

**RESOLUTION NO. 05-2020**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT OF DEVELOPMENT AGREEMENT RELATING TO THE DERBY STAR BOND PROJECT DISTRICT AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH SAID AGREEMENT.**

**WHEREAS**, the City of Derby, Kansas (the “City”) is a municipal corporation duly organized and validly existing under the laws of the State of Kansas (the “State”); and

**WHEREAS**, Ordinance No. 2242, passed by the City Council of the City (the “Governing Body”) on September 8, 2015 and published September 16, 2015, authorized the creation of the Derby STAR Bond District (the “District”), based upon receipt of a letter dated July 30, 2015, issued by the Kansas Secretary of Commerce (the “Secretary”) finding that the property within the District was an “eligible area” as defined by the Kansas STAR Bond Financing Act, K.S.A. § 12-17,160 *et seq.*, as amended (the “Act”); and

**WHEREAS**, Ordinance No. 2280, passed by the City Council of the City (the “Governing Body”) on July 26, 2016 and published August 3, 2016, authorized the execution of a Development Agreement, dated July 26, 2016 (the “Development Agreement”), between the City and Derby Destination Development, LLC, a Kansas limited liability company, as Developer (the “Developer”) relating to the District; and

**WHEREAS**, Ordinance No. 2311, passed by the Governing Body on February 28, 2017 and published March 8, 2017, authorized the issuance of the City’s Sales Tax Special Obligation Revenue Bonds (Derby STAR Bond Project), Series 2017 (the “Series 2017 STAR Bonds”) to provide a portion of the funding to implement the provisions of the Development Agreement; and

**WHEREAS**, Resolution No. 52-2018, passed by the Governing Body on October 9, 2018, authorized the execution of a First Amendment to Development Agreement, dated October 9, 2018, between the City and the Developer relating to the District (the “First Amendment”) that provided a reallocation of expenditure of proceeds of the Series 2017 Bonds previously approved by the Secretary; and

**WHEREAS**, Ordinance No. 2394, passed by the Governing Body on August 27, 2019 and published September 4, 2019, authorized the modification of the boundaries of the District to include certain property located south of Patriot Avenue and east of Rock Road (the “Additional Property”), based upon receipt of a letter dated August 21, 2019, issued by the Secretary pursuant to the Act; and

**WHEREAS**, the Developer has requested that the Governing Body consider the execution of a Second Amendment to Development Agreement (the “Second Amendment”) relating to modification of certain requirements and responsibilities of the Developer, primarily with respect to the Additional Property, in accordance with the provisions of a Project Plan Amendment approved by the Governing Body this date; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to authorize the execution of the Second Amendment and to take certain actions and execute certain other documents as therein provided.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS, AS FOLLOWS:**

**Section 1. Approval of Second Amendment.** The Second Amendment is hereby approved in substantially the form presented to the Governing Body at this meeting, a copy of which shall be filed in the records of the City Clerk.

**Section 2. Execution of Second Amendment and Other Documents.** The Mayor is hereby authorized and directed to execute the Second Amendment and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, with such changes therein as shall be required by the Secretary and approved by the City Attorney and the officer or officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval and the City's ratification or approval thereof. The City Clerk is hereby authorized to attest to the signature of the Mayor and affix the seal of the City to said documents.

**Section 3. Further Authority.** The Mayor, City Manager, Finance Director, City Clerk and other officials and employees of the City, including Gilmore & Bell, P.C., Bond Counsel, are hereby further authorized and directed to take such other actions and execute such other documents, deeds, agreements, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and the transactions contemplated in the Second Amendment.


**Section 4. Effective Date.** This Resolution shall take effect and be in full force after its adoption by the Governing Body.

PASSED by the City Council of the City of Derby, Kansas on January 28, 2020, and signed by the Mayor.


Mayor.



(SEAL)

  
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Mayor

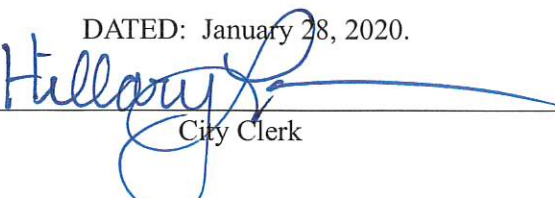
ATTEST:

  
\_\_\_\_\_  
City Clerk

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of the foregoing resolution of the City of Derby, Kansas, adopted by the City Council on January 28, 2020, as the same appears of record in my office.

DATED: January 28, 2020.

  
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City Clerk