

*(PUBLISHED IN THE WICHITA EAGLE ON SEPTEMBER 18, 2015)*

**ORDINANCE NO. 50-079**

**AN ORDINANCE OF THE CITY OF WICHITA ESTABLISHING THE KELLOGG AND WEST COMMUNITY IMPROVEMENT DISTRICT; AUTHORIZING THE MAKING OF CERTAIN PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT IMPROVEMENTS; LEVYING A 1.00% CID SALES TAX AND PROVIDING FOR THE METHOD OF FINANCING THE SAME; AND AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT RELATING THERETO.**

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

**WHEREAS**, the provisions of K.S.A. 12-6a26 *et seq.*, as amended, (the “CID Act”) set forth the procedure for the establishment of a community improvement district (“CID”); and

**WHEREAS**, a petition (the “Petition”) was filed with the City Clerk of the City proposing the creation of a community improvement district pursuant to the Act (the “Kellogg and West CID”), the completion of a project relating thereto as more particularly described on *Exhibit A* attached hereto (the “CID Project”) and the imposition of a CID Sales Tax in the amount of 1% (the “CID Sales Tax”) in order to pay the costs of the CID Project; and

**WHEREAS**, the Petition was signed by the owners of all of the land area within the proposed Kellogg and West CID; and

**WHEREAS**, the CID Act provides that prior to creating any CID, the Governing Body shall, by resolution, direct and order a public hearing on the advisability of creation of such CID and the construction and expenditure of costs of community improvement district projects relating thereto, and give notice of the hearing by publication once each week for two consecutive weeks in the official City newspaper, the second publication to be at least seven days prior to the hearing, and by the mailing of notice to the owners of property within the proposed CID; and

**WHEREAS**, the City Council of the City (the “Governing Body”) adopted Resolution No. R-15-188 (the “Resolution”) on July 7, 2015, directing that a public hearing on the proposed Kellogg and West CID be held August 4, 2015, and requiring that the City Clerk provide for notice of such public hearing as set forth in the Act; and

**WHEREAS**; the Resolution was published once each week for two consecutive weeks in the newspaper and notice of the hearing was given to all property owners within the proposed CID as required by the CID Act; and

**WHEREAS**, the CID Act further authorizes the City, in order to pay the costs of such projects, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing of taxable services within a CID in any increment of .10% or .25% not to exceed

2.0% and to reimburse the costs of community improvement district projects from community improvement district sales tax; and

**WHEREAS**, on August 4, 2015, the Governing Body of the City conducted a public hearing on the proposed “Kellogg and West CID”, the proposed community improvement district projects related thereto, the method of financing the same and the imposition of a community improvement district sales tax; and

**WHEREAS** , the Governing Body has continued the public hearing on one or more occasions until September 8, 2015, when such public hearing was concluded; and

**WHEREAS**, the Governing Body of the City hereby finds and determines it to be advisable to create the Kellogg and West CID and set forth the boundaries thereof, authorize the CID Project relating thereto, approve the maximum costs of such community improvement district projects, approve the method of financing the same and impose the CID Sales Tax, all in accordance with the provisions of the CID Act; and

**WHEREAS**, the City has negotiated a Development Agreement, dated as of September 18, 2015, between the City and Kellogg and West, LLC and East Side Investment, LLC (collectively, the “Developer”) related to the CID Project (the “Development Agreement”); and

**WHEREAS**, the Governing Body desires to approve the Development.

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

**Section 1. Creation of the Kellogg and West CID District.** The Governing Body hereby finds and determines that the Petition is sufficient and that all notices required to be given under the CID Act were given in accordance with the CID Act. The Governing Body hereby finds and determines it is advisable to create the Kellogg and West CID within the City and approve the boundaries thereof, and, as such, hereby creates Kellogg and West CID and approves the boundaries thereof. A legal description of the property within the Kellogg and West CID is set forth in **Exhibit B** attached hereto and incorporated by reference. A map generally outlining the boundaries of the Kellogg and West CID is attached hereto as **Exhibit C** and incorporated herein by reference.

**Section 2. Authorization of CID Project.** The Governing Body hereby finds and determines that it is advisable to authorize the CID Project described on the attached **Exhibit A**, incorporated herein by reference, (the “CID Project”) within the Kellogg and West CID and as such authorizes the CID Project. Land acquisition and capital costs incurred earlier than one year prior to City Council action initiating the establishment of the Kellogg and West CID are not eligible expenses per the City of Wichita CID Policy and Development Agreement adopted in relation to the CID Project.

**Section 3. Maximum Cost.** The estimated cost of the projects to be completed within the Kellogg and West CID is \$16,600,000. The maximum cost of the CID Project to be funded by the Kellogg and West CID, exclusive of administrative fees and costs to be paid to the State of Kansas is \$8,326,250.

**Section 4. Method of Financing.** The CID Project will be financed on a pay-as-you-go basis from revenues received from the imposition the CID Sales Tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers’ sales tax act within the Kellogg and West CID. There will be no special assessments levied

pursuant to the CID Act within the boundaries of the Kellogg and West CID. There will be no bonds issued pursuant to the CID Act.

**Section 5. Imposition of the Community Improvement District Sales Tax.** In order to provide for the payment of costs of the CID Project on a pay-as-you-go basis, the Governing Body hereby imposes the CID Sales Tax within the Kellogg and West CID in an amount of one percent (1%) on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the Kansas retailers' sales tax act within the Kellogg and West CID, with such CID Sales Tax to commence on January 1, 2016. Such notice shall include submittal by the City of a certified copy of the ordinance to the KDOR following publication of the ordinance. Such CID Sales Tax shall remain in effect for the maximum period provided for in the CID Act, or such period as may be required for payment from CID Sales Tax revenues of the maximum amount of costs approved for CID Project in *Section 3*, above, whichever is the lesser period.

**Section 6. Collection of the Sales Tax.** The collection of the CID Sales Tax shall be made in the manner presented in the CID Act

**Section 7. Segregation of the 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 Kellogg and West CID Sales Tax Revenue Fund. Such revenues shall be used to pay the costs of the CID Project on a pay-as-you-go basis and related expenses, including administrative fees and reimbursement to be paid to the State of Kansas and to the City.

**Section 8. Development Agreement.** The Development Agreement is hereby approved in substantially the form presented to the Governing Body, with such changes as may be approved by the City Attorney. The Mayor is hereby authorized to execute the Development Agreement by and on behalf of the City and the City Clerk is hereby authorized to attest such signature.

**Section 9. Effective Date.** This Ordinance shall take effect from and after its passage by the Governing Body, and its publication once in the official newspaper of the City.

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**PASSED** by the City Council of the City on September 15, 2015 and **SIGNED** by the Mayor.

(SEAL)

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, Director of Law and  
City Attorney

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**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on September 15, 2015; that the record of the final vote on its passage is found on page [\_\_\_\_] of journal [\_\_\_\_]; and that the Ordinance or a summary thereof was published in *The Wichita Eagle* on September 18, 2015.

DATED: September 18, 2015.

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Karen Sublett, City Clerk

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***EXHIBIT A***

**CID PROJECT**

**General Nature:** The general nature of the proposed project (the “**CID Project**”) is to promote the redevelopment and revitalization of the Kellogg & West corridor, as is more particularly described herein, by providing community improvement district financing in accordance with the petition, the Act, and with City of Wichita policy to finance the demolition, construction, maintenance, and procurement of certain improvements, costs, and services within the District, including, but not limited to: land acquisition, infrastructure related items, streets, potential traffic signal on West Street, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities, ongoing maintenance of the District, marketing, advertisement and economic development, cleaning and maintenance, and the City and the developer’s administrative costs in establishing and maintaining the District, and any other items permitted to be financed within the District under the Act.

**EXHIBIT B**

**LEGAL DESCRIPTION**

A TRACT OF LAND LOCATED IN SEDGWICK COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE SIXTH PRINCIPLE MERIDIAN, AND THE CENTERLINE OF U.S. 54 HIGHWAY (COMMONLY KNOWN AS KELLOGG AVENUE);

THENCE WEST ALONG SAID CENTERLINE OF U.S. 54 HIGHWAY TO A POINT OF INTERSECTION WITH THE WEST LINE, EXTENDED, LOT 3, BLOCK 1, KELLOGG WEST SQUARE ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS;

THENCE NORTH ALONG SAID WEST LINE EXTENDED OF SAID LOT 3 TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 3 TO THE NORTHWEST CORNER OF SAID LOT 3; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 3 TO THE NORTHEAST CORNER OF SAID LOT 3; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 3, EXTENDED TO THE EAST RIGHT OF WAY LINE OF TRACEY STREET; THENCE NORTH ALONG SAID EAST LINE OF TRACEY STREET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF UNIVERSITY (NOW TAFT) STREET;

THENCE EAST ALONG SAID NORTH RIGHT OF WAY LINE OF TAFT STREET TO A POINT OF INTERSECTION WITH THE PROLONGATION OF THE EAST RIGHT OF WAY LINE OF FLORENCE STREET;

THENCE SOUTH ALONG SAID PROLONGATION OF THE EAST RIGHT OF WAY LINE OF FLORENCE STREET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF EUREKA ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS;

THENCE EAST ALONG SAID SOUTH LINE OF EUREKA ADDITION TO POINT OF INTERSECTION WITH WEST LINE EXTENDED OF STARBUCKS ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS;

THENCE SOUTH ALONG SAID WEST LINE EXTENDED OF STARBUCK ADDITION TO THE SOUTHWEST CORNER OF STARBUCKS ADDITIONS;

THENCE EAST ALONG THE SOUTH LINE OF SAID STARBUCKS ADDITION TO A POINT OF INTERSECTION WITH THE WEST LINE OF A TRACT OF LAND IN SEDGWICK COUNTY, KANSAS, DESCRIBED AS THE EAST 284 FEET OF THE NORTH 15 FEET 6 INCHES OF THE SE  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$ , SECTION 26, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE SIXTH P.M. LESS THAT PART DEEDED TO CITY FOR HIGHWAY RIGHT OF WAY, SAID TRACT HAVING A SEDGWICK COUNTY PARCEL IDENTIFICATION NUMBER OF 00528856;

THENCE SOUTH ALONG THE WEST LINE OF SAID TRACT OF LAND HAVING A SEDGWICK COUNTY PARCEL IDENTIFICATION NUMBER OF 00528856 TO THE SOUTHWEST CORNER THEREOF; THENCE EAST ALONG THE SOUTH LINE OF SAID TRACT OF LAND HAVING A SEDGWICK COUNTY PARCEL IDENTIFICATION NUMBER OF 00528856 TO THE WEST RIGHT OF WAY LINE WITH WEST STREET;

THENCE SOUTH ALONG THE WEST RIGHT OF WAY LINE OF WEST STREET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF C.J. LUBBERS ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS; THENCE WEST ALONG THE NORTH LINE OF SAID C.J. LUBBERS ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, TO THE NORTHWEST CORNER OF SAID C.J. LUBBERS ADDITION;

THENCE SOUTH ALONG THE WEST LINE OF C. J. LUBBERS ADDITION TO POINT OF INTERSECTION WITH THE NORTH LINE EXTENDED OF THE FOLLOWING DESCRIBED TRACT OF LAND:

A TRACT OF LAND IN SECTION 26, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6TH P. M. MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING 462 FEET NORTH AND 67

FEET WEST OF THE SOUTHEAST CORNER OF THE NORTHWEST CORNER 1/4, SECTION 26, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6TH P.M., THENCE WEST 133 FEET, THENCE SOUTH 115.5 FEET, THENCE EAST 78.2 FEET, THENCE NORTHEASTERLY 44.3 FEET, THENCE NORTHEASTERLY 87.7 FEET TO THE POINT OF BEGINNING;  
THENCE EAST ALONG SAID NORTH LINE EXTENDED OF THE AFORE-DESCRIBED TRACT OF LAND TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID AFORE-DESCRIBED TRACT OF LAND;  
THENCE SOUTH ALONG THE WEST LINE OF THE AFORE-DESCRIBED TRACT OF LAND TO THE NORTH RIGHT OF WAY LINE OF KELLOGG DRIVE;  
THENCE EAST ALONG SAID NORTH RIGHT OF WAY LINE OF KELLOGG DRIVE TO A POINT OF INTERSECTION WITH THE WEST RIGHT OF WAY LINE OF WEST STREET;  
THENCE NORTH ALONG THE WEST RIGHT OF WAY LINE OF WEST STREET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT OF WAY LINE OF TAFT STREET;  
THENCE WEST ALONG THE SOUTH RIGHT OF WAY LINE OF TAFT STREET FOR A DISTANCE OF 200 FEET;  
THENCE NORTH TO A POINT OF INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF TAFT STREET;  
THENCE EAST, ALONG SAID NORTH RIGHT OF WAY LINE OF TAFT STREET TO A POINT OF INTERSECTION WITH THE WEST RIGHT OF WAY LINE OF WEST STREET;  
THENCE NORTH, ALONG THE WEST RIGHT OF WAY LINE OF WEST STREET FOR A DISTANCE OF 200 FEET;  
THENCE EAST TO A POINT OF INTERSECTION WITH THE EAST RIGHT OF WAY LINE OF WEST STREET;  
THENCE SOUTH ALONG THE EAST RIGHT OF WAY LINE OF WEST STREET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF TAFT STREET;  
THENCE EAST ALONG THE NORTH RIGHT OF WAY LINE OF TAFT STREET FOR A DISTANCE OF 200 FEET;  
THENCE SOUTH TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT OF WAY LINE OF TAFT STREET;  
THENCE WEST ALONG THE SOUTH RIGHT OF WAY LINE OF TAFT STREET TO A POINT OF INTERSECTION WITH THE EAST RIGHT OF WAY LINE OF WEST STREET;  
THENCE SOUTH ALONG THE EAST RIGHT OF WAY LINE OF WEST STREET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF LOT 7, BLOCK 1, EUREKA GARDENS ADDITION TO SEDGWICK COUNTY, KANSAS;  
THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 7 TO THE SOUTHEAST CORNER OF LOT 7, SAID SOUTHEAST CORNER OF LOT 7 ALSO BEING THE NORTHEAST CORNER OF LOT 8, BLOCK 1 IN SAID EUREKA GARDENS ADDITION; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 8 TO THE SOUTHEAST CORNER OF SAID LOT 8, SAID SOUTHEAST CORNER ALSO BEING THE NORTHEAST CORNER OF LOT 9, BLOCK 1, EUREKA GARDENS ADDITION;  
THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 9 TO THE SOUTHEAST CORNER OF SAID LOT 9, SAID SOUTHEAST CORNER ALSO BEING THE NORTHWEST CORNER OF LOT 20, BLOCK 1, EUREKA GARDENS ADDITION;  
THENCE EAST ALONG THE NORTH LINE OF SAID LOT 20 TO THE WEST RIGHT OF WAY LINE OF ILLINOIS STREET;  
THENCE CONTINUING EAST ALONG THE NORTH LINE OF SAID LOT 20 EXTENDED, TO THE NORTHERLY MOST NORTHWEST CORNER OF BONANZA ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, SAID NORTHWEST CORNER LYING ON THE EAST RIGHT OF WAY LINE OF ILLINOIS STREET;  
THENCE SOUTH ALONG THE EAST RIGHT OF WAY LINE OF ILLINOIS STREET TO THE SOUTH LINE OF ILLINOIS STREET;

THENCE WEST ALONG THE SOUTH RIGHT OF WAY LINE OF ILLINOIS STREET TO THE SOUTHERLY MOST NORTHWEST CORNER OF SAID BONANZA ADDITION, SAID CORNER ALSO LYING ON THE NORTH LINE OF PARKWAY ADDITION;  
THENCE SOUTH ALONG THE WEST LINE OF BONANZA ADDITION TO THE NORTH RIGHT OF WAY LINE OF KELLOGG DRIVE;  
THENCE EAST ALONG THE NORTH RIGHT OF WAY LINE OF KELLOGG DRIVE FOR A DISTANCE OF 300 FEET;  
THENCE SOUTH TO A POINT OF INTERSECTION WITH THE CENTERLINE OF U.S. 54 HIGHWAY;  
THENCE WEST ALONG THE CENTERLINE OF U. S. 54 HIGHWAY TO THE POINT OF BEGINNING;

EXCEPT THE FOLLOWING DESCRIBED TRACTS OF LAND:

THAT PART OF THE SOUTHEAST CORNER OF THE NE ¼, SECTION 26, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6<sup>TH</sup> P.M. TAKEN FOR STREET RIGHT-OF-WAY IN CONDEMNATION CASE C-3820;

ALONG WITH,

THAT PART OF PARKWAY ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, DEEDED TO THE SECRETARY OF TRANSPORTATION OF THE STATE OF KANSAS AS DESCRIBED IN DEED RECORDED WITH THE SEDGWICK COUNTY REGISTER OF DEEDS AT DOC.#/FLM-PG: 29474106;

AND EXCEPT THE FOLLOWING DESCRIBED TRACTS OF LAND:

LOT 2, GMC ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, EXCEPT THE EAST 50 FEET OF THE SOUTH 80 FEET THEREOF;

THE SOUTH HALF OF LOT 9 ALONG WITH LOTS 10 THROUGH 15 INCLUSIVELY, ALONG WITH THE EAST 50 FEET OF THE SOUTH 80 FEET OF LOT 2;

LOT 1, BALES ADDITION, WICHITA, SEGWICK COUNTY, KANSAS, EXCEPT THAT PART TAKEN FOR STREET RIGHT OF WAY.

EXHIBIT C  
MAP OF DISTRICT  
(On Following Page)

