

(Published in *The Wichita Eagle* on September 13, 2013)

**ORDINANCE NO. 49-572**

**A HOME RULE ORDINANCE OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT RELATING TO THE K-96 GREENWICH STAR BOND PROJECT DISTRICT AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH SAID AGREEMENT.**

**WHEREAS**, City of Wichita, Kansas (the “City”) is a municipal corporation duly organized and validly existing under the laws of the State of Kansas (the “State”) as a city of the first class; and

**WHEREAS**, the City Council of the City (the “Governing Body”), by Resolution No. 12-006, adopted January 10, 2012, described a STAR bond district plan which identifies proposed STAR bond project areas and proposed buildings and facilities to be constructed or improved within the proposed K-96 Greenwich STAR Bond District (the “District Plan”); and

**WHEREAS**, by Ordinance No. 49-208, passed March 6, 2012, and published on March 9, 2012, the City Council of the City (the “Governing Body”), established a STAR bond district pursuant to K.S.A. 12-17,160 *et seq.*, as amended (the “Act”), known as the K-96 Greenwich STAR Bond Project District (the “District”); and

**WHEREAS**, by Ordinance No. 49-281 passed June 12, 2012, and published June 15, 2012, the Governing Body amended the District Plan to include the ability to fund the cost of developing a multi-sport athletic complex; and

**WHEREAS**, by Ordinance No. 49-438 passed February 5, 2013 and published February 22, 2013, the Governing Body made certain findings required by the Act and adopted the Phase I STAR Bond Project Plan (the “Project Plan”); and

**WHEREAS**, Wichita Sedgwick County Metropolitan Area Planning Commission determined that the Project Plan is consistent with the intent of the comprehensive general plan for the development of the City; and

**WHEREAS**, on June 3, 2013, the Secretary of the Kansas Department of Commerce (the “Secretary”): (a) determined that the District constitutes a major commercial entertainment and tourism area and is therefore an “eligible area” under the STAR Bond Act, (b) approved and designated the Phase I STAR Bond Project as a “STAR bond project” within the meaning of the STAR Bond Act and (c) approved financing of certain costs of the Project Plan with STAR bond financing in the amount of \$31,570,000 (exclusive of financing costs); and

**WHEREAS**, the City is authorized under the Act to issue special obligation revenue bonds for the purpose of financing costs to implement the Project Plan; and

**WHEREAS**, in connection with the development of the District and the implementation of the Project Plan the Governing Body hereby finds and determines that it is advisable and necessary to enter into a Development Agreement among the City, Wichita Destination Developers, Inc., Goodsports Village Wichita, LLC and Goodsports Communities, Inc. (the "Development Agreement"); and

**WHEREAS**, Article 12, § 5 of the Constitution of the State (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 City is a city within the meaning of the Home Rule Amendment; and

**WHEREAS**, there is no enactment of the State legislature which prohibits a city from entering into agreements relating to economic development activities, such as the Development Agreement; and

**WHEREAS**, the Governing Body of the City hereby further finds and determines that it is necessary and advisable and in the interest of the public health, safety and welfare, including economic development, of the City, to authorize by home rule ordinance the execution of the Development Agreement and to take certain actions and execute certain other documents as therein provided.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Approval of Development Agreement.** The Development Agreement is hereby approved in substantially the form presented to the Governing Body at this meeting, a copy of which shall be filed in the records of the City Clerk.

**Section 2. Execution of Development Agreement and Other Documents.** The Mayor or Vice Mayor of the City is hereby authorized and directed to execute the Development Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, with such changes therein as shall be approved by the City Attorney and the officer or officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval and the City's ratification or approval thereof. The City Clerk or any Deputy City Clerk is hereby authorized to attest to the signature of the Mayor or Vice Mayor the City and affix the seal of the City to said documents.

**Section 3. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, deeds, agreements, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and the transactions contemplated therein and to carry out, comply with and perform the duties of the City with respect to the Development Agreement and related documents. Springsted Incorporated, the City's financial advisor, and Gilmore & Bell, P.C., the City's bond counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the intent of this Ordinance.

**Section 4. Effective Date.** This Ordinance shall take effect and be in full force after its adoption by the City and publication once in the official newspaper of the City.

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**PASSED** by the City Council of the City of Wichita, Kansas, on September 10, 2013.

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Carl Brewer, Mayor

(Seal)

ATTEST:

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Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

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Gary Rebenstorf, City Attorney

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**CERTIFICATE**

I, the undersigned, hereby certify that the above and foregoing is a true and correct copy of the original Ordinance No. 49-[\_\_\_] (the "Ordinance") of the City of Wichita, Kansas (the "City"); that said Ordinance was passed by the City Council on September 10, 2013, that the record of the vote on its passage is found on page \_\_\_ of journal \_\_\_; that it was published in the official newspaper of the City on September 13, 2013; and that the Ordinance has not been modified, amended or repealed and is in full force and effect as of this date.

DATED: September 13, 2013.

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Karen Sublett, City Clerk