

RESOLUTION NO. 2102

A RESOLUTION DIRECTING NOTICE TO BE GIVEN OF A PUBLIC HEARING ON PROPOSED MODIFICATIONS TO A SPECIAL BENEFIT DISTRICT AND PROPOSED SPECIAL ASSESSMENTS TO BE LEVIED IN CONNECTION WITH CERTAIN IMPROVEMENTS, ALL IN THE CITY OF GARDNER, KANSAS (TUSCAN FARM PHASE 1A INFRASTRUCTURE SPECIAL BENEFIT DISTRICT).

WHEREAS, pursuant to K.S.A. 12-6a01 *et seq.* and certain proceedings of the Governing Body of the City of Gardner, Kansas (the “City”), the Governing Body previously authorized the creation of two benefit districts to finance the construction of certain improvements benefiting the Tuscan Farm subdivision;

WHEREAS, pursuant to Resolution No. 2012 adopted on February 18, 2019, the Governing Body authorized the creation of a benefit district comprised of the entire subdivision, referred to therein as the Tuscan Farm Sanitary Lift Station Special Benefit District and referred to herein as the Tuscan Farm Areawide Infrastructure Special Benefit District (the “Areawide Benefit District”) and the construction of the following improvements (the “Original Areawide Improvements”):

(i) installation of sanitary sewer lift station, approximately 2,540 L.F. of 8” force main, wet well, electrical generator and power lines, manhole(s), meters, and related improvements, and (ii) 12’ wide gravel access road, fencing, gates, seeding, restoration, and all related improvements; City administrative costs; and legal fees;

WHEREAS, pursuant to certain additional proceedings and Ordinance No. 2613 passed on May 6, 2019, the Governing Body levied maximum assessments against the properties in the Areawide Benefit District in an amount not to exceed \$1,325,000;

WHEREAS, pursuant to Resolution No. 2013 adopted on February 18, 2019, the Governing Body authorized the creation of a benefit district comprised of the first 40 lots in the subdivision, referred to therein as the Tuscan Farm Phase I Infrastructure Special Benefit District and referred to herein as the Tuscan Farm Phase 1a Infrastructure Special Benefit District (the “Phase 1a Benefit District”), and the construction of the following improvements (the “Original Phase 1a Improvements”):

Construction of internal collector and local streets shown on Tuscan Farm First Plat, which will include curbs and gutters; asphaltic pavement surfacing; sidewalks; sanitary sewers; storm drainage facilities; water mains; electric utilities; preliminary and final engineering; survey; staking; grading; erosion control; construction supervision/inspection; testing; and other related improvements; City administrative costs; and legal fees;

WHEREAS, pursuant to certain additional proceedings and Ordinance No. 2614 passed on May 6, 2019, the Governing Body levied maximum assessments against the properties in the Phase 1a Benefit District in an amount not to exceed \$2,620,000;

WHEREAS, construction of the Original Areawide Improvements and the Original Phase 1a Improvements (collectively, the “Improvements”) is substantially complete, and it is necessary and advisable to finalize the assessments levied against the properties in the Areawide Benefit District and the Phase 1a Benefit District (collectively, the “Districts”); provided, however, that the owners of properties in the Districts have submitted petitions requesting certain modifications to each District, including a request that certain of the Original Phase 1a Improvements financed through the Phase 1a Benefit District be removed from such District and financed instead through the Areawide Benefit District in order to impose substantially equal burdens of the cost of such improvements upon all the property similarly benefited; and

WHEREAS, the Governing Body finds it necessary and advisable to prepare an amended assessment roll for the Phase 1a Benefit District, to provide notice of a public hearing on such proposed modifications to the Phase 1a Benefit District and the proposed assessments to be levied in connection therewith, and following such public hearing, to consider an ordinance repealing Ordinance No. 2614 which levied maximum assessments within the Phase 1a Benefit District;

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

Section 1. The City Finance Director and City Clerk shall prepare an amended assessment roll for the Phase 1a Benefit District which shall set forth the proposed assessment against each lot, piece, or parcel of land within such District in the manner set forth in the petition requesting changes to such District. The amended assessment roll shall be maintained on file with the City Clerk and be open for public inspection.

Section 2. Following preparation of the amended assessment roll, the Governing Body shall hold a public hearing for the Phase 1a Benefit District on the proposed modifications to such District, and the proposed amended assessments, at its regular meeting on June 6, 2022. The City Clerk shall publish notice of the public hearing at least once not less than 10 days prior to June 6, 2022, and shall mail to the owners of the property liable to pay the assessments, at their last known post office address, a notice of the hearing and a statement of the amended cost proposed to be assessed, all in accordance with K.S.A. 12-6a09. The published notice shall be in substantially the form as set forth in *Exhibit A* to this Resolution.

Section 3. This Resolution shall be in full force and effect from and after its adoption.

[remainder of page left blank intentionally]

ADOPTED by the Governing Body of the City of Gardner, Kansas, on May 16, 2022.

CITY OF GARDNER, KANSAS

(Seal)

/s/_____
Mayor

ATTEST:

/s/_____
City Clerk

EXHIBIT A

Form of notice of public hearing to be published no later than May 27, 2022.

**NOTICE OF PUBLIC HEARING
(Tuscan Farm Phase 1a Infrastructure Special Benefit District)**

Notice is hereby given that the City Council of the City of Gardner, Kansas (the “City”), will hold a public hearing in the Council Chambers, City Hall, 120 E. Main Street in the City on **June 6, 2022, at 7:00 p.m.** (or as soon as practical thereafter), for the purposes of considering and hearing any and all complaints and objections to: 1) certain modifications to the Tuscan Farm Phase I Infrastructure Special Benefit District, also referred to as the Tuscan Farm Phase 1a Infrastructure Special Benefit District, as set forth in an amended petition submitted to the City by the owners of property with such benefit district (the “Petition”); and 2) an amended assessment roll prepared in connection with the following improvements in the City financed thereby as described in the Petition:

Construction of sanitary sewers; water mains; utilities; preliminary and final engineering; survey; staking; grading; erosion control; construction supervision/inspection; testing; and other related improvements; City administrative costs; and legal fees.

The improvements have been completed at a total cost of \$1,085,000, 0% of which will be chargeable to the City-at-large and 100% of which will be assessed in the manner set forth in the Petition to the properties in the benefit district described following the end of this Notice.

The Petition and amended assessment roll are on file in the office of the City Clerk and may be examined by any interested party. Anyone who wishes to make any complaint, comment or objection, written or oral, to the modifications to the district or the amended assessment roll may appear and will be heard at the public hearing or at any adjournment of such meeting, and the Governing Body of the City will hear and pass on any such objections, and may amend the proposed assessments as described in the amended assessment roll. Upon completion of the public hearing, the amounts of the assessments will be finally determined by the Governing Body of the City.

DATED May _____, 2022.

Sharon Rose, City Clerk

PROPERTIES IN BENEFIT DISTRICT

Lots 1 through 35, inclusive, and Lots 66 through 70, inclusive, all in TUSCAN FARM 1ST PLAT, a subdivision of land in the City of Gardner, Johnson County, Kansas.