

ORDINANCE NO. CID-3372

AN ORDINANCE MAKING FINDINGS AS TO THE NATURE AND ADVISABILITY OF CREATING A COMMUNITY IMPROVEMENT DISTRICT GENERALLY LOCATED AT THE NORTHEAST CORNER OF I-435 AND METCALF AVENUE; CREATING SAID COMMUNITY IMPROVEMENT DISTRICT; AUTHORIZING A CERTAIN COMMUNITY IMPROVEMENT PROJECT RELATING THERETO; APPROVING THE ESTIMATED COST OF SUCH COMMUNITY IMPROVEMENT PROJECT; ESTABLISHING THE BOUNDARIES OF THE COMMUNITY IMPROVEMENT DISTRICT; AND PROVIDING FOR THE METHOD OF FINANCING OF THE COMMUNITY IMPROVEMENT DISTRICT (METCALF 108 CID).

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the “Act”), municipalities are authorized to create community improvement districts for economic development purposes and any other purpose for which public money may be expended; and

WHEREAS, the City of Overland Park, Kansas (the “City”), is a municipality within the meaning of the Act; and

WHEREAS, the Act further authorizes the City, in order to pay the community improvement district project costs, to levy special assessments in the community improvement district to be paid in installments, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within a community improvement district in any increment of .10% or .25% not to exceed 2.0% and to issue special obligation notes or bonds payable from such community improvement district sales tax and/or provide pay-as-you go financing; and

WHEREAS, a petition (the “Petition”) was filed by Metcalf 108 Redevelopment Investors, LLC, a Kansas limited liability company, and GK of Overland Park KS II, LLC, a South Dakota limited liability company, with the City Clerk of the City on May 2, 2022, requesting (a) the creation of a community improvement district generally located at the northeast corner of I-435 and Metcalf Avenue within the City (the “Metcalf 108 CID”); (b) the making of improvements related thereto; (c) the community improvement district project costs to be incurred within the Metcalf 108 CID be financed with pay-as-you go financing and/or with special obligation notes and bonds; and (d) the City levy a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within the CID in the amount of 1.00% (the “CID Sales Tax”), all in accordance with the Act; and

WHEREAS, said Petition was signed by the owners of record of more than 55% of the land area within the proposed CID and the owners of record collectively owning more than 55% by assessed value of the land area within the proposed Metcalf 108 CID; and

WHEREAS, pursuant to Resolution No. 4818 of the City, adopted on May 16, 2022, the Governing Body of the City directed a public hearing on the proposed Metcalf 108 CID be held and declared its intent to levy the CID Sales Tax in the proposed Metcalf 108 CID; and

WHEREAS, on July 11, 2022, following proper notice as provided in the Act, the Governing Body of the City opened a public hearing on the proposed Metcalf 108 CID, the proposed community improvement district project and the imposition of the CID Sales Tax in the proposed Metcalf 108 CID and closed that hearing on July 11, 2022; and

WHEREAS, the Governing Body of the City hereby finds and determines it to be advisable to create the Metcalf 108 CID and set forth the boundaries thereof, authorize a community improvement project relating thereto, approve the estimated costs of such community improvement project and approve the method of financing the same, all in accordance with the provisions of the Act;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS, AS FOLLOWS:

Section 1. Creation of the Metcalf 108 Community Improvement District; Approval of Boundaries. The Governing Body of the City hereby finds and determines that it is advisable to create the Metcalf 108 CID within the City and approve the boundaries thereof, and, as such, hereby creates the Metcalf 108 CID and approves the boundaries thereof. A legal description of the property within the Metcalf 108 CID is set forth on **Exhibit A** attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the Metcalf 108 CID is attached hereto as **Exhibit B** and incorporated herein by reference.

Section 2. Authorization of Community Improvement District Project; Estimated Costs. The Governing Body of the City hereby authorizes the project within the Metcalf 108 CID described on **Exhibit C** attached hereto (the “Project”), approves the estimated cost of the Project and determines the estimated cost of the Project is \$1,052,670. Notwithstanding the approval of the Project by this Ordinance, the Project and owner or owners of all property comprising the Project must comply with all applicable zoning, planning, permit and other laws and regulations applicable to the Project.

Section 3. Method of Financing. The Project within the proposed Metcalf 108 CID will be financed on a pay-as-you-go basis, from revenues received from the imposition of the CID Sales Tax. No special assessments shall be implemented under the Act to pay for the Project and no special or general obligations bonds or notes will be issued to finance the Project.

Section 4. Levy of Sales Tax. In accordance with the Act and to provide funds to pay costs of the Project, the Governing Body of the City hereby levies a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within the Metcalf 108 CID in the amount of 1.00%, *i.e.*, the “CID Sales Tax.” The collection of the CID Sales Tax shall commence on October 1, 2024, or the earliest date thereafter on which the Kansas Department of Revenue agrees to begin the imposition of the CID Sales Tax and shall expire on the earlier of (a) 22 years from the date the Department of Revenue begins the collection of the CID Sales Tax or (b) the date on which reimbursement of pay-as-you-go costs of the Project, not to exceed \$1,052,670 (subject to reduction by the terms and conditions of the development agreement between the City and developer), has been paid. The CID Sales Tax shall be administered, collected and subject to the provisions of K.S.A. 12-187 *et seq.*

Section 5. Authorization to Execute of Documents. The Mayor, City Clerk and other appropriate officers of the City are hereby authorized and directed to execute, attest, acknowledge and deliver for and on behalf of and as the act and deed of the City, any other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 6. Effective Date. This Ordinance shall be in full force and take effect from and after its passage, approval and publication once in an official City newspaper. When this Ordinance becomes effective in accordance with this Section, the City Clerk is hereby authorized to submit this Ordinance to the Register of Deeds, referred to in Johnson County as the Office of Records and Tax Administration, for recording.

PASSED by the City Council this 18th day of July, 2022.

APPROVED by the Mayor this 18th day of July, 2022.

CITY OF OVERLAND PARK, KANSAS

By: /s/ Curt Skoog
Curt Skoog
Mayor

(SEAL)

ATTEST:

By: /s/ Elizabeth Kelley
Elizabeth Kelley
City Clerk

APPROVED AS TO FORM:

By: /s/ Michael Koss
Michael Koss
Deputy City Attorney

APPROVED AS TO FORM:

By: /s/ Joseph Serrano
Joseph D. Serrano, Kutak Rock LLP
Bond Counsel

EXHIBIT A

**LEGAL DESCRIPTION OF
METCALF 108 COMMUNITY IMPROVEMENT DISTRICT**

All of Tract D, METCALF “107”, a subdivision in the City of Overland Park, Johnson County, Kansas, as more particularly described as follows:

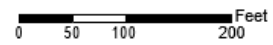
COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 13 SOUTH, RANGE 25 EAST ON THE SIXTH PRINCIPAL MERIDIAN; THENCE SOUTH 00 DEGREES 26 MINUTES 20 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 374.19 FEET; THENCE SOUTH 89 DEGREES 33 MINUTES 40 SECONDS EAST, A DISTANCE OF 170.00



FEET TO THE SOUTHWEST CORNER OF TRACT C, METCALF "107" AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 33 MINUTES 40 SECONDS EAST, A DISTANCE OF 150.71 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 00 SECONDS EAST, A DISTANCE OF 150.71 FEET; THENCE SOUTH 89 DEGREES 50 MINUTES 00 SECONDS EAST, A DISTANCE OF 368.00 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 00 SECONDS WEST, A DISTANCE OF 302.33 FEET; THENCE ALONG A CURVE TO THE RIGHT TANGENT TO THE LAST DESCRIBED COURSE (HAVING A RADIUS OF 455.29 FEET, A CENTRAL ANGLE OF 33 DEGREES 30 MINUTES 13 SECONDS) A LENGTH OF 266.23 FEET TO A POINT LYING ON THE NORTH RIGHT-OF-WAY LINE OF 108TH STREET AS NOW ESTABLISHED; THENCE NORTH 56 DEGREES 19 MINUTES 45 SECONDS WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 439.94 FEET; THENCE ALONG A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED COURSE (HAVING A RADIUS OF 170.33 FEET, A CENTRAL ANGLE OF 56 DEGREES 46 MINUTES 04 SECONDS) A LENGTH OF 168.76 FEET; THENCE NORTH 00 DEGREES 26 MINUTES 20 SECONDS EAST, A DISTANCE OF 17.96 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

MAP

Metcalf 108 Community Improvement District



-  Property Boundary
-  Legal Description Boundary

April 04, 2017

EXHIBIT C

GENERAL PROJECT DESCRIPTION

The proposed CID Project consists of redevelopment of certain privately-owned property located at the northeast corner of I-435 and Metcalf Avenue within the City. The general nature of the proposed CID Project is to promote economic development within the Metcalf 108 CID, which shall all be accomplished by providing community improvement district financing in accordance with the Petition, the Act, and City of Overland Park policy to finance construction within the Metcalf 108 CID.