhabitants that the Unified Government finance the costs of the Project by the issuance of the Bonds under the Act in a principal amount of not to exceed $12,000,000, said Bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the Unified Government to the Company.

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

Section 1. Approval of Project. The governing body of the Unified Government hereby finds and determines that the acquiring, constructing, improving and equipping of the Project will promote the general welfare and economic prosperity of the Unified Government, and the issuance of the Bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act. The Project shall be generally located at 745 State Avenue, Kansas City, Kansas 66101 and 736 Minnesota Avenue Kansas City, Kansas 66101, located in the corporate boundaries of the Unified Government, as further described in the Application.

Section 2. Intent to Issue Bonds. The governing body of the Unified Government hereby determines and declares the intent of the Unified Government to acquire, construct and equip the Project out of the proceeds of the Bonds of the Unified Government in the principal amount of not to exceed $12,000,000, to be issued pursuant to the Act.

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

Section 4. Conditions to Issuance. The issuance of the Bonds and the execution and delivery of any documents related to the Bonds are subject to: (i) obtaining any necessary governmental approvals; (ii) agreement by the Unified Government, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project; (iii) the Company's compliance with the Unified Government's policy relating to the issuance of industrial revenue bonds; (iv) the passage and publication of an Ordinance authorizing the issuance of the Bonds; and (v) Company's payment of all of the costs of issuance related to the issuance of the Bonds.

Section 5. Sale of the Bonds. The sale of the Bonds shall be the sole responsibility of the Company; provided, however, arrangements for the sale of the Bonds shall be acceptable to the Unified Government.

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

Section 7. Authorization to Proceed. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into of contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law and upon compliance with the other requirements of this Resolution, the Unified Government will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 8. No Reliance on Resolution. Kansas law provides that the Unified Government may only issue the Bonds by passage of an Ordinance and compliance with other state law requirements. The Unified Government has not yet passed an Ordinance for the Bonds. This Resolution only evidences the intent of the current governing body to issue the Bonds for the Project. The Company should not construe the adoption of this Resolution as a promise or guarantee that the Ordinance for the Bonds will be passed or that the Project will be approved.

Section 9. Termination of Resolution. This Resolution shall terminate three (3) years from the date of the adoption of this Resolution unless (i) the Bonds have been issued for the Project or (ii) a building permit has been issued by the Unified Government for the Project. The Unified Government, upon the written request of the Company, may extend this time period.

Section 10. Benefit of Resolution. This Resolution will inure to the benefit of the Unified Government and the Company. The Unified Government may, at the prior written request of the Company, assign all or a portion of the Company's interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.

Section 11. Further Action. Counsel to the Unified Government and Gilmore & Bell, P.C., Bond Counsel for the Unified Government, together with the officers and employees of the Unified Government, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the Unified Government all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder.

Section 12. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the governing body of the Unified Government.

[Remainder of page intentionally blank.]

ADOPTED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS ON JUNE 30, 2022.

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

[SEAL]

ATTEST:

By: ______________________________
Unified Government Clerk

Approved as to Form:

By: ______________________________
Chief Counsel

Staff Request for Commission Action

Tracking No. 211718

Full Commission Meeting Date: 6/30
Committee: Economic Development & Finance

Date of Standing Committee Action: 6/6
(If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/25/2022	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description:
Option contract for real estate purchase agreement between KDG, LLC and the Unified Government for the real estate at 742 Minnesota Ave., Kansas City, KS for plans to raise and create surface parking to benefit the residential to be constructed as part of the Brotherhood Bank Building renovation.

Action Requested:
Approve and move to FC 6/30

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

Attachments List:
Option Agreement - 742 Minnesota Ave (83612752v4)-- UG clean version

OPTION CONTRACT FOR REAL ESTATE PURCHASE AGREEMENT

THIS OPTION CONTRACT FOR REAL ESTATE PURCHASE AGREEMENT (the "Agreement"), made and entered into as of the Effective Date by and between **KDG, LLC,** a Kansas limited liability company ("Buyer"), and **Unified Government of Wyandotte County/Kansas City, Kansas**, a municipal corporation ("Seller")(collectively the "Parties").

WITNESSETH:

WHEREAS, Seller is the legal owner of that certain real estate, commonly known as 742 Minnesota Ave., Kansas City, Kansas, Parcel 087608, depicted on Exhibit A attached hereto and incorporated herein by reference (collectively referred to as the "Property"); and

WHEREAS, it is the policy of Seller that it should dispose of surplus real property in a manner that will provide the best and highest return to the government and its taxpayers; and

WHEREAS, Seller has adopted procedures for the disposal of real property as authorized and provided for in K.S.A. 19-211(b) and as authorized by Seller's home rule power; and

WHEREAS, Buyer desires to purchase, and Seller desires to provide an option to Buyer to purchase the Property upon the terms and conditions hereinafter set forth; and

WHEREAS, the Parties acknowledge and agree that the timely redevelopment of the Property is of utmost concern and importance and is in the best interests of the Parties and the health, safety, and welfare of Seller's residents.

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

Section 1 – Definitions

1.1 (a) "Closing Date" shall mean the last day of the Closing Period or such other date during the Closing Period selected by Purchaser.

(b) "Closing Period" shall mean two (2) years after the Effective Date, or as extended by mutual agreement of the Parties.

(c) "Effective Date" shall mean the date that the Agreement is executed by the Seller.

(d) "Due Diligence/Option Period" shall mean two (2) years after the Effective Date, or as extended by mutual agreement of the Parties.

Section 2 - Property

2.1 Seller agrees to provide an option to purchase to Buyer, upon the terms, conditions and provisions hereinafter set forth, (i) the Property, together with all improvements thereon and all appurtenances, rights, permits, privileges, licenses, easements and rights of way incident thereto, and (ii) to the extent assignable, all right, title and interest of Seller in any plans, building permits, surveys and certificates of occupancy relating to the Property, and all licenses, permits and warranties relating to the ownership, occupancy and operation thereof (the "Personalty"). Consideration for all of the above items shall be included as the Purchase Price.

Section 3 – Purchase Price

3.1 The Purchase Price for the Property shall be ____________________________)(the "Purchase Price") which shall be paid in full on the Closing Date and shall be applied to any back taxes due on the Property at the time of Closing. The Parties agree that payment of the Purchase Price is adequate consideration for the purchase of the Property.

Section 4 – Due Diligence/Option Period

4.1 For a period of two (2) years from execution of this Contract (the "Due Diligence/Option Period"), Sellers agrees to provide Buyer with the exclusive option to purchase, upon completion of the terms, conditions and provisions hereinafter set forth in Section 11, (i) the Property, together with all improvements thereon and all appurtenances, rights, permits, privileges, licenses, easements and rights of way incident thereto, and (ii) to the extent assignable, all right, title and interest of Sellers in any plans, building permits, surveys and certificates of occupancy relating to the Property, and all licenses, permits and warranties relating to the ownership, occupancy and operation thereof (the "Personalty"). Consideration for all of the above items shall be included as the Purchase Price.

Section 5 - Buyer's Right to Inspect the Property

5.1 Buyer and its authorized representatives shall have the right, during the Due Diligence/Option Period, to enter upon the Property to make test borings, drainage tests, surveys, engineering and architectural studies, to perform site inspections of any improvements including structural, HVAC, roof, electrical, plumbing, mechanical, and parking plan, and for other purposes commensurate with ascertaining the suitability of the Property for Buyer's purposes. Such test and studies may be invasive, and Buyer agrees to return the Property to its previous condition should this transaction fail to close.

5.2 Buyer acknowledges that Buyer is responsible for all due diligence in connection with the Property, that on the Closing Date Buyer shall accept the Property in its current "as is" condition, and the Seller shall have no liability to Buyer for any matters discovered or which could have been discovered by Buyer in performing its due diligence.

5.3 To the extent such documents are not already in the possession of Buyer, within thirty (30) days of the Effective Date, Seller shall deliver to Buyer copies of any and all agreements, contracts, plans, building permits, surveys, studies, reports, certificates of occupancy, licenses, and permits relating to the ownership, occupancy and operation of the Property, to the extent Seller is a party thereto and Seller is in possession or control thereof.

5.4 Seller further agrees to provide to Buyer any environmental surveys or related documents in their possession or to which they have access, within thirty (30) days of the Effective Date of this Agreement.

5.5 If at any time during the Due Diligence/Option Period, prior to the Closing Date, Buyer has determined in its sole discretion that the condition of the Property is unacceptable, Buyer may cancel this Agreement by a written notice to Seller and neither party shall have any further rights or obligations to the other.

<u>Section 6 – Closing Date</u>

6.1 The Closing Date shall be no later than two (2) years after the Effective Date of this Agreement, unless extended by mutual agreement of the Parties.

<u>Section 7 - Title to Property</u>

7.1 At Buyer's option and cost, Buyer may order an ALTA form title commitment from Escrow Agent (the "Title Commitment"), and may arrange to have an existing survey updated or a new survey prepared (the "Survey"). At any time prior to the Closing Date, Buyer may provide written objections to Seller regarding matters shown on the Title Commitment or the Survey.

7.2 Within ten (10) days of such written objections, Seller shall respond in writing as to whether such objections will be cured by the Closing Date. If Seller does not cure the objections or commit to do so by Closing, Buyer may either waive the objections not cured and proceed to Closing or Buyer may cancel this Agreement within three (3) days of Seller's written response by a written notice to Seller and neither party shall have further rights or obligations to the other. Any title encumbrances or exceptions which are set forth in the Title Commitment and the Survey, and to which Buyer does not object or waives any objection shall be deemed to be permitted exceptions to the status of Seller's title (the "Permitted Exceptions").

7.3 Seller shall convey the Property to Buyer by special warranty deed (the "Deed").

<u>Section 8 - Taxes and Assessments</u>

8.1 To the extent applicable, Buyer shall be responsible for all real estate taxes and assessments, both general and special, after the Closing Date.

Section 9 - Escrow Agent and Escrow Instructions

9.1 A copy of this Agreement shall be deposited by Seller into escrow with such title company as Seller may chose in its complete discretion (the "Escrow Agent") within fourteen **(14)** days of the Effective Date. All other funds and documents required hereunder shall be deposited with the Escrow Agent on or before the Closing Date. A copy of this Agreement shall serve as escrow instructions, subject to receipt by Escrow Agent of further written instructions by either party.

Section 10 - Closing and Escrow Charges; Closing Documents

10.1 At such time as the Escrow Agent (i) has in its possession all funds representing the balance of the Purchase Price due hereunder, (ii) has in its possession all executed documents required hereunder in recordable form, where applicable, including all documents necessary to satisfy and discharge delinquent taxes, judgments, mortgages, liens and assessments against the Property, (iii) is committed to issuing an ALTA owner's title insurance policy insuring fee simple title in Buyer subject only to the Permitted Exceptions (the "Owner's Policy"), and (iv) has received written authorization from Buyer and Seller, or their respective authorized parties, it shall file the Deed for record transferring title to Buyer and shall issue the Owner's Policy to the Buyer as hereinabove provided. The Escrow Agent shall deliver to Buyer the recorded Deed and the Owner's Policy.

10.2 Each party shall bear its own legal costs and expenses. All other costs of Closing shall be borne by Buyer, including but not limited to, (i) real estate taxes due but not delinquent; (ii) closing costs and escrow fees; (iii) the cost of recording the Deed; (iv) the cost of the Owner's Policy; (v) the cost of any Survey; and (vi) any costs of the title examination and Title Commitment.

10.3 At Closing, in addition to the Deed, Seller shall deliver (i) a seller's affidavit in the form required by the Title Company, (ii) a bill of sale conveying any Personalty to Buyer, (iii) an affidavit confirming that Seller is neither a "foreign person" nor a "foreign corporation" (as those terms are defined in Section 1445 of the Internal Revenue Code of 1986, as amended), (iv) a closing statement, reflecting the adjustments contemplated hereunder, and (v) all such other documents and instruments as may reasonably be required by Buyer and/or Escrow Agent to close the sale in accordance with this Agreement. At Closing, Buyer shall deliver (i) a closing statement, reflecting the adjustments contemplated hereunder, and (ii) all such other documents and instruments as may reasonably be required by Seller and/or Escrow Agent to close the sale in accordance with this Agreement.

Section 11 – Conditions Pertaining to the Development Site

11.1 Buyer and Seller agree that the following conditions must be met by Buyer no later than two (2) years after the Effective Date of this Agreement, or else Buyer shall have no right to exercise its option to purchase the Property and Seller shall have no obligation to sell the Property to Buyer:

a. Buyer must submit development plans for a first-class multi-family residential development project within a portion of the building immediately west of the Property, 753 State Avenue (the "Brotherhood Bank Building"), either to the Planning Department, the Building Inspection Division, or both, as appropriate. (the "Development Plans").

b. The Development Plans and any other entitlements (including but not limited to a change of zone, special use permit, or master plan amendment) required for redevelopment of the Brotherhood Bank Building must be approved by the Unified Government Board of Commissioners.

c. Buyer must have obtained a demolition permit for the Property, as well as any other approvals necessary by the Landmarks Commission, the Unified Government Board of Commissioners, and any State or Federal agency that are necessary for demolition of the building located on the Property.

11.2 After completion of the conditions set forth in Section 11.1, Buyer shall provide written notice to Seller prior to the end of the Due Diligence/Option Period stating Buyer's intent to exercise the option and providing all necessary documentation evidencing Buyer's completion of the conditions set forth in Section 11.1.

Section 12 - Representations and Warranties of Seller

12.1 Seller represents and warrants to Buyer as follows:

(i) Organization. Seller is a municipality organized under the laws of the State of Kansas.

(ii) Authority. The execution, delivery and performance by Seller of this Agreement are within such party's powers and have been duly authorized by all necessary action of such party.

(iii) No Conflicts. Neither the execution and delivery of this Agreement, nor the consummation of any of the transaction herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof, will contravene the ordinances, rules, regulations of Seller or the laws of the State of Kansas, or to any judgment, decree, license, order, or permit applicable to Seller, or will conflict or be inconsistent with, or will result in any breach of any of the terms of these covenants, conditions or provisions of any indenture, mortgage, deed of trust, agreement or other instrument to which the Seller is a party, by which the Unified Government or any of its assets is bound, or by which Seller or any of its assets is subject.

(iv) No Consent. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court of Government Authority or regulatory body or third party is required for the due execution and delivery by the Seller of this Agreement. 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 performance by the Seller of this Agreement or the consummation of the transactions contemplated hereby.

(v) Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of Seller, enforceable against the Seller in accordance with its terms, except as may be limited by bankruptcy, reorganization, insolvency, receivership, fraudulent conveyance, moratorium or other similar laws relating to or affecting creditors' rights generally and the enforcement thereof, and subject to general principles of law and equity and the availability of specific legal and equitable remedies, including but not limited to the remedy of specific performance or similar relief, and the discretion of the court (regardless of whether enforcement is sought in equity or at law), and subject to standards of commercial reasonableness.

Section 13 - Representations and Warranties of Buyer

13.1 Buyer represents and warrants to the Unified Government as follows:

(i) Organization. Buyer is a corporation duly formed and validly existing under the laws of the State of Kansas. Buyer is duly authorized to conduct business in each other jurisdiction in which the nature of its properties or activities requires such authorization. Buyer shall: (1) preserve and keep in full force and effect its corporate or other separate legal existence, and (2) remain qualified to do business and conduct its affairs in the State and each jurisdiction where the nature of its properties or activities requires such authorization.

(ii) Authority. The execution, delivery and performance by Buyer of this Agreement are within such party's powers and have been duly authorized by all necessary action of such party.

(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 Buyer or any provision of law, statute, rule or regulation to which Buyer is subject, or to any judgment, decree, license, order or permit applicable to Buyer, 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 Buyer is a party, by which Buyer or any of its assets is bound, or to which the Buyer or any of its assets is subject.

(iv) No Consents. No consent, authorization, approval, order or other action by, and no notice or filing with, any court or Government Authority or regulatory body or third party is required for the due execution and delivery by Buyer of this Agreement.

(v) Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as may be limited by bankruptcy, reorganization, insolvency, receivership, fraudulent conveyance, moratorium or other similar laws relating to or affecting creditors' rights generally and the enforcement thereof, and subject to general principles of law and equity and the availability of specific legal and equitable remedies, including but not limited to the remedy of specific performance or similar relief, and the discretion of the court (regardless of whether enforcement is sought in equity or at law), and subject to standards of commercial reasonableness.

Section 14 – Indemnity and Responsibility

14.1 Buyer agrees to accept the Property in its current condition and further agrees to indemnify, defend and hold Seller harmless from all claims, loss, injury or damage arising on the Property during the inspection process and at any time after the Closing Date. Buyer's obligations under this Section shall survive: (i) closing, or (ii) termination of this Agreement with respect to liability arising on the Property during the inspection process.

Section 15 – Intentionally Omitted

Section 16 - Notices

16.1 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) facsimile (with follow up within one (1) business day by United States Mail); or (iii) delivered in person, in each case if addressed to the parties set forth below:

To Seller:

The Unified Government Clerk
The Unified Government of Wyandotte County/Kansas City, Kansas
701 N. 7th Street, Room 323
Kansas City, Kansas 66101

with a copy to:

Economic Development Director
Unified Government of Wyandotte County/Kansas City, Kansas
701 N. 7th St.
Kansas City, KS 66101

And to Buyer at:

KDG, LLC
745 State Avenue
Kansas City, KS 66101

Any party may change the address to which notices are to be addressed by giving the other parties notice in the manner set forth above.

Section 17 - Casualty; Condemnation

17.1 If prior to the Closing Date the Property or any part thereof is damaged or destroyed by fire or by any other cause, this Agreement shall become null and void at Buyer's option, and upon delivery to Seller of written notice of an election by Buyer to treat this Agreement as null and void delivered by Buyer within ten (10) days of its knowledge of the casualty, this Agreement shall terminate and neither party shall have any further rights or obligations hereunder. If Buyer elects to proceed and to consummate the purchase despite said damage or destruction, Seller will assign to Buyer its interest in and to any insurance policies and proceeds thereof payable as a result of such damage or destruction, less such portion thereof as shall first be reimbursed to Seller for the costs of any restoration work incurred by Seller prior to Closing.

Section 18 – Default

18.1 Default Provisions. Buyer shall be in default under this Agreement if:

(a) Buyer fails to make any of the payments of money required by the terms of this Agreement, and Buyer fails to cure or remedy the same within thirty (30) days of written notice of such failure from Seller;

(b) Buyer fails in a material manner to keep or perform any covenant or obligation herein contained on Buyer's part to be kept or performed, and Buyer fails to remedy the same within thirty (30) days after Buyer's receipt of written notice specifying such failure and that Seller considers such failure to be material and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot reasonably be corrected within such period, it shall not constitute an event of default if corrective action is instituted by Buyer within such period and diligently pursued until the default is corrected; or

(c) Buyer shall file a voluntary petition under any bankruptcy law or an involuntary petition under any bankruptcy law is filed against Buyer in a court having jurisdiction and said petition is not dismissed within sixty (60) days; or Buyer generally is not paying its debts as such debts become due; or Buyer 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 Buyer and such appointment is not dismissed within sixty (60) days;

(d) Buyer breaches its representations and warranties set forth in this Agreement and Buyer fails to remedy the same within thirty (30) days after Buyer's receipt of written notice from Seller specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot reasonably be corrected within such period, it shall not constitute an event of default if corrective action is instituted by Buyer within such period and diligently pursued until the default is corrected.

(e) In the event of any default, Seller may take such actions, or pursue such remedies, as exist hereunder, or at law or in equity, and Buyer covenants to pay and indemnify Seller against all reasonable costs and charges, including reasonable attorneys' fees, lawfully and reasonably incurred by or on behalf of Seller in connection with the enforcement of such actions or remedies. Without limiting the generality of the foregoing, and in addition to and not to the exclusion of any other rights or remedies of Seller hereunder, in the event of such default which occurs prior to

Closing which is not cured within the applicable cure period, the Seller may terminate this Agreement. Buyer agrees that it shall have no other claim or action against Seller as a result of such termination of the Agreement.

18.2 Rights and Remedies. The rights and remedies reserved by Seller hereunder and those provide by law or equity 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 Buyer occurs under this Agreement and is continuing and is not cured within the applicable cure period, Seller may take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance by Buyer of any provision of this Agreement. Seller 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 of Seller to enforce any such rights shall not be deemed a waiver thereof.

18.3 Default by Seller. Seller shall be in default under this Agreement if:

(a) Seller fails to make any of the payments of money required by the terms of this Agreement, and Seller fails to cure or remedy the same within thirty (30) days of written notice of such failure from Buyer;

(b) Seller fails in a material manner to keep or perform any covenant or obligation herein contained on Seller's part to be kept or performed, and Seller fails to remedy the same within thirty (30) days after Seller's receipt of written notice specifying such failure and that Buyer considers such failure to be material and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot reasonably be corrected within such period, it shall not constitute an event of default if corrective action is instituted by Seller within such period and diligently pursued until the default is corrected; or

(c) Seller breaches its representations and warranties set forth in this Agreement and Seller fails to remedy the same within thirty (30) days after Seller's receipt of written notice from Buyer specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot reasonably be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the Seller within such period and diligently pursued until the default is corrected.

(d) In the event of any default, Buyer may take such actions, or pursue such remedies, as exist hereunder, or at law or in equity. Without limiting the generality of the foregoing, and in addition to and not to the exclusion of any other rights or remedies of the Seller hereunder, in the event of such default which is not cured within the applicable cure period, Buyer may terminate this Agreement.

18.4 Rights and Remedies. The rights and remedies reserved by Buyer hereunder and those provide by law or equity 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 Seller occurs under this Agreement and is continuing and is not cured within the applicable cure period, Buyer may take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance by Seller of any provision of this Agreement. Buyer 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 of Buyer to enforce any such rights shall not be deemed a waiver thereof.

Section 19 -- Miscellaneous

19.1 Assignment. Seller shall not assign its rights and interests hereunder without the express written approval of Seller.

19.2 Cash Basis Law. This Agreement is subject to the Kansas Cash Basis Law, K.S.A. 10-1101 et seq. and amendments thereto. This Agreement shall be construed and interpreted so as to ensure that Seller shall at all times stay in conformity with such laws and, as a condition of this Agreement, Seller reserves the right to unilaterally terminate this Agreement if the Agreement is deemed to violate the terms of such law. Seller is obligated only to make payments under the Agreement as may lawfully be made from: (a) funds budgeted and appropriated for that purpose during the Seller's current budget year; or (b) funds made available from any lawfully operated revenue producing source.

19.3 Entire Agreement. This Agreement, together with all the Exhibits attached hereto and incorporated by reference herein, constitutes the entire undertaking between the parties hereto, and supersedes any and all prior agreements, arrangements and understandings between the parties. This Agreement shall not be modified or amended unless such amendment is set forth in writing and executed by both Seller and Buyer.

19.4 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, failure of power or other insufficient utility service, riots, insurrection, any lawsuit seeking to restrain, enjoin, challenge or delay construction, failure of Seller to make timely approvals with regard to the Improvements (if applicable), 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, 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 Section 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.

19.5 Provisions Surviving Closing. The provisions of Sections 14 shall survive Closing.

19.6 Counterparts. This Agreement may be executed in counterparts, which together shall constitute the agreement of the Parties.

19.7 Authority. By executing this Agreement the signatory represents that they possess the required authority of their respective party.

19.8 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.

19.9 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.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the Effective Date.

THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ____________________________
Interim County Administrator

Date: ___________________________

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF WYANDOTTE)

On this _____day of ________________, 2022, before me personally appeared Cheryl Harrison-Lee, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same in his capacity as Interim County Administrator of the Unified Government of Wyandotte County/Kansas City, Kansas.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

____
Notary Public

My term expires:

KDG, LLC

By: ________________________________

Date: _______________________________

STATE OF _____________)
) SS.
COUNTY OF ___________)

On this _____day of ________________, 2023, before me personally appeared ____________________ to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same in his capacity as _____________ of _KDG, LLC.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

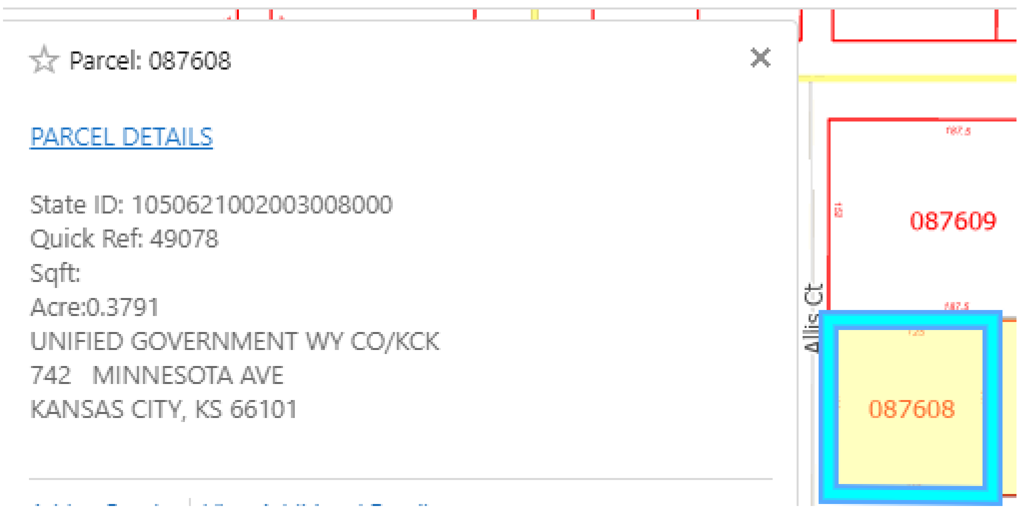
____
Notary Public

My term expires:

EXHIBIT A

Property Legal Description

B117 L28 to L32



Staff Request for Commission Action

Tracking No. 211719

Full Commission Meeting Date: 6/30
Committee: Economic Development & Finance

Date of Standing Committee Action: 6/6 (If none, please explain):

Publication Required: Yes

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
05/25/2022	Katherine Carttar	x5176	kcarttar@wycokck.org	Economic Development

Item Description:
Resolution of Intent to issue Industrial Revenue Bonds in the amount not to exceed $62,000,000 to finance the costs of acquiring, constructing, improving and equipping a commercial multifamily facility for the benefit of Criterion Development Partners, LLC

Action Requested:

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

Attachments List:
Resolution of Intent (Criterion Development Partners, LLC), Notice of Public Hearing (Criterion Development Partners, LLC), Performance Agreement (Criterion Development Partners, LLC)

RESOLUTION NO. R __-22

RESOLUTION DETERMINING THE INTENT OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE AMOUNT OF NOT TO EXCEED $62,000,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING A COMMERCIAL MULTIFAMILY FACILITY FOR THE BENEFIT OF CRITERION DEVELOPMENT PARTNERS, LLC, AND ITS SUCCESSORS AND ASSIGNS

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

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

WHEREAS, Criterion Development Partners, LLC, a Delaware limited liability company (along with permitted successors and assigns, the "Company"), has submitted to the Unified Government an Application for the Issuance of Industrial Revenue Bonds (the "Application") requesting that the Unified Government finance the cost of acquiring, constructing and equipping an approximately 232-unit commercial multifamily development located generally at the northeast corner of State Avenue and 115th Street, as more fully described in the Application (collectively, the "Project") through the issuance of its industrial revenue bonds in one or more series in the amount of not to exceed $62,000,000 (the "Bonds"), and to lease the Project to the Company in accordance with the Act; and

WHEREAS, it is hereby found and determined to be advisable and in the interest and for the welfare of the Unified Government and its inhabitants that the Unified Government finance the costs of the Project by the issuance of the Bonds under the Act in a principal amount of not to exceed $62,000,000, said Bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the Unified Government to the Company; and

WHEREAS, in connection with the issuance of industrial revenue bonds, the Unified Government's current Tax Abatement Policy imposes an issuance fee (the "Issuance Fee") payable by the beneficiaries of such bonds; and

WHEREAS, to set forth certain terms of the Project and the proposed property tax abatement, the Unified Government desires to approve the Performance Agreement between the Unified Government and Company (the "Performance Agreement") and authorize the Mayor/CEO's execution thereof.

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

Section 1. Approval of Project. The governing body of the Unified Government hereby finds and determines that the acquiring, constructing, improving and equipping of the Project will promote the general welfare and economic prosperity of the Unified Government, and the issuance of the Bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act. The Project shall be generally located at northeast corner of State Avenue and 115th Street, in the corporate boundaries of the Unified Government, as further described in the Application.

Section 2. Intent to Issue Bonds. The governing body of the Unified Government hereby determines and declares the intent of the Unified Government to acquire, construct and equip the Project out of the proceeds of the Bonds of the Unified Government in the principal amount of not to exceed $62,000,000, to be issued pursuant to the Act.

Section 3. Ad Valorem Tax Abatement. In consideration of the Company's decision to acquire, construct, improve and equip the Project, the Unified Government hereby agrees to take all appropriate action to request the Kansas Board of Tax Appeals to approve a 100% ad valorem property tax abatement (not including special assessments and taxes that may not be abated by the Unified Government under Kansas law, including the school district's capital outlay levy) for all property (including real property, building improvements, machinery and equipment) financed with the proceeds of the Bonds.

In consideration of the Unified Government's agreement to request such 100% abatement, the Company will agree to make payments in lieu of tax as set forth on **Exhibit A** hereto, and such amounts shall be set forth in the Performance Agreement and subject to adjustment as set forth therein. The Project shall be entitled to a 10-year tax abatement, with the first year of the abatement being the year beginning on the January 1 following the year the Bonds are issued.

Section 4. Performance Agreement. The Mayor/CEO is authorized and directed to execute and deliver the Performance Agreement between the Unified Government and the Company on behalf of, and as the act and deed of the Unified Government, in substantially the same form as presented to the governing body on this date with such corrections or amendments thereto as the Mayor/CEO, upon recommendation of the Chief Counsel of the Unified Government, may approve.

Section 5. Provision for the Bonds. Subject to the conditions of this Resolution of Intent (this "Resolution"), the Unified Government expresses its intent to (i) issue the Bonds to pay the costs of acquiring, constructing, improving and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be reasonably acceptable to the Company and determined by ordinance of the Unified Government (the "Ordinance"); (ii) provide for the lease (with an option to purchase) of the Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of the Bonds by the Unified Government and take or cause to be taken such other action as may be required to implement the aforesaid.

Section 6. Conditions to Issuance. The issuance of the Bonds and the execution and delivery of any documents related to the Bonds are subject to: (i) obtaining any necessary governmental approvals; (ii) agreement by the Unified Government, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project; (iii) the Company's compliance with the Unified Government's policy relating to the issuance of industrial revenue bonds and ad valorem tax abatement; (iv) the passage and publication of an Ordinance authorizing the issuance of the Bonds; and (v) Company's payment of all of the costs of issuance related to the issuance of the Bonds.

Section 7. Sale of the Bonds. The sale of the Bonds shall be the sole responsibility of the Company; provided, however, arrangements for the sale of the Bonds shall be reasonably acceptable to the Unified Government.

Section 8. Limited Obligations of the Unified Government. The Bonds and the interest thereon shall be special, limited obligations of the Unified Government payable solely out of the amounts derived by the Unified Government under a Lease Agreement (as defined in the Performance Agreement) with respect to the Bonds and as provided herein and are secured by a transfer, pledge and assignment of and a grant of a security interest in the trust estate to the trustee for the Bonds and in favor of the owners of the Bonds, all as provided in the Trust Indenture to be entered into between the Unified Government and the trustee for the Bonds (the "Indenture"). The Bonds shall not constitute a general obligation of the Unified Government, the State or of any other political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Unified Government, the State or of any other political subdivision thereof and shall not be payable in any manner by taxation, but shall be payable solely from the funds provided for as provided in the Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the Unified Government, the State or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

Section 9. Authorization to Proceed. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into of contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law and upon compliance with the other requirements of this Resolution, the Unified Government will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 10. No Reliance on Resolution. Kansas law provides that the Unified Government may only issue the Bonds by passage of an Ordinance and compliance with other state law requirements. The Unified Government has not yet passed an Ordinance for the Bonds. This Resolution only evidences the intent of the current governing body to issue the Bonds for the Project. The Company should not construe the adoption of this Resolution as a promise or guarantee that the Ordinance for the Bonds will be passed or that the Project will be approved.

Section 11. Termination of Resolution. This Resolution shall terminate eighteen (18) months from the date of the adoption of this Resolution unless (i) the Bonds have been issued for the Project or (ii) a building permit has been issued by the Unified Government for the Project, or as otherwise set forth in the Performance Agreement. The Unified Government, upon the written request of the Company, may extend this time period.

Section 12. Benefit of Resolution. This Resolution will inure to the benefit of the Unified Government and the Company. The Unified Government may, at the prior written request of the Company or as otherwise provided in the Performance Agreement, assign all or a portion of the Company's interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.

Section 13. Issuance Fee. The current governing body of the Unified Government hereby expresses its intent that, upon receipt of the Issuance Fee for the Project, such Issuance Fee is expected to be earmarked for uses that promote affordable housing within the Unified Government in order to promote the overall development and economic welfare of the Unified Government.

Section 14. Further Action. Counsel to the Unified Government and Gilmore & Bell, P.C., Bond Counsel for the Unified Government, together with the officers and employees of the Unified Government, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the Unified Government all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder.

Section 15. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the governing body of the Unified Government.

[Remainder of page intentionally blank.]

ADOPTED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS ON JUNE 30, 2022.

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

[SEAL]

ATTEST:

By: ______________________________
Unified Government Clerk

EXHIBIT A

PAYMENT IN LIEU OF TAX SCHEDULE

Payments in lieu of tax ("PILOTs") shall be determined on a per-unit basis as further set forth in the Performance Agreement. Below is an approximate PILOT schedule based on 232 units, which may be adjusted as set forth in the Performance Agreement.

Local, Minority, and Women Business Enterprise (L/M/W) goals are set forth in the Performance Agreement.

PILOT payments do <u>not</u> include the school district's capital outlay levy that cannot be abated under Kansas law.

Value per Unit	No. of Units	Investment	Year 1 PILOT	Year 1 PILOT Per Unit
$135,000	232	$55,000,000	$308,328	$1,329

		L/M/W Achieved		L/M/W Failed	
*Year		Annual PILOT	PILOT per Unit	Annual PILOT	PILOT per Unit
1		$308,328	$1,329	$320,661	$1,382
2		314,495	1,356	333,488	1,437
3		320,784	1,383	346,827	1,495
4		327,200	1,410	360,700	1,555
5		333,744	1,439	375,128	1,617
6		340,419	1,467	390,133	1,682
7		347,227	1,497	405,739	1,749
8		354,172	1,527	421,968	1,819
9		361,255	1,557	438,847	1,892
10		368,481	1,588	456,401	1,967
		$3,376,106		**$3,849,892**	

Business Category	Participation Percentage Goal	
	Construction	Professional Services
LBE	18%	18%
MBE	15%	13%
WBE	7%	8%

*Year 1 represents the first calendar year after the issuance of the Bonds.

(Published in the *Wyandotte Echo* on June 2, 2022)

NOTICE OF PUBLIC HEARING FOR ISSUANCE OF INDUSTRIAL REVENUE BONDS

Public notice is hereby given that the Unified Government of Wyandotte County/Kansas City, Kansas (the "Unified Government"), will conduct a public hearing on **Thursday, June 30, 2022,** at 7:00 p.m., or as soon thereafter as may be heard, regarding the proposed issuance by the Unified Government of its industrial revenue bonds in a principal amount not to exceed $62,000,000 (the "Bonds") and an exemption from ad valorem taxation for property constructed or purchased with the proceeds of such Bonds. The public hearing will be held at the Commission Chambers, Lobby Level of the Municipal Office Building, 701 N. 7th Street, Kansas City, Kansas, 66101, and may also be accessed virtually via Zoom web conference or toll free via telephone by dialing (877) 853-5257 or (888) 475-4499. Public hearing access information is available at www.wycokck.org/Departments/Clerks-Office/Engage-in-Public-Commission-Meeting or by contacting the Clerk's office via phone at (913) 573-5206 or via email at ugclerkrequest@wycokck.org. Public comment may also be submitted in advance of the public hearing by email to ugclerkrequest@wycokck.org, fax to (913) 573-5299, or mail to Unified Government Clerk's Office, 701 N. 7th Street, Suite 323, Kansas City, Kansas 66101.

The Bonds are proposed to be issued under authority of K.S.A. 12-1740 *et seq.*, as amended, to provide funds for acquiring, purchasing, constructing, installing and equipping an approximately 232-unit Class A commercial multifamily development, located generally at the northeast corner of State Avenue and 115th Street, in the City of Kansas City, Kansas (the "Project"). The Unified Government intends to base lease the development and further intends to lease the development to Criterion Development Partners, LLC, a Delaware limited liability company (the "Company"), or its successors and assigns.

The Company has requested a 10-year property tax abatement subject to certain payments in lieu of tax for the property constructed or purchased with the proceeds of the Bonds.

A copy of this Notice, together with a copy of the resolution of intent of the Unified Government to be considered for adoption, indicating the intent of the governing body of the Unified Government to issue the Bonds and a report analyzing the costs and benefits of such property tax exemption, are on file in the office of the Clerk and available for public inspection during normal business hours.

All persons having an interest in this matter will be given an opportunity to be heard at the time and place above specified.

Dated: June 2, 2022.

Monica Sparks
Unified Government Clerk

DRAFT: May 25, 2022

PERFORMANCE AGREEMENT

Dated as of [__________], 2022

BETWEEN THE

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

AND

CRITERION DEVELOPMENT PARTNERS, LLC

Prepared By:

Gilmore & Bell, P.C.
Kansas City, Missouri

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of [_________], 2022 (this **"Agreement"**), between the **UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,** a municipal corporation organized and existing under the laws of the State of Kansas (the **"Issuer"**), and **CRITERION DEVELOPMENT PARTNERS, LLC**, a Delaware limited liability company, or assigns (the **"Company"**);

WITNESSETH:

WHEREAS, the Issuer is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the **"Act"**), to acquire, construct and improve certain facilities for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of any such facilities;

WHEREAS, pursuant to such authorization, the governing body of the Issuer has adopted a Resolution (the "Resolution") indicating the Issuer's intent to issue one or more series of taxable industrial revenue bonds in the principal amount of not to exceed $62,000,000 (the **"Bonds"**), for the purpose of acquiring, constructing, improving, installing, furnishing and equipping the Project and authorizing the Issuer to enter into this Agreement;

WHEREAS, the Issuer is authorized and empowered under the Act and K.S.A. 79-201a, as amended (the **"Abatement Statute"**) to exempt from ad valorem taxation all or any portion of the Project financed with the proceeds of the Bonds, subject to the limitations set forth in the Abatement Statute and this Agreement; and

WHEREAS, pursuant to the foregoing, the Issuer desires to enter into this Agreement with the Company in consideration of the Company's desire to acquire, construct, improve, install, furnish and equip the Project as more fully described in the hereinafter defined Application upon the terms and conditions hereinafter set forth and in the Lease Agreement to be entered into between the Issuer and the Company relating to the Project (the **"Lease Agreement"**).

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the Issuer and the Company hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. The following words and terms as used herein shall have the following meanings:

"Abatement Statute" means K.S.A. 79-201a, as amended.

"Ad valorem taxes" or **"ad valorem taxation"** means all property taxes imposed on real or personal property (including fixtures) and eligible for exemption pursuant to the Abatement Statute.

“Agreement” means this Performance Agreement between the Issuer and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

“Application” means the Application for Issuance of Industrial Revenue Bonds filed with the Issuer by the Company in connection with the request for the issuance of the Bonds, a copy of which is attached hereto as **Exhibit A**.

“Board of Tax Appeals” means the State of Kansas Board of Tax Appeals.

“Bond Financed Portion of the Project” means that portion of the Project financed in whole from the proceeds of the Bonds as evidenced by the requisitions submitted by the Company to the bond trustee in accordance with **Section 2.7** hereof.

“Bonds” means the Issuer’s taxable industrial revenue bonds issued in relation to the Project in the maximum aggregate principal amount of $62,000,000.

“Company” means Criterion Development Partners, LLC, a Delaware limited liability company, and its successors and assigns.

“Event of Default” means any Event of Default as described in **Section 5.1** hereof.

“Exempt Period” means the ten (10) calendar years beginning on the January 1 following the issuance of the Bonds.

“Exempt Property” means all Property that is exempt from taxation pursuant to K.S.A. 79-201(a) *Second* and/or *Twenty-Fourth* by reason that such property was constructed or purchased with the proceeds of the Bonds authorized by and in accordance with the Abatement Statute.

“Force Majeure” means acts of God, strikes, lockouts, 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 Issuer to timely approve the plans or construction documents relating to the Project, war, terrorism, pandemic (including a material worsening of the conditions related to the COVID-19 pandemic existing as of the date hereof) 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.

“Future Facility Additions” means any additions, improvements or renovations to or equipping of the Bond Financed Portion of the Project following the receipt of a final certificate of occupancy for the final building comprising the Project. As used herein, **“Future Facility Additions”** shall never include any future additions, improvements or renovations to or equipping of the Project that are exempt from ad valorem taxes.

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

“Property” means all real and personal property subject to taxation pursuant to K.S.A. 79-101.

“Project” means acquiring and constructing an approximately 232-unit commercial multifamily development to be occupied by lessee-tenants (and not owner-occupants), as further described in **Section 3.3**, including land, buildings, structures, improvements and fixtures, that will be generally located at the northeast corner of State Avenue and 115th Street.

"Project Costs" means all costs and expenses of every nature paid from proceeds of the Bonds and relating to the acquisition, construction, improvement, installation, furnishing and equipping of the Project.

"Project Site" means all of the real property described in **Exhibit B** attached hereto and by this reference made a part hereof.

"Tax Payment" means a payment-in-lieu of taxes to be paid by the Company in the amounts set forth in **Section 2.3** and **Exhibit C** hereof.

ARTICLE II

EXEMPTION; PAYMENTS IN LIEU OF TAX

Section 2.1. Exempt Property. During the Exempt Period, and so long as the Bonds are outstanding and the Company remains in full compliance with this Agreement, the Issuer agrees to use its best efforts to cause the Bond Financed Portion of the Project to be and remain Exempt Property.

Section 2.2 Agreement to Make Tax Payments. The Company covenants and agrees that, for each calendar year during the Exempt Period that the Bond Financed Portion of the Project is Exempt Property, the Company will make a Tax Payment in lieu of ad valorem taxes to the Issuer (or, if the Issuer shall direct, to the County Treasurer).

Section 2.3. Amount of Tax Payment. The Tax Payments shall be in the amounts shown in **Exhibit C**. The parties acknowledge that such Tax Payments do not include special assessments, if any, and the school district's capital outlay levy that cannot be abated under Kansas law and that the Tax Payments are subject to adjustment as set forth in **Exhibit C**.

Section 2.4. Term of Agreement. This Agreement shall become effective upon execution, and subject to earlier termination pursuant to the provisions of this Agreement (including particularly **Article V** hereof), shall terminate upon the later of (i) the expiration of the Exempt Period or (ii) the date of the final Tax Payment.

Section 2.5. No Abatement of Special Assessments and Certain Property Taxes. The Issuer and the Company hereby agree that the Abatement Statute and any tax abatement with respect to the Project shall not apply to special assessments and property taxes that cannot be abated under Kansas law. In the event special assessments are ever abated, the Company hereby agrees that 100% of the amount of such abated special assessments shall be paid to the Issuer at the times and in the manner that Tax Payments are paid to the Issuer pursuant to this Agreement.

Section 2.6. Obligation of Issuer to Effect Tax Abatement. The Issuer agrees to use its best efforts to cause the Bond Financed Portion of the Project to be Exempt Property during the Exempt Period and agrees to make filings required by the Wyandotte County Board of Commissioners or the Board of Tax Appeals; provided, however, the Issuer shall not be liable for any failure of the Board of Tax Appeals to effect the exemption permitted by the Abatement Statute. The Issuer covenants that it will not knowingly take any action that the Issuer has knowledge may cause the Bond Financed Portion of the Project to no longer be Exempt Property. In the event the Bond Financed Portion of the Project is determined to no longer be Exempt Property, the Issuer shall, at the Company's request, cooperate with the Company in all reasonable ways to cause the Bond Financed Portion of the Project to be Exempt Property, including cooperating with the Company in any related litigation. The Company agrees to pay to the Issuer the costs that the Issuer incurs (including legal fees and expenses) in cooperating with the Company in the manner required by this Section.

Section 2.7. Compliance. Within ten (10) business days following the request of the Issuer, the Company shall provide the Issuer with (i) copies of the requisitions submitted by the Company to the bond trustee in accordance with the Lease Agreement for the preceding calendar year, (ii) a list containing a brief description and the amount of all costs of the Bond Financed Portion of the Project, and (iii) the total costs of the Project, all in such reasonable detail as the Issuer shall request.

Section 2.8. Value of the Project Not Determined by Bonds. The Issuer and the Company acknowledge that it is not the intent of the parties that the principal amount of the Bonds be used for the purpose of determining the appraised value of the Project or any portion thereof for tax purposes.

Section 2.9. Company's Right to Protest. Nothing in this Agreement shall be construed to limit or in any way restrict the ability of the Company to utilize any provision of Kansas law to appeal, protest or otherwise contest any property tax valuation, assessment or similar action with respect to the Project Site or any portion thereof.

Section 2.10. Credits for Tax Payments; No Duplicate Tax Liability. Nothing in this Agreement shall be construed to require the Company to make duplicate tax payments. The Company shall receive as a credit against its obligations to pay the Issuer Tax Payments, the amount of any ad valorem taxes (other than special assessments and property taxes that cannot be abated under Kansas law) paid by the Company to the County to the extent that the amounts paid to the County include any taxes due with respect to the Exempt Property.

Section 2.11. No Abatement on Appraised Value of Future Facility Additions. In the event any Future Facility Additions are determined to be Exempt Property as a result of the issuance of the Bonds, this Agreement or for any other reason, so long as this Agreement remains in effect, the Company hereby agrees that 100% of the amount of such abated ad valorem taxes attributable to the Future Facility Additions shall be paid to the Issuer at the times and in the manner that Tax Payments are paid to the Issuer pursuant to this Agreement. This provision shall not be construed as restricting the Company from applying to the Issuer or to any other governmental entity for any future tax abatement in connection with the Future Facility Additions.

Section 2.12. Tax Abatement Order; Adjustment of Tax Payment. The Issuer and the Company acknowledge that, prior to the Bond Financed Portion of the Project being determined to be Exempt Property, an order from the Board of Tax Appeals approving tax abatement on the Bond Financed Portion of the Project for the Exempt Period must be obtained. In the event the Board of Tax Appeals issues an order stating that less than 100% of the Bond Financed Portion of the Project is Exempt Property, the parties agree that the Tax Payment shall be decreased by an amount necessary to result in the sum of the new Tax Payment plus the payment of ad valorem taxes by the Company with respect to the Bond Financed Portion of the Project is equal to the original Tax Payment. In the event the Board of Tax Appeals issues an order stating that none of the Bond Financed Portion of the Project is Exempt Property, then the Tax Payment shall be reduced to 0.

Notwithstanding the foregoing, if (i) the entire Bond Financed Portion of the Project is not determined to be Exempt Property, or (ii) the Board of Tax Appeals issues an order that less than 100% of the Bond Financed Portion of the Project is Exempt Property, and such determination or order is a result of the Company's failure to comply with the terms and provisions of this Agreement (after any applicable notice and cure period), the Issuer shall be under no obligation to decrease the Tax Payment as provided in this

Section. Furthermore, in no event shall the Issuer be under any obligation to make any payment to the Company as a result of the Board of Tax Appeals determining that less than 100% of the Bond Financed Portion of the Project is Exempt Property. Notwithstanding any provisions herein to the contrary, in no event shall the Company be liable for the payment of any amounts, including the Tax Payments, which are in the aggregate greater than the amount of ad valorem taxes on the Project in the event there is no abatement of the same.

Section 2.13. Determination of Appraised Value and Assessments. The Company acknowledges that the county appraiser independently determines the appraised value of Property. The Company further acknowledges that the Issuer does not have input in or in any way control the determination of the appraised value of Property or the assessment of Property, and that the Issuer cannot and is not attempting to bind the county appraiser or any other governmental authority with respect to a determination of the appraised value of the Bond Financed Portion of the Project.

ARTICLE III

COVENANTS OF THE COMPANY

Section 3.1. Construction. The Project will be constructed, equipped and operated (or caused to be operated) in a manner that is consistent with the description of the Project herein. In the event the Project is constructed in a manner that the Issuer determines, in its reasonable discretion, is materially inconsistent with the description of the Project herein, the Issuer reserves the right to declare an Event of Default in accordance with **Section 5.1** hereof.

Section 3.2. Completion Date. Subject only to Force Majeure, the Company agrees to commence construction on or before July 1, 2023, and substantially complete construction of the Project on or before August 1, 2025. "Commence construction" shall mean that the Company has entered into a contract with a licensed contractor for the construction of the Project and the Issuer has issued a building permit therefor. "Substantially complete," for purposes of this Section, shall mean that the Project can be occupied or utilized for its intended purpose as a multifamily development, as evidenced by receipt by the Company of one or more temporary certificates of occupancy for all of the multifamily housing structures included in the Project. The parties agree that the governing body of the Issuer will consider an ordinance authorizing the issuance of the Bonds on or about such time, but in no event will the Bonds be issued later than December 31, 2025.

Section 3.3. Development of Project. The Issuer and Company hereby agree that the Project shall be as described below. The Company covenants that the Project, including all buildings, parking facilities, and other improvements constituting the Project shall be developed, constructed, completed, and operated (or caused to be operated) on the Project Site in substantial accordance and compliance with the terms and conditions of this Agreement and the final site plan approval from the Issuer's Planning Commission, and this Agreement shall not be construed to waive such Planning Commission's discretion in approving or disapproving the same. On and subject to the terms and provisions set forth in this Agreement, Company shall have the sole right to, and shall be responsible for, design, construction, equipment and completion of the Project, and shall operate (or cause to be operated) and use the Project in the manner described herein. The parties further agree as follows:

(a) The Project shall be designed, developed, and constructed as a Class A multifamily development that shall include approximately 232 units, consisting of detached and attached units between approximately 780 square feet to 1,340 square feet throughout multiple housing structures, including site amenities and related infrastructure. Project amenities shall include (i) a clubhouse and swimming pool with sun deck and outdoor lounge, health and fitness facilities, an event space/club room, resident lounge, outdoor kitchen with gas grills, fire pits, and patio space; (ii) in-unit washer/dryer, refrigerator, oven/range, and microwave; (iii) community green space; (iv) package delivery/pickup amenities (including groceries), all as generally depicted in **Exhibit E** attached hereto, though the parties acknowledge the depiction in **Exhibit E** is conceptual and is subject to modification pursuant to the Issuer's planning process.

(b) Company stipulates and agrees that its signage shall be subject to all applicable laws and requirements of the Issuer and any special use permits granted by the Issuer's governing body.

(c) The Project shall include parking improvements containing at least the number of spaces required by the Issuer's applicable laws and requirements.

(d) The Company's plans for landscaping on the Project Site shall be considered in accordance with all applicable laws and requirements of the Issuer and the Issuer's approval thereof will not be unreasonably withheld.

Section 3.4. Maintenance and Use. The Company shall cause the Project and 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 multifamily space 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. Company specifically understands and agrees that the Issuer shall not undertake or have any obligation under this Agreement for snow or ice removal on sidewalks located at or adjacent to the Project.

Section 3.5. Inspection. The Company agrees that the Issuer and its duly authorized agents shall have the right at reasonable times (during business hours), subject to at least 48 hours advance notice and to the Company's usual business proprietary, safety and security requirements, to enter upon the Project Site to examine and inspect the Project and the records of the Company which demonstrate compliance with this Agreement, including, but not limited to, inspections necessary to confirm compliance with **Section 3.3**.

Section 3.6. Compliance with Laws. The Project will comply in all material respects with all applicable building and zoning, health, environmental and safety ordinances and regulations and all other applicable laws, rules and regulations.

Section 3.7. Employment Certification. Beginning on March 1 in the calendar year following the issuance of Bonds, and on each March 1 thereafter and at any other time that the Issuer may request, for the term of this Agreement, the Company shall provide a written certification to the Issuer stating the total number of full-time employees employed at the Project (based upon the Company's actual knowledge of the full-time employees employed by the Company or subtenants occupying the Project).

Section 3.8. Payment of Fees and Reimbursement or Payment of Costs.

(a) The Company agrees to pay to the Issuer the standard fees charged by the Issuer in connection with tax abatement projects and the issuance of industrial revenue bonds. These fees include, but are not limited to, an initial application fee (which the Issuer agrees has been paid in full), a service fee that is due at the time of issuance of the Bonds and an annual administrative fee.

The Company acknowledges receipt of a fee schedule from the Issuer and acknowledges that the fee schedule may be adjusted or amended by the Issuer at any time.

(b) The Company agrees to promptly reimburse the Issuer, within ten (10) business days following receipt by the Company of an invoice from the Issuer and reasonable supporting documentation, for any amounts that the Issuer pays to any other party as a result of the Issuer pursuing, obtaining or maintaining the tax abatement granted to the Company pursuant to this Agreement. These costs shall include, but shall not be limited to, all fees and expenses for filings with the Board of Tax Appeals (including the application fee and annual administration fee), legal notice publication expenses, and the costs and expenses of the Issuer's legal counsel. The Company agrees that the Issuer may, in lieu of seeking reimbursement from the Company, forward any invoice received by the Issuer to the Company, which invoice is for a cost which the Issuer could seek reimbursement from the Company pursuant to this paragraph, and the Company agrees to promptly pay such invoice and to promptly provide the Issuer with evidence of such payment.

Section 3.9. Abatement of Property. The Abatement Statute provides that, with certain exceptions, any property constructed or purchased in part with the proceeds of revenue bonds issued under the authority of the Act is exempt from taxation for a period of up to ten years to the extent of the value of that portion of the property financed by the revenue bonds. The tax abatement commences in the year following the year in which the Bonds are issued.

Company understands that property will be exempt under the Abatement Statute only if such property is purchased or reimbursed with the proceeds of the Bonds. In order to be purchased or reimbursed with Bond proceeds, the trustee for the Bonds must receive a requisition request from the Company and must make a draw on the Bonds and use the money to either (a) pay, or (b) reimburse the Company for the cost of the property, which the parties acknowledge and agree may be documented via book entry.

The Abatement Statute also provides that if property purchased with proceeds of the Bonds is used in any retail enterprise identified under the NAICS sectors 44 and 45 (**"Prohibited NAICS"**), the property will not be exempt from taxation, unless the property is a facility used exclusively to house the headquarters or back office operations of a prohibited retail enterprise.

The Abatement Statute further provides that property purchased with bond proceeds is not exempt from taxation if the property is (i) a swine production facility (as described in K.S.A. 12-1749b), (ii) property located in a redevelopment project area established under the authority of K.S.A. 12-1770 or (iii) a poultry or rabbit confinement facility (as described in K.S.A. 17-5903).

Company hereby represents that the NAICS code for the Project is not included within the list of Prohibited NAICS and agrees that during the term of the tax abatement, the property purchased with the proceeds of the Bonds will not be used in any of the Prohibited NAICS. Company understands that if any property purchased with the proceeds of the Bonds is used in a Prohibited NAICS, that property will not be subject to property tax abatement under Kansas law.

Company represents that the Project is not, and will not become, a swine production facility, a poultry or rabbit confinement facility, an owner-occupied housing facility, or inventory, and that the Project is not located in a redevelopment project area as defined in K.S.A. 12-1770 *et seq.*

Section 3.10. Solid Waste Services. Until termination of this Agreement, the Company agrees that it and all of its tenants, subtenants, operators and licensees shall exclusively use the solid waste services of the Unified Government for the Project. This requirement shall not apply to the Company or any user if the Company or user demonstrates that solid waste services provided by the Issuer are inadequate to serve such user's reasonable needs.

Section 3.11. LBE/MBE/WBE Employment Opportunity Goals. The Company agrees to comply with the goals set forth on **Exhibit D** in order to identify and provide employment opportunities for local businesses and contractors, women and local minority owned businesses. The Company hereby understands and agrees that if it shall fail to use Best Efforts to meet the LBE/MBE/WBE goals set forth on **Exhibit D** for the Construction (as those terms are defined therein) of the Project, then the Tax Payments shall be increased as set forth in **Exhibit C**. The parties agree that failure to use Best Efforts to meet the LBE/MBE/WBE goals set forth on **Exhibit D** shall not cause an Event of Default hereunder, and the Issuer's sole remedy will be increasing the amount of Tax Payments as set forth in **Exhibit C**.

ARTICLE IV

SALE AND ASSIGNMENT

Except as otherwise provided herein, the Company will not, without the prior written consent of the Issuer, (a) assign, sell, lease, or otherwise transfer the Project Site, the Project, or equipment that comprises the Project or any part thereof or any interest therein; (b) merge with or into another corporation or sell or transfer to another corporation substantially all of its assets; or (c) assign this Agreement. The Issuer 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 Issuer as to whether the proposed assignee has sufficient financial wherewithal and experience to successfully complete the Project according to the terms hereof. If an assignment is approved by the Issuer, the assignee shall assume and agree to pay and perform each and all of terms and provisions hereof. Notwithstanding the foregoing, the parties hereby agree that the Company may do any of the following without written consent of the Issuer:

(a) The Company may lease the Project's units in the ordinary course of its business.

(b) The Company may grant a mortgage, leasehold mortgage, or other security on the Project to a lender in order to finance construction of the Project or refinance the Project, including, but not limited to, collateral assignment of all or any portion of its rights or obligations under this Agreement or any other documents entered into in connection with the Bonds.

(c) Once all occupancy permits have been issued for the Project, the Company may sell, lease, assign, transfer or mortgage the Project (and this Agreement and any other documents entered into in connection with the Bonds including without limitation the Resolution, in connection with the same) upon written request to the Issuer and the approval of the County Administrator or his/her designee; provided, if the County Administrator or his/her designee disapproves any such disposition, the Company will have the right to appeal such decision to the Issuer's governing body within a reasonable time. The consent of the Issuer to any such disposition described in this subsection shall not be unreasonably withheld or delayed.

(d) The Company may terminate this Agreement, and thereafter freely sell, assign, transfer or mortgage.

(e) The Company, upon written notice to the Issuer, may freely sell, assign, lease or transfer all or any portion of the Project or Project Site, and/or its rights or obligations under this Agreement and any other documents entered into in connection with the Bonds (including, without limitation, the Resolution), to an entity managed by or under common control of or by the Company or one or more of its principals.

Upon the sale, assignment, or transfer of the Project as set forth herein, the Company (as assignor) shall be relieved of all further liability occurring on and after the effective date of such disposition, except as may be otherwise set forth in the Lease Agreement.

ARTICLE V

DEFAULT AND REMEDIES

Section 5.1. Events of Default. If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an "Event of Default" hereunder:

(a) the Company shall fail to perform any of its obligations hereunder;

(b) the Company shall breach any covenant contained herein or any representation of the Company contained herein or in the Application shall prove to be materially false or erroneous; or

(c) the Company shall be in default under the Lease Agreement.

Section 5.2. Remedies on Default. Upon the occurrence of an Event of Default hereunder, the Company shall be given 60 days (or such longer period as the Issuer and the Company may agree), following written notice by the Issuer to the Company of the occurrence of such Event of Default, to cure such Event of Default; provided that, if such Event of Default is of a nature that it cannot reasonably be cured within 60 days, then such occurrence will not constitute an Event of Default so long as Company: (a) commences to cure such failure within such 60-day period; and (b) diligently pursues such cure to completion. If such Event of Default is not cured within such time, this Agreement may be terminated by written notice to the Company from the Issuer. Such termination shall be effective immediately following delivery of such written notice. Upon the termination of this Agreement, the Company shall make a payment to the Issuer (or as the Issuer may otherwise direct) in an amount equal to the sum of (i) all due but unpaid Tax Payments attributed to prior calendar years, (ii) the pro rata total Tax Payments that would be due with respect to the current calendar year, (iii) the pro rata amount of any taxes that would be due for the remaining portion of the current calendar year assuming the Bond Financed Portion of the Project were not Exempt Property, and (iv) the amount of any costs and attorneys' fees incurred by the Issuer as a result of such Event of Default and in enforcing this Agreement.

Section 5.3. Payments on Defaulted Amounts. Any amounts due hereunder which are not paid when due shall bear interest at the interest rate imposed by Kansas law on overdue ad valorem taxes from the date such payment was first due. In addition, amounts payable hereunder in lieu of ad valorem taxes that are not paid when due shall be subject to the same penalties imposed by Kansas law on overdue ad valorem taxes.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.1. Notice and Waiver of Company. The Issuer reserves the right to grant tax abatement for projects that are located adjacent to or in the proximity of the Project or for projects that are located elsewhere within the Issuer but are similar to the Project in amounts that are above or below the amounts set forth herein. The Company acknowledges and agrees that the Tax Payment, the Exempt Period and the other terms of the tax abatement granted by the Issuer with respect to such other projects may be more favorable than the terms provided for in this Agreement. As a condition to the Issuer entering into this Agreement, the Company waives any claim it may have against the Issuer as a result of the Issuer granting tax abatement to other projects with terms that are more favorable than the terms provided for in this Agreement. Additionally, the Company agrees that it will not request that the Issuer modify this Agreement because the Issuer plans to grant or has granted tax abatement to another project or projects on terms that are more favorable than the terms provided for in this Agreement. Upon the occurrence of the Company's breach of its obligations set forth in this Section to waive any claim it may have against the Issuer as described above, the Issuer shall have the right to immediately terminate this Agreement and the associated tax abatement and require that the Company pay to the Issuer the amounts specified in **clauses (i)** through **(iv)** of **Section 5.2**.

Section 6.2. Severability. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 6.3. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Kansas.

Section 6.4. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 6.5. Waiver. The Issuer and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the Issuer under the Lease Agreement. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company in any bankruptcy court.

Section 6.6. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be given to or filed with the Issuer and the Company as set forth below:

The Unified Government Clerk
The Unified Government of Wyandotte County/Kansas City, Kansas
701 N. 7th Street, Suite 323
Kansas City, Kansas 66101
Telephone: 913-573-5260
Email: msparks@wycokck.org

with a copy to:

Chief Counsel
The Unified Government of Wyandotte County/Kansas City, Kansas
701 N. 7th Street, Suite 961

Kansas City, Kansas 66101
Telephone: 913-573-5060
Email: mbrown@wycokck.org

And a copy to:

Gilmore & Bell, P.C.
Kevin Wempe
2405 Grand Blvd., Suite 1100
Kansas City, Missouri 64108
Telephone: 816-221-1000
Email: kwempe@gilmorebell.com

and to the Company at:

Todd Thomas
Criterion Development Partners, LLC
14160 N. Dallas Parkway
Suite 750
Dallas, Texas 75254
Telephone: (214) 393-4116
Email: tthomas@criteriondp.com

with a copy to:

Curt Petersen
Polsinelli PC
900 W. 48th Place, Suite 900
Kansas City, Missouri 64112
Telephone: (913) 234-7458
Email: cpetersen@polsinelli.com

All notices given by: (i) nationally recognized overnight delivery service, or (ii) electronic mail, 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 business day after they are so delivered. All notices given in person shall be deemed duly given when delivered.

Section 6.7. Further Assurances. The parties each agree to do, execute, acknowledge and deliver any and all other documents and instruments and to take all such further action as shall be reasonably necessary or reasonably required in order to fully carry out this Agreement and to fully consummate and effect the transactions contemplated hereby.

Section 6.8. Authority, etc. Each party to this Agreement represents and warrants to each other party as follows: (i) that such party has the requisite power and authority to enter into and perform this Agreement; (ii) that this Agreement has been duly authorized by all necessary action on the part of such party; (iii) that the execution and deliver and performance by each party of this Agreement will not conflict with or result in a violation of such party's organizational documents or any judgment, order or decree of any court or arbiter to which such party is bound; and (iv) that this Agreement constitutes the valid and binding obligation of such party, and is enforceable against such party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, creditor's rights and other similar laws.

Section 6.9. Electronic Storage and Transactions. The parties agree that the transactions described herein may be conducted and related documents may be stored by electronic means. All closing documents, certificates, and related instruments may be executed by electronic transmission. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents (or documents executed by electronic transmission) 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 blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers, all as of the date first above written.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

(SEAL)

By:____
Mayor/CEO

ATTEST:

By: ______________________________
Unified Government Clerk

CRITERION DEVELOPMENT PARTNERS, LLC
a Delaware limited liability company

By:____

Name:______________________________________

Title:_______________________________________

EXHIBIT A

APPLICATION FOR THE ISSUANCE OF INDUSTRIAL REVENUE BONDS

EXHIBIT B

PROJECT SITE

EXHIBIT C

TAX PAYMENT SCHEDULE

Tax Payments (or "PILOTs") shall be determined on a per-apartment-unit basis. Below is an approximate PILOT schedule based on 232 multifamily units, and the parties acknowledge that the Tax Payments may be adjusted in accordance with the table below depending on the ultimate number of units constructed.

Tax Payments shown below do not include the school district's capital outlay levy that cannot be abated under Kansas law.

Value per Unit	No. of Units		Year 1 PILOT	Year 1 PILOT Per Unit
$135,000	232		$308,328	$1,329

*Year		L/M/W Achieved		L/M/W Failed	
		Annual PILOT	PILOT per Unit	Annual PILOT	PILOT per Unit
1		$308,328	$1,329	$320,661	$1,382
2		314,495	1,356	333,488	1,437
3		320,784	1,383	346,827	1,495
4		327,200	1,410	360,700	1,555
5		333,744	1,439	375,128	1,617
6		340,419	1,467	390,133	1,682
7		347,227	1,497	405,739	1,749
8		354,172	1,527	421,968	1,819
9		361,255	1,557	438,847	1,892
10		368,481	1,588	456,401	1,967
		$3,376,106		**$3,849,892**	

Business Category	Participation Percentage Goal	
	Construction	Professional Services
LBE	18%	18%
MBE	15%	13%
WBE	7%	8%

*Year 1 represents the first calendar year after the issuance of the Bonds.

EXHIBIT D

LBE/MBE/WBE PARTICIPATION AGREEMENT

THIS LBE/MBE/WBE PARTICIPATION AGREEMENT (the "**Agreement**"), by and between the Unified Government of Wyandotte County/Kansas City, Kansas (the "**UG**") and Criterion Development Partners, LLC (the "**Developer**"), sets forth procedures and goals for the utilization of local business, minority and women enterprises in connection with the development of an approximately 232-unit, commercial multifamily development in Kansas City, Kansas (the "**Project**"), as defined below.

I. SCOPE

A. These procedures are applicable to the Construction (as defined below) of the Project, as further described in that certain Performance Agreement between the UG and Developer, dated [_________], 2022 (the "**Performance Agreement**"), whether performed by or on behalf of Developer, including, but not limited to, all aspects of Construction of the Project and related facilities including labor, materials and supplies, and construction related services whether undertaken by or on behalf of Developer, but not including Specialized Services.

II. DEFINITIONS

A. "Construction" means all aspects of the construction of 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) Specialized Services; and (ii) Professional Services.

B. "Contractor" means the Proposer selected by the Developer for the Project.

C. "Local Business Enterprise" (or "LBE") means a business headquartered or which maintains a Substantial Local Office 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 and it is determined and assigned based upon the criteria referenced in this definition and payment of all applicable Wyandotte County taxes and/or licensing fees.

D. "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.

E. "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.

F. "Project" means the Construction of a new multifamily development and as legally described in Exhibit 1 to this Agreement.

G. **“Proposer”** means a construction firm that submits a proposal in response to a solicitation for proposals issued by Developer with respect to the Construction of the Project or with respect to the annual operations of the Project.

G. **“Specialized Services”** means expertise, services, or products that are only available through sole source providers or national vendors or are unique to the business of the Project.

H. “**Substantial Local Office**” means an office operated and financially supported by a firm that has sufficient space, staff and equipment to carry on the local business of the firm and that is engaged in significant, on-going local involvement with the business community in Wyandotte County, KS. The term "Substantial Local Office" shall specifically exclude any office that has been established for the sole purpose of participating in a specific Project.

I. **“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>GOALS FOR LBE/MBE/WBE PARTICIPATION.</u>

Developer and its Contractor will use Best Efforts to meet the LBE/MBE/WBE participation percentage goals listed in the below chart based upon the total cost of the Construction of the Project. In no event shall Developer be required to incur higher costs as a result of its commitment to attempt to meet such goals. These goals are based upon a disparity study performed for the Kansas City Metropolitan Area for LBE, MBE, and WBE participation. These goals are not quotas or set asides.

Business Category	Participation Percentage Goal	
	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, the Developer shall give preference to the utilization of LBEs over the utilization of MBEs and WBEs.

IV. <u>ELIGIBILITY FOR CREDIT</u>

A. Only LBE businesses that are qualified and/or MBE or WBE businesses that are certified or undergoing certification by the Kansas Department of Commerce, the City of Kansas City, Missouri, the State of Missouri, the Missouri Department of Transportation, the MidAmerica Minority Business Development Council, and/or the Women’s Business Enterprise National Council or any other applicable or appropriate public or private entity or other entity mutually acceptable to the UG and the Developer (each, an “approved” business) may be counted towards the participation goals in Section III above.

B. In the event that a contract has been awarded on the Project to an approved LBE, MBE, or WBE business, and such LBE, MBE or WBE business later becomes unapproved prior to the completion and acceptance of all the work to be provided under such contract, then Developer shall receive credit towards the goal for only that portion of work performed or services provided up to the point such business becomes unapproved.

V. CONSTRUCTION UTILIZATION

A. The goals set forth in Section III may be met by the expenditure of dollars with approved LBE, MBE and/or WBE businesses, contractors, labor suppliers, regular dealers, manufacturers, material suppliers, subcontractors, software vendors, consultants, other Construction-related products, suppliers, and/or services, or through joint ventures with approved LBEs, MBEs or WBEs. The participation of certified LBE, MBE and/or WBE Proposers may count toward a goal for which they qualify.

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

C. 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 counted both for MBE and WBE participation. However, a certified MBE or WBE that also qualifies as an LBE may also be counted towards the LBE goal. For additional clarification purposes, a qualified LBE, which also certified as an MBE or WBE, shall be counted toward both the LBE and the MBE or WBE goals in the Developer's sole discretion.

D. The LBE, MBE, or WBE must be responsible for the execution of a distinct element of the work by actually performing, managing, or supervising its function in the work identified in the agreement with such LBE, MBE or WBE. Brokering is not credited.

VI. CONTRACT AWARD COMPLIANCE PROCEDURES

A. Solicitation Documents. The solicitation documents, for each contract for which goals are established, shall contain a description of the requirements set forth in this Agreement and the LBE, MBE, and WBE goals. Upon request by the UG, Developer shall submit the solicitation documents and the bid list to the UG.

B. Subcontractor Relations – Documentation of Subcontracting Agreements. All subcontracting services for LBE, MBE and/or WBE businesses shall be evidenced by an agreement which shall include 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.

C. Best Efforts. For each LBE/MBE/WBE participation percentage goal that is not achieved, Developer shall be deemed to have used "**Best Efforts**" to meet such goal(s) if Developer shall have taken substantially all of 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/or 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, and WBE participation, where feasible;

vi. Developer is 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 history;

viii. 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 and any other organization or persons, as identified by the UG, that provide assistance in the recruitment of LBEs, MBEs, and WBEs.

Failure by Developer to take all of the foregoing actions shall not be determinative that Developer has not used its Best Efforts. The parties acknowledge that all of the foregoing actions may not apply to every scope of the Project.

VII. UG'S ASSISTANCE TO PROJECT

The UG shall use its best efforts to provide assistance to Developer and its agents so that Developer may fulfill its participation goals as set forth in this Agreement. The Developer assumes all responsibility for using Best Efforts to meet the goals and complying with the procedures and processes set forth herein. Examples of such assistance by the UG include but are not limited to:

A. providing information and technical assistance regarding this Project to the Developer and its agents including the Contractor and any other contractors, subcontractors, LBEs, MBEs, WBEs, officials and other interested persons;

B. developing and maintaining a registry of approved LBE, MBE and WBE businesses;

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

D. updating the Developer and its agents on current or proposed affirmative action legislation enacted by the UG that may affect the Project;

E. frequently reviewing Developer and the Contractor and any other contractor or subcontractor performance and LBE, MBE, and/or WBE participation on the Project;

F. providing advice relative to utilization and compliance matters;

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

H. assisting the Developer and its agents in addressing issues related to the goals and procedures set forth in this Agreement;

I. reviewing complaints from LBEs, MBEs, WBEs, and any other interested persons regarding these goals and procedures with Developer and its agents; and

J. assisting in the Developer's development of forms to document compliance with these procedures.

VIII. DEVELOPER COMPLIANCE; RECORDS AND REPORTS.

A. Records. Developer shall maintain those records as may reasonably be required to demonstrate compliance (and/or its Best Efforts to comply) with the goals and procedures set forth in this Agreement. These records shall be made available to the UG at Developer's offices during business hours and upon reasonable advance notice.

B. Construction Utilization Plan Reports. Developer shall provide the UG with information sufficient to document the participation under this Agreement, which may include periodically providing the Construction Utilization Plan as set forth on Exhibit 2. Such information may include 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/or WBE; and a brief description of the work to be performed by each such LBE, MBE and/or WBE.

C. Remedies. If, after review of the Developer's construction and related reports by the Unified Government Contract Compliance Department, the UG determines that the participation goals contained in this Agreement for the Construction of the Project have not been met, and that the Best Efforts described herein have not been met, then the UG shall have, as its sole and exclusive remedies: such remedy as set forth in Section 3.11 of the Performance Agreement; and (ii) UG shall also have the right to renegotiate LBE, MBE, and WBE goals for future construction projects undertaken by the Company in the UG.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: ______________________________
County Administrator
Date: ______________________________

CRITERION DEVELOPMENT PARTNERS, LLC

By: ______________________________
Name: ______________________________
Title: ______________________________
Date: ______________________________

EXHIBIT 1

Legal Description -- Link

EXHIBIT 2
Construction Utilization Plan

EXHIBIT E

PRELIMINARY SITE PLAN