

ORDINANCE NO. 49-917

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND AUTHORIZING THE ISSUANCE OF BONDS OF THE CITY OF WICHITA, KANSAS TO PAY ALL OR A PORTION OF THE COSTS OF CERTAIN IMPROVEMENTS RELATED TO THE EAST BANK REDEVELOPMENT DISTRICT, 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, the 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, by 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 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 prepared a 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 apartment and commercial structures by a private developer within the Project Area (the "Project Plan"), and negotiated a development agreement with respect thereto; and

WHEREAS, after complying with procedural requirements of the Act, by Ordinance No. 49-586, passed October 22, 2013, and published October 25, 2013, the City adopted the Project Plan, approved the execution of a development agreement with River Vista, L.L.C., the developer of the Project Area, to implement the Project Plan (the "Development Agreement"), and authorized, 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 issuance by the City 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) general obligation bonds, in one or more series, in an aggregate principal amount necessary to finance costs set forth in the Project Plan and Development Agreement; and related reserves and financing costs (collectively, the “Bonds”); and

WHEREAS, pursuant to K.S.A. 12-1770 *et seq.*, as subsequently re-codified in K.S.A. 12-17,160 *et seq.* (the “STAR Bond Act”), the City prepared a special bond project plan for development of the River District Corridor Improvements Project Area (the “River District Project Area”) within the District, dated as of July 2007 (the “River District STAR Bond Project Plan”); and

WHEREAS, on July 10, 2007, after complying with procedural requirements of the STAR Bond Act, a public hearing on the River District STAR Bond Project Plan was opened, public comment was received by the Governing Body and the public hearing was closed; and

WHEREAS, after complying with procedural requirements of the STAR Bond Act, by Ordinance No. 47-518, passed July 17, 2007, and published July 20, 2007, the City adopted the River District STAR Bond Project Plan; and

WHEREAS, the City has prepared a Project Plan Amendment for the West Bank Apartments Project Area, dated as of November 2014 (the “Project Plan Amendment”) and a Project Plan Amendment for the River District Project Area, dated as of November 2014 (the “STAR Project Plan Amendment”) and has negotiated an Amended and Restated Development Agreement, dated as of January 9, 2015, related to modifications to the scope of the public improvements described in the Project Plan and the STAR Project Plan (the “Development Agreement Amendment”); and

WHEREAS, on December 16, 2014, after providing notice required by the Act, a public hearing on the Project Plan Amendment and STAR Project Plan Amendment was opened, public comment was received by the Governing Body, the public hearing was closed and the Governing Body approved on first reading ordinances approving the Project Plan Amendment and STAR Project Plan Amendment; and

WHEREAS, the Governing Body desires to approve the Development Agreement Amendment and authorize the issuance of bonds to implement such amendment.

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

Section 1. Development Agreement Amendment. The Development Agreement Amendment is hereby approved in substantially the form presented to the Governing Body, with such changes as may be approved by the City Attorney. The Mayor is hereby authorized to execute the Development Agreement Amendment 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 affirms 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 to be paid by the City pursuant to the Development Agreement and Development Agreement Amendment. The Bonds may be issued to reimburse the City for such 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 of a summary thereof one time in the official City newspaper.

PASSED by the Governing Body on January 6, 2015.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Sharon L. Dickgrafe, Interim Director of
Law and 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. 49-917 (the "Ordinance") of the City of Wichita, Kansas (the "City"); that said Ordinance was passed by the City Council on January 6, 2015, that the record of the final vote on its passage is found on page ____ of journal ____; that a Summary of the Ordinance was published in the official newspaper of the City on January 9, 2015; and that the Ordinance has not been modified, amended or repealed and is in full force and effect as of this date.

DATED: January 9, 2015.

Karen Sublett, City Clerk

(Published in *The Wichita Eagle* on January 9, 2015)

SUMMARY OF ORDINANCE NO. 49-917

On January 6, 2015, the City Council of the City of Wichita, Kansas (the “City”) passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT AMENDMENT AND AUTHORIZING THE ISSUANCE OF BONDS OF THE CITY OF WICHITA, KANSAS TO PAY ALL OR A PORTION OF THE COSTS OF CERTAIN IMPROVEMENTS RELATED TO THE EAST BANK REDEVELOPMENT DISTRICT, WEST BANK APARTMENTS PROJECT AREA.

Ordinance No. 49-917 (the “Ordinance”) authorizes the execution of an Amended and Restated Development Agreement, dated January 9, 2015 (the “Amendment”) to a certain Development Agreement, dated as of October 22, 2013 (the “Development Agreement”) between the City and River Vista, L.L.C. (the “Developer”), relating to the development and construction of public parking, street and signalization improvements and certain site and public improvements, all in conjunction with the development of apartment and commercial structures by the Developer within the West Bank Apartments Project Area (the “Project Area”) of the East Bank Redevelopment District within the City, and also affirms the issuance of general obligation bonds of the City to finance certain public improvements within the Project Area (the “Bonds”). The Bonds constitute general obligations of the City payable as to both principal and interest, to the extent necessary, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 13th Floor, City Hall, 455 North Main, Wichita, Kansas 67202. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at www.wichita.gov.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: January 6, 2015.

Sharon L. Dickgrafe, Interim Director of
Law and City Attorney