

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

**ORDINANCE NO. 49-590**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT AND THE ISSUANCE OF BONDS OF THE CITY OF WICHITA, KANSAS TO PAY ALL OR A PORTION OF THE COSTS OF DESIGN AND CONSTRUCTION OF PUBLIC PARKING, INFRASTRUCTURE IMPROVEMENTS AND SITE IMPROVEMENTS RELATED TO THE EAST BANK REDEVELOPMENT DISTRICT PURSUANT, WEST BANK APARTMENTS 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. 42-966, passed December 12, 1995, and published December 15, 1995, City Council (the "Governing Body") of the City established a redevelopment district pursuant to the Act, known as the East Bank Redevelopment District (the "District"); and

**WHEREAS**, by Ordinance No. 45-339, passed June 25, 2002, and published June 29, 2002, the City removed certain property and reduced the boundaries of the District pursuant to K.S.A. 12-1771(g); and

**WHEREAS**, Ordinance No. 46-407, passed November 23, 2004, and published November 29, 2004, the City added certain property and increased the boundaries of the District pursuant to K.S.A. 12-1771(f) and made a substantial change to the District Plan for the District; and

**WHEREAS**, the District Plan for the District provided that redevelopment of the District would be in several project areas within the District as set forth in separate redevelopment plans to be approved by the governing body of the City pursuant to the Act; and

**WHEREAS**, pursuant to Ordinance No. 49-557, passed August 13, 2013, and published August 16, 2013, a non-substantial amendment to Ordinance No. 46-407 and the District Plan was made by attaching a map of the proposed project areas; and

**WHEREAS**, the City has prepared an additional redevelopment project plan for the West Bank Apartments Project Area (the "Project Area"), dated as of June 20, 2013, which includes, but is not limited to, the development and construction of public parking, street and signalization improvements and certain site and public improvements, all in conjunction with development of an apartment and commercial structures by a private developer within the Project Area (the "Project Plan"), has negotiated a development agreement with respect thereto and is considering adoption of the Project Plan and approval of such development 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. 13-161, adopted August 27, 2013, the Governing Body set a public hearing to consider the adoption of the Project Plan on October

8, 2013 at 9:00 a.m. or as soon thereafter as the matter could be heard, at the City Council Chambers in City Hall, 455 N. Main, Wichita, Kansas; and

**WHEREAS**, by Ordinance No. 49-[\_\_\_\_], passed October 22, 2013, and to be published October 25, 2013, the City adopted the Project Plan; 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 a 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”).

**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 design and construct public parking, street and signalization improvements and certain site and public 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. 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.

**PASSED** by the Governing Body on October 22, 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 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.

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Karen Sublett, City Clerk