

(Published in the *Abilene Reflector-Chronicle* on September 14, 2017)

ORDINANCE NO. 3336

AN ORDINANCE CREATING THE PROPERTY 6, LLC COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF ABILENE, KANSAS AND AUTHORIZING THE LEVY OF A COMMUNITY IMPROVEMENT DISTRICT RETAILERS' SALES TAX TO BE COLLECTED WITHIN THE DISTRICT

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), the City of Abilene, Kansas (the "City") is authorized to create community improvement districts in the City for economic development purposes and for any other purpose for which public money may be expended; and

WHEREAS, on May 31, 2017 a petition (the "Petition") was filed with the City Clerk by Property 6, LLC (the "Petitioners"), requesting (i) the creation of a community improvement district under the Act to be known as Property 6, LLC Community Improvement District (the "CID"), (ii) the construction of the Project as described in the Petition and authorized by the Act, and (iii) the imposition of a community improvement district sales tax within the CID in the amount of two percent (2.0%) to pay or reimburse a portion of the costs of the Project (the "CID Sales Tax"); and

WHEREAS, the Petition is signed by the owners of record of 100% of the land area within the proposed CID, and by owners collectively owning 100% by assessed value of the land area within the proposed CID; and

WHEREAS, pursuant to the Act and Resolution No. 081417-1 and after providing notice of hearing as required by the Act, a public hearing on the creation of the CID and the imposition of the CID Sales Tax was opened on September 11, 2017 and all interested parties were given an opportunity to be heard; and

WHEREAS, the governing body of the City finds and determines it is in the best interest of the City and in furtherance of the purposes of the Act to create the CID and authorize levy of the CID Sales Tax.

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

SECTION 1. Creation of District. The CID is created within the City and shall be designated the Property 6, LLC Community Improvement District. The legal description of the CID is attached as **Exhibit A** and the boundaries of the District are depicted on the map attached as **Exhibit B**.

SECTION 2. Project and Project Costs. The Project is authorized and described as follows: the design, development and construction of a new 7,800 square foot building containing a national fast food venue, a new 24-7 Travel Store with all traveler amenities, a new

double wall fuel tank field, 12 or more gasoline fueling stations, truck diesel fueling stations, paved truck parking, and which may include (in Developer's discretion) fast electric car charging stations and an RV/camper overnight stay venue, and related improvements, all generally located at 2200 N. Buckeye Avenue, City of Abilene, Dickinson County, Kansas. The governing body approves the total estimated cost of the Project of \$5,000,000 and the total estimated cost of the Project to be financed or reimbursed by the CID Sales Tax of \$1,200,000. The estimated amount expected to be reimbursed from the CID Sales Tax revenue stated in the preceding sentence shall not be deemed a limitation on reimbursement and revenues of the CID Tax may be utilized for costs of the Project if authorized by the Act and any development agreement governing the District.

SECTION 3. Method of Finance. The portion of Project cost to be financed or reimbursed from revenues of the CID Sales Tax ("Eligible CID Costs") will be funded on a pay-as-you-go basis, as defined in the Act. No special assessments will be levied under the Act and no bonds of the City will be issued.

SECTION 4. Levy of Sales Tax. Pursuant to the Act, a two percent (2.0%) retailers' sales tax shall be levied within the CID on the selling of tangible personal property at retail or rendering or furnishing of services taxable under provisions of the Kansas retailers' sales tax act, as amended. The imposition of the CID Sales Tax shall begin upon the Petitioner's request as provided in the Development Agreement and as soon as the levy of the tax is approved by the Kansas Department of Revenue (KDOR), or any other effective date the City may approve by ordinance if a change in the effective date of the CID Sales Tax is requested by the Petitioners and such date is approved by KDOR. The CID Sales Tax shall be administered, collected by KDOR, subject to the provisions of K.S.A. 12-187 *et seq.* and KDOR's rules and regulations.

Section 5. Development Agreement; Pre-condition to Publication. As a pre-condition to the City Clerk's publication of this ordinance, the City and the Petitioner shall enter into a development agreement in substantially the form submitted to the governing body with this Ordinance, setting forth the terms and conditions of the Petitioner's construction and completion of the CID Project, as well as the reimbursement procedures for Eligible CID Costs.

Section 6. Effective Date; Filing and Recording Ordinance. This Ordinance shall be in full force and effect from and after passage by the governing body and publication, one time, of the following summary of the Ordinance, in the official City newspaper:

On September 11, 2017, the City Commission passed Ordinance No. 3336. The Ordinance establishes the Property 6, LLC Community Improvement District in the City of Abilene, Kansas, and authorizes the imposition of a two percent (2.0%) community improvement district sales tax to be collected within such district and reimbursement of certain project costs from such sales tax revenue. A complete copy of the Ordinance can be found at www.abilenecityhall.com or in the office of the City Clerk, 419 N. Broadway Street, free of charge. This summary is certified by the City's attorney.

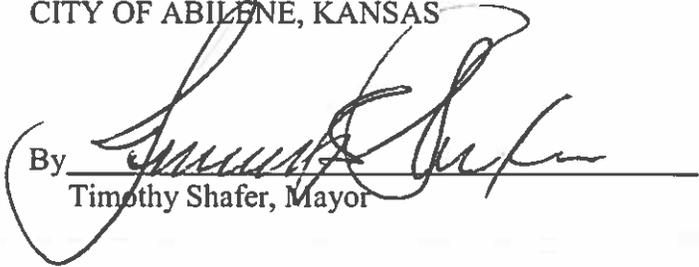
When this Ordinance becomes effective, the City Clerk shall provide a certified copy of the complete ordinance to the Kansas Department of Revenue – Director of Taxation as necessary to begin levy of the CID Sales Tax as described in Section 4 of this Ordinance. This

Ordinance shall also be recorded in the office of the Dickinson County Register of Deeds, as required by the Act.

ADOPTED AND APPROVED by vote of the governing body of the City of Abilene, Kansas on September 11, 2017.



CITY OF ABILENE, KANSAS

By 
Timothy Shafer, Mayor

ATTEST:

By 
Shayla Mohr, Deputy City Clerk

APPROVED AS TO FORM:

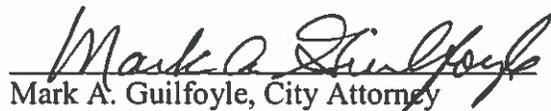

Mark A. Guilfoyle, City Attorney

EXHIBIT A

(Legal Description of Property 6, LLC Community Improvement District)

DESCRIPTION:

THAT PART OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF ABILENE, COUNTY OF DICKINSON, STATE OF KANSAS, BEING ALL OF A TRACT OF LAND DESCRIBED IN BOOK D247, PAGE 135 AND A TRACT OF LAND DESCRIBED IN BOOK D257, PAGE 52-54, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 9; THENCE N 00°35'33" W 374.21 FEET; THENCE S 89°24'27" W 79.75 FEET TO THE NORTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN BOOK D248, PAGE 948-949; THENCE ON THE NORTH LINE OF SAID TRACT OF LAND, S 89°45'49" W 150.03 FEET; THENCE CONTINUING ON SAID NORTH LINE, N 00°35'25" W 2.86 FEET; THENCE CONTINUING ON SAID NORTH LINE, S89°42'52" W 511.40 FEET TO THE NORTHWEST CORNER OF SAID TRACT OF LAND, ALSO BEING THE EAST LINE OF A TRACT OF LAND DESCRIBED IN BOOK 235, PAGE 897; THENCE ON SAID EAST LINE AND ITS PROLONGATION, N 00°32'53" W 344.14 FEET; THENCE N 84°11'21" E 303.96 FEET; THENCE S 89°57'48" E 358.47 FEET TO THE WEST RIGHT-OF-WAY LINE OF BUCKEYE AVENUE; THENCE ON SAID WEST RIGHT-OF-WAY LINE, S 00°29'04" E 194.72 FEET TO THE NORTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN BOOK D247, PAGE 135; THENCE ON THE WEST RIGHT-OF-WAY LINE OF SAID TRACT OF LAND, S 00°42'50" E 179.66 FEET TO THE POINT OF BEGINNING.

CONTAINS 242,505.97 SQUARE FEET, 5.57 ACRES, MORE OR LESS. END OF DESCRIPTION

BASIS OF BEARINGS FOR THIS DESCRIPTION IS AN ASSUMED BEARING OF S00°35'33" E ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 9.

EXHIBIT B

(Map of proposed Community Improvement District)

