

(PUBLISHED IN THE *WICHITA EAGLE* ON OCTOBER 25, 2013)

ORDINANCE NO. 49-587

A HOME RULE ORDINANCE AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS AND THE ISSUANCE OF BONDS OF THE CITY OF WICHITA, KANSAS TO PAY ALL OR A PORTION OF THE COSTS OF ACQUIRING REAL PROPERTY, DEMOLITION OF EXISTING STRUCTURES, AND DESIGN AND CONSTRUCTION OF A PARKING GARAGE, AND SITE IMPROVEMENTS RELATED TO THE CENTER CITY SOUTH REDEVELOPMENT DISTRICT, EXCHANGE PLACE PROJECT AREA.

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

WHEREAS, pursuant to K.S.A. 12-1770 *et seq.*, as amended (the “Act”) and Ordinance No. 47-475, passed May 8, 2007, and published May 11, 2007, the City Council (the “Governing Body”) of the City of the City established a redevelopment district pursuant to the Act., as amended, known as the Center City South Redevelopment District (the “District”); and

WHEREAS, by Ordinance No. 48-124, passed December 9, 2008, and published December 12, 2008, the City added certain property and increased the boundaries District pursuant to K.S.A. 12-1771(f) and made a substantial change to the District Plan for the District; and

WHEREAS, the City has heretofore, in 2007, approved a redevelopment project plan for the Exchange Place Project Area (the “Project Area”) within the District, which plan has been amended on two occasions; and

WHEREAS, due to economic conditions and the inability of the designated project developers to obtain financing, the redevelopment project plan has not been commenced, thus not completed and needs to be abandoned; and

WHEREAS, the City has prepared a new redevelopment project plan for the Project Area, dated as of August 22, 2013 (the “Project Plan”), has negotiated an amended and restated redevelopment agreement with respect thereto and is considering adoption of the Project Plan and approval of such redevelopment agreement; and

WHEREAS, on August 22, 2013, the Wichita Sedgwick County Metropolitan Area Planning Commission reviewed the proposed Project Plan and has adopted a resolution finding that the Project Plan is consistent with the comprehensive plan for the development of the City; and

WHEREAS, pursuant to the requirements of the Act and Resolution No. 13-162, adopted August 27, 2013, the Governing Body conducted a public hearing on October 1, 2013 relating to the approval of the Project Plan; and

WHEREAS, by Ordinance No. 49-[____], passed October 8, 2013, and to be published October 11, 2013, the City adopted the Project Plan, which includes, but is not limited to, the acquisition of land within the Project Area, the demolishing of certain existing structures thereon, the design and construction

of a parking garage and making certain other site improvements, all in conjunction with development of additional housing and commercial structures by a private developer within the Project Area; and

WHEREAS, the Project Plan also authorizes the issuance by the City of its full faith and credit tax increment bonds of the City in order to finance all or a portion of the redevelopment project costs to be paid by the City; and

WHEREAS, the City has negotiated an amended and restated development agreement with the developer of the Project Area to implement the Project Plan, (the “Development Agreement”), which has been submitted to the Governing Body for consideration; and

WHEREAS, pursuant to the Constitution, particularly Article 12, Section 5 thereof, and statutes of the State of Kansas, particularly of K.S.A. 12-101 *et seq.*, as amended (collectively, the “Home Rule Act”), the Act and K.S.A. 13-1024a, as amended by Charter Ordinance No. 156 of the City (the “Charter Ordinance”), the Governing Body hereby finds and determines that it is necessary and desirable and in the interest and for the general economic welfare of the City and its inhabitants, that the City enter into the Development Agreement, authorize, in order to implement the Project Plan, the issuance of its: (a) full faith and credit tax increment bonds, in one or more series, in an aggregate principal amount necessary to finance eligible costs authorized by the Act, and related reserves and financing costs, and (b) the issuance of general obligation bonds of the City, in one or more series, in an aggregate principal amount necessary to finance costs authorized by the Home Rule Act and/or the Charter Ordinance, and related reserves and financing costs (collectively, the “Bonds”); and

WHEREAS, in connection with the implementation of the Development Agreement and issuance of the Bonds, it is contemplated that the City will enter into various other agreements and issue various certificates and the Governing Body desires to authorize execution of such necessary documents and certificates.

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

SECTION 1. Development Agreement. The Development Agreement is hereby approved in substantially the form presented to the Governing Body, with such changes as may be approved by the City Attorney, which provides, in part that it is necessary to acquire real property located within the Project Area of the District, to demolish certain existing structures located thereon, and to design and construct a parking garage and site improvements located within the Project Area as described in the Project Plan. The Mayor is hereby authorized to execute the Development Agreement by and on behalf of the City and the City Clerk is hereby authorized to attest such signature.

SECTION 2. Financing Authorization. The Governing Body hereby declares it to be its intention to issue and sell, pursuant to the Home Rule Act, the Act and the Charter Ordinance, the Bonds, to finance all or a portion of the project costs described in *Section 1* hereof to be paid by the City pursuant to the Development Agreement. Project Costs allocated to the City pursuant to the Development Agreement not paid from proceeds of the Bonds may be paid from available revenues of the City. In order to temporarily finance the aforesaid project costs prior to the issuance of the Bonds as hereinbefore provided, there may be issued temporary improvement notes, in one or more series, in an aggregate principal amount not exceeding the authorization for the Bonds (the “Notes”). The Bonds and Notes may be issued to reimburse the City for project costs pursuant to Treasury Regulation §1.150-2.

SECTION 3. Further Authority. The Mayor, City Manager, City Clerk and other City officials and legal counsel are hereby further authorized and directed to execute any and all documents as

may be approved by the City Attorney and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

SECTION 4. Effective Date. This Ordinance shall take effect and be in force from and after its passage and publication one time in the official City newspaper.

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PASSED by the Governing Body on October 22, 2013.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

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. 49-587 (the "Ordinance") of the City of Wichita, Kansas (the "City"); that said Ordinance was passed by the City Council on October 22, 2013, that the record of the final vote on its passage is found on page ____ of journal ____; that it was published in the official newspaper of the City on October 25, 2013; and that the Ordinance has not been modified, amended or repealed and is in full force and effect as of this date.

DATED: October 25, 2013.

Karen Sublett, City Clerk