

ORDINANCE NO. 2700

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A DEVELOPMENT AGREEMENT IN CONNECTION WITH THE PLAZA SOUTH COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF GARDNER, KANSAS; AND AMENDING ORDINANCE NO. 2634 OF THE CITY.

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;

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

WHEREAS, pursuant to the Act, Ordinance No. 2634 of the City, passed on November 18, 2019, and other proceedings of the City, the Governing Body of the City established a community improvement district known as the “Plaza South CID” (the “CID”);

WHEREAS, Section 4 of Ordinance No. 2634 levied a community improvement sales tax within the CID in the amount of 1.00% (the “CID Sales Tax”) and indicated that collection of the CID Sales Tax would commence on July 1, 2021;

WHEREAS, the City and Plaza South Developers, LLC (the “Developer”), as developer of the commercial project within the CID, have determined it is necessary and advisable to delay the commencement of the CID Sales Tax to July 1, 2022;

WHEREAS, pursuant to Resolution No. 2039 of the City, adopted on November 18, 2019, the Governing Body of the City authorized the execution and delivery of a Memorandum of Understanding between the City and the Developer (the “MOU”) to describe, in general terms, the rights and obligations of the parties with respect to the CID;

WHEREAS, the City and the Developer have determined it necessary and advisable to enter a Development Agreement between the parties (the “Development Agreement”) to supersede the MOU and more specifically describe the rights and obligations of the parties with respect to the CID; and

WHEREAS, the Governing Body hereby finds and determines that it is in the best interests of the City to delay the commencement of the CID Sales Tax and to authorize execution and delivery of the Development Agreement;

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

Section 1. The City is hereby authorized to enter into the Development Agreement by and between the City and the Developer in substantially the form presented to and reviewed by the Governing Body on the date of this Ordinance (copies of this document are on file in the records

of the City) with such changes therein as shall be approved by the Mayor, with the Mayor's signature thereon being conclusive evidence of his approval thereof, and the same are hereby approved in all respects.

Section 2. Section 4 of Ordinance No. 2634 of the City is hereby deleted in its entirety and replaced with the following:

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, 2022, 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 12 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 terms of any memorandum of understanding or development agreement between the City and the Developer.

Section 3. *Exhibit A* to Ordinance No. 2634 of the City is hereby deleted in its entirety and replaced with *Exhibit A* to this Ordinance.

Section 4. 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 5. 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 and shall submit a copy of this Ordinance, together with Ordinance No. 2634 of the City, for recording in the office of the register of deeds of Johnson County, Kansas.

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PASSED by the Governing Body of the City and approved by the Mayor on April 19, 2021.

CITY OF GARDNER, KANSAS

(Seal)

_____/s/_____
Mayor

ATTEST:

_____/s/_____
City Clerk

EXHIBIT A

Legal Description of Plaza South CID

LOTS 1 THROUGH 7, PLAZA SOUTH, A SUBDIVISION IN THE CITY OF GARDNER,
JOHNSON COUNTY, KANSAS.