

**RESOLUTION NO. 2009**

**A RESOLUTION OF THE CITY OF GARDNER, KANSAS, APPROVING THE EXECUTION AND DELIVERY OF A SECOND AMENDMENT TO DEVELOPER'S AGREEMENT RELATING TO CERTAIN INCENTIVES, INCLUDING INDUSTRIAL REVENUE BONDS AND PROPERTY TAX EXEMPTION, FOR A DEVELOPMENT PROJECT WITHIN THE CITY (HAMPTON INN).**

**WHEREAS**, the City of Gardner, Kansas (the "City"), is authorized and empowered pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended, to acquire, construct and equip certain facilities for the stated statutory purposes, to enter into leases or lease-purchase agreements with any person, firm or corporation for said facilities and to issue revenue bonds for the purpose of paying the cost of such facilities;

**WHEREAS**, at the request of Gardner Hospitality LLC, a Kansas limited liability company (together with its assigns, as approved by the City, the "Company"), the City issued its Industrial Revenue Bonds (Taxable Under Federal Law), Series 2018 (Hampton Inn), dated December 31, 2018, in the principal amount not to exceed \$14,000,000 (the "Bonds") to finance a portion of the costs of acquiring, constructing and equipping an approximately 84-room new hotel and adjoining meeting space, including real estate, buildings, improvements and equipment (collectively, the "Project"), generally located west of the intersection of Interstate 35 and 175<sup>th</sup> Street within the City;

**WHEREAS**, the Governing Body of the City adopted Resolution No. 1964 on March 20, 2017, approving the execution and delivery of that certain Developer's Agreement dated as of March 23, 2017 (the "Original Developer's Agreement"), by and between the City and the Company, to set forth the parties' understanding relating to issuance of the Bonds and certain other economic development incentives, all as further described therein;

**WHEREAS**, the Governing Body of the City passed Ordinance No. 2590 on November 5, 2018, approving that certain First Amendment to Developer's Agreement dated as of November 5, 2018 (the "First Amendment to Developer's Agreement," and together with the Original Developer's Agreement, the "Developer's Agreement"), by and between the City and the Company; and

**WHEREAS**, the Company has requested, and the City has agreed, to further amend the Developer's Agreement in order to extend the time to complete construction of the Project as set forth therein;

**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 Second Amendment to Developer's Agreement by and between the City and the Company in substantially the form presented to and reviewed by the City Council 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 Bond Counsel, the City Attorney, the Interim City Administrator and other officials of the City, such officials' signatures thereon being conclusive evidence of their approval thereof and the same are hereby approved in all respects.

**Section 2.** The Interim City Administrator and City Clerk are hereby authorized and directed to execute, seal, attest and deliver the Second Amendment to Developer's 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.

*[remainder of page left blank intentionally]*

**ADOPTED** by the Governing Body of the City of Gardner, Kansas, on January 22, 2019.

**CITY OF GARDNER, KANSAS**

By \_\_\_\_\_ */s/*  
Mayor

(Seal)

Attest:

\_\_\_\_\_ */s/*  
City Clerk