

Introduced: March 17, 2015
Passed: March 17, 2015
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ORDINANCE NO. 2015 - 8

AN ORDINANCE AUTHORIZING THE CREATION OF THE MALL COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF HUTCHINSON, KANSAS; AUTHORIZING THE MAKING OF CERTAIN PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT IMPROVEMENTS; AND PROVIDING FOR THE METHOD OF FINANCING THE SAME.

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the “Act”), cities and counties are authorized to create community improvement districts as a method of financing economic development related improvements in a defined area within their city or county; and

WHEREAS, the Act authorizes the governing body of any city or county to create community improvement districts to finance projects within such defined area of the city or county and to levy a community improvement district sales tax and/or levy special assessments upon property within the district to finance projects; and

WHEREAS, the certain Petition for Creation of the Mall Community Improvement District (the “Petition”) was filed with the City Clerk on January 29, 2015, proposing the creation of the Mall Community Improvement District (the “District”) under the Act, and the imposition of a community improvement district sales tax in order to pay the costs of projects as described in the Petition (the “Project”); and

WHEREAS, the Petition was signed by the required number of owners of record, whether resident or not, as required by the Act; and

WHEREAS, the City Council of the City of Hutchinson, Kansas (the “City Council”) desires to create the District and to levy a community improvement district sales tax in an amount not to exceed one percent (1.00%) within the District as requested in the Petition (the “CID Sales Tax”); and

WHEREAS, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the City Council shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and the construction of such community improvement district projects therein, and to give notice of the hearing by publication at least once each week for two (2) consecutive weeks in the official City newspaper and by certified mail to all property owners within the proposed community improvement district, the second publication to be at least seven (7) days prior to the hearing and such certified mail to be sent at least ten (10) days prior to such hearing; and

WHEREAS, the City Council adopted Resolution No. 2015R5 on February 3, 2015 directing that a public hearing on the proposed District be held on March 17, 2015, declaring its intent to impose a community improvement district sales tax, and requiring that the City Clerk provide notice of such public hearing as set forth in the Act; and

WHEREAS, the Notice of Public Hearing containing the following information: (a) the time and place of the hearing; (b) the general nature of the proposed community improvement district projects; (c)

the estimated costs of the proposed community improvement district projects; (d) the proposed method of financing the costs of the community improvement district projects; (e) the proposed amount of the community improvement district sales tax; and (f) the map or boundary description of the proposed District, was mailed to all property owners within the proposed District on February 6, 2015, and published once each week for two (2) consecutive weeks in *The Hutchinson News*, the official City newspaper, on February 27, 2015 and March 6, 2015; and

WHEREAS, on March 17, 2015, the City Council conducted a public hearing on the proposed District, the proposed Project, and estimated costs thereof and the method of financing the same; and

WHEREAS, the City Council desires to create the District and set forth the boundaries thereof, authorize community improvement district projects relating thereto, approve the estimated costs of such community improvement district projects and approve the method of financing the same, all in accordance with the Act.

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

Section 1. Creation of Community Improvement District; Boundaries. The City Council hereby finds and determines that it is advisable to create, and does hereby create, in accordance with the Act, the District within the City to be referred to as the “Mall Community Improvement District.” The legal description of the boundaries of the District is set forth on the attached **Exhibit A**. A depiction generally outlining the boundaries of the District is set forth on the attached **Exhibit B**.

Section 2. Authorization of Community Improvement District Projects and Estimated Costs.

(a) The general nature of the Project to be constructed within the District includes the projects described on the attached **Exhibit C**.

(b) The total estimated cost of the Project to be funded by the District is \$15,650,000.

Section 3. Method of Financing.

(a) In order to provide funds to finance the costs of the Project, the City Council hereby finds and determines that it is advisable to impose, in accordance with the Act, a community improvement district sales tax within the District in an amount of one percent (1.00%) on the selling of tangible personal property at retail or rendering or furnishing services within the District (the “CID Sales Tax”). The City shall receive an administration fee in an amount equal to five percent (5.0%) of the CID Sales Tax revenues received by the City to reimburse the City for administrative costs in connection with the District and the CID Sales Tax.

(b) There will be no special assessments levied on property within the boundaries of the District to pay the cost of the Project.

(c) The Project will be privately financed by pay-as-you-go financing, as such term is defined in the Act. No general obligation bonds or revenue bonds shall be issued by the City Council. The costs of the Project will be paid by the Developer and, subject to the terms and conditions of a development agreement to be entered into by the Developer and the City, the Developer will be reimbursed for the costs of the Project as from CID Sales Tax revenues then on deposit with the City.

Section 4. Imposition of Community Improvement District Sales Tax. The City Council hereby imposes the CID Sales Tax within the District in an amount of one percent (1.00%) on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax act. The CID Sales Tax shall commence on July 1, 2015.

Section 5. Segregation of Sales Tax Revenues. All CID Sales Tax revenues received by the City shall be deposited into a special fund of the City to be designated as the Mall Community Improvement District Sales Tax Revenue Fund (the "Revenue Fund"). Such revenues shall be used to pay the costs of the Project and the City's administration fee.

Section 6. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the City Council and publication once in the official City newspaper.

PASSED BY THE GOVERNING BODY, this 17th day of March, 2015, for the City of Hutchinson, Kansas.

Cindy Proett, Mayor

ATTEST:

Karen Weltmer, City Clerk

APPROVED AS TO FORM ONLY:

Paul Brown, City Attorney

EXHIBIT A

Legal Description of the District

A TRACT OF LAND IN THE NORTH HALF OF SECTION 8, TOWNSHIP 23 SOUTH, RANGE 5 WEST OF THE 6TH PRINCIPAL MERIDIAN, RENO COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF SECTION 8, TOWNSHIP 23 SOUTH, RANGE 5 WEST OF THE 6TH PRINCIPAL MERIDIAN, RENO COUNTY, KANSAS; THENCE NORTH 89°37'00" EAST ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 781.10 FEET TO A POINT WHICH IS 1866.17 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER FOR A PLACE OF BEGINNING; THENCE NORTH 00°03'35" EAST PARALLEL TO THE WEST LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 521.02 FEET; THENCE SOUTH 89°37'00" WEST PARALLEL TO THE SOUTH LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 517.74 FEET TO A POINT ON A CURVE ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF K-61 HIGHWAY WITH A RADIUS OF 858.85 FEET; THENCE NORTH 33°44'48" EAST (CHORD BEARING, CHORD LENGTH 525.66 FEET) ALONG THE ARC OF SAID CURVE AND SAID HIGHWAY RIGHT-OF-WAY LINE A DISTANCE OF 534.24 FEET; THENCE NORTH 51°34'00" EAST ALONG SAID HIGHWAY RIGHT-OF-WAY LINE A DISTANCE OF 403.90 FEET; THENCE NORTH 46°09'23" EAST ALONG SAID HIGHWAY RIGHT-OF-WAY LINE A DISTANCE OF 100.45 FEET; THENCE NORTH 51°34'00" EAST ALONG SAID HIGHWAY RIGHT-OF-WAY LINE A DISTANCE OF 1133.69 FEET; THENCE SOUTH 38°26'00" EAST A DISTANCE OF 864.61 FEET; THENCE NORTH 51°34'00" EAST A DISTANCE OF 353.58 FEET TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER WHICH POINT IS 1134.94 FEET SOUTH OF THE NORTHEAST CORNER, OF SAID NORTHWEST QUARTER AND 1510.02 FEET NORTH OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE SOUTH ALONG THE EAST LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 308.04 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 416.00 FEET; THENCE SOUTH 25°47'00" WEST (CHORD BEARING, CHORD LENGTH 361.89 FEET) ALONG THE ARC OF SAID CURVE A DISTANCE OF 374.40 FEET; THENCE SOUTH 51°34'00" WEST A DISTANCE OF 19.97 FEET, THENCE SOUTH 38°26'00" EAST A DISTANCE OF 11.11 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 102.50 FEET; THENCE SOUTH 19°13'00" EAST (CHORD BEARING, CHORD LENGTH 67.47 FEET) ALONG THE ARC OF SAID CURVE A DISTANCE OF 68.76 FEET; THENCE SOUTH A DISTANCE OF 792.24 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER WHICH POINT IS 143.94 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE SOUTH 89°37'00" WEST ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 55.00 FEET; THENCE NORTH A DISTANCE OF 792.61 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET; THENCE NORTH 19°13'00" WEST (CHORD BEARING, CHORD LENGTH 31.27 FEET) ALONG THE ARC OF SAID CURVE A DISTANCE OF 31.86 FEET; THENCE NORTH 38°26'00" WEST A DISTANCE OF 11.11 FEET; THENCE SOUTH 51°34'00" WEST A DISTANCE OF 773.59 FEET TO A POINT ON A CURVE HAVING A RADIUS OF 108.95 FEET; THENCE SOUTH 19°13'00" EAST (CHORD BEARING, CHORD LENGTH 71.72 FEET) ALONG THE ARC OF SAID CURVE A DISTANCE OF 73.08 FEET; THENCE SOUTH A DISTANCE OF 286.26 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 89°37'00" WEST ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 54.83 FEET; THENCE WITH THE LINES OF THE FINAL PLAT OF ELEVENTH AVENUE ANNEX, AN ADDITION TO THE CITY OF HUTCHINSON,

RENO COUNTY, KANSAS, ACCORDING TO THE RECORDED PLAT THEREOF, THE FOLLOWING SEVEN (7) COURSES:

FIRST COURSE - NORTH $00^{\circ}02'10''$ WEST A DISTANCE OF 291.97 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 17.75 FEET;

SECOND COURSE - NORTH $65^{\circ}31'12''$ WEST (CHORD BEARING, CHORD LENGTH 32.30 FEET) ALONG THE ARC OF SAID CURVE A DISTANCE OF 40.57 FEET TO A POINT ON A CURVE HAVING A RADIUS OF 418.76 FEET;

THIRD COURSE - SOUTH $86^{\circ}46'05''$ WEST (CHORD BEARING, CHORD LENGTH 513.00 FEET) ALONG THE ARC OF SAID CURVE A DISTANCE OF 552.14 FEET;

FOURTH COURSE - NORTH $55^{\circ}27'36''$ WEST A DISTANCE OF 190.08 FEET TO THE POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 466.00 FEET;

FIFTH COURSE - NORTH $48^{\circ}40'11''$ WEST (CHORD BEARING, CHORD LENGTH 110.20 FEET) ALONG THE ARC OF SAID CURVE A DISTANCE OF 110.45 FEET TO A POINT ON A CURVE HAVING A RADIUS OF 233.00 FEET;

SIXTH COURSE - SOUTH $23^{\circ}35'44''$ WEST (CHORD BEARING, CHORD LENGTH 189.38 FEET) ALONG THE ARC OF SAID CURVE A DISTANCE OF 195.03 FEET;

SEVENTH COURSE - SOUTH $00^{\circ}23'00''$ EAST A DISTANCE OF 289.16 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH $89^{\circ}37'00''$ WEST ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 157.86 FEET TO THE PLACE OF BEGINNING.

EXHIBIT B

Map of the District Boundaries



Note: The dark red line marks the District boundaries.

EXHIBIT C

District Projects

The general nature of the project consists of the acquisition of 53+/- acres located at 1500 E. 11th Ave., Hutchinson, Reno County, Kansas and generally bounded by Kansas State Highway K-61/Ken Kennedy Freeway on the west and north, E. 11th Avenue on the south, and railroad tracks on the east (excluding the land occupied by the Walmart and Home Depot stores immediately adjacent to such railroad tracks), the renovation and rehabilitation of the Hutchinson Mall, the repair and rehabilitation of related infrastructure and parking areas, and ongoing maintenance of property within the District boundaries.