



Economic Development and Finance
Standing Committee Meeting Agenda
Thursday, September 14, 2023
5:00 PM

Location: Hybrid

We invite you to view the meeting in person in the Chambers, Lobby Level, Municipal Office Building, 701 N. 7th Street, Kansas City, Kansas, or virtually via a Zoom webinar.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86090668788>

Or One tap mobile:

16699009128,85883431508# US (San Jose), +17193594580,85883431508# US

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

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Webinar ID: 860 9066 8788

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<u>Name</u>	<u>Absent</u>
Commissioner Tom Burroughs, Chair	☐
Commissioner Brian McKiernan	☐
Commissioner Chuck Stites	☐
Commissioner Gayle Townsend	☐
Commissioner Andrew Davis	☐
David Haley, BPU Member	☐

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

II. **Revisions to September 14, 2023 Agenda**

III. **Committee Agenda**

Item No. 1 - RESOLUTION: AUTHORIZING AMENDMENTS TO THE KANSAS SPEEDWAY DEVELOPMENT AGREEMENT

Synopsis: Adoption of a resolution authorizing amendments to the Kansas Speedway Development Agreement and related documents regarding an exception for the Iowa Speedway (added at the request of the County Administrator), submitted by Jeff Conway, Assistant Counsel.

Tracking #: 212705

IV. **Adjourn**



Staff Request for Commission Action

Tracking No. 212705

Full Commission Meeting Date: 9.14.23

Committee: Economic Development & Finance

Date of Standing Committee Action: 9.14.23

(If none, please explain):

Publication Required: No

<u>Date:</u> 09/13/2023	<u>Contact Name:</u> Jeffrey Conway	<u>Contact Phone:</u> x5075	<u>Contact Email:</u> jconway@wycokck.org	<u>Department/Division:</u> Legal
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Item Description:

Adoption of a resolution authorizing amendments to the Kansas Speedway Development Agreement and related documents regarding an exception for the Iowa Speedway (added at the request of the County Administrator).

Action Requested:

Fast Track to September 14, 2023 Full Commission meeting

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

EDF notice 9.14.23, Resolution for Iowa Speedway (2)



Unified Government Clerk's Office

Brett A. Deichler, PMP | CPM
Unified Government Clerk

701 North 7th Street, Suite 323
Kansas City, Kansas 66101-3070

Phone: 913-573-5260
Fax: 913-573-5299
<http://www.wycokck.org>

NOTICE OF SPECIAL MEETING ECONOMIC DEVELOPMENT & FINANCE STANDING COMMITTEE

To the Members of the Governing Body of the
Unified Government of Wyandotte County/Kansas City, Kansas:

You are hereby notified that I have called a Special Meeting of the Economic Development & Finance Standing Committee of the Unified Government of Wyandotte County/Kansas City, Kansas, to be conducted in a hybrid format on Thursday, September 14, 2023, at 5:00 PM regarding the Kansas Speedway.

We invite you to view the meeting in person in the Commission Chambers of the Municipal Office Building, 701 N. 7th Street, Kansas City, Kansas, or virtually via a Zoom webinar.
When: September 14, 2023, 05:00 PM Central Time (US and Canada)
Topic: Special Meeting of the Economic Development & Finance Standing Committee

Join from a PC, Mac, iPad, iPhone, or Android device:

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86090668788>

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or +1 301 715 8592 or 888 475 4499 (Toll-Free) or 877 853 5257 (Toll-Free)

International numbers available: <https://us02web.zoom.us/j/86090668788>

Dated this 12th day of September 2023

ATTESTED


Monica L. Sparks
UG Deputy Clerk


Commissioner Tom Burroughs
Chair, Standing Committee

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE AMENDING OF EXISTING NON-COMPETITION PROVISIONS TO PROVIDE FOR AN EXCEPTION FOR THE BENEFIT OF THE IOWA SPEEDWAY, AND TO REITERATE CERTAIN TERMS OF THE DEVELOPMENT AGREEMENT AND THE NON-COMPETITION AGREEMENT FOR THE KANSAS SPEEDWAY.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (“Unified Government” or “UG”) and Kansas Speedway Corporation f/k/a Kansas International Speedway Corporation (“Developer”) entered into a Construction, Operation and Development Agreement (“Development Agreement”) dated August 28, 1998, relative to the development of a new auto racetrack facility in Kansas City, Kansas;

WHEREAS, the Unified Government entered into the Non-Competition Agreement with the Developer and International Speedway Corporation (“ISC”) dated January 22, 1999;

WHEREAS, the Unified Government and the Developer entered into an amendment to the Development Agreement on January 15, 1999, setting forth the conditions for disbursement of bond proceeds, clarifying the delivery of the construction documents, clarifying the date by which the mortgage will encumber the real estate, setting forth certain reimbursements to the developer’s account, and clarifying that the covenant not to compete takes effect only after the bonds are sold and delivered and the conditions are satisfied in the bond documents;

WHEREAS, the Development Agreement, as amended, and the Non-Competition Agreement (collectively the “Agreements”) remain in full force and effect;

WHEREAS, the Developer has since notified the Unified Government of its desire to amend the Agreements to allow for the use of the Iowa Speedway in Newton, Iowa, as a NASCAR facility, and offering, in exchange, to make good faith and commercially reasonable efforts to secure no less than two (2) NASCAR Cup series sanction agreements per year for the Kansas Speedway;

WHEREAS, the Unified Government recognizes and agrees that race event sanctions are available only on an annual basis and that the Developer is bound by the Agreements to exercise “good faith and commercially reasonable efforts” “to secure races and to maximize the utilization of the Total Project for the Permitted Uses”;

WHEREAS, the Unified Government recognizes that the Developer in recent years has secured two (2) NASCAR Cup series sanction agreements per year at the Kansas Speedway and that the community has successfully welcomed and supported both events each year;

WHEREAS, in light of the circumstances set out above, the Unified Government Board of Commissioners wishes to amend the Agreements to include the operation of the Iowa Speedway as another exception to the 250-mile radius restriction in exchange for the Developer's continued exercise of good faith and commercially reasonable efforts to secure no less than two (2) NASCAR Cup series sanction agreements per year to be held at the Kansas Speedway.

NOW, THEREFORE, BE IT RESOLVED BY the Board of Commissioners of the Unified Government of Wyandotte County/Kansas City, Kansas:

Section 1. The Development Agreement, as amended, shall be amended to reflect that the Iowa Speedway is included as an additional exception to the non-competition restrictions within a 250-mile radius of the Kansas Speedway and that, in exchange, the Developer shall continue to exercise good faith and commercially reasonable efforts to secure no less than two (2) NASCAR Cup series sanction agreements per year for the Kansas Speedway (Exhibit A).

Section 2. The Non-Competition Agreement shall be amended to reflect that the Iowa Speedway is included as an additional exception to the non-competition restrictions within a 250-mile radius of the Kansas Speedway and that, in exchange, the Developer shall continue to exercise good faith and commercially reasonable efforts to secure no less than two (2) NASCAR Cup series sanction agreements per year for the Kansas Speedway (Exhibit B).

Section 3. Pursuant to Article III of the Financial Guaranty Agreement between the Kansas International Speedway Corporation and MBIA Insurance Corporation ("Insurer"), dated January 22, 1999, any amendments to the Agreements shall not take effect until the Insurer has provided prior written consent to such amendments.

Section 4. The remaining terms and provisions in the Agreements shall remain in full force and effect.

Section 5. The County Administrator or his designee is hereby authorized to execute on behalf of the Unified Government, the Second Amendment to Development Agreement, and the First Amendment to the Non-Competition Agreement and to execute such other documents necessary to further the intent of this Resolution.

Section 6. This resolution will take effect and be in full force from and after its passage by the Board of Commissioners.

ADOPTED BY THE BOARD OF COMMISSIONERS OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS THIS 14th DAY OF SEPTEMBER 2023.

[Balance of page left intentionally blank. Signature page to follow.]

Tyrone A. Garner, Mayor/CEO

Attest:

Unified Government Clerk

Approved as to form:

Unified Government Chief Counsel

Exhibit A

**SECOND AMENDMENT TO CONSTRUCTION,
OPERATION AND DEVELOPMENT AGREEMENT**

**SECOND AMENDMENT TO CONSTRUCTION,
OPERATION AND DEVELOPMENT AGREEMENT**

This Amendment is made effective as of the ____ day of _____, 2023, by and between KANSAS SPEEDWAY CORPORATION F/K/A KANSAS INTERNATIONAL SPEEDWAY CORPORATION (“Developer”) and THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS (“Unified Government”).

RECITALS

A. Developer and the Unified Government are parties to a certain Construction, Operation and Development Agreement dated August 28, 1998 (“Development Agreement”).

B. Developer and the Unified Government are parties to a certain First Amendment to Construction, Operation and Development Agreement dated January 22, 1999 (“First Amendment”).

C. Developer and the Unified Government desire to amend the Development Agreement.

D. All capitalized terms used herein shall have the same meaning as set forth in the Development Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto amend the Development Agreement as follows:

1. Section 8.4 is amended to read as follows:

8.4 Non-Compete. For and during the Initial Term, (a) Unified Government agrees that it will not directly or indirectly negotiate with any other party for the development of an auto race track facility, nor own, lease, manage, operate, finance or control an auto race track facility, within the jurisdictional boundaries of the City/County, provided, however, that these provisions shall have no application to Lakeside Speedway, as it currently exists; (b) Developer agrees that neither it, Guarantor nor any Affiliate of Developer or Guarantor, will own, lease, develop or operate an auto race track facility within a 250 miles radius of the jurisdictional boundaries of the Unified Government, except for the Gateway International Speedway or its successor, located in East St. Louis, Illinois, and except for the Iowa Speedway, located in Newton, Iowa. In exchange for the Unified Government accepting the Iowa Speedway exception under this section, Developer agrees to continue to exercise good faith and commercially reasonable efforts pursuant to section 7.2 of this agreement to secure no less than two (2) NASCAR Cup series sanction agreements per year for the Kansas Speedway.

2. In all other respects, the Development Agreement and the First Amendment are hereby ratified and affirmed.

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

THE UNFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: _____

David W. Johnston, County Administrator

Attest:

Unified Government Clerk

Approved as to form:

Chief Counsel

KANSAS

SPEEDWAY CORPORATION

By: _____

Exhibit B

**FIRST AMENDMENT TO
NON-COMPETITION AGREEMENT**

FIRST AMENDMENT TO
NON-COMPETITION AGREEMENT

This Amendment is made effective as of the _____ day of _____, 2023, by and between Kansas Speedway Corporation f/k/a Kansas International Speedway Corporation (“Developer”), International Speedway Corporation (“ISC”), and the Unified Government of Wyandotte County/Kansas City, Kansas (“Unified Government”).

RECITALS

A. Developer and the Unified Government are parties to a certain Construction, Operation and Development Agreement dated August 28, 1998 (“Development Agreement”).

B. Developer and the Unified Government are parties to a certain First Amendment to Construction, Operation and Development Agreement dated January 22, 1999 (“First Amendment”).

C. Developer and the Unified Government are parties to a certain Non-Competition Agreement dated January 22, 1999 (“Non-Competition Agreement”).

C. Developer and the Unified Government desire to amend the Non-Competition Agreement.

D. All capitalized terms used herein shall have the same meaning as set forth in the Non-Competition Agreement.

NOW, THEREFORE, in consideration of the above premises, the mutual covenants and agreements set forth herein and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereto amend the Non-Competition Agreement as follows:

1. Section 1(a) of the Non-Competition Agreement is amended to read as follows:

1. Covenant Not to Compete, Effective Date of Covenant Not to Compete.

(a) ISC hereby agrees that for the Initial Term, neither ISC, Developer nor any Affiliate of ISC or Developer shall, directly or indirectly, own, lease, develop or operate an auto race track facility that is within a 250-mile radius of the jurisdictional boundaries of the Unified Government, except for Gateway International Speedway or its successor, located in East St. Louis, Illinois, and except for the Iowa Speedway, located in Newton, Iowa. In exchange for the Unified Government accepting the Iowa Speedway exception under this section, Developer agrees to continue to exercise good faith and commercially reasonable efforts pursuant to section 7.2 of the Development Agreement to secure no less than two (2) NASCAR Cup series sanction agreements per year for the Kansas Speedway.

2. In all other respects, the Non-Competition Agreement is hereby ratified and affirmed.

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

THE UNFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS

By: _____

David W. Johnston, County Administrator

Attest:

Unified Government Clerk

Approved as to form:

Chief Counsel

KANSAS

SPEEDWAY CORPORATION

By: _____

INTERNATIONAL
SPEEDWAY CORPORATION

By: _____