

CITY OF MISSION, KANSAS
FINANCE & ADMINISTRATION COMMITTEE

WEDNESDAY, DECEMBER 9, 2020
6:30 P.M.

Meeting Held Virtually via Zoom

In consideration of the COVID-19 social distancing recommendations, this meeting will be held virtually via Zoom (<https://zoom.us/join>). The public may participate with comments by using the “chat” feature, please note all statements are made visible to the group.

Information will be posted, prior to the meeting, on how to join at <https://www.missionks.org/calendar.aspx>. Please contact the Administrative Offices, 913-676-8350, with any questions or concerns.

PUBLIC HEARINGS / PUBLIC COMMENTS

PUBLIC PRESENTATIONS / INFORMATIONAL ONLY

1. Discussion of SMSD Bond Issue - Rushton Rebuild - Ron Appletoft ([page 3](#))

As discussed at the December 2, 2020 Finance & Administration Committee meeting, SMSD Superintendent Dr. Michael Fulton, Deputy Superintendent Dr. Rick Atha, and Chief Communications Officer David Smith will attend the meeting to share information and answer questions regarding the upcoming January 26, 2021 bond issue. More information on the bond issue may be found [here](#). The Council will continue to explore opportunities to educate Mission residents on the upcoming election and the anticipated rebuild of Rushton Elementary School. A copy of the presentation to the Board of Education from October and a copy of the site/facility assessment conducted for Rushton Elementary school is included in the packet for your information.

ACTION ITEMS

2. Ordinance Establishing TIF District 3A, Approving a Project Plan for the Same and Approving a Redevelopment Agreement with - Laura Smith ([page 89](#))

Mission Bowl Apartments, LLC (the “Developer”), has requested the City consider using both TIF and Industrial Revenue Bonds (IRBs) to establish a public-private partnership which would be mutually beneficial for both the City and the Developer. For the last several months City staff, and our development consultant team have been negotiating the specifics of recommended deal points for the project. The results of those negotiations are captured in a memo from the City’s Financial Advisor Bruce Kimmel and in the redevelopment agreement. The final step in authorizing TIF for the Mission Bowl Apartments, LLC project is consideration of an ordinance (1) approving removal of certain real property from

Redevelopment District No. 3; (2) dividing Redevelopment District No. 3 into two; (3) adopting a Redevelopment Project Plan; and, (4) approving execution of a Redevelopment Agreement.

3. Resolution of Intent to Issue IRBs - Mission Bowl Redevelopment Project - Laura Smith ([page 154](#))

In addition to the request for Tax Increment Financing, the Developer has also submitted a formal application to request the issuance of IRBs for the sole purpose of a sales tax exemption on construction materials. The City's Bond Counsel, Gilmore & Bell, has prepared a Resolution which establishes the intent and authority of the City to proceed with the transaction. The IRBs and the associated interest shall be special, limited obligations of the City payable solely out of the amounts derived by the City under a Lease Agreement. The bonds are not a general obligation of the City, and are not backed by the full faith and credit of the City.

4. Agreement for Enforcement of Johnson County Public Health Order - Laura Smith ([page 158](#))

On November 13, 2020, the Johnson County Board of County Commissioners, sitting as the Johnson County Board of Public Health, adopted Johnson County Board of Public Health Order No. 002-20 in an effort to slow the spread of COVID-19 within the County. In order to better allow the County to enforce its own Health Order, the County adopted Resolution No. 108-20 on November 19, 2020 making noncompliance with Order 002-20 a violation of the Johnson County Code. The County has requested that cities within Johnson County approve an agreement specifically allowing for County enforcement of the Health Order. That agreement has been prepared for Council consideration and approval.

5. Mask Protocols at Powell Community Center - Laura Smith ([page 174](#))

In concert with the discussion of the recent Johnson County Public Health order at the December 2, 2020 Finance & Administration Committee meeting, the Council discussed COVID-19 protocols and safety practices at various City facilities, including the Powell Community Center. A request was made to consider modifying the current mask protocols at the Center. The issue is under review by the City attorney and will be presented for further discussion at the Committee meeting. A copy of Governor Kelly's Executive Order regarding masks is included in the packet for reference.

DISCUSSION ITEMS

OTHER

6. Department Updates - Laura Smith

Debbie Kring, Chairperson
Hillary Parker Thomas, Vice-Chairperson
Mission City Hall, 6090 Woodson St
913-676-8350



SHAWNEE MISSION

SCHOOL DISTRICT

October 26, 2020 Strategic Plan Bond Proposal

MISSION:

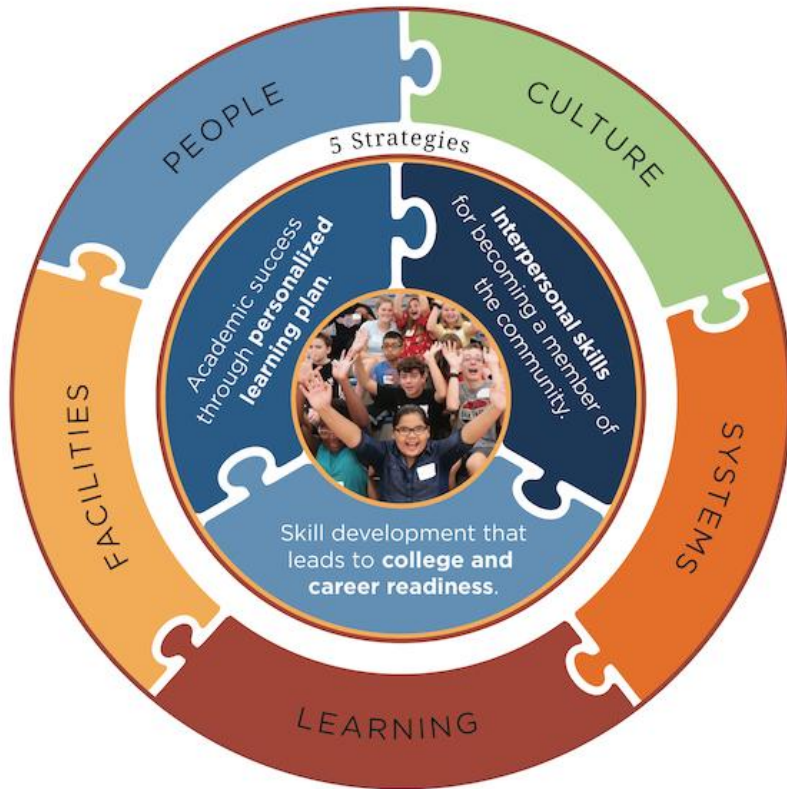
The mission of the Shawnee Mission School District, the bridge to unlimited possibilities yet to be discovered, is to ensure students construct their own foundation for success in life's endeavors through relevant, personalized learning experiences orchestrated by talented, compassionate educators and distinguished by:

- an inclusive culture
- an engaged community
- and robust opportunities that challenge learners to achieve their full potential.

DESTINATION

Every student will:

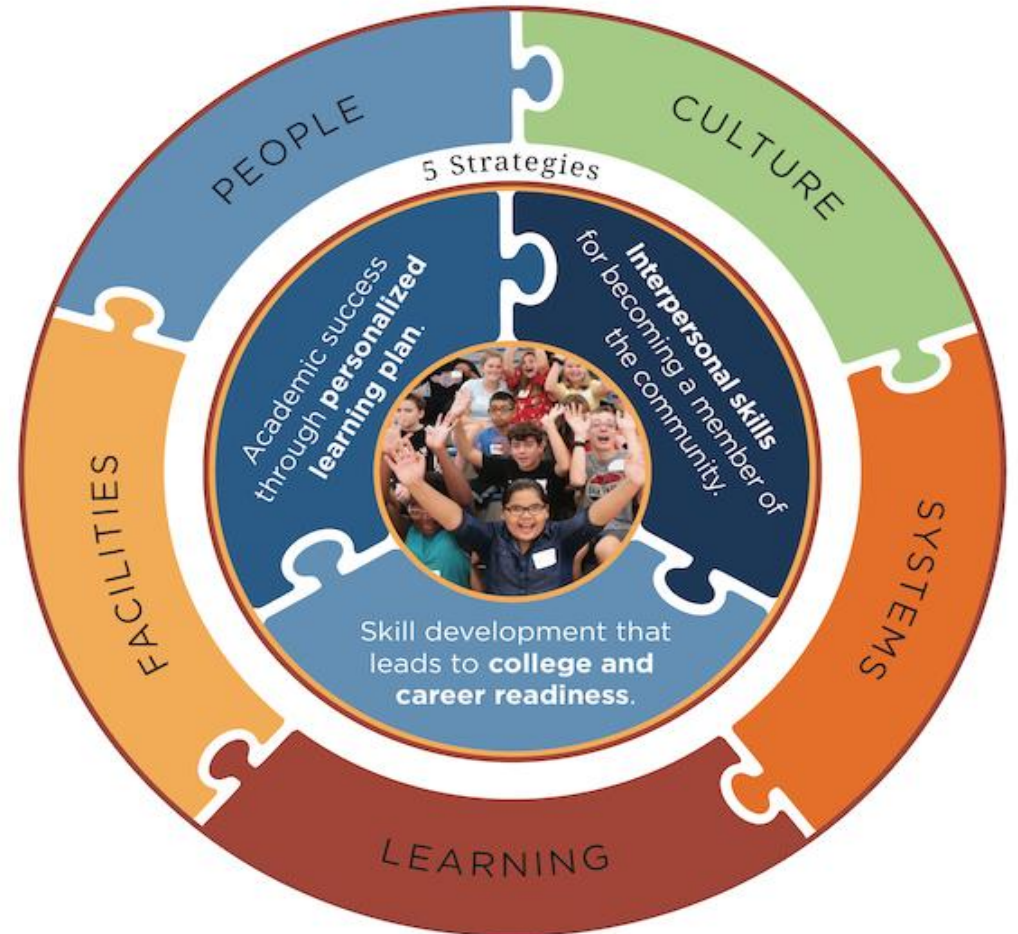
- achieve academic success through a challenging, personalized learning plan
- develop and utilize personal resilience while mastering essential competencies that lead to college and career readiness.
- develop interpersonal skills to be an engaged, empathetic member of the local and global community.



Strategy 4: Action Plan 2: Action Step 2:

Establish process for data review and decision making with a focus on being responsive not reactionary as the strategic plan is implemented over time.

Strategy 5: We will strategically focus resources to support state-of-the-art facilities to accomplish our beliefs, mission, and objectives.



TEACHER PLANNING & COLLABORATION

2020 STRATEGIC PLAN BOND

PROFESSIONAL DEVELOPMENT



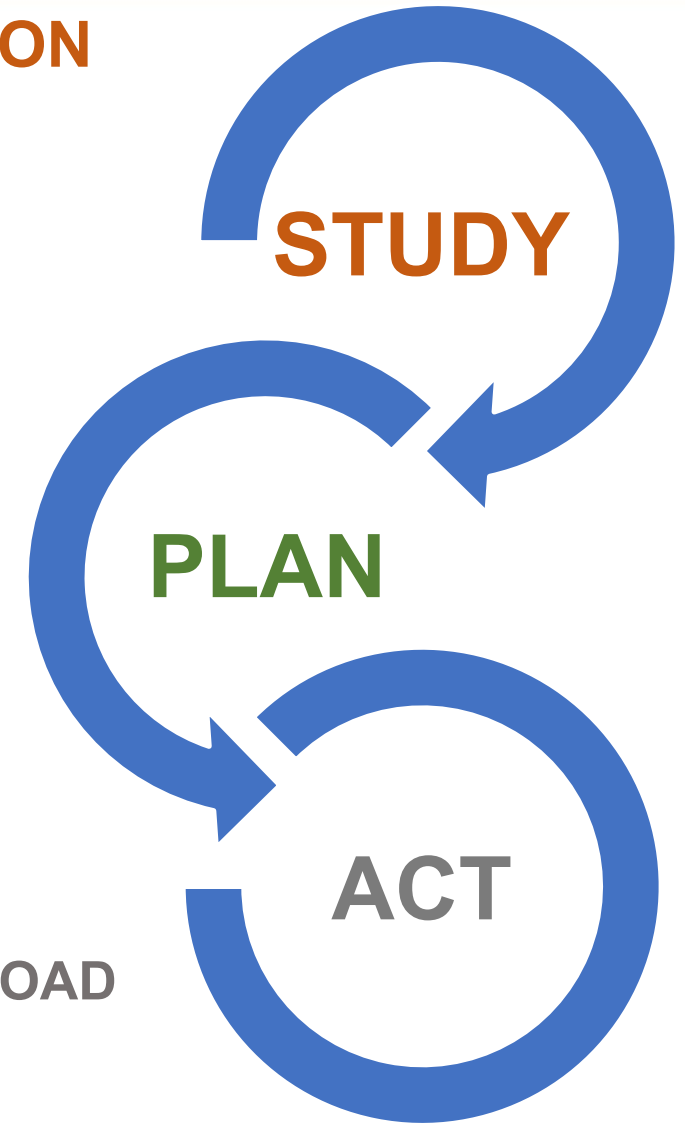
COMPLETION OF THE STUDY PHASE ALLOWED FOR PLANNING

RECOMMENDATIONS:

BOND ISSUE

REDUCE SECONDARY TEACHER WORKLOAD

POLICY AS FISCAL GUARDRAILS



OPERATING FUND

OPERATING FUND IS THE SOURCE FOR:

- salary and benefits, including increases for all employees
- daily operating expenses (e.g. textbooks, supplies, utilities, student transportation)
- cash flow (good practice is 10-15%)
- adding staff

RECOMMENDED GUARDRAIL: Board of Education adopt a policy to maintain a minimum operating fund balance of one month of expenses or 8.3%, whichever is greater.

RATIONALE: KSDE recommends fund balance of 10-15%. Insufficient operating fund balances place the district at risk of not making payroll or paying operating expenses in the event of a delay or unplanned reduction of state payments or county payments.

OPERATING FUNDS NEW STAFFING

Strategy 3:2:2 Quality Educators/Work Environment/Continued

Recommendation: Increase secondary (grades 7-12) certified staff by up to 78.5 FTE to decrease work-load for secondary teachers to ensure every student develops a personalized learning plan that prepares them to be college and career ready and have the interpersonal skills they need for life success.

Two Year Plan*

2021-22 \$2.3M (requires moving custodial/maintenance to capital)

2022-23 \$2.2M (requires moving custodial/maintenance to capital)

\$1.3M (New state operating revenue, \$921,000 committed as a result of IBB)

* Contingent on the state meeting its funding obligations under the current finance formula, and adequate availability and flexibility of district funds as defined by the Board of Education's budgeting process. In the event state budget obligations are not met a revised timeline will be developed based on new budget assumptions. Furthermore, this funding strategy assumes passage of a bond issue in 2020-2021 and a commitment to passing future bond issues.

STRATEGY 5: FACILITIES

5:2:4 Maximize and maintain appropriate bond and capital budgets to enhance district facilities and provide opportunities to increase achievement for all students, staff, and community.

RECOMMENDED GUARDRAIL: Board of Education adopt a policy for a hard cap of 25% expenditures for custodial/maintenance salaries paid out of capital outlay.

Rationale: Exceeding 25% of capital outlay for custodial/maintenance salaries puts the district in long term jeopardy of not having sufficient funds to meet routine and unplanned facility maintenance needs, supporting technology infrastructure and student devices, and furniture replacement. The 25% hard cap assumes that district will use bonds to meet the future planned facility needs, including any elementary school rebuilds.

STRATEGY 5: FACILITIES

5:2:4 Maximize and maintain appropriate bond and capital budgets to enhance district facilities and provide opportunities to increase achievement for all students, staff, and community.

2019-2020 Capital Revenue: \$35,659,859 million

<u>Capital Budget Distribution</u>	<u>2020-2021</u>	<u>2021-2022</u>	<u>2022-2023</u>
Routine Maintenance	36%	28%	40%
Technology	12%	12%	12%
Tech Leases	19%	19%	19%
Equipment/Furniture	5%	4%	4%
Bond Payments	29%	29%	NA
Custodial/Maintenance Salaries	13%	19%*	25%*
Total	114%**	111%**	100%

* \$2.3 M shift from Operating to Capital in 2021-2022 and an additional \$2.2 M in 2022-2023

**The 14% overage in 2020-2021 and 11% in 2021-2022 is covered by capital outlay fund balance

Timeline of Planning Process

2016-2019- Site Evaluation completed based on industry scoring rubric

Spring 2019- Facilities Action Team develop steps related to long-term facility needs

Summer 2019- Board of Education approves Strategic Plan

Fall 2019- Site Councils and Facilities Open House Forums in each district feeder pattern gather input

Spring/Summer 2020- Finance and Facilities Committee reviews finances and bond issue plans

Summer 2020- BOE updates with Community Survey

Fall 2020- BOE updates with Finance and Finance Committee Review of proposed options for bond issue



> Most Immediate Needs <

All Buildings

- > Technology and infrastructure upgrades
- > Security upgrades

Renovations for Early Childhood Center

Career Technology Center Remodel

Specific Schools and Buildings

- > HVAC equipment upgrades and replacement
- > Lighting upgrades
- > ADA upgrades and additions
- > Asphalt upgrades and replacements
- > Roofing upgrades and replacements
- > Security upgrades

Elementary

- > Rebuild up to four to six new elementary schools
- > Playground equipment upgrade/replacement

Middle and High School

- > Selected remodel projects
- > Restroom renovations
- > Furniture upgrades
- > Athletic area upgrades and replacements

Pathway to Address Teacher Workload

- > Capital outlay funds provided through a bond issue is a component of a plan to hire additional secondary certified staff, in order to decrease workload for secondary teachers and ensure this change can be funded sustainably for the long term.

Operating

Capital

Bond



Patron Insight Survey

- 500 interviewed by phone across all feeder patterns.
- Surveys conducted this summer.
- Results shared with Board of Education at August 10 meeting.



Shawnee Mission School District
2020 Community Telephone Survey Results



Results from Patron Insight Survey:

If a bond issue costs:

- \$22 annual increase per \$100,000 home value- 63 % said they would “Strongly Favor/Favor.”
- \$8 annual increase per \$100,000 home value for “fewer projects,” - 78% would “Strongly Favor/Favor.”
- No tax increase for “even fewer projects” - 83% said they would “Strongly Favor/Favor.”



Pathway to Achieve Goals: Option A

\$750M in Bond Issue Projects in the next 18 years with a 2-3% assessed valuation (AV) annual increase

OPTION A (83% Strongly Favor/Favor)

2020 - 2021	\$187.2M	No Tax Rate Increase maintain at 7.434 mills
2025 - 2026	\$350.0M	Tax Rate Increase to 10.973 mills (3.539 increase equals \$41 per \$100K home value)
2032 - 2033	\$212.8M	Tax Rate Increase to 11.274 mills (0.301 increase equals \$3 per \$100K home value)

[Documentation: Bond Option A 20-21 Bond Comprehensive Facilities Needs \\$750,000,000](#)

Pathway to Achieve Goals: Option B

\$750M in Bond Issue Projects in the next 18 years with a 2-3% assessed valuation (AV) annual increase.

OPTION B (63% Strongly Favor/Favor)

2020 - 2021	\$341.2 M	Tax Rate Increase to 10.106 mills (2.672 increase equals \$31 per \$100K home value)
2027 - 2028	\$204.4 M	Tax Rate Increase to 10.609 mills (0.503 increase equals \$6 per \$100K home value)
2032 - 2033	\$204.4 M	Tax Rate Increase to 11.251 mills (0.642 increase equals \$7 per \$100K home value)

[Documentation: Bond Option B 20-21 Bond Comprehensive Facilities Needs \\$750,000,000](#)

Pathway to Achieve Goals: Option C

\$750M in Bond Issue Projects in the next 18 years with a 2-3% assessed valuation (AV) annual increase.

OPTION C (78% Strongly Favor/Favor)

2020 - 2021 \$264.2 M Tax rate increase to 8.142 mills
(0.708 increase equals \$8 per \$100K home value)

2026 - 2027 \$242.9 M Tax rate increase to 10.232 mills
(2.090 increase equals \$24 per \$100K home value)

2032 - 2033 \$242.9 M Tax rate increase to 11.208 mills
(0.976 increase equals \$11 per \$100K home value)

[Documentation: Bond Option C 20-21 Bond Comprehensive Facilities Needs \\$750,000,000](#)

Johnson County School District Mill Levies

Total estimated mill levy by 2032-2033

	Current	Option A	Option B	Option C
Shawnee Mission	52.115	55.955	55.932	55.889
Blue Valley	62.803			
DeSoto	63.479			
Gardner-Edgerton	65.569			
Spring Hill	67.937			
Olathe	69.851			

BOND ISSUE

SUPERINTENDENT RECOMMENDATION: Place a bond referendum on the ballot January 26, 2021, with consideration for:

- level of community support (options A, C)
- creating a fiscally sustainable pathway to reduce secondary teacher workload (options A, B, C)
- maintaining and improving existing facilities (options A, B, C)
- rebuilding older elementary schools (options B, C)
- managing scope of the work (options A, B*, C)

*may require an extended timeline to complete all projects

Next Steps for Board of Education

Reach consensus on scope (Option A, B or C) and date of bond referendum

[Approve a bond resolution](#) (by Oct. 26, 2020 if Jan. 2021 bond referendum)

Place a bond referendum on the ballot (Jan. 26, 2021 is first opportunity)

Educate community on bond referendum

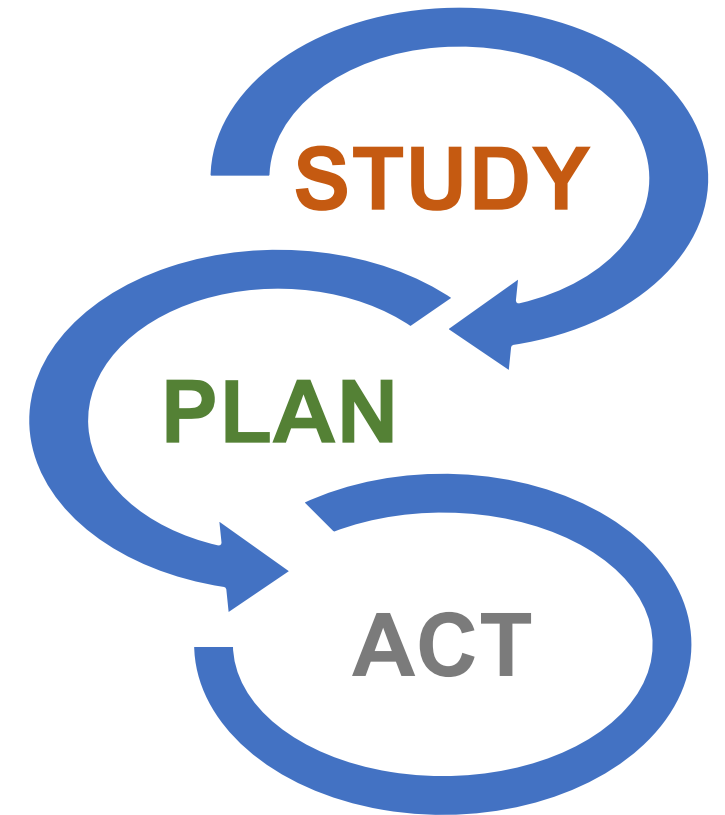
BOND COMMUNICATIONS PLAN

Research

Facility Forums Events and Surveys
Patron Insight Surveys

Results

- \$22 annual increase per \$100,000 home value- 63 % said they would “Strongly Favor/Favor.”
- \$8 annual increase per \$100,000 home value for “fewer projects,”- 78% would “Strongly Favor/Favor.”
- No tax increase for “even fewer projects” - 83% said they would “Strongly Favor/Favor.”



BOND COMMUNICATIONS PLAN

Goal for the Bond

The Shawnee Mission School District will continue to be ranked among the finest school districts in the nation employing exceptional educators who work in state-of-the-art facilities where learners achieve their full potential.



BOND COMMUNICATIONS PLAN

Tagline:

Shawnee Mission Strong



BOND COMMUNICATIONS PLAN

Bond Issue Proposal:

- Supports student learning
- Provides a sustainable pathway to reduce workload for secondary teachers
- Represents thoughtful and transparent long-range planning over the next twenty years, to address SMSD's facilities needs
- Maintains a lower mill levy rate than Johnson County peers

BOND COMMUNICATIONS PLAN

Strategies to Inform

- Inside Shawnee Mission Magazine
- Shawnee Mission Post Friday Column
- Social Media/Internet
 - Facebook
 - Twitter
 - Website
 - Frequently Asked Questions (FAQ)
- Yard Signs
- SMSD Live
- ThoughtExchange
- Key Communicators

BOND COMMUNICATIONS PLAN

Audiences:

- Families
- Teachers
- Staff
- Business Leaders
- Community Members



BOARD DISCUSSION





SHAWNEE MISSION

SCHOOL DISTRICT



RUSHTON ELEMENTARY

FACILITY EVALUATION



OVERALL SUMMARY

ACI Boland Architects along with MFEC and BHC Rhodes Engineers visited each of the elementary schools over a several week process. Each school was evaluated and scored using the A4LE School Facility Appraisal document included in this report. The school's principal and maintenance personnel were present at the building walk-throughs to offer insight into building positives and negatives.

The overall Assessment scores are indicated as follows:

- **Rushton Elementary School** **523 points**
- **Belinder Elementary School** **557 points**
- **Tomahawk Elementary School** **562 points**
- **Rosehill Elementary School** **656 points**
- **East Antioch Elementary School** **669 points**

TABLE OF CONTENTS

SUMMARY	1
APPRAISAL	3
SITE PLAN	19
FLOOR PLAN	21
FACILITY OBSERVATIONS	23
SITE ANALYSIS	45
ARCHITECTURAL NARRATIVE	47
MEP NARRATIVE	49





SUMMARY

Rushton Elementary is a one story school with approximately 360 students from ages Kindergarten through 6th grade. School hours are from 7:30 a.m. to 3:00 p.m. The building is 49,384 s.f. with 18 classrooms, cafeteria, kitchen, gymnasium, library, art, music and administrative areas including nurse's office and staff room. The building is a brick and masonry building with steel roof joists and some concrete structure as well. The roof system is a ballasted built up roof on sloped roof areas and membrane roofing on other flat roof areas with gutters and downspouts. There are no interior permanent ladders to access the roof. There is an HVAC room in the basement and one on main floor. An underground tunnel system exists as part of the original building.

The school is located in a residential neighborhood on 52nd Street. There is a neighborhood park called Water works located south east of the site adjacent to a sewage treatment facility. The rest of the site is surrounded by individual homes. Overhead power lines run through the playground area to the south. The site has some small asphalt parking lots for staff and visitors with sidewalks connecting these areas. Hard and soft surface play areas are provided with appropriate play equipment. A separate bus drop off and parent drop off is accessed off of 52nd Street. There are grass ball fields on the west end of the site. The school building has an interior courtyard with some trees and there are several large mature trees on the rest of the site. Most entries into the building are handicapped accessible.

APPRAISAL

GUIDE FOR

SCHOOL FACILITY APPRAISAL

RUSHTON
ELEMENTARY

APPRAISAL

Directions for Appraising Facilities

Elementary School Appraisal

Prior to evaluating a building, the appraiser should become familiar with the educational program provided within the existing school facility. It is essential to determine other pertinent factors about the facility, which will provide background information sufficient to insure a thorough and accurate appraisal. Particularly helpful are the building's architectural plans, specifications and layout, if these are available. If possible, the school plant should be appraised at a time when school is in session, so that the actual use of the building is more apparent.

Although the Appraisal Guide is designed for individual appraiser use, ideally the school facility should be evaluated at the same time by three to five appraisers. The ratings of each of the appraisers should then be used to arrive at a consensus for each item. The final rating is the result of careful review of the individual scores.

The instrument uses an additive scoring method, with each item having a maximum number of allowable points. A total of 1,000 points is distributed among these six major categories:

<u>Section</u>		<u>Maximum Points</u>
1.0	The School Site	100
2.0	Structural and Mechanical Features	200
3.0	Plant Maintainability	100
4.0	School Building Safety and Security	200
5.0	Educational Adequacy	200
6.0	Environment for Education	200

Prior to Appraisal

Step I

Review the educational program; identify the number of faculty members and students; and examine the floor and plot plans carefully.

Overview of the Building and Grounds

Step II

Upon approach to the site, look for traffic patterns, school safety signs, neighborhood environment, etc. Begin the appraisal by taking a preliminary tour of the entire building noting both exterior and interior features. Information obtained prior to arrival at the campus recorded in the Building Data Record should be verified. The appraisal weights should not be determined during this initial walk through. The appraisal is better accomplished as separate individual steps in the process.

Assignment of Scores

Step III

After the completion of the preliminary inspection, go through the entire instrument section by section. The appraisal will be more accurate if each item is carefully considered, while it is appropriately observed. **Do not try to evaluate from memory** - use actual observation when making the appraisal decision.

Items that are needed/required, but are non-existent, should be given a 0 score. If an item is not needed and is non-existent, full credit should be allowed.

Note the Table of Weights for assistance in determining the score to be given each item. Each item should first be considered in the following terms: Non-Existent, Very Inadequate, Poor, Borderline, Satisfactory and Excellent. The weight (score) should then be assigned for that item. Place score in space provided in the Points Allotted column, total the score for each Section and insert in the space provided. The Section totals should then be tabulated and indicated in the Points Assigned column of the Appraisal Summary. Use the space provided in the Justification for Allocation of Points to provide notes justifying the scores at the extreme ends of the scale (e.g., very inadequate or excellent).

Building Data Record

Name of Appraiser: ACI Boland Architects **Date of Appraisal:** 10/30/2017

Building Name: Rushton Elementary School

Street Address: 6001 West 52nd St.

City, State, Zip Code: Mission, Kansas 66202

Telephone Number(s): 913-993-4900

School District: Shawnee Mission School District

Setting: Urban Suburban Small City Rural

Site Acreage: 6.64 Building Square Footage 49,374

Grades Housed: K thru 6th Student Capacity 357

of Teaching Stations: 18 # of Floors One plus Basement Furnace

Student Enrollment: 357 As of: 11/1/2017

Dates of Construction: Original Building - 1953 Additions and Renovations in 1954, 1955, 1967, 1988, 1993, 1997, 2007 and 2009

Energy Source: Fuel Oil Gas Electric Solar

Air Conditioning: Roof Top Window Units Central Room Units

Heating: Central Roof Top Individual Unit

Forced Air Steam Hot Water

Types of Construction	Exterior Surfacing	Floor Construction
<input checked="" type="checkbox"/> Load Bearing Masonry	<input checked="" type="checkbox"/> Brick	<input type="checkbox"/> Wood Joists
<input type="checkbox"/> Steel Frame	<input type="checkbox"/> Stucco	<input type="checkbox"/> Steel Frame
<input checked="" type="checkbox"/> Concrete Frame	<input type="checkbox"/> Metal	<input checked="" type="checkbox"/> Slab on Grade
<input type="checkbox"/> Wood	<input type="checkbox"/> Wood	<input checked="" type="checkbox"/> Structural Slab
<input checked="" type="checkbox"/> Other <u>Steel roof joists</u>	<input checked="" type="checkbox"/> Other <u>Precast panels</u>	<input type="checkbox"/> Other _____

APPRAISAL GUIDE FOR SCHOOL FACILITIES

Table of Weights and Categories	Maximum Points Allotted	Non-Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
	5	0	1	2	3	4	5
10	0	2	4	6	8	10	
15	0	3	6	9	12	15	
20	0	4	8	12	16	20	
25	0	5	10	15	20	25	

Appraisal Summary	Section	Possible Points	Total Earned	Percent	Rating By Category
	1.0 The School Site	100	67	67%	
	2.0 Structural and Mechanical	200	91	46%	
	3.0 Plant Maintainability	100	71	71%	
	4.0 School Building Safety & Security	200	121	61%	
	5.0 Educational Adequacy	200	87	44%	
	6.0 Environment for Education	200	86	43%	
	TOTAL	1,000	523	52%	

1.0 The School Site

100 Points

1.1	Site is large enough to meet present and future educational needs as defined by state and local requirements.	25	10
1.2	Site is easily accessible and conveniently located for the present and future population.	20	15
1.3	Location is removed from undesirable business, industry, traffic and natural hazards.	10	10
1.4	Site is well landscaped and developed to meet educational needs.	10	8
1.5	Well equipped athletic areas are adequate with sufficient solid-surface parking.	10	7
1.6	Topography is varied enough to provide desirable appearance and without steep inclines.	5	4
1.7	Site has stable, well drained soil free of erosion .	5	4
1.8	Site is suitable for special instructional needs , e.g. outdoor learning.	5	3
1.9	Pedestrian services including adequate sidewalks with designated crosswalks, curb cuts and correct slopes.	5	4
1.10	Sufficient on-site, solid surface parking is provided for faculty, students, staff and community.	5	2
Total - The School Site		100	67

Table of Weights and Categories

Maximum Points Allotted	Non-Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
5	0	1	2	3	4	5
10	0	2	4	6	8	10
20	0	4	8	12	16	20
25	0	5	10	15	20	25

2.0 Structural and Mechanical Features

200 Points

Structural

2.1	Structure meets all barrier-free requirements both externally and internally.	15	6
2.2	Roofs appear sound, have positive drainage, and are weather-tight.	15	7
2.3	Foundations are strong and stable with no observable cracks.	10	8
2.4	Exterior and interior walls have sufficient expansion joints and are free of deterioration.	10	6
2.5	Entrances and exits are located so as to permit efficient student traffic flow.	10	2
2.6	Building "envelope" generally provides for energy conservation (See criteria).	10	2
2.7	Structure is free of friable asbestos and toxic materials .	10	9
2.8	Interior walls permit sufficient flexibility for a variety of class sizes.	10	2

Table of
Weights
and

Categories

Maximum Points Allotted	Non- Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
10	0	2	4	6	8	10
15	0	3	6	9	12	15

Mechanical/Electrical

2.9	Adequate light sources are well maintained, properly placed and are not subject to overheating.	15	10
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2.10	Internal water supply is adequate with sufficient pressure to meet health and safety requirements.	15	5
2.11	Each teaching/learning area has adequate convenient wall outlets , phone and computer cabling for technology applications .	15	3
2.12	Electrical controls are safely protected with disconnect switches easily accessible.	10	5
2.13	Drinking fountains are adequate in number and placement, and are properly maintained including provisions for the disabled.	10	2
2.14	Number and size of restrooms meet requirements .	10	5
2.15	Drainage systems are properly maintained and meet requirements.	10	0
2.16	Fire alarms, smoke detectors and sprinkler systems are properly maintained and meet requirements.	10	8
2.17	Intercommunication system consists of a central unit that allows dependable two-way communication between the office and instructional areas.	10	8
2.18	Exterior water supply is sufficient and available for normal usage.	5	3
Total - Structural and Mechanical Features		200	91

Table of Weights and Categories

Maximum Points Allotted	Non-Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
5	0	1	2	3	4	5
10	0	2	4	6	8	10
15	0	3	6	9	12	15

3.0 Plant Maintainability

100 Points

3.1	Exterior windows, doors and walls are of material and finish requiring minimum maintenance.	15	12
3.2	Floor surfaces throughout the building require minimum care.	15	8
3.3	Ceilings and walls throughout the building, including service areas, are easily cleaned and resistant to stain.	10	6
3.4	Built-in equipment is designed and constructed for ease of maintenance.	10	6
3.5	Finishes and hardware , with a compatible keying system, are of durable quality.	10	10
3.6	Restroom fixtures are wall mounted and of quality finish.	10	8
3.7	Adequate custodial storage space with water and drain is accessible throughout the building.	10	8
3.8	Adequate electrical outlets and power , to permit routine cleaning, are available in every area.	10	5
3.9	Outdoor light fixtures, electric outlets , equipment, and other fixtures are accessible for repair and replacement.	10	8
Total - Plant Maintainability		100	71

Table of
Weights
and
Categories

Maximum Points Allotted	Non- Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
10	0	2	4	6	8	10
15	0	3	6	9	12	15

4.0 Building Safety and Security

200 Points

Site Safety

4.1	Student loading areas are segregated from other vehicular traffic and pedestrian walkways.	15	3
4.2	Walkways , both on and offsite, are available for safety of pedestrians.	10	9
4.3	Access streets have sufficient signals and signs to permit safe entrance to and exit from school area.	5	5
4.4	Vehicular entrances and exits permit safe traffic flow.	5	2
4.5	Athletic field equipment is properly located and is free from hazard.	5	3

Building Safety

4.6	The heating unit(s) is located away from student occupied areas.	20	10
4.7	Multi-story buildings have at least two stairways for student egress.	15	7
4.8	Exterior doors open outward and are equipped with panic hardware.	10	10
4.9	Emergency lighting is provided throughout the building with exit signs on separate electrical circuits.	10	5
4.10	Classroom doors are recessed and open outward.	10	6
4.11	Building security systems are provided to assure uninterrupted operation of the educational program.	10	5

Table of Weights and Categories

Maximum Points Allotted	Non-Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
5	0	1	2	3	4	5
10	0	2	4	6	8	10
15	0	3	6	9	12	15
20	0	4	8	12	16	20

Building Safety (cont.)

4.12	Flooring (including ramps and stairways) is maintained in a nonslip condition.	5	5
4.13	Stairs (interior and exterior) meet standards (maximum 7" rise to 11" tread) and steps range in number from 3 - 16.	5	4
4.14	Glass is properly located and protected with wire or safety material to prevent accidental student injury.	5	3
4.15	Fixed projections in the traffic areas do not extend more than 8" from the corridor wall.	5	1
4.16	Traffic areas terminate at an exit or a stairway leading to an egress.	5	4

Emergency Safety

4.17	Adequate fire safety equipment is properly located.	15	12
4.18	There are at least two independent exits from any point in the building.	15	15
4.19	Fire-resistant materials are used throughout the structure.	15	12
4.20	Automatic and manual emergency alarm system with a distinctive sound and flashing light is provided.	15	0

Total - Building Safety and Security	200	121
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Table of Weights and Categories

Maximum Points Allotted	Non-Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
5	0	1	2	3	4	5
15	0	3	6	9	12	15

5.0 Educational Adequacy

200 Points

Academic Learning Space

5.1	Size of academic learning areas meets desirable standards.	10	1
5.2	Classroom space permits arrangements for small group activity.	10	2
5.3	Location of academic learning areas is near related educational activities and away from disruptive noises.	10	8
5.4	Personal space in the classroom away from group instruction allows privacy time for individual students.	5	0
5.5	Storage for student materials is adequate.	5	5
5.6	Storage for teacher materials is adequate.	5	5

Specialized Learning Space

5.7	Size of specialized learning area(s) meets standards.	15	7
5.8	Design of specialized learning area(s) is compatible with instructional need.	10	7
5.9	Library/Resource/Media Center provides appropriate and attractive space.	15	8
5.10	Gymnasium and outdoor facilities adequately serve physical education instruction.	15	6
5.11	Pre-kindergarten and kindergarten space is appropriate for age of students and nature of instruction.	10	2
5.12	Music Program is provided adequate sound-treated space.	10	6

Table of Weights and Categories

Maximum Points Allotted	Non-Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
5	0	1	2	3	4	5
10	0	2	4	6	8	10
15	0	3	6	9	12	15
25	0	5	10	15	20	25

Specialized Learning Space (cont.)

5.13	Space for art is appropriate for instruction, supplies and equipment.	10	9
5.14	Space for technology education permits use of state-of-the-art equipment.	10	2
5.15	Space for small groups and remedial instruction is provided adjacent to classrooms.	5	2
5.16	Storage for student and teacher material is adequate.	5	5

Support Space

5.17	Teacher's lounge and work areas support teachers as professionals.	10	6
5.18	Cafeteria/Kitchen is attractive with sufficient space for seating/dining, delivery, storage and food preparation.	10	2
5.19	Administrative offices are consistent in appearance and function with the maturity of the students served.	10	1
5.20	Counselor's office insures privacy and sufficient storage.	5	1
5.21	Clinic is near administrative offices and is equipped to meet requirements.	5	1
5.22	Suitable reception space is available for students, teachers and visitors.	5	0
5.23	Administrative personnel are provided sufficient work space and privacy.	5	1

Total - Educational Adequacy

200	87
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Table of
Weights
and
Categories

Maximum Points Allotted	Non- Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
5	0	1	2	3	4	5
10	0	2	4	6	8	10

6.0 Environment for Education

200 Points

Exterior Environment

6.1	Overall design is aesthetically pleasing and appropriate for the age of students.	15	6
6.2	Site and buildings are well landscaped.	10	4
6.3	Exterior noise and surrounding environment do not disrupt learning.	10	8
6.4	Entrances and walkways are sheltered from sun and inclement weather.	10	7
6.5	Building materials provide attractive color and texture.	5	4

Interior Environment

6.6	Color schemes, building materials and decor provide an impetus to learning.	20	8
6.7	Year around comfortable temperature and humidity are provided throughout the building.	15	6
6.8	Ventilating system provides adequate quiet circulation of clean air and meets 15cfm VBC requirement.	15	5
6.9	Lighting system provides proper intensity, diffusion and distribution of illumination.	15	12
6.10	Sufficient drinking fountains and restroom facilities are conveniently located.	15	5
6.11	Communication among students is enhanced by commons area.	10	0

Table of Weights and Categories

Maximum Points Allotted	Non-Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
5	0	1	2	3	4	5
10	0	2	4	6	8	10
15	0	3	6	9	12	15
20	0	4	8	12	16	20

Interior Environment (cont.)

6.12	Traffic flow is aided by appropriate foyers and corridors.	10	4
6.13	Areas for students to interact are suitable to the age group.	10	3
6.14	Large group areas are designed for effective management of students.	10	2
6.15	Acoustical treatment of ceilings, walls and floors provides effective sound control.	10	2
6.16	Window design contributes to a pleasant environment.	10	5
6.17	Furniture and equipment provide a pleasing atmosphere.	10	5
Total - Environment for Education		200	86

Table of Weights and Categories

Maximum Points Allotted	Non-Existent	Very Inadequate 1 - 29%	Poor 30 - 49%	Borderline 50 - 69%	Satisfactory 70 - 89%	Excellent 90 - 100%
10	0	2	4	6	8	10

Justification for Allocation of Points

BUILDING NAME AND LEVEL:

Name of School Building _____

Indicate the justification for the appraisal decision in the space provided.

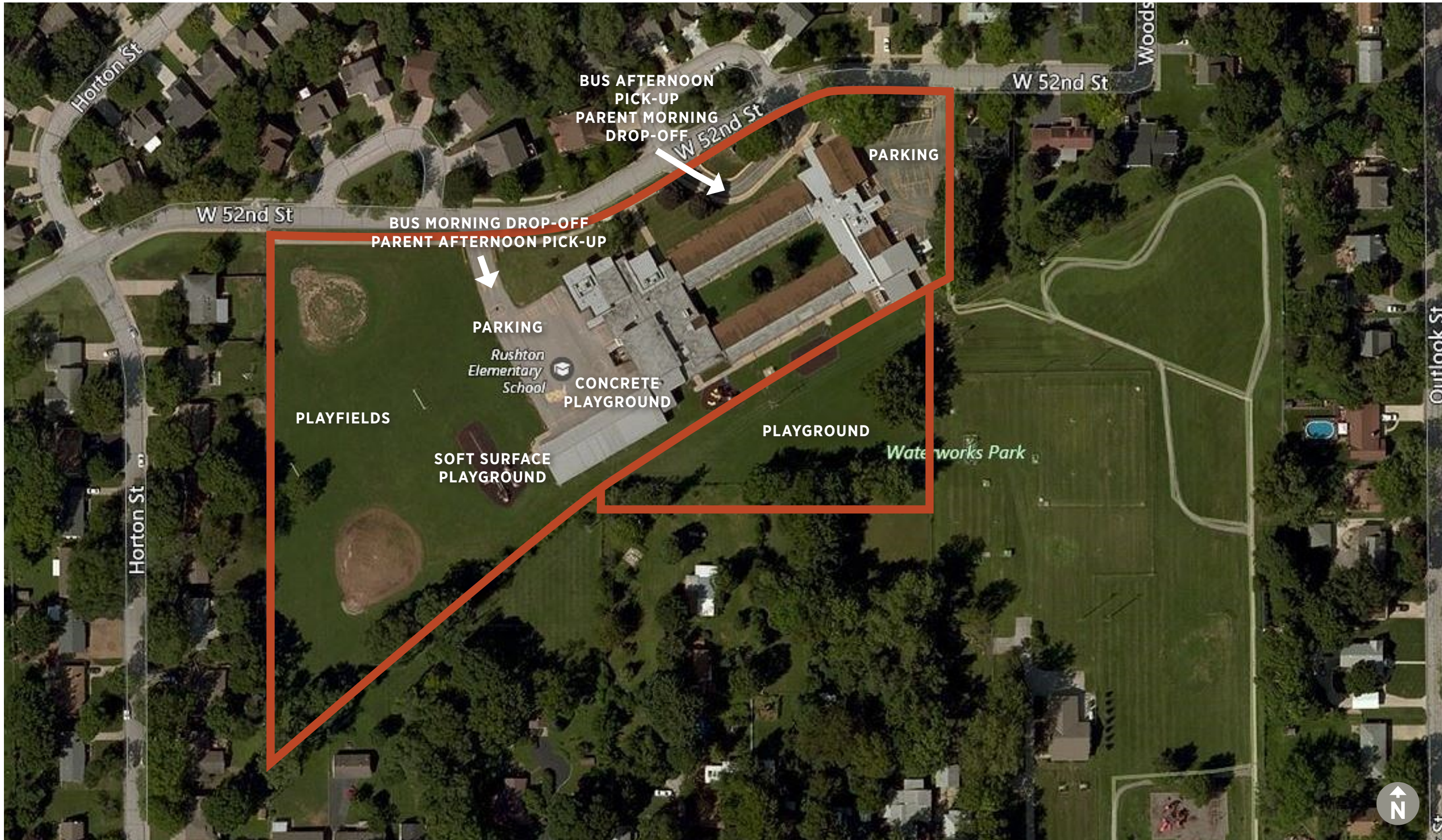
BUILDING FEATURES THAT CLEARLY EXCEED CRITERIA:

1. Item 1 Building well maintained.
2. Item 2 Courtyard feature nice.
3. Item 3 _____
4. Item 4 _____
5. Item 5 _____

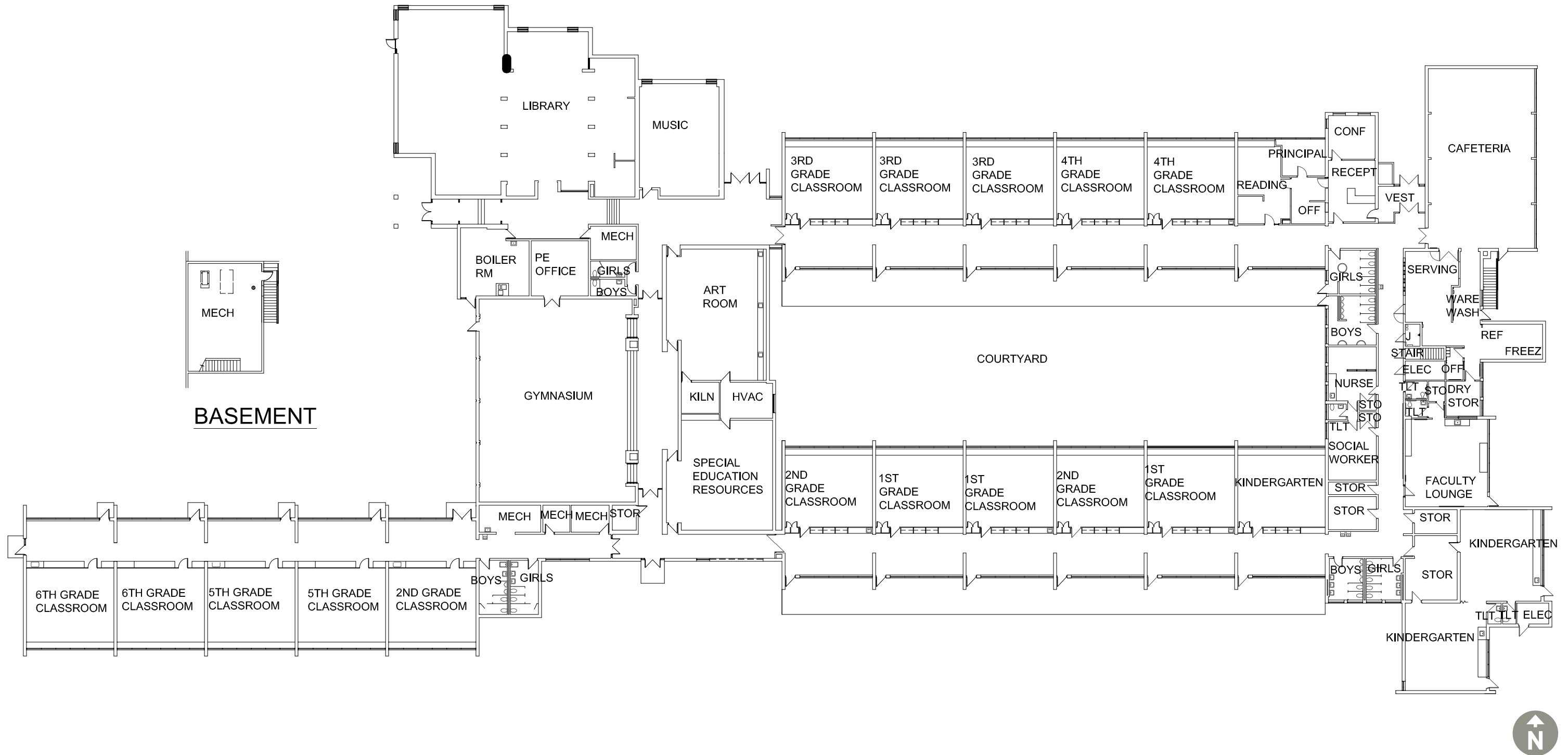
BUILDING FEATURES THAT ARE NON-EXISTENT OR VERY INADEQUATE:

1. Item 1 No Early Childhood Program
2. Item 2 No Small Group Instruction
3. Item 3 No Public Common Space
4. Item 4 Limited Technology
5. Item 5 Can't fit entire school population into one space
6. Item 6 Not energy efficient
7. Item 7 HVAC System noisy and not balanced through out school. No roof access.
8. Item 8 Non usable collaboration spaces
9. Item 9 Cafeteria/Kitchen is undersized.

SITE PLAN



FLOOR PLAN



FACILITY OBSERVATIONS

Architectural Observations



Small Administration Reception area has no waiting chairs for visitors or students.



Corridors with low ceilings (7'-5" a.f.f.). Doors swinging into Corridor. VCT flooring requires maintenance. No common areas for students to meet.



No shower in Nurse's area for kids.



Drinking fountains protruding into Corridors more than allowed by ADA.



Small Cafeteria- A long Lunch period extends from 11:00 to 1:15. There are 75 to 100 kids per lunch period. Constant loud background noise from the HVAC unit.



Small kitchen/serving area. Exposed ductwork directly over food areas.



Typical Classroom: 24 shared cubbies. Need to be one cubby per student. Rooms have 709 s.f. which is smaller than most other schools in the district that have a minimum of 850 to 900 s.f.



Small classrooms (709 s.f.) with traditional desks. Need different furniture types to allow for various teaching instruction. HVAC moisture problem is causing drooping ceiling tiles. High clerestory windows are covered up and large mechanical ductwork also blocks the clerestory windows.



Corridor break out spaces have a lot of wasted space that could be used more efficiently. The wood cubbies are too high, prevents visibility behind them. A kidney shaped table can be used as small break out space but Principal said students using the space are distracted by people walking by. Need updated lighting fixtures.



Corridor break out spaces with extra storage. The cubbies are not needed since each classroom has them in the room. These cubbies are too high. Bad visibility allows kids to hide from staff.



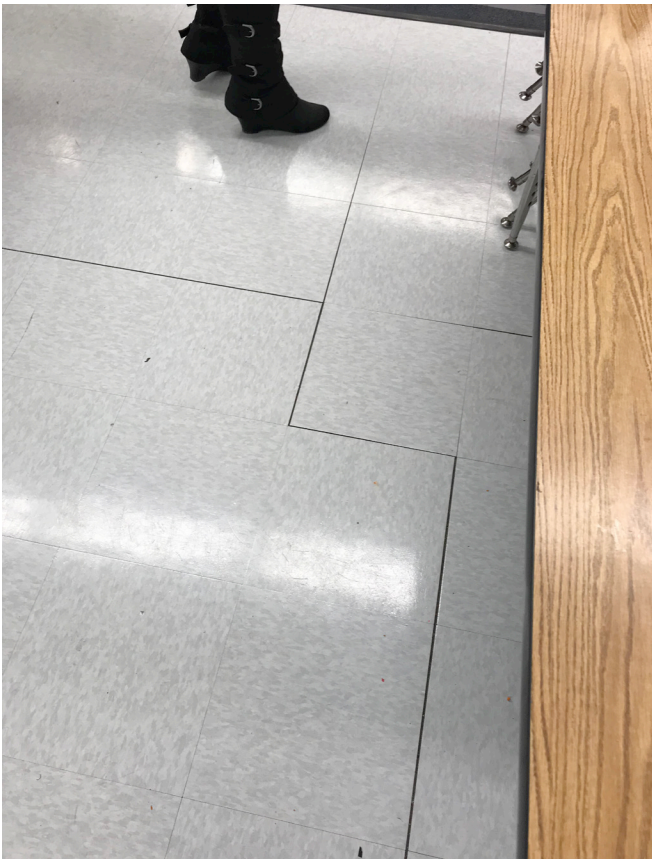
Art Room used as storm shelter so it has no windows for natural light. The Special Ed Resource room also has no windows.



Library needs more natural light. There are no teaching areas in the layout.



VCT flooring with cracks and unlevel surface for walking.



VCT flooring has large gaps in between the tiles.



Students in a gym assembly have to come out of these exterior doors, walk through the playground over to the exterior doors to the classroom wing to get to their classes. The corridors are too crowded to walk directly to their classrooms inside the building. Playgrounds too close to drop off areas.



Playground adjacent to parking and drop off areas.



Playground balls are being thrown into the HVAC fence enclosure due to the close proximity to the playgrounds. Roof is accessed with a loose ladder at brick wall west of HVAC equipment.



Courtyard drainage issues. Gutters and downspouts all drain into the courtyard. A downspout extender is being used to direct water away from wall.



Exterior building: maintenance issues at brick and foundation walls.



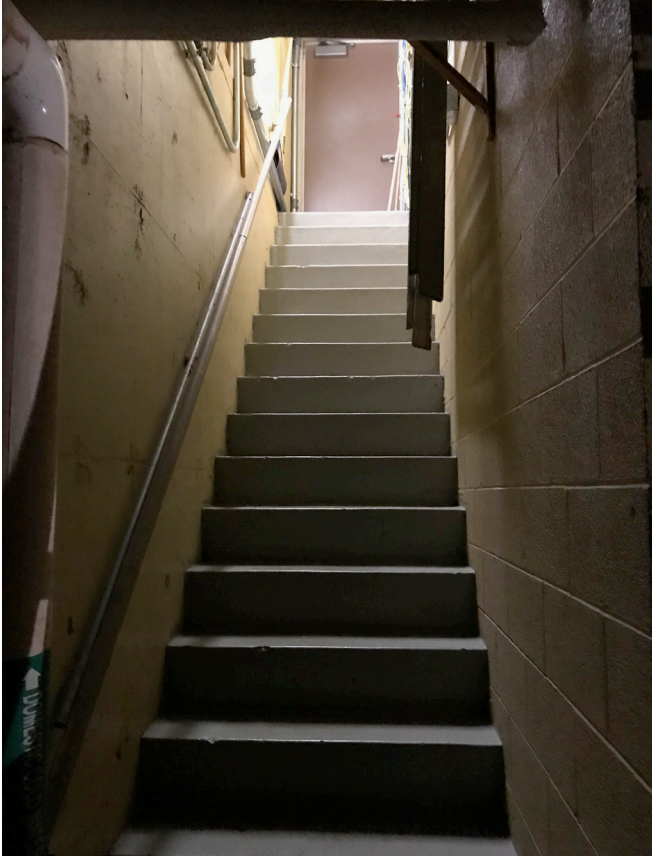
Concrete surface deterioration due to moisture issues.



Overhead powerlines running through the playground areas. Guy wires are a tripping hazard.



Exterior building: maintenance issues at brick and foundation walls.



Water issues in corner of the courtyard brick wall.



Gravel at ballasted roofs is washing away. No permanent roof access.



Gravel at ballasted roofs is washing away. No permanent roof access.

MEP Observations



Distance from exhaust outlet to outside air intake should be a minimum of 10 feet does not appear to be



Hallway ceiling exposed conduits



HVAC unit in restroom - accessible to students



Insufficient electrical outlet quantities



Kiln with exhaust system



Low head clearance in Kitchen



Low pressure for hot water supply from classroom sinks



Main fire alarm control panel for outdated system



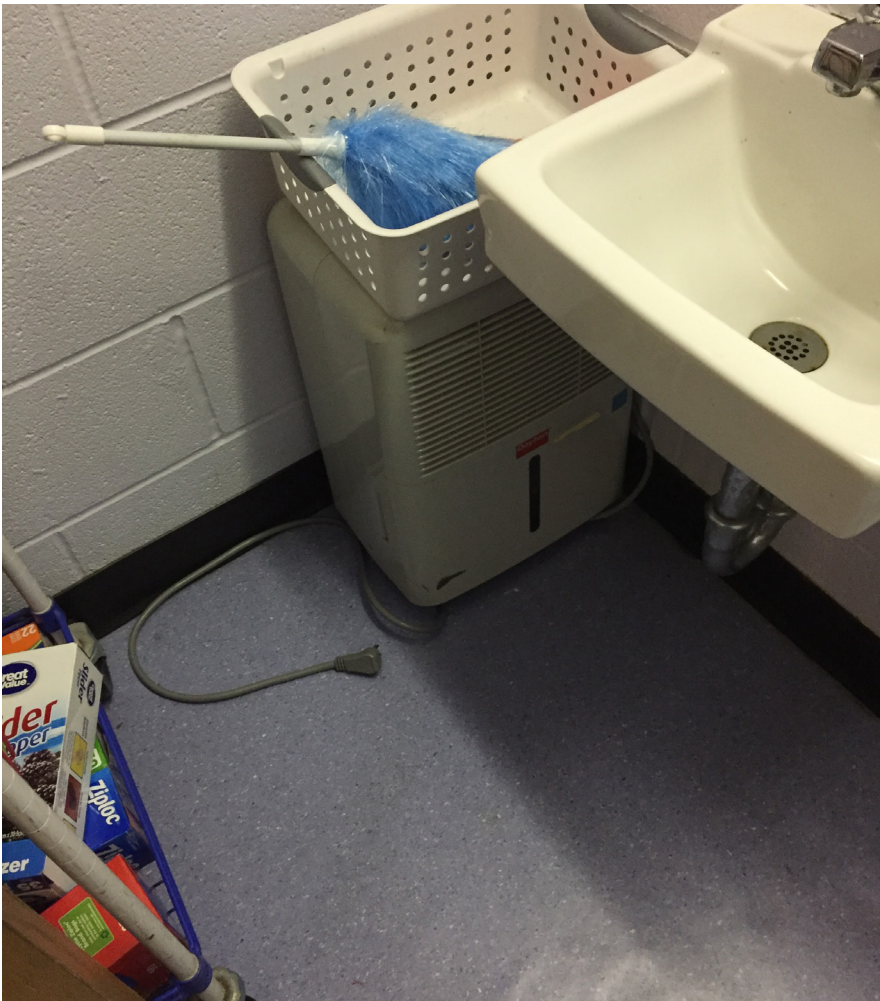
Mop sink deteriorated
recommend replacement



Non-accessible drinking fountain



Overhead power lines above playground



Portable dehumidification unit indicates high humidity levels



Sanitary vent piping near kitchen dishwasher



Roof Access is not permanent



Thermostat near cooking line could cause false operation



Data rack on blocks in basement that floods

SITE ANALYSIS

Existing Conditions

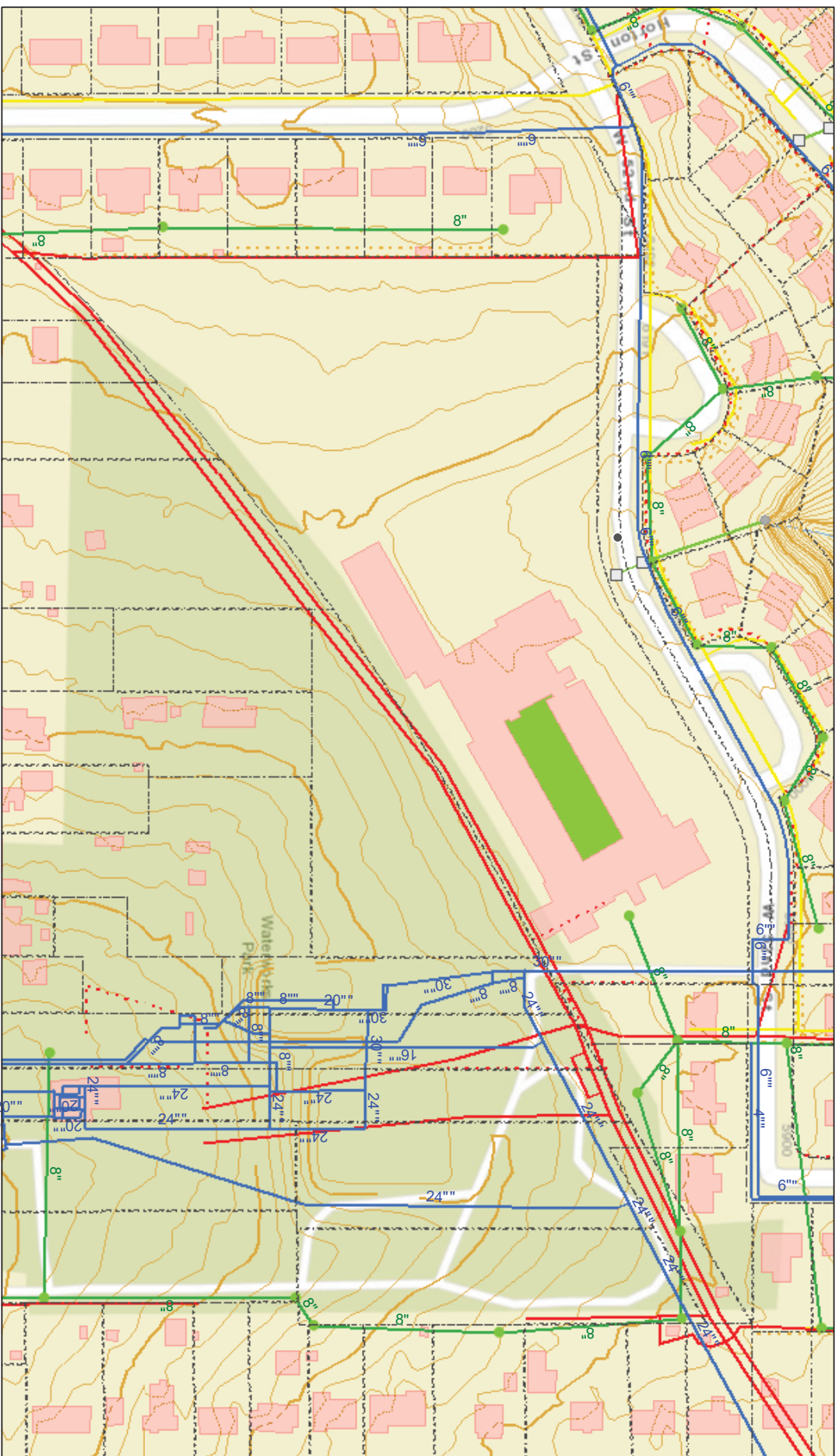
The existing school building and parking is situated on the eastern portion of the site. The existing playgrounds are located on the west and south sides of the existing building. There are existing grass ballfields along the western portion of the property. This area slopes moderately (2-3%) from the west property line towards the school and west parking lot. There are sidewalk connections along 52nd Street and up to the building. There are approximately 120 parking stalls located throughout the site. The west parking lot and hard playground is used for pickup of students at the end of the school day. There appears to be enough space for approximately 20 vehicles to queue onsite and not be on 52nd Street. The site appears to be reasonably well drained. There is an extra triangular piece of land owned by the school district along the south side of the building which is split off by some overhead electric lines.

Replacement School Assessment

If a replacement school was to be built on the same site while the existing school would remain open, it would need to be constructed along the west side of the property where the existing grass ballfields are located. This is a relatively flat piece of ground that would be easily developable for the new school building. New parking lot, drives, and playgrounds would not be able to be built until the existing school building and parking areas are demolished. With likely increasing the amount of impervious surface with a new school, stormwater detention and water quality facilities would need to be provided with the project. A Johnson County Wastewater sanitary main extension would likely be required for the project as the only existing main on the property is at the very east side. All other utilities are readily available around the proposed building location to serve the new building. The main concern with a replacement school on the existing site while the existing building remains open would be the phasing and timing of the demolition of the existing school building and the construction of the new parking lot.



Rushton Elementary Existing Utility Map



October 27, 2017

- Johnson - Parade
- Johnson - Water Mains
 - Main
 - Johnson - Sewer Manholes
 - Active Manhole or Cleanout
 - Johnson - Sewer Mains
- Johnson - Stormwater Inlet
 - Others
 - Curb Inlet
 - Johnson - Stormwater Pipe
 - Johnson - OH Electric
 - Johnson - UG Electric
- Johnson - Telecom
 - Underground
 - Johnson - Gas Main
 - Johnson - 2 Foot Contour
 - Johnson - 2ft Contour
 - Observed
- Johnson - 10 Foot Contour
 - 10ft Contour
 - Observed
 - Johnson - Building Footprint
 - Building
 - Courtyard
- Johnson - Streams & Ponds
 - Stream
 - Johnson - Major Roads

Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), Mapbox, NGCC, © OpenStreetMap contributors, and the GIS User Community

BHC Rhoads ArcGIS Online User
BHC Rhoads

ARCHITECTURAL NARRATIVE

Principal: Amy Simeonov | Mascot: Indians
S. F. 49,374 | 1 story except one HVAC room in Basement

1. Attendance according to the Principal: 360 kids
2. Building is open at 7:30 for staff. Class hours are from 8:00 to 3:00. They have before and after school programs with Johnson County Parks and Recreation.
3. Secure entry vestibule with buzz in hardware, display case, Fire Alarm Annunciator Panel and cabinet unit heater.
4. Administration offices has a reception desk (without an ADA lower height), security monitors on back wall,
5. Classrooms are only 709 sf. Which is smaller than the most recent new schools of 850 to 900 s.f.
6. Low ceilings throughout school corridors (approx. 7'-5" tall). There are steps in several locations. Some have a chair lift and some don't. A couple of the side entries are not ADA accessible.
7. No roof access. Maintenance staff has to use a loose ladder to get on the roof.
8. Security cameras don't cover all hallways.
9. Drinking fountains protrude into hallway clearances, against ADA guidelines.
10. Classrooms have 24 cubbies with more than one student sharing a cubby. Most of the high clerestories are covered up. Some of the exterior
11. Break out spaces in main corridors are not used a lot. They contain cubby storage and a kidney shaped table. Principal said there is a visibility concern because kids hide behind the tall cubbies. Kids using these spaces are distracted by people walking in corridors. Some have sinks in the hallway instead of the classroom. Window treatment (mini blinds) at all exterior windows, mostly closed.
12. Kitchen has new equipment, very clean. The space seems small. Not enough serving area. Principal said they have a very long lunch hour from 11:00 to 1:15 with 75 to 100 kids per lunch period. Seamless flooring and base.
13. Cafeteria has bad acoustics. Loud background HVAC noise. The space is shared with other groups such as Johnson County Parks and Recreation. Also the Band uses the space.
14. Gymnasium has wood floors, ceiling hung basketball goals, a stage, 3 steps with a chair lift.
15. Teacher's Lounge is adequate size. Sink and cabinets, vending machine, microwave, ceiling fans.
16. Basement below kitchen has HVAC equipment. Maintenance person said the basement floods when it rains.
17. Nurse's office does not have a shower. They need one to clean up messy kids. VCT flooring.
18. Social Worker office next to Nurses area with connecting door. It has exposed electrical panels and conduit on outside wall.
19. Art Room is also a storm shelter so there are no windows. Adequate size room with casework, stainless steel sinks, wood tables and ceiling fans.
20. Special Education resource room is also a storm shelter with no windows.
21. Library has more than adequate space. Study carrels, different book shelf heights, small square tables. Could use more natural light.
22. Floor materials are mostly VCT and rubber base in corridors and carpet in classrooms.
23. Kindergarten rooms are smaller than the district standard and have VCT.

24. West Classroom wing has very noisy overhead HVAC unit.
25. Courtyard is large and sunny with big trees and picnic tables and some landscaping with a butterfly garden. A lot of the building's roof scupper/downspouts drain into the courtyard. The area drains take on a lot of water. The courtyard west concrete storm shelter wall is eroding away, rebar was exposed.
26. Playgrounds are adequate. 2 large pieces of play equipment. Hard and soft playground areas. Overhead powerlines run through the green play areas on south side of school.
27. Exterior of building is mostly brick.

MEP NARRATIVE

General Project Information

Owner:	Shawnee Mission School District
School Name:	Rushton Elementary School
Project Address 1:	6001 W 52 nd St.
City: Mission	State: KS
	Floor Area: 49,374 sf
Building Stories:	1
Building Use Type:	Elementary School
Code Occupancy Group:	E Occupancy

Team Contact Information

Contact Name:	Keith Hammerschmidt
Contact Company:	MFEC, Inc.
Contact Phone:	913-322-1400
Contact Fax:	913-825-6697
Contact Email:	khammerschmidt@mfec.com

General

- **Significant portion of existing building included non-accessible ceiling space. Piping, Ductwork, Conduits and Data Cabling were installed visible on ceiling. Existing ceiling height was low enough that adding a drop accessible ceiling to conceal these systems is not feasible.**
- **Head clearance in kitchen area felt limited. Ductwork and piping were exposed in Kitchen and Serving Areas.**
- **Observations regarding code deficiencies are in reference to the current 2012 IBC code series adopted by local jurisdictions. Should local jurisdictions adopt codes newer than the 2012 IBC, additional updates may be required to building systems. Items of note include:**
 - 2015 IBC requires a full FEMA storm shelter which would require backup generator power, ventilation and restrooms.
 - 2015 IBC added requirements for carbon monoxide detection in select classrooms served by fuel fired equipment.
- **Basement Mechanical and Electrical room appeared that room had flooded in the past, data racks and electrical equipment were placed on blocks to get them above the floor level. Sump pump is installed to clear water, but appears to allow several inches of water to collect before being able to clear the floor.**
- **No permanent roof access was available at the building. A temporary ladder was required to be leaned against side of building to access equipment on roof. Other levels of roof above first level also required temporary ladders to access equipment.**

Mechanical

- **System Descriptions**
 - Majority of building is fed from a 2-pipe system. System is either heating or cooling, no simultaneous heating and cooling.
 - Central Chillers one of the chillers has been replaced within last 5 years the other doesn't seem to have been replaced.
 - Central Boilers serving building one of the boilers was replaced 10 years ago the other doesn't seem to have been replaced.
 - Rooftop unit serving Cafeteria. Noise from unit is excessive.
 - Rooftop units were either 10 years old or 20 years old. Typical life span of a rooftop unit is 15 years. Majority of rooftop unit's fin are damaged, which limits performance and efficiency.
 - The majority of the classrooms are being conditioned from unit ventilators fed from the 2-pipe system.
 - All classrooms were provided with ceiling fans. Some of them were operational, many were not.
 - Air Handler serving Newest Classroom wing often requires power reset and does not control humidity in the space to reasonable levels. Humidity has exceeded 60-70%.

- Split system air handler serving Music and Art classroom is almost 20 years old. All exterior refrigerant piping insulation needs to be replace.

Controls Systems

- Full BMS control system had been installed to serve all HVAC equipment.
- Not all classrooms were provided with dedicated thermostat controls. Several classrooms shared thermostats which can cause student and teacher discomfort.
- **At least one classroom had a portable dehumidifier in classroom and ceiling tiles were visibly sagging most likely due to high humidity levels.**
- **Additional Updates required to bring systems up to current codes:**
 - Add emergency boiler shutdown to existing boiler systems.
 - Provide minimum ventilation per current codes to each classroom.
 - Energy recovery will be required when minimum ventilation rates are brought up to code.
 - Provide minimum 10'-0" distance from exhaust to outside air intake.
- **Additional Updates required to bring systems up to current SMSD Standards:**
 - HVAC equipment efficiencies shall be increased.
 - 2-pipe hydronic system shall be eliminated.
 - Each classroom shall be provided with its own thermostat.

Plumbing Systems

- **Hot Water**
 - Hot water system is gas fired with multiple water heaters distributed around the building. Majority of water heaters are around 10 years old.
 - Hot water supply appeared to be sufficient though water piping may be under sized due to the low pressure being supplied from the hot water fixtures.
- **Water Supply**
 - There were at least two separate water service entrances to the building.
 - At multiple locations the water pressure was lacking. If the nearby water closets were flushed, the drinking fountain in the hallway would not have sufficient pressure to use the fixture.
- **Roof Drains**
 - Roof drains are drained to grade by down spouts and not piped to storm sewer. This causes drainage issues around the building.
- **Some restroom groups appeared to have been updated with new fixtures, wall and floor finishes and were in good condition.**
- **Nurse area does not have a shower – accessible or otherwise.**

- **Additional Updates required to bring systems up to current codes:**
 - Not all water coolers and plumbing fixtures are ADA compliant.
 - All handwashing sinks shall have thermostat mixing valve to limit maximum water hot water temperature to 110°F.
- **Additional Updates required to bring systems up to current SMSD Standards:**
 - Replace all faucets and flush valves with Toto sensor devices.
 - Add accessible roll in shower to Nurse Area.
 - Hot water shall be with-in 3 feet of every hand washing sink.
 - All classrooms shall be provided with a sink in the classroom.
 - Replace majority of water closets to wall mounted water closets.

Electrical Systems

- **Lighting**
 - Basement Electrical and Mechanical room illumination was not sufficient to see or maintain equipment.
 - Exterior illumination did not appear sufficient. There was no dedicated parking lot lighting. Wall mounted light fixtures were aged and lenses were significantly yellowed.
- **Power**
 - Playground South of building had overhead power lines running above play area. There was at least one pole with support wires accessible to students.
 - Overhead electrical service had been upgraded to an underground service to the building from the overhead utility lines.
 - Extension cords and power supplies were common in classrooms due to insufficient quantities and locations of electrical receptacles.
 - Power systems appeared to have available space and spare for future improvements, depending on scope. However, should a different HVAC system be installed, the electrical service would likely require an upgrade.
- **Special Systems (Fire Alarm, Intercom, Data Systems)**
 - Fire Alarm system was an analog system and would not support a new mass notification system. An entirely new fire alarm system and infrastructure would be required to bring the system up to current codes.
 - Intercom system appeared functional and sufficient.
 - Data systems appeared functional and sufficient. However, locations for data racks were in difficult to access storage spaces at times. Also, basement which is prone to flooding had data rack installed on blocks.
- **Additional Updates required to bring systems up to current codes:**

- Electrical
 - » All receptacles to be replaced with tamper resistant devices.
 - » Additional Exterior lighting to ensure sufficient illumination.
- Lighting – New lighting controls with occupancy sensors installed in entire building.
- Fire Alarm – Complete Replacement of all devices and control panels to support a mass notification system. Additional Smoke Detection may be required.
- Intercom system – None
- Data systems – None
- **Additional Updates required to bring systems up to current SMSD Standards:**
 - Electrical
 - » Energy Metering added to all electrical equipment. May require replacement of main service panel.
 - » Additional receptacles added throughout classrooms.
 - Lighting
 - » New LED light fixtures installed in all areas, interior and exterior
 - » Dimming Controls added in classrooms.
 - Fire Alarm – Complete Replacement of all devices and control panels to support a mass notification system. Additional Smoke Detection may be required.
 - Intercom system – New Valcom Intercom System
 - Data systems – Dedicated IT closets for Data Racks and data associated equipment.



City of Mission	Item Number:	2.
ACTION ITEM SUMMARY	Date:	December 9, 2020
ADMINISTRATION	From:	Laura Smith

Action items require a vote to recommend the item to full City Council for further action.

RE: Ordinance (1) Removing Certain Real Property from Rock Creek Redevelopment District No. #; (2) Dividing Rock Creek Redevelopment District No. 3 into Two Redevelopment Districts; (3) Adopting a Redevelopment Project Plan for Redevelopment District No. 3A; and (4) Approving the Execution of a Redevelopment Agreement Between the City and Mission Bowl Apartments, LLC.

RECOMMENDATION: Approve the Ordinance (1) Removing Certain Real Property from Rock Creek Redevelopment District No. #; (2) Dividing Rock Creek Redevelopment District No. 3 into Two Redevelopment Districts; (3) Adopting a Redevelopment Project Plan for Redevelopment District No. 3A; and (4) Approving the Execution of a Redevelopment Agreement Between the City and Mission Bowl Apartments, LLC.

DETAILS: Mission Bowl Apartments, LLC (the “Developer”), submitted a TIF application on October 13, 2020 for the redevelopment of the former Mission Bowl site into a multifamily project. The Developer seeks to subdivide Redevelopment District No. 3 into two redevelopment districts (3A and 3B) to provide for separate calculation of TIF increment at the Developer’s project site. The Developers requested the City consider using both TIF and Industrial Revenue Bonds (IRBs) to establish a public-private partnership which would be mutually beneficial for both the City and the Developer.

In accordance with statutory requirements, the TIF Project Plan was considered by the Planning Commission on October 26, 2020 and determined to be in compliance with the City’s comprehensive plan. At a Special City Council meeting on November 4, 2020, the Council adopted Resolution 1063 establishing December 16, 2020 as the date for the required public hearing to consider the division of Redevelopment District No. 3 into two redevelopment districts and the adoption of the TIF Project Plan.

For the last several months, City staff, and the City’s development consultant team which includes Pete Heaven (Spencer Fane), Bruce Kimmel (Ehlers, Inc.) and Kevin Wempe and Gina Riekhof (Gilmore & Bell) have been negotiating the specifics of recommended deal points for the project. The results of those negotiations have been summarized in a memo from the City’s Financial Advisor Bruce Kimmel. Mr. Kimmel will present on his findings and analysis during the December 9, 2020 Finance & Administration Committee meeting.

The final step in authorizing TIF for the Mission Bowl Apartments, LLC project is consideration of an ordinance (1) approving removal of certain real property from

Related Statute/City Ordinance:	K.S.A. 12-1770 <i>et seq.</i> , as amended and Ordinance 1508
Line Item Code/Description:	
Available Budget:	

City of Mission	Item Number:	2.
ACTION ITEM SUMMARY	Date:	December 9, 2020
ADMINISTRATION	From:	Laura Smith

Action items require a vote to recommend the item to full City Council for further action.

Redevelopment District No. 3; (2) dividing Redevelopment District No. 3 into two; (3) adopting a Redevelopment Project Plan; and, (4) approving execution of a Redevelopment Agreement. The Redevelopment Agreement captures and controls the terms of the “deal” as agreed to by the City and the developer. It addresses, among other things, the project budget, the project schedule, the obligations of the developer and the City, the process for certifying and reimbursing TIF eligible expenses, requirements for transfer or sale of the property, and events of default and remedies.

The Redevelopment Agreement included in the December 2, 2020 Finance & Administration Committee packet was revised based on comments, questions and feedback provided at that meeting, all of which have been incorporated into a new red-lined document for review.

All members of the City’s consultant team will be present to review and answer questions regarding any of the documents and/or actions anticipated to finalize the Mission Bowl Apartments, LLC project.

Following the two public hearings, the Ordinance will be considered for passage, which requires a 2/3 vote of the Council. The Ordinance will provide the following:

1. Removal of two parcels from Redevelopment District No. 3 (commonly known as the cell tower site and the Johnson County Wastewater lift station).
2. Divide the remaining area of Redevelopment District 3 into Redevelopment District Nos. 3A and 3B.
3. Adopt a redevelopment project plan for Redevelopment District No. 3A relating to the Developer’s project.
4. Approve the execution of the Redevelopment Agreement between the City and the Developer.

If the Ordinance is passed, the 20-year TIF clock for the single project site within Redevelopment District No. 3A would begin upon publication of the Ordinance.

CFAA CONSIDERATIONS/IMPACTS: N/A

Related Statute/City Ordinance:	K.S.A. 12-1770 <i>et seq.</i> , as amended and Ordinance 1508
Line Item Code/Description:	
Available Budget:	

TAX INCREMENT FINANCING REDEVELOPMENT PROJECT PLAN



ROCK CREEK REDEVELOPMENT DISTRICT NO. 3A

Submitted to the Governing Body of the City of Mission, Kansas (the “City”), and prepared in consultation with the City’s Planning Commission, all in accordance with K.S.A. § 12-1770 *et seq.*

RECEIVED
Oct 13, 2020
City Clerk

TABLE OF CONTENTS

I. INTRODUCTION.....1

A) Redevelopment District..... 1

B) Redevelopment Project Area2

C) Redevelopment Project.....2

II. REDEVELOPMENT PROJECT PLAN4

A) Description and Map of Project Area.....4

B) Reference to District Plan4

C) Description of Buildings and Facilities4

D) Feasibility Study.....5

 1. Project Costs.....5

 2. Eligible Costs5

 3. Project Revenues.....5

 4. Tax Increment Revenues6

 5. Significant Contribution to Economic Development of the City.....6

 6. Sufficiency of Tax Increment Revenues Compared to Projects Costs6

 7. Effect on Outstanding Special Obligation Bonds.....7

E) Relocation Plans.....7

F) Meetings and Minutes.....7

III. CONCLUSION7

EXHIBITS

- A) Legal Description of Project Area
- B) Map of Project Area C)
Preliminary Site Plan
- D) Ordinance No. [_____]
- E) Estimated Budget
- F) TIF Revenue Projections
- G) Meeting Minutes

I. INTRODUCTION

A) Redevelopment District

Pursuant to the Kansas Tax Increment Financing Act, K.S.A. 12-1770, *et. seq.*, as amended (“**TIF Act**”), Kansas municipalities are authorized to establish redevelopment districts and tax increment financing (“**TIF**”) redevelopment project plans for property within their jurisdictions.

In 2006, the City of Mission, Kansas (the “**City**”), after conducting a duly noticed public hearing in accordance with the TIF Act, found and determined that certain real property consisting of approximately 71 acres that generally follows the Rock Creek Floodplain from Roe Avenue to Lamar Avenue, all in the City of Mission, Johnson County, Kansas (the “**Property**”), is located within a “blighted area” and, in turn, constitutes an “eligible area” (as defined in the TIF Act). Based, in part, upon such finding, the City established the Rock Creek TIF District (the “**Original District**”) encompassing the Property through the adoption of Ordinance No. 1190 and Ordinance No. 1195 on January 11, 2006 and February 8, 2006, respectively. The Original District included four (4) redevelopment project areas.

Through the adoption of Ordinance No. 1299 on May 20, 2009, the Original District was amended to include five (5) redevelopment project areas. Redevelopment project areas 1, 3 and 4 remained as previously established, and—within redevelopment project area 2—a separate redevelopment project area (2A) was created.

In 2019, through the adoption of Ordinance No. 1508 on November 18, 2019, the City amended the Original District to split its five (5) redevelopment project areas into five (5) separate TIF districts, including the Rock Creek Redevelopment District No. 3 (Mission Mart and Bowl) (the “**Original District No. 3**”). The Original District No. 3 is generally described as an area bounded by Johnson Drive to the north, Roeland Drive to the east, and Rock Creek to the south and west.

Contemporaneously with the consideration of this Project Plan (as defined herein), the City expects to further amend the Original District No. 3 to split it into two (2) separate redevelopment districts, including the Rock Creek Redevelopment District No. 3A (the “**District**”) in which the Redevelopment Project (as defined herein) is proposed to be developed.

The approved district plan for the District (the “**District Plan**”) describes the District as follows:

A redevelopment district containing one project area consisting of some or all of the following uses: one or more commercial or residential facilities and all related infrastructure improvements, including storm water improvements within and around the Rock Creek channel, streets, sanitary and storm sewers, water lines and all related expenses to redevelop and finance the project and all other associated public and private infrastructure.

The Redevelopment Project is consistent with such District Plan for redevelopment of the District.

B) Redevelopment Project Area

The District contains one (1) redevelopment project area that is coterminous with the boundaries of the District, as legally described on Exhibit A and generally depicted on Exhibit B attached hereto (the “**Project Area**”). The Project Area includes one existing structure, an approximately 21,000 square foot bowling alley built in 1958 (the “**Existing Bowling Alley**”). The Existing Bowling Alley sustained substantial fire damage in April of 2005 and has been unoccupied ever since. In November of 2019, the City Council declared the Existing Bowling Alley dangerous and unsafe, and ordered its repair or removal through the adoption of Resolution No. 1039.

The Project Area is situated on the northern boundary of the Rock Creek storm water channel, which flows eastwardly from approximately the intersection of Shawnee Mission Parkway and Metcalf Avenue to a point where it connects with Brush Creek in Mission Hills, Kansas. Rock Creek experiences high volumes of storm water run-off during significant storm events, and portions of the creek constitute 100-year floodplain. The City’s need to better manage storm water run-off, remove parcels from the floodplain, and generally preserve and revitalize the downtown corridor, which encompasses much of the Rock Creek area, served as the impetus for establishing the Original District in 2006.

The City has recently undertaken an extensive reconstruction project for a segment of the Rock Creek storm water channel immediately to the east of the Project Area, and within the Original District No. 3 (the “**Creek Project**”). The Creek Project will cost approximately \$5 million and is being financed largely by general obligation bonds issued by the City in the summer of 2019.

C) Redevelopment Project

Mission Bowl Apartments, LLC (or assigns, the “**Developer**”), presents this Tax Increment Financing Redevelopment Project Plan for the Project Area within the District (this “**Project Plan**”) to the City for its consideration and approval in accordance with the TIF Act.¹ In order to promote, stimulate and develop the general and economic welfare of the City, this Project Plan provides for the acquisition of the Project Area, which consists of the approximately 3.17+/- acres located generally at the southeast corner of Martway Street and Nall Avenue in the City, as legally described on Exhibit A and generally depicted on Exhibit B attached hereto (the “**Project Site**”), and the development and redevelopment thereof to consist of a multi-story multi-family residential development, public space, open space and/or similar, related or appurtenant uses, other structures and uses (including, but not limited to, commercial, mixed-use, residential, non-profit, governmental and/or community uses), and all associated site work, infrastructure, utilities, storm water control, access, street improvements, landscaping, lighting, parking facilities, and other items allowable under the TIF Act (the “**Redevelopment Project**”).

¹ In accordance with the TIF Act, this Project Plan was prepared in consultation with the Planning Commission of the City, including a finding by the Planning Commission, on _____, 2020, that this Project Plan is consistent with the intent of the comprehensive plan for the development of the City.

The Redevelopment Project contemplates the purchase of the two parcels constituting the Project Site, the demolition of the Existing Bowling Alley and the construction of a new, multi-story multi-family residential development within the Project Area. The development will also incorporate the existing Rock Creek trail, but re-align the trail in a curvilinear manner through a landscaped, park-like setting. In addition, a small dog park is being considered as a part of this development, and the Redevelopment Project will also include the re-alignment of a sanitary sewer main from the Johnson County Wastewater pump station just to the south of the Project Site to the main on Martway Street.

When completed, the Redevelopment Project is expected to fulfill a demand for additional housing within the City and northeast Johnson County. It will also provide housing opportunities for individuals of all ages who are seeking maintenance free and secure rental opportunities within a high-density area near shops and restaurants. The multi-family residential development will serve as an anchor on the east-end of the City's downtown corridor, balancing the recently completed multi-family residential building known as "The Locale" on the west end of the corridor. The Redevelopment Project will provide nearly 250 additional residents and serve as a catalyst for energizing the downtown area with retail, restaurant, and entertainment amenities that the City desires and that has been envisioned in past master plans for this area including the East Gateway Redevelopment Plan (2007) and the Mission/Rock Creek Master Plan (2006).

This Project Plan fulfills many of the longstanding components of Smart Growth, and mirrors recommendations from the recently-created Climate Action KC, Climate Action Playbook (2019) including:

Prioritizing infill development to revitalize core areas and reduce adverse impacts on natural resources and infrastructure.

Prioritizing Transit-Oriented Development (TOD) by supporting development projects near transit hubs or on transit corridors. TODs encourage great use of transit options, and result in less reliability on vehicles, thereby reducing carbon emissions and greenhouse gas. There is an existing bus transit stop across the street from the Project Site.

Promoting walkability by promoting higher density development within core urbanized or sub-urbanized areas such as downtown corridors. The Redevelopment Project will connect where people live with where they work,

² Notwithstanding the foregoing or anything in this Project Plan (including, without limitation, the Exhibits attached hereto) to the contrary, the Developer states: (i) the descriptions of uses and buildings, and all sizing, design, cost (including Reimbursable Project Cost) and revenue figures, and any and all other descriptions and projections set forth herein, are estimates only and subject to change in the Developer's discretion, including as actual costs are incurred and revenues received, and (ii) nothing herein shall be construed as a cap (or caps) on the amount of TIF being requested or the amount of TIF that is available to help pay Reimbursable Project Costs of the Redevelopment Project. The Redevelopment Agreement will address the foregoing issues.

play, and relax through sidewalks, streets, and placement of land uses that encourage alternative forms of transportation such as walking and bicycling.

The Redevelopment Project will include the construction of a concrete wall along the southeast portion of the Project Site adjacent to the creek channel, which is designed to improve the efficiency of the Rock Creek storm channel.

This Project Plan is premised on the need for a combination of public and private financing to reach the mutual goals of the City and the Developer in developing the Redevelopment Project.

As shown herein, this Project Plan proposes to finance Reimbursable Project Costs (as defined below in Section III.D.2) by capturing through TIF 100% of the allowable ad valorem “tax increment” (as defined in the TIF Act) (the “**Tax Increment**”) generated within the Project Area for the duration of up to twenty (20) years (collectively, the “**TIF Revenues**”).

Based on projected property values within the Project Area over the term of this Project Plan, it is estimated that the TIF will generate \$7,420,007 some or all of which can be used to reimburse the Developer for Reimbursable Project Costs and the City for TIF eligible costs. The allocation of the Tax Increment and term of the TIF will be determined by a Redevelopment Agreement executed by the Developer and the City (the “**Redevelopment Agreement**”).

II. REDEVELOPMENT PROJECT PLAN

A) Description and Map of Project Area

The redevelopment project area to be redeveloped pursuant to this Project Plan consists of the Project Area. A legal description and general map depiction of the Project Area are attached hereto as Exhibit A and Exhibit B, respectively, both of which are incorporated herein by this reference.

B) Reference to District Plan

The Project Area is within the District established by the City’s Governing Body pursuant to Ordinance No. [___], a copy of which is attached hereto as Exhibit D. This Project Plan is consistent with the approved District Plan as described therein.

C) Description of Buildings and Facilities

This Project Plan provides for the acquisition of certain real property within the Project Area, the demolition of certain existing structures thereon, and the development and redevelopment thereof to consist of a new, multi-story multi-family residential development, public space, open space and/or similar, related or appurtenant uses, other structures and uses (including, but not limited to, commercial, mixed-use, residential, non-profit, governmental and/or community uses), and all associated site work, infrastructure, utilities, storm water control, access, street improvements, landscaping, lighting, parking facilities, and any other items allowable under the TIF Act.

The preliminary site plan for the Project is attached hereto as Exhibit C.

The foregoing description of uses, and the buildings and other structures Developer plans to construct for such uses within the Project Area, is not intended to be inflexible. This Project Plan contemplates reasonable variations from the descriptions of the Redevelopment Project as described above.

D) Feasibility Study

The Developer has undertaken a study to determine whether the Redevelopment Project's estimated benefits, TIF Revenues and other revenues are expected to exceed the cost, and that the income therefrom will be sufficient to pay the costs of the Redevelopment Project. This effort involved using consultants with experience and expertise in the actual design, development, financing, management, leasing and operation of projects of similar scope and nature. Outside resources were also consulted to compare and verify the cost and revenue projections including outside industry sources and actual taxing jurisdiction data where available. The results of this evaluation are as follows:

1. Project Costs

The total estimated cost to complete the Redevelopment Project, including land acquisition, and hard and soft costs, is \$29,852,464. A detailed budget is attached hereto as Exhibit E.

2. Eligible Costs

Only "redevelopment project costs" (as defined in the TIF Act) (referred to herein as "**Reimbursable Project Costs**") are eligible for TIF financing and reimbursement. Of the total costs listed above, \$5,531,988, plus interest and financing costs, are estimated to qualify under the TIF Act as Reimbursable Project Costs, meaning that only those costs may be financed using TIF Revenues. The estimated Reimbursable Project Costs are set forth by type and amount on Exhibit E attached hereto.

The Developer is requesting reimbursement with TIF Revenues as provided in the TIF Act on a pay-as-you-go-basis.

3. Project Revenues

Based on projected property values within the Project Area over the term of this Project Plan, it is anticipated that the TIF will generate TIF Revenues of \$7,420,007. TIF Revenue projections are set forth in Exhibit F attached hereto. Pursuant to the TIF Act, TIF Revenues can be generated from at least two (2) sources:

- a) *Ad Valorem Tax Increment Revenues* – The amount of real property taxes collected from real property located within the District that is in excess of the amount of real property taxes which is collected from the base year assessed valuation (excluding any *ad valorem* taxes not allowed to be captured under the TIF Act); and
- b) *Local Sales Tax Revenues* - The retail sales dollar amount generated within the Project Area multiplied by the City's portion of the total retail sales tax rate, as described above.

Ad Valorem Tax Increment Captured

According to the Johnson County Appraiser's Office, the 2006 assessed value for the Project Area was \$256,165. This serves as the base value against which future Redevelopment Project values can be compared in order to determine the amount of ad valorem Tax Increment revenues that will be generated by the Project Area. This Project Plan proposes to finance Reimbursable Project Costs by capturing 100% of the

allowable ad valorem Tax Increment generated within the Project Area for up to a maximum twenty (20) year TIF term. Upon completion of the Redevelopment Project, the Project Area is estimated to have an assessed value of approximately \$3,436,200. The difference between the base year assessed value and the assessed value at full build-out, when multiplied by the applicable mill levy rate subject to TIF, is estimated to create annual Tax Increment of approximately \$335,036 available for capture, which is assumed to grow annually with inflation thereafter.

Local Sales Tax Revenues Uncaptured

This Project Plan does not propose to capture local sales tax revenues.

4. Tax Increment Revenues

Based on the Project Area's projected ad valorem Tax Increment as heretofore described, it is estimated that TIF Revenues of \$7,420,007 will be generated and used to pay redevelopment project costs as set forth in this Project Plan and the Redevelopment Agreement.

5. Significant Contribution to Economic Development of the City

The development contemplated in this Project Plan will provide significant economic development for the City, including by, among other things, providing increased future tax revenues to the City, redeveloping the Project Area into a much higher and better use and remedying blight, and increasing housing opportunities for area residents. The feasibility study shows that the Redevelopment Project's benefits and tax increment revenue and other available revenues will be sufficient to pay for the Redevelopment Project costs.

6. Sufficiency of Tax Increment Revenues Compared to Projects Costs

The total of the Reimbursable Project Costs that can be financed under the TIF Act is limited by the amount of TIF Revenues generated within the Project Area. Thus, by operation, the TIF Revenues will always equal or exceed the amount of the Reimbursable Project Costs. Based on this Project Plan's (1) Reimbursable Project Costs and (2) TIF Revenues, the revenues are expected to pay for any

Reimbursable Project Costs as contemplated under the TIF Act when supplemented by private debt and equity.

7. Effect on Outstanding Special Obligation Bonds

It is anticipated that any TIF Revenues will be disbursed on a pay-as-you-go basis and no special obligation bonds repayable from TIF Revenues have been issued. Thus, the Redevelopment Project costs are not anticipated to have any effect on any outstanding special obligation bonds payable from the revenues described in K.S.A. 12-1774(a)(1)(D), and amendments thereto.

E) Relocation Plans

The Developer owns (or will own) all of the property within the Project Area (excluding any adjacent public-right-of-way), and as such, it is not anticipated that the acquisition of real property by the City in carrying out the provisions of the TIF Act will result in the

relocation or displacement of any persons, families or businesses.

F) Meetings and Minutes

Following approval of this Project Plan, the clerk of the City shall attach, as Exhibit G hereto, a copy of the minutes of all City meetings where the Redevelopment Project and/or this Project Plan was discussed.

III. CONCLUSION

Based on the foregoing, this Project Plan proposes to utilize TIF Revenues from the District to finance Reimbursable Project Costs. Details concerning the amount of TIF Revenues available to the Project, the terms and term of reimbursement, Project costs eligible for reimbursement, City costs eligible for reimbursement and other matters will be set forth in the Redevelopment Agreement. The Developer hereby submits this Project Plan for public hearing and due consideration in accordance with the TIF Act.

[Remainder of Page Intentionally Left Blank]

EXHIBIT A

Legal Description of Redevelopment Project Area

That part of Lot 3 and all of Lot 4, MISSION MART, a subdivision in the City of Mission, Johnson County, Kansas, described as follows: Beginning at the Northeast corner of said Lot 4; thence South 23 degrees, 08 minutes, 34 seconds East along the Easterly line of said Lot 4, 232.57 feet to the Southeast corner of said Lot 4; thence South 42 degrees, 51 minutes, 45 seconds West along the Southerly line of said Lot 4, 62.64 feet; thence South 20 degrees, 30 minutes, 00 seconds West along said Southerly line, 205.00 feet; thence South 65 degrees, 20 minutes, 00 seconds West along said Southerly line, 60.00 feet; thence North 33 degrees, 49 minutes, 10 seconds East along the Southerly line of said Lot 4, 74.78 feet; thence North 23 degrees, 08 minutes, 34 seconds West along said Southerly line, 75.00 feet; thence South 66 degrees, 51 minutes, 26 seconds West along the Southerly line of Lot 4 and Lot 3, 276.00 feet to the Southwesterly corner of said Mission Mart; thence North 23 degrees, 08 minutes, 34 seconds West along a line that is 47.08 feet Northeast of the Westerly line of said Lot 3, as measured perpendicular to and parallel with said Westerly line, 292.22 feet to a point on the Northerly line of said Lot 3; thence North 66 degrees, 51 minutes, 26 seconds East along the Northerly line of said Lot 3 and Lot 4, 472.00 feet to the Point of Beginning, EXCEPT that part platted as MISSION CELL TOWER, a subdivision in the City of Mission, Johnson County, Kansas. Containing 138,146.6 square feet, or 3.171 acres, more or less.

EXHIBIT B

Map of Project Area

(Rock Creek Redevelopment District No. 3A)

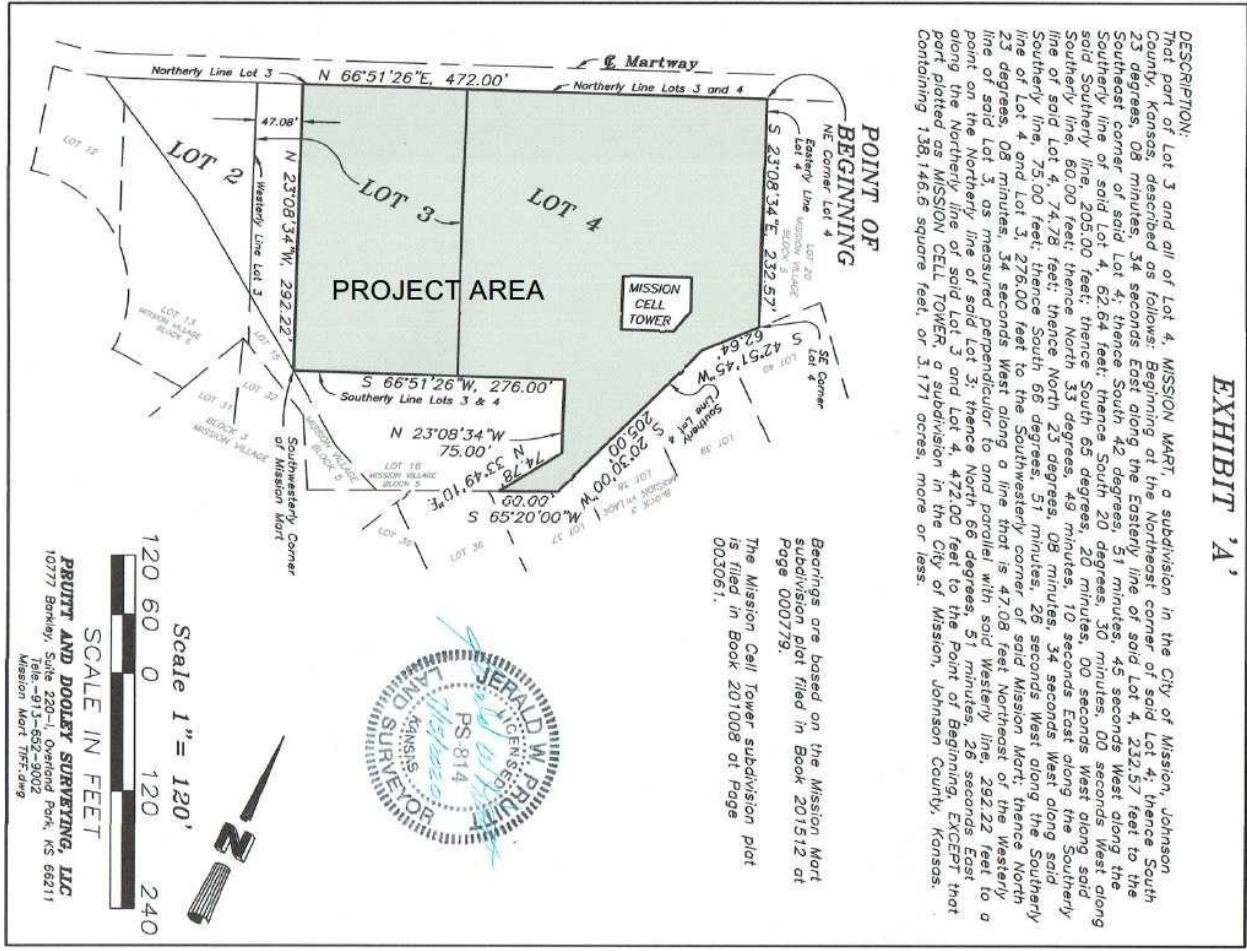
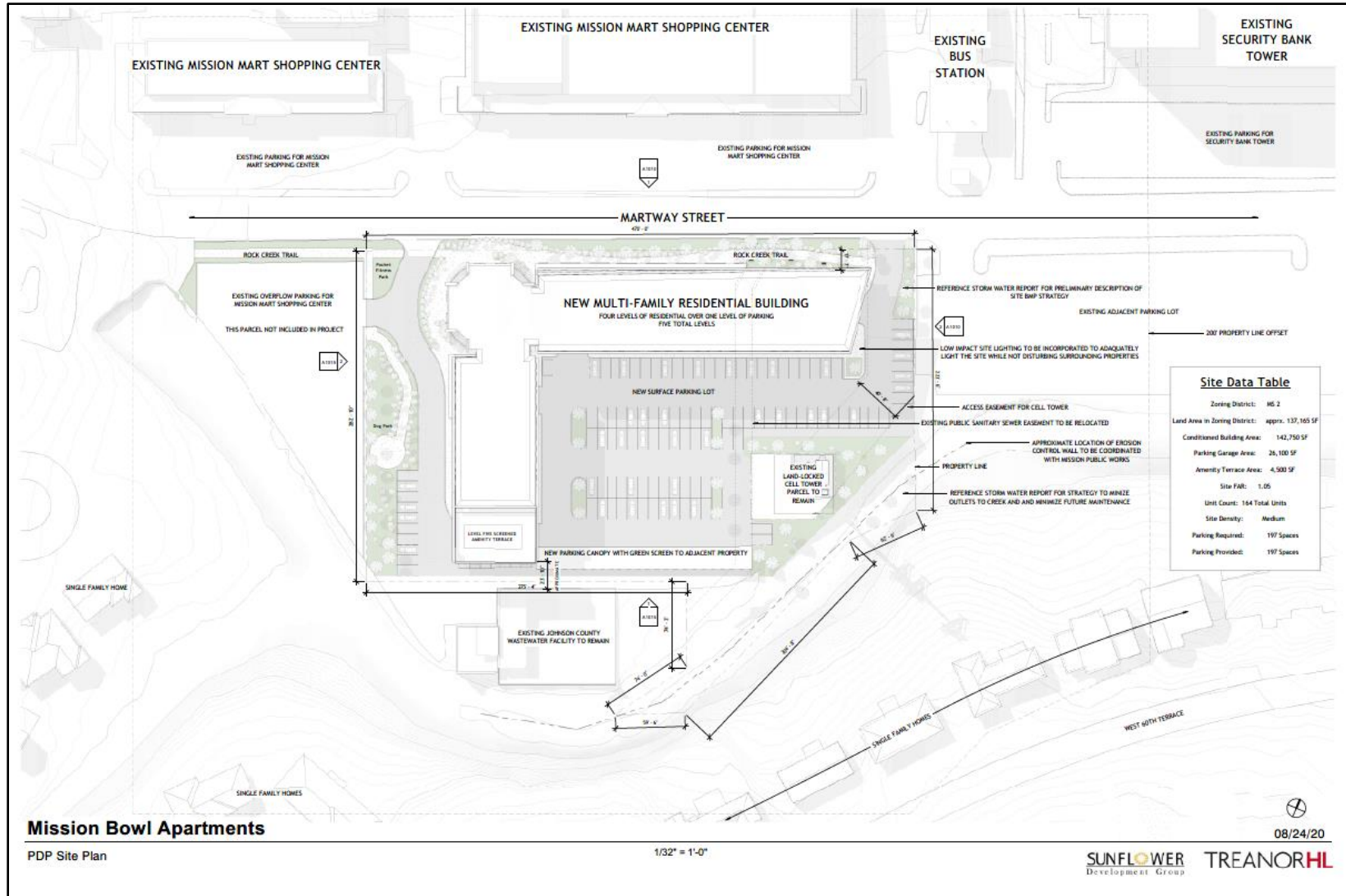


EXHIBIT 'A'

EXHIBIT C

Preliminary Site Plan



Mission Bowl Apartments

PDP Site Plan

1/32" = 1'-0"

SUNFLOWER Development Group TREANORHL

08/24/20

Exhibit C

EXHIBIT D

Ordinance No. _____

[CITY CLERK TO ATTACH]

EXHIBIT E

Estimated Budget

Line Item	Redevelopment Project Cost	Reimbursable Project Cost
Acquisition Costs		
Site Purchase	\$ 1,300,000	\$ 1,300,000
Acquisition Fee	\$ 60,000	\$ -
Subtotal - Acquisition	\$ 1,360,000	\$ 1,300,000
Hard Construction Costs		
Building Construction & Improvements	\$ 12,938,000	\$ -
Site Work	\$ 1,354,753	\$ 1,354,753
Concrete/Parking	\$ 1,443,250	\$ 1,443,250
City Retaining Wall	\$ 200,000	\$ 200,000
Low Voltage / Security / Access Control / Smart	\$ 300,000	\$ -
Demolition	\$ 145,000	\$ 145,000
Podium	\$ 3,200,000	\$ -
Sewer Relocation	\$ 345,000	\$ 345,000
FF&E	\$ 673,000	\$ -
Permitting	\$ 220,000	\$ -
Construction Interest	\$ 500,000	\$ 500,000
Contingency	\$ 1,100,000	\$ -
OH	\$ 798,726	\$ -
Subtotal - Hard	\$ 23,217,729	\$ 3,988,003
Soft Construction Costs		
Closing Costs	\$ 30,000	\$ 30,000
Arch/Eng	\$ 1,305,000	\$ 108,750
Survey/Replat	\$ 23,000	\$ 23,000
Testing / Inspections / Studies	\$ 119,235	\$ 82,235
Appraisal	\$ 8,500	\$ -
Professional Services	\$ 2,175,000	\$ -
Lender Fees	\$ 140,000	\$ -
Marketing/Pre-Opening Capital/Lease-Up Reserves	\$ 1,249,000	\$ -
Contingency	\$ 225,000	\$ -
Subtotal - Soft	\$ 5,274,735	\$ 243,985
Totals	\$ 29,852,464	\$ 5,531,988

Page 1

EXHIBIT F

TIF Revenue Projections

TIF Year	Base Assessed Value	Projected Assessed Value	TIF Revenues
1	\$ 256,165	\$ 256,165	\$ -
2	\$ 256,165	\$ 1,718,100	\$ 154,024
3	\$ 256,165	\$ 3,436,200	\$ 335,036
4	\$ 256,165	\$ 3,504,924	\$ 342,276
5	\$ 256,165	\$ 3,575,022	\$ 349,662
6	\$ 256,165	\$ 3,646,523	\$ 357,195
7	\$ 256,165	\$ 3,719,453	\$ 364,878
8	\$ 256,165	\$ 3,793,842	\$ 372,716
9	\$ 256,165	\$ 3,869,719	\$ 380,710
10	\$ 256,165	\$ 3,947,114	\$ 388,864
11	\$ 256,165	\$ 4,026,056	\$ 397,181
12	\$ 256,165	\$ 4,106,577	\$ 405,664
13	\$ 256,165	\$ 4,188,709	\$ 414,317
14	\$ 256,165	\$ 4,272,483	\$ 423,143
15	\$ 256,165	\$ 4,357,932	\$ 432,146
16	\$ 256,165	\$ 4,445,091	\$ 441,328
17	\$ 256,165	\$ 4,533,993	\$ 450,695
18	\$ 256,165	\$ 4,624,673	\$ 460,249
19	\$ 256,165	\$ 4,717,166	\$ 469,993
20	\$ 256,165	\$ 4,811,510	\$ 479,933
TOTAL (Gross)			\$ 7,420,007

EXHIBIT G

Meeting Minutes

[CITY CLERK TO ATTACH]

Memo

To: City of Mission, Kansas
From: Bruce Kimmel, Senior Municipal Advisor
Date: December 4, 2020
Subject: **Mission Bowl Project – Proforma Analysis and Proposed Agreement Terms**

Ehlers, the City’s development finance advisor, has engaged with Mission Bowl Apartments, LLC (the Developer) over several months to analyze the Developer’s fiscal projections and discuss possible “deal terms” for a redevelopment agreement between the City and Developer. Those terms have now been all-but-finalized in the draft Redevelopment Agreement that will be discussed at the City Council work session on December 9, and then considered for approval at the City Council meeting on December 16. This memo describes key agreement terms and the Ehlers proforma analyses that led us to conclude there was both a demonstrated need for City TIF assistance and an opportunity for the project to advance several City priorities.

Baseline Need for City Assistance

The Developer submitted to Ehlers a comprehensive Excel workbook detailing its assumptions for the project’s development budget, debt and equity financing plan, unit composition and planned rents, and operating revenues and expenses – and projecting its return on investment. Ehlers evaluated each assumption and calculation, asked the Developer to provide further detail and/or make adjustments in certain areas, and determined that:

- the Mission Bowl Apartments financing plan was valid, with no missing or unconnected pieces that caused us to question the project’s fundamental viability;
- the Developer’s pre-development estimates were reasonable (i.e. lacking “fluff”) and comparable to similar apartment projects with which Ehlers is familiar; and
- there was a demonstrated economic gap and rationale for City assistance, in order to achieve a market rate of return – including some level of the Developer’s proposed Industrial Revenue Bond (IRB) sales tax exemption on project construction materials and pay-as-you-go TIF reimbursements of eligible development expenses.

Inclusion of City Policy Interests

As noted above, Ehlers’ initial analysis indicated it was unlikely that the Developer would undertake the project without some level of City incentives – namely the proposed sales tax exemption and pay-as-you-go TIF. At the same time, however, it was also clear that the project as originally planned did not require the full amount of incentives requested to be viable.

And concurrently, City leaders expressed an interest in exploring ways in which to leverage its incentive participation to advance three distinct City policy priorities – that is, in addition to the City’s fundamental interest in promoting the redevelopment of the Mission Bowl site, and in attracting new residents and enhancing the vitality of Downtown Mission.

1. Designating long-term, guaranteed affordable units. It should be noted that many of the Developer's planned market rents were already considered affordable to individuals with incomes at / below 80% of the Kansas City area median income (AMI). Our goal was to reach consensus on adding units affordable to individuals earning 60% of AMI.
2. Securing a portion of annual TIF revenues generated by the project to reimburse the City's past and possible future cash expenditures for stormwater improvements in the vicinity of the project site. In other words, rather than allowing the Developer to receive 100% of the annual TIF for perhaps 15 years, we explored ways in which the Developer and City would divide the annual TIF over the entire 20-year TIF Project term.
3. Increasing and verifying the prospective environmental sustainability of the building design, construction, operations, and maintenance. Prior to our discussions, the Developer had already shared its green building plans to the City's Sustainability Commission, and its belief that these would be consistent with LEED Silver standards.

Each of the above City priorities has a direct effect on the Developer's development budget and/or operating proforma (i.e. projected future revenues and expenses), and therefore on its estimated return on investment. Ehlers believes the Developer deserves recognition for actively collaborating to consider ways to incorporate these City interests into its project plans. Through these conversations, and with regular discussions between Ehlers and the City, we have reached the following deal points, as detailed formally in the Redevelopment Agreement:

1. The Developer will reserve 32 units for individuals / families with incomes at or below 60% of AMI – equaling 20% of the planned 161 total units – for 20 years from project opening (estimated Fall 2022, assuming groundbreaking Spring 2021 and an 18-month construction schedule). The guaranteed minimum affordable unit mix will comprise 16 studio units, 12 one-bedroom units, and 4 two-bedroom units, although the Developer has the option to increase the proportion of larger units affordable at 60% AMI.
 - a. Annual rent levels will be dictated by the Kansas City AMI and maximum affordable rent figures published annually by the U.S. Department of Housing and Urban Development. If AMI and affordable rents do not increase by 2% or more annually, the Developer will be still permitted to increase rents by up to 2%.
 - b. The Developer and City will define and maintain procedures for qualifying eligible tenants and reporting annual compliance to the City.
2. In reimbursement for TIF-eligible expenses, the Developer will receive 90% of the TIF generated by the Apartments for the first 5 years of the TIF Project, 85% for the second 5 years, 80% for the third 5 years, and 75% for the final 5 years. The City will receive the corresponding amounts (with 100% of the annual TIF distributed each year).
 - a. Based on the timing of the City's expected TIF Project approval this December and the project's anticipated completion in Fall 2022, Ehlers estimates 18 years of actual TIF generated within the 20-year period ending December 2040. This means that the 90% Developer allocation would apply to three actual TIF years.

- b. The Developer and City each will have TIF-eligible expenses in excess of the expected pay-as-you-go reimbursements that each will receive through 2040.
3. The Developer will design, construct, and operate the project to LEED v4.1 Residential / LEED for Home (Silver) standards, and obtain LEED Silver certification for the project.
 - a. The Developer will incorporate the 29 sustainability improvements listed in Development Agreement Exhibit F. The Developer believes that, in aggregate, these attributes will cause the project to surpass the above LEED standard.
 - b. Four of these elements (solar ready design, efficient hot water distribution, garage pollutant protection, and radon-resistant construction) were added following several discussions with U.S. Green Building Council representatives.
4. The City will provide the requested Industrial Revenue Bond (IRB) sales tax exemption on construction materials, provided the Developer meets the relevant requirements.

Proforma Analysis

Over the course of our discussions with the Developer, Ehlers has prepared several versions of an Excel workbook containing the estimated development budget, debt and equity financing, TIF projection and allocation, affordable and market apartment mix and rents, and operating proforma. Testing different assumptions in relation to the three City policy interests caused variations across the workbook, and in the Developer's estimated return on investment.

Early on, the Developer identified a benchmark internal rate of return (IRR) that it needed to be able to demonstrate to prospective equity investors. Ehlers views that target IRR as being on the low end of the spectrum of developer profit expectations that we see with comparable projects, indicating to us the Developer's aim to secure a reasonable opportunity for success.

We will share more details of our proforma analysis verbally at next week's Council work session, but in high-level summary, Ehlers' scenario findings are as follows:

- With no incentives, the project fell well short of the target IRR over a 15-year horizon.
- With the full amount of requested incentives and before the inclusion of the above terms, the estimated return on investment was substantially above the target IRR.
- With the proposed terms, the Developer's projected return is just below the target IRR.

Ehlers believes this outlook provides the Developer with adequate motivation to proceed with the apartments and strive to outperform its construction and operating projections. And we reiterate our earlier observation that the Developer's project budget and proforma estimates are reasonable and therefore unlikely to see any "miraculous" improvements following this process.

Please contact me at bkimmel@ehlers-inc.com or 651-697-8572 with any questions about this memo, and thank you for the opportunity to be of assistance to the City.

REDEVELOPMENT AGREEMENT

The City of Mission, Kansas

And

Mission Bowl Apartments, LLC

Draft

THIS REDEVELOPMENT AGREEMENT (this “Agreement”), is made and entered into as of the ___ day of _____, 2020 by and between the **CITY OF MISSION, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (“City”), and **MISSION BOWL APARTMENTS, LLC**, a limited liability company (“Developer”).

RECITALS

A. City has authority to create a tax increment financing district (“TIF”), pursuant to K.S.A. 12-1770 *et seq.*, as amended (the “TIF Act”), for the purpose of financing certain projects described in the TIF Act.

B. Developer is the owner or contract purchaser of a certain tract of land in City located at or about 5399 Martway Street, Mission, Kansas, which is planned to be redeveloped for a multi-family residential project ~~commonly referred to as the Mission Bowl Apartments~~ (the “Project”). A legal description of the boundaries of the Project is set forth on Exhibit A attached hereto (the “Property”).

D. In 2006, the City created the Rock Creek Redevelopment District through the adoption of Ordinance No. 1190 (January 11, 2006) and Ordinance No. 1195 (February 8, 2006); the Rock Creek Redevelopment District includes the Property.

E. On November 18, 2019, the City adopted Ordinance No. 1508, which divided the original Rock Creek Redevelopment District into five (5) redevelopment districts, and designated the Property to be in Rock Creek Redevelopment District No. 3.

F. On December 16, 2020, the City adopted Ordinance No. _____, which divided Rock Creek Redevelopment District No. 3 to create two (2) redevelopment districts, designated the Property to be in Rock Creek Redevelopment District No. 3A (the “District”), and approved the adoption of the Tax Increment Financing Redevelopment Project Plan – Rock Creek Redevelopment District No. 3A (“~~TIF~~–Project”) to be financed with Pay-As-You-Go Reimbursement from real property tax increment, a copy of which is attached hereto as Exhibit B.

GH. City and Developer now desire to enter into this Agreement to address issues regarding implementation of the Project.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Definitions of Words and Terms.

In addition to words and terms defined elsewhere in this Agreement, the following capitalized words and terms as used in this Agreement shall have the following meanings:

~~“Base Year Assessed Valuation” means the assessed valuation of the District on the date that the Rock Creek Redevelopment District was originally established, which the parties agree is \$_____.~~

~~“Captured Taxes” means the “Tax Increment” incremental ad valorem property tax revenue defined in captured under K.S.A. 12-1770 4(a)(u1)(A). The term Captured Taxes shall not include any special assessments levied upon the Redevelopment District.~~

“Captured Tax Fund” means the separate fund established by City for deposit of the Captured Taxes.

“City” means the City of Mission, Kansas.

“City Representative” means the City Administrator of City, or such other person or persons at the time designated to act on behalf of the City Administrator in matters relating to this Agreement.

“City District Expenses” means all reasonable documented, out-of-pocket administrative expenses incurred in connection with the Project, including attorney’s fees, consultant’s fees, postage, mileage, copying costs, recording costs and similar expenses.

~~“City District Expenses Fee” means an annual fee of ___% of the Captured Taxes that will be used by the City to pay the City District Expenses.~~

“Consent” means a written document evidencing agreement or concurrence with the performance of an act.

“Developer” means Mission Bowl Apartments, LLC and its permitted successors and assigns.

“Developer Financing” means the nonpublic financing of a portion of the costs of the Project by Developer from Developer’s equity and/or conventional loans.

“Developer Representative” means Banks Floodman ~~or~~ such other person or persons at the time designated to act on behalf of Developer in matters relating to this Agreement as evidenced by a written certificate furnished to City containing the specimen signature of such person or persons and signed on behalf of Developer.

“Development Schedule” means the development schedule attached as Exhibit C.

“Infrastructure Improvements” means demolition, grading, utility installation, internal road paving and guttering, stormwater management and other similar improvements to the real property within the District to make such real estate “pad ready” for vertical construction of ~~structures as shown on~~ the Project ~~Plan~~.

“IRBs” means the Industrial Revenue Bonds issued under the IRB Act and described in Section 3.01 below.

“Pay-As-You-Go Reimbursement” means the reimbursement of Private Eligible Project Costs with Captured Taxes from time to time as such expenses are incurred and documented as provided herein and in accordance with the TIF Act.

“Private Eligible Project Costs” means “redevelopment project costs” as defined in the TIF Act and as set forth in the approved Project Plan, and including the categories of expenses set forth on Exhibit D, incurred by Developer.

“Project” means the improvements described in the Project Plan and Zoning Approvals.

“Project Budget” means the project budget attached hereto as Exhibit D as amended from time to time in accordance with this Agreement.

“Public Eligible Costs” means City District Expenses and other “redevelopment project costs” as defined in the TIF Act incurred by the City.

“Related Entity” means any entity in which the ownership or membership of such entity is controlled by Developer or the majority owners or members of Developer. For purposes hereof, “control” shall mean the power to direct or cause the direction of the management or policies of such entity.

~~**“Site Plan”** means such Preliminary Development Plans and such Final Development Plans as may be approved from time to time by City on file or to be filed with City of Mission Community Development Department.~~

“Zoning Approvals” means the approvals granted and associated preliminary development plan approvals, as may be revised and approved, and such final development plan and plat approvals as may be approved by City from time to time.

Section 1.02. Rules of Construction.

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Agreement:

A. The terms defined in this Article include the plural as well as the singular.

B. All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles.

C. All references herein to “generally accepted accounting principles” refer to such principles in general on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.

D. All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as originally executed.

E. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

F. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

ARTICLE II

CONSTRUCTION OF PROJECT

Section 2.01. Authorization to Construct.

Subject to the approval of the Project Plan, in order to further the development of the Project, City hereby authorizes Developer to develop, and City and Developer hereby agree to share in the development obligations and expenses for the Project in accordance with the requirements of this Agreement, the approved Project Plan and all Zoning Approvals. Nothing contained herein shall be construed as creating a partnership or other entity between Developer and City.

Section 2.02. Development Schedule.

It is the intention of the parties that the Developer Project Work (as defined below) shall be carried out in accordance with the Development Schedule as set forth in **Exhibit C**. The parties recognize and agree that the Development Schedule is an estimated schedule, subject to reasonable change based upon conditions (including, without limitation, tenant and purchaser availability and financing). The Development Schedule is subject to further change and/or modification, provided that any change will require the written approval of City and Developer, which approval will not be unreasonably withheld or delayed. Developer will report at least quarterly to the City Administrator or City’s designated consultant on the progress of construction.

Section 2.03. Project Budget.

The Project Budget sets forth in detail the total cost of the Project and designating by category (i) total project costs, (ii) that portion of the total costs that are Private Eligible Project Costs that may be reimbursed in accordance with this Agreement out of the Captured Tax Fund, and (iii) that portion of the total project costs to be wholly or partially financed by Developer Financing (“Developer Costs”). The Project Budget is subject to further change and/or modification based on market or other conditions with the written approval of Developer and City, which approval will not be unreasonably withheld or delayed.

Line items in the Project Budget may be modified so long as no change is made to the total Project Budget; provided, however, no single line item of ~~Without the prior written consent of City, total reimbursements of~~ potential Private Eligible Project Costs ~~shall will not~~ exceed 125% of the total amount specified in the corresponding Project Budget line item for such category without the prior written consent of the City.

Section 2.04. Construction Obligations of Developer.

Developer shall cause its construction obligations relating to the Project (as set forth below) to be completed at its expense in accordance with the provisions of this Agreement. ~~Anything to the contrary in this Agreement notwithstanding, vertical construction of the Project will commence no later than June 1, 2021 and will be completed no later than December 31, 2022, evidenced by Developer's delivery to the City of an executed Certificate of Completion as set forth in Section 3.07.~~ It is acknowledged by Developer that City would not enter into this Agreement or provide Developer with TIF assistance without assurances that the Project will be timely constructed.

A. **Developer Project Work.** Developer shall be responsible for causing the following construction work or other development related activity ("Developer Project Work") to be completed:

- Acquire all real property within the ~~District~~Project Area.
- Construct the Infrastructure Improvements
- Competitively bid the construction work to be performed by subcontractors for the Infrastructure Improvements and vertical improvements constructed by Developer. Developer represents that the general contractor for the Project, First Construction, LLC ("General Contractor") is affiliated with the Developer and the general contract for the Project was therefore not competitively bid. Developer shall provide to City a copy of Developer's competitive bid procedure and all construction contracts after execution.
- Commence and complete construction in accordance with the Development Schedule set forth in Exhibit C.

Developer acknowledges and agrees that receipt by Developer of benefits under the TIF Act, including reimbursement of Private Eligible Project Costs from the Captured Tax Fund, is conditioned upon the timely completion by Developer of the Developer Project Work in accordance with this Agreement.

B. **Insurance.** Developer shall provide commercial general liability insurance coverage relating to Developer Project Work subject to a limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Developer shall provide reasonable verification thereof to City upon request, and shall have City named as an additional insured thereunder as appropriate. This Section shall not modify or waive the immunities and rights available to City contained in the Kansas Tort Claims Act, Chapter 75, Article 61 of the Kansas Statutes Annotated.

Section 2.05. Building, Subdivision Codes.

Developer acknowledges that the contemplated uses and occupancies of the Project shall comply with all federal, state and City building codes, subdivision, zoning, environmental and other developmental regulations and that the Project shall be constructed in compliance with all such codes and regulations. The requirements as a result of any SUP/Plat/Rezoning/Plan Review shall be adhered to.

Section 2.06. Zoning Approvals and Project Plan.

Developer and City shall complete the development in accordance with the Zoning Approvals, subject to the requirements of City's zoning ordinances, federal law and the laws of the State of Kansas, from time to time amended, this Agreement and the Project Plan.

Developer shall use good faith efforts to develop Project expeditiously and in accordance with the projections set forth in the Project Budget and Development Schedule.

Section 2.07. Delay.

For the purposes of any of the provisions of this Agreement, neither City nor Developer, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations under this Agreement in the event of any delay caused by damage, destruction by fire or other casualty, strike, shortage of material, unusually adverse weather condition such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or quantity for an abnormal duration, tornadoes or cyclones and other events or conditions beyond the reasonable control of the party affected which, in fact, interferes with the ability of such party to discharge its respective obligations hereunder or during any delay thereafter.

Section 2.08. Modifications.

The construction of the Project may be modified or revised by Developer, in accordance with the City's municipal code and Developer's approval, to provide for other improvements consistent with the Project Plan and the requirements set forth on the Zoning Approvals Site Plan.

Section 2.09. Utilities and Fees.

City hereby agrees that Developer shall have the right to connect to any and all water lines, sanitary and storm sewer lines and other utility lines over which it has control and exist in the vicinity of the District Project Area, subject to compliance with City's codes and procedures for such connections.

Section 2.10. Assistance to Developer.

City agrees to use reasonable efforts, without cost to City, in assisting Developer, its agents, contractors and subcontractors, with respect to obtaining building permits from City, and any permits or approvals required from any governmental agency, whenever reasonably requested to do so.

Section 2.11. Affordable Housing Requirements.

A. For twenty (20) years from and after the Project is completed and is accepting tenants (“Compliance Period”), Developer shall reserve no less than thirty-two (32) apartment units for lessees with incomes at or below sixty percent (60%) of Kansas City Area Median Income (“AMI”) at rental rates no greater than the maximum affordable rental rates published annually by the U.S. Department of Housing and Urban Development. The affordable apartment unit (“Affordable Unit”) mix shall include no less than twelve (12) one-bedroom apartments and four (4) two-bedroom apartments, in addition to studio apartment units. Developer will be allowed to increase rental rates for the Affordable Units by the greater of the annual increase in the foregoing published affordable rental rates or up to two percent (2%) annually, the foregoing published affordable rental rates notwithstanding. Developer shall honor the terms of tenancies in effect at the time of the expiration of the Compliance Period. For avoidance of doubt, if at the time of the expiration of the Compliance Period, there are two years remaining on a lease of an Affordable Unit, Developer shall continue to observe the requirements of this Section 2.11 for the balance of the lease term. In the event during the term of a lease the income of the household member(s) of an Affordable Unit exceeds 60% of the AMI, Developer may continue to honor the lease, however if 2 or more years remain in the lease term, the unit will no longer be considered an Affordable Unit.

B. Affordable Units must be located proportionally throughout floors of the building compared to market rate units. Affordable Units must be indistinguishable from market rate units and shall be architecturally equivalent; interior layouts, designs, materials and finishes must be functionally equivalent, however do not have to be identical. Affordable Units must share the same entrances, common areas and amenities as market rate units.

C. Developer shall obtain from each household prior to initial occupancy of each Affordable Unit, and on every anniversary thereafter, a written certificate (“Affordable Unit Certificate”) containing at least all the following, in such format and with such supporting documentation, as City and Developer may reasonably require:

- (i) The identity of each household member;
- (ii) The number of household members; and
- (iii) The total gross household income (i.e., inclusive of all **adult** household members’ individual income) along with reasonable evidence of same, such as recent pay stubs.

Developer shall retain such certificates for not less than five (5) years, and upon City’s request, shall provide copies of such certificates to City ~~and make the originals available for City inspection.~~ Developer shall be allowed to conclusively rely on the information provided to it in an Affordable Unit Certificate.

D. By not later than May 1 of each year during the term of this Agreement, Developer shall submit an annual report to the City (**“Annual Report”**) for the prior calendar year or portion of any prior calendar year that the Affordable Units start or cease being required under the terms of this Agreement with a certification that the Project complies with this

Agreement. The Annual Report shall, at a minimum, include the following information for each Affordable Unit in the Project: (i) unit number; (ii) number of bedrooms; (iii) current rent and other charges; (iv) dates of any vacancies during the previous year; (v) number of people residing in the unit; and (vi) total gross household income of all residents living in the unit; ~~(vii) documentation of source of household income including if applicable, place of any employment and the type and number of motor vehicles owned, leased or rented and regularly parked on site by any of the Affordable Unit occupants since the prior reporting period, if any.~~

The provisions of this Section shall survive termination or expiration of this Agreement.

Section 2.12. Sustainability Requirements ~~**RESERVE FOR SUSTAINABILITY REQUIREMENTS**~~

Developer shall cause the Project to obtain at least a "Silver" certification issued by the U.S. Green Building Council's Leadership in Energy and Environmental Design ("LEED") rating system, or if such certification or rating system shall be discontinued, then an equivalent certification reasonably designated by City. Developer shall cause the Project to maintain throughout the term of this Agreement at least a "Silver" certification for operations and management of the Project by LEED, or if such certification or rating system shall be discontinued, then an equivalent certification reasonably designated by City. Said initial certification shall be obtained within twenty-four (24) months of completion of the Project. Further, Developer agrees to incorporate the improvements listed on Exhibit F into the Project. Proof of LEED Silver certification shall be provided to City upon receipt by Developer.

ARTICLE III

PROJECT FINANCING

Section 3.01. Initial Capital.

Prior to the commencement of construction of the Project, execution of this Agreement, Developer purchased all property within the District with the Developer Financing. City hereby acknowledges that such action shall constitute sufficient verification to City that Developer has the requisite capability to carry out the Developer Project Work in accordance with this Agreement.

Section 3.01. Interim Construction Financing – Issuance of Industrial Revenue Bonds (IRB) – Sales Tax Exemption for Construction Materials Developer has submitted an~~may make~~ application to the City, at Developer's sole cost and expense, for the issuance by the City of private placement taxable IRBs in accordance with K.S.A. 12-1740, et seq., as amended for the sole purpose of qualifying for a sales tax Project Exemption Certificate pursuant to K.S.A. 79-3606(b). If approved by the City the IRBs will be purchased by the Developer or its lender, and Developer will be responsible for payment of all fees and expenses incidental to the issuance of the IRBs. The term of the IRBs will not exceed five years from date of issuance. If approved, City shall cooperate with Developer in securing the sales tax Project Exemption Certificate, and the IRBs will be issued at or near the completion of construction of the Project and redeemed within the term set forth above.

Section 3.02. Funding of Eligible Project Costs.

Developer and City agree to the reimbursement of Private Eligible Project Costs from the Captured Tax Fund on a Pay-As-You-Go Reimbursement basis; provided, however, that nothing herein shall constitute an assurance by City that such funds will be adequate to fully reimburse Developer for Private Eligible Project Costs. No TIF bonds will be issued by the City in connection with the Project.

A. **Term.** The term of the Project Plan shall be for a period ending on the twentieth (20th) anniversary of the publication of the ordinance approving the Project Plan (the “Term”), unless City takes actions to terminate or amend the Term. Except as provided in **Section 9.02**, City shall not, without the written consent of Developer, and except as otherwise provided herein, terminate or reduce the Term prior to such time as Developer has been reimbursed for all Private Eligible Project Costs incurred or to be incurred by Developer as part of the Project; provided, however, that if all aspects of the Project are completed, City may then terminate the Term so long as Developer has been fully reimbursed for all Private Eligible Project Costs incurred. The foregoing notwithstanding, Developer may terminate this Agreement upon thirty (30) days prior written notice to the City at any time during the Term, in which event the parties agree: (i) City may, in its sole discretion, terminate Developer’s rights and access to Captured Taxes from and after the date of such termination, and/or elect to terminate the Project Plan and/or the District; and (ii) neither party shall have any further obligations under this Agreement or each to the other under the Project Plan except as otherwise provided herein.

B. **Priority.** The City shall make reimbursements from the Captured Tax Fund in accordance with the amounts, priority and duration set forth in this Agreement:

- ~~• The City shall receive the first priority annually for payment of the City District Expenses Fee which shall be deducted from the Captured Tax Fund prior to any other disbursement.~~
- Provided Developer is not otherwise in default of this Agreement, upon receipt of an approved Certificates of Completion, the Developer shall receive 90% of the Captured Tax Fund, **excluding the City District Expenses Fee**, for the first five (5) years of the Term, and the City shall receive the balance for Public Eligible Costs.
- Provided Developer is not otherwise in default of this Agreement, upon receipt of an approved Certificates of Completion, the Developer shall receive 85% of the Captured Tax Fund, **excluding the City District Expenses Fee**, for the next five (5) years of the Term, and the City shall receive the balance for Public Eligible Costs.
- Provided Developer is not otherwise in default of this Agreement, upon receipt of an approved Certificates of Completion, the Developer shall receive 80% of the Captured Tax Fund, **excluding the City District Expenses Fee**, for the next five (5) years of the Term, and the City shall receive the balance for Public Eligible Costs.

- Provided Developer is not otherwise in default of this Agreement, upon receipt of an approved Certificates of Completion, the Developer shall receive 75% of the Captured Tax Fund, ~~excluding the City District Expenses Fee~~, for the final five (5) years of the Term, and the City shall receive the balance for Public Eligible Costs.

Each five (5) year period above shall end on December 22, (the first five (5) year period ending on December 22, 2025), and the Captured Taxes will be based only on the incremental ad valorem property tax revenue actually paid to the Treasurer of Johnson County, Kansas (or its successor agency) as of such date and the amount actually remitted to the Captured Tax Fund by the Treasurer for such period.

Section 3.03. Intentionally Omitted.

Section 3.04. Certification of Expenditure.

In order to receive reimbursement, Developer shall submit to City a Certification of Expenditure attesting to the expenditure of Private Eligible Project Costs in accordance with the procedures outlined in **Section 3.05** below.

Section 3.05. Procedures for Certification of Expenditures.

A. For Certifications of Expenditures to be made in connection with the Private Eligible Project Costs:

1. Developer shall submit to City a written request in the form attached hereto as **Exhibit E** ("Certification of Expenditure") setting forth the amount for which certification is sought and identification of the Private Eligible Project Costs.

2. The request for Certification of Expenditure shall be accompanied by such bills, contracts, invoices, lien waivers or other evidence as reasonably necessary to document appropriate payment pursuant to the Project Plan and this Agreement.

3. City reserves the right to have its engineer or other agents or employees inspect all work in respect of which a request is submitted, to examine the records relating to all Private Eligible Project Costs to be paid, and to obtain such other information as is reasonably necessary to evaluate compliance with the terms hereof.

4. City shall have twenty (20) calendar days after receipt of any Certificate of Expenditure request hereunder to review and respond to any such request by written notice to Developer. If the submitted documentation demonstrates that: (1) the request relates to Private Eligible Project Costs that are in compliance with this Agreement, (2) the expense was incurred, and (3) Developer is not in default under this Agreement; and (4) there is no fraud or misrepresentation (negligent or intentional) on the part of Developer, then City shall approve the request and make, or cause to be made, reimbursement (to the extent funds are actually available) within ten (10) days of the certification. If City disapproves

the request, City shall notify Developer in writing of the reason for such disapproval within such twenty (20) calendar-day period, and the reason for disapproval must be supported by evidence, and Developer shall have the opportunity to revise the portion of the Certificate of Expenditure in question and resubmit same for approval in accordance with this Section 3.05. Approval of Developer's requests for reimbursement will not be unreasonably withheld, conditioned or delayed. If City disapproves a portion of a request, the approved portion of such request shall be paid without delay as provided herein.

B. In the event the request is granted, City shall take such further action as is necessary to have Developer reimbursed; provided, however, such reimbursement will only be made from funds available for such purpose in the Captured Tax Fund, and shall not be obligated to make reimbursements more often than bi-annually. ~~The~~ City shall be under no duty or obligation to pledge or provide its general funds for such reimbursement.

Section 3.06. Right to Inspect.

Developer agrees that, up to one year after completion of the Project, City, with reasonable advance notice and during normal business hours, shall have the right and authority to review, audit, and copy, from time to time, all Developer's books and records relating to the Private Eligible Project Costs incurred by Developer paid from the Captured Tax Fund (including all general contractor's sworn statements, general contracts, subcontracts, material purchase orders, waivers of lien, paid receipts and invoices).

Section 3.07. Certificates of Completion.

A. Upon completion of the Developer Project Work, Developer shall submit a report to City certifying that the Developer Project Work has been completed in accordance with the Project Plan and that it is in compliance with all other provisions of the Agreement.

B. City may conduct an investigation within sixty (60) days following the receipt of such report, and if City determines that the Project Improvements have been constructed in accordance with Project Plan, as evidenced by certificates of occupancy, City shall issue to Developer a written confirmation that the Project ~~has~~Improvements have been completed ("Certificate of Completion"). If City determines that the Developer Project Work has not been completed in accordance with the Project Plan or Developer is not in compliance with this Agreement, then it shall not issue a Certificate of Completion and shall, within ten (10) business days of such finding, specify in writing to Developer the reasons for withholding its certification. ~~Thereafter, at~~At Developer's request, City shall, within 45 days of Developer's request, hold a special hearing at which Developer may present additional evidence of compliance or seek further clarification of City's finding of non-compliance. City shall conduct any further investigation in order to issue its Certificate of Completion within ten (10) business days of Developer's request. The Certificate of Completion shall be issued by City in such form as to allow the Certificate to be recorded in the office of the Register of Deed of Johnson County, Kansas.

Section 3.08. Limitation on Reimbursement.

City and Developer covenant and agree:

A. No otherwise Private Eligible Project Costs incurred prior to ~~February~~ ~~March~~ 1, 2020 (regardless of when paid) shall be reimbursed.

B. No otherwise Private Eligible Project Costs related to travel, entertainment or meals shall be reimbursed unless otherwise approved in advance in writing by City.

C. No otherwise Private Eligible Project Costs payable to third-parties in which Developer and/or its principals have an ownership interest will be eligible for reimbursement, ~~except the General Contractor.~~

ARTICLE IV

DEVELOPER OF RECORD

Section 4.01. Developer Designation.

Developer currently owns or otherwise has all land within the District under contract and intends to develop the District in a manner consistent with the Zoning Approvals and Project Plan for the purposes of carrying out that intent. Developer is hereby designated the exclusive Developer of Record for the District for ~~the term of this Agreement, a period of 5 years from the date of publication of the Ordinance adopting the Project Plan; provided, however, any amounts spent by Developer during such 5-year period shall be reimbursable beyond such 5-year period.~~

ARTICLE V

REAL ESTATE TAXES

Section 5.01. Agreement to Pay Taxes.

Developer agrees that to the extent it is obligated to pay any portion of the real estate tax bills for the District it shall pay ~~(or cause to be paid)~~ such taxes and assessments promptly on or before the due date of such tax bills. Developer or its successors shall have the right to pay said taxes under protest in accordance with applicable law.

Section 5.02. Notice of Protest.

Developer and any other owners of real property in the District shall promptly notify City in writing of protest of real estate taxes or valuation of Developer's property by the County Assessor.

ARTICLE VI

OTHER DEVELOPER COVENANTS

Section 6.01. Maintenance and Repair.

At all times during the term of this Agreement, Developer and City shall maintain in good repair and condition the District and the buildings and improvements therein owned or controlled by Developer and City, respectively, from time to time.

Section 6.02. Local, State and Federal Laws.

Developer and City shall carry out the provisions of this Agreement in conformity with all applicable local, state and federal laws and regulations.

ARTICLE VII

ASSIGNMENT, SALES, LEASING, & MANAGEMENT

Section 7.01. Sale or Disposition of Property within Redevelopment District.

A. Control of Uses. Within the categories of land uses approved with the zoning and preliminary and final development plans, as those approvals may be amended from time-to-time, Developer shall have complete and exclusive control over sales and/or leasing of the property which it owns within the District, including, without limitation, the fixing of rentals and the selection or rejection of tenants.

B. Sale or Lease. Developer may sell, transfer, convey, lease or otherwise dispose of real property owned by Developer within the District. From and after the date of this Agreement, Developer shall notify City in writing of any sale or disposition of any or all of the real property in the District, except leases executed in the ordinary course of business.

C. Transfer of Obligations. This Agreement and the rights, duties and obligations hereunder may not and shall not be assigned by Developer without City's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Developer may, without the prior written consent of City, assign its rights under this Agreement to a Related Entity, provided that prior to such assignment Developer furnishes City with the name of any such Related Entity, together with a certification from Developer, and such other proof as City may reasonably request, that such assignee is a Related Entity of Developer and continues to remain such during the term of this Agreement. Developer (or a Related Entity in the case of an assignment to same) shall also have the right, without City's consent, to collaterally assign to any lender or financial

institution as collateral all of Developer's rights and obligations under this Agreement, and such lender or financial institution shall have the right to perform any term, covenant, condition or agreement and to remedy, in accordance with the terms of this Agreement, any default by Developer under this Agreement, and City shall accept such performance by any such lender or financial institution with the same force and effect as if furnished by Developer. No lender or financial institution shall be personally liable or obligated to perform the obligations of Developer under the Agreement unless and until such lender or financial institution takes possession of the property as a mortgagee or by a receiver appointed at the request of mortgagee or becomes the owner of the fee estate under this Agreement by foreclosure, or deed in lieu of foreclosure or otherwise. Developer may assign all or a portion of its rights to reimbursement from the Captured Tax Fund in accordance with this Agreement to any person or entity upon the written consent of City, which consent shall not be unreasonably withheld, conditioned or delayed. City's consent shall not be required in order for Developer to assign such reimbursement rights to a Related Entity or to a lender or financial institution as provided above.

D. Time of Performance for City's Approval Rights. Any approval rights of the City under this Article VII must be exercised in the form of a written authorization or rejection within sixty (60) days of receipt of written notice from the Developer or said rights shall be waived.

ARTICLE VIII

AUTHORITY

Section 8.01. Actions.

City represents and warrants that upon application of Developer it has taken, or will take, such action(s) as may be required and necessary to process the amendments, variations, and special use approvals relating to its zoning ordinances and its other ordinances, codes and regulations, as may be necessary or proper in order to insure the development of the District in accordance with the Zoning Approvals and to enable City to execute this Agreement and to carry out fully and perform the terms, covenants, agreements, duties and obligations on its part to be kept and performed as provided by the terms and provisions hereof.

Section 8.02. Powers.

City hereby represents and warrants that City has full constitutional and lawful right, power and authority, under currently applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of City, enforceable in accordance with its terms and provisions and does not require the consent of any other governmental authority.

Section 8.03. Authorized Parties.

Whenever under the provisions of this Agreement and other related documents and instruments or any supplemental agreement, request, demand, approval, notice or consent of City or Developer is required, or City or Developer is required to agree or to take some action at the request of the other, such approval or such consent or such request shall be given for City, unless otherwise provided herein, by the City Representative and for Developer by Developer Representative; and any person shall be authorized to act on any such agreement, request, demand, approval, notice or consent or other action and neither party hereto shall have any complaint against the other as a result of any such action taken.

Section 8.04. Representations of Developer.

Developer makes the following representations and warranties, which representations and warranties are true and correct on the date hereof:

A. Due Authority. Developer has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of Developer, enforceable in accordance with its terms.

B. No Defaults or Violation of Law. To Developer's actual knowledge following reasonable inquiry, the execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any material agreement or instrument to which it is now a party, and do not constitute a default under any of the foregoing.

C. No Litigation. No litigation, proceedings or investigations are pending or, to the actual knowledge after reasonable inquiry of Developer, threatened against Developer (or any member of Developer) or the District or the Project Plan. In addition, no litigation, proceedings or investigations are pending or, to the actual knowledge after reasonable inquiry of Developer (including the actual knowledge after reasonable inquiry of any member of Developer executing this Agreement), threatened against Developer (or any member of Developer) seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of Developer (or any member of Developer) to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by Developer (or any member of Developer) of, the terms and provisions of this Agreement.

D. No Material Change. (i) Developer has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for or arising out of or relating to the transactions contemplated by this Agreement, and (ii) there has been no material adverse change in the business, financial position, prospects or results of operations of Developer, which could affect Developer's ability to perform its

obligations pursuant to this Agreement from that shown in the financial information provided by Developer to City prior to the execution of this Agreement.

E. Governmental or Corporate Consents. To Developer's actual knowledge after reasonable inquiry, no consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by Developer of this Agreement except as contemplated herein and except for City approvals pursuant to this Agreement and except for local, state and federal approvals in connection with the project and public improvements to be performed by City.

F. No Default. No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of Developer under this Agreement, or any other material agreement or material instrument to which Developer is a party or by which Developer is or may be bound.

G. Approvals. Developer has or intends to obtain with respect to all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to complete the Developer Project Work. Developer has no reason to believe that all such certificates, licenses, consents, permits, authorizations or approvals which have not yet been obtained will not be obtained in due course.

H. Compliance with Laws. To Developer's actual knowledge after reasonable inquiry, Developer is in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

I. Developer Financing. Developer warrants and represents to City that, to the best of its present knowledge and belief, the Developer Financing will enable Developer to timely implement the Developer Project Work as required in this Agreement. The financial statements of Developer and members of Developer furnished to City or its consultants present fairly and accurately the financial position of such persons as of the dates indicated. There has been no material adverse change in the financial position of such persons since the date of such financial information. Developer understands and agrees that City has relied upon the financial capacity of Developer and its members in its decision to enter into this Agreement.

J. Other Disclosures. The information furnished to City by Developer in connection with the matters covered in this Agreement are true and correct and do not contain any untrue statement of any material fact and do not omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

ARTICLE IX

EVENTS OF DEFAULT

Section 9.01. Events of Default.

The following events shall constitute an Event of Default under this Agreement:

- A. Developer shall fail to timely commence construction of the Project.
- B. Failure of the Developer to maintain or cause to be maintained the insurance required by this Agreement.
- C. Failure by the Developer to attain and maintain the Affordable Housing requirements of Section 2.11 or the **S**sustainability requirements of Section 2.12.

In the event of an Event of Default set forth in A, B or C above, Developer shall be given thirty (30) days after written notice of such default has been given to Developer by City during which time such default may be cured by Developer; provided that, if the failure stated in the notice cannot be corrected within said 30-day period, City may consent in writing to an extension of such time prior to its expiration and City will not unreasonably withhold its consent to such an extension if corrective action is instituted within the 30-day period and diligently pursued to completion and if such consent, in its judgment, does not materially adversely affect the interests of City.

~~C~~.D. Failure by Developer to observe and perform any other covenant, condition or agreement on the part of Developer under this Agreement, including failure to perform the Developer Project Work in substantial accordance with the Development Schedule, for a period of 60 days after written notice of such default has been given to Developer by City during which time such default is neither cured by Developer nor waived in writing by City, provided that, if the failure stated in the notice cannot be corrected within said 60-day period, City may consent in writing to an extension of such time prior to its expiration and City will not unreasonably withhold their consent to such an extension if corrective action is instituted within the 60-day period and diligently pursued to completion and if such consent, in its judgment, does not materially adversely affect the interests of City.

~~D~~.E. Failure by City to observe and perform any covenant, condition or agreement under this Agreement for a period of 60 days after written notice of such default has been given to City by Developer during which time such default is neither cured by City nor waived in writing by Developer, provided that, if the failure stated in the notice cannot be corrected within said 60-day period, Developer may consent in writing to an extension of such time prior to its expiration and Developer will not unreasonably withhold its consent to such an extension if corrective action is instituted within the 60-day period and diligently pursued to completion and if such consent, in its judgment, does not materially adversely affect the interests of Developer.

~~E~~.F. The entry of a decree or order by a court having jurisdiction in the premises for relief in respect of Developer, or adjudging Developer a bankrupt or insolvent, or

approving as properly filed a petition seeking reorganization, adjustment or composition of or in respect of Developer under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, or trustee, of or for Developer or any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstated and in effect for a period of 30 consecutive days, or evidence of means of alternative financing is not otherwise provided by Developer to City.

F.G. The commencement by Developer, any member of Developer of a voluntary case, by it of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to Developer, any member of Developer of bankruptcy or insolvency proceedings against it, or the filing by any of them of a petition or answer or consent seeking reorganization, arrangement or relief under the United States Bankruptcy Code or any other applicable federal or state law, or the consent or acquiescence by it to the filing of any such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee of Developer, any member of Developer or any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability or its failure to pay its debts generally as they become due, or the taking of corporate action by Developer, any member of Developer in furtherance of any such action.

Section 9.02. Remedies on Developer’s Default.

Whenever any Event of Default by Developer shall have occurred and be continuing, subject to applicable cure periods, City may take any one or more of the following remedial steps:

- A. Refuse to approve any further disbursements or reimbursements until such event of default is cured.
- B. Terminate this Agreement, including the respective rights and obligations of the parties except those specified herein to survive termination.
- C. Terminate the District.
- D. Pursue any remedy at law or in equity.

Section 9.03. Limitations on City Remedies.

Specific performance shall not be available to City to require Developer to construct any improvements within the District. Further, any damage recovery against either party shall exclude consequential, special, and punitive damages, which are hereby waived by each party against the other under this Agreement.

Section 9.04. Remedies on City Default.

Whenever any Event of Default by City shall have occurred, Developer shall have available to it all remedies at equity and at law.

Section 9.05. Agreement to Pay Attorneys' Fees and Expenses.

In connection with any Event of Default by Developer or City to perform its obligations hereunder, if either party files a lawsuit for the enforcement of the performance or observance of any covenants or agreements on the part of the other party herein contained, the non-prevailing party agrees that it will, on demand thereof, pay to the prevailing party the reasonable fees of such attorneys and such other reasonable expenses so incurred.

ARTICLE X

GENERAL PROVISIONS

Section 10.01. City Expenses.

City shall be reimbursed for the City District Expenses from the Captured Tax Fund.

Section 10.02. Time of Essence.

Time is of the essence of this Agreement.

Section 10.03. Amendment.

This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties, by the adoption of an ordinance or resolution of City approving said amendment, as provided by law, and by the execution of said amendment by Developer and City or their successors in interest.

Section 10.04. Liens.

Developer agrees that no mechanics' or other liens shall remain against the Property for labor or materials furnished in connection with any acquisition, construction, additions, modifications, improvements, repairs, renewals or replacements made to the Property. However, Developer shall not be in default if mechanics' or other liens are filed or established and Developer contests in good faith said mechanics' liens and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom. Developer hereby agrees and covenants to indemnify and hold harmless City in the event any liens are filed against the Property as a result of acts of Developer, its agents or independent contractors. The indemnity provisions of this Section shall survive termination or expiration of this Agreement.

Section 10.05. Indemnity and Release.

Developer covenants and agrees, at its expense, to pay and to indemnify and save City and its respective members, officers, employees and agents harmless from and against all loss, liability, damage or expense arising out of any and all claims, demands, expenses, penalties, fines, taxes of any character or nature whatsoever regardless of by whom imposed, and losses of every conceivable kind, character and nature whatsoever arising from the Developer Project Work, including, but not limited to, claims for loss or damage to any property or injury to or death of any

person, asserted by or on behalf of any person, firm, corporation or governmental authority arising out of or in any way connected with any property of Developer, or the conditions, occupancy, use, possession, conduct or management of, or any work done in or about the Project by Developer or its agents. Developer also covenants and agrees at its expense to pay, and to indemnify and save City and their respective members, officers, employees and agents harmless of, from and against, all costs, reasonable counsel fees, expenses and liabilities incurred by them or by Developer in any action or proceeding brought by reason of any such claim, demand, expense, penalty, fine or tax. If any action or proceeding is brought against City or their respective members, directors, officers, employees or agents by reason of any such claim or demand, Developer, upon notice from City, covenants to resist and defend such action or proceeding on demand of City or their respective members, directors, officers, employees or agents. Notwithstanding the foregoing, neither City nor their respective members, directors, officers, employees and agents shall be indemnified against liability for damage arising out of bodily injury to persons or damage to property caused by their own negligent, willful and malicious acts or omissions or negligent, willful and malicious acts or omissions of their own members, directors, officers, employees or agents. The provisions of this Section shall survive termination or expiration of this Agreement.

Section 10.06. Immunity of Officers, Employees and Members of City.

No recourse shall be had for the payment of the principal of or interest on the Project or for any claim based thereon or upon any representation, obligation, covenant or agreement in this Agreement contained against any past, present or future officer, member, employee or agent of City, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, members, directors, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

Section 10.07. No Other Agreement.

Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter of tax increment financing and is a full integration of the agreement of the parties.

Section 10.08. Assigns and Transfers.

This Agreement shall be binding upon the parties and their respective successors and permitted assigns.

Section 10.09. Severability.

If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

Section 10.10. Kansas Law.

This Agreement shall be construed in accordance with the laws of the State of Kansas.

Section 10.11. Notice.

All notices and requests required pursuant to this Agreement shall be in writing and shall be sent as follows:

To Developer:

Mission Bowl Apartments, LLC
Attn: Banks Floodman
1125 Grand Blvd, #202
Kansas City, Missouri 64106
Email: bfloodman@sunflowerkc.com

With copies to:

Polsinelli PC
Attn: Korb Maxwell & Kevin Lee
900 W. 48th Place, Suite 900
Kansas City, Missouri 64112
Emails: kmaxwell@polsinelli.com
klee@polsinelli.com

To City:

Ms. Laura Smith
City Administrator
City of Mission, Kansas
6090 Woodson
Mission, KS 66202
Email: Lsmith@missionks.org

With copies to:

Lewis A. Heaven, Jr.
Spencer Fane LLP
6201 College Boulevard, Suite 500
Overland Park, KS 66211
Email: pheaven@spencerfane.com

or at such other addresses as the parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof or by electronic mail if followed by delivery by one of the other means identified in this Section. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

Section 10.12. Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement. Hand and electronic signatures transmitted by electronic mail in portable document format (PDF) or similar format shall also constitute binding signatures hereunder.

Section 10.13. Recordation of Agreement.

The parties agree to execute and deliver a memorandum of this Agreement in proper form for recording in the real property records of Johnson County, Kansas, and to record a written release of the same upon termination or expiration of this Agreement.

Section 10.14. Consent or Approval.

Except as otherwise provided in this Agreement, whenever consent or approval of either party is required, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

Section 10.15. Term of Agreement.

Except as otherwise provided in this Agreement, this Agreement will become effective upon approval of the Project Plan in accordance with the TIF Act, and will remain in full force and effect until the completion of the Developer Project Work and so long thereafter as there are any remaining Private Eligible Project Costs which have not been reimbursed to Developer or Public Eligible Costs which have not been reimbursed to the City in accordance with this Agreement. At such time that all of such costs have been satisfied and reimbursed, this Agreement will terminate, provided that in any event, the obligations of Developer and City arising under the terms and conditions of this Agreement, with respect to the Project, including, but not limited to, the reimbursement of Private Eligible Project Costs, will cease at the expiration of the Term. Provisions herein specifically stated to survive the Term shall so survive termination or expiration of this Agreement.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, City and Developer have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF MISSION, a Kansas municipal corporation

By: _____
Ronald E. Appletoft, Mayor

ATTEST:

Audrey McClanahan , City Clerk

MISSION BOWL APARTMENTS, LLC,
a limited liability company

By: _____
Its: _____

EXHIBITS

- Exhibit A Legal Description of District
- Exhibit B Project Plan
- Exhibit C Development Schedule
- Exhibit D Project Budget
- Exhibit E Certification of Expenditures Form
- Exhibit F LEED Certification Improvements

EXHIBIT A

LEGAL DESCRIPTION OF DISTRICT

That part of Lot 3 and all of Lot 4, MISSION MART, a subdivision in the City of Mission, Johnson County, Kansas, described as follows: Beginning at the Northeast corner of said Lot 4; thence South 23 degrees, 08 minutes, 34 seconds East along the Easterly line of said Lot 4, 232.57 feet to the Southeast corner of said Lot 4; thence South 42 degrees, 51 minutes, 45 seconds West along the Southerly line of said Lot 4, 62.64 feet; thence South 20 degrees, 30 minutes, 00 seconds West along said Southerly line, 205.00 feet; thence South 65 degrees, 20 minutes, 00 seconds West along said Southerly line, 60.00 feet; thence North 33 degrees, 49 minutes, 10 seconds East along the Southerly line of said Lot 4, 74.78 feet; thence North 23 degrees, 08 minutes, 34 seconds West along said Southerly line, 75.00 feet; thence South 66 degrees, 51 minutes, 26 seconds West along the Southerly line of Lot 4 and Lot 3, 276.00 feet to the Southwesterly corner of said Mission Mart; thence North 23 degrees, 08 minutes, 34 seconds West along a line that is 47.08 feet Northeast of the Westerly line of said Lot 3, as measured perpendicular to and parallel with said Westerly line, 292.22 feet to a point on the Northerly line of said Lot 3; thence North 66 degrees, 51 minutes, 26 seconds East along the Northerly line of said Lot 3 and Lot 4, 472.00 feet to the Point of Beginning, EXCEPT that part platted as MISSION CELL TOWER, a subdivision in the City of Mission, Johnson County, Kansas.

Containing 138,146.6 square feet, or 3.171 acres, more or less.

EXHIBIT B
PROJECT PLAN

EXHIBIT C

DEVELOPMENT SCHEDULE

December ____, 2020

Approval of TIF Project Plan and Development Agreement

On or prior to ~~June~~ ~~March~~ 1, 2021

Demolish and remove existing improvements and debris, and commence the Developer Project Work

On or prior to ~~September 1~~ ~~June 1~~, 2021

Commence the Developer Project Work and commence vertical construction of the Project

On or prior to August 1, 2023 ~~December 31, 2022~~

Complete the Developer Project Work and complete vertical construction of the Project

EXHIBIT D
PROJECT BUDGET

EXHIBIT E

CERTIFICATION OF EXPENDITURES FORM

Request No. _____

Date: _____

Pursuant to the Redevelopment Agreement for the Mission Bowl Apartments Project (the "Agreement") between the City of Mission, Kansas and the undersigned ("Developer"), Developer requests payment or reimbursement and hereby states and certifies as follows:

1. The date and number of this request are as set forth above.
2. All terms in this request shall have and are used with the meanings specified in the Agreement.
3. The names of the persons, firms or corporations to whom the payments requested hereby are due or have been paid, the amounts paid or to be paid and the general classification and description of the costs ~~for which each obligation~~ requested to be paid hereby was incurred are as set forth on **Attachment I** hereto. All payments requested are for reimbursement of Private Eligible Project Costs.
4. These costs have been incurred and paid or are presently due and payable and are reasonable costs that are payable or reimbursable under the -Agreement.
5. Each item listed on Attachment I above has not previously been paid or reimbursed from the Captured Tax Fund and no part thereof has been included in any other Certificate of Expenditure Disbursement Request previously filed with the City.
6. There has not been filed with or served upon Developer any notice of any lien, right to a lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request.
7. All work for which payment is now or has heretofore been requested (insofar as such payments relate to the construction, remodeling and renovation portions of the Project) has been performed in accordance with the plans and specifications therefore.
8. Lien waivers for costs for which payment is hereby requested have been received and are attached hereto as **Attachment II** hereto.

MISSION BOWL APARTMENTS, LLC

By: _____
Title: _____

Approved this ____ day of _____, 20__

CITY OF MISSION, KANSAS

By: _____
City Representative

|

EXHIBIT F

SUSTAINABILITY IMPROVEMENTS

- Solar Ready Design
- Efficient Hot Water Distribution
- Garage Pollutant Protection
- Radon-Resistant Construction
- Compartmentalization
- Low-Emitting and Fuel-Efficient Vehicles: Provide electric car charging station(s) as an alternative fuel refueling facility and/or provide preferred parking for alternative fuel vehicles and signage for preferred parking.
- Light Pollution Reduction: Reduce exterior lighting power density by meeting up light and light trespass requirements when selecting building lighting, using either the backlight-up light-glare (BUG) method or the calculation method.
- Site Development-Restore Habitat: Replacing a large portion of an existing site that is all impervious surface parking lot with turf and landscaping to create a pocket park and dog park.
- Water Efficient Landscaping: Utilization of native grass and landscape species that require little to no irrigation. Use of high-efficiency irrigation.
- Water Use Reduction: Indoor: Provide low-flow plumbing fixtures. Outdoor: Reuse of rainwater through rain barrel collection for irrigation to reduce the potable water demand.
- Heat Island Reduction: Utilization of high-reflectance roofing material. Provide covered parking.
- Building Energy Systems: Use of energy efficient building system design and utilization of energy modeling to meet Core Performance guidelines. Installation of energy efficient appliances.
- Optimize Energy Performance: Provide Low-E energy efficient windows. Provide LED energy efficient lighting.
- Storage and Collection of Recyclables: Provide programmed space for the collection and storage of recycling. Encourage activities to reduce and reuse materials before recycling, to decrease the volume of recyclables handled.
- Construction Waste Management: During construction strategies will be used to achieve material reuse, recycling, donation, and salvage. Source reduction and source separation will also be utilized. Source reduction eliminates project waste through prefabrication.

modular construction, or incorporating standard material lengths or sizes into construction documents. Source separation sorts waste on site into recycling streams, ensuring delivery to the correct facility.

- Regional Materials: Use of building materials that are distributed, purchased, or manufactured within a 100 mile radius.
- Measurement and Verification: Tenant Sub-Metering: Centrally monitored metering system for tenant sub-meters. Connections of sensors and meters for the tenant's measurement and verification plan.
- Increased Ventilation: Increased filtration and increased ventilation affect energy consumption. Provide energy efficiency measures, such as dedicated outdoor air systems, economizers, and demand-controlled ventilation, to reduce energy usage.
- Low Emitting Materials-Paints and Coatings: Use of low VOC paints, primers, adhesives, and sealants throughout the project to decrease or eliminate off gassing of toxins.
- Low Emitting Materials-Adhesives and Sealants: Use of low VOC paints, primers, adhesives, and sealants throughout the project to decrease or eliminate off gassing of toxins.
- Low Emitting Materials-Flooring Systems: Use of low VOC paints, primers, adhesives, and sealants throughout the project to decrease or eliminate off gassing of toxins.
- Daylight and Views: Design of atriums and glass storefronts will be utilized to not only increase daylight and views for interior spaces but also reduce the need for electrical lighting in spaces that would otherwise likely require it.
- Innovation in Design: Implementing a green housekeeping program for building maintenance.
- High-Priority Site: Many communities and governments have identified high-priority redevelopment sites. Putting these blighted sites back into productive use has many environmental advantages over development in greenfield sites and environmentally sensitive areas. Building a project on a blighted site can revitalize the neighborhood and bring social and economic benefits to the surrounding community. Such projects also achieve savings because they are served by existing infrastructure.
- Location and Transportation: Project is located within existing infrastructure. Surrounding density includes both residential and non residential. Within walking distance to 8 or more diverse uses. Close proximity to quality public transit.
- Bicycle Facilities: Bicycle storage and on site tenant bike repair shop provided. Connected to pedestrian and biking paths to encourage bike ability, walkability and in whole less vehicle usage.
- Recycled Building Materials: Adaptive reuse of wood floors from the old Mission Bowl building.

- Construction Demolition Waste Management: Recycle and/or salvage nonhazardous construction and demolition materials. Calculations can be by weight or volume but must be consistent throughout.
- Indoor Environmental Quality: Interior design and space programming to consider thermal comfort, interior lighting, daylight, quality views, and acoustic performance.

**ATTACHMENT I
TO CERTIFICATION OF EXPENDITURE
REDEVELOPMENT AGREEMENT FOR MISSION BOWL APARTMENTS**

REQUEST NO. _____

DATED _____

SCHEDULE OF PAYMENTS REQUESTED

Person, firm or corporation to whom payment is due	Amount to be paid	General classification and description of the costs of issuance for which the Obligation to be paid was incurred ¹
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(Published in *The Legal Record* on December 22, 2020)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, KANSAS, MAKING CERTAIN FINDINGS AND (1) REMOVING CERTAIN REAL PROPERTY FROM ROCK CREEK REDEVELOPMENT DISTRICT NO. 3; (2) DIVIDING ROCK CREEK REDEVELOPMENT DISTRICT NO. 3 INTO TWO REDEVELOPMENT DISTRICTS; (3) ADOPTING A REDEVELOPMENT PROJECT PLAN FOR REDEVELOPMENT DISTRICT NO. 3A; AND (4) APPROVING THE EXECUTION OF A REDEVELOPMENT AGREEMENT BETWEEN THE CITY AND MISSION BOWL APARTMENTS, LLC.

WHEREAS, the City of Mission, Kansas (the “City”), is a city of the second class organized and existing under the constitution and laws of the State of Kansas; and

WHEREAS, the City established the Rock Creek Redevelopment District pursuant to K.S.A. 12-1770 *et seq.* (the “Act”), approved by the City on January 11, 2005 and amended on February 8, 2006, by the City Council’s (the “Governing Body”) passage of Ordinance No. 1190 and Ordinance No. 1195, respectively; and

WHEREAS, pursuant to Ordinance No. 1508 passed by the Governing Body on November 18, 2019, the City divided the Rock Creek Redevelopment District into five separate redevelopment districts, including Rock Creek Redevelopment District No. 3 (Mission Mart and Bowl) (“Redevelopment District No. 3”); and

WHEREAS, the City has not previously considered or adopted any redevelopment project plans within Redevelopment District No. 3; and

WHEREAS, the City has determined that it is necessary and desirable to remove certain property from Redevelopment District No. 3, as depicted and legally described on **Exhibit A** (the “Removed Property”); and

WHEREAS, the City has determined that it is necessary and desirable to divide the remaining land of Redevelopment District No. 3 into two separate redevelopment districts pursuant to K.S.A. 12-1771(h) and to adopt the Tax Increment Financing Redevelopment Project Plan for Rock Creek Redevelopment District No. 3A (the “Project Plan”); and

WHEREAS, the Governing Body adopted Resolution No. 1063 on November 4, 2020, establishing this date as the date for the public hearings to consider the division of Redevelopment District No. 3 into two redevelopment districts and the adoption of the Project Plan; and

WHEREAS, notice of the public hearings was given as required by the Act, and the public hearings were held and closed on this date; and

WHEREAS, the Governing Body hereby finds and determines it to be necessary and advisable to divide Redevelopment District No. 3 into two redevelopment districts and adopt the Project Plan; and

WHEREAS, in connection with Redevelopment District No. 3A and the Project Plan, the Governing Body further finds and determines it to be necessary and advisable to enter into the Redevelopment Agreement between the City and Mission Bowl Apartments, LLC (the “Redevelopment Agreement”).

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

Section 1. Findings. The Governing Body hereby finds that all required notices for the public hearings were disseminated in accordance with the Act, and that the conservation, development or redevelopment of Redevelopment District No. 3 as divided herein is necessary to promote the general and economic welfare of the City.

Section 2. Removal. Pursuant to K.S.A. 12-1771(g), the Governing Body hereby removes the Removed Property from Redevelopment District No. 3. The Governing Body makes a legislative finding that the Removed Property constitutes less than 15% of the land area of Redevelopment District No. 3 and therefore the “base assessed value” of Redevelopment District No. 3 shall remain unchanged.

Section 3. Divide Redevelopment District No. 3. The Governing Body hereby finds that it is necessary and desirable to divide Redevelopment District No. 3 into two separate redevelopment districts in accordance with K.S.A. 12-1771(h). The redevelopment districts are depicted on the map attached hereto as **Exhibit A** and legally described in **Exhibit B**, and generally described as follows:

Rock Creek Redevelopment District No. 3A. A redevelopment district containing one project area consisting of some or all of the following uses: one or more commercial or residential facilities and all related infrastructure improvements, including storm water improvements within and around the Rock Creek channel, streets, sanitary and storm sewers, water lines and all related expenses to redevelop and finance the project and all other associated public and private infrastructure.

Rock Creek Redevelopment District No. 3B. A redevelopment district containing one project area consisting of some or all of the following uses: one or more commercial or residential facilities and all related infrastructure improvements, including storm water improvements within and around the Rock Creek channel, streets, sanitary and storm sewers, water lines and all related expenses to redevelop and finance the project and all other associated public and private infrastructure.

Section 4. Project Plan. The Governing hereby adopts the Project Plan governing redevelopment of the real property in Redevelopment District No. 3A, which is shown on the map attached as **Exhibit A** and legally described in **Exhibit B**. The Governing Body finds and determines that the Project Plan does not require a relocation assistance plan under the Act.

Section 5. Redevelopment Agreement. The Governing Body hereby approves the Redevelopment Agreement in substantially the form presented to and reviewed by the Governing Body, and the City is hereby authorized to execute and deliver the Redevelopment Agreement with such changes therein (including the dated date thereof) as shall be approved by the officials of the City executing such document, such officials’ signatures thereon being conclusive evidence of their approval and the City’s approval thereof.

Section 6. Further Authority. The Mayor, City Administrator, Finance Director, City Clerk and other officials and employees of the City are hereby further authorized and directed to take such other

actions as may be appropriate or desirable to accomplish the purposes of this Ordinance.

Section 7. Effective Date. This Ordinance shall take effect and be in force from and after its passage by 2/3 vote of the Governing Body and publication as provided by law.

[Balance of page intentionally left blank]

PASSED by 2/3 vote of the Governing Body this December 16, 2020.

SIGNED by the Mayor this December 16, 2020.

(SEAL)

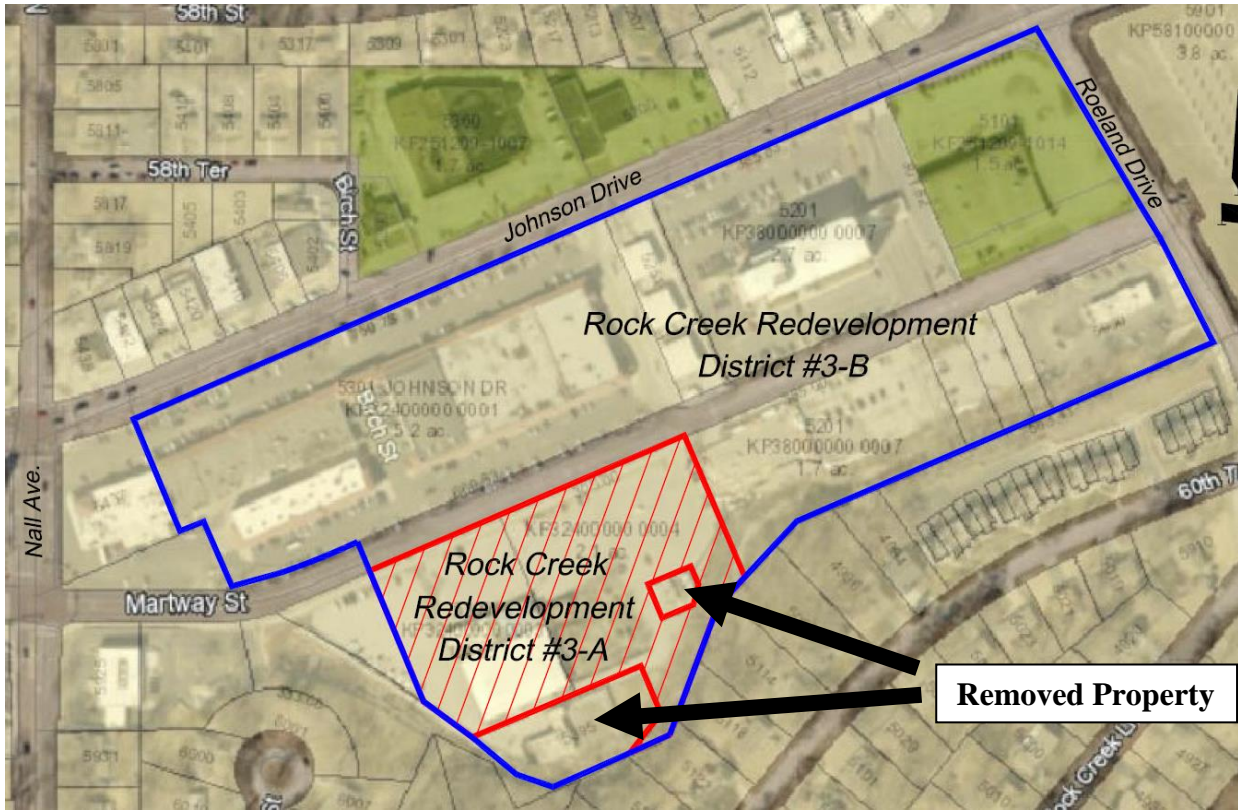
Ronald E. Appletoft, Mayor

ATTEST:

Audrey McClanahan, City Clerk

EXHIBIT A

**MAP OF REDEVELOPMENT DISTRICTS NO. 3A AND 3B AND REMOVED PROPERTY;
LEGAL DESCRIPTIONS OF REMOVED PROPERTY**



(Cross-hatched area indicates property within Rock Creek Redevelopment District No. 3A)

LEGAL DESCRIPTIONS OF REMOVED PROPERTY:

Lot 1, MISSION CELL TOWER, a subdivision in the City of Mission, Johnson County, Kansas.
(Parcel ID: KP24950000 0001)

Lot 16, MISSION VILLAGE BLOCK 5, a subdivision in the City of Mission, Johnson County, Kansas.
(Parcel ID: KP38000000 0016)

EXHIBIT B

LEGAL DESCRIPTIONS OF REDEVELOPMENT DISTRICTS NO. 3A AND 3B

REDEVELOPMENT DISTRICT NO. 3A:

That part of Lot 3 and all of Lot 4, MISSION MART, a subdivision in the City of Mission, Johnson County, Kansas, described as follows: Beginning at the Northeast corner of said Lot 4; thence South 23 degrees, 08 minutes, 34 seconds East along the Easterly line of said Lot 4, 232.57 feet to the Southeast corner of said Lot 4; thence South 42 degrees, 51 minutes, 45 seconds West along the Southerly line of said Lot 4, 62.64 feet; thence South 20 degrees, 30 minutes, 00 seconds West along said Southerly line, 205.00 feet; thence South 65 degrees, 20 minutes, 00 seconds West along said Southerly line, 60.00 feet; thence North 33 degrees, 49 minutes, 10 seconds East along the Southerly line of said Lot 4, 74.78 feet; thence North 23 degrees, 08 minutes, 34 seconds West along said Southerly line, 75.00 feet; thence South 66 degrees, 51 minutes, 26 seconds West along the Southerly line of Lot 4 and Lot 3, 276.00 feet to the Southwesterly corner of said Mission Mart; thence North 23 degrees, 08 minutes, 34 seconds West along a line that is 47.08 feet Northeast of the Westerly line of said Lot 3, as measured perpendicular to and parallel with said Westerly line, 292.22 feet to a point on the Northerly line of said Lot 3; thence North 66 degrees, 51 minutes, 26 seconds East along the Northerly line of said Lot 3 and Lot 4, 472.00 feet to the Point of Beginning, EXCEPT that part platted as MISSION CELL TOWER, a subdivision in the City of Mission, Johnson County, Kansas. Containing 138,146.6 square feet, or 3.171 acres, more or less.

REDEVELOPMENT DISTRICT NO. 3B:

Parcel Id.: KR251209-1018

All that part of the South ½ of the Northwest ¼ of Section 9, Township 12, Range 25, in the City of Mission, Johnson County, Kansas, as described as follows:

Commencing at the Northwest corner of the Northwest ¼ of the Southwest ¼ of said Section 9; thence North (assuming bearing of due North-South), a distance of 3.70 feet to a point on the West line of the Southwest ¼ of the Northwest ¼ of said Section 9; thence North 66° 42' 30" East, a distance of 1386.57 feet, said line being 8 feet South and parallel to the center tangent line of Johnson Drive; thence South 23° 18' 10" East, distance of 21 feet to the Southerly right-of-way line of Johnson Drive, as now established, also being the true point of beginning; thence South 23° 18' 10" East, a distance of 5.68 feet; thence North 69° 33' 35" East, a distance of 122.25 feet; thence North 66° 41' 50" East, a distance of 102.14 feet; thence South 73° 53' 09" East, a distance of 34.42 feet to a point on the Westerly right-of-way line of Roeland Drive as now established; thence North 31° 28' 08" West along said Westerly line, a distance of 9.00 feet; thence North 72° 23' 09" West along the right-of-way line as now established; a distance of 37.78 feet to the Southerly right-of-way line of Johnson Drive as now established; thence South 66° 41' 50" West along said Southerly line, a distance of 221.00 feet to the point of beginning; containing 2,487 square feet more or less.

Parcel Id.: KF251209-1011 and KF251209-1014

Commencing at the northwest corner of the northwest ¼ of the Southwest ¼ of Section 9, Township 12, Range 25, in Johnson County, Kansas; thence North 3.70 feet to a point on the west line of the southwest ¼ of the northwest ¼ of said section; thence deflecting to the right from the last described course 66 degrees 41 minutes 50 seconds, a distance of 1332.57 feet, said line being 9.0 feet south and parallel to the center tangent line of an 18 foot wide brick slab (formerly U.S. Highway No. 50) and now known as Johnson Drive;

thence southeasterly 90 degrees to the last described course a distance of 21 feet to the point of beginning; thence continuing on the last described course a distance of 250 feet; thence in a northeasterly direction along a course which makes an angle of 90 degrees to the last described course, a distance of 335.74 feet to the westerly line of Roeland Drive; thence deflecting to the left 98 degrees 09 minutes 58 seconds a distance of 251.72 feet to the southerly right of way line of said Johnson Drive; thence southwesterly along a line which is 30 feet from the center line of said Johnson Drive 300 feet to the point of beginning; and

All that part of the South ½ of the Northwest ¼ of Section 9 , Township 12, Range 25, in the City of Mission, in said county and state, described as follows: from the Northwest corner of the Northwest ¼ of the Southwest ¼ of said Section 9; run thence North (this and all subsequent bearing being in relation to the West line of the Southwest ¼ of said Section 9, as having an assumed bearing of due North-South), 3.70 feet to a point in a line that is 9.0 feet Southerly distance at right angles to the center tangent line of an 18 foot brick slab known as Johnson Drive formerly U.S. Highway No. 50; run thence North 66 degrees 41 minutes 50 seconds East along said line, 1386.57 feet; run thence South 23 degrees 18 minutes 10 seconds East, 271.0 feet to the true point of beginning of the tract of land herein described; thence North 66 degrees 41 minutes 50 seconds East 281.75 feet to the Westerly right of way line of Roeland Drive as now established; thence South 31 degrees 28 minutes 08 seconds East along said Westerly right of way line, 53.21 feet to the Northerly right of way line of Martway Street, as now established; thence South 66 degrees 51 minutes 57 seconds West along said Northerly right of way line, 289.31 feet; thence North 23 degrees 18 minutes 10 seconds West 51.82 feet to the point of beginning,

EXCEPT

All that part of the South ½ of the Northwest ¼ of Section 9, Township 12, Range 25, in the City of Mission, Johnson County, Kansas, described as follows: from the Northwest corner of the Northwest ¼ of the Southwest ¼ of said Section 9; thence run North (this and all subsequent bearings being in relation to the West line of the Southwest ¼ of said Section 9 as having an assumed bearing of due North-South) 3.70 feet to a point in a line that is 9.0 feet Southerly distance, at right angles to the center tangent line of an 18 foot wide brick slab known as Johnson County, formerly U.S. Highway No. 50; run thence North 66 degrees 41 minutes 50 seconds East along said line, 1332.57 feet; run thence South 23 degrees 18 minutes 10 seconds East, 21.0 feet to the Southerly right of way line of said Johnson Drive, as now established, also being the true point of beginning of the tract of land herein described; thence continuing South 23 degrees 18 minutes 10 seconds East, 250.00 feet; thence North 66 degrees 41 minutes 50 seconds East, 54.0 feet; thence North 23 degrees 18 minutes 10 seconds West 250.00 feet to the Southerly right of way line of said Johnson Drive; thence South 66 degrees 41 minutes 50 seconds West along said Southerly right of way line 54.0 feet to the point of beginning.

Parcel Id.: KP38000000 0007 – 5201 Johnson Drive

Lots 7, 8, 9, 10, 21 through 23, except the East 10 feet thereof, and the east 95 feet of Lot 20, MISSION VILLAGE BLOCK 5, a subdivision in the City of Mission, Johnson County, Kansas, according to the recorded plat.

Parcel Id.: KP38000000 0005 and KP38000000 0006

Lots 5 and 6, MISSION VILLAGE BLOCK 5, a subdivision in the City of Mission, Johnson County, Kansas.

Parcel Id.: KP32400000 0001

Lot 1, MISSION MART, a subdivision in the City of Mission, Johnson County, Kansas.

Parcel Id.: KP38000000 0023B; KP38000000 0024; KP38000000 0025; and KP38000000 0025A

All of Lots 24, 25 and 26, and the East 10 feet of Lot 23, all in Block 5, MISSION VILLAGE, a Subdivision in the City of Mission, Johnson County, Kansas, more particularly described as follows: Beginning at the Northeasterly corner of said Lot 26, thence South 31 degrees 28 minutes 08 seconds East, along the Easterly line of said Lot 26, 137.74 feet to a point of curvature; thence Southeasterly along said Easterly line, on a curve to the right being tangent to the last described course having a radius of 440 feet, and an arc length of 48.65 feet to the Southeasterly corner of said Lot 26; thence South 66 degrees 41 minutes 50 seconds West along the Southerly line of said Lots 23 thru 26, 413.42 feet; thence North 23 degrees 03 minutes 34 seconds West, 185.87 feet to a point on the Northerly line of said Lot 23; thence North 66 degrees 51 minutes 26 seconds East, along the Northerly line of said Lots 23 thru 26, 389.09 feet to the point of beginning.

City of Mission	Item Number:	3.
ACTION ITEM SUMMARY	Date:	December 9, 2020
ADMINISTRATION	From:	Laura Smith

Action items require a vote to recommend the item to full City Council for further action.

RE: Resolution of Intent to issue Industrial Revenue Bonds for the Mission Bowl Apartments, LLC Project

RECOMMENDATION: Approve the Resolution establishing the intent and authority of the City to issue Industrial Revenue Bonds (IRBs) in one or more series in an aggregate principal amount not to exceed \$30,000,000 to finance the costs of acquiring, constructing, and equipping multiple facilities for the benefit of Mission Bowl Apartments, LLC.

DETAILS: In addition to the request for Tax Increment Financing, the Developer has also submitted a formal application to request the issuance of IRB's for the sole purpose of a sales tax exemption on construction materials. The City's Bond Counsel, Gilmore & Bell, has prepared a Resolution which establishes the intent and authority of the City to proceed with the transaction.

The IRBs and the associated interest shall be special, limited obligations of the City payable solely out of the amounts derived by the City under a Lease Agreement. The bonds are not a general obligation of the City, and are not backed by the full faith and credit of the City. The bonds are not payable in any manner by taxation, but shall be payable solely from the funds provided for in the Indenture. The Resolution anticipates the issuance of bonds in an amount not to exceed \$30,000,000.

The issuance of the bonds shall not directly, indirectly or contingently, obligate the City, the State or any other political subdivision thereof to levy any form of taxation or to make any appropriation for their payment. **The City is in no way responsible for the repayment of these bonds.**

CFAA CONSIDERATIONS/IMPACTS: N/A

Related Statute/City Ordinance:	K.S.A. 12-1740 to 12-1749d
Line Item Code/Description:	
Available Budget:	

RESOLUTION NO. _____

RESOLUTION DETERMINING THE INTENT OF THE CITY OF MISSION, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE AGGREGATE AMOUNT NOT TO EXCEED \$30,000,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING A MULTIFAMILY RESIDENTIAL FACILITY FOR THE BENEFIT OF MISSION BOWL APARTMENTS, LLC AND ITS SUCCESSORS AND ASSIGNS

WHEREAS, the City of Mission, Kansas (the “City”), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the “Act”), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, Mission Bowl Apartments, LLC, a Kansas limited liability company, has requested that the City finance the cost of acquiring, constructing and equipping a multistory, multifamily residential project consisting of approximately 160 units (the “Project”) through the issuance of its industrial revenue bonds in the amount not to exceed \$30,000,000 (the “Bonds”), and to lease the Project to Mission Bowl Apartments, LLC, a Kansas limited liability company, or its successors and assigns (collectively, the “Company”) in accordance with the Act; and

WHEREAS, it is hereby found and determined to be advisable and in the interest and for the welfare of the City and its inhabitants that the City finance the costs of the Project by the issuance of the Bonds under the Act in a principal amount not to exceed \$30,000,000, said Bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the City to the Company.

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

Section 1. Approval of Project. The governing body of the City hereby finds and determines that the acquiring, constructing and equipping of the Project will promote the general welfare and economic prosperity of the City, and the issuance of the Bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act. The Project shall be generally located south of Martway Street between Nall Avenue and Roeland Drive at the former site of Mission Bowl within the City.

Section 2. Intent to Issue Bonds. The governing body of the City hereby determines and declares the intent of the City to acquire, construct and equip the Project out of the proceeds of the Bonds in a principal amount not to exceed \$30,000,000 to be issued pursuant to the Act.

Section 3. Provision for the Bonds. Subject to the conditions of this Resolution, the City expresses its intent to (i) issue the Bonds to pay the costs of acquiring, constructing and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by ordinance of the City; (ii) provide for the lease (with an option to purchase) of the Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable

for the authorization and issuance of the Bonds by the City and take or cause to be taken such other action as may be required to implement the aforesaid.

Section 4. Conditions to Issuance. The issuance of the Bonds and the execution and delivery of any documents related to the Bonds are subject to: (i) obtaining any necessary governmental approvals; (ii) agreement by the City, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project; (iii) the Company's compliance with the City's policies relating to the issuance of industrial revenue bonds; (iv) the passage and publication of an Ordinance authorizing the issuance of the Bonds; and (v) Company's payment of all of the costs of issuance related to the issuance of the Bonds.

Section 5. Sale of the Bonds. The sale of the Bonds shall be the responsibility of the Company; provided, however, arrangements for the sale of the Bonds shall be acceptable to the City.

Section 6. Limited Obligations of the City. The Bonds and the interest thereon shall be special, limited obligations of the City payable solely out of the amounts derived by the City under a Lease Agreement with respect to the Bonds and as provided herein and are secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Trustee and in favor of the owners of the Bonds, as provided in the Indenture. The Bonds shall not constitute a general obligation of the City, the State or of any other political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the City, the State or of any other political subdivision thereof and shall not be payable in any manner by taxation, but shall be payable solely from the funds provided for as provided in the Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City, the State or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

Section 7. Required Disclosure. Any disclosure document prepared in connection with the placement or offering of the Bonds shall contain substantially the following disclaimer:

NONE OF THE INFORMATION IN THIS OFFICIAL STATEMENT, OTHER THAN WITH RESPECT TO INFORMATION CONCERNING THE CITY CONTAINED UNDER THE CAPTIONS "THE CITY" AND "LITIGATION - THE CITY" HEREIN, HAS BEEN SUPPLIED OR VERIFIED BY THE CITY, AND THE CITY MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

Section 8. Authorization to Proceed. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into of contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law, and upon compliance with the other requirements of this Resolution, the City will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 9. No Reliance on Resolution. Kansas law provides that the City may only issue the Bonds by passage of an Ordinance and compliance with other state law requirements. The City has not yet passed an Ordinance for the Bonds. This Resolution only evidences the intent of the current governing body to issue the Bonds for the Project. The Company should not construe the adoption of this Resolution as a promise or guarantee that the Ordinance for the Bonds will be passed or that the Project will be approved.

Section 10. Termination of Resolution. This Resolution shall terminate three years from the date of the adoption of this Resolution unless (i) the Bonds have been issued for the Project or (ii) a building permit has been issued by the City for the Project. The City, upon the written request of the Company, may extend this time period.

Section 11. Benefit of Resolution. This Resolution will inure to the benefit of the City and the Company. The Company may, with the prior written consent of the City, assign all or a portion of its interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.

Section 12. Further Action. Counsel to the City and Gilmore & Bell, P.C., Bond Counsel for the City, together with the officers and employees of the City, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the City all documents necessary to effect the authorization, issuance and sale of the bonds and other actions contemplated hereunder.

Section 13. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

ADOPTED this 16th day of December, 2020.

CITY OF MISSION, KANSAS

By: _____
Ronald E. Appletoft, Mayor

[SEAL]
ATTEST:

Audrey McClanahan, City Clerk

City of Mission	Item Number:	4.
ACTION ITEM SUMMARY	Date:	December 9, 2020
Administration	From:	Laura Smith

Action items require a vote to recommend the item to the full City Council for further action.

RE: Agreement for Enforcement of Johnson County Public Health Order

RECOMMENDATION: Authorize the Mayor to execute the Government Enforcement Services Agreement for Johnson County Local Health Officer Orders and County Board of Health Orders between Johnson County and the City of Mission.

DETAILS: On November 13, 2020, the Johnson County Board of County Commissioners, sitting as the Johnson County Board of Public Health, adopted Johnson County Board of Public Health Order No. 002-20 in an effort to slow the spread of COVID-19 in the County.

Among other things, the Order established certain social distancing requirements and limitations on gatherings for individuals, businesses, and activities. The Order became effective at 12:01 A.M. on Monday, November 16, 2020, and remains in effect through 11:59 P.M. on January 31, 2020, unless otherwise amended, revoked, or replaced.

The Order was issued by the County pursuant to certain statutory authority, namely K.S.A. 65-119. This type of order could generally be enforced by the district attorney pursuant to K.S.A. 65-127 and, depending on the situation, K.S.A. 65-129. However, there has been concern over the practical ability to enforce such rules given the backlog of cases currently pending in district court.

Pursuant to K.S.A. 19-101d, the Board of County Commissioners has the power to enforce certain of its "resolutions" by prosecution in the Johnson County Codes Court. Therefore, in an effort to better allow enforcement of its own Health Order, the County adopted Resolution No. 108-20 on November 19, 2020 making noncompliance with the Order a violation of the Johnson County Code.

There has been significant discussion and debate among the various cities in the County since the Resolution was adopted trying to resolve whether the County can enforce this Resolution in County Codes Court within city limits, absent an agreement with the individual city to specifically allow for that. Because cities generally have their own home rule powers within their own borders, in the absence of the cities granting that authority, the County's jurisdiction would only be in unincorporated areas.

The County has requested that each individual city consider and approve an agreement that would specifically allow for County enforcement of the Health Order. The Agreement included in the packet has been developed collaboratively by several City

Related Statute/City Ordinance:	K.S.A. 65-119, K.S.A. 65-127, K.S.A. 65-129, K.S.A. 19-101d
Line Item Code/Description:	NA
Available Budget:	NA

City of Mission	Item Number:	4.
ACTION ITEM SUMMARY	Date:	December 9, 2020
Administration	From:	Laura Smith

Action items require a vote to recommend the item to the full City Council for further action.

Attorneys and the County Attorney to address the following:

- The County, and not the City, will be responsible for enforcement of the Health Order within the City limits. The City agrees to reasonably cooperate with the County in the sharing of information related to enforcement, and to also assist in educating its citizens as to the requirements of the Health Order.
- The Agreement is limited only to Johnson County Board of Public Health Order No. 002-20. No other orders would be covered by this Agreement. Should the Board adopt an additional order, the City can amend the Agreement if necessary or desirable.
- Either party can terminate the Agreement at any time, if deemed in the best interests of the City or County.

Also included in the packet are two fact sheets developed by the County to assist in summarizing the key components of the Health Order for our residents and businesses.

CFAA CONSIDERATIONS/IMPACTS: The City seeks to establish policies and practices that ensure the delivery of essential services and programs while also taking steps to protect the health of our residents, businesses, visitors and employees in the midst of a public health crisis.

Related Statute/City Ordinance:	K.S.A. 65-119, K.S.A. 65-127, K.S.A. 65-129, K.S.A. 19-101d
Line Item Code/Description:	NA
Available Budget:	NA

JOHNSON COUNTY BOARD OF PUBLIC HEALTH ORDER NO. 002-20

Applicable within the entirety of Johnson County, Kansas

This Public Health Order is issued by the Board of County Commissioners of Johnson County, Kansas, sitting as the County Board of Health, on November 13, 2020 and is effective the 16th day of November 2020, at 12:01 A.M. to slow the spread of COVID-19 in Johnson County, Kansas pursuant to the authority provided in K.S.A. 65-119 and other applicable laws or regulations.

The Board, sitting and acting as the County Board of Health, upon a motion duly made, seconded, and carried adopted the following Order, to-wit:

WHEREAS, the United States Department of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 10,110,000 cases of the illness and more than 238,000 deaths as a result of the illness across the United States; and

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020; and

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020; and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 5121-5207 (the “Stafford Act”)); and

WHEREAS, as of this date, in Kansas there have been 109,225 reported positive cases of COVID-19 spread among all 105 counties, including 1,215 deaths; and

WHEREAS, on March 19, 2020, the Board of County Commissioners of Johnson County issued a state of local disaster emergency declaration, which was renewed and extended on May 28, 2020, and which remains in place at the time of this Order; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness or death; and

WHEREAS, COVID-19 has resulted in 18,407 reported positive cases of COVID-19 in Johnson County and the deaths of 239 Johnson County residents; and

WHEREAS, the spread of COVID-19 endangers the health, safety, and welfare of persons and property within Johnson County, Kansas; and

WHEREAS, to reduce the spread of COVID-19, measures that are recommended and considered effective by the Centers for Disease Control and Prevention (“CDC”) include, among

other measures, avoiding close contact with other people and covering one's mouth and nose with a cloth face cover when in public settings; and

WHEREAS, the increased spread of COVID-19 also presents a serious threat to the continued effective operation of the local economy within Johnson County; and

WHEREAS, wearing a mask or other whole face covering in public venues reduces transmission of the virus, helps keep our businesses open and our economy running, and gets and keeps children in school; and

WHEREAS, the Kansas Governor's Executive Order 20-52, requiring the wearing of masks or other face coverings in public, remains in effect; and

WHEREAS, in general, large public gatherings lead to heightened risks of large-scale COVID-19 person-to-person transmission; and

WHEREAS, the intent of this Order is not to deprive any person or entity of any rights protected by the United States Constitution, the Kansas Constitution, or any other law, but merely to set forth restrictions which would best protect Johnson County residents against the community spread of COVID-19; and

WHEREAS, there are certain activities where the wearing of masks and face coverings is exempted pursuant to the terms of Executive Order 20-52 where customers may be in the proximity of others for extended periods of time (such as when customers may be eating or drinking), which means such activities present a heightened risk of a person infected with COVID-19 transmitting it to another person; and

WHEREAS, both the number of positive cases and the percentage of individuals tested with positive test results within Johnson County have increased greatly and significantly in the past weeks; and

WHEREAS, the intensive care units at the largest hospitals and all schools within Johnson County are in imminent risk of incapacity; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the County's responsibility to provide for and ensure the health, safety, security, and welfare of the people of Johnson County, requiring that masks or other face coverings be worn in public, limiting the size of public gatherings, ensuring physical distancing, and placing certain other restrictions on activities are all measures that can be taken to slow and reduce the spread of COVID-19.

NOW, THEREFORE, BE IT ORDERED by the Board of County Commissioners of Johnson County, Kansas, sitting and acting as the County Board of Health, that:

Section I. Social Distancing and Public Gatherings Provisions.

1. Individuals within a public space shall maintain 6 feet of physical distancing from other individuals, unless such individuals reside together, or an exception stated within Section I.3. of this Order applies. "Public space" means any indoor or outdoor space or area that is open to the public but does not include private residential property or private offices or workplaces that are not open to customers or public visitors.

2. Within a public space where a business or organization operates, such business or organization shall ensure that 6 feet of physical distancing is maintained between individuals and groups of individuals, unless such individuals reside together, or an exception stated within Section I.3. of this Order applies.

3. Exceptions to the 6 feet of physical distancing requirements stated within Sections I.1. and I.2. shall include:

a. Businesses and organizations that provide services that intrinsically require staff from the business or organization to be within less than 6 feet from one another or the customer, such as dentists, hair salons, barber shops, nail salons, chiropractors, massage services, tattoo parlors, medical services providers, and similar services, provided that staff wear protective face coverings as directed by Executive Order 20-52

b. Businesses where tasks completed by employees require such employees to work within 6 feet of one another.

c. While seated at a restaurant, bar, night club, or other business licensed to sell alcohol for on-premises consumption, individuals at the same table may be located within 6 feet of one another. However, there shall not be more than 8 individuals at any such table. Individuals seated in a bar area shall be located at least 6 feet from any other individuals seated in that area. Congregating of standing individuals in bar or waiting areas is prohibited. Also, all tables and individuals seated at a table shall be located at least 6 feet from any other tables and individuals seated at such tables.

d. Persons who have one or more physical barrier(s) between them and any other persons. "Physical barriers" shall be defined as a partition or wall at least 3' in height above the head of the persons so separated, and impervious to air circulation, e.g. a Plexiglas shield

4. Mass gatherings within specific enclosed, confined, or designated public spaces, whether indoors or outdoors, shall be limited to 50 total individuals or 50 percent of the capacity permitted under the applicable fire code, whichever is less, and subject to the requirement within Section I.1. and Section I.2. of this Order that individuals must maintain 6 feet of physical distance. In the absence of a capacity established under the applicable fire code, the mass gathering shall be limited to 50 total individuals, subject to individuals maintaining 6 feet of social distance pursuant to Section I.1. and Section I.2. of this Order. For purposes of defining mass gatherings, distinct buildings and distinct rooms shall be considered as distinct spaces. Any business or organization hosting or organizing a mass gathering (e.g. a conference) shall be responsible for ensuring individuals' compliance with the mass gathering and physical distancing requirements stated within this Order.

Activities within the following locations shall not be considered mass gatherings and shall not be subject to the above limitations on the number of individuals or percent of capacity:

- a. Restaurants;
- b. Bars, night clubs, and other businesses licensed to sell alcohol for on-premises consumption;
- c. Fitness centers and health clubs;
- d. Healthcare organizations; and
- e. Organizations providing funeral and burial services.

f. Retail stores

Businesses and organizations seeking to hold an event that is non-conforming to this section, such as a conference, wedding or other mass gathering in excess of the limit, shall submit a plan to the County specifying how they will ensure public safety during operations, in compliance with the other sections of this Order.

5. Outdoor and indoor entertainment venues with attendance in excess of 2,000 people may not host events for the duration of this Order.

6. The following are exempt from the mass gatherings limitations in Section I.4. of this Order, and are instead encouraged to maintain physical distancing as much as is feasible and to maintain 6 feet of physical distance between individuals who do not reside together, when feasible:

- a. Religious institutions and activities
- b. Election polling places;
- c. Licensed childcare facilities;
- d. Schools and activities within the purview of school's governing body; and
- e. Court facilities.

7. Masks or Other Face Coverings: Kansas Governor's Executive Order 20-52 regarding face coverings remains in effect.

Section II. Provisions Specific to Certain Activities.

1. Nail salons, barber shops, hair salons, tattoo parlors, dentists and other personal services businesses where 6 feet of physical distancing is not feasible must only serve customers for pre-scheduled appointments or online or text message check-in.

2. Fitness centers and health clubs must close locker rooms, except for when a portion of a locker room may be necessary to remain open for use as restroom facilities.

3. Fairs, festivals, carnivals, parades, and other similar events shall not occur. Gatherings for the purpose of political protest are excluded; however, such gatherings must abide by Section I.2 above.

4. All bars, night clubs, restaurants or other businesses licensed to sell alcohol for on-premises consumption must abide by a curfew and close by 12:00 A.M. (midnight) and remain closed for a minimum of four (4) hours. Any such establishment may continue to provide carryout, drive-through and delivery food and beverage services after 12:00 A.M. (midnight).

5. All restaurants must cease all in-person dining and abide by a curfew to close such in-person dining areas by 12:00 A.M. (midnight) and remain closed for a minimum of four (4) hours. Any such establishment may continue to provide carryout, drive-through and delivery food and beverage services after 12:00 A.M. (midnight).

6. All recreational and youth organized sports tournaments, games, practices, and related events may still occur, but attendance shall be limited to a maximum of 2 attendees per participant and such activities shall remain subject to the physical distancing and mass gathering

provisions included within Section I of this Order. Collegiate sporting events and sporting events governed by Kansas State High School Activities Association and/or school boards are not subject to these provisions but are strongly encouraged to abide by them at a minimum.

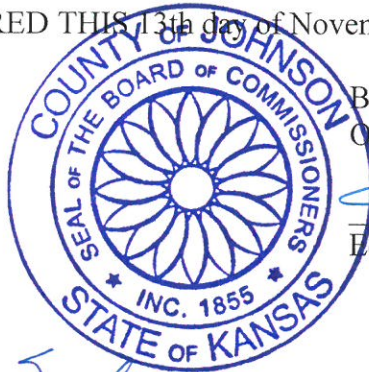
7. If a business or organization has multiple distinct components that fit within different portions of this Order, each distinct component shall be required to fit the requirements of this Order that apply most specifically to such component of the business or organization.

Section III. Lawful Order. This Order is a lawfully issued order pursuant to K.S.A. 65-202 and K.S.A. 65-119(a) and is also a “public health directive” as identified within Section 9 of 2020 Special Session House Bill No. 2016. Individuals and organizations within Johnson County are required to comply with this Order.

Section IV. Severability. If any portion of this Order is found or determined to be invalid, such finding, or determination shall only affect the portion of the Order that is at issue and shall not affect the validity of the remainder of the Order.

Section V. Effective Date; Conclusion. This Order is effective at 12:01 A.M. on Monday, the 16th day of November 2020, and shall remain in effect through 11:59 P.M. on Sunday, the 31st day of January, 2021, unless it is amended, revoked, or replaced.


IT IS SO ORDERED THIS 13th day of November 2020.



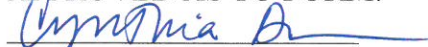
BOARD OF COUNTY COMMISSIONERS
OF JOHNSON COUNTY, KANSAS


Ed Eilert, Chairman

ATTEST:


Lynda Sader
Deputy County Clerk

APPROVED AS TO FORM:


Cynthia Dunham
Interim Chief Counsel

FILED

NOV 13 2020

DEPUTY COUNTY CLERK
JOHNSON COUNTY KANSAS

**GOVERNMENT ENFORCEMENT SERVICES AGREEMENT
FOR JOHNSON COUNTY LOCAL HEALTH OFFICER ORDERS AND COUNTY
BOARD OF HEALTH ORDERS**

by and between:

**JOHNSON COUNTY, KANSAS
and
MISSION, KANSAS**

This Agreement made and entered into this 16th day of December, 2020, by and between Johnson County, Kansas (“County”) and Mission (“City”).

WITNESSETH:

WHEREAS, County and City (“Parties”) desire to protect the health and safety of their citizens; and

WHEREAS, the Local Health Officer is appointed by Johnson County pursuant to K.S.A. 65-201 and, is directed and authorized by statute to act to prevent the spread of any infectious, contagious, or communicable disease; and

WHEREAS, pursuant to K.S.A. 65-201, the Board of County Commissioners of Johnson County, Kansas acts as the County Board of Health for Johnson County; and

WHEREAS, pursuant to K.S.A. 65-119, the Local Health Officer and the County Board of Health are charged with exercising and maintaining supervision over infectious or contagious disease within Johnson County and are “empowered and authorized to prohibit public gatherings when necessary for the control of any and all infectious or contagious disease”; and

WHEREAS, the Johnson County Local Health Officer or the County Board of Health may issue orders (“Health Orders”) in furtherance of these objectives; and

WHEREAS, the Johnson County Board of County Commissioners, sitting as the Johnson County Board of Public Health, adopted Johnson County Board of Public Health Order No. 002-20 (“Health Order”) on November 13, 2020; and

WHEREAS, County adopted Resolution 108-20 on November 19, 2020, establishing noncompliance with the Health Order as a violation of the Johnson County Code; and

WHEREAS, pursuant to K.S.A. 19-101d, the Board of County Commissioners has the power to enforce all resolutions passed pursuant to county home rule powers. Noncompliance with Health Orders may be prosecuted in Johnson County Codes Court and violations shall incur fines pursuant to Johnson County Code Part II, Chapter I, Section 1-7 and Part II, Chapter II, Article IX; and

WHEREAS, Resolution 108-20 is effective within all of the unincorporated areas of Johnson County, Kansas, and within any cities whose governing bodies have agreed to contract with the County for such services; and

WHEREAS, County and City are authorized to enter into an agreement for services pursuant to K.S.A. 12-2908; and

WHEREAS, County and City deem it in the interest of public health and safety to enforce the Health Order within the corporate city limits of City.

NOW, THEREFORE, in consideration of the mutual promises and covenants recited herein, the parties do agree as follows:

1. The County shall provide enforcement of the Health Order within the city limits of City, pursuant to Resolution 108-20. Amendments to the Health Order or other health orders issued by the Johnson County Board of Public Health or the Johnson County Local Health Officer may be included in this Agreement if the City agrees in writing to include those specific orders. The Parties agree that the form and scope of the City's subsequent agreement to include amendments to the Health Order or other health orders within the scope of this Agreement will be as authorized by the City's governing body in its sole discretion.
2. All expenses necessary to the operation of said enforcement shall be paid and provided for by the County. Notwithstanding the foregoing, nothing in this Agreement shall be construed so as to require County to pay for any of City's expenses incurred during any investigation, prosecution, or assistance in enforcement of the Health Order.
3. The County and City shall each designate a liaison as the point of contact under this Agreement.
4. By entering into this Agreement, the governing body of the City has consented to the County exercising local legislation and administration limited to the enforcement of the Health Order within the corporate limits of the City, such that at the time of this Agreement, the Agreement does not infringe upon the City's home rule powers, pursuant to Article 12, Section 5 of the Kansas Constitution and K.S.A. 19-101a(4).
5. The City consents to the County's jurisdiction to prosecute violations of the Health Order that occur within the City's corporate boundaries in the Johnson County Court, pursuant to Johnson County Code Part II, Chapter I, Section 1-7 and Part II, Chapter II, Article IX. The City shall defer all prosecutorial decisions to the County and fines collected as a result of said prosecutorial efforts shall be retained by the County and the City shall make no claim or demand for any

portion of any fines collected by the County as a result of enforcement activity within the corporate boundaries of the City.

6. The City agrees to aid County in educating and promoting awareness of the Health Order within its city limits. The City further agrees to aid County in reporting, investigating, and testifying as to the noncompliance of the Health Order. The Parties agree that the City retains the sole, discretionary authority to decide what “aid”, “educating”, “promoting awareness”, “reporting”, “investigating” to provide to County. Prior to County issuing a citation within City’s city limits, County will have a general expectation that City will have provided records and documentation sufficient to support a determination by County to issue a citation. In recognition of the varying circumstances that may occur on these matters, the City and County may enter into separate related agreements or memoranda of understanding. Also, the City and County may confer to arrive at other informal written or unwritten approaches to determine processes to coordinate with one another to effectuate this Agreement.
7. The following terms and conditions shall cover how the parties will handle records matters that are likely to arise within this Agreement:
 - A. City shall be responsible for responding to Kansas Open Records Act (“KORA”) requests received by City. County shall be responsible for responding to KORA requests received by County.
 - B. When the County files a uniform complaint and notice to appear in County Codes Court and a defendant or a defendant’s legal counsel completes a discovery request, County would ultimately be responsible for completing the discovery request response, but would rely upon assistance from City to ensure that all documents responsive to the discovery request could be provided in a timely fashion. County would gather and prepare to distribute to the defendant any documents County would possess that may be responsive to the request pursuant to state law, which may include but not be limited to records generated by City. County will also contact City to request that City provide County any and all records that may be responsive to the discovery request, which would also include any potentially exculpatory evidence. City would expeditiously locate such records and would not unreasonably withhold any such records, but would instead provide the documents as soon as practicable. County would then deliver the records responsive to the discovery request to the defendant or the defendant’s legal counsel.
8. Either party to this Agreement shall have the right to terminate this Agreement upon notice to the other as set forth hereinafter. Written notice of termination issued on lawful authority of the terminating party shall be given in writing and

termination shall become effective upon the non-terminating party's receipt of such notice of termination. Notice shall be sent to:

COUNTY: Director of Department of Health and Environment
Health Services Building
11875 S. Sunset Drive, Suite #300
Olathe, KS 66061

and

Johnson County Legal Department
Attn: Chief Counsel
111 S. Cherry Street, Suite 3200
Olathe, Kansas 66061

CITY: City of Mission
Attn: City Administrator
Address: 6090 Woodson
Mission, KS 66202

9. The right of the County and the City to enter into this Agreement is subject to the provisions of the cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County and the City shall at all times stay in conformity with such laws, and as a condition of this Agreement either party reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.
10. This Agreement contains the entire agreement between the parties relating to the subject matter hereto. No amendment, waiver or modification of this Agreement shall be effective unless reduced to writing and signed by the authorized officers of each of the parties hereto, except to the extent this Agreement would authorize supplemental documents in conjunction with this Agreement, as described within Section 7 of this Agreement.
11. In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.
12. This Agreement shall become effective upon signature of approval of both parties and upon compliance of City with the provisions indicated within Section 5 of this Agreement, and shall continue in force and effect until terminated by either party as provided in Section 9 of this Agreement.

13. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

JOHNSON COUNTY, KANSAS

CITY OF MISSION, KANSAS

Ed Eilert, Chairman

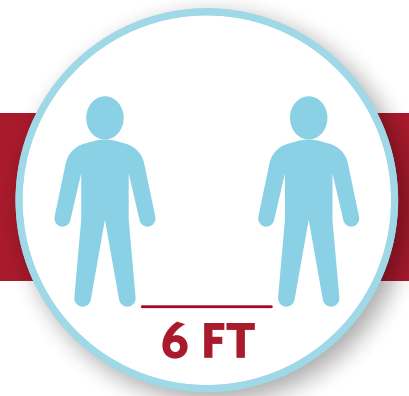
Ronald E. Appletoft, Mayor

APPROVED AS TO FORM:

Assistant County Counselor

ATTEST:

Lynda Sader, Deputy County Clerk



Information on Johnson County's Public Health Order for Restaurants

Preventing the spread of COVID-19

To help curb the spread of COVID-19 in our community, a Board of Public Health order to help slow the spread of COVID-19 in Johnson County went into effect at 12:01 a.m., on Monday, Nov. 16. The order will remain in effect through 11:59 p.m., on Sunday, Jan. 31, 2021, unless it is amended, revoked or replaced.

Overall, this order has provisions about the types of public spaces that will require 6 feet of physical distancing and limits mass gathering to 50 people or 50 percent of capacity allowed by a building's fire codes (whichever is less). The order prohibits certain types of large-scale events and contains provisions for restaurants and bars, recreational and youth organized sports, and fitness centers/health clubs.

6' of physical distancing

Businesses and organizations must maintain 6 feet of physical distancing within their establishments. Individuals within a public space must maintain 6 feet of social distancing from other individuals, unless they live in the same household.



Exceptions include:

- Private offices/workplaces which aren't open to the public or visitors.
- Businesses with tasks that require employees to work within 6 feet of each other.
- Spaces where physical barriers separate individuals.
- Restaurant or bar tables, where people can sit closer than 6 feet apart. Tables will be limited to 8 individuals and must be at least 6 feet from each other. Congregating in bar or waiting areas is prohibited.

Midnight closing

All restaurants, bars and nightclubs must close by 12 a.m. (midnight) and remain closed for four hours. Carryout, drive-through and delivery is permitted after 12 a.m. Restaurant or bar tables will be limited to 8 individuals and must be at least 6 feet from each other. Congregating in bar or waiting areas is prohibited.

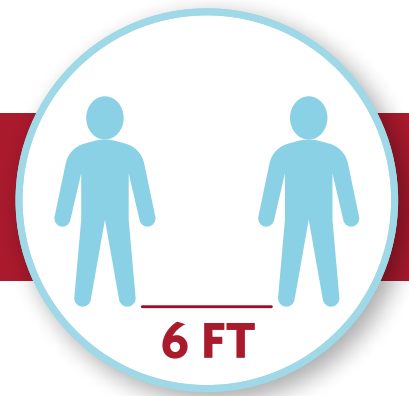


50 or 50% exemptions

Restaurants, bars and nightclubs are exempt from the mass gatherings provision of the public order that limits gatherings in public spaces to 50 total individuals or 50 percent of the capacity permitted by the building's fire code, whichever is less.

To access the full Board of Public Health order:

jocogov.org/healthorder



Information on Johnson County's Public Health Order for Businesses

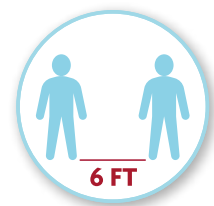
Preventing the spread of COVID-19

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6' of physical distancing

Businesses and organizations must maintain 6 feet of physical distancing within their establishments. Individuals within a public space must maintain 6 feet of social distancing from other individuals, unless they live in the same household.



Exceptions include:

- Private offices/workplaces which aren't open to the public or visitors.
- Businesses/organizations who provide services that require staff to be within 6 feet of their clients (such as nail salons, barber shops, medical service providers) provided staff wear face coverings as directed by Governor Kelly's mask order.
- Businesses with tasks that require employees to work within 6 feet of each other.
- Spaces where physical barriers separate individuals.

Mass gatherings

Mass gatherings within specific enclosed, confined, or designated public spaces, whether indoors or outdoors, are limited to 50 total individuals or 50 percent of the capacity permitted by the building's fire code, whichever is less. The mass gathering provision pertains to a distinct building or distinct room in a building. Exceptions include:



- Restaurants, bars/nightclubs
- Fitness centers and health clubs
- Healthcare organizations
- Organizations providing funeral and burial services
- Retail stores
- Religious institutions/activities
- Polling places
- Licensed childcare facilities
- Schools and school activities
- Court facilities

Other provisions

- Nail salons, barber shops, hair salons, tattoo parlors, dentists and other personal service businesses must require pre-scheduled appointments or online/text message check-ins – no walk-ins.
- Fitness centers and health clubs must close locker rooms except for portions used as restroom facilities.
- Outdoor and indoor entertainment venues with capacities in excess of 2,000 people may not host events. Fairs, festivals, carnivals, parades and similar events are prohibited.
- Businesses and organizations seeking to hold an event such as a conference, wedding or other mass gathering in excess of the limit must submit a plan to the Johnson County Department of Health and Environment specifying how they will ensure public safety during operations. Plans may be emailed to submitplan@jocogov.org

To access the full Board of Public Health order:

jocogov.org/healthorder

City of Mission	Item Number:	5. - UPDATED
ACTION ITEM SUMMARY	Date:	December 9, 2020
Administration	From:	Laura Smith

Action items require a vote to recommend the item to the full City Council for further action.

RE: Revisions to mask protocols at the Powell Community Center

RECOMMENDATION: Staff recommendation pending final legal review. The action item will be updated prior to the Committee meeting with a formal recommendation.

UPDATE: Require masks to be worn at all times while in the Powell Community Center, except while swimming, and do not allow food to be provided in association with rentals to minimize the need for staff intervention.

DETAILS: In concert with the discussion of the recent Johnson County Public Health order at the December 2, 2020 Finance & Administration Committee meeting, the Council discussed COVID-19 protocols and safety practices at various City facilities, including the Powell Community Center.

A request was made to consider modifying the current mask protocols at the Center which have included a requirement that patrons must be masked at all times throughout the facility unless they are engaged in vigorous activity. Areas where mask removal has been allowed since the facility re-opening in June include: cardio and weights area, basketball, racquetball and pickleball courts, and the pool deck.

When the mask protocol was originally established, staff sought guidance from the Kansas Recreation & Park Association (KRPA) on this issue, and KRPA recommended that each entity reach out to their local County Health Department. The guidance offered by the Johnson County Health Department was that masks were not required while engaging in vigorous exercise as long as appropriate physical distancing could be maintained between patrons or participants. They also advised that masks should not be worn while swimming.

During the December 2 Committee meeting, there was also discussion surrounding the ability for rental patrons to remove masks while eating and drinking during their scheduled event.

Both issues are currently being reviewed by the City attorney and will be presented for further discussion at the Committee meeting. A copy of Governor Kelly's Executive Order regarding masks is included in the packet for reference.

UPDATE: A memo from City Attorney Dave Martin regarding interpretation of the Governor's Executive Order regarding masks is attached. Based on that opinion, and the current trend in COVID cases county-wide, staff is proposing to follow Mr. Martin's guidance with respect to a requirement for patrons to wear masks at all times while

Related Statute/City Ordinance:	NA
Line Item Code/Description:	NA
Available Budget:	NA

City of Mission	Item Number:	5. - UPDATED
ACTION ITEM SUMMARY	Date:	December 9, 2020
Administration	From:	Laura Smith

Action items require a vote to recommend the item to the full City Council for further action.

using the Powell Community Center (except while swimming). Even though Mr. Martin has suggested that masks could be removed - while seated and physically distanced - to consume food or drink, staff recommends eliminating food from all rentals at this time. This recommendation is based on the number of rentals currently where food is being served, and a desire to minimize the need for staff to monitor, educate and potentially enforce compliance with this standard.

Based on these recommendations a vote of the City Council is not required on the first question (masks at all times), and a vote would only be required if Council is not comfortable with the staff recommendation regarding food at rental events.

If we move forward to comply with the recommendations, staff would begin educating patrons immediately, with specific messaging to be delivered over the upcoming weekend to members and rental patrons.

With the recommendation as presented, staff would not plan to move forward with implementing temperature checks upon entry as discussed at the December 2 Committee meeting.

CFAA CONSIDERATIONS/IMPACTS: The City seeks to establish policies and practices that ensure the delivery of essential services and programs while also taking steps to protect the health of our residents, businesses, visitors and employees in the midst of a public health crisis.

Related Statute/City Ordinance:	NA
Line Item Code/Description:	NA
Available Budget:	NA

STATE OF KANSAS

CAPITOL BUILDING, ROOM 241 SOUTH
TOPEKA, KS 66612



PHONE: (785) 296-3232
GOVERNOR.KANSAS.GOV

GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-52

Requiring masks or other face coverings in public

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis-the pandemic and public health emergency of COVID-19-resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 2,580,000 cases of the illness and more than 126,000 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, in Kansas there have been 14,990 reported positive cases of COVID-19 spread among 97 counties, including 272 deaths;

WHEREAS, after a steady trend of decreasing metrics, recent weeks have seen the numbers of COVID-19 cases, hospitalizations, and deaths spike in Kansas and across the nation;

WHEREAS, this worrying trend of increased COVID-19 spread is a danger to the health and safety of every Kansan and also presents a serious threat to reopening and reviving the Kansas economy;

WHEREAS, wearing a mask in public is the easiest and most effective way to protect each other and help keep our businesses open and our economy running;

WHEREAS, wearing a mask in public is not only safe and easy, it is necessary to avoid more restrictive local measures that could involve closing businesses, schools, organized youth sports, and other important activities;

WHEREAS, the State of Kansas must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously safely, strategically, and incrementally reopening business and facilitating economic recovery and revitalization;

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of my responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of Kansas, requiring that masks or other face coverings be worn in public spaces is necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, in these challenging times, this Administration will do whatever it can to avoid immediate dangers to the health, safety, and welfare of Kansans.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925(b) and (c)(11), in order to ensure that Kansans can to help keep each other safe and keep our businesses open as we restore our economy, I hereby direct and order the following:

1. Effective at 12:01 a.m. on Friday, July 3, 2020, any person in Kansas shall cover their mouth and nose with a mask or other face covering when they are in the following situations:
 - a. Inside, or in line to enter, any indoor public space;
 - b. Obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank;¹
 - c. Waiting for or riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle;
 - d. While outdoors in public spaces and unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.

¹ Unless directed otherwise by an employee or healthcare provider.

2. Also effective at 12:01 a.m. on Friday, July 3, 2020, all businesses or organizations in Kansas must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering when:
 - a. Employees are working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
 - b. Employees are working in any space where food is prepared or packaged for sale or distribution to others;
 - c. Employees are working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
 - d. Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or
 - e. Employees are in any room or enclosed area where other people (except for individuals who reside together) are present and are unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.
3. The following are exempt from wearing masks or other face coverings in the situations described in paragraphs 1 and 2:
 - a. Persons age five years or under—children age two years and under in particular should not wear a face covering because of the risk of suffocation;
 - b. Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering—this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - c. Persons who are deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
 - d. Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;
 - e. Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
 - f. Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;

- g. Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
- h. Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing a mask or other face covering;
- i. Persons engaged in an activity or event held or managed by the Kansas Legislature;
- j. Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
- k. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

4. Definitions:

- a. "Mask or other face covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a mask or other face covering has two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels.
- b. "Public space" means any indoor or outdoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors.

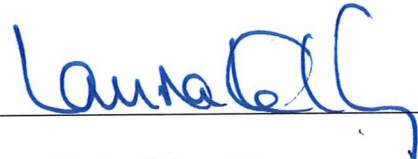
- 5. Nothing in this order shall restrict, limit, or supersede the Secretary of Health and Environment's authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
- 6. Local governments retain authority to issue and enforce equally or more restrictive orders or provisions and retain any authority to issue or enforce isolation or quarantine orders or other orders as necessary to respond to escalating or worsening conditions in any local jurisdiction. Counties may also exercise authority granted by K.S.A. 48-925 as amended by 2020 Special Session House Bill 2016, Sec. 33.
- 7. As currently permitted pursuant to state law, the Attorney General, county attorneys, and district attorneys enforcing this order should use their discretion and consider the totality of the circumstances as they determine appropriate enforcement actions.

8. In order to more accurately track and assess statewide status of COVID-19 cases, private labs conducting testing for COVID-19 shall report both positive and negative tests to the Kansas Department of Health and Environment.
9. The Four Tribes of Kansas (Iowa Tribe, Kickapoo Nation, Prairie Band Potawatomie Nation, and Sac & Fox Nation) retain any authority to regulate through their respective tribal councils for the health and welfare of their population.
10. This order should be read in conjunction with other executive orders responding to the COVID-19 pandemic that are still in effect and supersedes any contrary provisions of previous orders.

This document shall be filed with the Secretary of State as Executive Order No. 20-52. It shall become effective as of 12:01 a.m. on July 3, 2020, and remain in force until rescinded or until the statewide State of Disaster Emergency extended by House Bill 2016 enacted during the June 2020 special session relating to COVID-19 expires, whichever is earlier. This order may be extended or modified as circumstances dictate.

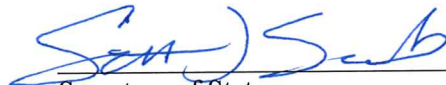
THE GOVERNOR'S OFFICE

BY THE GOVERNOR



DATED

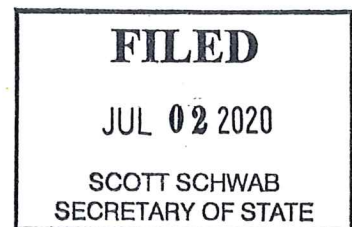
7.2.2020



Secretary of State



Assistant Secretary of State





GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-68

Establishing a face coverings protocol

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis—the pandemic and public health emergency of COVID-19—resulting in illness, death, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 11,136,000 cases of the illness and more than 246,000 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, in Kansas there have been 128,594 reported positive cases of COVID-19 spread among all 105 Kansas counties, including 1,326 deaths;

WHEREAS, in the late spring and early summer 2020, Kansas experienced a steady trend of decreasing COVID-19 cases, hospitalizations, and deaths, but by mid-summer that downward trend gave way to a worrying spike in COVID-19 cases, hospitalizations, and deaths in Kansas and across the nation;

WHEREAS, as a result of that worrying spike, on July 2, 2020, I issued Executive Order 20-52 ("Requiring masks or other face coverings in public"), but in spite of the deadly and urgent public

health threat presented by the spike in COVID-19 cases, many counties exercised their temporary authority under K.S.A. 48-925(h) to “opt out” of statewide public health executive orders to opt out of Executive Order 20-52;

WHEREAS, recent weeks have again seen a worrying spike in COVID-19 cases, hospitalizations, and deaths, except that this “spike” has seen the 7-day average of cases and hospitalizations first double and then triple, stretching the healthcare system’s ability to handle the unprecedented influx of patients;

WHEREAS, if the healthcare system is overrun with COVID-19 patients, as it will be soon if current trends continue, communities will be forced to close schools and businesses, and non-COVID-19 healthcare services will be postponed due to lack of staffing, space, and supplies in hospitals and doctor’s offices; at worst, Kansans battling COVID-19 or other serious illnesses could suffer and die from the lack of available healthcare services;

WHEREAS, wearing a face covering in public is the easiest and most effective way to protect each other, ease the burden on our overburdened healthcare system, and help keep our businesses open and our economy running;

WHEREAS, the Centers for Disease Control has determined that even “increasing universal masking by 15% could prevent the need” for restrictions on businesses and gatherings and could avoid severe economic losses;

WHEREAS, wearing a face covering in public is not only safe and easy, it is necessary to avoid more restrictive local measures that could involve closing businesses, schools, organized youth sports, and other important activities;

WHEREAS, the State of Kansas must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously safely and strategically operating businesses and facilitating economic recovery and revitalization;

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of my responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of Kansas, increasing the wearing of face coverings is necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, in these challenging times, this Administration will do whatever it can to avoid immediate dangers to the health, safety, and welfare of Kansans.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925(b) and (c)(11), in order to ensure that Kansans can help keep each other safe, relieve unsustainable burdens on our healthcare system, and keep our businesses open as we restore our economy, I hereby direct and order the following:

1. The provisions of paragraphs 2 through 5 below do not apply in counties or municipalities that meet either of the following criteria:
 - a. counties in which Executive Order 20-52 is in effect, meaning that the county commission has not exercised its authority under K.S.A. 48-925(h) to “opt out” of Executive Order 20-52; or
 - b. counties or municipalities in which a local ordinance or order requires that face coverings be worn in public places and in businesses.
2. Effective at 12:01 a.m. on Wednesday, November 25, 2020, any person in Kansas shall wear a face covering when they are in the following situations:
 - a. Inside, or in line to enter, any indoor public space;
 - b. Obtaining services from the healthcare sector in settings including, but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank;¹
 - c. Waiting for or riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle;
 - d. While outdoors in public spaces and unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.
3. Also effective at 12:01 a.m. on Wednesday, November 25, 2020, all businesses or organizations in Kansas must require all employees, customers, visitors, members, or members of the public to wear a face covering when:
 - a. Employees are working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
 - b. Employees are working in any space where food is prepared or packaged for sale or distribution to others;
 - c. Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or
 - d. Employees are in any room or enclosed area where other people (except for individuals who reside together) are present and are unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.
4. The following are exempt from wearing face coverings pursuant to the provisions of this order:

¹ Unless directed otherwise by an employee or healthcare provider.

- a. Persons age five years or under—children age two years and under in particular should not wear a face covering because of the risk of suffocation;
- b. Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering—this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
- c. Persons who are deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
- d. Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;
- e. Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
- f. Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity;
- g. Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
- h. Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing a face covering;
- i. Persons engaged in an activity or event held or managed by the Kansas Legislature;
- j. Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
- k. Persons engaged in any lawful activity during which wearing a face covering is prohibited by law.

5. Definitions:

- a. "Face covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a face covering has two or more layers. A face covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels.

- b. “Public space” means any indoor or outdoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors.
6. Nothing in this order shall restrict, limit, or supersede the Secretary of Health and Environment’s authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
7. Local governments retain authority to issue and enforce equally or more restrictive orders or provisions and retain any authority to issue or enforce isolation or quarantine orders or other orders as necessary to respond to escalating or worsening conditions in any local jurisdiction. Counties may also exercise authority granted by K.S.A. 48-925 as amended by 2020 Special Session House Bill 2016, Sec. 33.
8. As currently permitted pursuant to state law, the Attorney General, county attorneys, and district attorneys enforcing this order should use their discretion and consider the totality of the circumstances as they determine appropriate enforcement actions.
9. In order to more accurately track and assess statewide status of COVID-19 cases, private labs conducting testing for COVID-19 shall report both positive and negative tests to the Kansas Department of Health and Environment.
10. The Four Tribes of Kansas (Iowa Tribe, Kickapoo Nation, Prairie Band Potawatomi Nation, and Sac & Fox Nation) retain any authority to regulate through their respective tribal councils for the health and welfare of their population.
11. This order should be read in conjunction with other executive orders responding to the COVID-19 pandemic that are still in effect and supersedes any contrary provisions of previous orders; however, the provisions of Executive Order 20-59 continue to control COVID-19 mitigation procedures, including the wearing of masks or other face coverings, in K-12 public and private school buildings and facilities.

This document shall be filed with the Secretary of State as Executive Order No. 20-68. It shall become effective as of 12:01 a.m. on November 25, 2020, and remain in force until rescinded or until the statewide State of Disaster Emergency extended by House Bill 2016 enacted during the June 2020 special session relating to COVID-19—and later extended by the State Finance Council—expires, whichever is earlier. This order may be extended or modified as circumstances dictate.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR

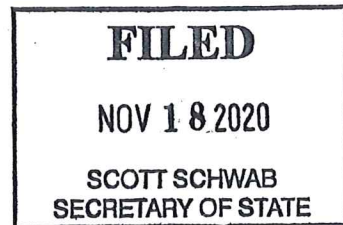
Laurel

DATED

11.18.2020

Scott Schwab
Secretary of State

Assistant Secretary of State



MEMORANDUM

TO: Laura Smith
FROM: Dave Martin
DATE: December 7, 2020
RE: Mask Requirements at Mission Community Center Under Governor's Executive Order 20-68

Discussion: The Governor's Executive Order 20-68, effective November 25, 2020, requires masks in any indoor public space. That applies to the Community Center. The Order is attached.

Exceptions to the mask wearing requirements are set forth on Page 4, Paragraph 4 of the Order. Sections relevant to the questions presented are as follows:

(b) Persons with a medical condition, mental health condition, or disability that prevents wearing face covering – this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance.

(f) Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.

(h) Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing face covering.

The Governor's Executive Order is very specific and direct in requiring masks in all indoor spaces. An exception to the mask mandate requirement may arise only if there is a medical condition or a determination by an authoritative resource that "an activity" cannot be safely conducted while wearing a face covering.

In the introductory paragraphs of the Governor's Executive Order No. 20-68, the Governor has clearly determined that, within the state of Kansas, the management of the pandemic requires the mandatory wearing of masks in all indoor spaces.

Under K.S.A. 48-925(h) a county can "opt out" of the Governor's Executive Order. Johnson County has NOT opted out of the Governor's current Executive Order. Johnson County's Health Official has not supported opting out of the Governor's Executive Order.

Because of the Governor, on behalf of the state of Kansas, and the Johnson County Commissioners have not seen fit to minimize or qualify mask wearing directives except

for known individuals with specific medical conditions, then the City of Mission should be guided by the Governor's mandate for mask wearing indoors.

While there are some general resources advising that face masks should not be worn while exercising, such resources qualify these suggestions with recommendations for adequate physical distancing, adequate ventilation, and other such generic statements. None of these suggestions specifically apply to health training facilities in Johnson County, Kansas.

Opinion:

Q: Are masks required while exercising at the Community Center under Governor's Executive Order 20-68?

A: Yes. Because no local authoritative source has determined it is not safe to wear a mask while exercising on equipment, or otherwise, then masks must be worn while exercising at the Community Center.

Q: Are masks required in the Community Center rental rooms at all times **except when invitees are sitting to eat and/or drink** under Governor's Executive Order 20-68?

A: Yes. When food or beverage service is provided in the Mission Community Center rental spaces to invitees, they are exempt from the mask requirement **ONLY when they are seated and while they are eating or drinking.**

Kansas League of Municipalities' Opinions:

Each Thursday afternoon, the League has an hour long update Zoom meeting for city attorneys, and other interested persons, focusing primarily on COVID-19 related issues. On Thursday, December 3rd, I posed the following two questions to the League for response:

1. Fitness/Health Centers, public (city owned) or private - Are masks mandatory all the time while on exercise equipment?
2. Rental venues, public (city owned) or private –Event spaces rented out for private functions where food and beverages are served invitees - Are masks required at all times, except when seated to eat/drink?

The League answered each question with a "yes," reflecting the same position stated above. The transcript from that discussion is attached.

Enforcement:

The Community Center's enforcement mechanism is to post appropriate notices and provide corrective instruction to patrons. Patrons who do not comply with the mask requirements may be instructed to leave the facility. A refusal to leave the facility constitutes a trespass violation under Mission Ordinances.

If you have any further questions, please advise.

12/3/2020 – League of Kansas Municipalities Conference Call Transcript

We had a couple of questions that came in today regarding the Governor's newest Executive Order about masks. It is Executive Order 68. It went into effect last Wednesday at 11:59 p.m. I believe.

The [first] question was, in a fitness or health center, either a public one, a city owned one or private, would masks be mandatory at all times while on exercise equipment and in the facility exercising? And the short answer is, yes, unless a person fits within some exception in the Order. For example, if they have a health condition that would otherwise prevent them from being able to safely wear a mask under the Governor's Order, they would be required to wear a mask at all times in the gym.

The Order requires a person to wear a mask at all times you are inside or in line to enter an indoor facility. Businesses are required to require their customers to wear a face covering at all times while they are in the business facility.

The short answer is yes. Masks are required while working out in an indoor gym.

The second question, same type of thing, in a rental venue, a public city owned or private venue, if the event space is rented out for a private function where food and beverages are served to invitees, are masks required at all times, except when seated to eat and drink, and the answer is yes, using that same analysis. If a person is inside or outside, and unable to maintain that 6 feet of distance if you are outside, you are required to wear a mask. There is, of course, that exception that when a guest or customer is seated and if they are able to maintain that 6 feet of distance or they are just seated with someone with whom they reside, they are not required to wear a mask while they are eating or drinking, or while they are sitting and waiting for a waiter to come take your order, and instances where there is less than a short amount of contact you are not required to wear that mask.

But otherwise, if you are up walking around, you need to be wearing a face mask in those facilities.