



**Emporia**  
Kansas

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**MEETING OF THE CITY COMMISSION - AGENDA  
WEDNESDAY, OCTOBER 11, 2023 AT 11:00 PM  
CITY COMMISSION CHAMBER**

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**ORDER OF BUSINESS**

**CALL MEETING TO ORDER** Mayor Susan Brinkman

**MEMBERS PRESENT**

Vice Mayor Becky Smith  
Commissioner Danny Giefer  
Commissioner Erren Harter  
Commissioner Jamie Sauder

**PROCLAMATIONS**

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**PUBLIC FORUM**

*The public is invited to make comments at this time. Please limit comments to two (2) minutes each. Please state your name and address prior to making comments.*

**NEW BUSINESS**

1) **Resolution No. 3709 for Hope VI Main Street Grant Application.**

*Presented by: Mark Detter, Assistant City Manager, and Tayler Wash, Special Projects Director*

**Recommended Action:** Approve Resolution No. 3709 for Hope VI Main Street Grant Application.

2) **Agreement Concerning Distribution of TIF And CID Revenue for the Pavilions Project.**

*Presented by: Jim Witt, Special Projects Coordinator*

**Recommended Action:** Approve Agreement Concerning Distribution of TIF And CID Revenue for the Pavilions Project.

**COMMUNICATIONS**

*Presented by Trey Cocking, City Manager.*

**CONSENT AGENDA**

*Presented by Trey Cocking, City Manager.*

**INFORMATIONAL ITEMS**

*Presented by Trey Cocking, City Manager.*

**GOVERNING BODY COMMENTS**

Mayor Susan Brinkman  
Vice Mayor Becky Smith  
Commissioner Danny Giefer  
Commissioner Erren Harter  
Commissioner Jamie Sauder

**EXECUTIVE SESSION**

**ADJOURNMENT**



## Commission Action Report

Resolution No. 3709 Hope VI Main Street Grant Application

**Title:** Resolution No. 3709 for Hope VI Main Street Grant Application

**Agenda Date:** October 13, 2023

**Presented By:** Mark Detter, Assistant City Manager  
Tayler Wash, Special Projects Director  
Christina Montgomery, City Attorney

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### **Background:**

The City of Emporia, Kansas has been approached by Ben Moore of 502 Lofts, LLC to apply for the HOPE VI MAIN STREET GRANT Program through the Department of Housing and Urban Development for a total of \$500,000.

The goal of the Grant aims to transform the second story and garden level of a historic building in the heart of downtown Emporia into a collection of elegant and modern apartments.

### **Discussion:**

The Hope Main Street Program's goal is to redevelop (Main Street Areas), preserve historic or traditional Main Street area properties by replacing unused commercial space in buildings with affordable housing units, enhance economic development efforts in Main Street areas; and provide affordable housing in Main Street.

The 2018 Emporia Lyon County Plan Element IV Goals and Objectives, include supporting infill development. Within the goal and objective of supporting infill development, several items are listed, including:

- Adaptively reusing of existing buildings.
- Locate new development close to existing infrastructure and along corridors to minimize the costs of providing and maintaining public services.
- Provide decent and affordable housing.

### **Financial considerations:**

The Hope VI Main Street Grant is not requesting any City funds for the project as a match to the grant. The property owners have a 5% equity (\$25,000) in the project via the Grant, however, RHID and other City incentives may be requested if the Grant is awarded.

The \$500,000 Grant is primarily to go toward improving the dwelling structure.

### **Recommended action:**

Approve Resolution No. Authorizing the City of Emporia to make an application for the Hope VI Main Street Grant program.



## **Commission Action Report**

Resolution No. 3709 Hope VI Main Street Grant Application

### **Attachments:**

Resolution authorizing Hope VI Main Street Grant Application  
Memorandum of Agreement  
Hope IV Grant Narrative

THE CITY OF EMPORIA, KANSAS

RESOLUTION NO. 3709

RESOLUTION CERTIFYING LEGAL AUTHORITY TO APPLY FOR THE 2023 HOPE VI MAIN STREET PROGRAM FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING THE MAYOR/COMMISSIONER TO SIGN AND SUBMIT SUCH AN APPLICATION.

WHEREAS, The City of Emporia, Kansas, is a legal governmental entity as provided by the laws of the State of Kansas, and

WHEREAS, The City of Emporia, Kansas intends to submit an application for assistance from the United Housing and Urban Development HOPE VI MAIN STREET PROGRAM, and

WHEREAS, the 2018 Emporia Comprehensive Plan displays goals and objectives under section IV of Plan Element: Support Infill Development, include adaptively reuse of existing buildings and provide decent and affordable housing, and

WHEREAS, the goals of the United States Department of Housing and Urban Development Main Street Program are to redevelop central business districts (Main Street areas) preserve historic or traditional Main Street area properties by replacing unused commercial space in building with affordable units, enhance economic efforts in Main Street areas; and provide affordable housing in Main Street Areas, and

WHEREAS, the developer has the expertise, experience, and financial capacity (including matching \$25,000 toward HOPE VI MAIN STREET PROGRAM), and

THE APPLICANT hereby certifies that the City of Emporia, Kansas is a legal government entity under the status of laws of the STATE OF KANSAS and thereby has the authority to apply for the United States Department of Housing and Urban Development MAIN STREET PROGRAM.

THE APPLICANT hereby authorizes the Mayor of Emporia, Kansas, to act as the applicant official representative in signing and submitting application for the assistance of the United States Department of Housing and Urban Development MAIN STREET PROGRAM.

THE APPLICANT hereby requests the dedication of \$475,000 in cash funds from the United States Department of Housing and Urban Development and through the developer pledges \$25,000 for the purpose of activities to be performed in the attached application.

APPROVED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS, this 11<sup>th</sup> day of October 2023.

APPROVED \_\_\_\_\_  
Susan Brinkman, MAYOR

ATTEST \_\_\_\_\_  
Kerry Sull, City Clerk

(SEAL)

THE CITY OF EMPORIA, KANSAS



**MEMORANDUM OF AGREEMENT**

This Agreement between the City of Emporia, Kansas (hereinafter referred to as “City”) and 502 Lofts, LLC (hereinafter referred to as “Developer”) delineates the agreement of the parties regarding application for a Hope VI Grant and responsibility for project expenses.

1. The U.S. Department of Housing and Urban Development Hope VI Main Street Program seeks to rejuvenate older, downtown business districts while retaining the area’s traditional and Historic character. The Main Street grant program provides assistance to smaller communities in the development of affordable housing that is undertaken in connection with a Main Street revitalization effort.
2. Developer intends to rejuvenate and renovate an existing building in the City’s historic downtown district by converting the garden level and second story into a mixed-income housing development consisting of one and two-bedroom apartments, located at 502 Commercial Street, Emporia, KS (hereinafter referred to as “Project”).
3. Application for a Hope VI Main Street Program grant must be submitted by a unit of local government having a population of 50,000 or less within its jurisdiction and having 100 or fewer physical housing units within its jurisdiction. City intends to apply for a Hope VI grant to fund Project costs under the conditions of this Agreement.
4. The total grant budget to be submitted in the application is \$500,000.00 including improvements to dwelling structures and administration costs. If the grant application is approved, HUD will fund up to \$500,000.00. The parties understand there is no guarantee as to what amount, if any, may be awarded by HUD.
5. A local equity cost share of 5% of the total grant is required through the Hope VI Main Street Program; and is expected to be \$25,000.00. The Developer agrees to fully fund and pay the local equity cost share amount and intends to exceed the total grant amount (if awarded in full) by 200% in total project costs.
6. Should grant funds be awarded, Developer agrees to complete the Project and shall meet all obligations and requirements of the Hope VI Program requirements. Should HUD require reimbursement of Hope VI grant funds for any reason, Developer shall be responsible for reimbursement.
7. It is expressly understood and agreed that in no event will the total grant funds provided by the City for the Project exceed the sum of \$500,000.00. Developer shall be responsible for any additional funds required for excess or unreimbursed Project costs, including costs for renovation, refurbishment, administration, and any other expenses.
8. This Agreement reflects the agreement of the parties for purposes of Hope VI grant application. If the grant is approved, a development agreement and/or grant agreement between the parties may follow, prior to final grant acceptance. If the grant is denied, this Agreement will become inapplicable.

IN WITNESS WHEREOF the parties hereto have set their hands this \_\_\_\_\_ day of October 2023.

\_\_\_\_\_  
Susan Brinkman, Mayor  
City of Emporia

\_\_\_\_\_  
Ben Moore  
502 Lofts, LLC

ATTEST:

\_\_\_\_\_  
Kerry Sull, City Clerk

## **Executive Summary**

Our project aims to transform the second story and garden level of a historic building in the heart of downtown Emporia into a collection of elegant and modern apartments. Located in a historically significant area known for its charm and character, these apartments will blend contemporary comfort with the rich heritage of the neighborhood. This project represents a partnership between The City of Emporia (herein referred to as ‘The City’), the developer, Ben Moore Studios (herein referred to as ‘Ben Moore Studios’ or ‘The Developer’), and the Emporia Main Street, Inc. (herein referred to as ‘Main Street’).

### Key Features:

1. Sustainability: Ben Moore Studios will incorporate sustainable practices in the renovation, such as energy-efficient lighting, appliances, rooftop solar panels and environmentally friendly materials
2. Unit types: Ben Moore Studios will offer two-unit types: one bedroom and two bedroom.
3. Modern Amenities: Each apartment will be thoughtfully designed with modern amenities, including updated kitchens, bathrooms, and high-speed internet access.
4. Prime Location: Situated in the heart of downtown, residents will have easy access to shops, restaurants, cultural attractions, and public transportation.
5. Historical Significance: The building's historical architecture and details will be preserved and celebrated, offering residents a unique and authentic experience.

## **Rating Factor 1 – Capacity Narrative**

### **A. Past Experience:**

1. Applicant has not received a Main Street Grant
2. Non-Main Street Past Experience:

The applicant's developer has been a part of 27 downtown and historic preservation projects including 19 national register projects. Ben Moore Studios has also worked on multiple state and federal historic tax credit projects within the past three years. The developer, Ben Moore, worked on the first Rural Housing Incentive District for upper story housing in Kansas. The RHID provides reimbursements to developers in building housing in rural communities by financing housing renovations of buildings or structures built over 25 years ago for residential use in a central business district to help affordable housing in the state of Kansas. Ben Moore Studios has also worked on the Cottonwood Falls Housing Authority affordable housing project funded by the USDA, 22 miles from the project site. Ben Moore has worked on 67 affordable housing units through multiple funding mechanism.

Information on the needs of the city have been published in the city's Joint Comprehensive Plan. The city also relies upon formal studies conducted by consulting engineers to estimate the costs of utility upgrades.

Emporia is facing a shortage of quality housing options in low, medium, and high ranges. According to the Kansas Rural Housing Incentive guidelines (2006), one of the Housing Shortage Indicators include a high stock (40% or more) of units 50 years old or more. Realtors have noticed a demand for housing that is modestly priced and above (\$70,000 to 300,000) which has led to a "sellers market" for homes in this price range. This demonstrates that there is a shortage of affordable quality housing. The city of Emporia has approximately 11,352 total housing units while approximately 1,500 remain vacant.

The City maintains most residential area streets with its patch and seal maintenance program where each street is treated with slurry/seal once every five years. Most streets are paved, with

storm sewer and guttering. The City operates a pavement maintenance program. Approximately \$500,000 of City funding is used annually for street rehabilitation.

The City of Emporia owns and operates its own water utility. Operation, maintenance, and improvement costs are paid entirely by revenue received from water sales. The City needs to replace old water lines and needs to construct at least 3 new water towers. Replacing all the water lines in the city would likely cost \$40 million while building new storage towers would cost \$3-\$4 million each.

The City has offered a cost-share program for sidewalk repair and new installation since the 1980's. Due to the soil type and many trees with large root systems, sidewalks are constantly needing maintenance. The City has budgeted \$100,000 annually for this program.

The City will need to make improvements to its municipal airport. The runway must be extended to accommodate larger planes and constant traffic. A viable airport is vital to the economic stability of the city and is an important necessity. An improvement to The City's runway is expected to cost \$8.5 million.

The City needs a new fire station. The cost for a modern municipal fire station will be \$3.5 million. The city is also in need of several new vehicles for fire suppression and support at a cost of \$1.75 million.

The City recently completed a downtown sewer line improvements project for \$1.4 million. Every year, The City spends \$400,000 on rehabilitating 13,000 LF of sewer main with CIPP or 2% of the system. The City will spend \$50 million to rehabilitate all the sewer lines in the next

25-30 years. The City also needs to make significant improvements to the stormwater infrastructure. A comprehensive stormwater improvements plan will cost \$30 million.

The City of Emporia needs to continue with its efforts of downtown revitalization. The proposed project will generate much needed revenue.

The City of Emporia has actively been meeting the needs of the community. An extensive list of community improvements are included in this application but include a new waste treatment facility, water system improvements, streets and economic development investments.

The City of Emporia has been actively engaged in the revitalization of its historic main street corridor for years. Since 1991 total business. Reinvestment in the core downtown business district has exceeded \$120 million. It is estimated the reinvestment efforts have had a positive impact of \$3 million per year on the city's economy. The City offers a wide range of incentives to promote business growth and rehabilitation of buildings that have fallen to the effects of slum and blight.

The City has successfully partnered with Emporia Main Street, Inc. to engage business development. Main Street, Inc. is a non- profit 501c(6) organization and is a part of the National Main Street Program, which is designed to bring economic revitalization to communities with an emphasis on restoration and preservation of core downtown business districts.

Main Street's mission is to sustain and grow Emporia's local economy by applying a four-point approach to create jobs, encourage tourism, and support entrepreneurs and business owners.

Downtown Emporia was designated as a historic district in 2012 after an application process led by Emporia Main Street. The historic district was formed to enhance downtown's architectural

integrity, encourage heritage tourism and provide building owners with additional resources to maintain and upgrade their facilities. Both Federal and State Historic Tax Credits, and some competitive grants, are available for qualifying structures in projects that adhere to National Parks Service guidelines.

Main Street also provides business enhancement support to the community. Emporia Main Street's business enhancement programs are implemented by a committee of volunteers along with Main Street staff. The primary goals of our business enhancement initiatives are to:

- support, educate, and provide resources for ALL entrepreneurs and businesses throughout Emporia
- Grow a sustainable core business district downtown

Individual property owners and local investors have been the motivation behind the transformation of downtown Emporia. Emporia Main Street keeps a data base on local reinvestment in the area. In the last 5 years Emporia has been an example of local small business success and has seen growth and reinvestment from these companies:

Little Caesars 1014 Commercial St. \$54,500 \$2,000	Private Kelly Sisters 1018 Comm. St.
Private Jason Ralston 707 Commercial St. \$2,000	Private Janet Laird 614 Commercial St. \$9,000
Crawford LLC 606 Commercial St. \$40,000	David Williams 822 Merchant \$27,000
Thanh Nguyen 203 Commercial St. \$8,000	LCS Bank 902 Merchant St. \$850,000
Emporia Senior Res. 110 W. 6th Ave. \$80,000	Marion National Bank 701 Comm. St. \$10,000
Kevin Nelson 618 Merchant St. \$3,000	Orange Leaf 1114 Commercial Street \$2,200
Lyon County Title 423 Commercial Street \$9,100	Lane Hollern 621 Commercial \$13,000

Muckenthaler, Inc. 304 Commercial St. \$9,600	Springeman 1114 Commercial Street \$95,000
Jamie Sauder 606 Commercial Street \$20,200	Rand Hopkins 610 Commercial Street \$9,100
Pool & Associates 528 Comm. St. \$18,000.	Blue Water Real Estate 707 Comm. St \$50,000
Gail Hancock 325 Commercial St \$6,500	Moon Title & Escrow 421 Comm St \$25,000
St. Andrews Parish Church 828 Comm St \$51,000	Greg Seibel 526 Comm St \$7,900
Kevin Nelson 1121 Commercial Street \$8,900	Rich Avery 1120 Commercial Street \$20,000
Humanitarian Center 215 W. 6th Ave. \$79,124	Lyon County 430 Commercial Street \$5,000
Modern Air 106 Commercial Street \$24,950	Jim Brady 628 Commercial Street \$16,000
Cory Haag 427 Merchant Street \$4,100	Tamara Walker 323 Commercial Street \$5,500
City of Emporia 516 Mechanic St. \$8,000	City of Emporia 111 E. 6th Ave. \$192,800
Haag Oil 202 E. 6th Ave. \$75,000	Mike's Sporting Goods 507 Commercial \$2,000
Lyon County Historical 709 Comm \$1,140,000	J & K Partnership 1123 Comm \$5,000
Miles Shirk 1107 Commercial \$800	Glacier Petroleum 825 Commercial \$5,000
Poehler Mercantile 301 Commercial \$22,080	Brickyard Ale House 402 Merchant St. \$4,500
Lyon County 430 Commercial \$38,000	State Farm Insurance 411 W. 6th Ave. \$5,700
Brickyard 20 402 Merchant \$20,000	Annettes 1111 Commercial \$165,000
Haag Management 427 Merchant \$17,900	Brickyard 20 402 Merchant \$100,000
Haag Downtown Plaza 525 Commercial \$12,500	SJM LLC 613 Merchant Street \$5,000
KVE 20 E. 5th Ave \$70,000	Lyon County History Center 709 Commercial \$60,000
Paul Hanshew 902 Commercial \$2,500	Aaron Adams 502 Commercial \$10,000
Haag Real Estate 1107 Merchant \$7,800	Malone Dentistry 909 Commercial \$15,000

## **B. Knowledge of Key Personnel:**

Ben Moore, the developer representing Ben Moore Studios, is a licensed architect and developer and has worked extensively in the multifamily housing market with NRHP. Ben has worked with the requirements of the Fair Housing Act, the Americans with Disabilities Act and the Uniform Federal Accessibility Standards most recently with the USDA. Mr. Moore's design projects have received ten historic preservation awards and has been published in national & regional publications, he has completed twenty-seven downtown and historic projects. Ben was the architect /owner developer with 7 other partners on the 700-block project in Emporia. See attachments for Firm Profile, Key Resumes including Mechanical, Electrical and Plumbing Engineers, Jeff McKinley and Structural Engineer Kim Jones.

### **Rating Factor 3 – Readiness Narrative**

Site Control – See attached deed and signed official stating

See attached Zoning letter.

Relocation Readiness - relocation is not required as the building is vacant.

See attached memorandum of agreement

The applicant or its developer will not enter into any choice limiting options or binding agreements for construction, rehabilitation until HUD authorization.

### **Rating Factor 4 - Appropriateness - Hope VI Main Street affordable housing, Narrative**

#### **A. Feasibility of the Hope VI Main Street Project**

Form HUD-52861 has been utilized to develop. The Cash Flow Pro Forma. The Cash Flow Pro Forma follows the Cost Controls and Safe Harbor Document.

- The Developer Fee is below the maximum amount of 12%.
- Developer meets criteria with fees above the safe harbor amount

- Developer has independently obtained financing including tax credits.
- Developer is syndicating federal and state historic tax credits.
- Developer has independently obtained site control.
- Total number of housing is less than 50 units.
- Project is utilizing four market rate units.
- Developer bears all predevelopment cost; the intent is for the Hope VI Grant to be used for construction cost only.
- Private funds will be used to pay the developer fee.

### **B. Appropriateness in Context with the Main Street Area**

The project will meet the Secretary of Interior's Standard for Rehabilitation. The project meets Kansas Main Street Design Guidelines. The project meets the Emporia Main Street Design Guidelines. The project will return the front façade to its original design from 1911. Currently the building has been chronically vacant since 2015. The 2<sup>nd</sup> floor and garden level most recently housed a hotel up to the 1960's. The 2<sup>nd</sup> floor and garden level have been chronically vacant since the 1960's. The subject property is located close to public transportation. The property is 2 ½ blocks from the LCAT blue line and 3 blocks from the LCAT red line and 5 blocks from the LCAT Saturday route. 502 Commercial is located within the Emporia Unified School District, USD 253. Schools at this location include Emporia High School, Emporia Middle School and William Allen White Elementary (.6 miles). The Jones Early Childhood Development Center is located 1.3 miles from the project site. The Flint Hills Learning Center provides adult education in Emporia and is also located near downtown. Emporia has two higher education facilities: Emporia State University (.6 miles away and on public transit) and Flint Hills Technical College (.2 miles away and on public transit-downtown campus). Newman

Regional Health care is located 1.3 miles from the project site. Liberty MD is located in the downtown district. 2 pharmacies are located within 1.4 miles of the subject property.

The unemployment rate in Emporia Kansas is currently 3.3%. Employers currently indicate lack of housing; lack of affordable housing are problems with employee recruitment. According to the August 2020 Lyon County Housing study, the rental market has focused on student housing needs. The Downtown rental market in Emporia has also focused on student housing. Emporia doesn't have enough housing for working families, young professionals or empty nesters. Emporia needs 34 units annually to meet the demand as outlined in the 2020 housing study. One of the goals of the housing study was to increase variety of available housing for interesting neighborhoods that accommodates changing household preferences. With Lyon county having an overall tight rental market, additional upper story housing in the downtown district makes sense. Ben Moore Studios is one of eight owners of the 700-block project in Emporia, where an upper-story on Commercial Street is breathing new life into an aging building by creating 10 loft apartments, three first-floor storefronts and climate-controlled storage in the basement. The 700-block project had 100% occupancy on the market rate apartments within 2 months of completion.

### **C. Promotion and Marketing**

Marketing Strategy: Emporia, Kansas, is 27% Hispanic and has segments of the population that identify as Asian, Black, and other non-ethnic minority groups. Emporia has been ethnically diverse since the city's founding, and local organizations have a proven track record of inclusion and equity through strategically implemented programs of work.

Working families, young professionals and empty nesters have been identified as ideal tenants for the apartments considering demographics, income levels and lifestyle preferences. The unique features of the second-floor downtown apartments, such as historical charm, proximity to attractions, or modern amenities will be highlighted. Engage with the local downtown community by participating in or sponsoring events, festivals, or charitable activities.

**Leverage social media:** Create and maintain active profiles on social media platforms such as Facebook, Instagram, and Twitter. These activities will include use of English and Spanish publications. Share visually appealing content, including photos, videos, and virtual tour. Engage with the local community and respond to inquiries promptly.

**Create an attractive website:** Develop a user-friendly website dedicated to your apartments. Include detailed information about floor plans, amenities, pricing and contact details. Professional Photography and virtual tours will be used showcased the apartments interiors, common areas and views. The site will be optimized for mobile devices.

**Networking with Real Estate Agents:** Establish relationships with local real estate agents who can refer potential tenants. Offer competitive commissions or incentives to agents who bring in renters.

**Monitor and Analyze Results:** Use analytics tools to track the performance of your marketing efforts. - Adjust your strategy based on data, focusing on channels and tactics that yield the best result

#### **D. Set-aside for Very Low Income**

The project will be utilizing low-income limits for 3 units.

#### **E. Main Street Project Rejuvenation Area Leverage**

The project will be utilizing more than 25% of the requested funding in the Grant through private funds.

\$1,479,301 – Lyon County State Bank & the Developer

\$782,035 – State & Federal Tax Credits with Syndication

Commitment Letter from Lyon County State Bank is attached.

Commitment Letter from 502 Lofts, LLC is attached.

The property is privately owned and not included in the match totals.

Area Leverage – Please reference the project narrative for the City of Emporia’s extensive history aiding in redeveloping the downtown core and historic district. This includes:

Downtown Sewer Lines, Downtown Water Lines & the Downtown Stormwater System. They have also partnered with Emporia Main Street to aide in redeveloping the downtown core. The city of Emporia has been actively engaged in the revitalization of its historic main street corridor for years. Since 1991 total business reinvestment in the core downtown business district has exceeded \$120 million. It is estimated the reinvestment efforts have had a positive impact of \$3 million per year on the city’s economy. The city offers a wide range of incentives to promote business growth and rehabilitation of buildings that have fallen to the effects of slum and blight.

The project will be utilizing more than four time the amount of the requested Hope VI funding through Tax Credits and Private Sector Funds. This project will also develop 4 market rate apartments at 502 Commercial. The project will also rehabilitate the first floor into a viable commercial space. See attached floor plans and renderings.

## **F. Retention of Historic Architecture**

The subject property 502 Commercial in Emporia, Kansas is located within the National Register of Historic Places Downtown Emporia Historic District, listed as a Contributing Property. The property is located within the Opportunity Zone. The property is also located within the Emporia Main Street District. As outlined in the original National Register Nomination, the removal of the 1970's visor is recommended treatment to the façade and will be completed as part of this project. The Project follows Kansas Main Street's Design Guidelines and Emporia Main Street's Design Guidelines. The project will receive review by Kansas SHPO and the National Park Service during the Federal and State Tax Credit Project Review. If awarded the Hope VI Grant the project will also receive a Section 106 Review by Kansas SHPO. The project will not modify the character of the building; thus complying with the Secretary of Interior's Standards for Rehabilitation.

## **Rating Factor 5 - Financial and Program Management, Narrative**

### **A. Consistency:**

Form HUD-52861 shows all Hope VI funds going toward construction activities of the apartments. Form 52825A shows all Hope VI funds going toward construction activities.

### **B. Preparation and Timeliness**

- The Kansas SHPO offices has been contacted.
  - A site visit with Kansas SHPO occurred on 10/5/23 at 502 Commercial to review the forthcoming Federal and State Tax Credit Project Application.
  - A concurrence letter from Kansas SHPO is attached.
- A contract between 502 Lofts, LLC and Ben Moore Studio, LLC (Architects) is in place.

- Preservation Mason, Chris Hartman reviewed the site with the Architect to review scope and repair methods on 9/21/23.
- Three (3) historic window suppliers were contacted to review lead times on current production.
- Solar panel installers were contacted to review potential lead times on current production.
- Electrical service transformer and electrical meter bank timelines were reviewed 12m.
- The City of Emporia has been in contact with Jose Davis, the Field Office Director for the Kansas/Western Missouri Field Office.
- According to the Lyon County Appraisers office – No back taxes are due
- Moon Title and Escrow has performed title work to confirm no liens, court orders, etc. are in place on the subject property. Title insurance is in place.

### **C. Achieving Results.**

The City of Emporia has been completing projects on time and within budget for many years. It is a fundamental hallmark of effective project management. It not only demonstrates the City of Emporia's commitment to efficiency but also plays a crucial role in achieving project success. Timely project completion ensures that stakeholders' expectations are met, fosters a sense of trust, and minimizes disruptions to ongoing operations. Staying within the allocated budget, on the other hand, showcases financial responsibility and resource management skills, which are vital for sustaining the financial health of an organization. When projects are executed on schedule and within budget, it reflects a well-structured and disciplined approach to project planning and execution, ultimately contributing to the organization's reputation for reliability and excellence in project management.

The City of Emporia's financial statement is attached reflecting a clean financial statement. 4 years of SEFA audits, not showing a finding for going beyond Grant cost and timelines. The City of Emporia has met past reporting requirements on past grant awards. The City of Emporia has included single audit's for 2019, 2020, 2021, and 2022.

### **Rating Factor 6 – Fair Housing and Equal Opportunity, Narrative**

#### **A. Affirmative Fair Housing Marketing**

The 502 Commercial HOPE VI project is committed to Fair Housing and Equal Opportunity. This means that everyone, regardless of their race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, or disability, has the right to live in the project and enjoy its benefits.

The 502 Commercial HOPE VI project is committed to taking all necessary steps to ensure that all residents and visitors are treated fairly and have equal access to its housing and amenities.

This includes:

- Making sure that all marketing and advertising materials are fair and inclusive
- Providing equal access to all housing units and amenities, regardless of race, color, national origin, religion, sex, familial status, or disability
- Taking reasonable steps to ensure meaningful access to its programs and activities for persons with limited English proficiency (LEP)
- Taking appropriate steps to ensure effective communication with individuals with disabilities through the provision of appropriate auxiliary aids and services

- Working with community agencies to ensure that all residents and visitors are aware of residential and commercial opportunities within the 502 Commercial project.

The 502 Commercial HOPE VI project is committed to affirmatively furthering the purposes of the Fair Housing Act. This means that it takes steps to identify and address any barriers that may prevent people from different backgrounds from living in the project and enjoying its benefits. For example, the project may provide outreach and education programs to people from minority groups, or it may work to develop affordable housing options for people with disabilities.

The 502 Commercial HOPE VI project is a place where everyone belongs. It is committed to providing a safe and welcoming home for all residents, regardless of their background.

## **B. Distance From Public Transportation**

The subject property is located close to public transportation. The property is 2 ½ blocks from the LCAT blue line and 3 blocks from the LCAT red line and 5 blocks from the LCAT Saturday route.

## **Section 3 Opportunity**

### **Affirmatively Furthering Fair Housing, Narrative**

The 502 Commercial Street building rehabilitation will comply with all local, state and federal guidelines regarding fair housing. Beyond the legal requirements, the building development has a robust plan to engage all segments of the community in a meaningful way to demonstrate housing and commercial opportunities within the rehabilitated building. The Emporia

community is currently 27% Hispanic, and the community takes its responsibility to welcome all segments of the city into the core seriously. These steps include:

- Ensuring rental information and communication efforts are generated in both English and Spanish.
- Working with the Emporia Main Street organization and Hispanics of Today and Tomorrow (a leading local Hispanic advocacy organization) to promote housing and commercial rental opportunities through individual conduits, tours, and local ethnic event participation.
- Cooperating with local Diversity, Equity, and Inclusion efforts through area centers of employment and educational institutions to augment outreach pertaining to rental opportunities and communicate with diverse segments of the population.
- Conducting outreach to area houses of worship that often serve as gathering places for diverse segments of the local population.
- Communicating through our area partners with young entrepreneurs from various ethnic segments of the community concerning housing and commercial opportunities within the 502 Commercial development. These conduits include, but are not limited to, the Start Your Own Business Class entrepreneurial development system, which currently consists of seventy percent women or minority participation.
- Highlighting opportunities for residential and/or commercial rentals with local media that have focused outlets targeting Hispanic and minority populations.
- Working with local community development organizations to ensure that housing and commercial applications within the 502 Commercial development meet the needs of all segments of the local population.

- Our targeted goal is that a minimum of half of all rentals are from women or minority populations within the area.

### **Advancing Racial Equity, Narrative**

HOPE VI projects can advance racial equity in a number of ways. First, by replacing distressed public housing with mixed-income developments, HOPE VI can help to break up the concentration of poverty and crime that often contributes to racial segregation. Second, HOPE VI projects can provide affordable housing opportunities for low-income families of color. Third, HOPE VI projects can create jobs and economic opportunities for residents of color.

In Emporia, Kansas, it is anticipated that the HOPE VI program being used to redevelop the 502 Commercial Street mixed use redevelopment project. The 502 Commercial HOPE VI project will replace the vacant upper story and garden level space with mixed-income units and commercial space. The project is expected to create or retain eight jobs and generate over \$6 million in economic activity.

The Emporia Main Street program is working to support the 502 Commercial HOPE VI project by promoting economic development in the surrounding neighborhood. The program is working to attract new businesses to the area and to help existing businesses grow. The program is also working to improve the appearance of the neighborhood and to make it more attractive to residents and visitors. Emporia Main Street connections with minority populations will enhance project efforts to advance equity by ensuring diverse community representation among residents and entrepreneurs within the community core.

Local diversity, equity, and inclusion efforts are also working to support the 502 Commercial HOPE VI project. These efforts are working to ensure that the project is inclusive of all

residents, regardless of race, ethnicity, or income. They are also working to ensure that the project benefits the entire Emporia community. The 502 Commercial HOPE VI project is a good example of how HUD's HOPE VI program can be used to advance racial equity. The project is replacing a distressed vacant building with mixed-income housing, creating jobs and economic opportunities for residents of color, and promoting diversity, equity, and inclusion in the Emporia community.

The 502 Commercial project pledges to use the development as a catalyst to partner with local community organizations. Local community organizations can help to spread the word about fair housing and commercial rental opportunities to their members. They can also provide support and assistance to Latino and other ethnic minority residents who are looking for housing or commercial space. Local diversity, equity, and inclusion initiatives, when coupled with local ethnic advocacy organizations like Hispanics of Today and Tomorrow can provide language services. It is important to make sure that all information about fair housing and commercial rental opportunities is available in Spanish and other languages spoken by Latino and other ethnic minority residents. Language services can be provided in person, over the phone, or online.

The project will conduct outreach activities in the community. Outreach activities will include building tours, development of media packages that target ethnic minority populations, and consistent updates through civic and governmental organizations.

Here are some specific examples of how the Emporia Main Street program, HOTT, and local diversity, equity, and inclusion efforts are working to reach out to and positively impact a large Latino population and other ethnic minorities in the area through fair housing and commercial rental:

The Emporia Main Street program is working with HOTT and the City of Emporia to promote Spanish-language web and printed materials about fair housing and commercial rental opportunities in Emporia.

The developer of 502 Commercial is working with Emporia Main Street, Emporia State University and local minority groups to communicate housing and commercial opportunities provided through the 502 Commercial building rehabilitation. By utilizing agencies that have developed trust with local minority groups over time, we hope to more effectively communicate opportunities that inspire diversity and enhance wealth enhancements among minority groups within the community.

These are just a few examples of how to reach out to and positively impact a large Latino population and other ethnic minorities in the area through fair housing and commercial rental. By working together, communities can ensure that everyone has access to safe and affordable housing and to economic opportunities.

### **Experience Promoting Racial Equity, Narrative**

The City and Ben Moore Studios will not discriminate against any employee or applicant for employment because of race, gender identity, formula of religious belief, ethnicity, or national origin. THE DEVELOPER will take Affirmative Action to ensure that applicants are employed, and that employees will receive equitable conditions during employment, without regard to their race, gender identity, formula of religious belief, ethnicity or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Establishing Trust and Partnerships: Promoting racial equity starts with establishing trust within the subsets of the community we are trying to enhance. By working with established conduits within the City of Emporia, such as Emporia Main Street, Hispanics of Today and Tomorrow, and diversity, equity, and inclusion efforts within Emporia State University, we will leverage existing expertise to guide racial equity efforts related to the development of 502 Commercial Street.

Community Engagement The citizens of Emporia have established ethnic festivals, entrepreneurial outreach programs targeting minority populations, migrant education programs, diversity training initiatives, and a host of other activities to bring disparate groups together. These efforts typically revolve around the concept that the core of Emporia "belongs to everyone." We believe that engaging various community entities in the promotion of the 502 Commercial building rehabilitation will allow us to continue the substantial work the community has engaged in to enhance racial equity.

Specific Examples of Racial Equity Initiatives: In addition to the general statements above, we (the partners included in this project) would like to provide specific examples of racial equity initiatives that have been implemented and/or that will be implemented in conjunction with the development of 502 Commercial Street:

- The Developer has partnered with Emporia Main Street to develop a program to provide mentorship and support to minority-owned businesses.
- The Developer has donated space in the 502 Commercial building to Hispanics of Today and Tomorrow to use as a community center.

- The Developer and Main Street are working with Emporia State University to develop a diversity and inclusion training program for all of our employees.
- The Developer is committed to hiring a diverse workforce for the 502 Commercial project.
- The Developer will work with the community to ensure that the 502 Commercial project is welcoming and inclusive to all residents of Emporia.

This project represents the belief that the 502 Commercial project has the potential to be a catalyst for racial equity in Emporia. By working with local organizations and community members, we can create a vibrant and inclusive space that benefits all residents.

Conclusion: Participants in this project are committed to promoting racial equity in Emporia and throughout the region. We believe that the 502 Commercial project is a unique opportunity to advance this important goal. We respectfully request your consideration of our application for the HUD Hope VI residential development grant program.

### **Other Factors - Climate Change, Narrative**

#### **Carbon Reduction**

The apartments will be certified through an energy star rating system.

The project will include rooftop solar panels producing a renewable electric energy source for the apartments. Water will be heated using heat pump water heaters; they use electricity to move heat from one place to another instead of generating heat directly. Therefore, they can be two to three times more energy efficient than conventional electric resistance water heaters. The apartments will also include circulation pumps to keep hot water at each device to conserve potable water. The apartments will have air source heat pumps which transfer heat between the

apartments and the outside air. The heat pump will reduce electricity use for heating by 50% compared to electric resistance heating such as furnaces and baseboard heaters.

As the Developer is remodeling an existing building that is currently vacant, we are reusing the exterior walls, roof and interior walls of the building.

### **Climate Adaptation and Resilience**

Precipitation Change - The project is not in the FEMA flood plain and more than 2' above BFE. Extreme Weather - The project will include installing new waterproofing on the foundation including a perforated pipe system connected to a tank system and pump for extreme rain events. Temperature Shift - The insulation in the roof and floor system will be increased to include R-42 blown-in insulation exceeding normal new construction by a measure of 12. High efficiency heat pumps will provide good ventilation design with air conditioning. The 2<sup>nd</sup> floor contains 23 operable windows that will increase natural ventilation strategies. A new cool roof has been installed with a white modified bitumen roof system. New window sashes will be used to replace the existing window sashes, these will be insulated glazing with energy efficient low-e coating. Sea Level Rise – not in a coastal area. Wildfires – The project is located in downtown Emporia, away from forests and tree lines. The historic building is masonry construction, the IBC indicates these are 3-hour fire separation walls.

### **Environmental Justice, Narrative**

- The City of Emporia is 27.7% Hispanic according to the US Census.
- Activities described in this section will be done in both English and Spanish.
- Reducing exposure to environmental and health hazards. n/a
- Improving protection from environmental harms

- This will include installing an NFPA 13R sprinkler system in the apartments.
- Installing a 1 hour fire barrier between each unit; and between corridor & units.
- At historic doors required to be fire rated, sprinkler system shall be designed to meet water wall requirements equal to ICC-ES report 2397 to maintain historic integrity and life safety.
- The apartments will have expanded environmental benefits.
  - Active electric production with rooftop solar panels
  - Energy-efficient air source heat pumps and energy efficient water heaters
  - Energy efficient window sashes.
  - Bike rack installed for encouraging bike usage.
  - Project is within 2 ½ blocks of local public transit.
- Overcoming prior disinvestment in environmental infrastructure - n/a



## Commission Action Report

### Agreement Concerning Distribution of TIF and CID Revenue for the Pavilions Project

**Title:** Agreement Concerning Distribution of TIF and CID Revenue for the Pavilions Project

**Agenda Date:** October 11, 2023

**Presented By:** Jim Witt, Special Projects Coordinator

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**Background:**

The City entered a Development Agreement with Emporia Land Development, LLC in April of 2016. The Agreement set forth the incentives related to sales tax is a Community Improvement District and the Tax Increment Financing District. The Agreement included the process of reimbursement to the LLC via the City Finance Office.

**Discussion:**

The LLC is finalizing a transition to a new lending institution, Nodaway Valley Bank, to begin construction of Phase 3 of the Pavilions Project, including Maurice's, 5 Below, and Old Navy. Phase 4 should begin in the 3rd or 4th quarter of 2024 if all goes as planned.

**Financial considerations:**

No City financial commitment. The City receives a 3% administrative fee for reimbursements.

**Recommended action:**

Approve the Agreement Concerning the Distribution of TIF and CID Revenue for the Pavilions Project.

**Attachments:**

Agreement

## AGREEMENT CONCERNING DISTRIBUTION OF TIF AND CID REVENUE

This Agreement (“Agreement”) is made and entered into as of \_\_\_\_\_, 2023 by and between the City of Emporia, Kansas, a municipal corporation organized according to Kansas law (the “City”), Emporia Land Development, LLC, a limited liability company organized and existing according to Kansas law (the “Developer”), and Nodaway Valley Bank (the “Lender”).

### RECITALS

A. The Developer and the City are parties to the Emporia Pavilions Tax Increment Redevelopment Agreement and Community Improvement District Development Agreement dated April 26, 2016 (as amended “Development Agreement”), regarding development of certain real property located in the City (the "Project") legally described in Ordinance No. 15-30 of the City and Ordinance No. 16-16 of the City.

B. The Development Agreement provides for reimbursements from the City to the Developer, or its permitted assignee if approved by the City, from TIF Revenue deposited in the TIF Revenue Fund, for TIF Eligible Project Costs incurred and related to the Project.

C. The Development Agreement also provides for reimbursements from the City to the Developer, or its permitted assignee if approved by the City, from CID Revenue deposited in the CID Sales Tax Fund, for CID Eligible Project Costs incurred and related to the Project.

D. At the request of the Developer, the Lender has agreed to extend one or more financial accommodations to the Developer for the Project (together with any future loans made by Lender to Borrower, collectively, “Loan”) pursuant to the terms of one or more Loan Agreements (together with any modifications, extensions, and future loan agreements entered into by Borrower with Lender, collectively, the “Loan Agreement”). In accordance with the Loan Agreement, the Developer has executed and delivered or will execute and deliver to the Lender one or more Promissory Notes with the Loan Agreement (together with any modifications, extensions and future notes entered into by Borrower in favor of Lender, collectively, the “Note”).

D. In order to further secure performance by the Developer of its obligations under the Note, the Developer has assigned or will assign its rights to such reimbursements to the Lender, in a Collateral Assignment (together with any modifications, extensions, and future assignments, the “Collateral Assignment”).

F. The Lender and Developer have requested the City, upon written request by Lender, make direct reimbursement to the Lender of the TIF Revenue eligible to reimburse TIF Eligible Project Costs, as described in the Development Agreement.

G. The Lender and Developer have requested the City, upon written request by Lender, make direct reimbursement to the Lender of the CID Revenue eligible to reimburse CID Eligible Project Costs, as described in the Development Agreement.

H. Capitalized words used in this Agreement but not defined herein shall have the meanings given them in the Development Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

1. Collection and Payment TIF Revenue and CID Revenue.

A. TIF Revenue. The Developer requests, authorizes and directs the City, upon written request by Lender, to pay all TIF Revenue authorized to be paid by the City to Developer under the Development Agreement directly to the Lender. In such written request, Lender will provide the City with an appropriate address for distribution of the TIF Revenue as described herein, and the City may rely on such information without further investigation.

B. CID Revenue. The Developer requests, authorizes and directs the City, upon written request by Lender, to pay all CID Revenue authorized to be paid by the City to Developer under the Development Agreement directly to the Lender. In such written request, Lender will provide the City with an appropriate address for distribution of the CID Revenue as described herein, and the City may rely on such information without further investigation.

C. Continuing Authorization; Indemnification. The Developer's and Lender's authorization to the City contained in this Agreement, is absolute and irrevocable, subject to amendment as provided herein. The Developer and Lender agree to indemnify and hold the City, and its employees, officers, agents and independent contractors and consultants (collectively, the "Indemnified Parties") harmless from and against any and all suits, claims, costs or defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and attorneys' fees, resulting from, arising out of, or in any way connected with the City's performance of its obligations under this Agreement.

2. City Consent and Recognition. By entering into this Agreement, the City consents to the Collateral Assignment by the Developer to the Lender of the Developer's rights under the Development Agreement. If and to the extent that the Lender exercises its rights and remedies against the Developer, and expressly assumes all of the rights and obligations of the Developer, under the Development Agreement in writing, the City acknowledges and agrees that it will recognize and make full and complete attornment with respect to the rights, as successor developer, under the Development Agreement (without the necessity of any other or further attornment or instrument) to (a) Lender or an affiliate of Lender organized to hold the Project, or (b) any receiver which Lender requests be appointed for the Project. The City recognizes and agrees that the Lender shall have the right and ability to utilize funds received towards the application of the Loan, provided however that (i) the TIF Revenue and CID Revenue are required to be used for payment or reimbursement of TIF Eligible Project Costs or CID Eligible Project Costs, respectively, as defined in the Development Agreement, and accordingly, (ii) Lender's application of any such TIF Revenue and CID Revenue toward the Note or other obligations under the Loan Agreement shall

be limited and restricted to the extent that Lender's loan proceeds were used to pay TIF Eligible Project Costs or CID Eligible Project Costs, respectively, pursuant to the Development Agreement, and (iii) the TIF Revenue and CID Revenue are further limited and conditioned as set forth in the Development Agreement.

3. Copies of Notices. The City hereby agrees to use reasonable efforts to provide to Lender, at the notice address for Lender set forth below, copies of all written notices and demands under the Development Agreement or otherwise with respect to the Project sent or received by the City from or to Developer. However, the parties understand and agree that the City shall not be in default or liable to Lender or Developer if the City should fail to deliver any such notice.

4. Miscellaneous Provisions. The following miscellaneous provisions are a part of this Assignment:

a. Accuracy of Recitals. The recitals set forth at the beginning of this Agreement are deemed incorporated herein, and the parties hereto represent they are true and correct.

b. Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

c. Amendments. This Agreement may not be amended or modified except in a writing executed by all parties hereto.

d. Counterparts. It is understood and agreed that this Agreement may be executed in several counterparts, each of which shall, for all purposes, be deemed an original, and all of such counterparts, taken together, shall constitute one and the same Assignment, even though all of the parties hereto may not have executed the same counterpart of this Assignment.

e. Choice of Law, Severability. This Agreement is made in the State of Kansas and shall be construed in accordance with the laws thereof. If any provision hereof is in conflict with any statute or rule of law of the State of Kansas and is otherwise unenforceable, such provisions shall be deemed null and void only to the extent of such conflict or unenforceability, and shall be deemed separate from and shall not invalidate any other provision of this Assignment.

f. Time is of the Essence. Time is of the essence in the performance of this Assignment.

g. Notices. All notices required to be given under this Assignment shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown below:

City:  
City of Emporia, Kansas  
Attn: City Manager  
P.O. Box 928, 104 E. 5th St.  
Emporia, Kansas 66801-0928

Lender:  
Nodaway Valley Bank  
Attn: Marvin Davis  
4001 N. Belt Highway  
St. Joseph, Missouri 64506

With a copy to:  
Michael J. Book  
Duggan Shadwick Doerr & Kurlbaum LLC  
9101 W. 110<sup>th</sup> Street, Suite 200  
Overland Park, KS 66210

Developer:  
Harold Robert Herman, Jr.  
Emporia Land Development, LLC  
c/o Southtown Associates, LLC  
36306 East Pink Hill Road  
Oak Grove, MO 64075

With a copy to:  
Spencer R. Thomson, Esq.  
Thomson, LLC  
351 W. Washington  
Kansas City, MO 64060

Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address.


h. Amendments. This Assignment constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

i. Successors and Assigns. This Agreement shall bind the Company, Developer, Borrower, Lender and the City and the successors and assigns of each.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement Concerning Distribution of TIF and CID Revenue as of the day and year first above written.

**LENDER:** Nodaway Valley Bank

By:   
Name: Marvin Davis  
Title: SVP

**DEVELOPER:**

Emporia Land Development, LLC,  
a Kansas limited liability company

By: Spencer R. Thomson  
Name: Spencer R. Thomson  
Title: Manager

**CITY:**

CITY OF EMPORIA, KANSAS  
a Kansas municipal corporation

By: \_\_\_\_\_  
Susan Brinkman, Mayor