

RESOLUTION NO. 2119

A RESOLUTION OF THE CITY OF GARDNER, KANSAS, APPROVING THE EXECUTION AND DELIVERY OF A THIRD AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR THE MAIN STREET MARKET PLACE DEVELOPMENT PROJECT WITHIN THE CITY.

WHEREAS, the City of Gardner, Kansas (the “City”), is a duly organized city of the second class, created, organized and existing under the laws of the State of Kansas;

WHEREAS, pursuant to Resolution No. 2097, adopted by the Governing Body of the City on December 6, 2021, the City previously entered into a Second Amended and Restated Development Agreement for Project Area One in Main Street Market Place TIF District and CID, dated as of December 6, 2021 (the “Second A&R Development Agreement”), by and between the City and Group Gardner, LLC, a Kansas limited liability company (“Group Gardner”), for the acquisition, construction, and equipping of a new grocery store and pad sites, the redevelopment of an existing grocery store, and the performance of certain related improvements (collectively, the “Project”) within the City;

WHEREAS, following execution and delivery of the Second A&R Development Agreement, certain of the rights and obligations of Group Gardner thereunder with respect to redevelopment of the existing grocery store were assigned to and assumed by DJC Properties, L.L.C., a Kansas limited liability company (“DJC,” and, severally with Group Gardner, the “Developer”) pursuant to Section 703 thereof; and

WHEREAS, at the Developer’s request, the City and the Developer have determined it necessary and desirable to enter into a Third Amended and Restated Development Agreement (the “Third A&R Development Agreement”) to amend and restate the Second A&R Development Agreement, as partially assigned to DJC, to modify the deadline for the Developer’s completion of renovations to the existing grocery store;

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

Section 1. The City is hereby authorized to enter into the Third A&R Development Agreement by and between the City and the Developer in substantially the form presented to and reviewed by the Governing Body on the date of this Resolution (copies of this document shall be 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 2. The Mayor, City Clerk, and other officers and representatives of the City are hereby authorized and directed to execute, seal, attest, and deliver the Third A&R Development Agreement and such other documents, certificates and instruments as may be necessary and desirable to carry out and comply with the intent of this Resolution, for and on behalf of and as the act and deed of the City.

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 February 6, 2023.

CITY OF GARDNER, KANSAS

(Seal)

_____/s/_____
Mayor

ATTEST:

_____/s/_____
City Clerk