

ORDINANCE NO.   931  

**AN ORDINANCE AUTHORIZING THE CREATION OF THE POPLAR STREET COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF WELLSVILLE, KANSAS; AUTHORIZING THE IMPOSITION OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX TO BE COLLECTED WITHIN SUCH DISTRICT; AND AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT.**

**WHEREAS**, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the “Act”), municipalities are authorized to create community improvement districts for economic development purposes and any other purpose for which public money may be expended;

**WHEREAS**, the City of Wellsville, Kansas (the “City”), is a municipality within the meaning of the Act;

**WHEREAS**, a petition (the “Petition”) was filed by Keim Boys, LLC, a Kansas limited liability company (the “Petitioner”), with the City Clerk requesting: (a) that the community improvement district described therein (the “CID”) be created; (b) that the City levy a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within the CID in the amount of one and one-quarter percent (1.25%) (the “CID Sales Tax”); and (c) that certain community improvement district project costs to be incurred within the CID be financed on a pay-as-you-go basis, all in accordance with the Act;

**WHEREAS**, said Petition was signed by the Petitioner, the owner of record of more than 55% of the land area within the proposed CID, and the owner of record collectively owning more than 55% by assessed value of the land area within the proposed CID;

**WHEREAS**, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the Governing Body of the City 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 project therein, and provide for notice of the hearing by publication at least once each week for two (2) consecutive weeks in the official city newspaper, with the second publication occurring at least seven (7) days prior to the hearing, and by certified mail to all property owners within the proposed community improvement district, with such certified mail sent at least ten (10) days prior to such hearing;

**WHEREAS**, pursuant to Resolution No. 03-0830-23 of the City, adopted on August 30, 2023, the Governing Body of the City directed a public hearing on the proposed CID be held and declared its intent to levy the CID Sales Tax in the proposed CID;

**WHEREAS**, on the date hereof, following proper notice as provided in the Act, the Governing Body of the City held a public hearing on the proposed CID, the proposed community improvement district project, and the imposition of the CID Sales Tax in the proposed CID;

**WHEREAS**, the City and the Petitioner have determined it necessary and advisable to enter a Development Agreement between the parties (the “Development Agreement”) to describe the rights and obligations of the City and the Petitioner in connection with the CID Sales Tax, the development within the CID, and certain other economic incentives described therein; and

**WHEREAS**, the Governing Body hereby finds and determines that it is in the best interest of the City and in furtherance of the purposes of the Act to create the CID, levy the CID Sales Tax, and authorize execution of the Development Agreement;

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WELLSVILLE, KANSAS AS FOLLOWS:**

**Section 1. Creation of the Community Improvement District; Boundaries.** The Governing Body of the City hereby creates the CID within the City, which shall be designated as the “Poplar Street Community Improvement District.” The boundaries of the CID shall be as legally described on *Exhibit A* attached hereto and as depicted on the map attached as *Exhibit B* hereto.

**Section 2. Authorization of Community Improvement District Project; Estimated Costs.** The Governing Body of the City hereby authorizes the project within the CID described on *Exhibit C* attached hereto (the “Project”) and approves the total estimated cost of the Project at approximately \$39,000,000, with the maximum reimbursement to the Petitioner from the CID Sales Tax not to exceed \$5,775,000, subject to the terms of the Development Agreement. Notwithstanding the approval of the Project by this Ordinance, the Project and owner or owners of all property comprising the Project must comply with all applicable zoning, planning, permitting, and other laws and regulations applicable to the Project.

**Section 3. Method of Financing.** The Project will be financed, in part, on a pay-as-you-go basis from revenues received from the imposition of the CID Sales Tax within the CID. Such revenues will be used to reimburse the Petitioner for certain costs of the Project. The balance of the costs of the Project not reimbursed from the CID Sales Tax will be paid by the Petitioner. No special assessments shall be levied in connection with the CID, and no special obligation community improvement district bonds or full faith and credit community improvement district bonds shall be issued to finance all or any portion of the Project.

**Section 4. Levy of Sales Tax.** In accordance with the Act and to provide funds to pay a portion of the costs of the Project, the Governing Body of the City hereby levies a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within the CID in the amount of one and one-quarter percent (1.25%), *i.e.*, the “CID Sales Tax.” The collection of the CID Sales Tax shall commence on April 1, 2024, or the earliest date thereafter on which the Kansas Department of Revenue agrees to begin the imposition of the CID Sales Tax, and shall expire twenty-two (22) years from the date the Department of Revenue begins the collection of the CID Sales Tax. The CID Sales Tax shall be administered, collected, and subject to the provisions of K.S.A. 12-187 *et seq.*, this Ordinance, and the Development Agreement.

**Section 5. Authorization of Development Agreement.** The City is hereby authorized to enter into the Development Agreement by and between the City and the Petitioner in substantially the form presented to and reviewed by the Governing Body on the date of this Ordinance (copies of this document are on file in the records of the City) with such changes therein as shall be approved by the Mayor, with the Mayor's signature thereon being conclusive evidence of his approval thereof, and the same are hereby approved in all respects.

**Section 6. Authorization to Execute Documents.** The Mayor, City Clerk, and other appropriate officers of the City are hereby authorized and directed to execute, attest, acknowledge, and deliver for and on behalf of, and as the act and deed of, the City any other documents, certificates, and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

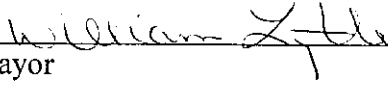
**Section 7. Effective Date.** This Ordinance shall be in force and take effect from and after publication of the Ordinance once in the official City newspaper. When this Ordinance becomes effective in accordance with this section, the City Clerk shall provide a certified copy of the same to the State Director of Taxation pursuant to K.S.A. 12-6a31(b) and shall record a copy of the same with the Register of Deeds of Franklin County, Kansas, pursuant to K.S.A. 12-6a29(f).

*[remainder of page intentionally left blank]*

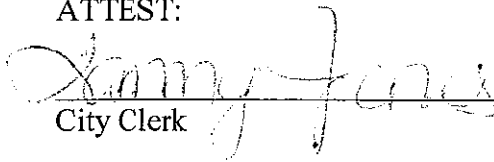
**PASSED** by the Governing Body of the City and approved by the Mayor on September 27, 2023.

**CITY OF WELLSVILLE, KANSAS**

(Seal)

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

## EXHIBIT A

### LEGAL DESCRIPTION OF POPLAR STREET CID

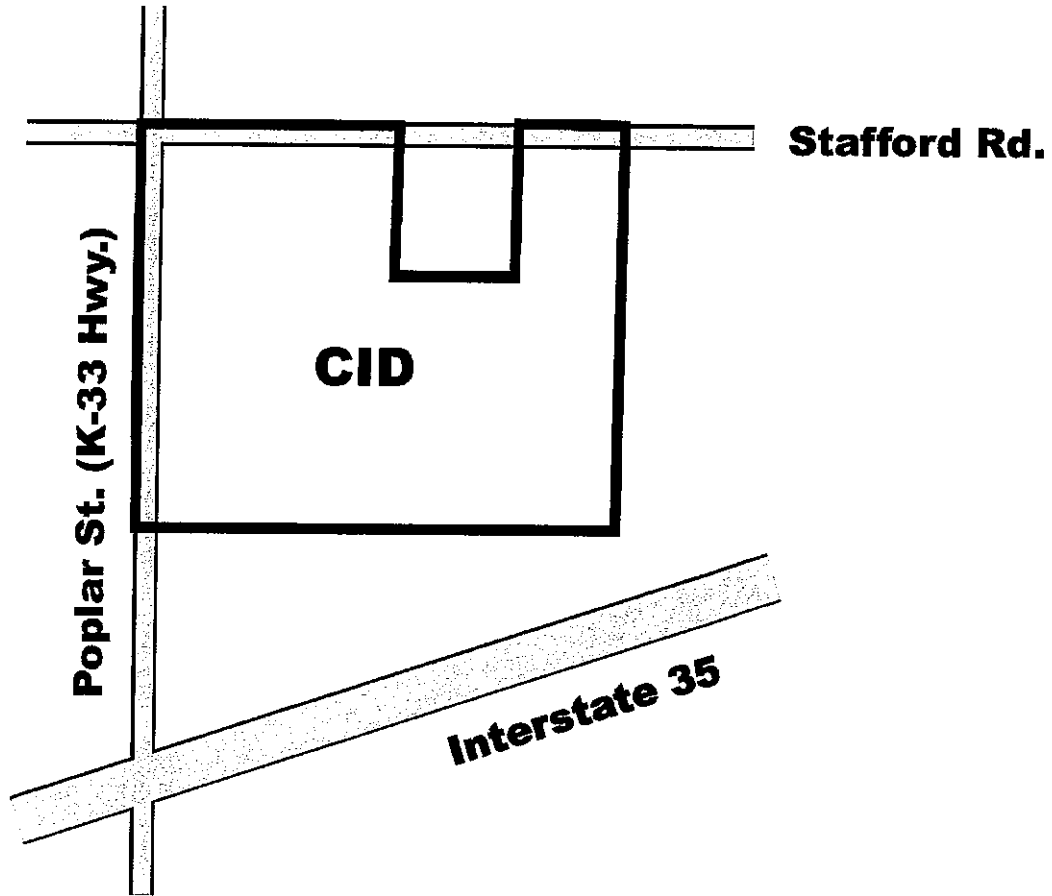
Beginning at the N.W. corner of the N.W. Fr.  $\frac{1}{4}$  of Sec. 34, Twp. 15 S., Rng. 21 E., thence North 89 degrees 59 minutes 53 seconds East for a distance of 700 feet, by deed, 698.82 feet, measured, along the North line of said Quarter Section, thence South 00 degrees 00 minutes 29 seconds West for a distance of 396 feet, by deed, 396.18 feet measured, thence South 89 degrees 59 minutes 15 seconds East for a distance of 330 feet, by deed, 329.92 feet measured, thence North 00 degrees 02 minutes 02 seconds East for a distance of 396 feet, by deed, 396.92 feet measured, to a point on the North line of said Quarter Section, thence North 89 degrees 59 minutes 53 seconds East for a distance of 270.95 feet along said North line, thence South 00 degrees 05 minutes 39 seconds West for a distance of 1110.14 feet to a point on the North right of way line of Highway I-35, thence South 88 degrees 56 minutes 21 seconds West for a distance of 1225.12 feet along said right of way line, thence North 00 degrees 05 minutes 39 seconds East for a distance of 280.79 feet along said right of way line, thence North 89 degrees 54 minutes 21 seconds West for a distance of 75.00 feet to a point on the West line of said Quarter Section, thence North 00 degrees 05 minutes 39 seconds East for a distance of 851.86 feet along said West line to the point of the beginning, in Franklin County, Kansas.

#### TOGETHER WITH

All right-of-way for Poplar Street (Kansas Highway 33) immediately west of the above-described tract, all right-of-way for Stafford Road immediately north of the above-described tract, together with the intersection of Poplar Street (Kansas Highway 33) and Stafford Road immediately northwest of the above-described tract.

EXHIBIT B

MAP OF POPLAR STREET CID



## **EXHIBIT C**

### **PROJECT DESCRIPTION**

The general nature of the Project is to improve, construct, maintain, install, equip, or extend certain commercial improvements in the vicinity of Poplar Street (Kansas Highway 33) and Stafford Road within the City, which may include, without limitation, a restaurant, a car wash, a truck/automotive repair facility, a hotel of approximately one hundred (100) rooms, two (2) retail buildings totaling approximately 30,000 square feet of retail space, a truck parking lot, together with all related sitework, landscaping, and infrastructure improvements, and certain improvements to the intersection of Poplar Street (Kansas Highway 33) and Stafford Road within the City, all as more particularly described in the Development Agreement.