

(Published in the Topeka Metro News June 19, 2023)

ORDINANCE NO. 20431

AN ORDINANCE introduced by Acting City Manager Richard U. Nienstedt adopting a Redevelopment Project Plan for the South Topeka Tax Increment Financing (TIF) District pursuant to K.S.A. 12-1770 *et seq.*, as amended.

WHEREAS, on October 11, 2022, the Governing Body established South Topeka Redevelopment District ("District") (Ordinance No. 20378); and

WHEREAS, the City is now considering the adoption of a redevelopment Project Plan for the District (the "Project Plan"), which provides for the redevelopment of the Project Area within the District; and

WHEREAS, on April 17, 2023, the Planning Commission made a finding that the Project Plan is consistent with the intent of the City's comprehensive plan for the development of the City; and

WHEREAS, a copy of the Project Plan was delivered to the Board of County Commissioners of Shawnee County and to the Board of Education of Unified School District No. 501; and

WHEREAS, on May 2, 2023, the Governing Body passed Resolution No. 9408 calling a public hearing for consideration of the Project Plan to be held on June 6, 2023; and

WHEREAS, the Governing Body conducted a public hearing on June 6, 2023, in the City Council Chambers of City Hall, 214 E. 8th Street, at 6:00 p.m., as required by K.S.A. 12-1770 *et seq.*, as amended.

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

29 Section 1. The Governing Body adopts the Project Plan which is attached hereto
30 as Exhibit A and specifically incorporated herein.

31 Section 2. That any substantial changes as defined in K.S.A. 12-1770a, and
32 amendments thereto, to the Project Plan shall be subject to a public hearing and publication
33 of notice in accordance with K.S.A. 12-1770, *et seq.*, and amendments thereto.

34 Section 3. This Ordinance shall take effect and be in force from and after its
35 passage and approval by a two-thirds (2/3) majority vote of the Governing Body, and
36 publication in the official City newspaper.

37 PASSED and APPROVED by the Governing Body June 13, 2023.

38 CITY OF TOPEKA, KANSAS
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44 Michael A. Padilla, Mayor

45 ATTEST:
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50 Brenda Younger, City Clerk
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52 EXHIBIT A (PROJECT PLAN)

EXHIBIT A

Final Version

TAX INCREMENT FINANCING REDEVELOPMENT PROJECT PLAN (SOUTH TOPEKA REDEVELOPMENT DISTRICT)

The Tax Increment Financing Act, K.S.A. 12-1770, et seq., as amended (the “**TIF Act**”), requires that any Redevelopment Project Plan within the City of Topeka, Kansas (the “**City**”) be created in consultation with the City. As part of that consultation, the Planning Commission is required by the TIF Act to determine whether the development components of the Redevelopment Project Plan (“**Project Plan**”) are consistent with the intent of the City’s Comprehensive Plan.

SUBMITTED PURSUANT TO
KS.A. 12-1770 *et seq.*, as amended
SUBMITTED BY
911 WALNUT, INC.

Submitted: April 6, 2023

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	THE PROJECT PLAN	1
A)	Description of the TIF District and Project Area.....	1
B)	Established TIF District	1
C)	Redevelopment Project	2
D)	Summary of Feasibility Study.....	2
E)	Relocation Plan	3

Exhibit A – TIF District Legal Description

Exhibit A-1 – TIF District and Project Area Boundary Map

I. INTRODUCTION

Pursuant to the Kansas Tax Increment Financing Act, K.S.A. 12-1770 et seq., as amended (the “**TIF Act**”), Kansas municipalities are authorized to establish redevelopment districts and redevelopment project plans for property within their jurisdiction. Redevelopment districts may be created based upon certain findings by the municipality, including, that property within a proposed district meets the requirements of a “enterprise zone” as defined by the TIF Act.

On October 11, 2022, the Topeka, Kansas (the “**City**”), after conducting a duly noticed public hearing, found that an enterprise zone exists on the property generally located at the intersection of SW Topeka Boulevard and SW 37th Street within the City. Based in part upon said finding, the City adopted Ordinance No. 20378, creating the South Topeka Redevelopment District encompassing the subject property (the “**TIF District**”) and approving a plan for redevelopment of the TIF District established under K.S.A. 12-1771 and amendments thereto (the “**District Plan**” as further described herein).

This redevelopment project plan (the “**Project Plan**”) for a redevelopment project area (“**Project Area**”) within the TIF District, the general boundaries of which are depicted on **Exhibit A-1** attached hereto, is presented to the City for its consideration and approval, with the maximum twenty (20) year term of the Project Plan to commence upon the effective date as specified in the resolution or ordinance adopting this Project Plan.

II. THE PROJECT PLAN

A. Description of the TIF District and Project Area

The property comprising the TIF District consists of approximately 5.05 acres generally located at the southwest quarter of 32nd Terrace and SW Topeka Boulevard within the City. A legal description and boundary map of the TIF District are attached hereto as **Exhibits A** and **A-1**, respectively. The general boundaries of the Project Area are depicted on **Exhibit A-1**.

B. Established TIF District

The Property is within an established TIF District approved by the City on October 11, 2022, pursuant to Ordinance No. 20378. The approved District Plan contained within the Ordinance provides for certain redevelopment projects within the TIF District. This Project Plan proposes the use of tax increment financing revenues generated by the Project Area to pay for or reimburse the costs of the redevelopment project described below (the “**Redevelopment Project**”).

C. Redevelopment Project

Consistent with the District Plan, the Project Plan for the Redevelopment Project is anticipated to include:

- Approximately three (3) commercial buildings totaling approximately 20,000 sf;

- Construction/installation of associated amenities and infrastructure including surface parking, landscaping, lighting, utilities, storm water improvements, sidewalks/walkways, streets/drives and other infrastructure improvements; and
- Land acquisition and design, legal, brokerage, and other fees and soft costs.

These proposed uses are consistent with the District Plan, as approved by the City.

Implementation of the Project Plan is proposed through a combination of public and private financing as described herein. In addition to private equity and financing and other public financing sources, 911 Walnut, Inc., a Missouri corporation, or its affiliates, assigns or successors (the “**Developer**”) anticipates that the required public financing will include Tax Increment Financing (“**TIF**”). The Developer is requesting reimbursement with TIF revenue as provided in the TIF Act (“**TIF Revenue**”) on a pay-as-you-go basis for certain eligible costs associated with the Redevelopment Project.

D. Summary of Feasibility Study

Columbia Capital Management, LLC, financial advisor to the City, prepared a financial analysis of the Redevelopment Project as required under K.S.A. 12-1772(a)(1) (the “**Feasibility Study**”). A summary of the Feasibility Study is provided below:

The Developer submitted its proposal for the Redevelopment Project to the City for consideration of potential TIF incentives. The Project Area is part of the TIF District. The Redevelopment Project would result in the redevelopment of approximately 5.05 acres at the southwest corner of 32nd St. and Topeka Boulevard to permit construction of approximately three (3) commercial buildings, collectively comprising approximately 20,000 sf of newly constructed commercial space (the “**Project**”). The Developer is in good standing as of March 28, 2023, according to the records of the Missouri Secretary of State.

According to the Project Plan, the Project will result in the demolition of existing structures and construction of approximately (3) commercial buildings, which are anticipated to consist of the following:

Restaurants

The Developer intends to prepare two (2) pad sites along the west side of Topeka Blvd. for the construction by third-parties of two approximately 5,000 sf fast food restaurants.

Retail

The Developer intends to construct a retail strip behind the restaurant pads that is expected to be a multi-tenant retail use.

Related Costs

Developer’s related costs include property acquisition, site preparation (including demolition of existing structures), the construction of infrastructure, landscaping, building improvements, signage, and streetscape improvements.

The total development cost reflected in the Plan is as follows, including costs incurred by third-parties:

USE	TOTAL BUDGET	TIF ELIGIBLE	CID ELIGIBLE
Acquisition & Site Preparation			
Land Acquisition	\$ 250,000	\$ 150,000	\$ 100,000
Site Work Improvements	1,396,815	1,396,815	0
Vertical Construction			
Vertical Building Construction	8,500,000	0	1,371,860
Soft Costs			
Site Permit/Fees	989,682	28,588	50,000
Design/Construction Mgt	989,682	28,588	50,000
Other			
Owner Directed Contingency	296,500	0	0
Furniture, Fixtures & Equipment	1,979,363	0	0
Other	691,849	28,588	0
TOTALS	\$ 15,093,891	\$ 1,632,579	\$ 1,571,860

The Developer's financial modeling relies on an assumption of a capital stack comprised of both debt and equity, plus funds from third parties, applied against total development costs:

SOURCES OF FUNDS	Developer	Others	TOTAL
Debt	\$ 3,408,251	n/a	\$ 3,408,251
Equity	\$ 2,272,167	\$ 9,413,473	\$ 11,685,640
TOTAL SOURCES	\$ 5,680,418	\$ 9,413,473	\$ 15,093,891

Developer expects to sell the pad sites early in the development, reducing its net investment from approximately \$5.7 million to approximately \$3.0 million.

Based upon our review of the information provided by the Developer in the Plan, as supplemented with more detailed information provided to City staff and to us, we find the following:

- the total development costs of the Project are \$15,093,891
- this total development cost will be initially paid through a combination of debt (approximately \$3,408,251) and Developer equity (approximately \$2,272,167), with the balance (approximately \$9,413,473) paid by third-parties
- the future value incentives available to the Developer under the Plan are projected at approximately \$4,200,000. The incentives will be generated over time as TIF and CID

receipts are generated and Developer intends to share a portion of the CID benefit with the eventual owners of the two restaurant pad sites

- the Developer's projected net operating income from the Project at stabilization plus its projected incentives grant in such year exceed its expected costs of servicing the debt in that year and each subsequent year

As such, the Plan's benefits and TIF revenue and other available revenues under subsection (a)(1) of K.S.A. 12-1774, and amendments thereto, are expected to exceed or be sufficient to pay for the Redevelopment Project costs. The Redevelopment Project will have no effect on any outstanding special obligation bonds payable from the revenues described in K.S.A. 12-1774(a)(1)(D), and amendments thereto.

III. RELOCATION PLAN

In the event the City acquires any real property within the Project Area in carrying out the provisions of the TIF Act, and that, as a result, any persons, families and businesses move from real property located in the Project Area or move personal property from real property located in the Project Area, the Developer shall make a \$500 payment to such persons, families and businesses. No persons or families residing in the TIF District shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by such displaced person or family at rents within their ability to pay. Such housing units shall be suitable to the needs of such displaced persons or families and must be decent, safe, sanitary and otherwise standard dwelling. Developer shall provide for payment of any damages sustained by a retailer, as defined in K.S.A. 79-3702, by reason of liquidation of inventories necessitated by relocation from the redevelopment district. Pursuant to the requirements above, it is not anticipated that any relocation assistance will be required as a result of the Redevelopment Project.

EXHIBIT A
TIF DISTRICT
LEGAL DESCRIPTION

Part of Lot 1, Nellie M. Mays Subdivision, located in the Northeast Quarter of Section 13, Township 12 South, Range 15 East of the 6th P.M., City of Topeka, Shawnee County, written by Michael A. Adams, P.S. 1126 on this 8th day of June, 2022, described as follows:

Beginning at the Southwest corner of said Lot 1, thence North 00 degrees 29 minutes 37 seconds East a distance of 413.46 feet to a point of curvature; thence on a curve to the left, having a radius of 360.00 feet, a chord which bears North 14 degrees 47 minutes 16 seconds West a distance of 189.77 feet, an arc distance of 192.04 feet to the Southwest corner of a property described in City of Topeka Ordinance No. 15830, Book 2445, Page 071, filed at the Office of the Shawnee County Clerk; thence on the South line of said property described in Book 2445, Page 071 for the following three courses: South 89 degrees 58 minutes 34 seconds East a distance of 41.92 feet; thence North 42 degrees 30 minutes 24 seconds East a distance of 36.17 feet; thence South 89 degrees 58 minutes 34 seconds East a distance of 340.00 feet to the West line of Lot 3, Arlan's Subdivision in the City of Topeka; thence South 00 degrees 34 minutes 47 seconds West a distance of 158.76 feet to the Southwest corner of said Lot 3; thence North 90 degrees 00 minutes 00 seconds East a distance of 127.32 feet to the Southeast corner of said Lot 3; thence South 00 degrees 32 minutes 51 seconds West a distance of 30.00 feet; thence North 90 degrees 00 minutes 00 seconds East a distance of 29.71 feet; thence South 00 degrees 28 minutes 11 seconds West a distance of 209.22 feet to the North line of Lot 1, Block 'A', Perkins Subdivision in the City of Topeka; thence South 89 degrees 58 minutes 44 seconds West a distance of 126.50 feet to the Northwest corner of said Lot 1; thence South 00 degrees 27 minutes 50 seconds West a distance of 225.17 feet to the Southwest corner of said Lot 1; thence South 89 degrees 57 minutes 42 seconds West a distance of 386.59 feet to the point of beginning. This tract contains 6.16 acres of land more or less. Said tract to be recorded as Lot 1, Block A, Nellie M. Mays Subdivision No. 2, City of Topeka, Shawnee County, Kansas.

Part of Lot 1, Nellie M. Mays Subdivision, a Replat, located in the Northeast Quarter of Section 13, Township 12 South, Range 15 East of the 6th P.M., City of Topeka, Shawnee County, Kansas, written by Travis L. Haizlip, P.S. 1724 on this 31st day of October, 2022, described as follows:

Beginning on the Northeast corner of Lot 1, Nellie M. Mays Subdivision, a Replat; thence South 00 degrees 28 minutes 11 seconds West on the East line of said Lot 1 a distance of 209.06 feet to the Northeast corner of Lot 1, Block 'A', Perkins Subdivision, thence South 89 degrees 58 minutes 44 seconds West on the North line of Lot 1, Perkins Subdivision a distance of 438.52 feet; thence North 00 degrees 28 minutes 11 seconds East a distance of 209.22 feet to the North line of Lot 1, Nellie M. Mays Subdivision, a Replat; thence North 90 degrees 00 minutes 00 seconds East on said North line a distance of 438.52 feet to the point of beginning. This tract contains 2.11 acres of land more or less. Said tract to be platted as Lot 2, Block A, Nellie M. Mays Subdivision No. 2, City of Topeka, Shawnee County, Kansas.

Lot 1, Block A, Perkins Subdivision, in the City of Topeka, Shawnee County, Kansas.

EXHIBIT A-1

TIF DISTRICT AND PROJECT AREA BOUNDARY MAP

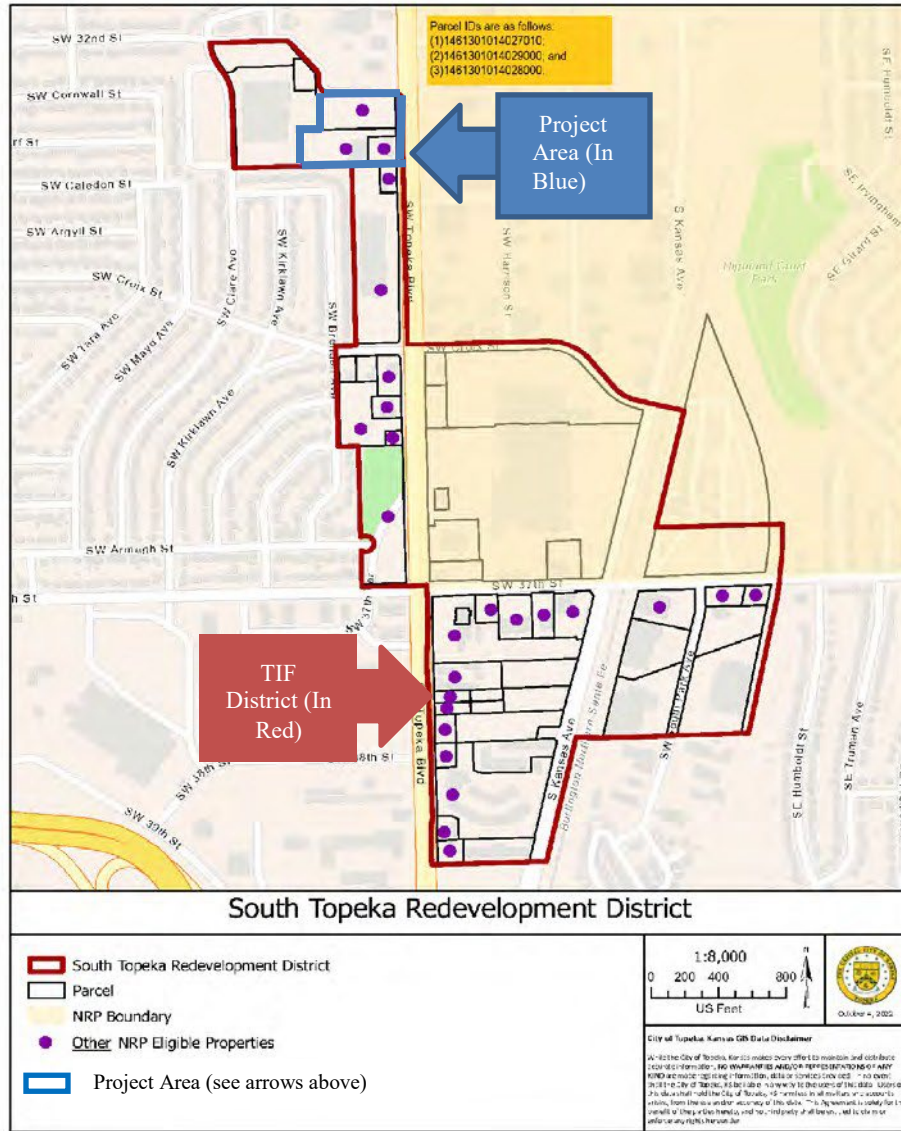


EXHIBIT A-1

PROJECT AREA BOUNDARY: GENERAL DEPICTION

Zoomed in aerial image of Project Area (boundaries generally depicted in blue) provided below.

