

RESOLUTION NO. 1945

A RESOLUTION OF THE CITY OF GARDNER, KANSAS, APPROVING THE EXECUTION OF A FUNDING AGREEMENT RELATED TO A PROPOSED ECONOMIC DEVELOPMENT PROJECT GENERALLY LOCATED AT 175th STREET AND S. CLARE ROAD (DAY3, LLC PROJECT).

WHEREAS, the City of Gardner, Kansas (the “City”) is a municipal corporation and political subdivision duly organized and existing under the laws of the State of Kansas, and is authorized by certain statutory provisions to provide financial incentives for qualified development projects; and

WHEREAS, Day3, LLC, a Missouri limited liability company qualified to do business in the State of Kansas (the “Applicant”), has requested that the City review and analyze Applicant’s request (the “Request”) to consider the use of certain financial incentives for economic development projects generally located at the southwest corner of 175th Street and S. Clare Road, within Johnson County, Kansas; and

WHEREAS, in order to grant the Applicant’s Request, the City must retain administrative and professional staff, outside counsel and consultants, and incur expenses; and

WHEREAS, the City requires that the Applicant agree to pay and reimburse the City for payment of the above-described costs, as a condition to the City’s consideration of the Applicant’s Request; and

WHEREAS, the City and the Applicant desire to enter into a funding agreement (the “Funding Agreement”) to document their understanding regarding payment of said costs;

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

1. The City is hereby authorized to enter into a Funding Agreement between the Applicant and the City in substantially the form presented to and reviewed by the Governing Body of the City (copies of which document shall be filed in the records of the City), with such changes therein as shall be approved by the officials of the City executing the Funding Agreement, such officials’ signatures thereon being conclusive evidence of their approval thereof. Pursuant to the Funding Agreement, the City will perform certain services relating to the Applicant’s Request, subject to the limitations set forth therein, and the Applicant will pay the City for its fees and expenses as described therein.

2. The Mayor, City Clerk and other appropriate officers of the City are hereby authorized and directed to execute, attest, acknowledge and deliver, for and on behalf of and as the act and deed of the City, the Funding Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

3. The City shall, and the officials and agents of the City and Kutak Rock LLP, Bond Counsel, are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the Funding Agreement.

ADOPTED by the Governing Body of the City on March 7, 2016.

CITY OF GARDNER, KANSAS

By: /s/ Chris Morrow
Chris Morrow, Mayor

(SEAL)

Attest:

By: /s/ Jeanne Koontz
Jeanne Koontz, City Clerk