

RESOLUTION NO. 2123

A RESOLUTION DETERMINING THE ADVISABILITY OF CERTAIN IMPROVEMENTS IN THE CITY OF GARDNER, KANSAS, AND AUTHORIZING AND PROVIDING FOR THE MAKING OF SUCH IMPROVEMENTS IN ACCORDANCE WITH THE FINDINGS OF THE GOVERNING BODY AND K.S.A. 12-6a01 *ET SEQ.* (HILLTOP RIDGE MADISON STREET SPECIAL BENEFIT DISTRICT).

WHEREAS, K.S.A. 12-6a02 authorizes the governing body of any city to make or cause to be made municipal works or improvements which confer a special benefit upon property within a definable area of the city and to levy and collect special assessments upon property in the area deemed by the governing body to be benefited by such improvements for special benefits conferred upon such property by any such improvements and to provide for the payment of all or any part of the costs of the improvements with the proceeds of such special assessments;

WHEREAS, a petition (the "Petition"), executed by 100% of the owners of property within the proposed improvement district, has been filed with the City Clerk of the City of Gardner, Kansas (the "City"), requesting certain improvements be made in accordance with K.S.A. 12-6a01 *et seq.*;

WHEREAS, K.S.A. 12-6a04(d) provides that upon receipt of a petition filed with the City Clerk in accordance with K.S.A. 12-6a04(c), the Governing Body of the City may (a) make findings by resolution as to the advisability of the improvements requested in the petition, the nature of the improvements, the estimated cost, the boundaries of the improvement district, the method of assessment and apportionment of cost, if any, between the improvement district and the city-at-large and (b) order the improvements without notice or public hearing; and

WHEREAS, the Governing Body finds it necessary to make its final findings by resolution as to the advisability of the proposed improvements and finds and determines it necessary to authorize the improvements;

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

SECTION 1. The Governing Body finds and finally determines that:

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

Earthwork, water lines, storm sewer improvements, paving, and all related appurtenances to and along Madison Street generally located south of the Hilltop Ridge Subdivision within the City.

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

- (c) The boundaries of the proposed improvement district are as described on the attached *Exhibit A*.
- (d) The method of assessment is: the costs of the improvements shall be assessed equally per platted residential lot within the improvement district (estimated total of 150 lots) 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. A portion of the property in the improvement district is subdivided into thirty-two (32) lots. The remaining portion of the property in the improvement district is not currently subdivided. The assessment against the unsubdivided portion of the property in the improvement district shall initially be levied in the aggregate amount to be assessed against the estimated one hundred eighteen (118) lots yet to be platted, and then shall be reallocated on a per lot basis (or in such other equitable manner as the owners of such property agree to in writing), as such property is further subdivided.
- (e) The apportionment of the cost of the improvements, between the improvement district and the city-at-large, is: 100% to be assessed against the improvement district and 0% to be paid by the city-at-large.
- (f) The improvement district does not include all the property which may be deemed to be benefited by the proposed improvements.
- (g) The persons or entities who signed the Petition are willing to pay the costs of the proposed improvements as set forth in the Petition.

SECTION 2. Subject to the following conditions, the improvements are authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in Section 1 of this Resolution:

- (a) The City shall commence construction of the improvements when development of the surrounding area, including the proposed improvement district, warrant the construction of such improvements. The determination as to when such improvements are warranted shall be in the sole and absolute discretion of the Governing Body of the City.
- (b) If the City determines construction of the improvements is warranted, then the developer or developers of property in the proposed improvement district shall provide the City a letter of credit or similar security in an amount satisfactory to the City reflecting a portion of the cost of constructing the improvements to secure the City against the risk of unpaid special assessments.
- (c) If the City determines construction of the improvements is warranted, then construction shall only proceed in the event that the signers of the Petition are current on the payment of all taxes and special assessments payable on property then owned by such signers in the proposed improvement district.

If conditions (a), (b), and (c) above are satisfied within four (4) years of the date of this Resolution, then the City shall proceed with construction of the improvements. In the event conditions (a), (b), and (c) are not satisfied within four (4) years of the date of this Resolution, then the Governing Body of the City may, in its sole discretion, terminate the proposed improvement district, rescind conditional approval of the improvements as set forth in this Section 2, and rescind the authorization to finance the cost of such improvements through the proposed improvement district.

In the event the improvements are constructed, general obligation bonds or notes are authorized to be issued in an aggregate amount not exceeding the estimated cost of the improvements, and the proceeds from such notes or bonds may be used to reimburse expenditures made by the City 60 days before and during the time after the date of this Resolution in accordance with United States Treasury Regulation 1.150-2.

SECTION 3. This Resolution shall be published one time in the official City newspaper and shall also be filed of record in the office of the Register of Deeds of Johnson County, Kansas.

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ADOPTED by the Governing Body of the City of Gardner, Kansas, on May 1, 2023.

CITY OF GARDNER, KANSAS

(Seal)

Mayor

ATTEST:

City Clerk

EXHIBIT A

BOUNDARIES OF PROPOSED IMPROVEMENT DISTRICT

Tracts A, B, and C, and Lots 1 through 32, inclusive, in HILLTOP RIDGE – 1ST PLAT, a subdivision in the Northwest Quarter of Section 22, Township 14 South, Range 22 East, in the City of Gardner, Johnson County, Kansas.

AND

All that part of the West Half of the Northwest Quarter of Section 22, Township 14 South, Range 22 East, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of the Northwest Quarter of said Section 22; thence North 88 degrees 16 minutes 55 seconds East, along the North line of the Northwest Quarter of said Section 22, a distance of 652.13 feet to the point of beginning; thence South 1 degree 43 minutes 05 seconds East, a distance of 142.44 feet; thence South 54 degrees 07 minutes 26 seconds West, a distance of 247.56 feet; thence South 17 degrees 40 minutes 26 seconds West, a distance of 899.98 feet; thence South 25 degrees 28 minutes 37 seconds West, a distance of 300.35 feet to a point on the West line of the Northwest Quarter of said Section 22; thence South 2 degrees 10 minutes 37 seconds East, along the West line of the Northwest Quarter of said Section 22, a distance of 1271.06 feet to the Southwest corner of the Northwest Quarter of said Section 22; thence North 88 degrees 16 minutes 13 seconds East, along the South line of the Northwest Quarter of said Section 22, a distance of 1329.32 feet to the Southeast corner of the West half of the Northwest Quarter of said Section 22; thence North 2 degrees 22 minutes 27 seconds West, along the East line of the West Half of the Northwest Quarter of said Section 22, a distance of 2668.43 feet to the Northeast corner of the West Half of the Northwest Quarter of said Section 22; thence South 88 degrees 16 minutes 55 seconds West, along the North line of the Northwest Quarter of said Section 22, a distance of 668.00 feet to the point of beginning, containing 71.15 acres, more or less.

Less and except:

All that part of Tract "B", as shown on Survey recorded in Book 201910, Page 002932, in the Office of the Register of Deeds, Johnson County, Kansas, lying in the West Half of the Northwest Quarter of Section 22, Township 14 South, Range 22 East, in the City of Gardner, Johnson County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of said Section 22; thence North 88°16'55" East, along the North line of said Northwest Quarter, a distance of 652.13 feet to the Point of Beginning; thence continuing North 88°16'55" East, along said North line, a distance of 668.00 feet to the Northeast corner of the West Half of the Northwest Quarter of said Section 22; thence South 02°22'27" East, along the East line of West Half of the Northwest Quarter of said Section 22, a distance of 934.42 feet; thence departing said East line, South 87°37'33" West a distance of 262.67 feet; thence North 25°44'33" West a distance of 53.00 feet; thence South 87°37'33" West a distance of 150.22 feet; thence northerly along a non-tangent curve to the right having a radius of 275.00 feet, and a chord which bears North 12°02'46" West, 21.95 feet, for an arc length of 21.96 feet; thence South 80°14'29" West a distance of 193.89 feet; thence North

02°22'27" West a distance of 86.70 feet; thence North 18°41'48" West a distance of 75.02 feet; thence South 87°37'33" West a distance of 218.92 feet; thence North 72°19'34" West a distance of 163.08 feet to a point on the East line of Tract "A", as shown on said recorded Survey; thence along said East line, the following three courses: thence North 17°40'26" East a distance of 429.01 feet; thence North 54°07'26" East a distance of 247.56 feet; thence North 01°43'05" West a distance of 142.44 feet to the Point of Beginning, containing 744,036 square feet, or 17.081 acres, more or less.

County Tax Parcel IDs: CP37530000 0T0A
CP37530000 0T0B
CP37530000 0T0C
CP37530000 0001 through CP37530000 0032, inclusive
CF221422-1003