

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF MCPHERSON, KANSAS
HELD ON AUGUST 7, 2017**

The governing body met in regular session at the usual meeting place in the City, at 8:30 a.m., the following members being present and participating, to-wit:

Present: Mayor Thomas A. Brown, Commissioner Robert D. Moore, Commissioner Larry E. Wiens

Absent: None

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

(Other Proceedings)

The Mayor opened a public hearing for the purpose of receiving written or oral comments regarding the creation of a Community Improvement District and the imposition of a CID Sales Tax to be levied within the District. Thereafter, the Mayor adjourned the public hearing.

There was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING THE CREATION OF A COMMUNITY
IMPROVEMENT DISTRICT (PLAZA EAST PLACE) IN THE CITY OF
MCPHERSON, KANSAS, AND ACTIONS RELATED THERETO.**

Commissioner Wiens moved that the Ordinance be passed. The motion was seconded by Commissioner Moore. The Ordinance was duly read and considered, and upon being put, the motion for passage was carried by the following vote of the governing body:

Yea: Brown, Moore, and Wiens

Nay: None

The Mayor declared the Ordinance duly passed and it was then numbered Ordinance No. 3248, was signed by the Mayor and attested by the Assistant Clerk, was directed to be published one time in the official newspaper of the City and recorded with the Register of Deeds of McPherson County, Kansas.

(Other Proceedings)

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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 McPherson, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

Assistant Clerk

(Published in *The McPherson Sentinel* on August 9, 2017)

ORDINANCE NO. 3248

AN ORDINANCE AUTHORIZING THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT (PLAZA EAST PLACE) IN THE CITY OF MCPHERSON, KANSAS, AND ACTIONS RELATED THERETO.

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, the City of McPherson, Kansas (the “City”) is a city within the meaning of the Act; and

WHEREAS, a petition (the “Petition”) was filed with the City requesting that: (a) the community improvement district described therein (the “District”) be created; (b) the City levy a community improvement district sales tax within the District in the amount of 2.0% (the “CID Sales Tax”); (c) the costs of the proposed community improvement district project, interest on financing, associated costs of issuance and necessary reserves, if any, be financed by the issuance of bonds consisting of special obligation bonds of the City, as described in the Act and as provided in K.S.A. 12-6a35 (the “Special Obligation Bonds”), and the imposition of the CID Sales Tax; and (d) the City waive the portion of the City’s Community Improvement District Policy relating to the prohibition on issuing special obligation bonds in order to allow the issuance of the Special Obligation Bonds for this community improvement district project; and

WHEREAS, the Petition was signed by the owners of record, whether resident or not, of: (a) more than fifty-five (55%) of the land area within the District and (b) more than fifty-five (55%) by assessed value of the land area within the 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 City Commission of the City (the “Governing Body”) adopted Resolution No. 17-13 on July 17, 2017 (the “Resolution”) directing that a public hearing on the proposed District be held on August 7, 2017, declaring an intent to levy the CID Sales Tax, and directing the Clerk to provide for notice of such public hearing as set forth in the Act; and

WHEREAS, the Resolution contained the following information: (a) the time and place of the hearing; (b) the general nature of the proposed community improvement district project; (c) the estimated costs of the proposed community improvement district project; (d) the proposed method of financing the

costs of the community improvement district project; (e) the proposed amount of the community improvement district sales tax; and (f) the map or boundary description of the proposed District, and the Resolution was mailed (by certified mail) to all property owners within the proposed District on July 19, 2017, and published once each week for two (2) consecutive weeks in the *McPherson Sentinel* on July 20, 2017 and July 27, 2017; and

WHEREAS, notice of such public hearing was duly given in accordance with the provisions of the Act; and

WHEREAS, on August 7, 2017, the Governing Body conducted a public hearing (the “Public Hearing”) on the proposed District, the proposed community improvement district project, maximum costs thereof and the imposition of the CID Sales Tax; and

WHEREAS, a portion of the signers of the Petition have presented to the Governing Body a proposed Development Agreement dated August 7, 2017 (the “Development Agreement”) among themselves and the City that establishes the duties and responsibilities of the parties thereto with respect to the District and the Project; and

WHEREAS, the Governing Body hereby finds and determines it to be advisable to create the District, establish the boundaries thereof, authorize a community improvement district project relating thereto, approve the estimated costs of such community improvement district project, and approve the CID Sales Tax, all in accordance with the provisions of the Act, and to enter into the Development Agreement.

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

Section 1. Creation of District; Boundaries. Based on the Petition and the information provided at the Public Hearing, the Governing Body hereby creates the District within the City, which shall be designated as the “Community Improvement District – Plaza East Place.” The District shall contain within its boundaries the real property legally described in *Exhibit A* attached hereto and the boundaries of which are contained in a map of the District attached as *Exhibit B* attached hereto.

Section 2. Authorization of District Projects; Estimated Costs. The proposed project to be undertaken within the District (the “Project”) consists of the construction of street improvements to Plaza East Place to serve the area described as the District. The total estimated design, construction and inspection costs of the proposed Project are \$630,588.95.

Section 3. Method of Financing. The costs of the proposed Project, interest on financing, associated costs of issuance and necessary reserves, if any, are proposed to be financed by the issuance of Special Obligation Bonds of the City as provided in K.S.A. 12-6a35, and the imposition of the CID Sales Tax in the amount of 2.0% on the selling of tangible personal property at retail or rendering or furnishing of taxable services within the proposed District as provided in K.S.A. 12-6a31. The Special Obligation Bonds will be repaid solely from a pledge of the revenues received from the imposition of the CID Sales Tax. The proceeds of the Special Obligation Bonds and the proceeds of the CID Sales Tax remitted to the City will be credited to a separate fund of the City created for the District pursuant to K.S.A. 12-6a34. The City will retain an on-going administrative service fee from the proceeds of the CID Sales Tax, in an amount equal to 5% of the total eligible costs of the Project, as the administrator of the District. The City has heretofore waived the portion of the City’s Community Improvement District Policy relating to the prohibition on issuing special obligation bonds in order to allow the issuance of the Special Obligation Bonds for this Project. The issuance of Special Obligation Bonds rests solely with the Governing Body

of the City and the creation of the District does not obligate the City to issue the Special Obligation Bonds. No assessments for the Project will be levied on property within the proposed District. A fund is hereby established for the District in accordance with the provisions of the Act.

Section 4. Approval of Development Agreement. The Development Agreement is hereby approved. The Mayor and Clerk are hereby authorized to execute the Development Agreement in the substantially the form presented to the Governing Body this date, with such changes as may be approved by the City Attorney.

Section 5. Levy of Sales Tax. In order to provide funds to finance the Project Costs, the levy of the CID Sales Tax within the District in an amount of 2.0% on the selling of tangible personal property at retail or rendering or furnishing services within the District is authorized and directed. The collection of the CID Sales Tax shall commence on the first available date after passage of this Ordinance and submission of the same to the State Director of Taxation, and shall expire upon the earlier of the following: (a) 22 years from such commencement date, or (b) when sufficient proceeds have been raised to pay the costs of the Project, including the City's administrative costs the debt service requirements on the Special Obligation Bonds. The CID Sales Tax shall be administered, collected and subject to the provisions of K.S.A. 12-187 *et seq.* and **Section 4** of the Development Agreement. The Clerk shall provide a certified copy of this ordinance to the State Director of Taxation pursuant to provisions of K.S.A. 12-187 *et seq.* and **Section 4** of 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, approval by the Mayor and publication in the official City newspaper.

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PASSED by the City Commission on August 7, 2017, and **SIGNED** by the Mayor.

(SEAL)

Mayor

ATTEST:

Assistant Clerk

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CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on August 7, 2017; that the record of the final vote on its passage is found on page ___ of journal ____; and that the Ordinance was published in *The McPherson Sentinel* on August 9, 2017.

DATED: August 9, 2017.

Assistant Clerk

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EXHIBIT A
Legal Description of the District

TRACT IIA: Commencing at the SW corner of the NW Quarter (NW1/4) of Section Twenty-six (26), Township Nineteen (19) South, Range Three (3) West of the Sixth Principal Meridian; thence East along the S line of said NW1/4 976.65 feet to a point that is 5.00 feet East of the SW corner of Block Four (4), platted; thence with a deflection angle 90 degrees 37 minutes 17 seconds left- North along the East right-of-way line of Champlin Street 135.54 feet to the point of beginning; thence continuing North without deflection 236.32 feet (platted 236.24 feet) to the North line of South Front Street as originally platted and now vacated; thence with a deflection angle 87 degrees 13 minutes 55 seconds right- East along the North line of said vacated South Front Street 174.31 feet (platted 244.89 feet); thence with a deflection angle 90 degrees 00 minutes 00 seconds right- west 174.11 feet to the point of beginning, McPherson County, Kansas, according to the recorded plat hereof.

TRACT IAI: Plaza East Addition Amended 2014 Final Planned Unit Development Plan and Plan, a Planned Unit Development in the West Half (W 1/2) of Section Twenty-six (26), Township Nineteen (19) South, Range Three (3) West of the Sixth Principal Meridian, City of McPherson, McPherson County, Kansas, according to the recorded plat thereof.

TRACT IA2: Plaza East Addition Amended 2014 Final Planned Unit Development Plan and Plat, in the West Half of Section 26, Township 19 South, Range 3 West of the 6th P.M. to the City of McPherson, McPherson County, Kansas as recorded in Plat Book C, Page 40.

TRACT IIB1: Beginning at a point 60.00' south of the southeast corner of Tract IA2 as shown in the April 2014 Amendment to Final P.U.D. Plan of Plaza East Addition, McPherson, Kansas; thence N90°00'00"E, 448.85' to a curve to the left; thence along said curve of radius 55.00', chord length of 52.44'; chord bearing S61°31'40"E, and curve length of 54.66' to the west line of Tract III; thence S00°00'00"W, 60.48' to the southwest corner of said Tract III, thence S00°00'00"W, 80.00'; thence S48°17'17"W, 616.14'; thence S90°00'00"W, 75.00' to the southeast corner of Tract I; thence N00°00'00"E, 395.13'; thence N90°00'00"E, 40.00'; thence N00°00'00"E, 180.21' to the point of beginning containing 4.72 acres more or less.

TRACT IIB2: A part of Tract IIB as shown in the Plaza East Addition Amended 2014 Planned Unit Development Plan and Plat, McPherson, Kansas, beginning at the Southeast Corner of Tract IA2 as shown in the Plaza East Addition Amended 2014 Planned Unit Development Plan and Plat as recorded in Plat Book C, Page 40 at the McPherson County register of Deeds Office; thence N00°03'13"W (N90°00'00"E, 175.97 Rec.) 175.82'; thence N05°21'36"E (N04°39'01"E Rec., 60.00' Rec.) 60.18' to the Northeast corner of Tract IA2; thence S85°04'17"E (S85°20'59"E, 200.75' Rec.) 201.43' to the Northwest corner of Tract IIC; thence S00°03'22"E (S00°00'00"W, 219.42' Rec.) 220.04' to the Southwest corner of Tract IIC; thence N89°33'11"W (S90°00'00"E, 204.95' Calc. Rec.) 206.36' to said point of beginning containing 1.07 acres more or less in the City of McPherson, McPherson County, Kansas.

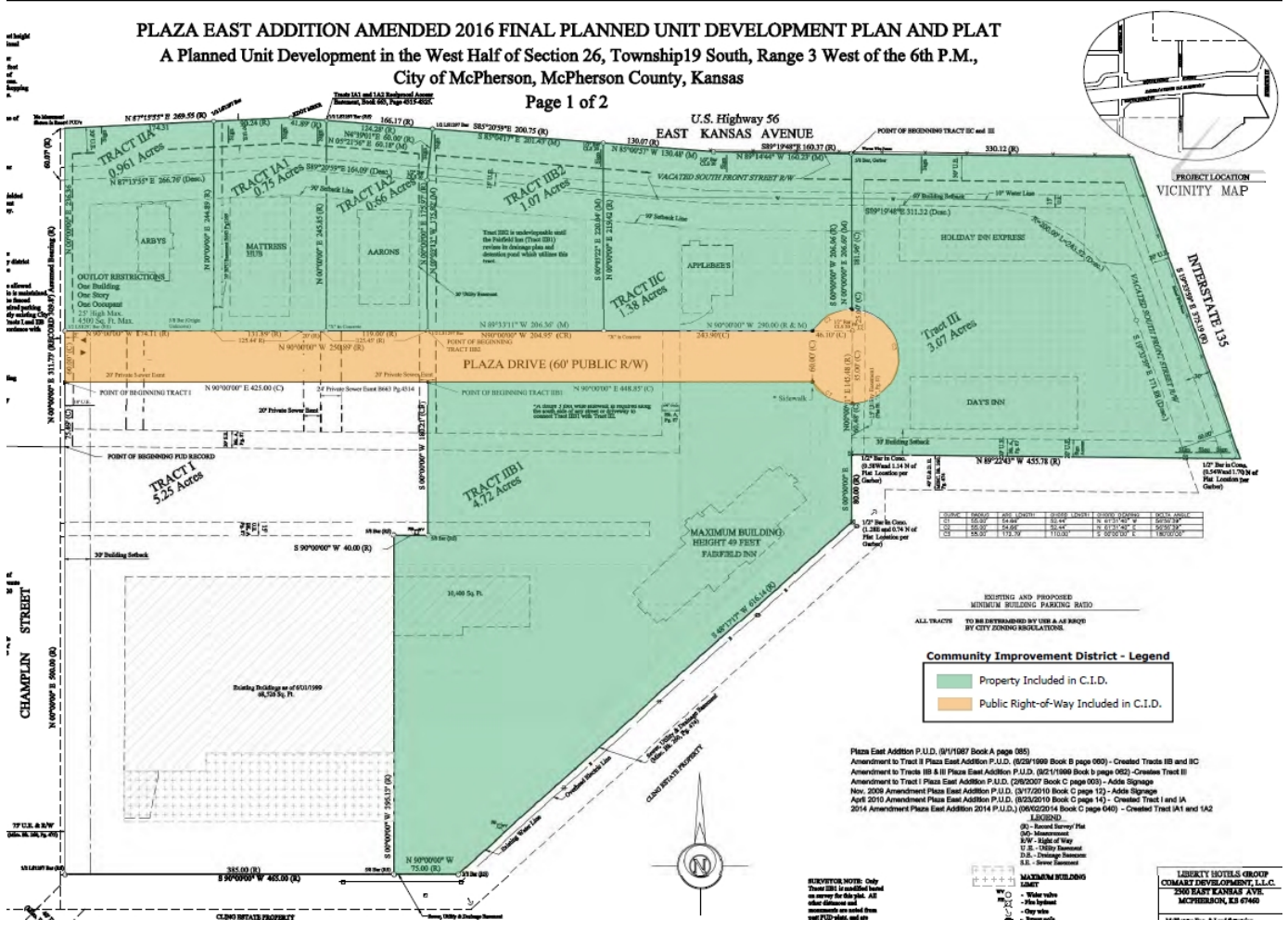
TRACT IIC: Beginning at the northwest corner of Tract III as shown in the Amendment to Tracts IIB and III-Final P.U.D. Plan of Plaza East Addition, McPherson, Kansas; thence N89°19'48"W, 160.37'; thence N85°20'59"W, 130.07'; thence S00°00'00"W, 219.42'; thence N90°00'00"E, 243.90' to a curve to the left, thence along said curve of radius 55.00', chord length of 52.44', chord bearing N61°31'40"E, and curve length of 54.66' to the west line of said Tract III; thence N00°00'00"W, 181.96' to the point of beginning containing 1.38 acres more or less.

TRACT III: Beginning at the northwest corner of Tract III as shown in the Amendment to Tract IIB and III-Final P.U.D. Plan of Plaza East Addition, McPherson, Kansas; thence S89°19'48"E, 330.12'; thence

S19°33'59"E, 375.19'; thence N89°22'23"W, 455.78' to the east line of tract IIB1; thence N00°00'00"E, 60.48' to a curve to the left; thence along said curve of radius 55.00', chord length of 110.00', chord bearing of N00°00'00"E, and curve length of 172.79' to the east line of Tract IIC; thence N00°00'00"E, 181.96' to the point of beginning containing 3.07 acres more or less.

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EXHIBIT B Map of the District



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