

(Published in *The Morning Sun* on March 31, 2019)

**ORDINANCE NO. S-1061**

**AN ORDINANCE AUTHORIZING THE CREATION OF THE NORTHGATE PLAZA COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF PITTSBURG, KANSAS; AUTHORIZING THE MAKING OF CERTAIN PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT IMPROVEMENTS; LEVYING A COMMUNITY IMPROVEMENT DISTRICT SALES TAX WITHIN SUCH DISTRICT; AND PROVIDING FOR THE METHOD OF FINANCING THE SAME AND APPROVING A DEVELOPMENT AGREEMENT.**

**WHEREAS**, K.S.A. 12-6a26 *et seq.* (the “Act”) authorizes the governing body of any city or county to create community improvement districts to finance projects within such defined area of the city or county and to levy a community improvement district sales tax upon property within the district to finance projects; and

**WHEREAS**, a petition (the “Petition”) was filed with the City Clerk on January 9, 2019, proposing the creation of the Northgate Plaza Community Improvement District (the “District”) under the Act and the imposition of a community improvement district sales tax (the “CID Sales Tax”) in order to pay the costs of project as described in the Petition (the “Project”); and

**WHEREAS**, the Petition was signed by Northgate Associates LLC, a Kansas limited liability company, HOK-Northgate LLC, a Kansas limited liability company, and GM-Northgate Associates LLC, a Kansas limited liability company (collectively, the “Property Owner”), the owners of record of more than fifty-five percent (55%) of the land area contained in the proposed District and more than fifty-five percent (55%) by assessed value of the land area contained within the proposed District; and

**WHEREAS**, the Governing Body of the City of Pittsburg, Kansas (the “City”) intends to create the District and to levy the CID Sales Tax as requested in the Petition; and

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

**WHEREAS**, the Governing Body adopted Resolution No. 1218 on January 22, 2019 (the “Resolution”) directing that a public hearing on the proposed District within the City be held on February 26, 2019, declaring its intent to impose the CID Sales Tax, and requiring that the City Clerk provide for notice of such public hearing as set forth in the Act; and

**WHEREAS**, the Resolution was mailed (by certified mail) to all property owners within the proposed District on January 30, 2019, and published once each week for two (2) consecutive weeks in *The Morning Sun*, the official City newspaper, on January 25, 2019 and February 1, 2019; and

**WHEREAS**, on February 26, 2019, the Governing Body conducted a public hearing on the proposed District; and

**WHEREAS**, the Governing Body hereby finds and determines it to be advisable to create the District and set forth the boundaries thereof, authorize the Project as described herein, approve the estimated costs of the Project and approve the method of financing the same, all in accordance with the provisions of the Act; and

**WHEREAS**, the Development Agreement (Northgate Plaza) dated as of February 26, 2019 (the “Development Agreement”) between the City and the Property Owner has been presented for consideration in connection with the District and the Project.

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

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

**SECTION 2. Authorization of Community Improvement District Project and Estimated Costs.**

(a) The general nature of the Project is approved as follows:

The proposed Project consists of redevelopment of certain property located adjacent and to the east of North Broadway and south of E 29th Street within the City. The general nature of the proposed Project is to promote economic development within the CID, which shall all be accomplished by providing community improvement district financing in accordance with this petition, the Act, and City of Pittsburg policy to finance the construction, maintenance, and procurement of certain improvements, costs, and services within and adjacent to the CID, including, but not limited to: infrastructure related items, streets, sidewalks, parking improvements, buildings, facilities, and tenant improvements and soft costs and financing costs related thereto (collectively, the “Project”).

(b) The total estimated cost of the Project is \$3,180,520, plus interest on construction and permanent financing as provided in the Development Agreement.

**SECTION 3. Method of Financing.**

(a) The costs of the Project will be financed with the CID Sales Tax levied pursuant to the provisions of the Act and reimbursed on a pay-as-you-go basis, as defined in the Act. The CID Sales Tax is hereby imposed at the rate of 0.9% on the sale of tangible personal property at retail or rendering or furnishing services which are taxable pursuant to the Kansas Retailers’ Sales Tax Act (K.S.A. 79-3601 *et seq.*) within the District with such CID Sales Tax to commence on July 1, 2019 or such other date as the governing body of the City sets by ordinance and continue for a period of twenty-two (22) years or such earlier date as provided in the Development Agreement.



(b) There will be no issuance of bonds, including full faith and credit bonds, pursuant to the Act.

(c) There will be no District special assessments.

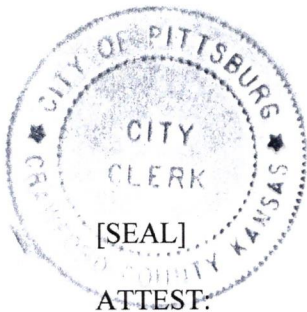
**SECTION 4. Segregation of CID Sales Tax Revenues.** All revenues derived from the collection of the CID Sales Tax shall be deposited into a special fund of the City to be designated as the Northgate Plaza Community Improvement District Revenue Fund. Such revenues shall be used to pay the costs of the Project, including the City's annual administrative fee of 1.0%.

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

**SECTION 6. Recording.** The City Clerk shall file a certified copy of this Ordinance with the Register of Deeds of Crawford County, Kansas.

**SECTION 7. Effective Date.** This Ordinance shall take effect and be in full force from and after its passage by the Governing Body of the City and publication once in the official City newspaper.

**PASSED** by the Governing Body on this 19th day of March, 2019 and **APPROVED AND SIGNED** by the Mayor.



**CITY OF PITTSBURG, KANSAS**

By:

Mayor

*Sammy Nagel*  
City Clerk

APPROVED AS TO FORM:

*[Signature]*  
City Attorney

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF THE NORTHGATE PLAZA COMMUNITY IMPROVEMENT DISTRICT**

#### **TRACT 1:**

A tract of land in the Southwest Quarter of the Northwest Quarter (SW1/4NW1/4) of Section 17, Township 30 South, Range 25 East, Crawford County, Kansas, more particularly described as follows:

Beginning at a found iron pin at the Northwest (NW) corner of the tract and said iron pin being 195.92 feet South and 50.00 feet East of the Northwest (NW) corner of said SW1/4 of the NW1/4 of Section 17, Township 30 South, Range 25 East; proceed East 750.00 feet; thence South 494.40 feet; thence West 750.00 feet; thence North 491.19 feet to the above-mentioned point of beginning, EXCEPT any part thereof taken or used for right-of-way of Broadway Street.

ALSO EXCEPT that part of the above-described property conveyed to Wal-Mart Stores, Inc. by Warranty Deed recorded in Book 154, Page 380.

ALSO EXCEPT a part of the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4) of Section 17, Township 30 South, Range 25 East of the 6th Principal Meridian, Crawford County, Kansas, and being more particularly described as follows: Commencing at the NW corner of said SW1/4 of the NW1/4; thence South 00 degrees 00'00" West and along the West line of said SW1/4 of the NW1/4 195.92 feet; thence South 89 degrees 27'30" East 50 feet to the true point of beginning, said point of beginning being on the East right of way line of Broadway Avenue, Pittsburg, Kansas; thence South 89 degrees 27'30" East 156 feet; thence South 00 degrees 00'00" West 100 feet; thence North 89 degrees 27'30" West 156 feet to the said East right of way line of Broadway Avenue; thence North along said right of way 100 feet to the point of beginning.

ALSO EXCEPT a part of the SW 1/4 of the NW 1/4 of Section 17, Township 30 South, Range 25 East of the Sixth Principal Meridian, Crawford County, Kansas, more particularly described as follows, to-wit: Beginning at a point 195.92 feet South of the Northwest corner of said SW1/4 NW1/4; thence South 262.5 feet; thence East 50 feet more or less to the East right of way line of Broadway Avenue; thence East 51'1" to the true point of beginning; thence East 120 feet; thence South 110 feet; thence West 120 feet; thence North 110 feet to the true point of beginning.

#### **TRACT 2:**

A part of the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4) of Section 17, Township 30 South, Range 25 East of the 6th Principal Meridian, Crawford County, Kansas, and being more particularly described as follows: Commencing at the NW corner of said SW1/4 of the NW1/4; thence South 00 degrees 00'00" West and along the West line of said SW1/4 of the NW1/4 195.92 feet; thence South 89 degrees 27'30" East 50 feet to the true point of beginning, said point of beginning being on the East right of way line of Broadway Avenue, Pittsburg, Kansas; thence South 89 degrees 27'30" East 156 feet; thence South 00 degrees 00'00" West 100 feet; thence North 89 degrees 27'30" West 156 feet to the said East right of way line of Broadway Avenue; thence North along said right of way 100 feet to the point of beginning.

**TRACT 3:**

A part of the SW 1/4 of the NW 1/4 of Section 17, Township 30 South, Range 25 East of the Sixth Principal Meridian, Crawford County, Kansas, more particularly described as follows, to-wit: Beginning at a point 195.92 feet South of the Northwest corner of said SW/4 NW/4; thence South 262.5 feet; thence East 50 feet more or less to the East right of way line of Broadway Avenue; thence East 51'1" to the true point of beginning; thence East 120 feet; thence South 110 feet; thence West 120 feet; thence North 110 feet to the true point of beginning.

ALSO INCLUDING:

All adjacent Right-of-Way.



**EXHIBIT B**  
**MAP OF NORTHGATE PLAZA COMMUNITY IMPROVEMENT DISTRICT**

