

ORDINANCE NO. 2720

AN ORDINANCE AMENDING ORDINANCE NO. 2640 OF THE CITY OF GARDNER, KANSAS, IN CONNECTION WITH THE WAVERLY PLAZA COMMUNITY IMPROVEMENT DISTRICT IN THE CITY.

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

WHEREAS, pursuant to the Act, Ordinance No. 2640 of the City, passed on December 16, 2019, and other proceedings of the City, the Governing Body of the City established a community improvement district known as the “Waverly Plaza CID” (the “CID”);

WHEREAS, Section 4 of Ordinance No. 2640 levied a community improvement sales tax within the CID in the amount of 1.00% (the “CID Sales Tax”) and indicated that collection of the CID Sales Tax would commence on January 1, 2022;

WHEREAS, pursuant to Resolution No. 2037 of the City, adopted on November 18, 2019, the Governing Body of the City authorized the execution and delivery of a Memorandum of Understanding (the “MOU”) between the City and The Bristol Groupe, LLC, a Kansas limited liability company (together with its affiliates, the “Developer”), to describe, in general terms, the rights and obligations of the parties with respect to the development of a commercial and residential project (the “Project”);

WHEREAS, construction has not yet commenced on the Project, and the City and the Developer have determined it is necessary and advisable to delay the commencement of the CID Sales Tax beyond the date specified in Ordinance No. 2640; and

WHEREAS, the Governing Body of the City hereby finds and determines that it is in the best interest of the City to delay the commencement of the CID Sales Tax;

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

Section 1. Section 4 of Ordinance No. 2640 of the City is hereby deleted in its entirety and replaced with the following:

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 1.00%, *i.e.*, the “CID Sales Tax.” The collection of the CID Sales Tax shall commence on: (i) the date that the first retail user within the CID is open for

business; (ii) such other date as determined by the City; or (iii) the earliest date following the foregoing (i) or (ii) on which the Kansas Department of Revenue agrees to begin the imposition of the CID Sales Tax. The CID Sales Tax shall expire 22 years from the date the Department of Revenue begins the collection of such tax. The CID Sales Tax shall be administered, collected and subject to the provisions of K.S.A. 12-187 *et seq.*, this Ordinance (as may be amended from time to time), and the MOU or any development agreement between the City and the Developer which supersedes the MOU. The CID Sales Tax will be applied on an annual basis to: (a) reimburse the City for its share of debt service payable in connection with the special benefit district created pursuant to Resolution No. 2032 of the City, adopted on October 7, 2019, as subsequently amended (the “Waverly Plaza SBD”), which Waverly Plaza SBD improvements comprise a portion of the proposed Project; (b) reimburse the Developer for its share of debt service payable in connection with the Waverly Plaza SBD; and (c) reimburse the Developer for certain other costs of the Project as agreed to by the City.

Section 2. *Exhibit A* to Ordinance No. 2640 of the City is hereby deleted in its entirety and replaced with *Exhibit A* to this Ordinance to reflect that the real property included within the CID and described in Ordinance No. 2640 has since been platted.

Section 3. 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 4. 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. 12-189 and shall submit a copy of this Ordinance, together with Ordinance No. 2640 of the City, for recording in the office of the register of deeds of Johnson County, Kansas.

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PASSED by the Governing Body of the City and approved by the Mayor on November 1, 2021.

CITY OF GARDNER, KANSAS

(Seal)

_____/s/_____
Mayor

ATTEST:

_____/s/_____
City Clerk

EXHIBIT A

Legal Description of Waverly Plaza CID

Lot 1, Waverly Plaza, a subdivision in the City of Gardner, Johnson County, Kansas,
and

Lot 2, Waverly Plaza, a subdivision in the City of Gardner, Johnson County, Kansas,
and

Lot 3, Waverly Plaza, a subdivision in the City of Gardner, Johnson County, Kansas,
and

Tract A, Waverly Plaza, a subdivision in the City of Gardner, Johnson County, Kansas.