

Memo

To: City Commission
From: Toby Dougherty, City Manager
Date: 11-8-16
Re: November 17, 2016 Work Session

Please find the attached agenda and supporting documentation for the November 17, 2016 Work Session.

Item 2 (Hays Extended Stay Hotel Partners CID), Item 3 (Hays Extended Stay Hotel Partners II CID), and Item 4 (Hays Investors CID) – Ordinance and Development Agreements

These items are related to the two CID projects in the Home Depot area. The City's bond counsel has prepared ordinances and Development Agreements using the model of the City's previous Development Agreements as well as the pledges by the CID petitioners. The most notable aspect of the Development Agreement is the memorializing of the promises made by the petitioners, more specifically, with regard to the retail project. The Development Agreement spells out the amount of retail square footage that must be constructed and occupied within a 36-month period. The agreement also spells out that the petitioners will ask for no other incentives on the property during the lifetime of the CID.

Item 5 – Ordinance and Resolution to Authorize the Issuance of General Obligation Refunding and Improvement Bonds, Series 2016-A

Please refer to the attached memorandum from Kim Rupp, Director of Finance, regarding the ordinance and resolution to refund General Obligation Bonds.

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**CITY OF HAYS
CITY COMMISSION WORK SESSION
THURSDAY, NOVEMBER 17, 2016 – 6:30 P.M.
AGENDA**

1. **ITEM FOR REVIEW: [November 3, 2016 Work Session Notes \(PAGE 1\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
2. **ITEM FOR REVIEW: [Hays Extended Stay Hotel Partners Community Improvement District \(CID\) – Ordinance and Development Agreement \(PAGE 5\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
3. **ITEM FOR REVIEW: [Hays Extended Stay Hotel Partners II Community Improvement District \(CID\) – Ordinance and Development Agreement \(PAGE 29\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
4. **ITEM FOR REVIEW: [Hays Investors Community Improvement District \(CID\) – Ordinance and Development Agreement \(PAGE 35\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
5. **ITEM FOR REVIEW: [Ordinance and Resolution to Authorize the Issuance of General Obligation Refunding and Improvement Bonds, Series 2016-A \(PAGE 59\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
6. **OTHER ITEMS FOR DISCUSSION**
7. **EXECUTIVE SESSION (IF REQUIRED)**
8. **ADJOURNMENT**

ANY PERSON WITH A DISABILITY NEEDING SPECIAL ACCOMMODATIONS TO ATTEND THIS MEETING SHOULD CONTACT THE CITY MANAGER'S OFFICE 48 HOURS PRIOR TO THE SCHEDULED MEETING TIME. EVERY ATTEMPT WILL BE MADE TO ACCOMMODATE ANY REQUESTS FOR ASSISTANCE.

City of Hays
City Commission
Work Session Notes

Thursday, November 3, 2016 – 6:30 p.m.

Present: Shaun Musil, Henry Schwaller IV, Lance Jones, Eber Phelps,
Todd Powell, Toby Dougherty, and Kim Rupp

Absent: James Meier

October 20, 2016 Work Session Notes

There were no corrections or additions to the minutes of the work session held on October 20, 2016; the minutes stand approved as presented.

City of Hays Employee Health Insurance for 2017

Erin Giebler, Director of Human Resources, reviewed the history of health insurance for the City of Hays. In 2010, the City Commission set a \$9,500 average per employee cap on health insurance. Since then, the Wage and Benefit Committee has been tasked with finding the best insurance within the provided budget.

City staff, with the help of Julie Yarmer from Freedom Claims Management, requested bids for employee health insurance for fiscal year 2017. After 26 plan designs were reviewed, City staff, with the approval of the Wage and Benefit Committee, recommended providing employees with a triple option plan through Blue Cross Blue Shield. The High Deductible Health Plan (HDHP) option would have a no-cost option for employee only coverage. The other two plans would be considered a traditional plan, with first dollar benefits. The employee premiums are considerably higher on the traditional plans. The premiums paid for by employees would keep this recommendation within the budget cap set by the City Commission.

City staff also recommends using \$150,000 out of the Employee Benefit Levy's Contingency fund to provide up to \$925 in employer match for employees' Health Savings Accounts (HSA).

At the November 10, 2016 Commission meeting, Commissioners will be asked to authorize the City Manager to sign an agreement with Blue Cross Blue Shield to provide employees with a triple option health insurance plan with the City paying up to \$1,719,500 and authorize \$150,000 to fund employees' Health Savings Accounts, both out of the Employee Benefit Levy Fund.

Fort Hays Municipal Golf Course Pro-shop Manager Contract

Jeff Boyle, Director of Parks, reported that the current contract with Rich Guffey for management of the Fort Hays Municipal Golf Course (FHMGC) Pro-Shop ends December 31, 2016. City staff sent out Requests for Qualifications and received two resumes. The only qualifying resume for the position is from Rich Guffey who has performed these duties at the FHMGC for 16 years. Mr. Guffey is requesting an annual payment increase from \$21,000 to \$24,000 and has agreed to a one-year contract for the 2017 calendar year.

At the November 10, 2016 Commission meeting, Commissioners will be asked for approval to proceed with a one year contract for the 2017 calendar year with Rich Guffey to manage the Fort Hays Municipal Golf Course Pro-Shop for a contractual amount of \$24,000 which will be paid from the Contractual Services line item in the 2017 Golf Course General Fund Budget.

Other Items for Discussion

Per Commissioner Schwaller's request, City Manager Toby Dougherty provided clarification to the Commission on the Transportation Development District (TDD). Mr. Dougherty reviewed the existing economic development incentives in the area near Home Depot, Hampton Inn, and I-HOP. He explained that there are two funding mechanisms that created the infrastructure in that area, a TDD and a Tax Increment Finance District (TIF). He stated when the TIF bonds are paid off the TIF will end, but there is a provision for a Phase II in the

TDD. The TDD bonds are set up for 20 years and if the debt service is satisfied before the 20 year period, the Commission could choose to proceed with the Phase II projects. The TDD bonds are projected to pay off in 2020, but the TDD sales tax could be in effect until 2025. The Commission will have to decide before the bonds are paid off in full if they want to continue the TDD to put in additional infrastructure in that district.

Commissioner Schwaller reminded everyone to vote in the general election on Tuesday November 8th or by advance voting at the Ellis County Administrative Office, at 718 Main Street.

Executive Session

Henry Schwaller IV moved, Lance Jones seconded, that the Governing Body recess to executive session at 6:56 p.m. for a period not to exceed 15 minutes, to discuss matters pertaining to possible property acquisition. The executive session included the City Commission, City Manager and the City Attorney. K.S.A. 75-4319 authorizes the use of executive session to discuss the topics stated in the motion.

Vote: Ayes: Shaun Musil
Henry Schwaller IV
Lance Jones
Eber Phelps

No action was taken during the executive session.

The work session was adjourned at 7:11 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk

Commission Work Session Agenda

Memo

From: Kim Rupp, Director of Finance

Work Session: November 17, 2016

Subject: Hays Extended Stay Hotel Partners LP CID Request –
Development Agreement and Adopting Ordinance

Person(s) Responsible: Kim Rupp, Director of Finance

Summary

If the City Commission chooses to move forward with Hays Extended Stay Hotel Partners LP's request for the creation of a Community Improvement District (CID), the next step in the process would be to draft a Development Agreement. City staff has a few suggested inclusions for the Development Agreement that include detailed procedures that outline the process used to submit, review and reimburse for eligible project costs. City staff would also like to hear the Governing Body's thoughts on what should be included in a Development Agreement.

Background

Hays Extended Stay Hotel Partners LP seeks incentives related to construction of an approximately 41,000 square foot Town Place Suites hotel featuring 80 rooms (+/-), to be located at the northeast corner of the intersection of I-70 and Vine Street (Highway 183), immediately east of the Best Western, north of the Hampton Inn, and south of the JT Travel Plaza that is currently under construction.

Two separate CID petitions have been submitted; one petition seeks to impose a 1% CID sales tax on only the hotel property, and a second petition seeks to impose an additional 1% CID sales tax on the hotel property and the JT Travel Plaza property.

If approved, the total sales tax at the Travel Plaza would be 10.5%, and the total sales tax at the Hotel would be 16.5%.

The first step in the statutorily-outlined process is for the City Commission to hold a public hearing on the matter which has been scheduled for November 22, 2016. Should the Commission choose to move forward with the process, the next step involves negotiating a development agreement, and ultimately, adopting an ordinance creating the Community Improvement District.

Discussion

As for the ordinance that creates the Community Improvement District, it is a pretty straight forward document that authorizes the imposition of an additional sales tax on

specific pieces of property. With regard to Hays Extended Stay Hotel Partners LP's request, the details to be worked out are in the Development Agreement.

Attached to this memo is a draft Development Agreement that has been reviewed by the City's bond counsel. In addition to the standard language, City staff has included:

- Even if the CID sales tax revenues from either of the proposed CIDs exceed expectations, the Developer would not be reimbursed from the two CIDs combined for more than \$1,733,318 plus the Developer's actual costs of interest on any financing arranged by them at a rate not to exceed 7% per annum.

The City Commission will likely have thoughts and ideas of what should and should not be part of a Development Agreement, and City staff would like to hold discussion on the subject at the November 17, 2016 Work Session. Once the City Commission determines, through consensus, what should be included in a Development Agreement, City staff will work with the attorney representing Hays Extended Stay Hotel Partners LP to make sure both parties are accepting of the suggestions.

Legal Consideration

There are no known legal obstacles to proceeding as recommended by City Staff.

Financial Consideration

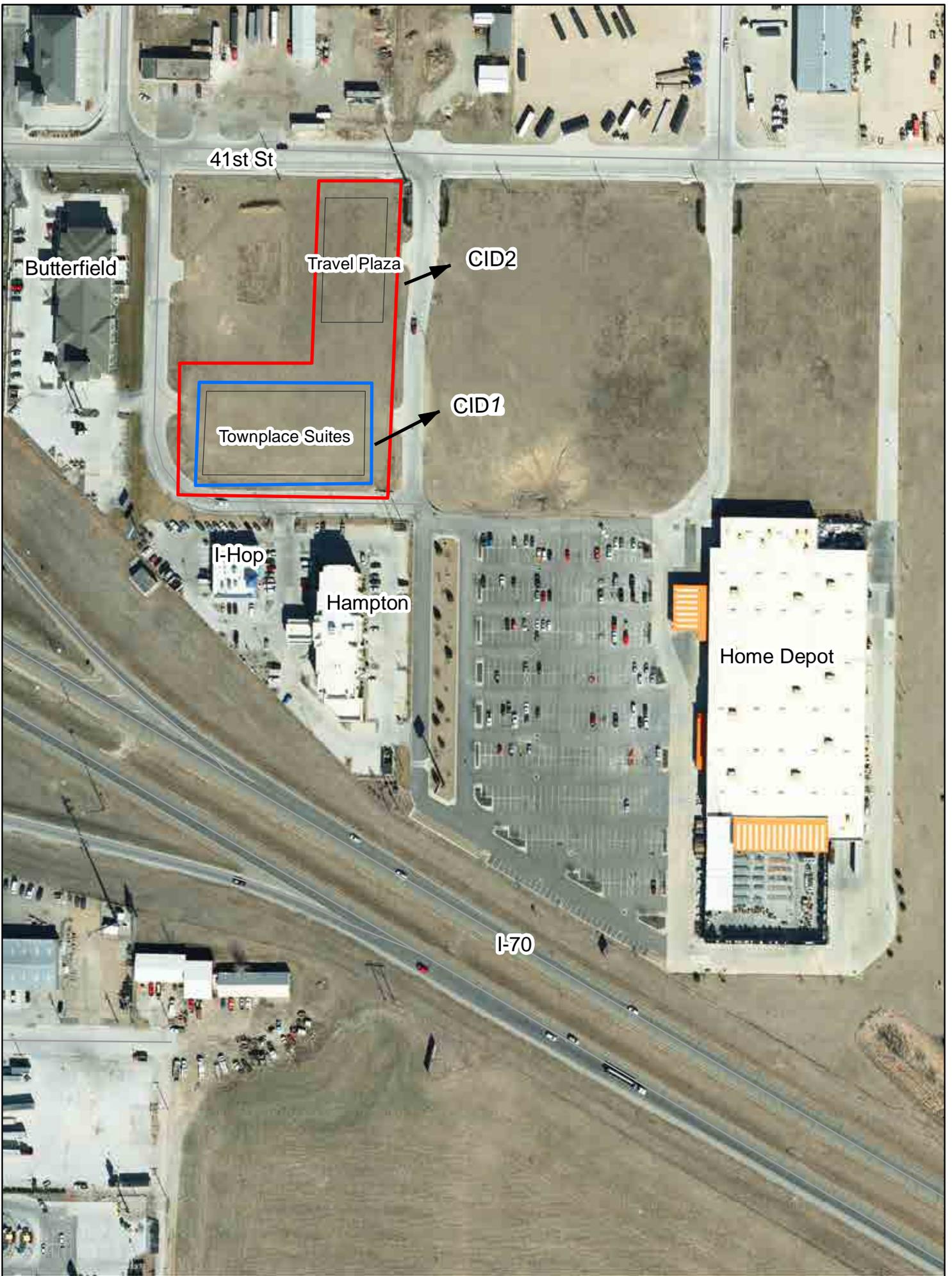
There are no financial implications in regard to what is being discussed.

Action Requested

City staff is requesting the City Commission determine if it wants to move forward with the CID process. If the consensus is that they do want to move forward with the CID process, City staff is asking for input on the required Development Agreement.

Supporting Documentation

CID Map
Proposed Development Agreement
Ordinance



DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF HAYS, KANSAS

AND

HAYS EXTENDED STAY HOTEL PARTNERS LP

**FOR IMPLEMENTATION OF THE HAYS EXTENDED STAY HOTEL PARTNERS
COMMUNITY IMPROVEMENT DISTRICT AND THE HAYS EXTENDED STAY
HOTEL PARTNERS II COMMUNITY IMPROVEMENT DISTRICT**

Dated _____, 2016

**DEVELOPMENT AGREEMENT FOR IMPLEMENTATION OF THE HAYS
EXTENDED STAY HOTEL PARTNERS COMMUNITY IMPROVEMENT DISTRICT
AND HAYS EXTENDED STAY HOTEL PARTNERS II COMMUNITY
IMPROVEMENT DISTRICT**

This Development Agreement for Implementation of the Extended Stay Hotel Partners Community Improvement District (the "Agreement") is entered into by and between the City of Hays, Kansas, a municipal corporation (the "City") and Hays Extended Stay Hotel Partners, LP, a Missouri limited partnership (the "Developer") (collectively referred to as the "Parties") and is dated and effective as of the date executed by both parties. In consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

Section 1. Purpose.

The Extended Stay Hotel Partners Community Improvement District (the "Hotel CID District") was formed on _____, 2016, by virtue of Ordinance No. _____ enacted by the governing body (the "Governing Body") of the City pursuant to the Petition for the Creation of a Community Improvement District, as amended, (the "Petition") initially filed with the City on _____, 2016 in accordance with the Kansas Community Improvement District Act, K.S.A. 12-6a26 *et seq.*, as amended (the "Act"). The Extended Stay Hotel Partners II Community Improvement District (the "CID II District") was formed on _____, 2016, by virtue of Ordinance No. _____ enacted by the Governing Body of the City pursuant to the Petition for the Creation of a Community Improvement District, as amended (the "Petition") initially filed with the City on _____, 2016 in accordance with the Act. The Hotel CID District and the CID II District are hereafter collectively referred to as the "District."

The purpose of the District is to undertake and finance District projects to provide economic development related improvements including, but not limited to, an approximately 41,000 square foot, 80 room Towneplace Suites Hotel and ancillary improvements (the "Project").

Additionally, this Agreement intends to outline the rights and obligations of the Developer and City as they relate to the District and to provide for the reimbursement to the Developer of certain costs which are eligible under the Act of the development of the Project from a one percent (1%) sales tax imposed on the selling of tangible personal property at retail or rendering or furnishing of taxable services within the Hotel CID District and a one percent (1%) sales tax imposed on the selling of tangible personal property at retail or furnishing of taxable service within the CID II District, all as in accordance with the Act (collectively the "CID Sales Tax").

The legal description of the real property included within the Hotel CID District boundaries is set forth on **Exhibit A** attached hereto and incorporated herein. The legal description of the real property included within the CID II District boundaries is set forth on **Exhibit A-1** attached hereto and incorporated herein.

Section 2. The Parties.

(A) The City is a municipal corporation and a city of the second class under the laws of the state of Kansas (the "State"), exercising governmental powers and organized and existing pursuant to K.S.A. 14-101 *et seq.* The principal office of the City is P.O. Box 490, Hays, Kansas, 67601, Attention: City Manager.

(B) The Developer is a limited partnership duly organized and existing under the laws of the State of Missouri. Throughout the term of this Agreement, Developer agrees to maintain its status as a limited partnership, in good standing and authorized to do business in the State of Kansas. The principal office and mailing office of the Developer is Hays Extended Stay Hotel Partners LP, One Victory Drive, Suite 200, Liberty, Missouri, 64068, Attention: John Ferguson.

Section 3. Project Costs.

The estimated Costs of the Project (the "Project Costs") is \$9,640,925 of which \$1,733,318, plus the City Administrative Fee (defined herein), plus actual costs of interest on any financing at a rate of not to exceed seven percent (7%) per annum, is proposed to be funded by the District (the "Reimbursable Project Costs"). The Reimbursable Project Costs shall be only those capital expenditures of the Developer related to the construction of the Project within the District, including related architectural and engineering costs (the "Reimbursable Project Costs"). The estimated Project Costs and Reimbursable Project Costs, set forth on **Exhibit B**, attached hereto and incorporated herein, have been prepared by the Developer. The parties agree that the amounts of the Reimbursable Project Costs may be adjusted among any of the stated categories, except as provided herein, or to pay additional Reimbursable Project Costs not specifically listed on **Exhibit B**, but which are otherwise reimbursable under the Act and the City's Economic Development Policy.

The Project Costs will be privately financed. The Reimbursable Project Costs will be financed on a pay as you go basis, i.e., the Reimbursable Project Costs will be paid for by the Developer without the issuance of notes or bonds, and the Developer will be reimbursed for the Reimbursable Project Costs as moneys are deposited in the District fund through the imposition of the CID Sales Tax, after payment of the City Administrative Fee, all in accordance with Section 4 of this Agreement.

Section 4. Administration of CID Sales Tax.

(A) Subject to and as specified by the terms and conditions of this Agreement, the City agrees to perform or provide for the performance of the administration of the financing of the Reimbursable Project Costs pursuant to the Act and this Agreement. The City shall provide notification to the Secretary of Revenue of the State of Kansas to commence the collection and reporting of the CID Sales Tax within the District, at the same time and in the same manner provided for the collection of Kansas State Retailers' Sales Tax.

(B) Pursuant to K.S.A. 12-6a26 *et seq.*, the City shall establish a segregated trust fund to be designated the "Extended Stay Hotel Partners Community Improvement District Sales Tax

Fund” (the “Fund”), which shall be held and administered by the City in trust for the benefit of the District in accordance with this Agreement. The CID Sales Tax Revenue shall not be deemed to be City funds and shall not be commingled with any funds of the City, except, provided that the City shall be entitled to withdraw 0.5% of each distribution of CID Sales Tax Revenue (the “City Administrative Fee”) as such revenues are received by the City from the State Department of Revenue, as payment for the City’s cost of administering the District.

(C) The Developer agrees to provide the City written notice of all current owners and occupants of the District in the Annual Report required by the City’s Economic Development Policy, and at all other times upon the written request of the City. Such Annual Report shall be submitted by each January 1 during the term of this Agreement.

(D) The Developer agrees to cause all assignees, purchasers, tenants, subtenants or any other entity acquiring property or occupancy rights in the District to be obligated by written contract to provide to the City simultaneously with submission to the Kansas Department of Revenue the monthly sales tax returns for their facilities in the District. The Developer also agrees to provide and agrees to cause all assignees, purchasers, tenants, subtenants or any other entity acquiring property or occupancy rights in the District to be obligated by written contract to provide to the City, annually by each January 1, a tax clearance letter. The obligations of this subparagraph shall be a covenant running with the land and shall be enforceable against all businesses operating in the District and shall only terminate upon the passage by the City of an ordinance terminating the District. The Developer hereby agrees that any written contract required under this subparagraph shall provide that the City is an intended third party beneficiary of such provisions and has a separate and independent right to enforce such provisions directly against such tenant or purchaser.

(E) To the extent it may legally do so, information obtained pursuant to this Section shall be kept confidential by the City in accordance with K.S.A. 79-3657. In furtherance of maintaining the confidentiality of the information provided in this section, the City shall take all reasonable steps necessary to ensure that such information is kept confidential.

Section 5. Reimbursement Procedures.

The City’s agreement to fund Reimbursable Project Costs is conditioned upon the following:

(A) All costs submitted for reimbursement shall be identified as Reimbursable Project Costs by this Agreement.

(B) The Developer shall submit to the City Manager an invoice (in substantially the form attached to this Agreement as **Exhibit C**), signed by the Developer, with supporting documentation identifying the Reimbursable Project Costs for which the Developer seeks reimbursement.

The supporting documentation shall include copies of invoices reflecting amounts billed, copies of checks, evidence of wire transfer or other payment of cash by the Developer for the Reimbursable Project Costs, lien waivers or other evidence that no mechanic’s liens exist with

respect to the construction of the Project, and such other documentation as the City shall reasonably request.

The invoice shall contain a certification by the Developer that the costs submitted for reimbursement are for Reimbursable Project Costs under this Agreement, and that such expense has been incurred by the Developer and has not been previously submitted for reimbursement hereunder.

(C) The City Manager shall determine whether the cost submitted is for an Eligible Project Cost within twenty (20) business days of the date the invoice is submitted by the Developer. If the City Manager does not provide a response within twenty (20) business days of the date the invoice is submitted, the cost submitted on the invoice shall be deemed approved; provided said cost is permitted under the Act and the City's Economic Development Policy. If the City Manager determines that such cost is not for an Eligible Project Cost under this Agreement, the City Manager shall notify the Developer of such determination in writing, setting forth in detail the basis for such denial. The Developer may appeal such denial to the Governing Body by filing a written request to be heard by the Governing Body with the City Clerk within seven (7) business days of the receipt of the written denial. The Governing Body shall conduct a hearing within thirty (30) days of receipt of such request and render a decision immediately upon the conclusion of such hearing.

(D) If money is available in the Fund, after payment of the City Administrative Fee, the requested reimbursement shall be paid to the Developer within ten (10) days of the approval by the City Manager or the Governing Body, if required.

(E) If the invoices for Reimbursable Project Costs submitted and approved exceed the amounts then available in the Fund after payment of the City Administrative Fee, such invoices shall be paid as CID Sales Tax Revenue becomes available. Provided such CID Sales Tax Revenues have been received by the City from the State of Kansas, the City will make quarterly payments on any outstanding Reimbursable Project Costs approved by the City for reimbursement as CID Sales Tax Revenue becomes available, such payments being due on _____, _____, _____ and _____ of each year as long as the CID Sales Tax remains in effect, except, provided that the City shall have no obligation to make any payments to the Developer under this Agreement so long as the Developer is in default of any provision of this Agreement.

Section 6. City and Other Governmental Permits.

Before beginning construction of any aspect of the Project, the Developer shall, at its expense, obtain or cause to be obtained any necessary permits or licenses which may be required by the City, Ellis County or any other governmental agency having jurisdiction over the Project. The City agrees to provide all customary assistance to the Developer in obtaining construction permits issued by the City. The Developer shall construct the Project in accordance with all applicable laws and regulations.

Section 7. Rights of Access.

For purposes of insuring compliance with this Agreement, representatives of the City shall have rights of access to the Project, without charges or fees, during normal construction hours during the period of construction. Representatives of the City shall have such access to inspect work performed or being performed in the construction of the Project. City representatives shall carry proper identification, insure their own safety and shall not interfere with construction activity unless such activity is apparently in violation of this Agreement, City codes, state or federal regulations, statutes or other law. The right of access granted by this Section shall be in addition to the City's rights to access the Project in the exercise of its proper authority to regulate for and provide for public safety.

Section 8. No Obligation to Build.

Nothing contained in this Agreement shall require Developer to construct the Project. Notwithstanding the foregoing, as set out in Section 5 above, Developer shall only be entitled to seek funding of those Reimbursable Project Costs actually incurred.

Section 9. Default and Remedies; Indemnification.

(A) The failure or delay by either of the Parties to this Agreement to perform any term or provision of this Agreement required of such party, shall be a default under this Agreement, subject to rights of cure, as specified below.

(B) Any party to this Agreement claiming a default (the "Claimant") shall give written notice of such claimed default to the other party, describing such default. Such notices shall be given at the addresses of the Parties stated in this Agreement.

(C) A Claimant shall not institute legal proceedings against the other party nor be entitled to damages if, within fourteen (14) days from the receipt of a notice of claimed default, the other party undertakes acts to cure, correct or remedy such claimed default, proceeds with due diligence to complete such cure, correction or remedy and such cure correction or remedy is completed within thirty (30) days of the date such party received a notice of default, provided, however, if such default requires more than thirty (30) days to correct, the nonperforming party shall not be deemed in default hereunder if such party commences curing the default within fourteen (14) days after receipt of written notice thereof and diligently prosecutes the cure to completion.

(D) Developer agrees to indemnify and hold the City and its representative officers, governing body members, employees, agents and independent contractors and consultants harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and reasonable attorneys' fees, resulting from, arising out of, or in any way connected with:

1. The Developer's actions and undertakings in connection with the Project or this Agreement; and

2. The negligence or willful misconduct of Developer, its employees, agents or independent contractors and consultants in connection with the Management, design, development, redevelopment and construction of the Project.

Section 10. Governing Law, Jurisdiction.

(A) This Agreement shall be governed by, interpreted and enforced pursuant to the laws of the state of Kansas.

(B) The Parties agree that any legal actions arising out of this Agreement will be instituted in the District Court of Ellis County, Kansas or, in the case of federal jurisdiction, in the Federal District Court of the District of Kansas.

Section 11. Rights and Remedies Cumulative, Waivers.

Except as otherwise expressly provided in this Agreement, the rights and remedies of the Parties shall be cumulative, and the exercise by one party of one or more such rights shall not preclude the exercise by it, at the same or different times, of any other rights or remedies specified herein. Any failure or delay by either party in asserting any of its rights and remedies as to any default hereunder shall not operate as a waiver of such default or of any rights or remedies specified hereunder, or deprive either party of its right to assert and enforce any such right or remedy.

Section 12. Amendments.

The Developer and the City agree to cooperate and consider reasonable requests for amendments to this Agreement, provided that, any such amendments must be approved by the Governing Body and the Developer, shall be in writing, and shall not substantially alter the basic business terms of this Agreement.

Section 13. Term.

This Agreement shall commence on the effective date hereof and shall terminate on the earlier of twenty two (22) years from the date that the CID Sales Tax becomes effective or upon payment to the Developer in the amount of the total Reimbursable Project Costs, together with interest thereon have been paid in full, whichever is first to occur.

Section 14. Transfer and Assignment.

This Developer may assign or pledge this Agreement and the rights, duties and obligations hereunder with the prior written consent of the City; provided however, City consent shall not be required for the Developer to collaterally assign its rights to reimbursement hereunder to its lender.

Section 15. Notices, Demands, Communications Among Parties.

Written notices, demands and other communications between the City and Developer shall be deemed delivered under this Agreement if given by personal service, registered or certified mail, postage prepaid and return receipt requested, or by overnight courier, to the principal offices of the City and the Developer set forth in Section 2 of this Agreement.

Section 16. Entire Agreement.

This Agreement is executed in duplicate originals, each of which shall be considered an original. This Agreement includes pages 1 through 8, and Exhibits A, A-1, B, and C which constitutes the entire agreement and understanding of the Parties.

This Agreement supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all of any part of the subject matter of this Agreement.

Section 17. Severability.

The invalidity or inability to enforce any one or more phrases, sentences, clauses or sections of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement.

Section 18. No Liability of City Officials or Employees.

All liabilities under this Agreement on the part of the City are solely corporate liabilities of the City, and, no officer, employee, or agent of the City shall have any personal or individual liability under this Agreement for anything done or omitted to be done by the City hereunder.

Section 19. No Further Incentives.

During the Term of this Agreement, the Developer shall not request any additional economic incentives from the City.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on _____, 2016 and represent that the individuals executing this Agreement on behalf of the Parties have the express authority to do so.

CITY OF HAYS, KANSAS

Mayor

Attest:

City Clerk

HAYS EXTENDED STAY HOTEL PARTNERS, L.P.

By: Ferguson Hotel Development, LLC,
its General Partner

By: _____
John Ferguson, Manager

Attest:

By:
Title:

EXHIBIT A
Hotel CID District Legal Description

Lots 6 and 7, HOME DEPOT ADDITION, a subdivision located in the City of Hays, Ellis County, Kansas.

EXHIBIT A-1
CID II District Legal Description

Lots 4, 6 and 7, HOME DEPOT ADDITION, a subdivision in Hays, Ellis County, Kansas, according to the recorded plat thereof.

EXHIBIT B
Project Costs

	<u>Cost</u>	<u>CID Reimbursable</u>
Land	\$ 600,000	\$600,000
Hard Costs	\$6,065,607	
Architect & Engineering	\$ 160,925	\$160,925
Construction Interest	\$ 180,000	\$180,000
Impact Fees	\$ 15,000	
Hotel Franchise Fee	\$ 50,000	
Land Purchase Commission	\$ 36,000	
Legal	\$ 73,000	\$ 73,000
Project Management	\$ 165,000	
Site Work	\$ 481,393	\$481,393
- including earthwork, utilities and paving		
Other Expenses	\$1,161,318	
FF&E	\$1,414,000	
Contingency	\$ 400,000	\$400,000
TOTAL	<u>\$9,640,925</u>	<u>\$1,733,318</u>

SOURCES

	<u>Cost</u>
Equity	\$ 2,410,231.25 ¹
Debt Financing	\$ 6,938,189.75
CID Revenues	\$ 292,505.00 ²
TOTAL	<u>\$ 9,640,925.00</u>

¹ Represents 25% of total construction cost

² Represents the Net Present Value of a 22-year revenue stream at a 6% Discount Rate.

EXHIBIT C
[Form of Developer’s Invoice for Reimbursement]

**INVOICE FOR REIMBURSEMENT
FOR REIMBURSABLE PROJECT COSTS**

City of Hays, Kansas
Attention: City Manager

You are hereby requested by the undersigned, the Authorized Developer Representative, acting on behalf of Hays Extended Stay Hotel Partners, LP (the “Developer”) to disburse funds held by you in the Extended Stay Hotel Partners Community Improvement District Sales Tax Fund created pursuant the authority in K.S.A. 12-6a26 *et seq.* and set forth in the Development Agreement Between the City of Hays, Kansas and Hays Extended Stay Hotel Partners, LP, for Implementation of the Extended Stay Hotel Partners Community Improvement District, dated _____, 2016 (the “Agreement”) to reimburse expenditures made by the Developer for Reimbursable Project Costs (as defined in the Agreement) as described on and in the amounts set forth in the Reimbursement Schedules attached to this invoice and incorporated herein by this reference (the “Reimbursement Schedules”).

I hereby certify that the amounts requested in the attached Reimbursement Schedules have been paid by the Developer in payment of Reimbursable Project Costs, as defined in the Agreement.

I further certify that no part of the amounts set forth in the Payment Schedules have been the basis for any previous withdrawal of any moneys from the Extended Stay Hotel Partners Community Improvement District Sales Tax Fund.

I have attached to the Reimbursement Schedules copies of the contract, invoice or other billing for the Reimbursable Project Costs for which Developer seeks reimbursement, along with copies of the Developer’s check, evidence of wire transfers or other evidence of payment by the Developer of the costs of such Reimbursable Project Costs and hereby certify that such copies are true and accurate copies of the original documents.

DATED _____, 20____.

Developer

Pursuant Section 5 of the Agreement, I hereby request reimbursement of the amounts specified below and I certify that the description of the purchase or nature of each payment is reasonable, accurate and complete and that Developer has previously paid such Reimbursable Project Costs:

REIMBURSEMENT SCHEDULE

<u>Payee Name</u>	<u>Date of Payment by Developer</u>	<u>Purpose or Nature of Payment</u>	<u>Amount</u>
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Initials: Developer

Note: Copies of bills, contracts, checks and other evidence reflecting the amounts shown above (as described in Section 5 of the Agreement) should be attached to this Reimbursement Schedule.

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CREATION OF THE HAYS EXTENDED STAY HOTEL PARTNERS COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF HAYS, KANSAS; AUTHORIZING THE MAKING OF CERTAIN ECONOMIC DEVELOPMENT PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH ECONOMIC DEVELOPMENT PROJECT IMPROVEMENTS; PROVIDING FOR THE METHOD OF FINANCING THE SAME; AND APPROVING A DEVELOPMENT AGREEMENT.

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

WHEREAS, on October 11, 2016, a petition (the “Petition”) was filed with the City of Hays, Kansas (the “City”) requesting (a) that the community improvement district described therein (the “District”) be created, (b) that the City levy a community improvement district sales tax within the District in the amount of 1.0%, (c) and that the community improvement district project costs to be incurred within the District be financed on a pay-as-you-go basis, all in accordance with the Act.

WHEREAS, said Petition was signed by the owners of record, whether resident or not, of all of the land area within the proposed District; and

WHEREAS, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the governing body 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 sent at least ten (10) days prior to such hearing; and

WHEREAS, the Governing Body adopted Resolution No. 2016-005 ON October 27, 2016 directing that a public hearing on the proposed District within the City be held on November 22, 2016, declaring its intent to impose a community improvement district sales tax, and requiring that the city clerk provide for 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 (by certified mail) to all property owners within the proposed District on November 1, 2016, and published once each week for two (2) consecutive weeks in *The Hays Daily News*, the official City newspaper, on October 28, 2016 and November 4, 2016; and

WHEREAS, on November 22, 2016, the Governing Body conducted a public hearing on the proposed District, the proposed community improvement district projects, and maximum Costs thereof and the method of financing the same; and

WHEREAS, the Governing Body hereby finds and determines it to be advisable to create the Hays Extended Stay Hotel Partners Community Improvement 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 provisions of the Act; and

WHEREAS, the Development Agreement between the City and the Hays Extended Stay Hotel Partners, L.P. (the “Development Agreement”) has been presented for consideration in connection with the District and the Projects.

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

SECTION 1. Creation of Community Improvement District; Boundaries. That the Governing Body hereby finds and determines that it is advisable to create, in accordance with the provisions of the Act, the Hays Extended Stay Hotel Partners Community Improvement District within the City to be referred to as the Hays Extended Stay Hotel Partners Community Improvement District. A legal description of the boundaries of the proposed Hays Extended Stay Hotel Partners Community Improvement District is set forth on **Exhibit A**, attached hereto and incorporated by reference herein, and is depicted on the map set forth on **Exhibit B**, attached hereto and incorporated by reference herein.

SECTION 2. Authorization of Community Improvement District Projects and Maximum Costs.

(a) The general nature of the projects (the “Projects”) to be constructed within the District includes but is not limited to an approximately 41,000 square foot, 80 room hotel and ancillary improvements. The Projects may be more particularly described as the construction, maintenance, and procurement of certain improvements and costs within the proposed CID, including but not limited to: land acquisition, infrastructure related items, sidewalks, parking lots, drainage improvements, buildings, tenant improvements, utilities, landscaping, lighting, signage, soft costs of the Projects, and the City’s administrative costs in establishing and maintaining the CID, and other items permitted to be financed within the CID under the Act.

(b) The total estimated cost of the Projects is \$9,640,925, of which approximately \$1,733,318 plus the City’s administrative costs (and plus actual costs of interest on any financing at a rate not to exceed 7.00% per annum) shall be funded by the District. The remainder of the costs of the Projects shall be paid by the Developer. Subject to the terms and conditions of a development agreement to be entered into between the Developer and the City, the Developer shall be reimbursed in an amount up to \$1,733,318 (plus actual costs of interest on any financing at a rate not to exceed 7.00% per annum) for those Project costs that are capital expenditures related to construction of real property, including related architectural and engineering costs (“Reimbursable Project Costs”).

SECTION 3. Method of Financing.

(a) In order to provide funds to finance the Reimbursable Project Costs, it is advisable to impose, in accordance with the provisions of the Act, a community improvement district sales tax within the Hays Extended Stay Hotel Partners Community Improvement District in an amount of 1.0% on the selling of tangible personal property at retail or rendering or furnishing services within the Hays Extended Stay Hotel Partners Community Improvement District (the “CID Sales Tax”).

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

(c) The proposed Community Improvement District Projects will be privately financed. The Reimbursable Project Costs will be financed on a pay as you go basis, i.e., the Reimbursable Project Costs will be paid for by the Developer without the issuance of notes or bonds, and, subject to the terms and conditions of a development agreement to be entered into between the Developer and the City, the Developer will be reimbursed for the Reimbursable Project Costs as moneys are deposited in the District fund through the imposition of the CID Sales Tax.

SECTION 4. Segregation of CID Sales Tax Revenues. All revenues derived from the collection of the CID Sales Tax shall be deposited into a special fund of the City to be designated as the Hays Extended Stay Hotel Partners Community Improvement District Revenue Fund. Such revenues shall be used to pay the costs of the Project, including the City's administrative fee of 0.5%.

SECTION 5. Development Agreement. The Development Agreement in substantially the form presented to the Governing Body of the City is hereby approved and the Mayor and City Clerk are hereby authorized to execute and deliver the Development Agreement, contingent on approval of an Ordinance approving the Hays Extended Stay Hotel Partners II Community Improvement District.

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

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PASSED by the Governing Body this 22nd day of November, 2016.

SIGNED by the Mayor this 22nd day of November, 2016.

Mayor

ATTEST:

City Clerk

(Seal)

EXHIBIT A
Legal Description

Lots 6 and 7 HOME DEPOT ADDITION, a subdivision in Hays, Ellis County, Kansas, according to the recorded plat thereof.

EXHIBIT B
Map

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CREATION OF THE HAYS EXTENDED STAY HOTEL PARTNERS II COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF HAYS, KANSAS; AUTHORIZING THE MAKING OF CERTAIN ECONOMIC DEVELOPMENT PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH ECONOMIC DEVELOPMENT PROJECT IMPROVEMENTS; PROVIDING FOR THE METHOD OF FINANCING THE SAME; AND APPROVING A DEVELOPMENT AGREEMENT.

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

WHEREAS, on October 11, 2016, a petition (the “Petition”) was filed with the City of Hays, Kansas (the “City”) requesting (a) that the community improvement district described therein (the “District”) be created, (b) that the City levy a community improvement district sales tax within the District in the amount of 1.0%, (c) and that the community improvement district project costs to be incurred within the District be financed on a pay-as-you-go basis, all in accordance with the Act.

WHEREAS, said Petition was signed by the owners of record, whether resident or not, of all of the land area within the proposed District; and

WHEREAS, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the governing body 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 sent at least ten (10) days prior to such hearing; and

WHEREAS, the Governing Body adopted Resolution No. 2016-006 on October 27, 2016 directing that a public hearing on the proposed District within the City be held on November 22, 2016, declaring its intent to impose a community improvement district sales tax, and requiring that the city clerk provide for 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 (by certified mail) to all property owners within the proposed District on November 1, 2016, and published once each week for two (2) consecutive weeks in *The Hays Daily News*, the official City newspaper, on October 28, 2016 and November 4, 2016; and

WHEREAS, on November 22, 2016, the Governing Body conducted a public hearing on the proposed District, the proposed community improvement district projects, and maximum Costs thereof and the method of financing the same; and

WHEREAS, the Governing Body hereby finds and determines it to be advisable to create the Hays Extended Stay Hotel Partners II Community Improvement 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 provisions of the Act; and

WHEREAS, the Development Agreement between the City and the Hays Extended Stay Hotel Partners, L.P. (the “Development Agreement”) has been presented for consideration in connection with the District and the Projects.

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

SECTION 1. Creation of Community Improvement District; Boundaries. That the Governing Body hereby finds and determines that it is advisable to create, in accordance with the provisions of the Act, the Hays Extended Stay Hotel Partners II Community Improvement District within the City to be referred to as the Hays Extended Stay Hotel Partners II Community Improvement District. A legal description of the boundaries of the proposed Hays Extended Stay Hotel Partners II Community Improvement District is set forth on **Exhibit A**, attached hereto and incorporated by reference herein, and is depicted on the map set forth on **Exhibit B**, attached hereto and incorporated by reference herein.

SECTION 2. Authorization of Community Improvement District Projects and Maximum Costs.

(a) The general nature of the projects (the “Projects”) to be constructed within the District includes but is not limited to an approximately 41,000 square foot, 80 room hotel and ancillary improvements. The Projects may be more particularly described as the construction, maintenance, and procurement of certain improvements and costs within the proposed CID, including but not limited to: land acquisition, infrastructure related items, sidewalks, parking lots, drainage improvements, buildings, tenant improvements, utilities, landscaping, lighting, signage, soft costs of the Projects, and the City’s administrative costs in establishing and maintaining the CID, and other items permitted to be financed within the CID under the Act.

(b) The total estimated cost of the Projects is \$9,640,925, of which approximately \$1,733,318 plus the City’s administrative costs (and plus actual costs of interest on any financing at a rate not to exceed 7.00% per annum) shall be funded by the District. The remainder of the costs of the Projects shall be paid by the Developer. Subject to the terms and conditions of a development agreement to be entered into between the Developer and the City, the Developer shall be reimbursed in an amount up to \$1,733,318 (plus actual costs of interest on any financing at a rate not to exceed 7.00% per annum) for those Project costs that are capital expenditures related to construction of real property, including related architectural and engineering costs (“Reimbursable Project Costs”).

SECTION 3. Method of Financing.

(a) In order to provide funds to finance the Reimbursable Project Costs, it is advisable to impose, in accordance with the provisions of the Act, a community improvement district sales tax within the Hays Extended Stay Hotel Partners II Community Improvement District in an amount of 1.0% on the selling of tangible personal property at retail or rendering or furnishing services within the Hays Extended Stay Hotel Partners II Community Improvement District (the “CID Sales Tax”).

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

(c) The proposed Community Improvement District Projects will be privately financed. The Reimbursable Project Costs will be financed on a pay as you go basis, i.e., the Reimbursable Project Costs will be paid for by the Developer without the issuance of notes or bonds, and, subject to the terms and conditions of a development agreement to be entered into between the Developer and the City, the Developer will be reimbursed for the Reimbursable Project Costs as moneys are deposited in the District fund through the imposition of the CID Sales Tax.

SECTION 4. Segregation of CID Sales Tax Revenues. All revenues derived from the collection of the CID Sales Tax shall be deposited into a special fund of the City to be designated as the Hays Extended Stay Hotel Partners II Community Improvement District Revenue Fund. Such revenues shall be used to pay the costs of the Project, including the City's administrative fee of 0.5%.

SECTION 5. Development Agreement. The Development Agreement in substantially the form presented to the Governing Body of the City is hereby approved and the Mayor and City Clerk are hereby authorized to execute and deliver the Development Agreement, contingent on approval of an Ordinance approving the Hays Extended Stay Hotel Partners Community Improvement District.

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

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

PASSED by the Governing Body this 22nd day of November, 2016.

SIGNED by the Mayor this 22nd day of November, 2016.

Mayor

ATTEST:

City Clerk

(Seal)

EXHIBIT A
Legal Description

Lots 4, 6 and 7 HOME DEPOT ADDITION, a subdivision in Hays, Ellis County, Kansas, according to the recorded plat thereof.

EXHIBIT B
Map

Commission Work Session Agenda

Memo

From: Kim Rupp, Director of Finance

Work Session: November 17, 2016

Subject: Hays Investors LLC CID Request – Development Agreement and Adopting Ordinance

Person(s) Responsible: Kim Rupp, Director of Finance

Summary

If the City Commission chooses to move forward with Hays Investors LLC's request for the creation of a Community Improvement District (CID), the next step in the process would be to draft a Development Agreement. City staff has a few suggested inclusions for the Development Agreement that include specific time constraints for completion of the proposed projects and detailed procedures that outline the process used to submit, review and reimburse for eligible project costs. City staff would also like to hear the Governing Body's thoughts on what should be included in a Development Agreement.

Background

Hays Investors LLC has submitted a petition for the creation of a CID to construct approximately 73,000 square feet of retail space, to be located on approximately 9.1 acres at the northeast corner of I-70 and Vine Street (Highway 183), and directly north of the Home Depot. This development is expected to consist of an approximately 50,000 square foot building to be used by a national retailer and another 23,000 square feet of retail space. The CID would impose a 1% CID sales tax on the property. The first step in the statutorily-outlined process is for the City Commission to hold a public hearing on the matter which has been scheduled for November 22, 2016. Should the Commission choose to move forward with the process, the next step involves negotiating a development agreement, and ultimately, adopting an ordinance creating the CID.

Discussion

As for the ordinance that creates the CID, it is a pretty straight forward document that authorizes the imposition of an additional sales tax on a specific piece of property. With regard to Hays Investors LLC's request, the details to be worked out are in the Development Agreement.

Attached to this memo is a draft Development Agreement that has been reviewed by the City's bond counsel. In addition to the standard language, City staff has included:

- Even if the CID sales tax revenues exceed expectations, the Developer will not be reimbursed for CID-eligible expenses for more than \$3,613,702.17 plus actual costs of interest on any financing by the developer at a rate not to exceed 7%.
- In the event certificates of occupancy for 73,000 square feet of retail space are not issued within 36 months of approval of the CID, then the CID will be dissolved.
- So long as the CID on the retail project property is in existence, the Developer will not request, and the City will not approve, any additional economic development incentives on the retail project property.

The City Commission will likely have thoughts and ideas of what should and should not be part of a Development Agreement, and City staff would like to hold discussion on the subject at the November 17, 2016 Work Session. Once the City Commission determines, through consensus, what should be included in a Development Agreement, City staff will work with the attorney representing Hays Investors LLC to make sure both parties are accepting of the suggestions.

Legal Consideration

There are no known legal obstacles to proceeding as recommended by City Staff.

Financial Consideration

There are no financial implications in regard to what is being discussed.

Action Requested

City staff is requesting the City Commission determine if it wants to move forward with the CID process. If the consensus is that they do want to move forward with the CID process, City staff is asking for input on the required Development Agreement.

Supporting Documentation

CID map
Proposed Development Agreement
Ordinance



DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF HAYS, KANSAS
AND
HAYS INVESTORS, LLC
FOR IMPLEMENTATION OF THE HAYS INVESTORS COMMUNITY
IMPROVEMENT DISTRICT

Dated November ___, 2016

**DEVELOPMENT AGREEMENT FOR IMPLEMENTATION OF THE HAYS
INVESTORS COMMUNITY IMPROVEMENT DISTRICT**

This Development Agreement for Implementation of the Hays Investors Community Improvement District (the “Agreement”) is entered into by and between the City of Hays, Kansas, a municipal corporation (the “City”) and Hays Investors, LLC, a Kansas limited liability company (the “Developer”) (collectively referred to as the “Parties”) and is dated and effective as of the date executed by both parties. In consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

Section 1. Purpose.

The Hays Investors Community Improvement District (the “District”) was formed on _____, 2016, by virtue of Ordinance No. _____ enacted by the governing body (the “Governing Body”) of the City pursuant to the Petition for the Creation of a Community Improvement District, as amended, (the “Petition”) initially filed with the City on _____, 2016 in accordance with the Kansas Community Improvement District Act, K.S.A. 12-6a26 *et seq.*, as amended (the “Act”).

The purpose of the District is to undertake and finance District projects to provide economic development related improvements including, but not limited to the construction of a retail center and related improvements including an approximately seventy-three thousand (73,000) square foot retail facility (collectively, the “Project”).

Additionally, this Agreement intends to outline the rights and obligations of the Developer and City as they relate to the District and to provide for the reimbursement to the Developer of certain costs, which are eligible under the Act, of the development of the Project from a one percent (1%) sales tax imposed on the selling of tangible personal property at retail or rendering or furnishing of taxable services within the District in accordance with the Act (the “CID Sales Tax”). Proceeds from the CID Sales Tax are hereafter referred to as “CID Sales Tax Revenue.”

The legal description of the real property included within the District boundaries (the “Legal Description”) is set forth on **Exhibit A** attached hereto and incorporated herein.

Section 2. The Parties.

(A) The City is a municipal corporation and a city of the second class under the laws of the State of Kansas (the “State”), exercising governmental powers and organized and existing pursuant to K.S.A. 14-101 *et seq.* The principal office of the City is P.O. Box 490, Hays, Kansas, 67601, Attention: City Manager.

(B) The Developer is a limited liability company duly organized and existing under the laws of the State of Kansas. Throughout the term of this Agreement, Developer agrees to maintain its status as a limited liability company, in good standing and authorized to do business

in the State of Kansas. The principal office and mailing office of the Developer is 7387 W. 162nd Street, Suite 200, Stilwell Kansas, 66085, Attention: David Christie.

Section 3. Project Costs and Development Schedule.

(A) Project Costs. The total estimated costs of the Projects (the "Project Costs") is \$13,671,702.17, of which approximately \$3,613,702.17, plus the City's administrative costs (and plus actual costs of interest on any financing at a rate of not to exceed 7.00% per annum) is proposed to be funded by the District ("Reimbursable Project Costs"). An itemized list of the total estimated costs of the Project and an itemized list of the estimated Reimbursable Project Costs are set forth on **Exhibit B** attached hereto and incorporated by reference herein.

The Reimbursable Project Costs shall be only those expenditures of the Developer related to the construction of the Project within the District, including related architectural and engineering costs. The estimated Project Costs and Reimbursable Project Costs, set forth on **Exhibit B**, attached hereto and incorporated herein, have been prepared by the Developer. The Parties agree that the amounts of the Reimbursable Project Costs may be adjusted among any of the stated categories, except as provided herein, (or to pay additional Reimbursable Project Costs not specifically listed on **Exhibit B**, but which are otherwise reimbursable under the Act and City's Economic Development Policy) provided the total Reimbursable Project Costs to be reimbursed do not exceed \$3,613,702.17 (the "Reimbursable Project Costs Cap").

The Project Costs will be privately financed. The Reimbursable Project Costs will be financed on a pay as you go basis, i.e., the Reimbursable Project Costs will be paid for by the Developer without the issuance of notes or bonds, and the Developer will be reimbursed for the Reimbursable Project Costs up to the Reimbursable Project Costs Cap as moneys are deposited in the District fund through the imposition of the CID Sales Tax, after payment of the City Administrative Fee, all in accordance with Section 4 of this Agreement.

(B) Development Schedule. Developer hereby agrees to develop and construct or cause the development and construction of the Project subject to the terms and conditions hereinafter provided.

Developer shall use reasonable efforts to complete, or cause to be completed, the Project, including, but not necessarily limited to design, land preparation, environmental evaluation and remediation, construction, management, maintenance and procurement of financing in sufficient time to comply with the Development Schedule. If Developer seeks to amend the Development Schedule, Developer shall obtain the approval of City to such amendment, which approval shall not be unreasonably withheld.

The parties hereto recognize and agree that market and other conditions may affect the Development Schedule. Therefore, the Development Schedule is subject to change and/or modification, with the written approval of City, which shall not be unreasonably withheld, delayed or conditioned, upon a showing by Developer of changed or adverse market or other conditions.

Section 4. Administration of CID Sales Tax.

(A) Subject to and as specified by the terms and conditions of this Agreement, the City agrees to perform or provide for the performance of the administration of the financing of the Reimbursable Project Costs up to the Reimbursable Project Costs Cap pursuant to the Act and this Agreement. The City shall provide notification to the Secretary of Revenue of the State of Kansas to commence the collection and reporting of the CID Sales Tax within the District, at the same time and in the same manner provided for the collection of Kansas State Retailers' Sales Tax.

(B) Pursuant to K.S.A. 12-6a26 *et seq.*, the City shall establish a segregated trust fund to be designated the "Hays Investors Community Improvement District Sales Tax Fund" (the "Fund"), which shall be held and administered by the City in trust for the benefit of the District in accordance with this Agreement. The CID Sales Tax Revenue shall not be deemed to be City funds and shall not be commingled with any funds of the City. Notwithstanding the foregoing, the City shall be entitled to withdraw 0.5% of each distribution of CID Sales Tax Revenue (the "City Administrative Fee") as such revenues are received by the City from the State Department of Revenue, as payment for the City's cost of administering the District.

(C) The Developer agrees to provide the City written notice of all current owners and occupants of the District in the Annual Report required by the City's Economic Development Policy, and at all other times upon the written request of the City. Such Annual Report shall be submitted by each January 1 during the term of this Agreement.

(D) The Developer agrees to cause all assignees, purchasers, tenants, subtenants or any other entity acquiring property or occupancy rights in the District to be obligated by written contract to provide to the City, simultaneously with submission to the Kansas Department of Revenue, the monthly sales tax returns for their facilities in the District. The Developer also agrees to provide and agrees to cause all assignees, purchasers, tenants, subtenants or any other entity acquiring property or occupancy rights in the District to be obligated by written contract to provide to the City, annually by each January 1, a tax clearance letter. The obligations of this subparagraph shall be a covenant running with the land and shall be enforceable against all businesses operating in the District and shall only terminate upon the passage by the City of an ordinance terminating the District. The Developer hereby agrees that any written contract required under this subparagraph shall provide that the City is an intended third-party beneficiary of such provisions and has a separate and independent right to enforce such provisions directly against such tenant or purchaser.

(E) To the extent it may legally do so, information obtained pursuant to this Section shall be kept confidential by the City in accordance with K.S.A. 79-3657. In furtherance of maintaining the confidentiality of the information provided in this section, the City shall take all reasonable steps necessary to ensure that such information is kept confidential.

Section 5. Reimbursement Procedures.

The City's agreement to fund Reimbursable Project Costs up to the Reimbursable Project Costs Cap is conditioned upon the following:

(A) All costs submitted for reimbursement shall be Reimbursable Project Costs under the Act.

(B) The Developer shall submit to the City Manager an invoice (in substantially the form attached to this Agreement as **Exhibit C**), signed by the Developer, with supporting documentation identifying the Reimbursable Project Costs for which the Developer seeks reimbursement.

The supporting documentation shall include copies of invoices reflecting amounts billed, copies of checks, evidence of wire transfer or other payment of cash by the Developer for the Reimbursable Project Costs, lien waivers or other evidence that no mechanic's liens exist with respect to the construction of the Project, and such other documentation as the City shall reasonably request.

The invoice shall contain a certification by the Developer that the costs submitted for reimbursement are for Reimbursable Project Costs under this Agreement, and that such expense has been incurred by the Developer (or, when appropriate, by a third-party beneficiary) and has not been previously submitted for reimbursement hereunder.

(C) The City Manager shall determine whether the cost submitted is for a Reimbursable Project Cost within twenty (20) business days of the date the invoice is submitted by the Developer. If the City Manager does not provide a response within twenty (20) business days of the date the invoice is submitted, the cost submitted on the invoice shall be deemed approved; provided said cost is permitted under the Act and the City's Economic Development Policy. If the City Manager determines that such cost is not for a Reimbursable Project Cost under this Agreement, the City Manager shall notify the Developer of such determination in writing, setting forth in detail the basis for such denial. The Developer may appeal such denial to the Governing Body by filing a written request to be heard by the Governing Body with the City Clerk within seven (7) business days of the receipt of the written denial. The Governing Body shall conduct a hearing within thirty (30) days of receipt of such request and render a decision immediately upon the conclusion of such hearing.

(D) If money is available in the Fund, after payment of the City Administrative Fee, the requested reimbursement shall be paid to the Developer within ten (10) days of the approval by the City Manager.

(E) If the invoices for Reimbursable Project Costs submitted and approved exceed the amounts then available in the Fund after payment of the City Administrative Fee, such invoices shall be paid as CID Sales Tax Revenue becomes available. Provided such CID Sales Tax Revenues have been received by the City from the State of Kansas, the City will make quarterly payments on any outstanding Reimbursable Project Costs approved by the City for reimbursement as CID Sales Tax Revenue becomes available, such payments being due on _____, _____, _____ and _____ of each year as long as the CID Sales Tax remains in effect. Notwithstanding the foregoing, the City shall have no obligation to make any

payments to the Developer under this Agreement so long as the Developer is in default of any provision of this Agreement.

Section 6. City and Other Governmental Permits.

Before beginning construction of any aspect of the Project, the Developer shall, at its expense, obtain or cause to be obtained any necessary permits or licenses which may be required by the City, Ellis County or any other governmental agency having jurisdiction over the Project. The City agrees to provide all customary assistance to the Developer in obtaining construction permits issued by the City. The Developer shall construct the Project in accordance with all applicable laws and regulations.

Section 7. Rights of Access.

For purposes of insuring compliance with this Agreement, representatives of the City shall have rights of access to the Project, without charges or fees, during normal construction hours during the period of construction. Representatives of the City shall have such access to inspect work performed or being performed in the construction of the Project. City representatives shall carry proper identification, insure their own safety and shall not interfere with construction activity unless such activity is apparently in violation of this Agreement, City codes, state or federal regulations, statutes or other law. The right of access granted by this Section shall be in addition to the City's rights to access the Project in the exercise of its proper authority to regulate for and provide for public safety.

Section 8. No Obligation to Build.

Nothing contained in this Agreement shall require Developer to construct the Project. Notwithstanding the foregoing, in the event that the Developer shall fail to receive Certificates of Occupancy for one hundred percent (100%) of the Project on or before _____, 2019, then the City may, but shall not be obligated to, upon thirty (30) days written notice to the Developer, terminate this Agreement and upon approval of an ordinance providing the same, terminate the District, at which time the Developer shall have no further rights in any existing CID Sales Tax Revenue hereunder.

Section 9. Default and Remedies; Indemnification.

(A) The failure or delay by either of the Parties to this Agreement to perform any term or provision of this Agreement required of such party, shall be a default under this Agreement, subject to rights of cure, as specified below.

(B) Any party to this Agreement claiming a default (the "Claimant") shall give written notice of such claimed default to the other party, describing such default. Such notices shall be given at the addresses of the Parties stated in this Agreement.

(C) A Claimant shall not institute legal proceedings against the other party nor be entitled to damages if, within thirty (30) days from the receipt of a notice of claimed default, the

other party undertakes acts to cure, correct or remedy such claimed default, proceeds with due diligence to complete such cure, correction or remedy and such cure correction or remedy is completed within thirty (30) days of the date such party received a notice of default, provided, however, if such default requires more than thirty (30) days to correct, the nonperforming party shall not be deemed in default hereunder if such party commences curing the default within fourteen (14) days after receipt of written notice thereof and diligently prosecutes the cure to completion.

(D) Developer agrees to indemnify and hold the City and its respective officers, governing body members, employees, agents and independent contractors and consultants harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and reasonable attorneys' fees, resulting from, arising out of, or in any way connected with:

1. The Developer's actions and undertakings in connection with the Project or this Agreement; and
2. The negligence or willful misconduct of Developer, its employees, agents or independent contractors and consultants in connection with the management, design, development, redevelopment and construction of the Project.

Section 10. Governing Law, Jurisdiction.

(A) This Agreement shall be governed by, interpreted and enforced pursuant to the laws of the state of Kansas.

(B) The Parties agree that any legal actions arising out of this Agreement will be instituted in the District Court of Ellis County, Kansas or, in the case of federal jurisdiction, in the Federal District Court of the District of Kansas.

Section 11. Rights and Remedies Cumulative, Waivers.

Except as otherwise expressly provided in this Agreement, the rights and remedies of the Parties shall be cumulative, and the exercise by one party of one or more such rights shall not preclude the exercise by it, at the same or different times, of any other rights or remedies specified herein. Any failure or delay by either party in asserting any of its rights and remedies as to any default hereunder shall not operate as a waiver of such default or of any rights or remedies specified hereunder, or deprive either party of its right to assert and enforce any such right or remedy.

Section 12. Amendments.

The Developer and the City agree to cooperate and consider reasonable requests for amendments to this Agreement, provided that, any such amendments must be approved by the

Governing Body and the Developer, shall be in writing, and shall not substantially alter the basic business terms of this Agreement.

Section 13. Term.

This Agreement shall commence on the effective date hereof and shall terminate on the earlier of twenty two (22) years from the date that the CID Sales Tax became effective or upon payment to the Developer in the amount of the Reimbursable Project Costs Cap, together with interest thereon, whichever is first to occur.

Section 14. Transfer and Assignment.

This Developer may assign or pledge this Agreement and the rights, duties and obligations hereunder with the prior written consent of the City; provided however, City consent shall not be required for the Developer to collaterally assign its rights to reimbursement hereunder to its lender.

Section 15. Notices, Demands, Communications Between Parties.

Written notices, demands and other communications between the City and Developer shall be deemed delivered under this Agreement if given by personal service, registered or certified mail, postage prepaid and return receipt requested, or by overnight courier, to the principal offices of the City and the Developer set forth in Section 2 of this Agreement.

Section 16. Entire Agreement.

This Agreement is executed in duplicate originals, each of which shall be considered an original. This Agreement includes pages 1 through 8, and Exhibits A, B, and C which constitutes the entire agreement and understanding of the Parties.

This Agreement supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all of any part of the subject matter of this Agreement.

Section 17. Severability.

The invalidity or inability to enforce any one or more phrases, sentences, clauses or sections of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement.

Section 18. No Liability of City Officials or Employees.

All liabilities under this Agreement on the part of the City are solely corporate liabilities of the City, and, no officer, employee, or agent of the City shall have any personal or individual liability under this Agreement for anything done or omitted to be done by the City hereunder.

Section 19. No Further Incentives.

During the Term of this Agreement, the Developer shall not request any additional economic incentives from the City.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on _____, 2016 and represent that the individuals executing this Agreement on behalf of the Parties have the express authority to do so.

CITY OF HAYS, KANSAS

Mayor

Attest:

City Clerk

HAYS INVESTORS, LLC

By: _____
David Christie, Manager

Attest:

By:
Title:

EXHIBIT A
Legal Description

Lots 3 HOME DEPOT ADDITION, a subdivision in Hays, Ellis County, Kansas,
according to the recorded plat thereof.

EXHIBIT B Project Costs

Shopping Center Phase II Concept Scope
Opinion of Probable Cost

Hays, KS

July 12, 2016

				Total Project Cost	CID Reimbursable Expense
Land Acquisition					
	Land Acquisition			\$700,000.00	\$700,000.00
	Commissions Broker			\$0.00	\$0.00
	Legal to Close			\$200,000.00	\$200,000.00
	Land Origination Fee			\$25,000.00	\$25,000.00
	Land Acquisition Subtotal			\$925,000.00	\$925,000.00
Sitework					
Site Work Improvements					
	Phase II Sitework			\$1,852,139.44	\$1,852,139.44
	Change Order Contingency	1000.00%	185,213.94	\$0.00	\$0.00
	Change Order Contingency			\$185,213.94	\$185,213.94
	Site Work Subtotal			\$1,817,325.50	\$1,817,325.50
Site Monuments And Features					
	Site Monuments			\$50,000.00	\$50,000.00
	Site Monuments Subtotal			\$50,000.00	\$50,000.00
Building					
Building Improvements (Permits, Water Sewer, A/E, CM)					
	Anchor A	50,000	Seismic Fee	\$4,200,000.00	\$0.00
	Anchor B	73,000	Seismic Fee	\$1,625,000.00	\$0.00
	Anchor C	70,000	Seismic Fee	\$1,250,000.00	\$0.00
			Seismic Fee	\$0.00	\$0.00
	Change Order Contingency		10.00%	\$912,500	\$0.00
	Building Improvement Subtotal			\$10,077,500.00	\$0.00
Soft Costs					
CONTINGENCY					
	Construction Carry			\$200,000.00	\$200,000.00
	Real Estate Taxes			\$70,500.00	\$0.00
	Construction Carry Subtotal			\$270,500.00	\$200,000.00
A/E					
	Private Site Work				
	Survey			\$15,000.00	\$15,000.00
	Schematic Design			\$10,000.00	\$10,000.00
	Preliminary/Partial/Preliminary Development Plan			\$0.00	\$0.00
	Final Plan			\$0.00	\$0.00
	Final Plot			\$0.00	\$0.00
	Storm Water Storage Study, BMP, SWPPP and Design			\$5,000.00	\$5,000.00
	Traffic Study			\$0.00	\$0.00
	Wetland Determination			\$0.00	\$0.00
	EJCAC/ Permitting			\$0.00	\$0.00
	Sanitary Survey			\$5,000.00	\$5,000.00
	Water Main Contribution Drawings			\$10,000.00	\$10,000.00
	Signal Design			\$0.00	\$0.00
	Civil Construction Plans			\$25,000.00	\$25,000.00
	EIR/PPP			\$2,500.00	\$2,500.00
	Geotechnical Evaluation			\$15,000.00	\$15,000.00
	Site Construction Funding			\$50,000.00	\$50,000.00
	Design and Construction Administration (Miscellaneous)			\$238,370.78	\$238,370.78
	Private Site Work Subtotal			\$438,870.78	\$438,870.78
Legal					
	CID Legal Fees			\$50,000.00	\$50,000.00
	City of Hays CID Legal Fees			\$50,000.00	\$0.00
	Legal Subtotal			\$50,000.00	\$50,000.00
Site Permit / Fees					
	Site Plan Review Fee			\$5,000.00	\$5,000.00
	Final Plan Review			\$2,500.00	\$2,500.00
	Miscellaneous Fees			\$5,000.00	\$5,000.00
	Permit / Fees Subtotal			\$12,500.00	\$12,500.00
Total Project Cost				\$13,671,702.17	\$3,613,702.17
Notes:					

EXHIBIT C
[Form of Developer’s Invoice for Reimbursement]

**INVOICE FOR REIMBURSEMENT
FOR REIMBURSABLE PROJECT COSTS**

City of Hays, Kansas
Attention: City Manager

You are hereby requested by the undersigned, the Authorized Developer Representative, acting on behalf of Hays Investors, LLC (the “Developer”) to disburse funds held by you in the Hays Investors Community Improvement District Sales Tax Fund created pursuant the authority in K.S.A. 12-6a26 *et seq.* and set forth in the Development Agreement Between the City of Hays, Kansas and Hays Investors, LLC, for Implementation of the Hays Investors Community Improvement District, dated _____, 2016 (the “Agreement”) to reimburse expenditures made by the Developer for Reimbursable Project Costs (as defined in the Agreement) as described on and in the amounts set forth in the Reimbursement Schedules attached to this invoice and incorporated herein by this reference (the “Reimbursement Schedules”).

I hereby certify that the amounts requested in the attached Reimbursement Schedules have been paid by the Developer (or, when appropriate, a third-party beneficiary) in payment of Reimbursable Project Costs, as defined in the Agreement.

I further certify that no part of the amounts set forth in the Payment Schedules have been the basis for any previous withdrawal of any moneys from the Hays Investors Community Improvement District Sales Tax Fund.

I have attached to the Reimbursement Schedules copies of the contract, invoice or other billing for the Reimbursable Project Costs for which Developer seeks reimbursement, along with copies of the Developer’s check, evidence of wire transfers or other evidence of payment by the Developer of the costs of such Reimbursable Project Costs and hereby certify that such copies are true and accurate copies of the original documents.

DATED _____, 20____.

Developer

Pursuant Section 5 of the Agreement, I hereby request reimbursement of the amounts specified below and I certify that the description of the purchase or nature of each payment is reasonable, accurate and complete and that Developer has previously paid such Reimbursable Project Costs:

REIMBURSEMENT SCHEDULE

<u>Payee Name</u>	<u>Date of Payment by Developer</u>	<u>Purpose or Nature of Payment</u>	<u>Amount</u>
-------------------	---	-------------------------------------	---------------

Initials: Developer

Note: Copies of bills, contracts, checks and other evidence reflecting the amounts shown above (as described in Section 5 of the Agreement) should be attached to this Reimbursement Schedule.

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CREATION OF THE HAYS INVESTORS COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF HAYS, KANSAS; AUTHORIZING THE MAKING OF CERTAIN ECONOMIC DEVELOPMENT PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH ECONOMIC DEVELOPMENT PROJECT IMPROVEMENTS; PROVIDING FOR THE METHOD OF FINANCING THE SAME; AND APPROVING A DEVELOPMENT AGREEMENT.

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

WHEREAS, on October 11, 2016, a petition (the “Petition”) was filed with the City of Hays, Kansas (the “City”) requesting (a) that the community improvement district described therein (the “District”) be created, (b) that the City levy a community improvement district sales tax within the District in the amount of 1.0%, (c) and that the community improvement district project costs to be incurred within the District be financed on a pay-as-you-go basis, all in accordance with the Act.

WHEREAS, said Petition was signed by the owners of record, whether resident or not, of all of the land area within the proposed District; and

WHEREAS, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the governing body 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 sent at least ten (10) days prior to such hearing; and

WHEREAS, the Governing Body adopted Resolution No. 2016-007 on October 27, 2016 directing that a public hearing on the proposed District within the City be held on November 22, 2016, declaring its intent to impose a community improvement district sales tax, and requiring that the city clerk provide for 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 (by certified mail) to all property owners within the proposed District on November 1, 2016, and published once each week for two (2) consecutive weeks in *The Hays Daily News*, the official City newspaper, on November 3, 2016 and November 10, 2016; and

WHEREAS, on November 22, 2016, the Governing Body conducted a public hearing on the proposed District, the proposed community improvement district projects, and maximum Costs thereof and the method of financing the same; and

WHEREAS, the Governing Body hereby finds and determines it to be advisable to create the Hays Investors Community Improvement 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 provisions of the Act; and

WHEREAS, the Development Agreement between the City and the Hays Investors, LLC (the “Development Agreement”) has been presented for consideration in connection with the District and the Projects.

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

SECTION 1. Creation of Community Improvement District; Boundaries. That the Governing Body hereby finds and determines that it is advisable to create, in accordance with the provisions of the Act, the Hays Investors Community Improvement District within the City to be referred to as the Hays Investors Community Improvement District. A legal description of the boundaries of the proposed Hays Investors Community Improvement District is set forth on **Exhibit A**, attached hereto and incorporated by reference herein, and is depicted on the map set forth on **Exhibit B**, attached hereto and incorporated by reference herein.

SECTION 2. Authorization of Community Improvement District Projects and Maximum Costs.

(a) The general nature of the projects (the “Projects”) to be constructed within the District includes but is not limited to an approximately 73,000 square foot retail project. The Projects may be more particularly described as the construction, maintenance, and procurement of certain improvements and costs within the proposed CID, including but not limited to: land acquisition, infrastructure related items, sidewalks, parking lots, drainage improvements, buildings, tenant improvements, utilities, landscaping, lighting, signage, soft costs of the Projects, and the City’s administrative costs in establishing and maintaining the CID, and other items permitted to be financed within the CID under the Act.

(b) The total estimated cost of the Projects is \$13,671,702.17, of which approximately \$3,613,702.17 plus the City’s administrative costs (and plus actual costs of interest on any financing at a rate not to exceed 7.00% per annum) shall be funded by the District. The remainder of the costs of the Projects shall be paid by the Developer. Subject to the terms and conditions of a development agreement to be entered into between the Developer and the City, the Developer shall be reimbursed in an amount up to \$3,613,702.17 (plus actual costs of interest on any financing at a rate not to exceed 7.00% per annum) for those Project costs that are capital expenditures related to construction of real property, including related architectural and engineering costs (“Reimbursable Project Costs”).

SECTION 3. Method of Financing.

(a) In order to provide funds to finance the Reimbursable Project Costs, it is advisable to impose, in accordance with the provisions of the Act, a community improvement district sales tax within the Hays Investors Community Improvement District in an amount of 1.0% on the selling of tangible personal property at retail or rendering or furnishing services within the Hays Investors Community Improvement District (the “CID Sales Tax”).

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

(c) The proposed Community Improvement District Projects will be privately financed. The Reimbursable Project Costs will be financed on a pay as you go basis, i.e., the Reimbursable Project Costs will be paid for by the Developer without the issuance of notes or bonds, and, subject to the terms and conditions of a development agreement to be entered into between the Developer and the City, the Developer will be reimbursed for the Reimbursable Project Costs as moneys are deposited in the District fund through the imposition of the CID Sales Tax.

SECTION 4. Segregation of CID Sales Tax Revenues. All revenues derived from the collection of the CID Sales Tax shall be deposited into a special fund of the City to be designated as the Hays Investors Community Improvement District Revenue Fund. Such revenues shall be used to pay the costs of the Project, including the City's administrative fee of 0.5%.

SECTION 5. Development Agreement. The Development Agreement in substantially the form presented to the Governing Body of the City is hereby approved and the Mayor and City Clerk are hereby authorized to execute and deliver the Development Agreement.

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

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

PASSED by the Governing Body this 22nd day of November, 2016.

SIGNED by the Mayor this 22nd day of November, 2016.

Mayor

ATTEST:

City Clerk

(Seal)

EXHIBIT A
Legal Description

Lots 6 and 7 HOME DEPOT ADDITION, a subdivision in Hays, Ellis County, Kansas, according to the recorded plat thereof.

EXHIBIT B
Map

Commission Work Session Agenda

Memo

From: Kim Rupp, Director of Finance

Work Session: November 17, 2016

Subject: Ordinance and Resolution to authorize the issuance of General Obligation Refunding Bonds Series 2016A

Person(s) Responsible: Kim Rupp, Director of Finance

Summary

On November 22, 2016, the City will take bids for the purchase of approximately \$5,995,000 of General Obligation Refunding Bonds, Series 2016A (the "Bonds"). Attached to this memo are drafts of an ordinance and resolution to be adopted by the Commission to authorize the issuance of the Bonds. Final versions of the ordinance and resolution, as well as final payment terms on the Bonds, will be made available by George K. Baum & Co., the City's Financial Advisor, and Gilmore & Bell, P.C., the City's Bond Counsel after the sale of the Bonds and before the Commission meeting. Staff recommends approval of both the ordinance and resolution for the General Obligation Refunding Bonds, Series 2016A.

Background

The City has the option to refinance the following general obligation bonds to achieve interest cost savings for taxpayers:

<u>Series</u>	<u>Dated Date</u>	<u>Years</u>	<u>Amount</u>	<u>Average Rate</u>
2005-A	October 15, 2005	2017 to 2021	\$560,000	3.94%
2006-A	June 15, 2006	2017 to 2026	\$3,525,000	4.10%
2007-A	July 15, 2007	2018 to 2022	\$635,000	4.18%
2008-A	September 15, 2008	2019 to 2023	\$505,000	4.22%
2009-A	October 1, 2009	2017 to 2029	\$535,000	3.82%

Based on current market conditions, it is anticipated that the City could save approximately \$573,000 in future debt service payments by refunding the above series. New Bonds that are issued for refunding purposes will be structured to have final maturity dates identical to those listed above.

Discussion

City Staff and the Financial Advisor have been monitoring the City's outstanding debt for refunding opportunities. The City's Series 2005-A, 2006-A and 2009-A Bonds have been identified as ideal candidates to refund due to their relatively high interest rates and the ability to call the bonds on September 1, 2016. 2007-A and 2008-A are also high interest rate issues however, Series 2007-A doesn't have an optional redemption date until September 1, 2017 and 2008-A is September 1, 2018. Therefore those two issues will be treated as an advance refunding. In that instance, open market investments will be purchased with the proceeds of the new issue and put into escrow to fund the future refunding of 2007-A and 2008-A.

The City will also be applying to Standard & Poor's for a rating on the Bonds. The last issue for the City received a AA- rating and has since been improved to a AA. Changing market conditions and investor preferences have led to the decision to seek the rating.

If the ordinance and resolution are approved, Staff will work with the Financial Advisor and Bond Counsel to complete all of the necessary steps to close the bond issue. Bond proceeds are expected to be available to the City on December 15, 2016.

Legal Consideration

There are no known legal obstacles to proceeding as recommended by City staff.

Financial Consideration

Final terms of the Bonds will be provided to the Commission following the sale on November 22, 2016. Below is a preliminary estimate of the financial terms of the Bonds.

Total bond issue will be approximately \$5,995,000. These bonds will be paid from special assessment revenues received by the City as property owners within the improvement districts pay their tax bills as well as the bond and interest levy fund. It is expected this refunding will lower the debt service on these bonds approximately \$58,000 per year for the remaining term.

Total cost of issuance is approximately \$64,218. This covers the paying agent, Kansas Attorney General, CUSIP service bureau, Bond Counsel, Financial Advisor, Bond Rating and Publication and Printing. More detail will be provided in a final sizing calculation document provided by George K Baum & Company after the sale on November 22.

Options

The City Commission has the following options:

- Approve the attached ordinance and resolution authorizing the issuance of Bonds.
- Provide staff with further direction.
- Do nothing.

Recommendation

Staff recommends approval of the ordinance and resolution.

Action Requested

Approve Ordinance authorizing and providing for the issuance of General Obligation Refunding Bonds Series 2016A

and

Approve Resolution prescribing the form and details of and authorizing and directing the sale and delivery of General Obligation Refunding Bonds Series 2016A.

Supporting Documentation

Excerpt of Minutes

Ordinance

Ordinance Summary for Publication

Bond Resolution

SERIES 2016-A BOND ORDINANCE AND RESOLUTION

- A. Excerpt of Minutes of Meeting approving sale, approving Ordinance/Bond Resolution
- B. Ordinance
- C. Ordinance Summary for Publication
- D. Bond Resolution

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON NOVEMBER 22, 2016**

The City Commission (the "Governing Body") met in regular session at the usual meeting place in the City, at 6:30 p.m., the following members being present and participating, to-wit:

Present: _____.

Absent: _____.

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

The Finance Director reported that pursuant to the Notice of Bond Sale previously duly given, bids for the purchase of General Obligation Refunding Bonds, Series 2016-A, dated December 15, 2016, of the City had been received. A tabulation of said bids is set forth as *EXHIBIT A* hereto.

Thereupon, the Governing Body reviewed and considered the bids and it was found and determined that the bid of _____, _____, _____, was the best bid for the Bonds, a copy of which is attached hereto as *EXHIBIT B*.

Thereupon, there was presented an Ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016-A, OF THE CITY OF HAYS, KANSAS, FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

Thereupon, Commissioner _____ moved that said Ordinance be passed. The motion was seconded by Commissioner _____. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the Governing Body, the vote being as follows:

Yea: _____.

Nay: _____.

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. 16-____, was signed and approved by the Mayor and attested by the Clerk and

the Ordinance or a summary thereof was directed to be published one time in the official newspaper of the City.

Thereupon, there was presented a Resolution entitled:

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016-A, OF THE CITY OF HAYS, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 16-___ OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

Thereupon, Commissioner _____ moved that said Resolution be adopted. The motion was seconded by Commissioner _____. Said Resolution was duly read and considered, and upon being put, the motion for the adoption of said Resolution was carried by the vote of the Governing Body, the vote being as follows:

Yea: _____.

Nay: _____.

Thereupon, the Mayor declared said Resolution duly adopted and the Resolution was then duly numbered Resolution No. 16- _____, and was signed by the Mayor and attested by the Clerk.

(Other Proceedings)

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

On motion duly made, seconded and carried, the meeting thereupon adjourned.

CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the Governing Body of the City of Hays, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

Clerk

EXHIBIT A
BID TABULATION

EXHIBIT B

BID OF PURCHASER

ORDINANCE NO. 16-____

OF

THE CITY OF HAYS, KANSAS

PASSED

NOVEMBER 22, 2016

**GENERAL OBLIGATION REFUNDING BONDS
SERIES 2016-A**

ORDINANCE NO. 16-____

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016-A, OF THE CITY OF HAYS, KANSAS, FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Hays, Kansas (the “City”) is a city of the second class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City previously issued and has outstanding the Refunded Bonds and is authorized by K.S.A. 10-427 *et seq.* to issue general obligation refunding bonds of the City for the purpose of refunding the Refunded Bonds; and

WHEREAS, in order to achieve interest cost savings through early redemption of the Refunded Bonds, and provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants to refund the Refunded Bonds; and

WHEREAS, the Governing Body has advertised the sale of the Bonds in accordance with the law and at a meeting held in the City on this date awarded the sale of such Bonds to the best bidder.

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

Section 1. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“Act” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, and K.S.A. 10-620 *et seq.*, all as amended and supplemented from time to time.

“Advance Refunded Bonds” means collectively: (a) the Series 2007-A Bonds maturing in the years 2018 to 2022, inclusive, in the aggregate principal amount of \$635,000; and (b) the Series 2008-A Bonds maturing in the years 2019 to 2023, inclusive, in the aggregate principal amount of \$505,000.

“Bond and Interest Fund” means the Bond and Interest Fund of the City for its general obligation bonds.

“Bond Resolution” means the resolution to be adopted by the Governing Body prescribing the terms and details of the Bonds and making covenants with respect thereto.

“**Bonds**” means the City’s General Obligation Refunding Bonds, Series 2016-A, dated December 15, 2016, authorized by this Ordinance.

“**City**” means the City of Hays, Kansas.

“**Clerk**” means the duly appointed and acting Clerk of the City or, in the Clerk’s absence, the duly appointed Deputy Clerk or Acting Clerk.

“**Current Refunded Bonds**” means collectively: (a) the Series 2005-A Bonds maturing in the years 2017 to 2021, inclusive, in the aggregate principal amount of \$560,000; (b) the Series 2006-A Bonds maturing in the years 2017 to 2026, inclusive, in the aggregate principal amount of \$3,525,000; and (c) the Series 2009-A Bonds maturing in the years 2017 and 2023 to 2029, inclusive, in the aggregate principal amount of \$535,000.

“**Governing Body**” means the City Commission of the City.

“**Mayor**” means the duly elected and acting Mayor of the City or, in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“**Ordinance**” means this Ordinance authorizing the issuance of the Bonds.

“**Refunded Bonds**” means collectively the Advance Refunded Bonds and the Current Refunded Bonds.

“**Series 2005-A Bonds**” means the City’s the General Obligation Internal Improvement Bonds, Series 2005-A, dated October 15, 2005.

“**Series 2006-A Bonds**” means the City’s the General Obligation Internal Improvement Bonds, Series 2006-A, dated June 15, 2006.

“**Series 2007-A Bonds**” means the City’s the General Obligation Internal Improvement Bonds, Series 2007-A, dated July 15, 2007.

“**Series 2008-A Bonds**” means the City’s the General Obligation Internal Improvement Bonds, Series 2008-A, dated September 15, 2008.

“**Series 2009-A Bonds**” means the City’s the General Obligation Internal Improvement Bonds, Series 2009-A, dated October 1, 2009.

“**State**” means the State of Kansas.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Refunding Bonds, Series 2016-A, of the City in the principal amount of \$[PRINCIPAL AMOUNT], for the purpose of providing funds to: (a) refund the Refunded Bonds; and (b) pay costs of issuance of the Bonds.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of the Improvements and, if not so paid, 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. The balance of the principal and interest on the Bonds is payable 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. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 4. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution hereafter adopted by the Governing Body.

Section 5. Levy and Collection of Annual Tax. The Governing Body shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting the necessary taxes and/or assessments upon all of the taxable tangible property within the City in the manner provided by law.

The taxes and/or assessments above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

If at any time said taxes and/or assessments are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes and/or assessments are collected.

Section 6. Further Authority. The Mayor, Director of Finance, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 7. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Governing Body, approval by the Mayor and publication of the Ordinance or a summary thereof in the official City newspaper.

PASSED by the governing body of the City on November 22, 2016, and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Mayor

ATTEST:

Clerk

(PUBLISHED IN THE *HAYS DAILY NEWS* ON NOVEMBER ____, 2016)

SUMMARY OF ORDINANCE NO. [____]

On November 22, 2016, the governing body of the City of Hays, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016-A, OF THE CITY OF HAYS, KANSAS, FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

The Series 2016-A Bonds approved by the Ordinance are being issued in the principal amount of \$_____, to refund previously issued general obligation bonds of the City, and 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, 1507 Main Street, Hays, Kansas. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://www.haysusa.com/html/ordinances.html>.

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

DATED: November 22, 2016.

City Attorney

RESOLUTION NO. 16-_____

OF

THE CITY OF HAYS, KANSAS

ADOPTED

NOVEMBER 22, 2016

**GENERAL OBLIGATION REFUNDING BONDS
SERIES 2016-A**

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RESOLUTION NO. 16- _____

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016-A, OF THE CITY OF HAYS, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 16-____ OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

WHEREAS, the City of Hays, Kansas (the “Issuer”) has previously passed the Ordinance authorizing the issuance of the Bonds; and

WHEREAS, the Ordinance authorized the City Commission of the Issuer (the “Governing Body”) to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds; and

WHEREAS, in order to provide for the payment of the Advance Refunded Bonds it is desirable to enter into the Escrow Agreement, by and between the Issuer and the Escrow Agent; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary for the Issuer to authorize the issuance and delivery of the Bonds in the principal amount of \$[PRINCIPAL AMOUNT] to refund the Refunded Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS, AS FOLLOWS:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms as used in this Bond Resolution shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“Act” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, and K.S.A. 10-620 *et seq.*, all as amended and supplemented from time to time.

“Advance Refunded Bonds” means collectively: (a) the Series 2007-A Bonds maturing in the years 2018 to 2022, inclusive, in the aggregate principal amount of \$635,000; and (b) the Series 2008-A Bonds maturing in the years 2019 to 2023, inclusive, in the aggregate principal amount of \$505,000.

“Authorized Denomination” means \$5,000 or any integral multiples thereof.

“Beneficial Owner” of the Bonds includes any Owner of the Bonds and any other Person who, directly or indirectly has the investment power with respect to such Bonds.

“Bond and Interest Fund” means the Bond and Interest Fund of the Issuer for its general obligation bonds.

“Bond Counsel” means the firm of Gilmore & Bell, P.C., or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the Issuer.

“Bond Payment Date” means any date on which principal of or interest on any Bond is payable.

“Bond Register” means the books for the registration, transfer and exchange of Bonds kept at the office of the Bond Registrar.

“Bond Registrar” means the State Treasurer, and any successors and assigns.

“Bond Resolution” means this resolution relating to the Bonds.

“Bonds” means the General Obligation Refunding Bonds, Series 2016-A, authorized and issued by the Issuer pursuant to the Ordinance and this Bond Resolution.

“Business Day” means a day other than a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the Legislature of the State and on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

“Cede & Co.” means Cede & Co., as nominee of DTC and any successor nominee of DTC.

“City” means the City of Hays, Kansas.

“Clerk” means the duly appointed and/or elected Clerk or, in the Clerk’s absence, the duly appointed Deputy Clerk or Acting Clerk of the Issuer.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” means all costs of issuing the Bonds, including but not limited to all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, all expenses incurred in connection with receiving ratings on the Bonds, and any premiums or expenses incurred in obtaining municipal bond insurance on the Bonds.

“Costs of Issuance Account” means the Costs of Issuance Account for General Obligation Refunding Bonds, Series 2016-A, created pursuant to *Section 501* hereof.

“Current Refunded Bonds” means collectively: (a) the Series 2005-A Bonds maturing in the years 2017 to 2021, inclusive, in the aggregate principal amount of \$560,000; (b) the Series 2006-A Bonds maturing in the years 2017 to 2026, inclusive, in the aggregate principal amount of \$3,525,000; and (c) the Series 2009-A Bonds maturing in the years 2017 and 2023 to 2029, inclusive, in the aggregate principal amount of \$535,000.

“Dated Date” means December 15, 2016.

“Debt Service Account” means the Debt Service Account for General Obligation Refunding Bonds, Series 2016-A, created within the Bond and Interest Fund pursuant to *Section 501* hereof.

“Debt Service Requirements” means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on the Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

“Defaulted Interest” means interest on any Bond which is payable but not paid on any Interest Payment Date.

“Defeasance Obligations” means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) such obligations are rated in a rating category by Moody’s or Standard & Poor’s that is no lower than the rating category then assigned by that Rating Agency to United States Government Obligations.

“Derivative” means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

“Disclosure Undertaking” means the Issuer’s Continuing Disclosure Instructions relating to certain obligations contained in the SEC Rule.

“**DTC**” means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depository duly appointed.

“**DTC Representation Letter**” means the Blanket Letter of Representation from the Issuer and the Paying Agent to DTC which provides for a book-entry system, or any agreement between the Issuer and Paying Agent and a successor securities depository duly appointed.

“**Escrow Agent**” means Security Bank of Kansas City, Kansas City, Kansas, and its successors and assigns.

“**Escrow Agreement**” means the Escrow Trust Agreement, dated as of the Dated Date, between the Issuer and the Escrow Agent.

“**Escrow Fund**” means the Escrow Fund for Refunded Bonds referred to in *Section 501* hereof.

“**Escrowed Securities**” means the direct, noncallable obligations of the United States of America, as described in the Escrow Agreement.

“**Event of Default**” means each of the following occurrences or events:

(a) Payment of the principal and of the redemption premium, if any, of any of the Bonds shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise;

(b) Payment of any installment of interest on any of the Bonds shall not be made when the same shall become due; or

(c) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Bond Resolution (other than the covenants relating to continuing disclosure requirements contained herein and in the Disclosure Undertaking) on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Bonds then Outstanding.

“**Federal Tax Certificate**” means the Issuer’s Federal Tax Certificate dated as of the Issue Date, as the same may be amended or supplemented in accordance with the provisions thereof.

“**Fiscal Year**” means the twelve month period ending on December 31.

“**Funds and Accounts**” means funds and accounts created pursuant to or referred to in *Section 501* hereof.

“**Governing Body**” means the City Commission of the City.

“**Independent Accountant**” means an independent certified public accountant or firm of independent certified public accountants at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Independent Accountant by this Bond Resolution.

“Interest Payment Date(s)” means the Stated Maturity of an installment of interest on any Bond which shall be March 1 and September 1 of each year, commencing March 1, 2017.

“Issue Date” means the date when the Issuer delivers the Bonds to the Purchaser in exchange for the Purchase Price.

“Issuer” means the City and any successors or assigns.

“Maturity” when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

“Mayor” means the duly elected and acting Mayor, or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the Issuer.

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“Notice Address” means with respect to the following entities:

(a) To the Issuer at:

City of Hays, Kansas
Attn.: Clerk
1507 Main Street
Hays, Kansas 67601
Phone No.: (785) 628-7300
Fax No.: (785) 628-7323

(b) To the Paying Agent at:

State Treasurer of the State of Kansas
Landon Office Building
900 Southwest Jackson, Suite 201
Topeka, Kansas 66612-1235
Fax: (785) 296-6976

(c) To the Purchaser:

(d) To the Rating Agency(ies):

S&P Global Ratings, a division of S&P Global Inc.
55 Water Street, 38th Floor
New York, New York 10004

(e) To the Escrow Agent at:

[Security Bank of Kansas City
Corporate Trust Department
701 Minnesota Avenue
Suite 206, P.O. Box 171297
Kansas City, Kansas 66117
Fax: (913) 279-7960]

or such other address as is furnished in writing to the other parties referenced herein.

“Notice Representative” means:

- (a) With respect to the Issuer, the Clerk.
- (b) With respect to the Bond Registrar and Paying Agent, the Director of Bond Services.
- (c) With respect to any Purchaser, the manager of its Municipal Bond Department.
- (d) With respect to any Rating Agency, any Vice President thereof.

“Official Statement” means Issuer’s Official Statement relating to the Bonds.

“Ordinance” means Ordinance No. 16-____ of the Issuer authorizing the issuance of the Bonds, as amended from time to time.

“Outstanding” means, when used with reference to the Bonds, as of a particular date of determination, all Bonds previously authenticated and delivered, except the following Bonds:

- (a) Bonds previously canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of *Article VII* hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

“Owner” when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register. Whenever consent of the Owners is required pursuant to the terms of this Bond Resolution, and the Owner of the Bonds, as set forth on the Bond Register, is Cede & Co., the term Owner shall be deemed to be the Beneficial Owner of the Bonds.

“Participants” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“Paying Agent” means the State Treasurer, and any successors and assigns.

“Permitted Investments” shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Issuer’s temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the Issuer is located; (f) obligations of the federal national mortgage association, federal home loan banks, federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody’s or Standard & Poor’s; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f), all as may be further restricted or modified by amendments to applicable State law.

“Person” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“Purchase Price” means the principal amount of the Bonds plus accrued interest to the date of delivery, plus a premium of \$[_____], less an underwriting discount of \$[_____], less an original issue discount of \$[_____].

“Purchaser” means _____, _____, _____, the original purchaser of the Bonds, and any successor and assigns.

“Rating Agency” means any company, agency or entity that provides, pursuant to request of the Issuer, financial ratings for the Bonds.

“Rebate Fund” means the Rebate Fund for General Obligation Refunding Bonds, Series 2016-A, created pursuant to *Section 501* hereof.

“Record Dates” for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

“Redemption Date” means, when used with respect to any Bond to be redeemed, the date fixed for the redemption of such Bond pursuant to the terms of this Bond Resolution.

“Redemption Fund” means the Redemption Fund for Refunded Bonds, created pursuant to *Section 501* hereof.

“Redemption Price” means, when used with respect to any Bond to be redeemed, the price at which such Bond is to be redeemed pursuant to the terms of this Bond Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

“Refunded Bonds” means collectively the Advance Refunded Bonds and the Current Refunded Bonds.

“Refunded Bonds Paying Agent” means the respective paying agent for each series of the Refunded Bonds as designated in the respective Refunded Bonds Resolution, and any successor or successors at the time acting as paying agent for any of the Refunded Bonds.

“Refunded Bonds Redemption Date” means collectively, (a) December 30, 2016, for the Series 2005-A Bonds; (b) December 30, 2016, for the Series 2006-A Bonds; (c) September 1, 2017, for the Series 2007-A Bonds; (d) September 1, 2018, for the Series 2008-A Bonds; and (e) December 30, 2016, for the Series 2009-A Bonds.

“Refunded Bonds Resolution” means each ordinance and resolution which authorized the Refunded Bonds.

“Replacement Bonds” means Bonds issued to the Beneficial Owners of the Bonds in accordance with *Section 210* hereof.

“SEC Rule” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

“Securities Depository” means, initially, DTC, and its successors and assigns.

“Series 2005-A Bonds” means the City’s the General Obligation Internal Improvement Bonds, Series 2005-A, dated October 15, 2005.

“Series 2006-A Bonds” means the City’s the General Obligation Internal Improvement Bonds, Series 2006-A, dated June 15, 2006.

“Series 2007-A Bonds” means the City’s the General Obligation Internal Improvement Bonds, Series 2007-A, dated July 15, 2007.

“Series 2008-A Bonds” means the City’s the General Obligation Internal Improvement Bonds, Series 2008-A, dated September 15, 2008.

“Series 2009-A Bonds” means the City’s the General Obligation Internal Improvement Bonds, Series 2009-A, dated October 1, 2009.

“Special Record Date” means the date fixed by the Paying Agent pursuant to *Article II* hereof for the payment of Defaulted Interest.

“Standard & Poor's” or “S&P” means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Standard & Poor's shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“State” means the state of Kansas.

“State Treasurer” means the duly elected Treasurer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

“**Stated Maturity**” when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Bond Resolution as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

[“**20__ Term Bonds**” means the Bonds scheduled to mature in the year 20__.]

[“**20__ Term Bonds**” means the Bonds scheduled to mature in the year 20__.]

[“**Term Bonds**” means collectively the 20__ Term Bonds and the 20__ Term Bonds.]

“**Treasurer**” means the duly appointed and/or elected Treasurer of the Issuer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the Issuer.

“**United States Government Obligations**” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payment on obligations issued by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Issuer.

“**Verification Report**” means the verification report referenced in *Article V* hereof relating to the sufficiency of money and obligations deposited in the Escrow Fund to be applied in accordance with the Escrow Agreement.

ARTICLE II

AUTHORIZATION AND DETAILS OF THE BONDS

Section 201. Authorization of the Bonds. Authorization of the Bonds. The Bonds have been heretofore authorized and directed to be issued pursuant to the Ordinance in the principal amount of \$[PRINCIPAL AMOUNT], for the purpose of providing funds to: (a) refund the Refunded Bonds; and (b) pay Costs of Issuance

Section 202. Description of the Bonds. The Bonds shall consist of fully registered bonds in an Authorized Denomination, and shall be numbered in such manner as the Bond Registrar shall determine. All of the Bonds shall be dated as of the Dated Date, shall become due in the amounts, on the Stated Maturities, subject to redemption and payment prior to their Stated Maturities as provided in *Article III* hereof, and shall bear interest at the rates per annum as follows:

SERIAL BONDS

<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>	<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
2017	\$	_____%	2022	\$	_____%
2018			2023		

2019
2020
2021

2024
2025
2026

[TERM BONDS

Stated Maturity	Principal	Annual Rate
<u>September 1</u>	<u>Amount</u>	<u>of Interest</u>
20__	\$_____	_____ %]

The Bonds shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date to which interest has been paid on the Interest Payment Dates in the manner set forth in *Section 204* hereof.

Each of the Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be printed in accordance with the format required by the Attorney General of the State and shall be substantially in the form attached hereto as *EXHIBIT A* or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

Section 203. Designation of Paying Agent and Bond Registrar. The State Treasurer is hereby designated as the Paying Agent for the payment of principal of and interest on the Bonds and Bond Registrar with respect to the registration, transfer and exchange of Bonds. The Mayor of the Issuer is hereby authorized and empowered to execute on behalf of the Issuer an agreement with the Bond Registrar and Paying Agent for the Bonds.

The Issuer will at all times maintain a Paying Agent and Bond Registrar meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right to appoint a successor Paying Agent or Bond Registrar by (a) filing with the Paying Agent or Bond Registrar then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent or Bond Registrar and appointing a successor, and (b) causing notice of appointment of the successor Paying Agent and Bond Registrar to be given by first class mail to each Owner. No resignation or removal of the Paying Agent or Bond Registrar shall become effective until a successor has been appointed and has accepted the duties of Paying Agent or Bond Registrar.

Every Paying Agent or Bond Registrar appointed hereunder shall at all times meet the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.

Section 204. Method and Place of Payment of the Bonds. The principal of, or Redemption Price, and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Bond Register

or at such other address as is furnished to the Paying Agent in writing by such Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Owner of such Bond on the relevant Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefore to be mailed, by first class mail, postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the Issuer.

Section 205. Payments Due on Saturdays, Sundays and Holidays. In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

Section 206. Registration, Transfer and Exchange of Bonds. The Issuer covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Bond Registrar as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange such Bond for a new Bond or Bonds in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange.

Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Bond Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Bond Resolution. The Issuer shall pay the fees and expenses of the Bond Registrar for the registration, transfer and exchange of Bonds provided for by this Bond Resolution and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, are the responsibility of the Owners of the Bonds. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Code § 3406, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Bonds.

The Issuer and the Bond Registrar shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to *Article III* hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to this *Article II*.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Bond Registrar, the Bond Register may be inspected and copied by the Owners (or a designated representative thereof) of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Bond Registrar.

Section 207. Execution, Registration, Authentication and Delivery of Bonds. Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the Issuer by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Clerk, and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the Clerk, which registration shall be evidenced by the manual or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Bond Registrar for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as **EXHIBIT A** hereof, which shall be manually executed by an authorized officer or employee of the Bond Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Bond Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Bond Registrar. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Bond Resolution. Upon authentication, the Bond Registrar shall deliver the Bonds to the Purchaser upon instructions of the Issuer or its representative.

Section 208. Mutilated, Lost, Stolen or Destroyed Bonds. If (a) any mutilated Bond is surrendered to the Bond Registrar or the Bond Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Issuer and the Bond Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or the Bond Registrar that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Bond Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this Section, the Issuer and the Paying Agent may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer, and shall be entitled to all the benefits of this Bond Resolution equally and ratably with all other Outstanding Bonds.

Section 209. Cancellation and Destruction of Bonds Upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

Section 210. Book-Entry Bonds; Securities Depository. The Issuer and Paying Agent have entered into a DTC Representation Letter with DTC. The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Bonds, except in the event the Bond Registrar issues Replacement Bonds as provided in this Section. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Bond Registrar authenticates and delivers Replacement Bonds to the Beneficial Owners as described in the following paragraph.

The Issuer may decide, subject to the requirements of the Operational Arrangements of DTC (or a successor Securities Depository), and the following provisions of this section to discontinue use of the system of book-entry transfers through DTC (or a successor Securities Depository):

(a) If the Issuer determines (1) that the Securities Depository is unable to properly discharge its responsibilities, or (2) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (3) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds; or

(b) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Bond Registrar shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (a)(1) or (a)(2) of this paragraph, the Issuer, with the consent of the Bond Registrar, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers.

In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Bond Registrar, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Issuer, the Bond Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Bond Registrar shall authenticate and cause delivery of Replacement Bonds to Owners, as provided herein. The Bond Registrar may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Bonds. The cost of printing, registration, authentication, and delivery of Replacement Bonds shall be paid for by the Issuer.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Bond Registrar receives written evidence satisfactory to the Bond Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in an Authorized Denominations and form as provided herein.

Section 211. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Bond Resolution or on, or with respect to, said Bond. If any Bond is not presented for payment within four (4) years following the date when such Bond becomes due at Maturity, the Paying Agent shall

repay, without liability for interest thereon, to the Issuer the funds previously held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 212. Preliminary and Final Official Statement. For the purpose of enabling the Purchaser to comply with the requirements of Section (b)(1) of the SEC Rule, the Issuer hereby deems the information regarding the Issuer contained in the Preliminary Official Statement to be “final” as of its date, except for the omission of such information as is permitted by Section (b)(1) of the SEC Rule, and the appropriate officers of the Issuer are hereby authorized, if requested, to provide the Purchaser a letter or certification to such effect and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Purchaser to comply with the requirement of the SEC Rule.

The Official Statement is hereby authorized to be prepared by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor and Clerk of the Issuer are hereby authorized to execute the Official Statement as so supplemented, amended and completed, and the use and public distribution of the Official Statement by the Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the Issue Date.

The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the Official Statement to enable the Purchaser to comply with the requirements of the SEC Rule and Rule G-32 of the Municipal Securities Rulemaking Board.

Section 213. Sale of the Bonds. The sale of the Bonds to the Purchaser is hereby approved. The Mayor and Clerk are hereby authorized to execute the official bid form submitted by the Purchaser. Delivery of the Bonds shall be made to the Purchaser on the Issue Date (which shall be as soon as practicable after the adoption of this Bond Resolution), upon payment of the Purchase Price.

Section 214. Authorization of Escrow Agreement. The Issuer is hereby authorized to enter into the Escrow Agreement and the Mayor and Clerk are hereby authorized and directed to execute the Escrow Agreement with such changes therein as such officials may deem appropriate, for and on behalf of and as the act and deed of the Issuer. The Escrow Agent is hereby authorized to carry out, on behalf of the Issuer, the duties, terms and provisions of the Escrow Agreement, and the Escrow Agent, the Purchaser and Bond Counsel are authorized to take all necessary actions for the subscription and purchase of the Escrowed Securities described therein, including the subscription for United States Treasury Securities – State and Local Government Series.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption by Issuer.

Optional Redemption. At the option of the Issuer, Bonds maturing on September 1 in the years 2024, and thereafter, will be subject to redemption and payment prior to their Stated Maturity on September 1, 2023, and thereafter, as a whole or in part (selection of maturities and the amount of Bonds of each maturity to be redeemed to be determined by the Issuer in such equitable manner as it may determine) at any time, at the Redemption Price of 100% (expressed as a percentage of the principal amount), plus accrued interest to the Redemption Date.

[**Mandatory Redemption.** (a) *20__ Term Bonds.* The 20__ Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in **Article IV** hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such 20__ Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
\$	
	*

*Final Maturity

[(b) *20__ Term Bonds.* The 20__ Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in **Article IV** hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such 20__ Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
\$	
	[____]*

*Final Maturity]

[At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Issuer may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the Issuer under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the Issuer to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory

redemption obligations for Term Bonds of the same Stated Maturity as designated by the Issuer, and the principal amount of Term Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the Issuer intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the Issuer will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.]

Section 302. Selection of Bonds to be Redeemed. Bonds shall be redeemed only in an Authorized Denomination. When less than all of the Bonds are to be redeemed and paid prior to their Stated Maturity, such Bonds shall be redeemed in such manner as the Issuer shall determine. Bonds of less than a full Stated Maturity shall be selected by the Bond Registrar in a minimum Authorized Denomination of principal amount in such equitable manner as the Bond Registrar may determine.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than a minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption a minimum Authorized Denomination of face value shall be treated as though it were a separate Bond of the denomination of a minimum Authorized Denomination. If it is determined that one or more, but not all, of a minimum Authorized Denomination of face value represented by any Bond is selected for redemption, then upon notice of intention to redeem a minimum Authorized Denomination, the Owner or the Owner's duly authorized agent shall forthwith present and surrender such Bond to the Bond Registrar: (1) for payment of the Redemption Price and interest to the Redemption Date of a minimum Authorized Denomination of face value called for redemption, and (2) for exchange, without charge to the Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the redemption date to the extent of a minimum Authorized Denomination of face value called for redemption (and to that extent only).

Section 303. Notice and Effect of Call for Redemption. In the event the Issuer desires to call the Bonds for redemption prior to maturity, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. The Bond Registrar shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Bond Registrar at least 45 days prior to the Redemption Date of written instructions of the Issuer specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. [The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Term Bonds hereunder, and Term Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.]

Unless waived by any Owner of Bonds to be redeemed, if the Issuer shall call any Bonds for redemption and payment prior to the Stated Maturity thereof, the Issuer shall give written notice of its intention to call and pay said Bonds to the Bond Registrar and the State Treasurer. In addition, the Issuer shall cause the Bond Registrar to give written notice of redemption to the Owners of said Bonds. Each of said written notices shall be deposited in the United States first class mail not less than 30 days prior to the Redemption Date.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;

- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal office of the Paying Agent.

The failure of any Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Issuer shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date.

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Bond Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

In addition to the foregoing notice, the Issuer shall provide such notices of redemption as are required by the Disclosure Undertaking. Further notice may be given by the Issuer or the Bond Registrar on behalf of the Issuer as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed:

- (a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (1) the CUSIP numbers of all Bonds being redeemed; (2) the date of issue of the Bonds as originally issued; (3) the rate of interest borne by each Bond being redeemed; (4) the maturity date of each Bond being redeemed; and (5) any other descriptive information needed to identify accurately the Bonds being redeemed.

(b) Each further notice of redemption shall be sent at least one day before the mailing of notice to Owners by first class, registered or certified mail or overnight delivery, as determined by the Bond Registrar, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

The Paying Agent is also directed to comply with any mandatory standards then in effect for processing redemptions of municipal securities established by the State or the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

ARTICLE IV

SECURITY FOR BONDS

Section 401. Security for the Bonds. The Bonds shall be general obligations of the Issuer payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of certain public improvements financed by the Refunded Bonds and, if not so paid, 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 Issuer. The balance of the principal and interest on the Bonds is payable 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 Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 402. Levy and Collection of Annual Tax; Transfer to Debt Service Account. The Governing Body of the Issuer shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by, to the extent necessary, levying and collecting the necessary taxes and/or assessments upon all of the taxable tangible property within the Issuer in the manner provided by law.

The taxes and/or assessments referred to above shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the Issuer are levied and collected. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund, shall be kept separate and apart from all other funds of the Issuer shall thereafter be transferred to the Debt Service Account and shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due, taking into account any scheduled mandatory redemptions, and the fees and expenses of the Paying Agent.

If at any time said taxes and/or assessments are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the Issuer and to reimburse said general funds for money so expended when said taxes are collected.

ARTICLE V

ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Funds and Accounts.

Simultaneously with the issuance of the Bonds, there shall be created within the Treasury of the Issuer the following Funds and Accounts:

- (a) Redemption Fund for Current Refunded Bonds.
- (b) Debt Service Account for General Obligation Refunding Bonds, Series 2016-A (within the Bond and Interest Fund).
- (c) Rebate Fund for General Obligation Refunding Bonds, Series 2016-A.

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Bond Resolution so long as the Bonds are Outstanding.

In addition to the Funds and Accounts described above, the Escrow Agreement establishes the following Funds and Accounts to be held and administered by the Escrow Agent in accordance with the provisions of the Escrow Agreement:

- (a) Escrow Fund for Advance Refunded Bonds.
- (b) Costs of Issuance Account for General Obligation Refunding Bonds, Series 2016-A.

Section 502. Deposit of Bond Proceeds.

The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds as follows:

- (a) All accrued interest (if any) received from the sale of the Bonds shall be deposited in the Debt Service Account.
- (b) The sum of \$[_____] shall be transferred to the Escrow Agent for deposit in the Costs of Issuance Account and applied in accordance with the Escrow Agreement.
- (c) The sum of \$[_____] shall be deposited in the Escrow Fund for Advance Refunded Bonds.
- (d) The remaining balance of the proceeds derived from the sale of the Bonds shall be deposited to the Redemption Fund.

Section 503. Application of Moneys in the Redemption Fund.

Moneys and Escrowed Securities in the Redemption Fund shall be paid and transferred to the respective Refunded Bonds Paying Agent, with irrevocable instructions to apply such amount to the

payment of the Current Refunded Bonds on the respective Refunded Bonds Redemption Date. The Clerk is authorized and instructed to provide appropriate notice of redemption in accordance with the respective Refunded Bonds Resolution authorizing the issuance of such Current Refunded Bonds. Any moneys remaining in the Redemption Fund not needed to retire the Current Refunded Bonds shall be transferred to the Debt Service Account.

Section 504. Application of Moneys in Debt Service Account.

All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the principal or Redemption Price of and interest on the Bonds as and when the same become due and the usual and customary fees and expenses of the Bond Registrar and Paying Agent. The Treasurer is authorized and directed to withdraw from the Debt Service Account sums sufficient to pay both principal or Redemption Price of and interest on the Bonds and the fees and expenses of the Bond Registrar and Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Bond Registrar and Paying Agent will become due. If, through the lapse of time or otherwise, the Owners of Bonds are no longer entitled to enforce payment of the Bonds or the interest thereon, the Paying Agent shall return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Bond Resolution and shall be held in trust by the Paying Agent for the benefit of the Owners of the Bonds entitled to payment from such moneys.

Any moneys or investments remaining in the Debt Service Account after the retirement of the Bonds shall be transferred and paid into the Bond and Interest Fund.

Section 505. Application of Moneys in the Rebate Fund.

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Federal Tax Certificate), for payment to the United States of America, and neither the Issuer nor the Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Federal Tax Certificate.

(b) The Issuer shall periodically determine the arbitrage rebate, if any, under Code § 148(f) in accordance with the Federal Tax Certificate, and the Issuer shall make payments to the United States of America at the times and in the amounts determined under the Federal Tax Certificate. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be deposited into the Bond and Interest Fund.

(c) Notwithstanding any other provision of this Bond Resolution, including in particular *Article VII* hereof, the obligation to pay arbitrage rebate to the United States of America and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Section 506. Deposits and Investment of Moneys.

Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any

other state or the United States: (a) which has a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositaries shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

Moneys held in any Fund or Account may be invested in accordance with this Bond Resolution and the Federal Tax Certificate in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any Fund or Account shall accrue to and become a part of such Fund or Account; provided that, during the period of construction of the Improvements, earnings on the investment of such funds may, at the discretion of the Issuer, be credited to the Debt Service Account.

Section 507. Application of Moneys in the Costs of Issuance Account.

Moneys in the Costs of Issuance Account shall be used by the Escrow Agent to pay the Costs of Issuance. Any funds remaining in the Costs of Issuance Account, after payment of all Costs of Issuance, but not later than the later of 30 days prior to the first Stated Maturity of principal or one year after the date of issuance of the Bonds, shall be transferred to Debt Service Account.

Section 508. Application of Moneys in the Escrow Fund.

Under the Escrow Agreement, the Escrow Agent will apply moneys in the Escrow Fund to purchase the Escrowed Securities and to establish an initial cash balance in accordance with the Escrow Agreement. The cash and Escrowed Securities held in the Escrow Fund will be applied by the Escrow Agent solely in the manner authorized by the Escrow Agreement. All money deposited with the Escrow Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in the Refunded Bond Resolutions and the Escrow Agreement.

Section 509. Verification of Certified Public Accountant.

Prior to or concurrently with the issuance and delivery of the Bonds and the creation of the Escrow Fund, the Issuer shall obtain a Verification Report from an independent certified public accountant that such accountant has verified the accuracy of the calculations that demonstrate that the money and obligations required to be deposited with the Escrow Agent pursuant to this *Article V* and the Escrow Agreement, together with the earnings to accrue thereon, will be sufficient for the timely payment of the principal of, redemption premium, if any, and interest on the Advance Refunded Bonds in accordance with the Escrow Agreement.

ARTICLE VI

DEFAULT AND REMEDIES

Section 601. Remedies. The provisions of the Bond Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Owners of the Bonds.

If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the Issuer and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Bond Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

Section 602. Limitation on Rights of Owners. The covenants and agreements of the Issuer contained herein and in the Bonds shall be for the equal benefit, protection, and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Bond Resolution. No one or more Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Outstanding Bonds.

Section 603. Remedies Cumulative. No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds by this Bond Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

Section 701. Defeasance. When any or all of the Bonds, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in

this Bond Resolution and the pledge of the Issuer's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Bond Resolution if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of or Redemption Price of said Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. If the amount to be so deposited is based on the Redemption Price of any Bonds, no such satisfaction shall occur until (a) the Issuer has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Issuer has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Bond Registrar to give such notice of redemption in compliance with *Article III* hereof. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Bond Resolution.

ARTICLE VIII

TAX COVENANTS

Section 801. General Covenants. The Issuer covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor, Clerk and Director of Finance are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

Section 802. Survival of Covenants. The covenants contained in this Article and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to *Article VII* hereof or any other provision of this Bond Resolution until such time as is set forth in the Federal Tax Certificate.

ARTICLE IX

CONTINUING DISCLOSURE REQUIREMENTS

Section 901. Disclosure Requirements. The Issuer hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Undertaking, the provisions of which are incorporated herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

Section 902. Failure to Comply with Continuing Disclosure Requirements. In the event the Issuer fails to comply in a timely manner with its covenants contained in the preceding section, the Purchaser and/or any Beneficial Owner may make demand for such compliance by written notice to the Issuer. In the event the Issuer does not remedy such noncompliance within 10 days of receipt of such written notice, the Purchaser or any Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy, as the Purchaser and/or any Beneficial Owner shall deem effectual to protect and enforce any of the duties of the Issuer under such preceding section. Notwithstanding any other provision of this Bond Resolution, failure of the Issuer to comply with its covenants contained in the preceding section shall not be considered an Event of Default under this Bond Resolution.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 1001. Annual Audit. Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements of the Issuer for the preceding Fiscal Year by an Independent Accountant. Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk. Such audit shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any Owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer or Owner. Upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner. As soon as possible after the completion of the annual audit, the Governing Body shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Bond Resolution, the Issuer shall promptly cure such deficiency.

Section 1002. Amendments. The rights and duties of the Issuer and the Owners, and the terms and provisions of the Bonds or of this Bond Resolution, may be amended or modified at any time in any respect by resolution of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the Issuer is required to pay as principal of or interest on any Bond;
- (c) permit preference or priority of any Bond over any other Bond; or
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Bond Resolution.

Any provision of the Bonds or of this Bond Resolution may, however, be amended or modified by resolution duly adopted by the Governing Body at any time in any legal respect with the written consent of the Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Owners, the Issuer may amend or supplement this Bond Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein, to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners, to conform this Bond Resolution to the Code or future applicable federal law concerning tax-exempt obligations, or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Bonds or of this Bond Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution adopted by the Governing Body amending or supplementing the provisions of this Bond Resolution and shall be deemed to be a part of this Bond Resolution. A certified copy of every such amendatory or supplemental resolution, if any, and a certified copy of this Bond Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Bond Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental resolution or of this Bond Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the resolution of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Bond Resolution which affects the duties or obligations of the Paying Agent under this Bond Resolution.

Section 1003. Notices, Consents and Other Instruments by Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Bond Resolution, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Bond Resolution, Bonds owned by the Issuer shall be disregarded and deemed not to be Outstanding under this

Bond Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Owners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer.

Section 1004. Notices. Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Bond Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly mailed by registered or certified mail, postage prepaid; or (b) communicated via fax, with electronic or telephonic confirmation of receipt. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent and the Purchaser may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

All notices given by: (a) certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed; (b) fax as aforesaid shall be deemed duly given as of the date of confirmation of receipt. If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Paying Agent shall constitute a sufficient notice.

Section 1005. Electronic Transactions. The issuance of the Bonds and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means.

Section 1006. Further Authority. The officers and officials of the Issuer, including the Mayor, Clerk, and Director of Finance are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Bond Resolution and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 1007. Severability. If any section or other part of this Bond Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Bond Resolution.

Section 1008. Governing Law. This Bond Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1009. Effective Date. This Bond Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

ADOPTED by the City Commission on November 22, 2016.

(SEAL)

Mayor

ATTEST:

Clerk

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**EXHIBIT A
(FORM OF BONDS)**

**REGISTERED
NUMBER** __

**REGISTERED
\$**

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York Corporation (“DTC”), to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**UNITED STATES OF AMERICA
STATE OF KANSAS
COUNTY OF ELLIS
CITY OF HAYS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2016-A**

**Interest
Rate:** __%

**Maturity
Date:** September 1, 20__

**Dated
Date:** December 15, 2016

CUSIP:

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Hays, in the County of Ellis, State of Kansas (the “Issuer”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the Principal Amount shown above on the Maturity Date shown above, unless called for redemption prior to said Maturity Date, and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable semiannually on March 1 and September 1 of each year, commencing March 1, 2017 (the “Interest Payment Dates”), until the Principal Amount has been paid.

Method and Place of Payment. The principal or redemption price of this Bond shall be paid at maturity or upon earlier redemption to the person in whose name this Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Bond at the principal office of the Treasurer of the State of Kansas, Topeka, Kansas (the “Paying Agent” and “Bond Registrar”). The interest payable on this Bond on any Interest Payment Date shall be paid to the person in whose name this Bond is registered on the registration books maintained by the Bond Registrar at the close of business on

the Record Date(s) for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding the Interest Payment Date. Such interest shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal or redemption price of and interest on the Bonds shall be payable in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest not punctually paid will be paid in the manner established in the within defined Bond Resolution.

Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the hereinafter defined Bond Resolution.

Authorization of Bonds. This Bond is one of an authorized series of Bonds of the Issuer designated “General Obligation Refunding Bonds, Series 2016-A,” aggregating the principal amount of \$[PRINCIPAL AMOUNT] (the “Bonds”) issued for the purposes set forth in the Ordinance of the Issuer authorizing the issuance of the Bonds and the Resolution of the Issuer prescribing the form and details of the Bonds (collectively, the “Bond Resolution”). The Bonds are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, and K.S.A. 10-620 *et seq.*, all as amended and supplemented from time to time, and all other provisions of the laws of the State of Kansas applicable thereto.

General Obligations. The Bonds constitute general obligations of the Issuer payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of improvements financed by the Refunded Bonds and, if not so paid, 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 Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Redemption Prior to Maturity. The Bonds are subject to redemption prior to maturity, as provided in the Bond Resolution.

Book-Entry System. The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Bond Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature or with respect to each form of Bonds, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository’s participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Issuer and the Bond Registrar will recognize the Securities Depository nominee, while the Registered Owner of this Bond, as the owner of this Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by

participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer and the Bond Registrar will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Bond shall be made in accordance with existing arrangements among the Issuer, the Bond Registrar and the Securities Depository.

Transfer and Exchange. EXCEPT AS OTHERWISE PROVIDED IN THE BOND RESOLUTION, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY. This Bond may be transferred or exchanged, as provided in the Bond Resolution, only on the Bond Register kept for that purpose at the principal office of the Bond Registrar, upon surrender of this Bond, together with a written instrument of transfer or authorization for exchange satisfactory to the Bond Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any Authorized Denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Issuer shall pay all costs incurred in connection with the issuance, payment and initial registration of the Bonds and the cost of a reasonable supply of bond blanks. The Issuer and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Bonds are issued in fully registered form in Authorized Denominations.

Authentication. This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the hereinafter defined Bond Resolution until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Bond Registrar.

IT IS HEREBY DECLARED AND CERTIFIED that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and laws of the State of Kansas, and that the total indebtedness of the Issuer, including this series of bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk, and its seal to be affixed hereto or imprinted hereon.

CITY OF HAYS, KANSAS

[(Facsimile Seal)]

By: _____ (facsimile)
Mayor

ATTEST:

By: _____ (facsimile)
Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of a series of General Obligation Refunding Bonds, Series 2016-A, of the City of Hays, Kansas, described in the within-mentioned Bond Resolution.

Registration Date _____

Office of the State Treasurer,
Topeka, Kansas,
as Bond Registrar and Paying Agent

By: _____

Registration Number _____

CERTIFICATE OF CLERK

STATE OF KANSAS)
) SS.
COUNTY OF ELLIS)

The undersigned, Clerk of the City of Hays, Kansas, does hereby certify that the within Bond has been duly registered in my office according to law as of December 15, 2016.

WITNESS my hand and official seal.

(Facsimile Seal)

By: _____ (facsimile)
Clerk

CERTIFICATE OF STATE TREASURER

OFFICE OF THE TREASURER, STATE OF KANSAS

RON ESTES, Treasurer of the State of Kansas, does hereby certify that a transcript of the proceedings leading up to the issuance of this Bond has been filed in the office of the State Treasurer, and that this Bond was registered in such office according to law on _____.

WITNESS my hand and official seal.

(Seal)

By: _____
Treasurer of the State of Kansas

BOND ASSIGNMENT

FOR VALUE RECEIVED, the undersigned do(es) hereby sell, assign and transfer to

(Name and Address)

(Social Security or Taxpayer Identification No.)

the Bond to which this assignment is affixed in the outstanding principal amount of \$_____, standing in the name of the undersigned on the books of the Bond Registrar. The undersigned do(es) hereby irrevocably constitute and appoint _____ as agent to transfer said Bond on the books of said Bond Registrar with full power of substitution in the premises.

Dated _____

Name

Social Security or
Taxpayer Identification No.

Signature (Sign here exactly as name(s)
appear on the face of Certificate)

Signature guarantee:

By _____

LEGAL OPINION

The following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Bond Counsel, which was dated and issued as of the date of original issuance and delivery of such Bonds:

GILMORE & BELL, P.C.
Attorneys at Law
2405 Grand Boulevard
Suite 1100
Kansas City, Missouri 64108

(PRINTED LEGAL OPINION)
