

ORDINANCE NO. 24-47

AN ORDINANCE AUTHORIZING THE CREATION OF THE INDIAN CREEK CROSSING 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; AND PROVIDING FOR THE METHOD OF FINANCING THE SAME.

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 June 24, 2024, proposing the creation of the Indian Creek Crossing Community Improvement District (the “District”) under the Act and the imposition of a one percent (1.0%) community improvement district sales tax (the “CID Sales Tax”) in order to pay a portion of the costs of projects as described in the Petition (the “Projects”); and

WHEREAS, the Petition was signed by Rosebud Partners, LLC, a Kansas limited liability company (the “Property Owner”) the owner of record of more than fifty-five percent (55%) of the land area contained in the proposed District and more than fifty-five percent (55%) by assessed value of the land area contained within the proposed District; and

WHEREAS, the City Council (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. 24-1053 on October 15, 2024 (the “Resolution”) directing that a public hearing on the proposed District within the City be held on November 19, 2024, 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 (by certified mail) to all property owners within the proposed District on October 23, 2024, and published once each week for two (2) consecutive weeks in *The Legal Record*, the official City newspaper, on October 29, 2024 and November 5, 2024; and

WHEREAS, on November 19, 2024, the Governing Body conducted a public hearing on the proposed District; 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 Projects as described herein, approve the

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

WHEREAS, the Development Agreement (Indian Creek Crossing), dated November 19, 2024 (the “Development Agreement”) between the City and the Property Owner has been approved by the Governing Body.

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

SECTION 1. Creation of Community Improvement District; Boundaries. That 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 Indian Creek Crossing 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 Costs.

(a) The general nature of the Projects is the redevelopment and improvement of certain real property generally located at the northeast corner of 135th Street and Mur-Len Road within the City, including some or all of the following:

retail development containing approximately 115,000 square feet of retail/commercial use, as well as related public infrastructure and other site improvements. The proposed Projects include a new to market sports/entertainment facility, a national all-inclusive physical fitness facility, a regional hardware store and a regional convenience store. Related public infrastructure include the conveyance of real property to the City for expansion of the existing fire station facility located immediately north of the Project. In addition, the developer anticipates conveying real property to the City for the purposes of the expansion and improvement of 135th Street; and

related soft costs of the Projects, and the City and the petitioner’s administrative costs in establishing and maintaining the District, and other items collectively permitted to be financed within the District under the Act, and the City’s CID Policy (Policy F-9) (collectively, the “Projects”).

(b) The total estimated cost of the Projects is \$16,119,580, plus interest on financing, costs of issuance, debt service reserves, and capitalized interest (if any).

SECTION 3. Method of Financing.

(a) A portion of the costs of the Projects 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 **1.0%** 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 September 1, 2025, or such other date as the Governing Body 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 Indian Creek Crossing Community Improvement District Revenue Fund. Such revenues shall be used to pay the costs of the Projects, including the City Administrative Fee (as defined in the Development Agreement).

SECTION 5. Recording. The City Clerk shall file a certified copy of this Ordinance with the Register of Deeds of Johnson County, Kansas

SECTION 6. 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 19th day of November, 2024 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 INDIAN CREEK CROSSING
COMMUNITY IMPROVEMENT DISTRICT**

Lot 1 Mur-Len Commercial Park Third Plat, a subdivision in Olathe, Johnson County, Kansas;

AND

Lots 15, 16 and 17, and Tracts C and E, Mur-Len Commercial Park Second Plat, a subdivision in the City of Olathe, Johnson County, Kansas;

Except for and not including the South 182.99 feet of Lot 15, MUR-LEN COMMERCIAL PARK SECOND PLAT, a subdivision in the City of Olathe, Johnson County, Kansas.

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EXHIBIT B

**MAP OF THE INDIAN CREEK CROSSING
COMMUNITY IMPROVEMENT DISTRICT**

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



(Published in *The Legal Record* on November 26, 2024)

SUMMARY OF ORDINANCE NO. 24-47

On November 19, 2024, the City Council of the City of Olathe, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CREATION OF THE INDIAN CREEK CROSSING 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; AND PROVIDING FOR THE METHOD OF FINANCING THE SAME.

In accordance with a petition submitted by Rosebud Partners LLC, a Kansas limited liability company (the “Petitioner”), the Ordinance authorizes the creation of a community improvement district (“CID”) located approximately at the northeast corner of 135th Street and Mur-Len Road within the City of Olathe, Kansas (the “City”); authorizes certain projects therein; and levies a 1.0% CID sales tax within the CID to pay certain costs of such projects, all pursuant to K.S.A. 12-6a26 *et seq.*

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-notices>.

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

DATED: November 19, 2024.

Ronald R. Shaver, City Attorney