ORDINANCE NO. 8117

AN ORDINANCE OF THE CITY OF LEAVENWORTH, KANSAS CREATING A COMMUNITY IMPROVEMENT DISTRICT IN THE CITY; AUTHORIZING THE MAKING OF CERTAIN PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT IMPROVEMENTS; AND PROVIDING FOR THE METHOD OF FINANCING THE SAME.

WHEREAS, pursuant to K.S.A. 12-6a26 et seq., as amended (the "Act"), cities and counties are authorized to create community improvement districts for economic development purposes and any other purpose for which public money may expended, and to levy a community improvement district sales tax and/or levy special assessments upon the property within such community improvement districts; and

WHEREAS, on August 30, 2019, a petition (the "Petition") signed by Fort Gate Properties, LLC (or assigns, the “Petitioner”), was filed with the City Clerk of the City of Leavenworth, Kansas (the "City") in accordance with the Act, which Petition proposed the creation of a community improvement district (the "District") under the Act and the imposition of a one and one-quarter percent (1.25%) community improvement district (CID) sales tax therein (the "CID Sales Tax"), in order to assist in financing costs of the Project (defined below); and

WHEREAS, the Petition was signed by the required number of owners of record, whether resident or not, as required by the Act; and

WHEREAS, the City Commission of the City of Leavenworth, Kansas (the “City Commission”) intends to create the District and to levy the CID Sales Tax as requested in the Petition; and

WHEREAS, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the governing body shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and the construction of such community improvement district projects therein, and to give notice of the hearing by publication at least once each week for two (2) consecutive weeks in the official City newspaper and by certified mail to all property owners within the proposed community improvement district, the second publication to be at least seven (7) days prior to the hearing and such certified mail sent at least ten (10) days prior to such hearing; and

WHEREAS, the City Commission adopted Resolution No. B-2233 on September 10, 2019 directing that a public hearing on the proposed District within the City be held on October 22, 2019, declaring its intent to impose the CID Sales Tax, and requiring that the Clerk for the City of Leavenworth, Kansas provide for notice of such public hearing as set forth in the Act; and
WHEREAS, notice of the public hearing containing the following information: (a) the time and place of the hearing, (b) the general nature of the Project, (c) the estimated cost of the Project, (d) the proposed method of financing the Project, (e) the proposed amount of the CID Sales Tax, (f) a map of the proposed District, and (g) a legal description of the proposed District, was mailed to all property owners within the proposed District on October 3, 2019, and published once each week for two (2) consecutive weeks in The Leavenworth Times, the official City newspaper, on October 3, 2019 and October 10, 2019; and

WHEREAS, on October 22, 2019, the City Commission conducted a public hearing on the proposed District, the proposed Project, and estimated costs thereof and the method of financing the same, all in accordance with the Act; and

WHEREAS, the City Commission hereby finds and determines it to be advisable to create the District, authorize the Project, approve the estimated cost of the 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 CITY COMMISSION OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. Creation of District. The City Commission hereby finds and determines that it is advisable to create, in accordance with the provisions of the Act, the District within the City. Provided, that the City Commission's approval and creation of the District is conditioned and contingent upon the proposed developer of the Project, Fort Gate Properties, LLC, and the City of Leavenworth, Kansas, entering into a Development Agreement by no later than November 15, 2019, on terms which are mutually satisfactory to City and such developer. A map generally outlining the boundaries of the District is attached hereto as Exhibit A and incorporated herein by reference. The legal description of the District is set forth on Exhibit B, attached hereto and incorporated herein by reference.

Section 2. Authorization of Project. The general nature of the project to be funded by the proposed community improvement district (the “Project”) is to acquire, redevelop and improve certain real property generally located at the southwest and southeast corners of North 6th Street and Metropolitan Avenue in the City of Leavenworth, Kansas. The Project may be described in a general manner as consisting of some or all of the following uses, without limitation: commercial uses, retail, restaurant and/or office uses, hotel and hospitality uses, residential uses, public space, open space and/or similar, related or appurtenant uses, other structures and uses (including, but not limited to, commercial, mixed-use, residential, non-profit, governmental and/or community uses), and all associated site work, infrastructure, utilities, storm water control, access, street improvements, landscaping, lighting, parking facilities, and any other items allowable under K.S.A. 12-6a26 et seq., which Project is hereby authorized.

Section 3. Approval of Estimated Cost of the Project. The estimated or probable cost of the Project is approximately $7,099,864, plus interest accrued on borrowed money, which is hereby approved.

Section 4. Method of Financing. It is proposed that the Project be financed through a combination of private equity, private debt, tax increment financing and CID pay-as-you-go
financing (as defined in the Act); provided, however, that the developer of the Project may request, and the City shall reasonably consider (subject to approval by the City Commission in its sole and absolute discretion) the issuance of special obligation CID bonds, notes or other obligations to pay for (or reimburse) costs of the Project. This method of financing is hereby approved.

Section 5. Imposition of CID Sales Tax. In order to provide for the payment of the Project, the City Commission hereby levies the CID Sales Tax within the District in an amount of 1.25% for a period of 22 years, as authorized under the Act.

Section 6. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the City Commission and publication once in the official City newspaper. Provided, that this Ordinance shall not be published unless and until the above condition regarding the development agreement has been satisfied. If the above condition has not been satisfied by November 15, 2019, this Ordinance shall not be effective, and shall be deemed revoked without further action on the part of the City Commission

ADOPTED BY THE CITY COMMISSION OF THE CITY OF LEAVENWORTH, KANSAS ON NOVEMBER 12, 2019.

/s/ Jermaine Wilson
Jermaine Wilson, Mayor

[SEAL]

ATTEST:

/s/ Carla K. Williamson
Carla Williamson, City Clerk
EXHIBIT A

Map of District
EXHIBIT B
Legal Description of District

All of Lots 1 through 32, inclusive, and all of the vacated alley, all in Block 97, DAY AND MACAULAY'S SUBDIVISION, together with part of vacated Sioux Street, all in the City of Leavenworth, Leavenworth County, Kansas, together being more particularly described as follows:

Beginning at the Southwest corner of said Block 97, said point being on the East right-of-way line of 7th Street, as it now exists;

thence North 11°05'01" West, along said East right-of-way line, a distance of 304.57 feet, to a point of intersection with the South right-of-way line of Metropolitan Avenue, as it now exists;

thence North 85°02'02" East, along said South right-of-way line, a distance of 385.57 feet, to a point of intersection with the West right-of-way line of 6th Street, as it now exists;

thence South 11°13'47" East, along said West right-of-way line, a distance of 262.51 feet, to a point of intersection with the North right-of-way line of Cheyenne Street, as it now exists;

thence South 78°46'13" West, along said North right-of-way line, a distance of 384.05 feet to the Point of Beginning,

containing 108,791 square feet, or 2.497 acres, more or less;

AND

All that part of the North Fractional portion of Block G, together with all of Lots 11 through 16 inclusive, Block G, LEAVENWORTH; all in the City of Leavenworth, Leavenworth County, Kansas more particularly described as follows:

Beginning at Southwest corner of said Block G said point being on the east right-of-way line of 6th Street, as it now exists;

thence North 11°13'47" West, along said East right-of-way line a distance of 255.92 feet, to a point of intersection with the South right-of-way line Metropolitan Avenue, as it now exists;

thence North 85°02'02" East, along said South right-of-way line, a distance of 122.75 feet, to the Northwest corner of Lot 1, METRO SUBDIVISION, a subdivision in said City of Leavenworth;

thence South 12°48'14" East, along the West line of said Lot 1, a distance of 117.99 feet;

thence North 78°26'27" East, continuing along said West line, a distance of 19.03 feet;

thence South 11°05'57" East, continuing along the West line of said Lot 1 and the West line of Lot 2, said METRO SUBDIVISION, a distance of 124.69 feet, to the Southwest corner of said Lot 2 said point being on the North right-of-way line of Cheyenne Street, as it now exists;
thence South 78°46'13" West, along said North right-of-way line, a distance of 144.00 feet to the Point of Beginning,

containing 33,358 square feet, or 0.766 acres, more or less.