

ORDINANCE NO. 25-36

AN ORDINANCE AUTHORIZING THE CREATION OF THE LONE ELM & 175TH STREET COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF OLATHE, KANSAS; AUTHORIZING THE MAKING OF CERTAIN PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT IMPROVEMENTS; LEVYING A COMMUNITY IMPROVEMENT DISTRICT SALES TAX WITHIN SUCH DISTRICT; PROVIDING FOR THE METHOD OF FINANCING THE SAME; AND APPROVING A DEVELOPMENT AGREEMENT.

WHEREAS, K.S.A. 12-6a26 *et seq.* (the “Act”) authorizes the governing body of any city or county to create community improvement districts to finance projects within such defined area of the city or county and to levy a community improvement district sales tax upon property within the district to finance projects; and

WHEREAS, a petition (the “Petition”) was filed with the City Clerk on July 22, 2025, proposing the creation of the Lone Elm & 175th Street Community Improvement District (the “District”) under the Act and the imposition of a community improvement district sales tax (the “CID Sales Tax”) in order to pay the costs of the project as described in the Petition (the “Project”); 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 Governing Body of the City of Olathe, Kansas (the “City”) 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 Governing Body adopted Resolution No. 25-1068 on August 5, 2025 (the “Resolution”) directing that a public hearing on the proposed District within the City be held on September 2, 2025, declaring its intent to impose the CID Sales Tax, and requiring that the City Clerk provide for notice of such public hearing as set forth in the Act; and

WHEREAS, the Resolution was mailed via certified mail to each owner within the District as provided in the Act, and the Resolution was published once each week for two (2) consecutive weeks in *The Legal Record*, the official City newspaper, on August 12, 2025 and August 19, 2025; and

WHEREAS, on September 2, 2025, the Governing Body opened a public hearing on the proposed District, and such hearing was closed on such date; and

WHEREAS, the Governing Body hereby finds and determines it to be advisable to create the District and set forth the boundaries thereof, authorize the Project as described herein, approve the estimated

costs of the Project and approve the method of financing the same, all in accordance with the provisions of the Act; and

WHEREAS, the Development Agreement (Lone Elm & 175th Street), dated October 7, 2025 (the “Development Agreement”) between the City and Commercial Reposition Partners 17, LLC, a Colorado limited liability company, is presented for consideration in connection with the District and the Project.

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

SECTION 1. Creation of Community Improvement District; Boundaries. The Governing Body hereby finds and determines that it is advisable to create, in accordance with the provisions of the Act, the District within the City to be referred to as the Lone Elm & 175th Street Community Improvement District. A legal description of the boundaries of the proposed District is set forth on **Exhibit A**, attached hereto and incorporated by reference herein. A map generally outlining the boundaries of the proposed District is attached as **Exhibit B**, attached hereto and incorporated by reference herein.

SECTION 2. Authorization of Community Improvement District Projects and Estimated Cost.

(a) The general nature of the proposed project is the construction of approximately 60,000 square feet of commercial/retail space and other facilities or improvements associated with or incidental to such use generally located within and/or contiguous to any portion of the proposed District; related soft costs of the Projects, and the City’s administrative costs in establishing and maintaining the District, and other items collectively permitted to be financed within the District under the Act (collectively, the “Projects”).

(b) The total estimated cost of the Project is \$25,000,000.

SECTION 3. Method of Financing.

(a) A portion of the costs of the Project will be financed with the CID Sales Tax levied pursuant to the provisions of the Act and reimbursed on a pay-as-you-go basis, as defined in the Act. The CID Sales Tax is hereby imposed at the rate of **2.0%** on the sale of tangible personal property at retail or rendering or furnishing services which are taxable pursuant to the Kansas Retailers’ Sales Tax Act (K.S.A. 79-3601 *et seq.*) within the District with such CID Sales Tax to commence on **April 1, 2028** or such other date as the governing body of the City sets by ordinance and continue for a period of twenty-two (22) years or such earlier date as provided in the Development Agreement.

(b) There will be no issuance of bonds, including full faith and credit bonds, pursuant to the Act.

(c) There will be no District special assessments.

SECTION 4. Segregation of CID Sales Tax Revenues. All revenues derived from the collection of the CID Sales Tax shall be deposited into a special fund of the City to be designated as the Lone Elm & 175th Street Community Improvement District Revenue Fund. Such revenues shall be used to pay the costs of the Project.

SECTION 5. Development Agreement. The Development Agreement is hereby approved by the Governing Body, and the Mayor (or, in the Mayor's absence, the acting Mayor) is authorized to execute the same in substantially the form presented on this date, with such changes as may be approved by the City.

SECTION 6. Recording. The City Clerk shall file a certified copy of this Ordinance with the Register of Deeds of Johnson County, Kansas

SECTION 7. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Governing Body of the City and publication once (or a summary thereof) in the official City newspaper.

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PASSED by the Governing Body on this 7th day of October, 2025 and **APPROVED AND SIGNED** by the Mayor.

CITY OF OLATHE, KANSAS

By: _____
John Bacon, Mayor

[SEAL]

ATTEST:

Brenda Swearingian, City Clerk

EXHIBIT A

LEGAL DESCRIPTION OF THE LONE ELM & 175TH STREET COMMUNITY IMPROVEMENT DISTRICT

All that part of the Southwest Quarter of Section 23, Township 14 South, Range 23 East, in the City of Olathe, Johnson County, Kansas, being more particularly described by Phelps Engineering, Inc., on June 25, 2025, for project 250489, as follows:

Commencing at the Southeast corner of the Southwest Quarter of said Section 23; thence N 2°00'24" W, along the East line of the Southwest Quarter of said Section 23, a distance of 176.35 feet, to a point on the Northerly Right-of-way line of 175th Street, as now established; thence along said Northerly Right-of-Way line for the following four (4) courses; thence S 70°51'07" W, a distance of 174.22 feet; thence S 76°54'58" W, a distance of 146.84 feet; thence S 84°34'22" W, a distance of 488.87 feet; thence S 87°49'22" W, a distance of 1047.00 feet, to the Point of Beginning; thence, continuing along said Northerly Right-of-Way line for the following three (3) courses, S 87°49'22" W, a distance of 53.00 feet; thence S 88°46'37" W, a distance of 600.08 feet; thence N 71°37'16" W, a distance of 85.44 feet, to a point on the Easterly Right-of-Way line of Lone Elm Road, as now established; thence along said Easterly Right-of-Way line for the following two (2) courses; thence N 8°28'14" W, a distance of 191.16 feet; thence N 2°03'05" W, a distance of 302.30 feet; thence N 87°56'59" E, a distance of 749.86 feet; thence S 2°32'51" E, a distance of 530.65 feet, to the Point of Beginning, containing 8.9960 acres, more or less, of unplatted land.

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EXHIBIT B

MAP OF LONE ELM & 175TH STREET COMMUNITY IMPROVEMENT DISTRICT

The following property located in Johnson County, Olathe, Kansas:



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(Published in *The Legal Record* on October 14, 2025)

SUMMARY OF ORDINANCE NO. 25-__

On October 7, 2025, the City Council of the City of Olathe, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CREATION OF THE LONE ELM & 175TH STREET COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF OLATHE, KANSAS; AUTHORIZING THE MAKING OF CERTAIN PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT IMPROVEMENTS; LEVYING A COMMUNITY IMPROVEMENT DISTRICT SALES TAX WITHIN SUCH DISTRICT; PROVIDING FOR THE METHOD OF FINANCING THE SAME; AND APPROVING A DEVELOPMENT AGREEMENT.

In accordance with a petition submitted by the property owner, the Ordinance: authorizes the creation of a community improvement district (“CID”) located approximately at the northeast corner of Lone Elm Road and 175th Street within the City of Olathe, Kansas (the “City”); authorizes certain projects therein; and levies a 2.0% CID sales tax within the CID to pay certain costs of such projects, all pursuant to K.S.A. 12-6a26 *et seq.* The Ordinance also approves a Development Agreement between the City and developer relating to the CID and the related projects.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 100 E. Santa Fe Street. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://www.olatheks.org/government/city-clerk/public-notice>.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: October 7, 2025.

Ronald R. Shaver, City Attorney