

**ORDINANCE NO. 2601**

**AN ORDINANCE AUTHORIZING THE CREATION OF THE MAIN STREET MARKET PLACE COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF GARDNER, KANSAS; AND AUTHORIZING THE IMPOSITION OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX TO BE COLLECTED WITHIN SUCH DISTRICT.**

**WHEREAS**, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the “Act”), municipalities are authorized to create community improvement districts for economic development purposes and any other purpose for which public money may be expended; and

**WHEREAS**, the City of Gardner, Kansas (the “City”), is a municipality within the meaning of the Act; and

**WHEREAS**, a petition (the “Petition”) was filed by Super Market Developers, Inc., a Missouri corporation, with the City Clerk requesting: (a) that the community improvement district described therein (the “CID”) be created; (b) that the City levy a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within the CID in the amount of 1.00% (the “CID Sales Tax”); and (c) that certain community improvement district project costs to be incurred within the CID be financed with special obligation notes and bonds, all in accordance with the Act; and

**WHEREAS**, said Petition was signed by the owner of record of more than 55% of the land area within the proposed CID and the owner of record collectively owning more than 55% by assessed value of the land area within the proposed CID; and

**WHEREAS**, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the Governing Body shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and the construction of such community improvement district project therein, and provide for notice of the hearing by publication at least once each week for two consecutive weeks in the official city newspaper, with the second publication occurring at least seven days prior to the hearing, and by certified mail to all property owners within the proposed community improvement district, with such certified mail sent at least ten days prior to such hearing; and

**WHEREAS**, pursuant to Resolution No. 2007 of the City, adopted on January 22, 2019, the Governing Body of the City directed a public hearing on the proposed CID be held and declared its intent to levy the CID Sales Tax in the proposed CID; and

**WHEREAS**, on February 18, 2019, following proper notice as provided in the Act, the Governing Body of the City held a public hearing on the proposed CID, the proposed community improvement district project, and the imposition of the CID Sales Tax in the proposed CID; and

**WHEREAS**, the Governing Body hereby finds and determines that it is in the best interests of the City and in furtherance of the purposes of the Act to create the CID;

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

**Section 1. Creation of the Community Improvement District; Boundaries.** The Governing Body of the City hereby creates the CID within the City, which shall be designated as the “Main Street Market Place CID.” The boundaries of the CID shall be as legally described on *Exhibit A* attached hereto and as depicted on the map attached as *Exhibit B* hereto.

**Section 2. Authorization of Community Improvement District Project; Estimated Costs.** The Governing Body of the City hereby authorizes the project within the CID described on *Exhibit C* attached hereto (the “Project”) and approves the total estimated cost of the Project at \$28,993,740. Notwithstanding the approval of the Project by this Ordinance, the Project and owner or owners of all property comprising the Project must comply with all applicable zoning, planning, permit and other laws and regulations applicable to the Project.

**Section 3. Method of Financing.** All or a portion of the Project within the proposed CID is expected to be financed by the issuance of special obligation notes and bonds payable from revenues received from the imposition of the CID Sales Tax, as more particularly set forth in a development agreement between the City and the Company (the “Development Agreement”) with the balance of the costs of the Project, if any, reimbursed on a pay-as-you-go basis. No special assessments shall be implemented under the Act to pay for the Project, and no general obligations bonds or notes will be issued to finance the Project.

**Section 4. Levy of Sales Tax.** In accordance with the Act and to provide funds to pay a portion of the costs of the Project, the Governing Body of the City hereby levies a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within the CID in the amount of 1.00%, *i.e.*, the “CID Sales Tax.” The collection of the CID Sales Tax shall commence on July 1, 2020, or the earliest date thereafter on which the Kansas Department of Revenue agrees to begin the imposition of the CID Sales Tax and shall expire on the earlier of (a) the date of maturity of any special obligation bonds issued to finance the Project; or (b) 22 years from the date the Department of Revenue begins the collection of the CID Sales Tax. The CID Sales Tax shall be administered, collected and subject to the provisions of K.S.A. 12-187 *et seq.*, this Ordinance and the Development Agreement.

**Section 5. Authorization to Execute Documents.** 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, any other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 6. Effective Date.** This Ordinance shall be in force and take effect from and after publication of the Ordinance once in the official City newspaper. When this Ordinance becomes effective in accordance with this section, the City Clerk shall provide a certified copy of the same to the State Director of Taxation pursuant to K.S.A. 12-189.

*[Remainder of Page Intentionally Left Blank]*

**PASSED** by the Governing Body of the City and approved by the Mayor on February 18, 2019.

**CITY OF GARDNER, KANSAS**

(Seal)

/s/

\_\_\_\_\_  
Mayor

ATTEST:

/s/

\_\_\_\_\_  
City Clerk

## EXHIBIT A

### Legal Description of Main Street Market Place CID

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 COUNTY MART;

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

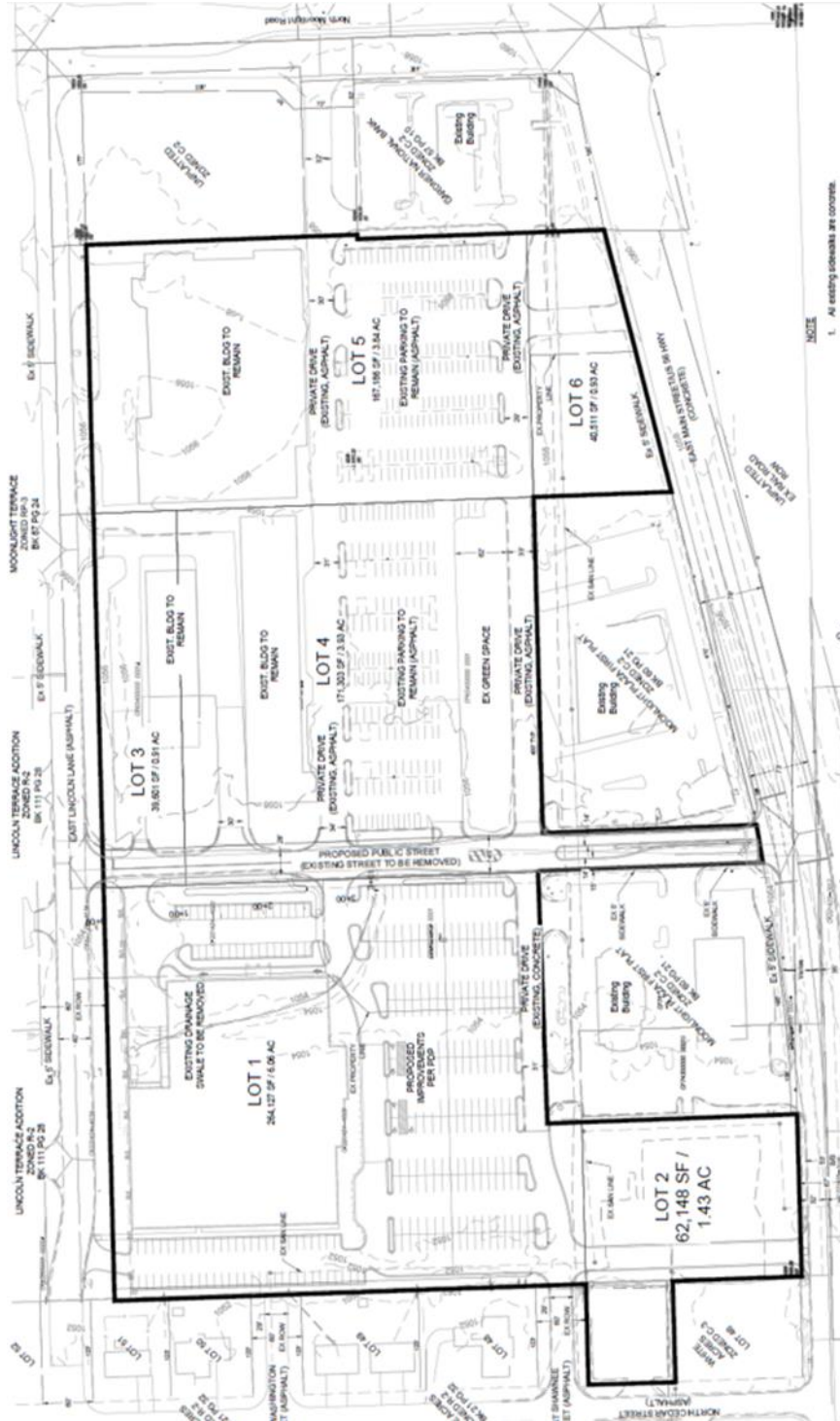
thence N 87°52'05" E along said Easterly line, 5.20 feet to a corner;

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 B

## Map of Main Street Market Place CID



## **EXHIBIT C**

### **Project Description**

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 A*.