

RESOLUTION NO. 2103

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 AREAWIDE 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 Areawide Benefit District, to provide notice of a public hearing on such proposed modifications to the Areawide Benefit District and the proposed assessments to be levied in connection therewith, and following such public hearing, to consider an ordinance repealing Ordinance No. 2613 which levied maximum assessments within the Areawide 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 Areawide 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 Areawide 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.

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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 Areawide 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 Sanitary Lift Station Special Benefit District, also referred to as the Tuscan Farm Areawide 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:

Installation of a subdivision sanitary sewer lift station, approximately 2,550 L.F. of 8” force main, wet well, electrical generator and power lines, manhole(s), meters, and all related improvements; 12’ wide gravel access road, fencing, gates, seeding, restoration, and all related improvements; costs of design for an offsite sanitary sewer lift station and all related improvements; construction of a portion of internal collector and local streets shown on Tuscan Farm First Plat, which will include curbs and gutters, asphaltic pavement surfacing, sidewalks, storm drainage facilities, and all related improvements; City administrative costs; and legal fees

The improvements have been completed at a total cost of \$2,065,000, 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 70, inclusive, in TUSCAN FARM 1ST PLAT, a subdivision of land in the City of Gardner, Johnson County, Kansas.

And

All that part of Section 2, Township 15, Range 22 in the City of Gardner, Johnson County, Kansas, described as follows:

Commencing at the Southeast corner of the Southeast quarter of said Section 2; thence North 2 degrees 49 minutes 15 seconds West, along the East Line of the Southeast quarter of said Section 2, a distance of 1321.88 feet to the point of beginning; thence South 88 degrees 19 minutes 16 seconds West, along the North lines of Lot 9, Friends and Neighbors II, a subdivision in Johnson County, Kansas and Lots 4 through 8, Friends and Neighbors, a subdivision in Johnson County, Kansas, a distance of 2,655.23 feet, to a point on the West Line of said Section 2; thence North 2 degrees 22 minutes 48 seconds West, along said West Line, a distance of 1318.21 feet, to a point on KDOT right-of-way; thence North 54 degrees 23 minutes 53 seconds East, along said KDot Right-of-way, a distance of 18.47 feet; thence North 52 degrees 01 minutes 54 seconds East, along said KDot Right-of-way, a distance of 292.85 feet; thence North 46 degrees 59 minutes 42 seconds East, along said KDot Right-of-way, a distance of 20.94 feet; thence North 34 degrees 47 minutes 25 seconds East, along said KDot Right-of-way, a distance 108.18 feet; thence North 89 degrees 00 minutes 13 seconds East, a distance of 1,376.19 feet, to a point on the West line of Nike School, a subdivision in the City of Gardner, Johnson County, Kansas; thence South 2 degrees 48 minutes 54 seconds East, along said West Line of Nike School, a distance of 608.79 feet; thence North 87 degrees 11 minutes 06 seconds East, along the South Line of said Nike School, a distance of 932.13, to a point on the East Line of said Section 2; thence South 2 degrees 49 minutes 15 seconds East, along said East Line of Section 2; a distance of 996.18 feet, to the point of beginning; containing 82.80 acres more or less.

Less and except:

All that property contained in TUSCAN FARM 1ST PLAT, a subdivision of land in the City of Gardner, Johnson County, Kansas, more particularly described as follows:

A part of the Southeast Quarter and the Northeast Quarter of Section 2, Township 15 South, Range 22 East, now in the City of Gardner, Johnson County, Kansas, described as follows: Commencing at the Southeast corner of the Southeast Quarter of said Section 2; thence North 2 degrees 49 minutes 15 seconds West, along the East line of the Southeast Quarter of said Section 2, a distance of 1992.91 feet to the Point of Beginning; thence South 87 degrees 10 minutes 45 seconds West, a distance of 153.10 feet; thence North 86 degrees 42 minutes 20 seconds West, a distance of 140.80 feet; thence South 87 degrees 10 minutes 45 seconds West, a distance of 570.70 feet; thence South 85 degrees 33 minutes 26 seconds West, a distance of 57.92 feet; thence South 64 degrees 49 minutes 17 seconds West, a distance of 261.37 feet; thence Northwesterly along a curve to the left, having a radius of 600.00 feet, an initial tangent bearing of North 26 degrees 43 minutes 38 seconds West, a central angle of 11 degrees 35 minutes 29 seconds, a distance of 121.39 feet;

thence Northwesterly, Northerly, and Northeasterly along a reverse curve to the right, having a radius of 14.00 feet, a central angle of 93 degrees 00 minutes 22 seconds, a distance of 22.73 feet; thence North 42 degrees 39 minutes 45 seconds West, a distance of 50.32 feet; thence Northeasterly along a curve to the right, having a radius of 225.00 feet, an initial tangent bearing of North 53 degrees 02 minutes 52 seconds East, a central angle of 12 degrees 24 minutes 35 seconds, a distance of 48.73 feet; thence North 65 degrees 27 minutes 27 seconds East, a distance of 27.99 feet; thence North 27 degrees 32 minutes 02 seconds West, a distance of 156.08 feet; thence North 10 degrees 18 minutes 17 seconds West, a distance of 96.95 feet; thence North 28 degrees 35 minutes 10 seconds East, a distance of 40.98 feet; thence North 77 degrees 26 minutes 57 seconds West, a distance of 176.02 feet; thence North 68 degrees 15 minutes 07 seconds West, a distance of 216.80 feet; thence North 77 degrees 42 minutes 49 seconds West, a distance of 203.15 feet; thence South 88 degrees 29 minutes 28 seconds West, a distance of 50.18 feet; thence North 81 degrees 46 minutes 38 seconds West, a distance of 371.75 feet; thence South 1 degree 27 minutes 50 seconds East, a distance of 20.01 feet; thence South 88 degrees 32 minutes 10 seconds West, a distance of 164.27 feet; thence North 19 degrees 28 minutes 05 seconds West, a distance of 73.60 feet; thence North 41 degrees 47 minutes 48 seconds West, a distance of 135.25 feet to a point on the Southeasterly right-of-way line of I-35 Highway as it is now established; thence North 52 degrees 53 minutes 44 seconds East, along said Southeasterly right-of-way line, a distance of 101.15; thence North 47 degrees 06 minutes 11 seconds East, continuing along said Southeasterly right-of-way line, a distance of 126.91 feet; thence North 88 degrees 29 minutes 44 seconds East, along a line 240.18 feet North of and parallel with the South Line of the Northeast Quarter of said Section 2, a distance of 1375.88 feet to a point on the West line of Lot 2, Nike School, a subdivision of land in the City of Gardner, Johnson County, Kansas; thence South 2 degrees 48 minutes 54 seconds East, along the West line of said Lot 2, a distance of 587.27 feet to the Southwest corner of said Lot 2; thence North 87 degrees 11 minutes 06 seconds East, along the South line of said Lot 2, a distance of 932.13 feet to a point on the East line of the Southeast Quarter of said Section 2; thence South 2 degrees 49 minutes 15 seconds East, a distance of 325.16 feet to the Point of Beginning, containing 23.68 acres, more or less.