

ORDINANCE NO. 2732

AN ORDINANCE AMENDING RESOLUTION NO. 2013 OF THE CITY OF GARDNER, KANSAS, REPEALING ORDINANCE NO. 2614 OF THE CITY, AND LEVYING AND ASSESSING SPECIAL ASSESSMENTS ON CERTAIN LOTS, PIECES, AND PARCELS OF LAND LIABLE FOR SUCH SPECIAL ASSESSMENTS TO PAY THE COSTS OF CERTAIN IMPROVEMENTS IN THE CITY (TUSCAN FARM PHASE 1A INFRASTRUCTURE SPECIAL BENEFIT DISTRICT).

WHEREAS, pursuant to Resolution No. 2013 of the City of Gardner, Kansas (the “City”), adopted on February 18, 2019 (the “Improvement Resolution”), the Governing Body of the City has authorized the creation of an improvement district (the “District”) and the construction of the following improvements (the “Original 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 Ordinance No. 2614 of the City, passed on May 6, 2019 (the “Max Assessment Ordinance”), the City levied maximum assessments against the properties in the District for the cost of the Original Improvements;

WHEREAS, construction of the Original Improvements authorized by the Improvement Resolution is complete, the final cost of the Original Improvements has been determined by the City, and the City has received a petition signed by 100% of the property owners in the District requesting certain modifications to District (the “Petition”);

WHEREAS, the Governing Body of the City has conducted a public hearing on the proposed modifications to the District as requested in the Petition, and the proposed assessments against the properties in the District based upon such modifications, following notice by the City of such proposed modifications and proposed assessments in accordance with K.S.A. 12-6a09; and

WHEREAS, the Governing Body of the City now finds it necessary and desirable to amend the Improvement Resolution to reflect the modifications requested in the Petition, to repeal the Max Assessment Ordinance, and to levy assessments against the District as reflected herein;

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

SECTION 1. Subsection (a) of Section 1 of the Improvement Resolution is hereby deleted in its entirety and replaced with the following (which, collectively, are referred to herein as the “Improvements”):

- (a) It is advisable to make the following improvements:

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.

SECTION 2. Subsection (b) of Section 1 of the Improvement Resolution is hereby deleted in its entirety and replaced with the following:

- (b) The maximum estimated or probable cost of the proposed improvements is: \$1,085,000, including the costs of issuance of temporary notes and long-term bonds and the interest expense on temporary notes.

SECTION 3. Subsection (d) of Section 1 of the Improvement Resolution is hereby deleted in its entirety and replaced with the following:

- (d) The method of assessment is: the costs of the improvements shall be assessed equally per platted residential lot within the improvement district excluding those areas dedicated as public right of way, public parks, storm water retention or detention areas, association common areas, publicly owned easements or similar areas not containing residences. The forty (40) residential lots which will be assessed equally as described above are as reflected on attached *Exhibit B*. The term of the improvement district shall be twenty (20) years.

SECTION 4. The Improvement Resolution is hereby amended by adding *Exhibit B* attached hereto as if such exhibit were attached to the Improvement Resolution when such resolution was originally adopted.

SECTION 5. Pursuant to K.S.A. 12-6a01 *et seq.*, as amended, special assessments to pay the costs of the Improvements in the City authorized by the Improvement Resolution, as amended by this Ordinance, are hereby levied and assessed against the District. The boundaries of the District are as described on *Exhibit A* to this Ordinance, which is incorporated herein by reference. There are hereby levied and assessed against each of lots, pieces, and parcels of land within the District liable therefor as described on *Exhibit C* to this Ordinance, which is incorporated herein by reference, the amounts set forth on *Exhibit C* following the description of each such lot, piece, or parcel of land.

SECTION 6. The amounts so levied and assessed shall be due and payable from and after the date of publication of this Ordinance, and the City Clerk shall notify the owners of the affected properties of the amounts of their assessments and that, unless the assessments are paid by July 14, 2022, bonds will be issued therefor and such assessments will be levied concurrently with general taxes and be payable in 20 annual installments with interest.

SECTION 7. The City Clerk shall mail to the owners of the property liable to pay the assessments, at their last known post office address, a notice stating the final cost to be assessed against each owner's property and that, unless paid as set forth above, such assessment shall be levied concurrently with general taxes and be payable in twenty (20) annual installments with interest.

SECTION 8. The City Clerk shall certify to the County Clerk of Johnson County, Kansas, in the same manner and at the same time as other taxes are certified, for a period of twenty (20) years, all of the assessments which have not been paid by July 14, 2022, together with interest on such amount thereof at a rate not exceeding the maximum rate as prescribed by the laws of the State of Kansas, and such amounts shall be placed on the tax rolls and collected as other taxes are collected, the levy for each year being a portion of the principal amount of the assessment plus interest as provided by law.

SECTION 9. The Max Assessment Ordinance is hereby repealed in its entirety and replaced with this Ordinance.

SECTION 10. This Ordinance shall take effect and be in force from and after its publication (including publication of *Exhibits A, B, and C* hereto) once in the official City newspaper and shall also be filed of record in the office of the Register of Deeds of Johnson County, Kansas.

[remainder of page left blank intentionally]

PASSED by the Governing Body of the City of Gardner, Kansas, and approved by the Mayor on June 6, 2022.

CITY OF GARDNER, KANSAS

(Seal)

_____/s/_____
Mayor

ATTEST:

_____/s/_____
City Clerk

EXHIBIT A

BOUNDARIES OF IMPROVEMENT DISTRICT

Tuscan Farm 1st Plat – Phase 1a

Legal Description

All that part of the Southwest Quarter of Section 02, Township 15, 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 02 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 on a northwesterly curve having an initial tangent bearing North 26 degrees 43 minutes 38 Seconds West, Delta 11 degrees 35 minutes 31 seconds, a radius of 600.00 feet, a distance of 121.39 feet; thence on a curve to the Northeast having a radius of 14.00 feet, delta 93 degrees 01 minutes 26 seconds, a distance of 22.73 feet; thence North 42 degrees 39 minutes 45 seconds West, a distance of 50.32 feet; thence on northeasterly curve, having an initial tangent bearing of North 53 degrees 02 minutes 52 seconds East, a delta of 12 degrees 24 minutes 32 seconds, a radius of 225.00 feet, 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 2 degrees 48 minutes 54 seconds West, a distance of 210.39 feet; thence North 87 degrees 11 minutes 06 seconds East, a distance of 39.85 feet; thence North 2 degrees 48 minutes 54 seconds West, a distance of 135.42 feet; thence South 86 degrees 47 minutes 30 seconds West, a distance of 68.13 feet; thence North 79 degrees 11 minutes 42 seconds West, a distance of 57.04 feet; thence North 1 degree 35 minutes 08 seconds West, a distance of 203.83 feet; thence North 89 degrees 00 minutes 13 seconds East, a distance of 386.77 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 the West line of said 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 the said Southeast Quarter of Section 2; thence South 2 degrees 49 minutes 15 seconds East, along said East Line of Section 2, a distance of 325.16 feet, to the point of beginning, having 13.79 acres more or less.

EXHIBIT B

PROPERTIES INCLUDED IN IMPROVEMENT DISTRICT

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

EXHIBIT C

**TUSCAN FARM PHASE 1A INFRASTRUCTURE
SPECIAL BENEFIT DISTRICT ASSESSMENTS**

Parcel Number(s)	Legal Description	Amount of assessment
CP87700000 0001	Tuscan Farm 1 st Plat, Lot 1	\$26,750.00
CP87700000 0002	Tuscan Farm 1 st Plat, Lot 2	\$26,750.00
CP87700000 0003	Tuscan Farm 1 st Plat, Lot 3	\$26,750.00
CP87700000 0004	Tuscan Farm 1 st Plat, Lot 4	\$26,750.00
CP87700000 0005	Tuscan Farm 1 st Plat, Lot 5	\$26,750.00
CP87700000 0006	Tuscan Farm 1 st Plat, Lot 6	\$26,750.00
CP87700000 0007	Tuscan Farm 1 st Plat, Lot 7	\$26,750.00
CP87700000 0008	Tuscan Farm 1 st Plat, Lot 8	\$26,750.00
CP87700000 0009	Tuscan Farm 1 st Plat, Lot 9	\$26,750.00
CP87700000 0010	Tuscan Farm 1 st Plat, Lot 10	\$26,750.00
CP87700000 0011	Tuscan Farm 1 st Plat, Lot 11	\$26,750.00
CP87700000 0012	Tuscan Farm 1 st Plat, Lot 12	\$26,750.00
CP87700000 0013	Tuscan Farm 1 st Plat, Lot 13	\$26,750.00
CP87700000 0014	Tuscan Farm 1 st Plat, Lot 14	\$26,750.00
CP87700000 0015	Tuscan Farm 1 st Plat, Lot 15	\$26,750.00
CP87700000 0016	Tuscan Farm 1 st Plat, Lot 16	\$26,750.00
CP87700000 0017	Tuscan Farm 1 st Plat, Lot 17	\$26,750.00
CP87700000 0018	Tuscan Farm 1 st Plat, Lot 18	\$26,750.00
CP87700000 0019	Tuscan Farm 1 st Plat, Lot 19	\$26,750.00
CP87700000 0020	Tuscan Farm 1 st Plat, Lot 20	\$26,750.00
CP87700000 0021	Tuscan Farm 1 st Plat, Lot 21	\$26,750.00
CP87700000 0022	Tuscan Farm 1 st Plat, Lot 22	\$26,750.00
CP87700000 0023	Tuscan Farm 1 st Plat, Lot 23	\$26,750.00
CP87700000 0024	Tuscan Farm 1 st Plat, Lot 24	\$26,750.00
CP87700000 0025	Tuscan Farm 1 st Plat, Lot 25	\$26,750.00
CP87700000 0026	Tuscan Farm 1 st Plat, Lot 26	\$26,750.00
CP87700000 0027	Tuscan Farm 1 st Plat, Lot 27	\$26,750.00
CP87700000 0028	Tuscan Farm 1 st Plat, Lot 28	\$26,750.00
CP87700000 0029	Tuscan Farm 1 st Plat, Lot 29	\$26,750.00
CP87700000 0030	Tuscan Farm 1 st Plat, Lot 30	\$26,750.00
CP87700000 0031	Tuscan Farm 1 st Plat, Lot 31	\$26,750.00
CP87700000 0032	Tuscan Farm 1 st Plat, Lot 32	\$26,750.00
CP87700000 0033	Tuscan Farm 1 st Plat, Lot 33	\$26,750.00
CP87700000 0034	Tuscan Farm 1 st Plat, Lot 34	\$26,750.00
CP87700000 0035	Tuscan Farm 1 st Plat, Lot 35	\$26,750.00
CP87700000 0066	Tuscan Farm 1 st Plat, Lot 66	\$26,750.00
CP87700000 0067	Tuscan Farm 1 st Plat, Lot 67	\$26,750.00
CP87700000 0068	Tuscan Farm 1 st Plat, Lot 68	\$26,750.00

Parcel Number(s)	Legal Description	Amount of assessment
CP87700000 0069	Tuscan Farm 1 st Plat, Lot 69	\$26,750.00
CP87700000 0070	Tuscan Farm 1 st Plat, Lot 70	\$26,750.00