

(Published in the *Colby Free Press* on the 4<sup>th</sup> day of August, 2021)

**Resolution No. 1164**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF COLBY, KANSAS DETERMINING THAT THE CITY IS CONSIDERING ESTABLISHING A RURAL HOUSING INCENTIVE DISTRICT WITHIN THE CITY AND ADOPTING A PLAN FOR THE DEVELOPMENT OF HOUSING AND PUBLIC FACILITIES IN SUCH PROPOSED DISTRICT; ESTABLISHING THE DATE AND TIME OF A PUBLIC HEARING ON SUCH MATTER, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH PUBLIC HEARING (COLBY ESTATES RESIDENTIAL RURAL HOUSING INCENTIVE DISTRICT)**

**WHEREAS**, the Kansas Rural Housing Incentive District Act, K.S.A. 12-5241 *et seq.*, as amended by Senate Bill 90 of the 2021 Kansas Legislature (the “Act”), authorizes any city incorporated in accordance with the laws of the state of Kansas (the State) with a population of less than 60,000, to designate rural housing incentive districts (“RHID”) within such city; and

**WHEREAS**, any city governing body may designate one or more such districts in such city, and any county governing body may designate one or more such districts in any part of the unincorporated territory of such county; and

**WHEREAS**, prior to such designation the governing body of such city shall conduct a housing needs analysis to determine what, if any, housing needs exist within its community; and

**WHEREAS**, after conducting such analysis, the governing body may adopt a resolution making certain findings regarding the establishment of a rural housing incentive district and containing a legal description of property to be contained therein, a map of the existing parcels of real estate in the proposed district, and a statement of findings and determinations set forth in K.S.A. 12-5244(a); and

**WHEREAS**, after publishing such resolution at least once in the official newspaper of the city or county, the governing body of such city shall send a certified copy thereof to the Secretary of Commerce of the State (the “Secretary”) requesting that the Secretary review the resolution and advise the governing body whether the Secretary agrees with the finding contained therein; and

**WHEREAS**, if the Secretary agrees with such findings, the governing body may proceed with the establishment of a RHID within such city, and adopt a plan for the development or redevelopment of housing and public facilities in the proposed district; and

**WHEREAS**, the City of Colby, Kansas (the “City”) has an estimated population of 5,370 and therefore constitutes a city as said term is defined in this act; and

**WHEREAS**, the Governing Body of the City has performed a Housing Needs Analysis and adopted the same by Resolution 1162 dated May 18, 2021, a copy of which is on file in the office of the City Clerk; and

**WHEREAS**, the Governing Body of the City has heretofore adopted the above resolution which made certain findings relating to the need for financial incentives for the construction of quality housing within the City, declared it advisable to establish a Rural Housing Incentive District pursuant to the Act and authorized the submission of such Resolution and a Housing Needs Analysis to the Kansas Department of Commerce in accordance with the provisions of the Act, (“Resolution No. 1”); and

**WHEREAS**, the Secretary of the Kansas Department of Commerce, pursuant to a letter dated June 2, 2021, authorized the City to proceed with the establishment of a Rural Housing Incentive District pursuant to the Act (the “District”), to be hereafter called the Colby Estates Residential Rural Housing Incentive District; and

**WHEREAS**, the City has caused to be prepared a plan for the development or redevelopment of housing and public facilities in the proposed District in accordance with the provisions of the Act (the Plan); and

**WHEREAS**, the Plan includes:

1. The legal description and map required by subsection (a) of K.S.A. 12-5244;
2. The existing assessed valuation of the real estate in the proposed District listing the land and improvement values separately;
3. A list of the names and addresses of the owners of record of all real estate parcels within the proposed District;
4. A description of the housing and public facilities project or projects that are proposed to be constructed or improved in the District, and the location thereof;
5. A listing of the names, addresses and specific interests in real estate in the proposed District of the developers responsible for development of the housing and public facilities in the proposed District;
6. The contractual assurances, if any, the Governing Body has received from such developer or developers, guaranteeing the financial feasibility of specific housing tax incentive projects in the proposed District;
7. A comprehensive analysis of the feasibility of providing housing tax incentives in the proposed District as provided in the Act, which shows that the public benefits derived from such District will exceed the costs and that the income therefrom, together with all public and private sources of funding, will be sufficient to pay for the public improvements that may be undertaken in such District. If other sources of public or private funds are to be used to finance the improvements, they shall be identified in the analysis; and

**WHEREAS**, the Governing Body of the City proposes to continue proceedings necessary to create a Rural Housing Incentive District, in accordance with the provisions of the Act, and adopt the Plan, by the calling of a public hearing on such matters.

**THEREFORE BE IT RESOLVED** by the Governing Body of the City of Colby, Kansas as follows:

**Section 1. Proposed Rural Housing Incentive District.** The Governing Body hereby declares an intent to establish within the City a Rural Housing Incentive District. The District is proposed to be formed within the boundaries of the real estate legally described in *Exhibit A* attached herein, and shown on the map depicting the existing parcels of land attached herein as *Exhibit B*. A list of the names and addresses of the owners of record of all real estate parcels within the proposed District and the existing assessed valuation of said real estate, listing the land and improvement values separately, is attached hereto as *Exhibit C*.

**Section 2. Proposed Plan; Development Agreement.** The Governing Body hereby further declares an intent to adopt the Plan in substantially the form presented to the Governing Body on this date, with such changes or modifications as may be approved by the City Manager. A copy of the Plan shall be filed in the office of the City Clerk and be available for public inspection during normal business hours. A description of the housing and public facilities projects that are proposed to be constructed or improved in the proposed District, and the location thereof are described in *Exhibit D* attached hereto. A summary of the contractual assurances by the developer and the comprehensive feasibility analysis is contained in *Exhibit E* attached hereto.

In addition, the Governing Body authorizes the negotiation of a development agreement between the City and Bainter Construction Company, Inc. (the “Development Agreement”), relating to the Colby Estates Residential Rural Housing Incentive District, the development thereof, and the construction and payment of improvements related thereto.

**Section 3. Public Hearing.** Notice is hereby given that a public hearing will be held by the Governing Body of the City to consider the establishment of the District and adoption of the Plan on August 17, 2021 at the City Council Meeting Room, 585 N. Franklin Avenue, Colby, KS the public hearing to commence at 5:30 p.m. or as soon thereafter as the Governing Body can hear the matter. At the public hearing, the Governing Body will receive public comment on such matters, and may, after the conclusion of such public hearing, consider the findings necessary for establishment of the District, ratification and execution of the Development Agreement and adoption of the Plan, all pursuant to the Act.

**Section 4. Notice of Public Hearing.** The City Clerk is hereby authorized and directed to provide for notice of the public hearing by taking the following actions;

1. A certified copy of this resolution shall be delivered to:
  - A. The Board of County Commissioners of Thomas County, Kansas;

- B. The Board of Education of U.S.D. 315; and
  - C. The Planning Commission of the City; and
  - D. The Board of Trustees of Colby Community College.
2. This Resolution, specifically including *Exhibits A* thru *E* attached hereto, shall be published at least once in the official newspaper of the City not less than one week or more than two weeks preceding the date of the public hearing.
  3. The Resolution, including *Exhibits A* thru *E* attached hereto, shall be available for inspection at the office of the clerk of the City at normal business hours. Members of the public are invited to review the plan and attend the public hearing on the date announced in this Resolution.

**Section 5. Further Action.** The Mayor, City Manager, City Clerk and the officials and employees of the City, including the City Attorney, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution.

**Section 6. Effective Date.** This Resolution shall take effect after its adoption by the Governing Body.

**ADOPTED** by the Governing Body of the City of Colby, Kansas on this 6<sup>th</sup> day of July, 2021.

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Joni L. Ketchum, City Clerk

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Gary L. Adrian, Mayor

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of the Resolution No. 1164 adopted by the Governing Body of the City on this 6<sup>th</sup> day of July, 2021 as the same appear of record in my office.

DATED: July 6, 2021

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Joni L. Ketchum, City Clerk

***EXHIBIT A***

**LEGAL DESCRIPTION OF PROPOSED RHID BOUNDARIES FOR THE  
COLBY ESTATES RESIDENTIAL RURAL HOUSING INCENTIVE DISTRICT**

**LEGAL DESCRIPTION:**

Lots 2 through 31, inclusive, Colby Estates Addition to the City of Colby, Thomas County, Kansas.



**EXHIBIT C**

**LIST OF NAMES AND ADDRESSES OF THE OWNERS OF RECORD OF ALL REAL  
ESTATE PARCELS WITHIN THE PROPOSED DISTRICT AND THE ASSESSED  
VALUATION OF THOSE PARCELS**

Owners of Record:

**Colby Estates, LLC  
PO Box 705  
Hoxie, KS 67740**

Assessed Valuation:	Land:	\$948.00
	Improvements:	\$0.00

***EXHIBIT D***

**DESCRIPTION OF THE HOUSING AND PUBLIC FACILITIES PROJECT OR PROJECTS THAT ARE PROPOSED TO BE CONSTRUCTED OR IMPROVED IN THE PROPOSED RURAL HOUSING INCENTIVE DISTRICT**

**Housing Facilities**

The housing facilities will include all infrastructure needed to develop:

**Thirty (30) single family homes of approximately 1,500 square feet each. There will typically be 2-3 bedrooms depending on the unit, but a minimum of two bedrooms, 1-2.5 bathrooms, a 1 or 2 car attached garage, and an optional full basement**

**Public Facilities**

**Public facilities and public improvements will include construction of Infrastructure Improvements located within the boundaries of the District, and all related infrastructure, including Public Improvements which will include construction of infrastructure improvements located within the boundaries of the District, including but not limited to parking, water, sanitary sewer, and electric improvements as outlined in the Development Plan and Agreement. Infrastructure improvements may be constructed prior to or concurrently with the project.**

## ***EXHIBIT E***

### **SUMMARY OF THE CONTRACTUAL ASSURANCES BY THE DEVELOPER AND OF THE COMPREHENSIVE FEASIBILITY ANALYSIS**

#### ***Contractual Assurances***

The Governing Body of the City of Colby has entered into a development agreement with Bainter Construction Company, Inc. This agreement, as supplemented and amended, includes the project construction schedule, a description of projects to be constructed, financial obligations of the developer and financial and administrative support from the City of Colby, Kansas.

#### ***Feasibility Study***

The City conducted a study to determine whether the public benefits derived from the rebate would be sufficient to pay for the public improvements to be undertaken in the District. The analysis estimates the property tax revenues that will be generated from the Development, less existing property taxes to determine the revenue stream available to support the costs of the public infrastructure. The estimates indicate that the revenue realized from the project would be adequate to pay the costs of the public infrastructure.

**CERTIFICATE OF DELIVERY AND PUBLICATION**

STATE OF KANSAS            )

  ) §:

COUNTY OF THOMAS        )

The undersigned, City Clerk of the City of Colby, Kansas (the “City”), does hereby certify, as follows:

- (a) On the 9<sup>th</sup> day of July, 2021, I caused a certified copy of Resolution No. 1164 with *Exhibits A thru E* attached (the Resolution), to be delivered to the following:
  - 1) The Board of County Commissioners of Thomas County, Kansas;
  - 2) The Board of Education of U.S.D. 315; and
  - 3) The Planning Commission of the City; and
  - 4) The Board of Trustees of Colby Community College.
  
- (b) I caused a copy of the Resolution to be published one time in *Colby Free Press* the official newspaper of the City, on the 4<sup>th</sup> day of August, 2021, which date was not less than one week nor more than two weeks preceding the date fixed for the public hearing. A true copy of the affidavit of publication of the Resolution is attached to this Certificate.

**WITNESS** my hand and seal on this 4<sup>th</sup> day of August, 2021.

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Joni L. Ketchum, City Clerk