

(Published in the *Miami County Republic* on March 17, 2021)

ORDINANCE NO. 3172

AN ORDINANCE OF THE CITY OF PAOLA, KANSAS RATIFYING AND CONFIRMING ORDINANCE NO. 3151 AND ORDINANCE NO. 3160 OF THE CITY; AMENDING AND CORRECTING RESOLUTION NO. 2019-16 OF THE CITY; APPROVING AN UPDATED AND CORRECTED LEGAL DESCRIPTION; ALL AS RELATING TO THE PAOLA CROSSINGS REDEVELOPMENT DISTRICT AND COMMUNITY IMPROVEMENT DISTRICT

WHEREAS, the City of Paola, Kansas (the “City”) has previously exercised its authority to undertake tax increment financing pursuant to the Kansas Tax Increment Redevelopment Act, as set forth in K.S.A. 12-1770 *et seq.* (the “TIF Act”), and its authority to create a community improvement district (“CID”), pursuant to the Kansas Community Improvement District Act, as set forth in K.S.A. § 12-6a26 *et seq.* (the “CID Act”), for the purpose of financing certain public and private improvements as defined therein by the TIF Act and the CID Act; and

WHEREAS, the City acted pursuant to the TIF Act and CID Act (together, the Act) upon receipt of plans or petitions submitted by Highlands Development, LLC, a Missouri limited liability company (the “Developer”), pursuant to the Act; and

WHEREAS, On October 8, 2019, the City approved Ordinance No. 3149, which found certain property identified by the Developer was an “eligible area” as defined in the TIF Act and created a redevelopment district (the “TIF District”) that includes the property Developer plans to redevelop in phases, all pursuant to the TIF Act; and

WHEREAS, the Developer presented information necessary and assisted in the preparation of a Phase 1 Project Plan (the “Phase 1 Project Plan”) identifying certain property within the TIF District for redevelopment as Phase 1, and on November 12, 2019 the governing body of the City adopted Resolution No. 2019-16 describing the property to be developed in Phase 1 of the Project Plan and setting December 17, 2019 for a public hearing to consider the adoption of the Phase 1 Project Plan; and

WHEREAS, on December 17, 2019 the governing body of the City passed and approved Ordinance No. 3151 approving the Phase I Project Plan; and

WHEREAS, On May 29, 2020, the Developer (as contract owner), along with other property owners, submitted a petition (the “CID Petition”) to the City requesting the formation of the Paola Crossings Community Improvement District, which includes the property described in the Phase 1 Project Plan and Lot 1, Paola Business Park No. 1, as described in the CID Petition (the “CID”); and

WHEREAS, on June 9, 2020, the governing body of the City adopted Resolution No. 2020-011, giving notice of a public hearing on July 14, 2020 regarding the advisability of creating the CID District; and

WHEREAS, on July 14, 2020, the City approved the creation of the CID District by adopting Ordinance No. 3160, and

WHEREAS, Ordinance No. 3151 (Phase 1 Project Plan) and Ordinance No. 3160 (CID Creation) authorized the City to enter into a Development Agreement with the Developer addressing implementation and financing of the Phase 1 Project Plan and the CID Project; and

WHEREAS, Ordinance No. 3151 and Ordinance No. 3160 provided that neither ordinance would be published or become effective until the Development Agreement was executed by the City and Developer; and

WHEREAS, the execution of the Development Agreement was delayed by circumstances beyond the control of the City or Developer; and

WHEREAS, the Development Agreement has been executed by the Developer; and

WHEREAS, given the passage of time between the City approval of Ordinance No. 3150 and Ordinance No. 3160, the City has determined it advisable to ratify and confirm each ordinance as of the date of this Ordinance; and

WHEREAS, it has come to the City's attention that the description of the property comprising the Phase 1 Project Area in Resolution No. 2019-16 included a second tract of land that is not part of the Phase 1 Project Area and now it is advisable to amend Resolution No. 2019-16 to delete the description of the second tract described therein; and

WHEREAS, the Developer and Developer's Surveyor have prepared a new legal description of Tract 2 identified on Exhibit A of Ordinance No. 3160 and the property comprising the Phase 1 Project Area described in Resolution No. 2019-16; and the City is advised by the Developer and Developer's Surveyor that the new legal description (Exhibit A to this Ordinance) describes the same property described in Ordinance No. 3160 and Resolution No. 2019-16, with corrections of detail revealed by a completed survey.

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

**SECTION 1. Ratification of Ordinance No. 3151 and Ordinance No. 3160.** Ordinance No. 3151 of the City, passed on December 17, 2019, and Ordinance No. 3160, passed on July 14, 2020, are each ratified and confirmed by this Ordinance and directed to become effective by publication in connection with the execution of the Development Agreement.

**SECTION 2. Amendment and Correction of Resolution No. 2019-16.** Section 1(b) of Resolution No. 2019-16 of the City, adopted on November 12, 2019 is corrected to delete the

portion of the legal description beginning with the words “A second tract of land”. The rest and remainder of Resolution No. 2019-16 is ratified and confirmed.

SECTION 3. Approval of Corrected Legal Description. The revised and updated legal description of Project Plan Phase 1, described in Resolution No. 2019-16, as amended by this Ordinance, and of Tract 2 of the CID on Exhibit A to Ordinance No. 3160 is hereby accepted and approved in the form attached to this Ordinance as **Exhibit A**.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage by the governing body and publication one time in the official City newspaper.

*[Remainder of Page Intentionally Left Blank]*

PASSED AND APPROVED by vote of the governing body of the City of Paola, Kansas on the 9<sup>th</sup> day of March, 2021.

CITY OF PAOLA, KANSAS

[seal]

By \_\_\_\_\_  
Artie Stuteville, Mayor

ATTEST:

By \_\_\_\_\_  
Stephanie Marler, City Clerk

## EXHIBIT A

*[Updated and Corrected Legal Description: (A) Paola Crossings No. 1 Community Improvement District, Tract 2 (See Ordinance No. 3160); and (B) Paola Crossings TIF - Phase 1 Project Plan Site, see Resolution 2019-16, as amended, and Ordinance No. 3151]*

CONTAINING 436,440 SQUARE FEET OR 10.02 ACRES

ALL THAT PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER AND ALL THAT PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 17 SOUTH, RANGE 23 EAST, MIAMI COUNTY, KANSAS BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE S00°51'33"W, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 358.23 FEET; THENCE S31°47'57"W, A DISTANCE OF 43.62 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE S58°12'03"E, A DISTANCE OF 323.68 FEET; THENCE S31°47'57"W, A DISTANCE OF 271.12 FEET; THENCE S58°12'03"E, A DISTANCE OF 171.51 FEET; THENCE S07°11'20"E, A DISTANCE OF 415.16 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF HIGHWAY 69; THENCE S59°52'05"W, ALONG SAID LINE, A DISTANCE OF 68.58 FEET; THENCE S88°43'26"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 262.25 FEET; THENCE N67°36'05"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 504.99 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF HEDGE LANE; THENCE N31°47'57"E, ALONG SAID LINE, A DISTANCE OF 870.00 FEET TO THE POINT OF BEGINNING.

## EXCERPT OF MINUTES

The governing body of the City of Paola, Kansas met in regular session, at the usual meeting place in the City on March 9, 2021, at 6:00 p.m., with Mayor Artie Stuterville presiding, and the following members of the governing body present: Council Member Smail, Council Member Upshaw, Council Member House and Council Member Shields

and the following members absent: None

Among other business, an Ordinance was presented to the governing body entitled:

AN ORDINANCE OF THE CITY OF PAOLA, KANSAS RATIFYING AND CONFIRMING ORDINANCE NO. 3151 AND ORDINANCE NO. 3160 OF THE CITY; AMENDING AND CORRECTING RESOLUTION NO. 2019-16 OF THE CITY; APPROVING AN UPDATED AND CORRECTED LEGAL DESCRIPTION; ALL AS RELATING TO THE PAOLA CROSSINGS REDEVELOPMENT DISTRICT AND COMMUNITY IMPROVEMENT DISTRICT

The Ordinance was considered and discussed; and on motion of Council Member Upshaw, seconded by Council Member Smail, the Ordinance passed by the following vote of the governing body:

Yes: 4

No: 0

The Ordinance was assigned No. 3172.

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CITY CLERK'S  
CERTIFICATION OF EXCERPT OF MINUTES

I certify that the foregoing is a true and correct Excerpt of Minutes of the March 9, 2021 meeting of the governing body of the City of Paola, Kansas.

[seal]

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Stephanie Marler, City Clerk