

RESOLUTION NO. 2005

A RESOLUTION OF THE CITY OF GARDNER, KANSAS, PROVIDING FOR NOTICE OF A PUBLIC HEARING CONCERNING THE ADVISABILITY OF THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT WITHIN THE CITY, DECLARING THE INTENT OF THE CITY TO LEVY A COMMUNITY IMPROVEMENT DISTRICT SALES TAX PURSUANT TO K.S.A. 12-6a26 *ET SEQ.*, AND REPEALING AND REPLACING RESOLUTION NO. 2000 OF THE CITY.

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.* (the “Act”), the City of Gardner, Kansas (the “City”), is authorized to create a community improvement district and to provide for financing of certain costs associated with a project within the community improvement district (a “CID Project”);

WHEREAS, upon proper petition, the Act further authorizes the City, in order to pay costs of any project which is a CID Project, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within a community improvement district in any increment of .10% or .25% not to exceed 2% (a “CID Sales Tax”) and to reimburse the costs of such project pursuant to pay-as-you-go financing and/or the issuance of special obligation notes and bonds payable from such CID Sales Tax;

WHEREAS, a petition (the “Petition”) was previously filed with the City Clerk proposing the creation of a community improvement district pursuant to the Act to be known as the “Main Street Market Place CID” (the “CID”), the completion of a CID Project within the CID as further described herein (the “Project”), and the imposition of a CID Sales Tax to pay for a portion of the costs of the Project;

WHEREAS, the proposed CID is generally located at the northwest corner of E. Main Street and N. Moonlight Road within the City;

WHEREAS, the Petition was signed by the owners of record, whether resident or not, of more than 55% of assessed value of the land area contained within the proposed CID and by more than 55% percent of all owners of real property within the boundaries of the CID;

WHEREAS, if the CID is created by the City and certain further conditions are met, the City intends to impose a 1.0% CID Sales Tax within the CID;

WHEREAS, the Act provides that prior to creating any community improvement district, the City shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district, the authorization of a CID Project therein, and the intent of the City to levy a CID Sales Tax within such district and shall give notice of said public hearing in accordance with the Act;

WHEREAS, pursuant to Resolution No. 2000, adopted by the Governing Body of the City on November 5, 2018, the public hearing was originally scheduled for December 17, 2018;

WHEREAS, Resolution No. 2000 listed the approximate cost of the Project to be reimbursed to the developer of the Project from CID Sales Tax as \$4,500,000;

WHEREAS, the City has received an amended petition (the “Amended Petition”) signed by the owners of record, whether resident or not, of more than 55% of assessed value of the land area contained within the proposed CID and by more than 55% percent of all owners of real property within the boundaries of the CID;

WHEREAS, the Amended Petition amends the approximate cost of the Project to be reimbursed to the developer of the Project from CID Sales Tax to \$12,500,000, amends the estimated cost of the Project to \$28,993,740, and makes a technical correction to the map of the CID; and

WHEREAS, it is necessary to repeal and replace Resolution No. 2000 and reschedule the public hearing on the creation of the CID;

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

1. Notice is hereby given that a public hearing to consider the advisability of the creation by the City of the CID and the imposition by the City of a 1.0% CID Sales Tax within the CID shall be held at the City Council Chambers, City Hall, 120 E. Main Street, Gardner, Kansas, on January 22, 2019, beginning at 7:00 p.m., Central Time, or as soon thereafter as is practical.

2. The general nature of the proposed Project to be constructed within the proposed CID is set forth on *Exhibit A* attached hereto.

3. The estimated cost of the Project within the proposed CID is \$28,993,740 with approximately \$12,500,000 of such cost, plus the City’s administrative costs and an interest component (if agreed to by the City), proposed to be reimbursed to the developer of the Project from CID Sales Tax.

4. The Project within the proposed CID will be financed, in part, on a pay-as-you-go basis from revenues received from the imposition of a 1.0% CID Sales Tax within the proposed CID. No special assessments are proposed as part of the CID. The City may, in its discretion, consider the issuance of special obligation bonds or notes to finance all or a portion of the Project.

5. A legal description of the proposed CID is set forth in *Exhibit B* attached hereto. A map generally outlining the boundaries of the proposed CID is attached hereto as *Exhibit C*.

6. The City Clerk shall give notice of the public hearing in accordance with the provisions of the Act by publishing this Resolution at least once each week for two consecutive weeks in the newspaper and sending this Resolution by certified mail to all owners. The second publication of this Resolution shall occur at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least ten days prior to the date of hearing.

7. Resolution No. 2000 of the City is hereby repealed in its entirety.
8. 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 December 17, 2018.

CITY OF GARDNER, KANSAS

(Seal)

/s/
Mayor

ATTEST:

/s/
City Clerk

EXHIBIT A

THE PROJECT

The general nature of the proposed community improvement district project (the “Project”) is: (a) construction of a new grocery store of approximately 60,000 square feet; (b) redevelopment of an existing grocery store building into new commercial uses; (c) façade improvements to the existing Moonlight Plaza shopping center; (d) construction of two (2) pad sites; and (e) related site and parking improvements, all within the Main Street Market Place CID located on the property legally described on *Exhibit B*.

EXHIBIT B

LEGAL DESCRIPTION OF COMMUNITY IMPROVEMENT DISTRICT

All of Lot 47, WHITE ACRES, and a part of Lot 1, GAULTCEST REPLAT, and a part of Lot 1, MOONLIGHT PLAZA FIRST PLAT, and all of Lot 1 MOONLIGHT PLAZA CENTER, and all of Lot 1, COUNTRY MART, all being additions to the City of Gardner along with a part of the Southeast Quarter of Section 24, Township 14 South, Range 22 East, in the City of Gardner, Johnson County, Kansas, and being described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 24; thence S 02°07'55" E along the East line of said Southeast Quarter, 1755.65 feet to the centerline of Lincoln Lane extended; thence S 88°27'57" W along said centerline, 235.00 feet to the Northeast corner of said COUNTRY MART, said point being the Point of Beginning;

thence continuing S 88°27'57" W along said centerline extended, 1258.40 feet to a point on the East line of said WHITE ACRES;

thence S 02°05'19" E, along the East line of said WHITE ACRES, 601.53 feet to the Northeast corner of said Lot 47, WHITE ACRES;

thence S 88°04'45" W, along the North line of said Lot 47, 120.00 feet to the Northwest corner thereof;

thence S 01°53'27" E, along the West line of said Lot 47, 103.77 feet to the Southwest corner thereof;

thence N 88°04'45" E, along the South line of said Lot 47, 120.00 feet to the Southeast corner thereof;

thence S 01°53'27" E, along the East line of said WHITE ACRES and the West line of said Lot 1, GAULTCEST REPLAT, 154.00 feet to the Southwest corner of said Lot 1;

thence N 88°24'06" E, along the South line of said Lot 1, GAULTCEST REPLAT, 193.30 feet to a point on the West line of said Lot 1, QUIKTRIP STORE NO. 249;

thence N 02°06'59" W, along the West line of said Lot 1, QUIKTRIP STORE NO. 249, 298.13 feet to the Northwest corner thereof;

thence N 87°51'18" E, along the North line, 300.09 feet to the Northeast corner of said Lot 1, QUIKTRIP STORE NO. 249, said point also being on the West line of said MOONLIGHT PLAZA CENTER;

thence S 02°07'55" E, along said West line, 268.37 feet to the Southwest corner thereof;

thence N 80°31'36" E, along the South line of said MOONLIGHT PLAZA CENTER, 45.37 feet;

thence N 02°07'55" W, along an Easterly line, of said MOONLIGHT PLAZA CENTER, 254.96 feet;

thence N 88°27'57" E, along the Southerly line, 401.00 feet to the Southeast corner of said Lot 1, MOONLIGHT PLAZA CENTER, said point also being the Southwest corner of said Lot 1, COUNTRY MART;

thence departing said Southerly line, S 02°07'55" E through a portion said Lot 1, MOONLIGHT PLAZA FIRST PLAT, 165.44 feet to a point on the US Highway 56 Northerly Right of Way line as described in Deed Book 2564 at Page 398 of the records of said Johnson County;

thence N 75°26'05" E, along said Northerly Right of Way line and Southerly line of said Lot 1, Country Mart, 322.80 feet to the Southwest corner of said COUNTRY MART;

thence N 02°07'55" W, along the Easterly line of said COUNTRY MART, 294.00 feet to a corner;

thence N 87°52'05" E along said Easterly line, 5.20 feet to a corner;

thence N 02°07'55" W along said Easterly line, 363.50 feet to the POINT OF BEGINNING.

Said parcel contains 829,705 square feet, or 19.047 acres, more or less, inclusive of existing road and highway right of way.

EXHIBIT C

MAP OF COMMUNITY IMPROVEMENT DISTRICT

