AGENDA
GARDNER CITY COUNCIL
City Hall – 120 East Main Street -- Gardner, Kansas
Tuesday January 22, 2019
7:00 p.m.

CALL TO ORDER
PLEDGE OF ALLEGIANCE

PRESENTATION
2. Johnson County Fire District No. 1 – 2018 End of Year Report
3. Johnson County Fire District No. 1 – Emergency Preparedness Planning for City of Gardner

PUBLIC HEARING
1. Hold a public hearing on the proposed redevelopment project plan (Main Street Market Place, Project Area 1)

PUBLIC COMMENTS
Members of the public are welcome to use this time to make comments about City matters or items on the agenda that are not part of a public hearing

CONSENT AGENDA
1. Standing approval of the minutes as written for the regular meeting on January 7, 2019
2. Standing approval of City expenditures prepared January 4, 2019, in the amount of $1,111,583.43; January 11, 2019, in the amount of $734,405.53
3. Consider purchasing a new bobcat for the Parks and Recreation Department
4. Authorize the Interim City Administrator to execute a Quit Claim Deed to convey Lot 2, Symphony Farms III (commonly known as 32350 W. 167th Street) to Johnson County Fire District No. 1
5. Consider the extension of the Airport Advisory Board appointment process
6. Consider appointing a City Treasurer

COMMITTEE RECOMMENDATIONS
2. Consider adopting an ordinance amending Title 13, Utilities Code of the City of Gardner, Kansas, 2008, increasing various rates and charges and amending or repealing all ordinances or regulations not in conformity herewith
3. Consider accepting the dedication of right-of-way and easements on FP-18-08, final plat for Belfonte Car Wash

OLD BUSINESS

NEW BUSINESS
1. Consider adopting a resolution declaring the intent of the City of Gardner, Kansas, to issue Industrial Revenue Bonds in the approximate principal amount of $19,390,000, for the purpose of financing a portion of the costs of the acquisition, construction and equipping of a commercial facility within the City (Main Street Market Place)
2. Consider adopting a resolution 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).
3. Consider adopting an Ordinance amending sections 5.15.070 (Operation Regulations) and 5.15.120 (Restriction of Business to Premises) of the Gardner Municipal Code
4. Consider authorizing the approval of Change Order Request No. 1 for Turner Construction for CMAR service and installation of fiber between City Hall and the New Gardner Justice Center

COUNCIL UPDATE – Oral presentation unless otherwise noted

ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Gardner will provide reasonable accommodations for all public meetings. Persons requiring accommodations in attending any of our public meetings should contact the City Clerk’s Office at 913-856-0945 a minimum of 48 hours prior to the meeting.
PROCLAMATION

WHEREAS, public attention is needed to improve the voluntary use of seatbelts to save lives and reduce serious injuries.

WHEREAS, on the average, 115 people are killed in traffic accidents each day and four million Americans are seriously injured in traffic accidents each year, many of them permanently.

WHEREAS, it is estimated that only 80% of Americans and 90% of Kansans voluntarily buckle up.

WHEREAS, U.S. highway safety officials estimate if this number were increased to 100%, some thirty thousand lives could be saved each year, and two million injuries prevented or reduced in severity.

WHEREAS, the resulting reduction in medical and other expenditures would be in the billions of dollars

WHEREAS, the use of seatbelts can save lives

WHEREAS, these facts can be best brought to the attention of the public through the media and public education.

NOW, THEREFORE BE IT RESOLVED, that I, Steve Shute Mayor of the City of Gardner, Kansas, do hereby proclaim the week of January 27, 2019—February 3, 2019, be designated

Buckle up for Safety and Lives Week

And announce that during the next week a campaign urging drivers and their passengers to wear seatbelts will be conducted by the Gardner Police Department and Dr. Winters to improve safety. Citizens who are wearing seatbelts will be awarded during the campaign for their safety awareness.

In witness whereof, I have hereunto set my hand and caused the Seal of the City of Gardner, Kansas to be affixed this 22nd day of January, 2019.

CITY OF GARDNER, KANSAS

______________________________
Steve Shute, Mayor

(SEAL)

Attest:

______________________________
Amy Nasta, City Clerk
Agenda Item: Johnson County Fire District No. 1 – 2018 End of Year Report

Strategic Priority: Quality of Life

Department: Administration

Background/Description of Item:

Fire Chief Kirk and Assistant Chief Meyers will present Johnson County Fire District No. 1’s 2018 End of Year Report to the Governing Body.
Agenda Item: Johnson County Fire District No. 1 – Emergency Preparedness Planning for City of Gardner

Strategic Priority: Infrastructure and Asset Management, Quality of Life, Fiscal Stewardship, Economic Development

Department: Administration

Background/Description of Item:

Chief of Community Preparedness and Special Operations Morley will make a presentation to the Governing Body regarding how he will be working with city staff to create an emergency preparedness plan for Gardner including:

- Operational coordination
- Situational awareness
- Resource management
- Cost recovery
COUNCIL ACTION FORM                       PRESENTATION ITEM NO. 4
MEETING DATE:      JANUARY 22, 2019
STAFF CONTACT:  AMY NASTA, CITY CLERK

Agenda Item: Governing Body Rules of Procedure Update
Strategic Priority: Infrastructure and Asset Management, Quality of Life, Fiscal Stewardship, Economic Development
Department: Administration

Background/Description of Item:

Governing Body Rules of Procedure was first adopted on March 18, 2013 by Ordinance 2424 and provides the necessary guidelines for the conduct of orderly meetings of the Governing Body. It contains rules and procedures found in City ordinances and includes best practices used by municipalities throughout the Kansas City area. Since then, the document has been updated four separate times:

- The adoption of Charter Ordinance No. 26 on May 19, 2014 necessitated updating portions of the Governing Body Rules of Procedure in order to align both documents. This update occurred on August 4, 2014 with the passage of Ordinance 2415 with the changes being made to Chapters 1, 2, and 5.

- At the December 15, 2014 City Council Meeting, the City Council adopted Ordinance 2474 changing the Electric Utility Advisory Board to a Utility Advisory Commission. Additional revisions to Governing Body Rules of Procedure regarding an update to the applicable nomenclature and an update regarding the commission interview process were made with the passage of Ordinance 2477 on January 20, 2015.

- The most recent major revision to Governing Body Rules of Procedure occurred with the passage of Ordinance 2490 on July 13, 2015. With this revision, updates were made to Chapters 2, 3, and 5. These updates included the clarification that an Interview Team was to be utilized for Board and Commission appointments, the additional definition of multiple new item-types for the agenda, and various housekeeping items.

- On September 18, 2017, Ordinance 2556, an ordinance amending Chapter 2(D) of the Governing Body Rules of Procedure to provide for an appeal of the Mayor’s determination relating to order of a meeting and determination of matters relating to the conduct of a meeting to the City Council was passed. This was related to a concern regarding live-streaming.

The Governing Body requested that staff review Governing Body Rules of Procedure and make recommendations for changes. Staff completed an initial review of the document and presented the Governing Body with the findings on September 4, 2018.

- Twenty-two “housekeeping” items were identified, with necessary changes for reasons including the following: aligning the document with current City ordinances and/or state statutes, removing redundancies, correction or removal of outdated language, adjustment
• The Governing Body was asked to provide input on additional items. Following this input, many of these additional items became housekeeping items as well and have been identified for changes when the final document is created.

• The Governing Body requested additional information on the items listed below:
  
  o **Chapter 3(A), paragraph 2, bullet 4**: Provide sample conflict of interest language, including language on recusal
  o **Chapter 3, multiple sections**: Provide sample language for social media usage
  o **Chapter 3(A), paragraph 2, bullet 5**: Clarify attendance expectations, including the definition of attendance
  o **Chapter 5(A), “Quorum” subsection**: Identify potential additional substance to be added and provide the Governing Body with options for consideration
  o **Chapter 5(B), Option A**: Clarify process for agenda item submission

Staff will present the Governing Body with the requested information as well as identify any additional issues and provide an opportunity for any final input from the Governing Body.

**Attachments:**

• Summary of suggested edits to *Governing Body Rules of Procedure* previously presented to / directed by the Governing Body
• Current, unedited edition of *Governing Body Rules of Procedure*
Edits Directed by the Governing Body:

- Chapter 2(D), bullet 1:
  - Provide additional clarity on when the Mayor votes
- Chapter 2(H):
  - Remove this section and create a separate ordinance
- Chapter 3(A), paragraph 2, bullet 5:
  - Alter language to read “City Clerk” only
- Chapter 3(A), paragraph 2:
  - Clarify expectations regarding attending Council meetings via telephone
  - Add language that preference is in person attendance
- Chapter 3(G), bullet 2:
  - Add “in conjunction with the Public Information Officer”
- Chapter 5(A), “Quorum” subsection:
  - Leave quorum at four
- Chapter 5(D), “Public Comments” subsection:
  - Include language regarding rules for public submission of items needing to utilize the audiovisual system

Housekeeping Edits:

- Cover Page
  - Update logo/photo/text
- Table of Contents
  - Edit to match final content / form / page numbers
- Chapter 1(C):
  - Remove
    - Unnecessary commentary regarding how the document was created
- Chapter 2(A):
  - Remove language regarding term expirations
    - This language expired in 2017
- Chapter 2(B):
  - Adjust language to match current statutes (K.S.A. 25-2120)
- Chapter 2(D), bullet 3:
  - Adjust language to match current ordinance (Ordinance 2556)
- Chapter 2(D), bullet 7:
  - Adjust language to match current ordinance (Ordinance 2556)
- Chapter 2(E):
  - Adjust language to match current statutes (K.S.A. 25-2120)
- Chapter 2(F):
  - Adjust language to match current statutes (K.S.A. 25-2120)
- Chapter 4(B), paragraph 3, bullet 3:
  - Remove redundant language regarding notifications
• Chapter 4(B), paragraph 4:
  o Remove redundant language regarding “acting mayor”
    ▪ Duties and limitations of the acting mayor are previously outlined
  o Remove redundant language regarding Governing Body notifications
    ▪ Restated in paragraphs below

• Chapter 4(B), paragraph 5
  o Remove language regarding “alternate” locations and times
    ▪ There is no set time or location for Special meetings; therefore there can be no alternate time or location

• Chapter 4(C):
  o Remove “work session” from special meetings and make this its own separate section
    ▪ Eliminates confusion between special meetings and work sessions
    ▪ Clarifies the process for requesting work sessions following current practices

• Chapter 4(D; formerly C), paragraph 3:
  o Reorder language to reflect current technology usage (email before phone)

• Chapter 4(D; formerly C), paragraph 4:
  o Reorder language to reflect current technology usage (email before phone)
  o Remove redundant language regarding emergency meetings
    ▪ This entire section is specific to emergency meetings

• Chapter 4(E), paragraph 1:
  o Adjust language to match current statutes (K.S.A. 75-4319(a))

• Chapter 5(A), “Action” subsection, paragraph 2:
  o Reorder language for consistency

• Chapter 5(A), “Sequence of Agenda Items” subsection:
  o Reorder language for clarity

• Chapter 5(1), “Department Director and Staff”:
  o Remove redundant language regarding relaying of information
    ▪ This process is previously outlined

• Chapter 5(D):
  o Reverse order of “Public Hearings” and “Presentations” to reflect most common practice
    ▪ Chair retains the right to reorder the agenda as needed

• Chapter 5(D), “Old Business” subsection:
  o Add additional language to provide clarity
Governing Body Rules of Procedure
City of Gardner, Kansas

Passed on 7-13-2015 by Ordinance No. 2490
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## Governing Body Rules of Procedure

**July 13, 2015**

### Section B. REQUIREMENTS FOR AGENDA ITEM SUBMISSION

### Section C. AGENDA PACKET PREPARATION

### Section D. AGENDA FORMAT

- **Call to Order**
- **Pledge of Allegiance**
- **Public Hearings**
- **Presentations**
- **Public Comments**
- **Consent Agenda**
- **Committee Recommendations**
- **Old Business**
- **New Business**
- **Council Updates**
- **Executive Session**
- **Adjournment**
CHAPTER 1 – AUTHORITY OF RULES

A. AUTHORITY
The Governing Body shall establish its own Rules of Procedure in a clear and concise manner to assist them in the general conduct of City business. For those matters not covered by these rules, the procedure shall be decided by a majority vote of the Governing Body. These rules (with the exception of those included in Charter Ordinance No. 19 and Charter Ordinance No. 26) may be altered, amended or repealed by ordinance at any time by a majority vote of the entire Governing Body. Until such time as they are amended or new rules adopted by ordinance, these rules shall prevail to govern the order and conduct of business of the Governing Body. These rules may not be suspended by the Governing Body during any meeting.

During City Council discussions, deliberations, and proceedings, the Mayor has been designated with the primary responsibility to ensure that the Governing Body and members of the public adhere to the Council’s norms and procedures.

B. APPLICATION
These procedures shall be applicable to all members of the Governing Body.

C. CONTENTS
This publication consists of an accumulation of practices developed and utilized by Johnson County Government and neighboring municipalities over the years as well as excerpts taken from the Gardner Municipal Code.

D. DEFINITIONS
Chair: When the term Chair is referred to in this publication, it is understood to mean the Mayor or President of the Council.

Governing Body: The five (5) Council Members and Mayor, collectively.

City Council: The five (5) elected Council Members
CHAPTER 2 – COUNCIL ORGANIZATION AND DUTIES

A. GOVERNING BODY

The Mayor and five Councilmembers shall constitute the Governing Body of the City and shall be elected at-large for four-year terms or until their successors are qualified. Those members of the governing body elected in the year 2011 shall have a term expiring in 2015. Those members of the governing body elected in 2013 shall have terms expiring in 2017. (Charter Ordinance No. 19, Sec. 3, Ordinance No. 2046, and Charter Ordinance No. 26, Sec. 4)

The officers elected hereunder shall be qualified pursuant to the laws of the State of Kansas. The removal from the City of any officer elected hereunder, who is required to be a qualified elector thereof, shall occasion a vacancy in such office. (Charter Ordinance No. 19, Sec. 3 and Charter Ordinance No. 26, Sec. 4)

B. NEWLY ELECTED MEMBERS

Newly elected Council Members are sworn into office at the second regular Council meeting in April following a regular municipal election.

C. DUTIES OF THE GOVERNING BODY

City Council Members and City staff shall conduct the business of the City of Gardner:

- recognizing that the stewardship of the public interest must be of primary concern.
- working for the common good of the people of Gardner.
- ensuring fair and equal treatment of all persons, claims and transactions coming before the City Council and City Council established boards and commissions.

D. DUTIES OF THE MAYOR

The Mayor shall:

- preside at all meetings of the Council and shall have a tie-breaking vote when the Council is equally divided and the power to approve or veto any ordinance as the laws of the state shall prescribe. (Ordinance No. 2046)
- be responsible for the control, debate and order of speakers.
- decide all questions of order, subject to an appeal by any Member to the governing body's parliamentarian.
- confine debate to matters under discussion.
- put to a vote all matters properly presented before the City Council and to declare the result thereof for the record.
- authenticate by signature all acts made by the authority of the City Council.
- have the authority necessary to enforce the rules and prevent the misuse of motions or established procedure, the abuse of privileges, or obstruction of the business of the City Council, subject to the appeal by any Member to the governing body’s parliamentarian.
serve as the representative of the City Council at ceremonial functions and may, at his/her own discretion, ask another Council Member to represent the Council at the function.

E. DUTIES OF THE PRESIDENT OF THE COUNCIL

The President of the Council shall:

- be appointed from members of the City Council by a majority vote at its first regular Council meeting in April following a regular municipal election.
- in the absence of the Mayor, preside at City Council meetings. (Ordinance No. 2046)
- when occupying the place of Mayor, have the same privileges as other members. (Ordinance No. 2046)

F. DUTIES OF THE VICE-PRESIDENT OF THE COUNCIL

The Vice-President of the Council shall:

- be appointed from members of the City Council by a majority vote at its first regular Council meeting in April following a regular municipal election.
- in the absence of both the Mayor and the President of the Council, the Vice-President of the Council shall be styled “Acting President of the Council.” (Ordinance No. 2046)
- when occupying the place of Mayor, have the same privileges as other members. (Ordinance No. 2046)

G. SUCESSION IN OFFICE

In case of a vacancy in the Council occurring by reason of resignation, death, or removal from office or from the City, the Governing Body shall appoint a qualified elector to fill the vacancy until the next election for that office. In case any person elected as a Councilmember neglects or refuses to qualify within 30 days after the election, the Councilmember shall be deemed to have refused to accept the office and a vacancy shall exist. The Governing Body may appoint a qualified elector to fill the vacancy. (Charter Ordinance No. 19, Sec. 3 and Charter Ordinance No. 26, Sec. 4)

In case of a vacancy in the office of Mayor, the President of the Council shall become Mayor until the next regular election for that office and a vacancy shall occur in the office of the Councilmember becoming Mayor. (Charter Ordinance No. 19, Sec. 3 and Charter Ordinance No. 26, Sec. 4)

Appointment Process

The City Clerk will coordinate the appointment process beginning with the notification to the general public of openings on the City Council. Openings will be advertised for two weeks via the City’s official newspaper, the City’s website (www.gardnerkansas.gov), and other social media outlets.

Appointments to the City Council shall be based upon applications filed in the City Clerk’s Office. Members of the public are encouraged to visit the City’s website where they can choose one of two options to apply for an appointed position as a City Council Member. The first option offers a printable Public Service Application which can be
accessed directly through the City’s website, completed, and returned to the City Clerk’s Office via the United States Post Office or by facsimile transmission. The second option allows the submittal of the Public Service Application electronically via an online application process which can be accessed through the City’s website. Paper applications will be available at City Hall via the City Clerk’s Office. Public Service Applications are always welcomed by the City Clerk and shall be kept for a period of one calendar year. The City Clerk will call upon the City Council to submit the names of potential candidates should there be no applications for appointment on file.

After the City Council opening has been advertised for two weeks, the City Clerk shall provide to the Governing Body a list of the applicants who are qualified pursuant to the laws of the State of Kansas. The Council will then be given one week to advise the City Clerk of any potential issues with any of the candidates.

The applicants will then be invited to the next regularly scheduled City Council Meeting for interview with the Governing Body. The Governing Body will interview the applicants at the City Council Meeting and vote to appoint one of the applicants to fill the vacant City Council position until the next election. The Governing Body may conduct second interviews or start the appointment process over if they believe none of the applicants are qualified. A copy of the nominee’s Public Service Application will be included in the Council packet for the meeting at which the interviews will be conducted.

H. APPOINTMENTS TO BOARDS AND COMMISSIONS

The City of Gardner utilizes direct citizen input through the voluntary appointment of individuals to various boards and commissions (i.e. Planning Commission, Board of Zoning Appeals, Utility Advisory Commission, and the Airport Board).

The Mayor and two Councilmembers are charged with the responsibility of recommending individuals, by unanimous consent, to serve on City boards and commissions, subject to the approval of the Council. The Mayor and two Councilmembers shall serve as the Interview Team for applicant interviews.

Vacancies

A vacancy on a board or commission shall be effective on the date stated in the individuals’ written notice of resignation filed with the Mayor or the date they become ineligible to serve in such position, whichever comes first. All vacancies shall be filled by the Interview Team, subject to the approval of the Council. No vacancy on a board or commission shall impair the right of the remaining members to exercise all powers of the body.

In the event of a vacancy on a board or commission, the Interview Team shall submit to the City Council a recommendation to fill the vacancy within sixty (60) days from the date the office became vacant. In addition to the sixty (60) days, for good cause and upon a majority vote of the Council members present and voting, the Interview Team may extend for up to an additional thirty (30) days, the time stated to make the recommendation to fill a vacancy. Good cause shall be determined by the City Council and include but not be limited to such events as a death in office, illness, insufficient or inadequate candidates, legal holidays, or the timing of the next regular Council meeting at which a nominee would be considered for appointment.
**Candidate Qualifications**

Preferred candidates for appointment shall be at least 18 years of age or older, a registered voter, and a resident of the City of Gardner or be otherwise connected to the community in terms of property ownership, business affairs, or by offering a unique and necessary expertise.

Candidates interested in serving on the Utility Advisory Commission must be a resident of the City and a customer of one of the City’s utilities.

Candidates interested in serving on the Airport Board have no residency requirement; however, they must have a vested interest and working knowledge of the Gardner Airport.

Prior to submitting an application, interested individuals are encouraged to attend at least one meeting of the board or commission for which they are applying so as to understand the mission of the body and the time commitment involved.

An individual is only eligible for appointment to and may serve as a member of only one board or commission at any given time.

**Appointment Process**

The City Clerk will coordinate the appointment process beginning with the notification to the general public of openings on all boards and commissions. Openings will be advertised for two weeks via the City’s official newspaper, the City’s website ([www.gardnerkansas.gov](http://www.gardnerkansas.gov)), and other social media outlets.

Appointments to boards and commissions are based upon recommendation by the Interview Team followed by a majority vote by the Council. Consideration for appointment shall be based upon a completed Public Service Application, meeting basic qualifications, and interview results. Members of the public are encouraged to visit the City’s website where they can choose one of two options to apply for an appointed position on a board or commission. The first option offers a printable Public Service Application which can be accessed directly through the City’s website, completed, and returned to the City Clerk’s Office via the United States Post Office or by facsimile transmission. The second option allows the submittal of the Public Service Application electronically via an online application process which can be accessed through the City’s website. Paper applications will be available at City Hall via the City Clerk’s Office. Public Service Applications are always welcomed by the City Clerk and shall be kept for a period of one calendar year. The City Clerk will call upon the City Council to submit the names of potential candidates should there be no applications for appointment on file.

After the board and/or commission opening(s) have been advertised for two weeks, the City Clerk shall provide to the Governing Body the applications on file for the specified opening. The Council will then be given one week to advise the City Clerk of any personally known potential issues with any of the candidates or to offer a personal recommendation for a candidate or candidates.

An additional two weeks will be set aside for the conducting of candidate interviews by the Interview Team. A Board/Commission representative and the City Administrator (or
the City Administrator’s designee) can participate in the interviews as their schedules allow.

The Interview Team will have one week after the conclusion of candidate interviews to choose a nominee which they will bring forward to the City Council for consideration.

The City Council will consider the appointment at their first regular meeting after the Interview Team has selected a nominee. A copy of the nominee’s Public Service Application will be included in the Council packet for the meeting at which the recommendation will be presented for consideration.

**Appointment Records**

The City Clerk shall keep the official records pertaining to the appointment process, which include: Public Service Applications on all appointees, excerpts from Council meetings at which the appointments were approved, official oaths, membership rosters for all boards and commissions, attendance records, and other records that may be required.

**Compensation**

Appointees serve on a volunteer basis and shall not be compensated for their services but may be reimbursed for expenses in carrying out their duties.

**Removal**

A majority of the Governing Body may remove any appointed board or commission member at any time for good and sufficient cause. Cause shall include but not be limited to, any violation of any applicable law, regulation or policy; neglect of duty; and failure to comply with the appointive body attendance policy. If such removal occurs, the vacancy shall be filled by Mayoral appointment, subject to the approval of the Council.

**Attendance**

Attendance shall be recorded by the Department Director or a staff member designated by the Department Director of the Board or Commission and member attendance tracked by the same. Appointees violate the City’s boards and commissions attendance policy if they receive notice of meetings and without excuse miss three (3) consecutive meetings or attend fewer than two-thirds (2/3) of the regular or special meetings of the board or commission on which they serve within the twelve (12) month period following the member’s appointment, or an anniversary date thereof. “Excuse” shall mean more than inconvenience and includes illness or family emergency. Business commitments shall not be a good excuse. Violation of the attendance policy will be reported to the City Clerk and the Mayor.

**Terms**

Terms of office for boards and commissions shall be as stated in the Gardner Municipal Code pertaining to the specific body.

**Reappointment**

Board or commission members wishing to be considered for reappointment after their term has expired shall follow the process as outlined above.
When a member of a board or commission has served for a period of eight consecutive years on one particular body, that member generally will not be eligible for reappointment until the member has vacated the position for one full term. Board or commission members may be reappointed beyond the eight-year limit under exceptional circumstances.
CHAPTER 3 – CONDUCT OF THE GOVERNING BODY

A. GENERAL CONDUCT

These rules are intended to facilitate, and not obstruct, the orderly conduct of meetings of the Gardner City Council. The purpose of these rules is to provide an orderly and consistent procedure for conducting such meetings. These rules should be followed as necessary to conduct the meetings of the Gardner City Council.

All members have and share equal rights, privileges, responsibilities and obligations which include but are not limited to the following:

- All Members present and participating in meetings have the right to make, second, or amend motions.
- All Members present and participating have the right to participate in debate when discussion is permitted.
- All Members have the right to make inquiries and seek clarification or further information on pending matters.
- All Members present for meetings have the right to vote on matters, unless prevented by a conflict of interest.
- It is important that all Members commit to attending meetings to ensure that the business of the City can be conducted effectively and to ensure fairness to the public, other Council Members, and staff that attend the meetings. Members expecting to be absent from a meeting should notify the City Administrator prior to the meeting or, alternatively, the City Clerk, who will be responsible for notifying the Mayor prior to the start of any meeting.

B. CONDUCT WITH MEMBERS

Members shall conduct themselves in a proper, businesslike manner during all proceedings of the City Council, and shall respect and follow the rules. Each Member shall demonstrate courtesy and respect for the Council, for the public, for staff and for other Members. No Member shall conduct themselves in a manner that is unbecoming of a Member of the Governing Body.

Governing Body Members shall:

- value each other’s time.
- treat each other and everyone with courtesy and refrain from inappropriate behavior and derogatory comments.
- preserve order and decorum during the meeting.
- support the laws established by the City Council.
- abide by the Governing Body Rules of Procedure in conducting the business of the City of Gardner.
- govern themselves as to the length of their comments.
o limit their comments to the subject matter, item, or motion being currently considered.

o not delay or interrupt the proceedings or the peace of City Council meetings, nor disturb any Member while speaking, by conversation or otherwise, nor disobey the orders of the City Council or the presiding officer, except as otherwise herein provided.

o attempt to build consensus on an item through an opportunity for dialogue; but when this is not possible, the majority vote shall prevail and the majority shall show respect for the opinion of the minority.

o have the right to dissent from, protest, or comment upon any action of the City Council.

o respect each other’s opportunity to speak and, if necessary, agree to disagree.

o avoid offensive negative comments and shall practice civility.

o assist the Mayor’s exercise of duty to maintain order.

C. CONDUCT WITH CITY ADMINISTRATOR AND STAFF

Governing Body Members shall:

o communicate with the City Administrator directly on issues and concerns. The City Administrator will then forward this information on to the appropriate City staff member for disposition.

o not direct staff to initiate any action, change a course of action, or prepare any report that is significant in nature or initiate any project or study without the approval of a majority of the City Council.

o direct the City Administrator to implement City Council’s policy decisions through the administrative functions of the City.

o treat staff professionally and refrain from publicly criticizing individual employees.

o avoid involvement in personnel issues except during City Council executive sessions regarding City Council appointed staff such as the City Administrator, including hiring, firing, promoting, disciplining and other personnel matters.

o discuss directly with the City Administrator privately, as appropriate, any displeasure over work or behavior with a department or staff member.

o request information or research on a given topic from the City Administrator for response. Responses will be copied to all Council members.

o request answers to questions on City Council agenda items from the City Administrator. Questions and responses will be copied to all Council members.

o present citizen complaints to the City Administrator so the complaint and request for information can be disseminated to staff for appropriate action.
D. CONDUCT WITH THE PUBLIC

Governing Body Members shall:

- make the public feel welcome.
- be impartial, respectful and without prejudice toward the public.
- listen courteously and attentively to public comments.
- represent official policies or positions of the City Council first.
- explicitly state when their opinions and positions do not represent the City Council when representing their individual opinions and positions.
- make no promises to the public on behalf of the Council.

E. CONDUCT WITH OTHER AGENCIES

Governing Body Members shall:

- project a positive image of the City when dealing with other agencies.
- show tolerance and respect for other agencies’ opinions and issues and, if necessary, agree to disagree.
- represent official policies or positions of the City Council first when designated as delegates of a legislative body.
- explicitly state when their opinions and positions do not represent the City Council when representing their individual opinions and positions.
- have the ability to lobby or discuss issues that have been adopted by the legislative bodies or are standing policies of the legislative body with other legislators, government officials or developers.

F. CONDUCT WITH COMMISSION, BOARDS AND COMMITTEES

Governing Body Members shall:

- treat all members of boards, committees and commissions with appreciation and respect.
- refrain from participation in committee and commission meetings for the purpose of influencing the outcome of said meetings.

G. CONDUCT WITH THE MEDIA

Governing Body Members shall:

- not discuss or go “off the record” with the media to discuss confidential or privileged information pertaining to executive sessions, attorney-client privileged or attorney work product communications including without limitation personnel, litigation or real property negotiations.
o provide non-confidential, non-privileged background information when acceptable.

Press releases will be prepared by City staff and routed to the City Administrator for approval before release to the media.

Police responses and/or press releases regarding emergencies may be reported directly to the media by the Police Department’s Public Information Officer.

H. LITIGATION AND CONFIDENTIAL INFORMATION

Governing Body Members shall:

o keep all written materials and verbal information provided to them on matters that are confidential under state law in complete confidence to ensure that the City’s position is not compromised.

o not disclose or mention any information in these materials to anyone other than City Council Members, the City Administrator or City Attorney.

I. ETHICAL CONDUCT

Governing Body Members shall:

o receive at least two hours of training in ethics, conflicts of interest, open meeting laws, bias prohibitions, etc., every year to be coordinated through the City Clerk’s Office.

o conduct themselves in accordance with such training.
CHAPTER 4 – CITY COUNCIL MEETINGS AND SCHEDULES

A. REGULAR MEETINGS

Regular meetings of the Council shall be held on the first and third Mondays of each month at the hour of seven (7:00) o’clock P.M., at the Gardner City Hall, 120 East Main, Gardner, Kansas, or at such other locations within the City as determined by a majority of the council members. (Ordinance No. 2046)

In the event the first or third Monday is a legal holiday, the regular meeting shall be held on the next day thereafter that is not a legal holiday. (Ordinance No. 2046)

Any alternate location or change in meeting time shall be specified in the notice for the meeting. All meeting notices are to be posted by the City Clerk on the City’s website and in the public notice case in the lobby of City Hall 72-hours prior to the meeting.

B. SPECIAL MEETINGS

All meetings that are not spelled out in the regular meeting ordinance are considered “special meetings.” Only the business for which the special meeting is called may be considered and acted upon by the governing body.

Special meetings may be called by the Mayor or acting Mayor on the written request of any three members of the Council, specifying the object and purpose of such meeting, which request shall be read at the meeting. (Ordinance No. 2046)

The process to request a special meeting will be as follows:

- The Councilmember seeking a special meeting shall email the Mayor or acting Mayor requesting such meeting, specifying the object and purpose.
- The Mayor or acting Mayor will then inform the City Administrator and the City Clerk of the special meeting request.
- The City Clerk initiates an email to the entire governing body explaining that a councilmember would like to call a special meeting to discuss a specific topic. The email will instruct the councilmembers to reply only to the City Clerk (not to other councilmembers) with a “Yes” or a “No” answer as to whether they are in agreement with holding a special meeting.

The acting Mayor may also sign the request as one of the three councilmembers. No other business shall be transacted except that mentioned in the call. All governing body members will be notified of the special meeting, including those who sign the request.

Special meetings shall be held at Gardner City Hall or at such other locations as determined by a majority of the Councilmembers. Any alternate location or change in meeting time shall be specified in the notice for the meeting.

The City Clerk shall provide written notice to all Members, local news media and to any person having requested in writing notification of such meetings pursuant to state law. The
notice shall include the date, time, and location of the special meeting. All special meeting
notices are to be sent via email blast, posted on the City’s website and posted in the public
notice case in the lobby of City Hall.

Work sessions are scheduled on an as needed basis and can be scheduled at anytime
during the day or evening.

**C. EMERGENCY MEETINGS**

In the event of an emergency involving injury or damage to persons or property or which
impacts the service or operation of the City, a special meeting may be called with less than
24-hours notice provided a majority of the Members waive notice requirements and
reasonable effort is taken to notify local news media. The City Council may hold an
emergency meeting without complying with the 72-hour posting requirement, for regular and
special meetings, but shall otherwise comply with the Kansas Open Meetings Act
procedures.

The City’s official newspaper and radio or television station that has requested notice of
special meetings shall be notified by the Mayor, or designee thereof, at least one hour prior
to the emergency meeting, or in the case of a dire emergency, at or near the time that the
Mayor or designee notifies the Councilmembers of the emergency meeting.

This notice shall be given by telephone, or email, and all telephone numbers and email
addresses provided in the most recent request for notification of special meetings shall be
used.

In the event that telephone or internet services are not functioning, the notice requirements
of this section shall be deemed waived, and the Mayor, or designee of the City Council, shall
notify those newspapers, radio stations, or television stations of the fact of the holding of the
emergency meeting, the purpose of the meeting, and any action taken at the meeting as
soon after the meeting as possible; during an emergency meeting.

The minutes of an emergency meeting, a list of persons who the Mayor, or designee of the
City Council, notified or attempted to notify, a copy of the roll call vote, and any actions
taken at the meeting shall be posted for a minimum of ten (10) days in a public place as
soon after the meeting as possible.

**D. EXECUTIVE SESSIONS**

Executive sessions shall generally be conducted as needed. In accordance with the Kansas
Open Meetings Act (KOMA), an executive session may only take place once an open
meeting is convened. A formal motion must be made, seconded and carried by a majority
vote to recess into the executive session. The motion must contain three parts; the
*justification* (a brief description of the topic to be discussed without revealing confidential
information), the *subject* (a reference to one of the permitted topics for executive session as
contained in KOMA) and the *time and place at which the open meeting will resume*. If
necessary, additional motions must be made to extend executive session discussion. The
motion(s) and the resulting vote(s) must be entered into the minutes. (See K.S.A. 75-4317 et seq.
– Kansas Open Meetings Act)
Executive sessions are closed to the public. All persons attending executive sessions should be admonished that the purpose of the executive session is to protect important privacy interests and subjects discussed during these sessions should not be shared outside of the executive session.

No executive session will be held without the presence of the City attorney. No binding action may be taken during an executive session. However, entities covered by KOMA may discuss the issue and reach a consensus during an executive session.

E. PUBLIC HEARINGS

The Governing Body shall hold public hearings when required by federal, state or municipal law. Public hearings are officially opened and closed by the Chair.

The City Clerk will set City Council public hearing dates and notify the City Council via the agenda on all matters that require a notice and public hearing before the City Council. Scheduled public hearings may be withdrawn or continued at the request of the City Council, staff and/or applicant with a motion and majority vote without further published notice if at the time and place for which notice originally was given the Chair specifies the time and place where the hearing will reconvene.

The general procedure for a public hearing shall be as follows:

- **Presentations:** Staff presents its report; Councilmembers may ask questions of staff. The applicant has the opportunity to present his/her comments, testimony, or arguments.

- **Opening of the Public Hearing:** The Chair opens the public hearing.

- **Public Testimony:** Members of the public may present their comments.

- **Close of the Public Hearing:** The Chair closes the public hearing after everyone wishing to speak has had the opportunity to do so.

- **Action:** Council proceeds with discussion and takes action.

The foregoing procedure may be modified, as needed, to accommodate the interests of the public and the operation of the City Government.

F. CONTINUANCES

Any person (applicant, appellant or designated representative) scheduled for a public hearing before the City Council:

- may obtain one continuance as a matter of right, without personally appearing before the Council on the scheduled hearing date. A written request for the continuance must be delivered to the City Clerk by noon on the day prior to the scheduled public hearing. Any person, who has once obtained a continuance by any procedure, may not obtain any subsequent continuance without appearing before the City Council, pursuant to the subsection below.
who has once obtained a continuance of a hearing either by notice to the City Clerk as provided in the subsection above may obtain a further continuance only by appearing before the City Council at the scheduled hearing and satisfying the City Council that circumstances exist which would justify an additional continuance.

City staff may obtain a continuance based on the need of the originating department or on behalf of a Council Member. Department staff may request, via the City Clerk, as many continuances as needed to complete and ready the project or appeal for the hearing process; however, staff may not serve as a requestor on behalf of an applicant or appellant.

The City Council may refuse to grant a continuance of any public hearing if there is no valid legal reason why the hearing must be continued.
CHAPTER 5 - MEETING GUIDELINES & PROCEDURES

A. GENERAL

Authority
The City Council acts as a body and policy is established by majority vote. A decision of the majority binds the Council to a course of action. No Councilmember has any extraordinary powers beyond those of other members and all members have equal votes.

Meetings to be Public
All meetings of the Governing Body are required to be open to the public with the exception of executive sessions. All meeting notices are to be posted by the City Clerk on the City’s website and in the public notice case in the lobby of City Hall 72-hours prior to the meeting. Notice shall also be provided to those persons having requested, in writing, notification of such meetings.

Quorum
In all cases, it shall require four (4) members of the Council to constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such a manner and under such penalties as the Council by ordinance may have previously prescribed. In the event of a vacancy on the Council, the number of members of the council required to constitute a quorum shall be reduced from four (4) members to three (3). (Ordinance No. 2046 and Charter Ordinance No. 26, Sec. 5)

Location
All public meetings shall be held at Gardner City Hall, or at such other locations as determined by a majority of the Councilmembers. Any alternate location or change in meeting time shall be specified in the notice for the meeting.

Action
Action by the City Council shall be taken by means of ordinance, resolution, or oral motion duly made and passed by the majority as a body or unit. The City Clerk shall call the roll of votes for ordinances and resolutions.

Public actions of the City Council shall be recorded in the minutes of all regular meetings of the Council. Resolutions shall also be recorded separately, serially numbered, and filed sequentially in the office of the City Clerk. Ordinances shall also be serially numbered, separately recorded, codified in the Municipal Code, and so remain until amended or voided.

The City Council cannot take action on items not included on the posted agenda except in the case of emergency meetings where urgent items will be discussed.

Sequence of Agenda Items
The Chair may request at anytime during the meeting a change in the sequence of discussion of items on the agenda. This exception is particularly used when a large crowd is in attendance for a particular item.
Minutes
It is the responsibility of the City Clerk or designated recording secretary secured by the City Clerk to keep and enter a written account of all Council meetings in the official City record books. Audio recordings will be destroyed after the minutes have been approved by the City Council. Video recordings will be retained for 10 years. The official record of the meeting is the minutes after they have been approved by the City Council.

It is the policy of the Governing Body that only the Mayor and Councilmembers have the authority to make revisions to the minutes subject to a majority vote of the City Council. Governing Body members having only typographical corrections to minutes are encouraged to provide such corrections to the City Clerk directly and need not wait to submit such corrections at a meeting.

Right of Floor
The Chair will recognize members of the Council, staff or audience desiring to speak, and confine remarks to one subject under consideration.

City Administrator
The City Administrator or designee attends all Council meetings and work sessions and may make recommendations to the Governing Body.

City Attorney
The City Attorney or designee attends all Council meetings and may give written or oral opinions on questions of law. The City Attorney acts as the Governing Body’s parliamentarian.

City Clerk
The City Clerk or designee shall attend all Council meetings, keep the official minutes, call the roll of votes, and perform other duties as requested by the Governing Body.

Department Directors and Staff
The Director or their representative shall attend the meetings unless excused by the City Administrator. The Governing Body shall speak to the City Administrator directly on issues and concerns. The City Administrator will then forward this information on to the appropriate City staff member for disposition.

B. REQUIREMENTS FOR AGENDA ITEM SUBMISSION
Councilmembers may submit items for inclusion on future agendas by orally making the request during Council Comments or by submitting a written request to the City Administrator or the Mayor.

C. AGENDA PACKET PREPARATION
The City Administrator reviews and approves all items for the Council agenda and shall submit to the Mayor and City Council a proposed agenda for each Council meeting at least 72 hours in advance of the regular Council meeting.

The agenda and agenda packets are compiled and distributed through the Administration Department. Packet information that is unable to be electronically transferred will be provided in paper form or will be on file in the City Clerk’s office.
The Governing Body is encouraged to contact the City Administrator with questions and clarifications prior to the meeting.

D. AGENDA FORMAT

The Mayor and Council may reorder the agenda items to expedite the agenda or for the benefit of the public.

Call to Order
The Mayor shall open each regular meeting at the appointed hour.

Pledge of Allegiance
The Mayor shall lead the recitation of the Pledge of Allegiance. The Mayor may invite or designate others to perform this duty.

Public Hearings
The Public Hearings portion of the meeting is reserved for any items requiring a formal public hearing.

Presentations
This time may be used as necessary to present awards, proclamations, other honors or to receive remarks by distinguished guests.

Public Comments
Time shall be set aside at every regular meeting and work session to allow the public to address the City Council on matters that are not listed on the printed agenda, but which relate to the business of the City. Those wishing to speak may do so during the “Public Comments” period at the beginning of the meeting. Interested persons may also speak to individual new business agenda items (other than the consideration of minutes and appointments), not part of a public hearing, and will be allowed to do so following staff’s presentation and preceding the Council’s discussion of any given item. In both cases, public comments will be limited to 5 minutes. Speakers will not be allowed to concede any part of their allotted time to another speaker.

Ordinarily, no person other than the applicant or proponent of an agenda item will be permitted to address any item before the City Council more than twice during the same meeting, and shall limit their comments to no more than five minutes each time.

Each person addressing the Governing Body must approach the podium when recognized by the Mayor, communicate his or her name and address and, if acting as spokesperson for a group, must name such group for the record. Lobbyists must identify themselves and their client(s), business or organization they represent before speaking to the Council.

The City Council may not deliberate or take action on any request/item brought before them during the Public Comments period. The Council may ask clarifying questions and refer the request/item to staff for follow-up or they may request that it be added to a future meeting agenda.
Members of the Governing Body are discouraged from engaging in debate with a member of the public at Council meetings since these debates seldom resolve concerns and may inflame feelings at a public meeting.

**Consent Agenda**

Those items on the Council agenda, which are considered to be of a routine and non-controversial nature by the City Administrator, shall be listed on the consent agenda. These items shall be acted upon collectively under a single motion. A member of the City Council may remove any item from the consent agenda for discussion. Any item removed will be heard immediately following action on the remaining consent agenda items.

**Committee Recommendations**

Committee Recommendations contain items being brought forward for consideration by recommendation from a City board, commission or committee.

**Old Business**

Old Business contains items which have been previously discussed and require City Council direction.

**New Business**

New Business contains items which may not have been previously discussed, require City Council direction or are considered controversial.

**Council Updates**

The Council Updates portion of the meeting is reserved for updates to the Council on City business, operations, projects, and other items of Council interest. It is also a time to allow Council Members to comment on matters related to the business and operation of the City.

**Executive Session**

The Executive Session portion of the meeting is reserved for times when the Council determines it necessary to enter into Executive Session as allowed by State Statute. It does not preclude the Council from entering into Executive Session at any point during an open meeting as the Council deems necessary.

**Adjournment**

Before there can be an adjournment, the Council must, by proper action, move and vote for adjournment. Upon adjournment, the meeting is ended and no further business can be conducted.
Discussion Item: Hold a public hearing on the proposed redevelopment project plan (Main Street Market Place, Project Area 1).

Strategic Priority: Promote Economic Development; Fiscal Stewardship

Department: Finance

Background/Description of Item:
The Kansas Tax Increment Financing Act (TIF) requires that a public hearing be conducted prior to approving a redevelopment project plan. A redevelopment project plan has been proposed for Project Area 1, containing the new grocery store and a single pad site, within the Main Street Market Place redevelopment district. A notice of hearing was published and was sent to all property owners and occupants within Project Area 1. In addition to the owners and occupants of the property, the school district, fire district, and county were notified.

On December 17, 2018, the City Council opened the public hearing and voted to continue the public hearing on January 22, 2019. The purpose of the public hearing is to hear comments on approving the redevelopment project plan and the use of TIF to pay for extraordinary costs identified in connection with improving the project area.

Once the public hearing is completed, Council will be able to consider an ordinance adopting the plan.

Attachments:
- Redevelopment TIF Project Plan – Main Street Market Place, Project Area 1
- Feasibility Study for Main Street Market Place TIF Project #1

Staff Recommendation:
Hold a public hearing on proposed redevelopment plan (Main Street Market Place).
REDEVELOPMENT TIF PROJECT PLAN
MAIN STREET MARKET PLACE
REDEVELOPMENT DISTRICT, PROJECT AREA 1

In order to promote, stimulate and develop the general and economic welfare of the City of Gardner, Kansas (the “City”), the Governing Body of the City on October 15, 2018, passed Ordinance No. 2588 (the “Ordinance”) establishing a redevelopment district (the “District”) pursuant to K.S.A. 12-1770 et seq., as amended (the “Act”).

This plan is the Redevelopment Project Plan for the Main Street Market Place Redevelopment TIF Project Area 1 (the “Project Plan”), located within the District. This Project Plan sets forth the information required by K.S.A. 12-1772, as amended, as follows:

1. **Description of the Buildings and Facilities proposed to be Constructed or Improved.** The Project Plan includes the design, development and construction of: (a) a new grocery store of approximately 60,000 square feet; (b) a pad site to accommodate approximately 3,500 square feet of retail/restaurant use; (c) site improvements; and (d) public improvements, including utility relocations, an access drive, new turn lanes along Main Street, and a new traffic signal. (The herein referenced buildings and improvements are referred to collectively as the “Redevelopment Project”). The Redevelopment Project will be constructed and improved in accordance with the requirements of the City Planning Commission, the City’s Governing Body and City ordinances.

2. **Summary of the Feasibility Study.** As required by the Act, a feasibility study (the “Feasibility Study”) was prepared by Ehlers, Inc. based on projections and estimates. Based on the Feasibility Study, the City anticipates the tax increment from Project Area 1 will generate approximately $2,110,000 in tax increment revenue (on a present value basis over a maximum 11-year period), all or a portion of which will be available to pay Redevelopment Project costs pursuant to the District Plan (as defined herein), the Act, and the terms of a development agreement between the City and the developer of the Redevelopment Project. All Redevelopment Project costs in excess of available tax increment revenues, including tax increment contributed from Project Area 2 in the approximate amount of $1,165,000 (on a present value basis over a maximum 11-year period), will be paid by the developer or from other available funds. The Redevelopment Project’s benefits and tax increment revenue and other available revenues under subsection (a)(1) of K.S.A. 12-1774, as amended, are expected to exceed or be sufficient to pay for the Redevelopment Project costs. The City is under no obligation to provide financial assistance if the tax increment generated from Project Area 1, plus the tax increment contributed from Project Area 2, does not meet the projections. The entire Feasibility Study is on file with the City Clerk.

There are no outstanding special obligation tax increment bonds for the District and, therefore, the Redevelopment Project costs are not expected to have any effect on outstanding special obligation tax increment bonds payable from revenues described in subsection (a)(1)(D) of K.S.A. 12-1774, as amended.
3. **Redevelopment District Plan and Location of the District.** The Ordinance established the District and approved the district plan described therein (the “District Plan”). The District is generally located at the northwest corner of E. Main Street and N. Moonlight Road within the City.

4. **Legal Description and Map of Project Area 1.** A legal description of Project Area 1 is attached as *Exhibit A* and a map of the District, with Project Area 1 labeled as “Project 1” and depicted in blue thereon, is attached as *Exhibit B*.

5. **Relocation Assistance Plan.** In the event the City acquires any real property within Project Area 1 in carrying out the provisions of the Act, and that, as a result, any persons, families and businesses move from real property located in Project Area 1 or move personal property from real property located in Project Area 1, the developer of Project Area 1 shall make at least a $500 payment to such persons, families and businesses. No persons or families residing in the District shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by such displaced person or family at rents within their ability to pay. Such housing units shall be suitable to the needs of such displaced persons or families and must be decent, safe, sanitary and otherwise standard dwelling. No retailer shall be relocated from the District. Notwithstanding the foregoing, the City does not anticipate relocation of any persons, families or businesses in connection with the Redevelopment Project.

6. **Other Relevant Information.**

   a. Any reimbursement for Redevelopment Project costs will be made only from tax increment actually received by the City from the District in accordance with the Act. The City will have no responsibility for any other Redevelopment Project costs.

   b. Prior to any reimbursement to private entities for Redevelopment Project costs, such entities shall enter into one or more development agreements with the City identifying the procedure and circumstances under which the City will pay or reimburse Redevelopment Project costs and other requirements of the City pertaining to the development of Project Area 1 and the District.

   c. It is expected that the City will reimburse the developer on a pay-as-you-go basis for that portion and amount of the Redevelopment Project costs agreed upon by the City; provided, however, that the City may consider, in its discretion, the issuance of special obligation tax increment bonds.

   [Remainder of Page Intentionally Left Blank]
EXHIBIT A

PROJECT AREA LEGAL DESCRIPTION

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 a part of Lot 1 MOONLIGHT PLAZA CENTER, 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, 956.45 feet to the Point of Beginning;

thence continuing S 88°27′57″ W along said centerline extended, 536.95 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 Lot 1, MOONLIGHT PLAZA CENTER, extended, said line being 45.00 feet east of and parallel with the west line of said MOONLIGHT PLAZA CENTER, 819.86 feet to the Point of Beginning;

EXCEPT the North 40.00 feet thereof dedicated for Lincoln Lane right of way.
Said parcel contains 361,073 square feet, or 8.289 acres, more or less, exclusive of existing Lincoln Lane right of way.
The City of Gardner (the “City”) has requested that Ehlers prepare the statutorily-required feasibility study for the proposed Main Street Market Place TIF Redevelopment Project #1. This report provides the financial analysis that Kansas law requires to be summarized in the TIF Project Plan which is scheduled for City Council consideration on January 22, 2019.

Introduction

Main Street Market Place TIF Redevelopment Project #1 consists of five of the nine parcels located between North Moonlight Road, East Main Street, North Cedar Street, and Lincoln Lane in Gardner. In this area, Super Market Developers (the “Developer”) proposes to build a new PriceChopper supermarket and pharmacy of approximately 62,500 square feet, install related public and site improvements, including stormwater drainage, and prepare a pad site for approximately 3,500 square feet of ancillary retail development (collectively, the “Project”).

The Developer is a wholly-owned subsidiary of Associated Wholesale Grocers (“AWG”), a retailer-owned cooperative serving more than 2,300 member stores. The Developer buys, sells, develops, and leases real estate in connection with grocery and retail center uses. The Developer intends to build the Project supermarket and then sell it to the grocery retailer that proposes to own and operate the Project supermarket.

The Developer proposes to complete the Project supermarket, as well as most public and site improvements in a first phase to begin in early 2019 and be completed by the spring of 2020. The Developer states that the timing of the adjacent retail development will hinge on the sale of the pad site to a third-party developer but expects it to begin in the spring of 2020 and be completed by the spring of 2021.

The Kansas TIF Act (K.S.A. 12-1770 et seq., the “Act”) requires a feasibility study to be completed as part of the process of establishing a redevelopment project. Specifically, the feasibility study must include a cost-benefit analysis demonstrating whether the “project’s benefits and tax increment revenue and other available revenues...
expected to exceed or be sufficient to pay for the redevelopment...project costs” and must also include several other elements as described in (k) of K.S.A. 12-1770a.

**Description of the Project**

The Project consists of acquiring the five parcels described below and constructing a new supermarket, ancillary retail center, paved and lighted parking areas and internal traffic lanes, other site infrastructure, and improvements to adjacent public infrastructure serving the Project, including a new traffic signal on East Main Street.

The Developer has negotiated real estate contracts to acquire the development parcels at an indicated total price of $2.5 million and has estimated a supermarket development cost (including land acquisition) of approximately $12.7 million. The Developer expects to use AWG equity to fund all development costs, and that the grocery retailer will then use long-term debt to purchase the store from the Developer. Supermarket equipment, fixtures, and inventory will be funded via separate arrangements.

The $12.7 million estimated Project cost notwithstanding, the Developer estimates, and Ehlers agrees based on our own experience, that the new supermarket likely will have a completed appraised value closer to $8.5 million, calculated at $136 per square foot for the 62,500 square foot building. With a final appraised value of $8.5 million, the Kansas statutory commercial property classification rate of 25%, and assuming a continuation of the 168.043 mill overall property tax rate that is currently applicable to the development parcels, the supermarket will pay roughly $357,100 in total annual property taxes.

In addition, the adjacent retail pad site development in Project #1 is expected to have a final appraised value of $1.4 million, calculated at $400 per square foot for the proposed 3,500 square foot building. As such, this building is expected to pay roughly $58,800 in annual property taxes, bringing total annual property taxes generated in the Project area to $415,900.

The Developer has stated that, absent TIF assistance, the store purchase price and the related annual debt service burden would make the store financially unviable. In other words, the store requires a price reduction – funded via TIF reimbursement for specified Project costs – in order to bring its future debt service costs in line with its expected grocery sales volume and net operating costs.

With the stated goal of making the grocery operator’s effective building lease rate (i.e. estimated annual debt service divided by store square footage) economically feasible, the Developer has asked the City to use property tax increment financing (property TIF) to reimburse 100% of the eligible new property taxes generated by the Project over eleven years (Assess 2019 / Fiscal 2020 through Assess 2029 / Fiscal 2030), up to a maximum principal balance of $2.1 million, on a “pay-as-you-go” basis.
In addition, the Developer has asked the City to designate property TIF generated from the redevelopment of the existing PriceChopper store and development of an ancillary restaurant use (designated as Project #2) as “other available revenue” for the Project. Over the same 11-year period as above, the City would use property TIF generated from Project #2 to reimburse an additional $1.1 million of Project #1 costs, bringing the total maximum pay-as-you-go TIF property reimbursement to $3.2 million.

This total does not include interest payments that the City would also make during the pay-as-you-go reimbursement term, which the City expects to be a 10-year span starting July 1, 2020 (after the new PriceChopper is complete and TIF-eligible costs have been certified) and ending no later than June 30, 2030. The City expects Pay-Go interest to accrue at an annual interest rate of 5.50%, beginning July 1, 2020 or the date on which TIF-eligible costs equal to the $3.2 million maximum amount have been certified, whichever is later.

In summary, TIF reimbursements will end as soon as the $3.2 million maximum cost reimbursement is reached, or after eleven Project years (and ten pay-as-you-go payment years) have elapsed as of June 30, 2030, whichever occurs first.

The City has not offered to make the sales tax increment generated by the Project available to reimburse Project costs, and the Developer is not requesting the issuance of TIF Bonds for the Project.

Other components of the Developer’s request to the City are (a) establishment of a 1.0% Community Improvement District (CID) sales tax rate for 22 years across the entire Main Street Market Place development, (b) City issuance of Special Obligation CID Bonds, and (c) City issuance of industrial revenue bonds (IRBs) to provide sales tax exemptions on building materials, fixtures, and equipment. None of these proposed City incentive mechanisms are required to be addressed in this study.

**Estimated Project Expense**

The total estimated cost to complete the Project, as described above, is $12.7 million. Under the Act, all Project expenses other than building construction costs and certain consultants' fees are “Eligible Redevelopment Project Costs” that may be financed or reimbursed with tax increment. The Developer has identified in excess of $6.5 million of TIF-eligible costs, and as noted above, has asked for property TIF reimbursement of $3.2 million of public and site improvements costs in Project #1.

**Estimated Property TIF**

The Project will generate *ad valorem* property tax increment from the differential in the parcels’ assessed values from 2018, the year in which the TIF District was established, and 2022, the year in which the full completed value of the Project is expected to be recorded for property taxation purposes. The existing “base” values of the Project parcels are as follows:
The estimated completed assessed values of the Project (i.e. completed appraised values times the 25% commercial classification rate), and the future value captured by the TIF District and available for use within the Project, are as follows:

<table>
<thead>
<tr>
<th>Product</th>
<th>Assessed Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>New PriceChopper</td>
<td>2,125,000</td>
</tr>
<tr>
<td>Lot 2 Retail Center</td>
<td>350,000</td>
</tr>
<tr>
<td><strong>Total Estimated Value</strong></td>
<td><strong>2,475,000</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Product</th>
<th>Assessed Value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TIF-Captured Assessed Value</strong></td>
<td><strong>2,176,937</strong></td>
</tr>
</tbody>
</table>

The Pay 2018 property tax mill rates – in total and TIF-eligible (excluding 28 mills of the School District’s 66.981 mill rate and the State’s 1.5 mill rate) – that are applicable to the Project are as follows:

<table>
<thead>
<tr>
<th>Mill Rates</th>
<th>All Mill Rates</th>
<th>TIF-Eligible</th>
</tr>
</thead>
<tbody>
<tr>
<td>State (sub 1.5 mills)</td>
<td>1.500</td>
<td>-</td>
</tr>
<tr>
<td>County</td>
<td>19.318</td>
<td>19.318</td>
</tr>
<tr>
<td>College</td>
<td>9.503</td>
<td>9.503</td>
</tr>
<tr>
<td>Park</td>
<td>31.120</td>
<td>31.120</td>
</tr>
<tr>
<td>City of Gardner</td>
<td>20.540</td>
<td>20.540</td>
</tr>
<tr>
<td>School (sub 28 mills)</td>
<td>66.981</td>
<td>38.981</td>
</tr>
<tr>
<td>Fire</td>
<td>15.160</td>
<td>15.160</td>
</tr>
<tr>
<td>Library</td>
<td>3.921</td>
<td>3.921</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>168.043</strong></td>
<td><strong>138.543</strong></td>
</tr>
</tbody>
</table>

The estimated annual tax increment generated by the Project, therefore, is calculated:

\[
\text{Gross TIF Increment} = \frac{\text{Captured Assessed Value} \times \text{TIF-Eligible Mill Rate}}{1,000}
\]

\[
\text{Gross TIF Increment} = \frac{2,176,937 \times 138.543}{1,000} = 301,599
\]

Ehlers believes it is reasonable to estimate that the Captured Assessed Value of the supermarket and ancillary retail center in Project #1 and therefore the Gross Tax
Increment will increase by an average of 1% annually. This inflation projection assumes the TIF-eligible property tax rates totaling 138.543 mills will remain stable.

Estimated annual and present value property tax increments over the maximum 11-year term of Project #1 (Assess 2019 / Fiscal 2020 through Assess 2029 / Fiscal 2030), therefore, are as follows:

<table>
<thead>
<tr>
<th>TIF Year</th>
<th>Assessment Year and Est. Valuation</th>
<th>Fiscal Year</th>
<th>Est. Annual Payments</th>
<th>Est. Cumulative Present Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2019 - Nominal</td>
<td>2020</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2</td>
<td>2020 - Partial</td>
<td>2021</td>
<td>194,229</td>
<td>174,505</td>
</tr>
<tr>
<td>3</td>
<td>2021 - Partial</td>
<td>2022</td>
<td>291,901</td>
<td>423,092</td>
</tr>
<tr>
<td>4</td>
<td>2022 - Full</td>
<td>2023</td>
<td>301,599</td>
<td>666,548</td>
</tr>
<tr>
<td>5</td>
<td>2023 - 1% Inflate</td>
<td>2024</td>
<td>305,028</td>
<td>899,936</td>
</tr>
<tr>
<td>6</td>
<td>2024 - 1% Inflate</td>
<td>2025</td>
<td>308,492</td>
<td>1,123,668</td>
</tr>
<tr>
<td>7</td>
<td>2025 - 1% Inflate</td>
<td>2026</td>
<td>311,989</td>
<td>1,338,141</td>
</tr>
<tr>
<td>8</td>
<td>2026 - 1% Inflate</td>
<td>2027</td>
<td>315,522</td>
<td>1,543,735</td>
</tr>
<tr>
<td>9</td>
<td>2027 - 1% Inflate</td>
<td>2028</td>
<td>319,090</td>
<td>1,740,815</td>
</tr>
<tr>
<td>10</td>
<td>2028 - 1% Inflate</td>
<td>2029</td>
<td>322,694</td>
<td>1,929,730</td>
</tr>
<tr>
<td>11</td>
<td>2029 - 1% Inflate</td>
<td>2030</td>
<td>326,334</td>
<td>2,110,816</td>
</tr>
</tbody>
</table>

If Project #1’s actual completed assessed value is higher or lower than the estimated $2,475,000, or if it increases or decreases from the initial assessment, the Project’s Pay-Go TIF capacity will differ from the above projection.

Estimated annual and present value property tax increments over the maximum 11-year term of Project #2 (Assess 2019 / Fiscal 2020 through Assess 2029 / Fiscal 2030, serving as an additional TIF funding source for Project #1), are as follows:

<table>
<thead>
<tr>
<th>TIF Year</th>
<th>Assessment Year and Est. Valuation</th>
<th>Fiscal Year</th>
<th>Est. Annual Payments</th>
<th>Est. Cumulative Present Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2019 - Nominal</td>
<td>2020</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2</td>
<td>2020 - Partial</td>
<td>2021</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>3</td>
<td>2021 - Partial</td>
<td>2022</td>
<td>135,870</td>
<td>115,709</td>
</tr>
<tr>
<td>4</td>
<td>2022 - Full</td>
<td>2023</td>
<td>184,360</td>
<td>264,527</td>
</tr>
<tr>
<td>5</td>
<td>2023 - 1% Inflate</td>
<td>2024</td>
<td>187,477</td>
<td>407,972</td>
</tr>
<tr>
<td>6</td>
<td>2024 - 1% Inflate</td>
<td>2025</td>
<td>190,626</td>
<td>546,223</td>
</tr>
<tr>
<td>7</td>
<td>2025 - 1% Inflate</td>
<td>2026</td>
<td>193,805</td>
<td>679,452</td>
</tr>
<tr>
<td>8</td>
<td>2026 - 1% Inflate</td>
<td>2027</td>
<td>197,017</td>
<td>807,828</td>
</tr>
<tr>
<td>9</td>
<td>2027 - 1% Inflate</td>
<td>2028</td>
<td>200,261</td>
<td>931,515</td>
</tr>
<tr>
<td>10</td>
<td>2028 - 1% Inflate</td>
<td>2029</td>
<td>203,537</td>
<td>1,050,672</td>
</tr>
<tr>
<td>11</td>
<td>2029 - 1% Inflate</td>
<td>2030</td>
<td>206,846</td>
<td>1,165,453</td>
</tr>
</tbody>
</table>

If Project #2’s actual completed assessed value is higher or lower than the estimated $2,250,000, or if it increases or decreases from the initial assessment, the Project’s Pay-Go TIF capacity will differ from the above projection.
Looking at Projects #1 and 2 together, the estimated annual tax increments in the first eleven Project years (ten years following completion of supermarket construction) of Assess 2019 / Fiscal 2020 through Assess 2029 / Fiscal 2030 are as follows – with a combined pay-as-you-go TIF capacity in excess of $3.2 million:

<table>
<thead>
<tr>
<th>TIF Year</th>
<th>Assessment Year and Est. Valuation</th>
<th>Fiscal Year</th>
<th>Est. Annual Payments</th>
<th>Est. Cumulative Present Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2019 - Nominal</td>
<td>2020</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2</td>
<td>2020 - Partial</td>
<td>2021</td>
<td>194,229</td>
<td>174,505</td>
</tr>
<tr>
<td>3</td>
<td>2021 - Partial</td>
<td>2022</td>
<td>427,771</td>
<td>538,801</td>
</tr>
<tr>
<td>4</td>
<td>2022 - Full</td>
<td>2023</td>
<td>485,959</td>
<td>931,076</td>
</tr>
<tr>
<td>5</td>
<td>2023 - 1% Inflate</td>
<td>2024</td>
<td>492,506</td>
<td>1,307,908</td>
</tr>
<tr>
<td>6</td>
<td>2024 - 1% Inflate</td>
<td>2025</td>
<td>499,117</td>
<td>1,669,891</td>
</tr>
<tr>
<td>7</td>
<td>2025 - 1% Inflate</td>
<td>2026</td>
<td>505,795</td>
<td>2,017,593</td>
</tr>
<tr>
<td>8</td>
<td>2026 - 1% Inflate</td>
<td>2027</td>
<td>512,539</td>
<td>2,351,563</td>
</tr>
<tr>
<td>9</td>
<td>2027 - 1% Inflate</td>
<td>2028</td>
<td>519,351</td>
<td>2,672,330</td>
</tr>
<tr>
<td>10</td>
<td>2028 - 1% Inflate</td>
<td>2029</td>
<td>526,231</td>
<td>2,980,402</td>
</tr>
<tr>
<td>11</td>
<td>2029 - 1% Inflate</td>
<td>2030</td>
<td>533,180</td>
<td>3,276,269</td>
</tr>
</tbody>
</table>

Summary of Expenses and Revenues

Based on the estimated Project expense and property TIF revenue, as described in the preceding sections, the net TIF payments will be sufficient to pay the Project costs as contemplated under the Act, when supplemented with Developer debt and equity.

Effect on Special Obligation Bonds

No impact on special obligation bonds payable from revenues described in (a)(1)(D) of K.S.A. 12-1774 and amendments thereto is anticipated.

Contribution to Economic Development

The Project will provide significant economic development for the City by, among other things, creating substantial business activity on previously under-utilized parcels located in a commercial area of the City. Although the Project, in part, will replace an existing supermarket, the larger, more visible, and higher-quality development is expected to attract greater economic activity than does the existing facility. As such, the Project should be a long-term driver of sales and property tax revenues for the City, as well as employment. These benefits derived from the Project will exceed any costs thereof.

Local Sales and Use Taxes

The Project will not capture or use the local sales and use taxes generated by the development, and so these revenues will flow to the City.
Estimated Principal and Interest Schedule

While no TIF Bonds have been requested or proposed, from property tax increments generated in Project #1, the City expects to make annual pay-as-you-go payments ranging from approximately $190,000 to $330,000, up to a maximum principal amount of $2.1 million (not including interest payments) over a maximum Project term of eleven years and concluding no later than June 30, 2030.

While no TIF Bonds have been requested or proposed, from property tax increments generated in Project #2, the City expects to make annual pay-as-you-go payments ranging from approximately $140,000 to $210,000, up to a maximum principal amount of $1.1 million (not including interest payments) over a maximum Project term of eleven years and concluding no later than June 30, 2030.

While no TIF Bonds have been requested or proposed, from property tax increments generated in Projects #1 and 2 combined, the City expects to make annual pay-as-you-go payments ranging from approximately $190,000 to $540,000, up to a maximum principal amount of $3.2 million (not including interest payments) over a maximum Project term of eleven years and concluding no later than June 30, 2030.

Supplementation with Minutes

Upon City approval of the Project Plan, the City Clerk will attach the minutes of all City meetings where the Project was discussed as an exhibit to this feasibility study.

Conclusion

The proposed Project, as described within this feasibility study, will generate benefits and tax increment revenue which, when supplemented with Developer debt and equity, are expected to exceed the Redevelopment Project costs.
The City Council of the City of Gardner, Kansas met in regular session on January 7, 2019, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Honorable Mayor Steve Shute presiding. Present were Councilmembers Mark Baldwin, Randy Gregorcyk, Rich Melton, Lee Moore, and Todd Winters. City staff present were Interim City Administrator Laura Gourley; Police Chief James Pruetting; Business & Economic Development Director Larry Powell; Utilities Director Gonzalo Garcia; Public Works Director Michael Kramer; Parks and Recreation Director Jason Bruce; Finance Director Matt Wolff; and City Clerk Amy Nasta. Others present included those listed on the attached sign-in sheet and others who did not sign in.

**CALL TO ORDER**

There being a quorum of Councilmembers present, the meeting was called to order by Mayor Shute at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Mayor Shute led those present in the Pledge of Allegiance.

**PRESENTATIONS**

1. **Governing Body Rules of Procedure Update**

   Mayor Shute stated this presentation would be deferred to the January 22, 2019 meeting.

2. **Neighborhood Revitalization Plan (NRP) for the City of Gardner**

   Business and Economic Development Director Larry Powell stated that the City had previously had a Neighborhood Revitalization Program, which had sunset after ten years. He said those who had participated in the program had shown more willingness to invest in their properties, and Johnson County had concluded the program was a favorable motivator for renovation, replacement, or the building of new structures. He said the County was willing to participate in a new program.

   Mr. Powell stated the original program had been for businesses only, but the program being recommended currently would include residential properties as well. He said the residential property currently suggested for inclusion was off of Killcreek Road and had historically faced issues that made it difficult or costly to develop such as floodplains, utility lines (including gas lines), and proximity to the sewage plant. He said there may be other properties in the community that face similar challenges, and these could be considered for inclusion in the future should they fit the criteria.

**PUBLIC HEARING**

1. **Hold a public hearing on the adoption of a Neighborhood Revitalization Plan (NRP) for the City of Gardner**

   Councilmember Melton made a motion to open a public hearing for the purpose of receiving public comments on the adoption of a Neighborhood Revitalization Plan for the City of Gardner

   Councilmember Moore Seconded.

   With all of the Councilmembers voting in favor of the motion, the motion carried.

   Councilmember Gregorcyk made a motion to close the public hearing

   Councilmember Moore Seconded.

   With all of the Councilmembers voting in favor of the motion, the motion carried.

**PUBLIC COMMENTS**
Jerry Gipner of 4018 W 159th, Olathe stated the hangars at the Gardner Municipal Airport were not all equal, and came in a range of prices. He said there was currently a hangar wait list that people had joined for $100 each, which he believed to be a contract. He said there was also an upgrade list for hangars and the people who sublease get the best hangars immediately because the individuals with those hangars wish to keep them. He said the Johnson County Airport Board would be meeting the following morning and effectively doubling hangar rates. He said there were also 10-15 hangars at the Gardner Municipal Airport containing planes that hadn’t moved for thirty years.

Gary Mitchell of 7th Avenue, Kansas City, Kansas, stated he was with the VAA and had attended the Airport Advisory Board meeting in December and that everyone had had an opportunity to make comments and discuss issues with the hangars during that meeting prior to the vote of the Board members. He said the plan that had been voted on was about the best possible plan. He said giving away the best hangars was an exaggeration and un-airworthy aircraft was an issue that was being worked on. He encouraged the Council to vote on the Airport Advisory Board’s recommendation for subleasing.

CONSENT AGENDA

1. Standing approval of the minutes as written for the regular meeting on December 3, 2018
2. Standing approval of City expenditures prepared December 13, 2018, in the amount of $1,418,320.97; December 14, 2018 in the amount of $523.00; December 19, 2018, in the amount of $1,144,582.28; December 20, 2018, in the amount of $814,931.16; December 27, 2018 in the amount of $466,212.44
3. Consider authorizing the Mayor to sign the 2019 County Assisted Road System (CARS) agreement for the Waverly, US-56 to Madison project
4. Consider the purchase of thirteen (13) Harris XL-185 portable radios and related equipment from KaComm, Inc
5. Consider a recommendation to purchase a new vehicle for the Utilities Department
6. Consider authorizing the City Administrator to execute an addendum with Wilson & Company, Inc. for design services on the Santa Fe, Waverly to Poplar project
7. Consider reappointment of Clint Barney to the Utility Advisory Commission

Councilmember Melton made a motion to approve the Consent Agenda.

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

COMMITTEE RECOMMENDATIONS

1. Consider adopting a Resolution adopting a Neighborhood Revitalization Program

Business and Economic Director Larry Powell stated the Economic Development Advisory Committee had been reviewing this program since early 2018 and had determined that the original program, which had been just for businesses, was not adequate for current needs. Mr. Powell state businesses must make changes that increase property values by a minimum of 15% in order to be eligible for rebates. He said this had been changed from the previous figure of 20% due to current building costs. He said rebates would be transferrable, and that special assessments and the eight mills levied for USD 231 would still be required to be paid. He said the residential areas included had similar improvement requirements, but the rebate period was only five years versus the ten years for businesses as residential tax increases tend to occur more slowly. He said the goal was to encourage growth in these areas, but not to provide an undo advantage.

Mr. Powell said the next steps would be to contact other entities in the area and present the information, as these entities would need to enter into an inter-local agreement with the City of Gardner if they wished to participate in the program. He said the program would then go to the Kansas Attorney General’s office for review and approval prior to being put in place and made available to the general public. Councilmember Winters asked if the program
would still be available if no other intergovernmental entities wished to participate. Mr. Powell stated it would, and clarified that the Fire Department had been part of the City when the original program had been put in place, but that the current program still required mills for the Fire Department, USD 231 (8 mills for Capital Outlay), and all specials to be paid.

Mayor Shute asked about retroactivity of the program. Mr. Powell stated no one was eligible to participate in the program until it had been approved by the Attorney General, which he hoped would occur by March or April of 2019.

Councilmember Gregorcyk asked for examples of outcomes from the previous program as well as a reminder of how the program was funded. Mr. Powell stated the highest return on investment from the original program had been the O'Reilly building where the return on investment had been equivalent to the cost to build. He said those wishing to participate would be approved, would perform improvements, the improvements would be accepted, Johnson County would be notified and subsequently appraise the building, and if the requirements met the guidelines the participant would receive a refund only after their taxes were paid in full.

Councilmember Baldwin asked if there had been any consideration of using a flat dollar amount in addition to the 15% requirement so that once a certain dollar amount had been spent the percentage no longer mattered. Mr. Powell stated there had been an attempt to develop a matrix based on this concept but it had become convoluted and did not support the goal of encouraging development across the board.

Councilmember Moore asked how the zones were determined. Mr. Powell stated the first step had been looking at the zones from the original program. He said input from property owners about their future plans had also been included. He said location and mitigating circumstances such as noise had been considered as well. He said while everything believed necessary to include at this time had been included, there were other areas that could apply in the future if they met the criteria, so long as they went through the same process.

Mayor Shute stated part of this is the Main Street Marketplace property, which would already have a CID or TIF. Mr. Powell stated this rebate could not be utilized if the property was already receiving another incentive. Councilman Winters asked if a residential property was eligible if it was located in a business zone. Mr. Powell stated there was no provision for mixed use, meaning business properties had to be in business zones and residential properties had to be in residential zones.

Councilmember Gregorcyk made a motion to adopt Resolution 2006, a resolution adopting a Neighborhood Revitalization Program

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2006

Gregorcyk: Yes
Melton: Yes
Moore: Yes
Winters: Yes
Baldwin: Yes

2. Consider a recommendation to award a contract to DEHN, Inc. for the Hillsdale Lightning Protection Project # WA1807

Utilities Director Gonzalo Garcia stated this project had started after a lightning strike in 2016 had required the plant to be manually operated due to SCADA damage. He said there was currently no lightning protection at the plant for either equipment or personnel. He said the system would have two components: lightning rods and surge protectors. Councilman Melton asked if these protections had been in place when the plant had been hit in 2016. Mr. Garcia stated there had been no protection as it had been removed from the original project due to budget restrictions.
Councilmember Baldwin made a motion to authorize the City Administrator to execute a contract with DEHN, Inc., in the amount of $109,850.00 for a lightning and surge protection system for the Hillsdale Water Treatment Plant, Project #WA1807

Councilmember Moore Seconded. With all of the Councilmembers voting in favor of the motion, the motion carried.

3. Consider authorizing new sub-lease policy for hangars at the Gardner Municipal Airport

Public Works Director Michael Kramer stated the airport minimum standards for the Gardner Municipal Airport had been redone when the City had taken over airport operations in 2016. He said subleasing had been reviewed with both the Airport Advisory Board (AAB) and the City Council at that time, and a policy had been passed to allow subleasing to continue through December, 2018, with all future subleasing to be for a maximum of two years. He said the AAB had started discussing this issue in November of 2018 at their Board meeting with about seventeen citizens who signed in. He said the existing policy had been discussed, along with past policies and best practices from other airports. He said this discussion had been utilized to create the recommendation presented to the AAB in December, 2018, which had been approved and was now being presented to the Council.

Councilmember Moore made a motion to approve the recommend sub-lease policy for hangars at the Gardner Municipal Airport

Councilmember Melton Seconded. With all of the Councilmembers voting in favor of the motion, the motion carried.

NEW BUSINESS

1. Consider the Gardner Edgerton Chamber of Commerce Agreement

Jason Camis, President of the Gardner Edgerton Chamber of Commerce, stated the Chamber was working to determine if a Convention and Visitors Bureau (CVB) would be best operated under the Chamber umbrella or as a stand-alone organization. He said he wanted to have a contract for the CVB that was separate from the Chamber’s agreement. He said the first step for creating a CVB was determining the organizational structure, followed by completing a visitor profile to help to better understand the target audience. He said the Chamber would continue to work with the City of Gardner and perform the activities it had in the past. He said there were many opportunities coming up such as the 2020 Kansas City Airshow to be held at the New Century Airport and the 2021 Model T tour of the Santa Fe Trail. He said the funding for this year could vary based on the opening of the Hampton Inn and he would work with City staff on a payment schedule.

Councilmember Melton stated there was nothing in the agreement providing metrics for accountability. He said the Council needed to have a way to know money was being utilized correctly. Mr. Camis stated a board with voting privileges could potentially be added.

Councilmember Baldwin stated the agreement with Southwest Johnson County EDC should also be considered in this process. He said if accountability was needed for the Chamber agreement, it was needed for the agreement with the EDC as well.

Interim City Administrator Laura Gourley stated the Economic Development Council was going to be part of the setup for the CVB, and the CVB contract would then come back before the Governing Body. She said she was unsure if the Governing Body was requesting spending powers or reporting powers, and said spending powers may be problematic due to Charter Ordinance 18.

Mayor Shute stated the Governing Body was looking for accountability and felt this needed to be enforced across all intergovernmental partners. He said no decisions would be made on the CVB until there was a CVB
agreement. He said this funding provided the ability to perform the advance work needed to form the CVB.

Mayor Shute stated any future contracts that were signed would include performance clauses.

Councilmember Gregorcyk asked if Mr. Camis expected the funding from the Transient Guest Tax to shrink over time and the CVB to become more self-supportive. Mr. Camis stated most CVBs had a public funding element and were not self-supporting.

Councilmember Gregorcyk made a motion to authorize the Mayor to execute an agreement with the Gardner Edgerton Chamber of Commerce for business and tourism services for one year, ending December 31, 2019.

Councilmember Melton Seconded. With all of the Councilmembers voting in favor of the motion, the motion carried.

2. Consider accepting the Sanitary Sewer and Waterline Easement dedications by separate instruments for Gardner Business Center.

Councilmember Moore made a motion to accept the dedication of the Sanitary Sewer and Waterline Easements by separate instruments.

Councilmember Baldwin Seconded. With all of the Councilmembers present voting in favor of the motion, the motion carried. (Councilmember Gregorcyk was not present to vote)

3. Consider the acceptance of Drainage, Sanitary Sewer, Waterline, and Temporary Turnaround Easement dedications by separate instruments for Olathe Health.

Councilmember Melton stated when the gas line had been installed, the asphalt before the turn-in had been torn up and concrete had been poured. He asked who was responsible for fixing this. Public Works Director Michael Kramer stated staff would look into this.

Councilmember Baldwin made a motion to accept the dedication of the Drainage, Sanitary Sewer, Waterline, and Temporary Turnaround Easements by separate instruments.

Councilmember Melton Seconded. With all of the Councilmembers voting in favor of the motion, the motion carried.

4. Consider adopting a resolution providing notice to be given for a public hearing concerning the advisability of the creation of a Community Improvement District within the City and declaring the intent of the City to levy a Community Improvement District Sales Tax (Main Street Market Place CID).

Councilmember Melton made a motion to adopt Resolution No. 2007 providing for notice to be given for a public hearing concerning the advisability of the creation of a Community Improvement District within the City and declaring the intent of the City to levy a Community Improvement District Sales Tax pursuant to K.S.A. 12-6a26 et seq. (Main Street Market Place CID).

Councilmember Moore Seconded. With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2007.

Melton: Yes
Moore: Yes
Winters: Yes
Interim City Administrator Laura Gourley stated she wished to mention that Bond Counsel Tyler Ellsworth had been made a Partner at Kutak Rock.

5. Consider adopting a resolution approving the execution of a funding agreement with The Bristol Groupe LLC.

Councilmember Gregorcyk stated he was excited for this opportunity and appreciated the investment. Mayor Shute stated these were three tough areas and this was a great opportunity.

Councilmember Gregorcyk made a motion to adopt Resolution No. 2008 approving the execution of a funding agreement related to three proposed economic development projects located within the City (The Bristol Groupe LLC Projects)

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2008

Moore: Yes
Winters: Yes
Baldwin Yes
Gregorcyk: Yes
Melton Yes

COUNCIL UPDATES

City Clerk Amy Nasta stated there had been some challenges with availability for Governing Body Members when scheduling the interviews for both the Airport Advisory Board (AAB) and the Utility Advisory Commission (UAC) and as a result, these interviews will not be completed in time to meet the deadlines outlined in Governing Body Rules of Procedure. She said the UAC would only have two members at the end of January, including the reappointment of Clint Barney approved earlier in the meeting. She said there had also been an insufficient number of applicants for the UAC as compared to seats, and Attorney Denk had verified that the terms of seated members could be extended slightly in order for the process to be extended, as Governing Body Rules of Procedure allows for this in exceptional circumstances. She said the two applicants already received will still be considered.

Ms. Nasta stated the Governing Body had received enough applications to fill the open position on the Airport Advisory Board, and could determine if they would prefer to restart the process or have an agenda item introduced at the January 22, 2019 City Council meeting to slightly extend the process in order to allow for interviews and consideration.

Mayor Shute stated there was consensus from the Governing Body to extend the current terms of UAC members by eight weeks and restart the UAC selection process.

Mayor Shute stated there was consensus from the Governing Body to have an agenda item introduced at the January 22, 2019 meeting to extend the Airport Advisory Board selection process.

Public Works Director Michael Kramer stated the Federal shutdown was affecting applications for airspace, which was impacting projects including sewer and road projects at the Gardner Municipal Airport. He said applications were not being accepted or reviewed.

Interim City Administrator Laura Gourley stated she wanted to remind the Governing Body that the next meeting would be Tuesday, January 22, 2019. She said IT had used a creative solution to put up a new camera to allow for livestreaming that evening, and that the previous camera would be added back in the future. Councilmember Moore stated he appreciated the camera.
Councilmember Gregorcyk asked for an update on the City Administrator search process and asked if 1% of the PILOT was equivalent to approximately $100,000 on the electric franchise. Finance Director Matthew Wolff stated he believed the value for 1% for 2018 had been approximately $120,000. Interim City Administrator Laura Gourley stated the City Administrator position had been posted and applications would be accepted through February 1, 2019. She said the selection committee would conduct initial interviews from February 11, 2019 through February 22, 2019. She said the goal was to have someone in place by April 1, 2019, but that this timeline may be a bit too aggressive. Mayor Shute stated a second Interim City Administrator may need to be appointed after March 22, 2019 and that this was being proactively considered.

Councilmember Baldwin stated a tracking plan for various projects to be displayed on the City’s website had been discussed at the November, 2017 Council Retreat. He said he believed the agreements with Southwest Johnson County EDC and the Chamber presented a good opportunity to create a checklist for the website to help track progress on these items, along with links to relevant materials. Mayor Shute stated the G3 dashboard was still available. Finance Director Matthew Wolff stated this was more for viewing the big picture and other measures of satisfaction, not for step-by-step tracking of agenda items. Councilmember Moore stated he would like to see more visibility of G3 in general. Mr. Wolff stated more visibility would be available this quarter.

Mayor Shute stated the Martin Luther King exhibit would be available for viewing at City Hall on Friday, January 18, 2019 and Monday, January 21, 2019.

ADJOURNMENT
There being no further business to come before the Council, on a motion duly made by Councilmember Melton and seconded by Councilmember Moore the meeting adjourned at 08:38 p.m.

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**TOTAL EXPENDITURES**: 156,632.09 | 577,773.44 | 734,405.53
Agenda Item: Consider purchasing a new bobcat for the Parks and Recreation Department

Strategic Priority: Infrastructure
Asset and Infrastructure Management

Department: Parks and Recreation

Staff Recommendation:
Authorize the purchase a new bobcat from K.C. Bobcat for the Parks and Recreation Dept. in the amount of $49,924.00

Background/Description of Item:
The Parks and Recreation Department budgeted $50,000 to replace its bobcat in 2019. The existing bobcat is a 1997 model that has over 2,000 hours on it. This older unit lacks high flow rates, which are necessary to operate attachments properly, has an insufficient load capacity, making staff unload pallets by hand, and needs several small repairs to function properly.

The proposed unit is a track model that will maneuver more easily throughout the City’s parks and prevent damage to the turf. This unit will increase staff productivity and efficiency by handling current loads the department is responsible for transporting, therefore minimizing the risk of potential injury to staff during the loading and unloading product by hand.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Price</th>
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<tbody>
<tr>
<td>K.C. Bobcat</td>
<td>$49,924.00</td>
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<tr>
<td>Kubota</td>
<td>$63,387.42</td>
</tr>
<tr>
<td>Foley Equipment</td>
<td>$86,778.00</td>
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</table>

Financial Impact:
This is a budgeted item in 2019.

Attachments:
- K.C. Bobcat quote
- Kubota quote
- Foley Equipment quote

Suggested Motion:
Authorize the City Administrator to purchase a new bobcat from K.C. Bobcat in the amount of $49,924.00
Quotation Number: 29597D029732

Date: 2019-01-09 00:41:52

Ship to
City of Gardner Parks Department
Attn: Shawn
(Not Specified), KS 66061-5371

Bobcat Specialist
Eddie Keating
Phone: 9138294600
Fax: 9138291552
Cellular: 9139278862
E Mail: ekeating@kcbobcat.com

<table>
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<tr>
<th>Description</th>
<th>Qty</th>
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<td>T595 T4 Bobcat Compact Track Loader</td>
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<td>$56,058.00</td>
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<tr>
<td>Lift Path: Vertical</td>
<td>Lights, Front &amp; Rear</td>
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<tr>
<td>Operator Cab</td>
<td>Includes: Adjustable Suspension Seat, Top &amp; Rear Windows, Parking Brake, Seat Bar &amp; Seat Belt</td>
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<tr>
<td></td>
<td>Roll Over Protective Structure (ROPS) meets SAE-J1040 &amp; ISO 3471</td>
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<td></td>
<td>Falling Object Protective Structure (POPS) meets SAE-J1043 &amp; ISO 3449, Level I; (Level II is available through Bobcat Parts)</td>
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<td>Parking Brake: Spring Applied, Pressure Released (SAPR)</td>
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<tr>
<td>Solid Mounted Carriage with 4 Rollers</td>
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<tr>
<td>Tracks: Rubber, 12.6&quot; Wide</td>
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<tr>
<td>Warranty: 2 years, or 2000 hours whichever occurs first</td>
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<tr>
<td>A91 Option Package</td>
<td>Deluxe Instrument Panel</td>
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<tr>
<td>Cab enclosure with Heat and AC</td>
<td>Keyless Start</td>
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<tr>
<td>High Flow Hydraulics</td>
<td>Attachment Control Kit</td>
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<tr>
<td>Two Speed Travel</td>
<td>Cab Accessories Package</td>
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<td>Sound Reduction</td>
<td>3-Point Seat Belt</td>
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<td>Hydraulic Bucket Positioning</td>
<td>M0249-R01-C04</td>
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<td>--- Bolt-On Cutting Edge, 74&quot;</td>
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<td>$4,739.00</td>
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<td>80&quot; Dozer Blade, 6-Way</td>
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<td>84&quot; Snow V-Blade</td>
<td>Total of Items Quoted</td>
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<td>Trade-in</td>
<td>751 BOBCAT LOADER W/2 BUCKETS</td>
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<td>Quote Total - US dollars</td>
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Notes:
SVL75-2HFC WEB QUOTE #1215140
Date: 12/19/2018 1:04:56 PM
— Customer Information —
Tim Rodgers, City of Gardner Parks and Rec
trogers@gardnerkansas.gov
913-238-8146

Quote Provided By
Coleman Equipment, Inc.
Ed Goldsmith
24000 W. 43rd.
Bonner Springs, KS 66012
email: ed@colemaneqquip.com
phone: 9134495019

— Standard Features —

Kubota

S Series

SVL75-2HFC

*** EQUIPMENT IN STANDARD MACHINE ***

FEATURES

Vertical Lift Path Loader Frame

SVL-75-2, 15.0" Rubber Tracks,

Standard Front Quick Coupler,

A/C ROPS/FOPS Cab Models

Hydraulic Utility Coupler

Hydraulic Quick Coupler

Option, High Flow Hydraulics

Loader Boom Lock

Open ROPS & Air Conditioned

ROPS/FOPS Cab Models

High Back, Adjustable, Vinyl

Suspension Seat

2" Retractable Seat Belt and 2-

Piece Seat Bar

12V Electric Outlet

17.4 gpm Auxiliary Hydraulics

Standard, 29.3 gpm Option

Direct To Tank Return Line

Rigid Mounted Undercarriage, 4

Lower Track Rollers

Rubber Tracks, 12.6" Standard, 15"

Optional

Two Speed Travel System

Automatic Wet Disk Parking Brake

Kubota 4 Hydraulic Pump Load Sensing System

2 Gear, 2 Variable Displacement Pumps

Hydraulic Joystick Controls

ISO Operating Pattern

Hand And Foot Throttle Controls

Electronic Travel Torque Management

Automatic Glow Plugs

Key Switch Stop/Start System

Self Bleed Fuel System

2 Front and 2 Rear Working Lights

Hour Meter, Engine

Temperature and Fuel Gauges and Warning Lights

Horn and Backup Alarm

Lockable Fuel Cap

Bolt On Grab Handles to enter machine

BASIC UNITS

ENGINE

V3307 Kubota CR-TE4, Tier 4

Diesel Engine

4 Cylinder, 4 Cycle, Turbo Charged

74.3 Gross HP @ 2400 rpm

DIMENSIONS

Cab Height 82.0" Width (without attachment) 65.9"

Width with track option Width with attachment 68.3"

Length (without attachment) 109.0" Length of Track on Ground 56.5"

OPERATIONAL DIMENSIONS

Operating Weight, SVL75H, 12.5"

Rubber Tracks, Open

ROPS/FOPS Cab, Mechanical Quick Coupler 9,690 lbs.

Rated Operating Capacity @ 35% of Tipping Load 2,300 lbs.

Rated Operating Capacity (ROC) @ 35% of Tipping Load 2,265 lbs.

Rated Operating Capacity (ROC) for crawler loaders

Rated Operating Capacity (ROC) @ 50% of Tipping Load 3,285 lbs.

Tipping Load 6,570 lbs.

Auxiliary Hydraulics Flow 17.4

gpm

Travel Speed (Low / High) 4.7 / 7.1

mph

Reach @ Maximum Height 41.7

Height to Hinge Pin 106.1

Ground Pressure 5.5 psi

Traction Force 9,679 lbs.

Includes operator's weight, 175 lbs.

SVL75-2HFC Base Price: $86,072.00

(1) 74" HEAVY DUTY LOW PROFILE STANDARD FLOOR BUCKET (15.4 CU-FT) W/FEETH

AP-87514.374 HEAVY DUTY LOW PROFILE STANDARD FLOOR BUCKET (15.4 CU-FT) W/FEETH

$1,072.00

(1) 74" HEAVY DUTY LOW PROFILE LONG FLOOR BUCKET (16.2 CU-FT) W/FEETH

AP-89477.374 HEAVY DUTY LOW PROFILE LONG FLOOR BUCKET (18.2 CU-FT) W/FEETH

$1,855.00

(1) HOSE STAY

$72.00

$89,697.00 HOSE STAY

Configured Price: $89,671.00

Sourcewell Discount: ($16,721.04)

SUBTOTAL: $72,949.96

Dealer Assembly: $17.00

Freight Cost: $755.00

PDI: $250.00

77700-04752 radio installed

AP-D2386-32 plus ferr, set-up, delivery

AP-SC4072-14-20-41 plus ferr, set-up, delivery

$3,100.00

Total Unit Price: $63,387.42

Quantity Ordered: 1

Final Sales Price: $63,387.42

Purchase Order Must Reflect the Final Sales Price

To order, place your Purchase Order directly with the quoting dealer
SALES AGREEMENT

Purchaser: City of Gardner, Park and Rec Department

Street Address: 120 E Main

City/State: Gardner, KS

Postal Code: 66030

Phone No.: 913-856-7325

Customer Contact: N/A

Industry Code: Legislative Bodies (912)

Principal Work Code: FOB At: Delivered

Customer Number: 013342

Sales Tax Exemption # (if applicable): N/A

Customer PO Number: N/A

Payment Terms: (All terms and payments are subject to Finance Company - OAG approval)

Net Payment on Receipt of Invoice: N/A

Net on Delivery: N/A

Financial Services: N/A

CSC: N/A

Lease: N/A

Cash with Order: N/A

Balance to Finance: N/A

Contract Interest Rate: N/A

Number of Payments: N/A

Optional Buy-Out: N/A

Description of Equipment Ordered/Purchased:

Make: Caterpillar

Model: 2850X982CA

Year: 2019

Serial Number: GNM1222

28SR TIER 4 FINAL SPEC: 455-5285

Number Belt, 2 SPG, TF IDLERS: 657-0248

BSL58P90S - BUCKET 80" SMOOTH: 2795377

2019 Model: 2850X982CA

Instructions, ANSI, USA: 435-9228

Battery, Heavy Duty, 850 CCA: 492-6088

CATERPILLAR 6 Way Dozer Blade 93: 2795378

Pack Performance, H3: 468-0737

Lights, Halogen: 495-1672

Power, 12 Volts: 495-1672

Vernig 120' Hydraulics V Plow: 495-1672

High Floe XPS - 3G: 495-1672

Seat Belt, 33: 495-1672

FAN, COOLING, DEMAND: 486-6957

Number Belt, 2 SPG, TF IDLERS: 515-0548

COUNTERWEIGHT, MACHINES, EXTERNAL: 515-0548

CONVERSION ARRANGEMENT: 421-0340

PRODUCT LINK, CELLULAR P240: 481-4818

QUICK COUPLER, HYDRAULIC: 515-0548

CERTIFICATION ARR, P4S: 515-0548

SERIALIZED TECHNICAL MEDIA KIT: 421-8926

PACK, DOMESTIC TRUCK: 09-0610

Vernig Industrial Number: 415-9625

TRAD-INC EQUIPMENT

Model: 79L - ROBCK79L

Year: 1992

Serial Number: 51571449

Belt: Dealer

Sell Price: $102,424.00

Tax Warranty: $1,738.00

Less Gross Trade Allowance: ($4,455.00)

Source Well Discount 24% of List: ($21,324.00)

Customer Loyalty Discount: ($7,507.00)

Net Balance Due: $72,597.00

Vernig Attachments (Motor/V Plow): $1,418.00

Plus Any Applicable Taxes: $86,778.00

ACH Information:

Bank = Wells Fargo NA
ABA number 121000248
Account number 4121966387
Email remittance advice to ACHPMTS@foleyeq.com

Caterpillar Equipment Warranty

The customer acknowledges that he has received a copy of the Foley Equipment Company Caterpillar Warranty and has read and understood said warranty. Scheduled oil sampling (O.D.R.) is mandatory with this warranty. The customer is responsible for taking oil samples at designated intervals from all powertrain components and failure to do so may result in voiding the warranty. Warranty applicable including repair date where necessary:

24 Month 2000 Hour Premier

Premier Warranty 48 Mo 2000 Hr w/ Travel

Caterpillar Equipment Warranty: N/A

Used Equipment Warranty: N/A

This order is not valid until approved by Sales Manager

ORDER RECEIVED: John Pamperin

APPROVED AND ACCEPTED ON: N/A

Purchaser: City of Gardner, Park and Rec Department

Sales Manager: N/A

Signature: N/A

NOTE: Pricing based on Sourcewell/Caterpillar national agreement # 039516-CAT.
Agenda Item: Authorize the Interim City Administrator to execute a Quit Claim Deed to convey Lot 2, Symphony Farms III (commonly known as 32350 W. 167th Street) to Johnson County Fire District No. 1

Strategic Priority: Infrastructure and Asset Management
Maintain Quality of Life

Department: Administration

Staff Recommendation:
Staff recommends Council approve the conveyance of Lot 2, Symphony Farms III (commonly known as 32350 W. 167th Street) to Johnson County Fire District No. 1.

Background/Description of Item:
At the October 18, 2010 council meeting, Council finalized the separation of the City’s previous Public Safety Department, which at that time provided both police and fire services. Following this separation, the City continued to provide police services, but ceased providing fire services, instead contracting these services with Johnson County Fire District No. 1. Subsequently, the City consolidated with the fire district effective January 1, 2017, ending any need for the City to continue ownership of the aforementioned parcel of land previously reserved for a future fire station. (see attached Exhibit A)

City Attorney Denk prepared the attached Quit Claim Deed to convey the parcel of land to the fire district.

Financial Impact:
Following conveyance, the City will be relieved of special assessments on this property averaging $607 annually.

Attachments Included:
- Quit Claim Deed
- Exhibit A

Suggested Motion:
Authorize the Interim City Administrator to execute a Quit Claim Deed to convey Lot 2, Symphony Farms III (commonly known as 32350 W. 167th Street) to Johnson County Fire District No. 1
QUIT CLAIM DEED

The City of Gardner Kansas, (herein "Grantor"), for and in consideration of the sum of Ten and No/100 Dollars ($10.00), the receipt of which is hereby acknowledged, does by these presents, REMISE, RELEASE, and forever QUIT-CLAIM unto Fire District No. 1, County of Johnson, Kansas, whose address is 490 New Century Parkway, New Century, Kansas (herein "Grantee"), its successors and assigns, all of Grantor's right, title, and interest in the parcel of real estate commonly known as 32350 W. 167th Street, situated in the City of Gardner, Johnson County, Kansas, legally described as:

Lot 2, Symphony Farms III, a subdivision in the City of Gardner, Johnson County, Kansas, the final plat for which was filed with the Johnson County Register of Deeds on April 8, 2008 at Book 200804, Page 002574, a copy of said final plat being attached hereto as Exhibit A.

ALL SUBJECT to all easements, rights-of-way, restrictions, agreements, and encumbrances of record, and all taxes and assessments, general and special, not now due and payable.

TO HAVE AND TO HOLD THE SAME, with all the rights, privileges, appurtenances, and immunities thereto belonging unto Grantee and unto its successors and assigns forever; so that neither the Grantor, nor any other person or entity, for it or in its name or behalf, shall or will hereafter claim or demand any right or title to the aforesaid premises or any part thereof, but they and each of them shall, by these presents, be excluded and forever barred. Grantee understands that the above described property is being conveyed to it “AS IS, WHERE IS”, without any warranty of any kind as to the condition of the property or Grantor’s title to the same.
WITNESS THE HAND of said Grantor this ____ day of ________________, 2019.

City of Gardner, Kansas

By: ______________________________

Name: _____________________________

Title: ______________________________

ACKNOWLEDGMENT

STATE OF KANSAS

) SS

COUNTY OF JOHNSON

BE IT REMEMBERED that on this ____ day of _______, 2019, before me, the
undersigned, a notary public in and for the county and state aforesaid,
came________________ who is personally known to me to be the same person who
executed the within instrument of writing as ___________________ of the City of
Gardner, Kansas, and such person duly acknowledged the execution of the same as his
free act and deed for the purposes and consideration therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the
day and year last above written.

_____________________________    My appointment expires:
Agenda Item: Consider the extension of the Airport Advisory Board appointment process.

Strategic Priority: N/A

Department: Mayor

Recommendation:
Staff recommends that the Council extend the Airport Advisory Board appointment process for up to 28 days until February 18, 2019.

Background/Description of Item:
There is one open position on the Airport Advisory Board. At this time, two applications have been received. Due to conflicts, the Interview team has been unable to conduct applicant interviews in order to fill these positions.

At the January 7, 2019 City Council meeting, the Governing Body requested that an item allowing for an extension of the appointment process be brought before the Council for consideration.

Attachments Include: N/A

Suggested Motion:
Approve the extension of the Airport Advisory Board appointment process for up to 28 days until February 18, 2019 with consideration of appointments on the February 18, 2019, City Council Agenda.
Agenda Item: Consider appointing a City Treasurer

Strategic Priority: Infrastructure and Asset Management

Department: Mayor and Council

Staff Recommendation:
Appoint Matthew Wolff as Gardner City Treasurer, effective January 22, 2019.

Background/Description of Item:
Per Kansas statutes, the City Treasurer is a required position, appointed by the Mayor with consent of the City Council.

The City of Gardner typically appoints the Finance Director to serve as the City Treasurer. Matthew Wolff currently serves as the Finance Director for the City of Gardner and is recommended for appointment as City Treasurer, effective immediately.

Attachments:
N/A

Suggested Motion:
Appoint Matthew Wolff as Gardner City Treasurer effective January 22, 2019
AGENDA ITEM: Consider adopting an ordinance revising Title 13 Utilities, Chapter 13.25 Electric Rates of the Gardner Municipal Code

STAFF CONTACT: AMY FOSTER, BUSINESS SERVICES MANAGER
GONZ GARCIA, UTILITIES DIRECTOR

DEPARTMENT NAME: Finance and Utility

Staff Recommendation:
The Utility Advisory Commission recommends the Governing Body pass an ordinance amending, Gardner Municipal Code Title 13, Utilities, Chapter 13.25 to adopt the Electric Rate Analysis Recommendations, including changes to customer classes, commercial class design, and rate adjustments.

Background:
On December 6, 2018, the Utility Advisory Commission approved a recommendation to the City Council to consider the proposed Ordinance adopting the Electric Rate Analysis Recommendations, conducted by Burns and McDonnell.

The proposed changes to Gardner Municipal Code Title 13, Utilities Chapter 13.25 are as follows:

1. **Class of Electric Customers**
   Residential, Commercial (Small, Medium, and Large), School District 231 and Interdepartmental.

2. **Commercial Rate Class Design**
   After analysis of the City’s Commercial customers, the following demand thresholds have been determined:
   Small – less than or equal to 25 kW
   Medium – greater than 25 kW and less than 200 kW
   Large - greater than 200 kW

3. **Removal of Determination of Load Factor**
   No longer needed with the proposed commercial class designs

4. **Rate Adjustments**
   To allocate the cost of service based on class of customers and remain revenue neutral, rate adjustments are need as follows:
The forecast assumes a 1% growth rate, a 3% increase in cost of services and maintains a 25% fund balance of total expenditures. The forecast is through 2023, however Burns and McDonnell consultants recommend reviewing the Electric Rate Analysis with the 2021-2022 Budget to maintain the electric fund.

Financial Impact:
This action is revenue neutral and maintains sustainable funding for improvements identified in the capital improvement element without the need for increasing revenues for the electric fund.

Attachments included:
- Ordinance 2597

Suggested Motion:
Adopt Ordinance 2597 revising Title 13 Utilities, Chapter 13.25 Electric Rates of the Gardner Municipal Code

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<th>Rate Class</th>
<th>Energy Charge</th>
<th>Demand Charge</th>
<th>Service Charge</th>
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<td>Large Commercial</td>
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ORDINANCE NO. 2597

AN ORDINANCE REVISING TITLE 13 UTILITIES, CHAPTER 13.25 ELECTRIC RATES OF THE GARDNER MUNICIPAL CODE.

WHEREAS, said Gardner Municipal Code, Chapter 13.25 Electric Rates was identified as needing to be revised following the adoption of an Ordinance establishing the Utility Advisory Commission.

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

SECTION ONE: The Governing Body of the City of Gardner, Kansas now deems it advisable to revise Chapter 13.25 “Electric Rates” as follows:

13.25.010 Electric Rates. All customers of electrical current supplied by the electric distribution system of the City shall pay for this service in accordance with one of the following rates:

A. Residential.

1. Eligibility for the residential electric rate is limited to dwelling units supplied through one meter for domestic use. This rate is not available to dwelling units used for commercial purposes; however, if the customer's wiring is so arranged that electric service for domestic and non-domestic purposes can be metered separately, then this rate is available to that portion used for domestic purposes.

2. Rate.
   a. Service charge: $6.72; and
   b. $0.1038 per kilowatt hour.

B. School District 231.

1. The School District 231 rate is available to any building used by U.S. D. 231 School District.

2. Rate.
   a. Service charge: $11.13; and
   b. $12.22 per kilowatt hour for all kilowatts of billing demand; and
   c. $0.0413 per kilowatt hour

C. City of Gardner.

1. The City of Gardner rate is available to any building or facility owned by the City.

2. Rate.
   a. Service charge: $0.00; and
   b. Demand charge: $0.00; and
   c. Energy charge: $0.0565

D. Commercial Rates.

1. Classification Determination.

Commercial customers will be classified as either Small, Medium or Large Commercial Customers. Classification for new commercial customers (customers with less than 12 months historical usage data) shall be determined by the City of Gardner Utility staff based upon historical electric usage at the property/meter or based upon the size of the electrical service or when the property/meter has no historical data or the service supplied to the
property/meter has been altered. Classification for accounts with at least 12 months historical usage data shall be determined on an on-going basis by averaging the account’s electricity usage over the 12 months preceding the applicable billing cycle.

2. Commercial Classifications.


A Commercial Customer is a customer whose principle use of the property associated with the account is committed to a use other than a residential, City or USD 231 use. Generally a Commercial property use for purposes of determination of the applicable utility rate charge includes retail, assembly, residential care, food and beverage, health care, lodging, personal storage, service, recreation, entertainment, office, employment, civic, manufacturing, freight and distribution, communications, natural resource extraction, utility and other uses commonly considered as commercial or industrial in nature.

b. Commercial Demand Charge.

All Commercial Customers will be billed a demand charge based on the highest demand indicated during any 15-30 minute interval during the billing period.

c. Small Commercial.

i. The Small Commercial rate shall apply to Commercial Customers whose peak kW demand is less than or equal to 25 kW each month.

ii. Rate.
   1). Service charge: $10.00;
   2). $ 5.00 per kilowatt hour of billing demand; and
   3). Energy charge: $0.0786 per kilowatt hour.

d. Medium Commercial.

i. The Medium Commercial rate shall apply to Commercial Customers whose peak kW demand is in excess of 25 kW but less equal to or less than 200 kW each month.

ii. Rate.
   1). Service charge: $20.00;
   2). $ 9.75 per kilowatt hour of billing demand; and
   3). Energy charge: $0.0645 per kilowatt hour.

e. Large Commercial.

i. The Large Commercial rate shall apply to Commercial Customers whose peak kW demand is in excess of 200 kW each month.

ii. Rate.
   1). Service charge: $35.00;
   2). $ 14.50 per kilowatt hour of billing demand; and
   3). Energy charge: $0.0540 per kilowatt hour.
13.25.020 **Determination of demand.**
The electric demand of a customer shall be measured in kilowatts (kW). The demand shall be determined by demand instruments or, at the City’s option, by demand tests and shall be the highest demand indicated during any 15- to 30-minute interval during the billing period.

13.25.040 **Estimation of bills.**
In case any meter shall stop or for any reason fail to register or upon failure to read the meter, then the City of Gardner may estimate the monthly bill for electric to based on the average quantity consumed during the preceding 12 months.

13.25.050 **Power cost adjustment.**
Electric Charges for all classes of customers shall be increased or decreased each billing period by the amount of a power cost adjustment. The power cost adjustment shall be calculated by dividing the sum of City’ s net cost of purchasing wholesale power and for the cost of fuel used to produce electric power for the past 12 billing periods by the City's total retail power sales for the past 12 billing periods. The base total power cost rate per kilowatt-hour shall be subtracted from this quotient to determine the power cost adjustment per kilowatt-hour. When a new base rate is calculated, the old rate will be adjusted in equal increments over a 12-month period until it equals the new rate. The Utility Advisory Commission shall make a recommendation to the Governing Body to set the base rate at an amount less than or equal to the calculated factor.

13.25.060 **Yard lights fee.**
The fee for yard lights owned and maintained by the City utilized for private purposes shall be as follows: $13.65 per billing period for each 250 watt fixture.

13.25.070 **Pole attachment charges.**
The City will charge for the use of Gardner electric poles as follows:
A. For each attachment to a utility pole, the annual fee will be $17.95, payable quarterly. The number of attachments to be charged will be based on the total number of attachments as of January 1st of each year beginning January 1st, 2010.
B. Permission to attach and the method of attachment are at the discretion of the Governing Body.
C. Unified School District No. 231, the City of Gardner, and Kansas City Power and Light will not be charged.

13.25.080 **Renewable energy resource rate.**
An owner or operator of a qualified electric energy generation unit which is powered by a renewable generator as defined by Kansas State Statute K.S.A. 66-1,184 (2009) and has an electric generating capacity of not more than the following wattage schedule may apply for parallel generation services with the City of Gardner:
A. Residential customer – 25 kilowatts or less.
B. Commercial customer – 200 kilowatts or less.

If all technical requirements are met, including demonstrated compliance with K.S.A. 66-1,184, the Application for Interconnection is accepted by the Utility Director and an Interconnection Agreement is approved by the Governing Body, the Customer-generator shall be allowed to interconnect to the City’s electric system.
The Customer-generator shall be fairly and equitably compensated for energy supplied to the City. The City shall measure the Customer-generator produced electricity fed to the grid and provide compensation to the Customer-generator on a monthly basis. Such compensation shall be recalculated and updated on April 1st of each year at the rate of 100% of the electric utility's monthly system average cost of energy per kilowatt hour except that in the case of renewable generators with a capacity of 200 kilowatts or less, such compensation shall be not less than 150% of the electric utility's monthly system average cost of energy per kilowatt hour. As provided for within the Interconnection Agreement, the electric utility may credit such compensation to the customer's account or pay such compensation to the customer at least annually or when the total compensation due equals $25 or more.

**SECTION TWO:** All other ordinances not in conformity herewith are hereby repealed or amended to conform hereto.

**SECTION THREE:** This Ordinance shall take effect upon January 1, 2020 or after its passage, approval and publication as provided by law, whichever occurs later.

PASSED by the City Council this 22nd day of January, 2019.

SIGNED by the Mayor this 22nd day of January, 2019.

(CITY OF GARDNER, KANSAS)

/\ /s/ Steve Shute \\
/ /s/ Steve Shute

Steve Shute
Mayor

ATTEST:

/\ /s/ Amy Nasta \\
/ /s/ Amy Nasta

Amy Nasta
City Clerk
Consider adopting an ordinance amending Title 13, Utilities Code of the City of Gardner, Kansas, 2008, increasing various rates and charges and amending or repealing all ordinances or regulations not in conformity herewith.

**Strategic Priority:** Infrastructure Management and Fiscal Stewardship

**Department Name:** Finance and Utility

**Staff Recommendation:**

Staff recommends the Governing Body pass an ordinance amending, Gardner Municipal Code Title 13, Utilities, Chapters 13.15.010, and 13.40.010 to adopt the Water and Wastewater Rate Analysis Recommendations, including changes to customer classes, multiple year rate increases, base rates, winter average calculations, and wastewater non-residential customers.

**Background:**

On November 19, 2018, the City Council and the Utility Advisory Commission, during a Joint Work Session, consented to move forward with the proposed Ordinance adopting the Water and Wastewater Rate Analysis Recommendations, conducted by Larkin Lamp Rynearson and for the addition of a 2.0 Million Gallon a Day Water Treatment Plant.

The proposed changes to Gardner Municipal Code Title 13, Utilities, Chapters 13.15.010 and 13.40.010 are as follows:

1. **Class of Water Customers**
   - Residential Inside City Limits, Residential Outside City Limits, Non-Residential Inside City Limits, Exchange, Non-Residential Outside City Limits, Coin Operated, Bulk Water Sales, Interdepartmental, Hydrant Meters, and Wholesale

2. **Base Rate**
   - Incorporate the water “base rate” based on size for all Non-Residential customer classes.

3. **Water Rate Increase**
   - In 2020, a 3.7% rate increase on all classes of water customers, and each year through 2030 to maintain and expand infrastructure.

4. **Multi-Family Dwellings**
   - Multi-family dwellings with multiple units utilizing one water meter will be considered residential with a standard 5/8” meter base fee per unit.

5. **Class of Wastewater Customers**
   - Residential, Non-Residential, and Excessive Use Customer

6. **Calculation of Wastewater Charges**
Effective for 2020 billing, Residential wastewater customers will use a winter average calculated from the December, January, February, and March billings, and excluding the highest usage of the four months from the calculation. Non-Residential wastewater customers will be charged actual water usage billed each month as wastewater consumption versus “winter averaging” to determine wastewater usage.

7. **Wastewater Rate Increase**
   In 2025, a 1% rate increase for all classes of wastewater customers.

The forecast assumes a 2% growth rate, a 3% increase in cost of services and maintains a 25% fund balance of total expenditures. The forecast goes beyond the 10-year spectrum to consider long-term impact of scheduled large projects identified in the capital improvement element and avoids steep rate increases to fund these future projects. Based on the study and the current Capital Improvement Element, the future proposed rate increases maintain sustainable funding over the 10 year period.

**Financial Impact:**
Maintains adequate fund balance while concurrently maintaining and expanding infrastructure to meet the forecasted capacity demands.

**Attachments included:**
- Ordinance 2598

**Suggested Motion:**
Adopt Ordinance 2598 amending Title 13, Utilities Code of the City of Gardner, Kansas, 2008, increasing various rates and charges and amending or repealing all ordinances or regulations not in conformity herewith.
ORDINANCE NO. 2598

AN ORDINANCE AMENDING TITLE 13, UTILITIES CODE OF THE CITY OF GARDNER, KANSAS, 2008, INCREASING VARIOUS RATES AND CHARGES AND AMENDING OR REPEALING ALL ORDINANCES OR REGULATIONS NOT IN CONFORMITY HEREWITH.

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

SECTION ONE: Title 13, Chapter 13.15.010, Water Rates, is hereby amended to read as follows:

13.15.010 WATER RATES. All persons, firms or corporations having a connection with the City of Gardner water system shall be charged a monthly water service charge for each meter by which they are served and a water usage charge in accordance with the following rates. When multiple persons, firms or corporations are served by one water meter, a monthly water service charge shall be billed for each residential dwelling unit.

A. Residential Water Users Inside Corporate Limits
   1. Monthly Service Charge $13.95 Per Month
      (prorated by number of days of service in the month for new customers)
   2. First 6,000 Gallons $ 6.21 Per 1,000 Gallons
   3. 6,001 to 10,000 Gallons $ 6.84 Per 1,000 Gallons
   4. 10,001 to 14,000 Gallons $ 7.14 Per 1,000 Gallons
   5. 14,001 to 18,000 Gallons $ 7.47 Per 1,000 Gallons
   6. 18,001 or more Gallons $ 7.81 Per 1,000 Gallons

B. Residential Water Users Outside Corporate Limits
   1. Monthly Service Charge $25.10 Per Month
      (prorated by number of days of service in the month for new customers)
   2. First 6,000 Gallons $ 8.11 Per 1,000 Gallons
   3. 6,001 to 10,000 Gallons $ 8.92 Per 1,000 Gallons
   4. 10,001 to 14,000 Gallons $ 9.32 Per 1,000 Gallons
   5. 14,001 to 18,000 Gallons $ 9.74 Per 1,000 Gallons
   6. 18,001 or more Gallons $10.17 Per 1,000 Gallons

C. Non Residential Water Users Inside Corporate Limits
   1. Monthly service charge
      a. 1" Meter $ 17.49
      b. 1 ½" Meter $ 26.49
      c. 2" Meter $ 49.13
      d. 3" Meter $ 85.97
      e. 4" Meter $150.45
   2. First 6,000 Gallons $ 6.21 Per 1,000 Gallons
   3. 6,001 to 10,000 Gallons $ 6.84 Per 1,000 Gallons
   4. 10,001 to 14,000 Gallons $ 7.14 Per 1,000 Gallons
   5. 14,001 to 18,000 Gallons $ 7.47 Per 1,000 Gallons
   6. 18,001 or more Gallons $ 7.81 Per 1,000 Gallons
D. Non Residential Water Users Outside Corporate Limits
   1. Monthly service charge.
      a. 1" Meter $ 17.49
      b. 1 ½" Meter $ 26.49
      c. 2" Meter $ 49.13
      d. 3" Meter $ 85.97
      e. 4" Meter $150.45
   2. First 6,000 Gallons $ 8.11 Per 1,000 Gallons
   3. 6,001 to 10,000 Gallons $ 8.92 Per 1,000 Gallons
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   5. 14,001 to 18,000 Gallons $ 9.74 Per 1,000 Gallons
   6. 18,001 or more Gallons $10.17 Per 1,000 Gallons

E. 3" Hydrant Meters
   1. Monthly Service Charge $85.97
   2. Rate Per 1000 Gallons $ 7.67
   3. A deposit of $500.00 is required to obtain a hydrant meter. The deposit will be refunded after the hydrant meter is returned in good condition to the City of Gardner and all charges are paid in full.

F. Nothing in this Article shall preclude the City of Gardner from entering into contractual agreements with customers for the sale of wholesale water. The City of Gardner shall determine the rates to be charged for wholesale water on a case by case basis.

G. City Interdepartmental
   1. Monthly Service Charge $0.00 Per Month
   2. Per 1,000 Gallon Usage Charge $3.33

H. Coin Operated Bulk Water Sales
   1. Rate Per 1,000 Gallons $ 7.75

I. The rates, service charges and meter charges shall be adjusted annually as provided for within Exhibit A attached hereto.

SECTION TWO: Title 13, Chapter 13.40.010, Wastewater Rates, is hereby amended to read as follows:

13.40.010 WASTEWATER CHARGES. All persons, firms or corporations having a connection with the City of Gardner wastewater system shall pay monthly wastewater charges consisting of a wastewater service charge, a wastewater usage charge and an extra strength surcharge as provided herein. When multiple persons, firms or corporations are served by one water meter, a monthly wastewater service charge shall be billed for each residential dwelling unit.

A. Residential Wastewater Users
   1. A monthly service charge of $13.73.
   2. A monthly wastewater usage charge of $8.78 per one thousand (1,000) gallons.
Monthly wastewater usage charges will be based on actual metered water usage except during the months of April through November, for which wastewater usage will be for not more than the average water usage for utility bills issued in December, January, February and March (winter average) with the highest usage of the four months being removed from the calculation. The City Administrator or his/her designee will consider appeals, fully supported and documented, for adjustments due to non-sewered water use and may approve adjustments if warranted. Residential customers initiating wastewater service after March, or otherwise unable to establish a winter average, will be billed for actual wastewater use or 5,000 gallons, whichever is less, until an actual winter average can be established. Nothing in this section shall prohibit the City from determining wastewater usage charges on an individual basis for those customers with large consumptive use of water. The City shall not be prohibited from charging new customers with expected large water usage, wastewater usage charges based on actual water usage until a winter average can be established.

B. Non-Residential Wastewater Users

1. A monthly service charge of $13.73

2. A monthly wastewater usage charge of $8.78 per one thousand (1,000) gallons. Monthly wastewater usage charges will be based on actual metered water usage.

C. Those customers discharging sewage the strength of which is in excess of normal domestic sewage, will be billed a surcharge in addition to the normal charges. The surcharge shall be as follows:

$ 0.75 per pound B.O.D.
$ 0.70 per pound S.S.

D. Any customer who discharges any pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works, or any customer who discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each such customer shall be as determined by the City of Gardner.

E. The rates, and service charges shall be adjusted as provided for within Exhibit B attached hereto.

SECTION THREE: All other ordinances not in conformity herewith are hereby repealed or amended to conform hereto.

SECTION FOUR: This Ordinance shall take effect upon January 1, 2020 or after its passage, approval and publication as provided by law, whichever occurs later.

PASSED by the City Council this 22nd day of January, 2019.
SIGNED by the Mayor this 22nd day of January, 2019.

CITY OF GARDNER, KANSAS

(SEAL)

/s/ Steve Shute
Steve Shute, Mayor

Attest:

/s/ Amy Nasta
Amy Nasta, City Clerk

Approved as to form:

/s/ Ryan B. Denk
Ryan B. Denk, City Attorney
## APPENDIX A

### 2018 Water - Wastewater Rate Study - Proposed Water Rate Increases

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Agenda Item: Consider accepting the dedication of right-of-way and easements on FP-18-08, final plat for Belfonte Car Wash

Strategic Priority: Economic Development and Infrastructure Management

Department: Business & Economic Development

Planning Commission Recommendation:
After review of application FP-18-08, a final plat for Belfonte Car Wash, Parcel ID CF231419-4022, located at 1750 E. Santa Fe Street, a staff report dated December 18, 2018 and a final plat dated November 26, 2018, the Planning Commission approved the application with the following conditions:

1. Review and approval at the Johnson County Airport Commission and Board of County Commission shall be completed prior to the issuance of a building permit.
2. Prior to the Mayor signing an approved recordable plat, excise tax shall be paid to the City.
3. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording.

and recommends the Governing Body accept dedication of right-of-way and easements.

Staff Recommendation:
Staff recommended the Planning Commission approve FP-18-08, a final plat for Belfonte Car Wash, Parcel ID CF231419-4022, located at 1750 E. Santa Fe Street, based on a staff report dated December 18, 2018 and a final plat dated November 26, 2018, with the following conditions:

1. Review and approval at the Johnson County Airport Commission and Board of County Commission shall be completed prior to the issuance of a building permit.
2. Prior to the Mayor signing an approved recordable plat, excise tax shall be paid to the City.
3. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording.

and recommends that the Governing Body accept any rights-of-way and easements.

Background/Description of Item:
Currently this property is undeveloped and owned by the Johnson County Airport Commission. The Airport Commission will retain ownership and the business owner will lease the property, and the associated applications will have to gain approval through the Airport Commission,
Board of County Commissioners and the FAA. This property is within Flight Corridor C which is off the end of a runway at New Century AirCenter. In the past the Airport Commission has not been interested in developing the subject property, however, that has changed for limited land uses. This is partially because this property is just outside of the runway protection zone (RPZ) which is an area off the end of the runway end that serves to enhance the protection of people and property on the ground in the event an aircraft lands or crashes beyond the runway end. While the property remains in the flight path, it is not in the RPZ.

The subject property is within the study area of the Gardner Main Street Corridor Plan which identifies the property for Regional Commercial uses. Regional Commercial uses provide goods and services that may attract users from the greater metropolitan area. These areas are best located near interstates and major arterial roads to capitalize on accessibility from areas beyond Gardner. The Gardner Land Development Code identifies M-1 as an appropriate zoning district in the Regional Commercial land use category. This project is consistent with the Comprehensive Plan.

The final plat is consistent with the approved preliminary plat.

The Planning Commission, at their December 18, 2018 meeting, unanimously approved the final plat with the conditions outlined above in the Planning Commission Recommendation section. No members of the public spoke for or against the project.

This application is subject to joint review for the impact area of the New Century AirCenter and therefore will go before the Airport Commission on January 23rd and the Board of County Commissioners in February.

**Financial Impact:**
Receipt of excise tax in the amount of approximately $30,546.02.

**Other Impacts:**
None at this time.

**Attachments included:**
- Vicinity map
- Final plat document
- Draft Planning Commission minutes from the December 18, 2018 meeting
- Planning Commission packet

**Suggested Motion:**
Accept the dedication of right-of-way and easements on the Belfonte Car Wash plat.
CALL TO ORDER

The meeting of the Gardner Planning Commission was called to order at 7:00 p.m. on Tuesday, December 18, 2018, by Chairman Brad Austin.

PLEDGE OF ALLEGIANCE

Chairman Austin led the Pledge of Allegiance.

ROLL CALL

Commissioners present:
   Chairman Austin
   Commissioner Boden
   Commissioner Brady
   Commissioner McNeer
   Commissioner Roberts
   Commissioner Simmons-Lee

Commissioners absent:
   Commissioner Gardenhire

Staff members present:
   Larry Powell, Director, Business & Economic Development
   Kelly Drake Woodward, Chief Planner
   Michelle Leininger, Principal Planner
   Kristie Hatley, Planning Technician
   Ryan Denk, City Attorney

There were approximately 10 members of the public in attendance.

REGULAR AGENDA

2. BELFONTE CAR WASH
   Located at 1750 E. Santa Fe Street
   a. PP-18-06: Consider a preliminary plat for a one lot, 2.49 acre commercial development.
   b. FP-18-08: Consider a final plat for a one lot, 2.49 acre commercial development.
   c. SP-18-10: Consider a site plan for a drive-through car wash facility.
Ms. Michelle Leininger explained she would be presenting the preliminary plat and final plat together for discussion and action prior to moving onto the site plan. The property is owned by the Airport Board and would maintain ownership. To the north is KDOT property, to the east is a gas station/convenience store, to the west is an auto mechanic and storage facility and to the south is Walmart. This property is within Flight Corridor C, which is off the end of a runway at New Century AirCenter. In the past, the Airport Commission has not been interested in developing the subject property. However, that has changed for limited land uses. This is partially because this property is just outside of the runway protection zone (RPZ) which is an area off the end of the runway end that serves to enhance the protection of people and property on the ground in the event an aircraft lands or crashes beyond the runway end. While the property remains in the flight path, it is not in the RPZ. The Airport Commission feels a drive through car wash facility is acceptable since there will not be large numbers of people congregating there for long time periods. The west side of the site contains floodplain and flood way so the development will be constructed on the east side. Staff has found the project consistent with the Gardner Main Street Corridor Plan and the plat in compliance with the LDC. All technical reports have been reviewed and accepted and the final plat is consistent with the preliminary plat. Staff recommends approval of the preliminary plat and the final plat with its conditions.

Mr. Tom Nolte, Nolte & Associates, Architects and Land Planners, represented the owners. He said because this land had not been leased previously and was in need of a recordable plat along with an excise tax payment, it was like creating new property. He stated they were in agreement with the conditions outlined by staff and he would answer any questions from the Commission.

**Commission Discussion**

Commissioner Brady asked if there had ever been a proposal to use this property for development or if the Airport Commission had ever denied a proposal.

Ms. Leininger replied they had, until now, was not interested in this land being developed. It may have been used in the past for vehicle storage but this was the first time she was aware of they have entertained development there.

Commissioner Brady mentioned there is a car wash at the gas station to the east. He inquired if that car wash was in operation.

Ms. Leininger said that site was remodeled about 2 years ago and the car wash was in operation but was not currently working.

**Motion made after review of application PP-18-06, a preliminary plat for Belfonte Car Wash, Parcel ID CF23149-4022, located at 1750 E. Santa Fe Street, based on a staff report dated December 18, 2018 and a preliminary plat dated October 19, 2018, the Planning Commission approves the preliminary plat finding all applicable requirements have been met.**
Motion made by Boden and seconded by Brady.

Motion passed 6-0.

Motion made after review of application FP-18-08, a final plat for Belfonte Car Wash, Parcel ID CF231419-4022, located at 1750 E. Santa Fe Street, a staff report dated December 18, 2018 and a final plat dated November 26, 2018, the Planning Commission approves the application with the following conditions:

1. Review and approval at the Johnson County Airport Commission and Board of County Commission shall be completed prior to the issuance of a building permit.
2. Prior to the Mayor signing an approved recordable plat, excise tax shall be paid to the City.
3. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording.

and recommends the Governing Body accept dedication of right-of-way and easements.

Motion made by Boden and seconded by McNeer.

Motion passed 6-0.
PROCESS INFORMATION

Type of Request: Site Plan
Date Received: October 19, 2018

APPLICATION INFORMATION

Applicant: Thomas Nolte, Nolte & Associates, P.A.
Owner: Johnson County Airport Commission
Parcel ID: CF231419-4022
Location: 1750 E. Santa Fe Street

REQUESTED ACTION

The applicant is requesting approval of a site plan for Belfonte Car wash which includes a single bay drive through car wash with a twenty vacuum station service area.

EXISTING ZONING AND LAND USE

Currently the subject property is zoned M-1 (Restricted Industrial) District and is undeveloped with the exception of an asphalt pad. This parcel also contains floodplain on the western portion.

SURROUNDING ZONING AND LAND USE

<table>
<thead>
<tr>
<th>Zoning</th>
<th>Use(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>North of subject property</td>
<td></td>
</tr>
<tr>
<td>C-3 (Heavy Commercial) District</td>
<td>KDOT maintenance shop, airport runway lights and undeveloped property</td>
</tr>
<tr>
<td>East of subject property</td>
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<tr>
<td>C-3 District</td>
<td>Phillips 66 gas station</td>
</tr>
<tr>
<td>South of subject property</td>
<td></td>
</tr>
<tr>
<td>CP-2 (Planned General Business) District</td>
<td>Walmart retail store, Burger King drive-thru restaurant</td>
</tr>
<tr>
<td>West of subject property</td>
<td></td>
</tr>
<tr>
<td>M-1 (Restricted Industrial) District</td>
<td>Marriott Garage and Tow auto repair and tow lot</td>
</tr>
</tbody>
</table>

EXISTING CONDITIONS

Currently this property is undeveloped and owned by the Johnson County Airport Commission. The Airport Commission will retain ownership and the business owner will lease the property and
the associated applications will have to gain approval through the Airport Commission, Board of County Commissioners and the FAA.

The Little Bull Creek runs through the west end of the property which is surrounded by floodplain. On the aerial below, the blue hashed is flood way where the water flows during a flooding event, the blue is floodplain where water is subject to flow during the 1% annual chance flood event and the white is future floodplain. A stormwater study is submitted with the application to show how water will affect the site and vice versa and how it will be dealt with. This is discussed further in the staff report.

BACKGROUND / HISTORY

The property was annexed in February 1990 and was zoned M-1 at that time.

This property is within Flight Corridor C which is off the end of a runway at New Century AirCenter. In the past the Airport Commission has not been interested in developing the subject property however, that has changed for limited land uses. This is partially because this property is just outside of the runway protection zone (RPZ) which is an area off the end of the runway end that serves to enhance the protection of people and property on the ground in the event an aircraft lands or crashes beyond the runway end. See the map shown to the right. While the property remains in the flight path, it is not in the RPZ.

CONSISTENCY WITH COMPREHENSIVE PLAN

The subject property is within the study area of the Gardner Main Street Corridor Plan which identifies the property for Regional Commercial uses. Regional Commercial uses provide goods and services that may attract users from the greater metropolitan area. These areas are best located near interstates and major arterial roads to capitalize on accessibility from areas beyond Gardner. The Gardner Land Development Code identifies M-1 as an appropriate zoning district in the Regional Commercial land use category. This project is consistent with the Comprehensive Plan.
STAFF ANALYSIS - SITE PLAN

This section highlights contents of the application which may merit particular consideration in regard to zoning intent and standards. A full analysis of applicable zoning regulations is available upon request.

17.03.060 (B) Review Criteria:

1. In general, any site plan in compliance with all requirements of this Code shall be approved.
   **Staff Comment:** The site plan is in general compliance with the requirements of the Code with the exception of the standards for administrative adjustments outlined below.

2. In making a determination of compliance, or for site plans accompanying any discretionary review or administrative relief, the review body shall consider whether:
   a. The site is capable of accommodating the buildings, proposed use, access and other site design elements required by the Code and will not negatively impact the function and design of rights-of-way or adjacent property.
      **Staff Comment:** This site is capable of accommodating the buildings, proposed use and other site design elements required by Code and will not negatively impact the function and design of right-of-way or adjacent property.
   b. The design and arrangement of buildings and open spaces is consistent with good planning, landscape design and site engineering principles and practices.
      **Staff Comment:** The design and arrangement of buildings and open space is consistent with good planning and landscaping design principles and practices. The driveway is adequately screened and the structures are not in the floodplain.
   c. The architecture and building design uses quality materials and the style is appropriate for the context considering the proportion, massing, and scale of different elements of the building.
      **Staff Comment:** The architecture and building design uses quality materials and the style is consistent with the context. The building is faced with brick as the main material, with split face CMU and EFIS as accent materials. Additionally, metal awnings over the windows and doors are provided. These materials are consistent with the Code and the surrounding structures.
   d. The overall design is compatible to the context considering the location and relationships of other buildings, open spaces, natural features or site design elements.
      **Staff Comment:** The overall design is compatible to the context considering the location and relationship to other buildings. The closest building is to the west of the property which is separated by the creek. The other nearby retail properties are across larger right-of-way and streets though the proposal is compatible with those structures. This site will have significantly more landscaping than the surrounding sites. This site is zoned for industrial uses and the adjacent sites, with the exception of the property to the west, are zoned commercial. The Code requires a large landscape buffer based on zoning and not use.
   e. Whether any additional site-specific conditions are necessary to meet the intent and design objectives of any of the applicable development standards.
      **Staff Comment:** The landscaping plan is missing the required street trees along Cedar Niles Road. This area has utilities in the right-of-way both above and below ground. Because of this, staff is recommending two street trees instead of the required three. This change is...
permitted by the Code if approved by the Planning Commission, Department Director or City Engineer. This will be a condition of approval in the staff recommendation.

The plans have some minor corrections needed but these are not Code requirements. Providing dimension of the lot lines not including the dedicated right-of-way is needed and the update of the transparency percentage on the south elevation. The elevations state 10.46% and the actual elevations have been updated to include the required 30%. This number needs to be updated on the plans. These are conditions of approvals in the staff recommendations.

3. The application meets the criteria for all other reviews needed to build the project as proposed.

**Staff Comment:** The plat will have to complete the same review process and will need to be approved and recorded prior to the release of a building permit. A building permit will be required.

4. The recommendations of professional staff.

**Staff Comment:** Staff recommends approval of site plan SP-18-10 with conditions outlined in the staff recommendation below.

This application is subject to the joint review for the impact area of the New Century AirCenter and therefore will go before the Airport Commission on January 23rd and the Board of County Commission in February. Additionally the application will need to be submitted for an FAA 7460 airspace study that will look for potential negative impact on the airport and flight space.

**ADMINISTRATIVE ADJUSTMENTS**

The applicant is requesting one administrative adjustment regarding buffer landscaping. Below is an analysis based on the review criteria outlined in the Land Development Code, Section 17.03.080.

**A. Applicability.** The administrative adjustment process is intended to provide flexibility for application of specific standards to sites where it is clear that an alternative approach with minor or de minimis modifications of the standards will equally or better meet the purpose, intent or design objectives of these regulations. Specifically it applies to:

1. Altering a building standard, such as setback, area or height by less than five percent of the states standard.
2. Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension by less than 10 percent of the required standard.
3. Deviating from any building design standard, where an alternative “equal or better” standard is proposed by the applicant.
4. In any of these cases the adjustment cannot create conflicts with any other applicable standard.

**B. Specific Procedures.** Applications for administrative adjustments shall follow the same procedures required for a site plan and design review or administrative site plan, whichever is applicable. In cases where the Director is the decision authority, administrative adjustments may be granted by the Director. In the cases where the Planning Commission is the decision authority, administrative adjustments may be granted only by the Planning Commission.

**C. Review Criteria.** In considering an administrative adjustment, the Director or Planning Commission shall find that the criteria are met.
Section 17.08.030 Landscape Design, Buffer Planting, Level 4

1 evergreen per 15 linear feet (north: 70.67/15=47 evergreens)

Applicability: Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension by less than 10 percent of the required standard.

Proposed: North: 43 evergreens

Applicant Response: There are existing trees to the west but a tree survey has not been conducted. The evergreens will cause a visual screen of the building.

Review Criteria:

1. The relief requested is compatible with the surrounding area in terms of building scale, building form, and landscape and site design.
   
   **Staff Comments:** The surrounding properties do not have the same buffer landscape requirement as they are zoned commercial and this site is zoned industrial. The Code requires a buffer to the adjacent property that is less intensively zoned. A commercial zoning is less intensive than an industrial zoning though this use is a commercial use. The reduction would be compatible with the surrounding area.

2. The relief requested supports the intent and applicability of the zoning district.
   
   **Staff Comment:** The relief meets the Code intent “To implement a system of open and civic spaces for natural, recreation, social, cultural and aesthetic needs of the community.” A significant amount of landscaping is provided that will meet the aesthetic needs of the community.

3. The relief requested is based upon sound planning and urban design principles that are consistent with the intent and objectives behind the applicable standard.
   
   **Staff Comment:** The intent of the standard a buffer is to lessen the impact of the higher intensity zoning on the lesser intense zoning. The relief is based on sound planning and urban design principals as the remainder of the landscaping buffer is provided.

4. Compliance with the standard is not practical due to some factors specific to the site or context.
   
   **Staff Comment:** Compliance with the standard is not practical due to the size of the property based on the use and because the western portion is unusable though the entire lot is utilized for calculating standard requirements. Because of this, the landscaping is shifted some to the east.

5. The relief requested is not strictly for the convenience of the applicant or a specific tenant, and is the minimum necessary to result in the best design for the site.
   
   **Staff Comment:** This request is not specifically for the convenience of the applicant. The standards have been met or exceeded for all other required landscaping. Without the opportunity to use the western end of the property, the evergreens could be grouped too close together causing some materials to not survive.

6. The relief requested produces no perceived impact on the adjacent property or public realm, than would otherwise occur if the standard were met.
   
   **Staff Comment:** The relief provides no perceived impact on the adjacent property or public realm as the adjacent properties are commercial properties like the subject property.

7. The relief requested may be limited to specific conditions, or proposed alternatives that equally or better meet the intent of the applicable standard.
   
   **Staff Comment:** The applicant is providing 43 evergreens as opposed to the 47 required. This is less than the 10% reduction permitted.
8. In the case of any specific standard where exceptions or alternative compliance is identified in this Code, the relief shall be limited only to the extent identified with that standard.

   **Staff Comment:** No exception or alternative compliance is identified for this standard.

Staff supports this adjustment request as the use is a commercial use permitted in an industrial district and the adjacent properties are commercial uses in commercial zoning districts. This reduction will not impact adjacent property or right-of-way.

**STAFF ANALYSIS – INFRASTRUCTURE / OTHER**

**WATER, SANITARY, ELECTRIC UTILITIES**

The City of Gardner is the provider for water, sanitary sewer, and electric utilities to this property. There is overhead electric along the north and east side of the property. Water is on the south side of E. Santa Fe Street. Sanitary sewer touches the southwest corner of the property and will have to be extended further east before running a service line to the proposed building. Additionally the facility has a car wash reclaim system that takes the water used inside the facility, filters/cleans the water and reuses a good portion of the water back into the wash facility.

**STORM WATER**

The applicant has provided a stormwater study that has been accepted by the Public Works Department. This study provides that stormwater for this site discharge directly into the floodplain and creek with no drainage structures. The facility has a grease and sand separator that is used for exterior stormwater before it leaves the site to filter grease and sand out of the storm water.

**ROADWAY, VEHICULAR & PEDESTRIAN ACCESS**

Roadways are in place on three sides of this site and no new roads are proposed. The access to the site is as far west on the property as possible in order to have minimal impact on the intersection of Hwy 56, Cedar Niles Road and E. Santa Fe Street.

No sidewalks are provided along E. Santa Fe Street adjacent to this property as they are currently provided along portions of the south side of the street. At the time that E. Santa Fe Street is reconstructed, sidewalks may be installed.

**ATTACHMENTS**

I. Site Plan
II. Application

**RECOMMENDATION**

Staff recommends approval of site plan SP-18-10 for Belfonte Car Wash with the conditions outlined below.

**Recommended Motion:**

After review of Application SP-18-10, a site plan for 1750 E. Santa Fe Street, and site plan dated December 5, 2018, December 11, 2018 and December 12, 2018, and staff report dated December 18, 2018, the Planning Commission approves the application provided the following conditions are met:

1. Review and approval at the Johnson County Airport Commission and Board of County Commission shall be completed prior to the issuance of a building permit.
2. The final plat FP-18-08 shall be recorded with the Johnson County Records and Tax Administration prior to the issuance of a building permit.

3. The applicant shall submit an FAA 7460 airspace study and received a determination prior to the issuance of a building permit.

4. Update the transparency calculation for the south elevation on page A200 to reflect the revised elevation.

5. Label the lot line boundaries, not including dedicated right-of-way.

6. Provide two street trees along the Cedar Niles Road right-of-way.
NEW CARWASH FACILITY FOR:

BELFONTE CAR WASH

West 175 St and Cedar Niles Rd

GARDNER, KANSAS

OVERALL SITE PLAN

LOCATION MAP

SEC 19, T144S, R2NE
1. LANDSCAPE PLAN

PLANT SCHEDULE

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<td>AH</td>
<td>9</td>
<td>Acer tataricum <code>Hot Wings</code></td>
<td>Hot Wings Tatarian Maple</td>
<td>Clump 5` Ht.</td>
<td>B&amp;B / Cont.</td>
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<td>Shantung Maple</td>
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GRADES

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<td>PVN</td>
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<td>Panicum virgatum <code>North Wind</code></td>
<td>Northwind Switch Grass</td>
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PERENNIALS

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<td>AXM</td>
<td>60</td>
<td>Allium x <code>Millenium</code></td>
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<td>HXS</td>
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<td>Hemerocallis x <code>Stella Supreme</code></td>
<td>Stella Supreme Daylily</td>
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SHRUBS (MIN. HT. 18")

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<td>Double Take Quince</td>
<td>3 gal.</td>
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<tr>
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<td>Viburnum x pragense Prague Viburnum</td>
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<td>WFV</td>
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<td>YFB</td>
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<td>Yucca filamentosa <code>Bright Edge</code></td>
<td>Bright Edge Yucca</td>
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LANDSCAPE REQUIREMENTS - GARDNER, KANSAS

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</tbody>
</table>

1. CITY COMMENTS

2. CITY COMMENTS

Chad D. Weinand, PLA, ASLA
Landscape Architecture

913.484.3738 - cweinand74@gmail.com
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NEW CAR WASH FACILITY FOR:

BELFONTE CAR WASH
W. 175 ST. &CEDAR NILES RD
GARDNER, KANSAS
### Luminaires Schedule

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<th>Symbol</th>
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<td>DELX1 LED 30W 50K DDB</td>
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### Calculation Summary

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CAR WASH RECLAIM SYSTEM

TANK STRUCTURES MAY VARY IN DIFFERENT LOCATIONS ACROSS THE COUNTRY. CON-SERV TYPICALLY RECOMMENDS 1,500 TO 2,000 GALLON CONCRETE OR FIBERGLASS TANKS. TYPICALLY, TANKS THAT ARE THE SAME AS OR SIMILAR TO SEPTIC TANKS ARE USED. LOCAL SUPPLIERS THAT MAKE OR DISTRIBUTE THIS TYPE TANK SHOULD BE CONTACTED TO MAINTAIN COMPLIANCE WITH LOCAL CODES. MOST TANK BUILDERS ARE LICENSED AND APPROVED TO YOUR SPECIFIC AREA.

THE LOCATION OF THE TANKS ON YOUR SITE WILL DETERMINE WHETHER STANDARD OR TRAFFIC BEARING CONSTRUCTION IS NECESSARY.

THIS TANK DESIGN IS RECOMMENDED FOR CON-SERV WATER RECOVERY SYSTEMS ONLY. VARIATIONS FROM PIPE SIZE AND SPECIFICATIONS SHOWN ON THIS DRAWING COULD RESULT IN MALFUNCTION OR DAMAGE TO THE PUMPING COMPONENTS OF THE CON-SERV SYSTEM.

NOTE B

THE CON-SERV SYSTEM INCORPORATES THE USE OF A PARTICLE SEPARATOR AND SELF-CLEANING FILTER. THE SOLIDS REMOVED FROM THE TREATED WATER FLOW CAN BE DISCHARGED TO THE CONVEYOR TRough OR TO TANK 1, 1,500 to 2,000 gallons.

THE DISCHARGE SHOULD BE PLUMBED USING 3" PVC PIPE SCH 40.

THE 3" LINE SHOULD BE PLUMBED FROM THE RECLAIM SYSTEM TO THE POINT OF DISCHARGE (TROUGH OR TANK) USING SHORT, DIRECT RUNS, LIMIT THE AMOUNT OF TURNS, 90° ELBOWS, AND THE TRAVEL LENGTH OF THE DISCHARGE WATER.

THE DISCHARGE WATER CANNOT BE ELEVATED ABOVE THE HEIGHT OF THE RECOVERY SYSTEM.

SUCTION LINES:

- TWO SCH 80 PVC SUCTION LINES Stubbed up at the RECOVERY SYSTEM (see CON-SERV STUB UP TYPICAL).
- THE TWO SUCTION LINES SHOULD BE NO LESS THAN 12" APART. CON-SERV WILL PROVIDE THE FLAPPER CHECK VALVE TO BE INSTALLED BY PLUMBING CONTRACTOR.
- THE TWO SUCTION LINES SHOULD BE 16" to 18" OFF THE BOTTOM OF THE TANK AFTER THE CHECK VALVES ARE INSTALLED.
- SIZE OF THE TWO SUCTION LINES:
  - 5 HP. 100 to 125 GPM SYSTEMS SHOULD USE 3" PVC SCH 80
  - 3 HP. 65 GPM SYSTEMS SHOULD USE 2" PVC SCH 80

IMPORTANT:

- IT IS EXTREMELY IMPORTANT THAT ALL FITTINGS ARE PROPERLY CLEANED AND GLUED. ANY AIR LEAKS WILL CAUSE PRIME LOSS IN THE RECOVERY SYSTEM.
- ALL SYSTEMS SHOULD HAVE TWO LINES. ONE IS USED AS A BACK-UP IN CASE OF AIR LEAKS OR CLOGGING.
SITE PLAN AND DESIGN REVIEW
FINAL DEVELOPMENT PLAN
APPLICATION

OWNER INFORMATION
Name(s) Johnson County Airport Commission
Contact Larry Peet, Deputy Director
Address One New Century Parkway
City New Century
State Kansas
Phone 913-715-6605
Email larry.peet@jocogov.org

APPLICANT/AGENT INFORMATION
Name(s) Volte & Associates, P.A.
Contact Thomas Volte
Address 9400 Reeds Road, Suite 300
City Overland Park
State Kansas
Phone 913-322-2744
Email tvolte@noltearch.com

SITE INFORMATION
Property Address/Location: 1750 E. Santa Fe Street
Legal Description (Attach If Necessary) See Attached
Number of Existing Lots 1
Number of Proposed Lots 1
Total Site Area 108,481.1 SF
Present Zoning M-1
Proposed Use Drive-thru Carwash
Present Land Use Vacant
Proposed Street Design Type(s) & Class Existing
Proposed Type(s) Open & Civic Space A
Proposed Frontage Type(s) 20' Planning Setback
Proposed Building Types(s) One-Story Carwash

SIGNATURE
I/We, the undersigned am/are the (owner(s)), (duly authorized agent), (Circle One) of the aforementioned property. By execution of my/our signature, I/We do hereby officially apply for a site plan and design review or final development plan as indicated above.

Signature(s): Date 10/7/2018

Revised 8/1/16 Site Plan & Design Review / FDP Application
LEGAL DESCRIPTION:

BEGINNING AT THE SOUTHEAST CORNER OF THE SE 1/4 OF SECTION 19, T14S, R23E OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS; THENCE S 88°00′47″ W, ALONG THE SOUTH LINE OF SAID SE 1/4, A DISTANCE OF 679.59 FEET TO THE SOUTHEAST CORNER OF GARDNER BUSINESS PARK, 3RD PLAT, A SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS; THENCE N 07°05′18″ W, ALONG THE EASTERLY LINE OF LOT 3, GARDNER BUSINESS PARK, 3RD PLAT AND ITS EXTENSION THEREOF, A DISTANCE OF 223.21 FEET TO THE NORTHEAST CORNER OF SAID LOT 3, SAID CORNER ALSO BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. 56 HIGHWAY, AS NOW ESTABLISHED; THENCE N 87°55′47″ E, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID U.S. 56 HIGHWAY, A DISTANCE OF 700.67 FEET TO A POINT ON THE EAST LINE OF SAID SE 1/4; THENCE S 01°40′14″ E, ALONG THE EAST LINE OF SAID SE 1/4, A DISTANCE OF 223.35 FEET TO THE POINT OF BEGINNING, CONTAINING 3.53062 ACRES, MORE OR LESS.
SITE PLAN AND DESIGN REVIEW, AND FINAL DEVELOPMENT PLAN APPLICATION CHECKLIST

APPLICATION SUBMITTAL REQUIREMENTS

Yes ☒ No ☐
1. Complete application packet
2. Application fee
3. 10 complete sets of plans printed including color elevations, folded
4. Digital copies (PDF) of the completed application, plans, and legal description
5. Copy of all covenants and restrictions applicable to the development, if applicable.
7. Evidence of the establishment of the agency for the ownership and maintenance of any common open space and all assurances of the financial and administrative ability of such agency or document dedicating the facilities to the city.
8. Deeds of dedication for all rights-of-way or easements required as a result of preliminary development plan approval if conveyance thereof is not to be made by plat or by the filing of the final development plan.
9. Evidence of satisfaction of any conditions of the preliminary development plan approval which were conditions precedent to consideration of the final development plan.
10. Final Stormwater Management Plan (2 printed and 1 digital copy)
11. Final Traffic Impact Study (TIS) as required by the Access Management Code. (2 printed and 1 digital copy)

PLAN REQUIREMENTS

☒ ☐
1. Vicinity map to scale with north point showing railroads, major streams or rivers, and public streets in the vicinity of the site. (Suggested scale of 1" = 1000').
☒ ☐
2. Boundary lines of the subdivision shall be enclosed with one continuous bold line, showing approximate dimensions (bearings and distances).
☒ ☐
3. Scale, legend, and north arrow clearly shown, with orientation at top or left as north (not less than 1"=100' scale).
☒ ☐
4. Dates of plan preparation and/or plan revisions.
☒ ☐
5. Ownership, zoning, and land use of the site and surrounding properties within 200 feet; both existing and proposed.
☒ ☐
6. Names, addresses, and phone numbers of all companies, firms, or individuals involved in the preparation of the plan (i.e. developer, property owner, architect, landscape architect, planner, engineer, surveyor, etc.)
☒ ☐
7. Setback lines: building and parking with dimensions in feet.
8. **Setback lines:** building and parking with dimensions in feet.

9. **Lots and tracts identified clearly,** with blocks numbered or lettered boldly and clearly in the center of the block, and lot dimensions with bearings and distances, and area in square feet and acres.

10. **Note on the plan indicating intended ownership, purpose, and maintenance responsibilities** for any parcels labeled as tracts.

11. **Setback lines:** building and parking with dimensions in feet.

12. **Location of existing open space, alleys, parks, streams, ponds, vegetation** or other similar features within plan area, and whether they are to be retained or removed.

13. **Existing utilities,** including sanitary sewer, force main, water main, gas mains, culverts and storm sewer pipe, street lights, electric conduits, and invert elevations of sewers at points of proposed connection.

14. **Proposed street network,** including right-of-way, bearings, tangents, dimensions, and horizontal and vertical curvature data along the centerline of each street.

15. **All public streets within the plan conform** to the applicable minimum design standards set forth in the Land Development Code and Technical Specifications. Design of crosswalks, on street parking, shoulder, pavement and lane dimensions.

16. **Intersection site distance analysis.**

17. **Driveways,** parking lots and stalls, aisles, and loading and service areas and docks and dimensions.

18. **Median breaks and turning lanes,** including sizes and radii; both existing and proposed.

19. **Vehicle maneuvering/turning templates** reflecting the site can accommodate a minimum SU-30 class vehicles (for emergency access to all areas of the site), and the appropriate site-design vehicle for any other special areas of the site (such as delivery or dock areas, etc.), as necessary.

20. **Existing and proposed sidewalks** and/or trail locations including proposed widths.

21. **Proposed utilities,** including approximate location of sanitary sewer, water main, and street lights.

22. **Existing and proposed easements** with dimensions. Existing easements shall be labeled with book and page number.

23. **Any area within a federally designated floodplain.** Location, stations, and elevations of the 100-year floodplain within the plan area and 100-year elevations at rear lot corners adjacent to FEMA and Shaded Zone X floodplains. The source of the floodplain information shall be clearly labeled (example: FIRM, Map #20091C0041D, September 27, 1991).

24. **Stream corridor boundary and dimensions.**

25. **Phasing Plan,** if applicable.
26. **Planned amenities**, such as fountains, art, outdoor seating, waste receptacles, etc.

27. **Any buildings within the plan area** which are existing or proposed, with status indicated including dimensions (i.e. to remain, remodel, new, to be demolished as part of Phase 2, etc.).

28. **Distances between all buildings**, between buildings and property lines, and between parking areas and property lines.

29. **Existing Topography and Proposed Grading** of the area contained in the plan area and within 20 feet of the boundary shown by 2-foot contour intervals. Contour lines shall be legible but not overpowering.

30. **Building elevations** depicting the architectural style, size, exterior construction materials, and colors for each type of building proposed, and dimensions. If an architectural theme is planned, elaboration on the intent and extent of the scheme and details shall be provided. Elevations shall provide sufficient information to determine relationships between various elements, building height, proportion, bedroom counts, approximate square footage, etc. Rooftop and ground-mounted mechanical equipment shall be shown on elevations.

31. **Screen walls, fences, trash enclosures, and mail kiosks** (existing and proposed), including location, height, and materials.

32. **Table indicating lots, land areas, buildings, number of stories, building coverage, and all other quantities relative to the submitted plan that are required to determine compliance with City codes.** For commercial buildings, indicate service floor areas and number of tenant spaces, if applicable. For residential buildings, indicate dwelling units; if multiple building types, provide an additional table indicating dwelling units by building type.

33. **Table indicating required and proposed parking spaces.**

34. **Landscaping plan and table** indicating all proposed landscaping, noting common and botanical names, numbers, and planting sizes. Note all other areas to be sodded.

35. **All exterior sign locations.** Include elevations and details.

36. **All outside lighting facilities:** Location, height, wattage, and type including shielding, for buildings, parking lots and outdoor storage areas.

37. **Outdoor storage areas**, including location, dimensions and design.

38. **Planned amenities**, such as fountains, art, outdoor seating, waste receptacles, etc.

39. **Preliminary design and location of all proposed storm drainage conveyance, detention and treatment facilities and locations of existing drainage facilities.**

I hereby submit all information required for a site plan and design review, or final development plan application review. I understand that failure to provide the required information may result in a postponement of my request for review until all information has been submitted.

Signature of Applicant

Date

Revised 8/1/16

Site Plan & Design Review / FDP Application

Page 4 of 6
OWNER AFFIDAVIT

I/we Aaron Otto hereby referred to as the "Undersigned", being of lawful age, do hereby on this 17th day of October, 2018 make the following statements to wit:

1. I/we the Undersigned, on the date first above written, am/are the lawful owner(s) in fee simple absolute of the following described real property:

See "Exhibit A, Legal Description" attached hereto and incorporated herein by reference.

2. I/we the undersigned, have previously authorized and hereby authorize _______ (Herein referred to as "Applicant"), to act on my/our behalf for the purpose of making application with the City of Gardner, regarding _______ East Sante Fe (common address), the subject property, or portion thereof. Such authorization includes, but is not limited to, all acts or things whatsoever necessarily required of Applicant in the application process. I/we further attest that I/we agree to be legally bound by the application made on our behalf by applicant and the resultant action upon such application by the City of Gardner.

3. It is understood that in the event the Undersigned is a corporation or partnership then the individual whose signature appears below for and on behalf of the corporation or partnership has in fact the authority to so bind the corporation or partnership to the terms and statements contained within this instrument.

IN WITNESS THEREOF, I, the Undersigned, have set my hand and seal below.

Aaron Otto          Owner

STATE OF Kansas
COUNTY OF Johnson County

The foregoing instrument was acknowledged before me on this 17th day of October, 2018 by Aaron Otto

My Commission Expires:

LYNDA A SADER
Notary Public, State of Kansas
My Appointment Expires 6-7-2021
Agenda Item: Consider but not act upon a resolution declaring the intent of the City of Gardner, Kansas, to issue Industrial Revenue Bonds in the approximate principal amount of $19,390,000, for the purpose of financing a portion of the costs of the acquisition, construction and equipping of a commercial facility within the City (Main Street Market Place).

Strategic Priority: Promote Economic Development, Fiscal Stewardship, Quality of Life

Department: Finance

Staff Recommendation:
Consider but not act upon a resolution declaring the intent of the City of Gardner, Kansas, to issue Industrial Revenue Bonds, in the approximate principal amount of $19,390,000, for the purpose of financing a portion of the costs of the acquisition, construction and equipping of a commercial facility within the City (Main Street Market Place).

Background/Description of Item:
Pursuant to the Development Agreement for the Main Street Market Place Project, the City will issue approximately $19,390,000 principal amount of Industrial Revenue Bonds (IRB’s) in order to enable an exemption on the sales taxes levied by Kansas governmental entities for construction materials, equipment and furnishings related to the development of the property. The project includes an approximately 60,000 square foot grocery store, the redevelopment of an existing grocery store, and the development of two pad sites, including buildings, improvements and equipment. Notice of intent to issue industrial revenue bonds was published in the City’s paper of record on January 9.

The developer has requested additional time to acquire their proper internal approvals to move forward with the project and finalize the Development Agreement. The Developer’s Agreement and other requested financial incentives have been rescheduled for February 18. City staff recommends considering the Resolution of Intent for IRBs, but waiting until February 18 to adopt the Resolution.

The City’s bond counsel, Tyler Ellsworth of Kutak Rock will be at the meeting to answer any questions.

Financial Impact:
The IRB bonds will be payable solely out of the rentals, revenues, and receipts derived from the lease of the project to the Company from the City. The bonds shall not be general obligations of the Issuer, nor constitute a pledge of full faith and credit of the Issuer and shall not be payable in any manner by taxation. The bonds have been requested by the developer for the sales tax exemption on construction materials, equipment and furnishings; there is no property tax abatement associated with the bonds.
Attachments:
- Resolution No. 2009

Suggested Motion:
Table Resolution No. 2009 declaring the intent of the City of Gardner, Kansas, to issue Industrial Revenue Bonds, in the approximate principal amount of $19,390,000, for the purpose of financing a portion of the costs of the acquisition, construction and equipping of a commercial facility within the City (Main Street Market Place) until February 18.
RESOLUTION NO. 2009


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 (the “Act”), to acquire, construct and equip certain facilities (as defined in the Act) 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, pursuant to a development agreement (the “Development Agreement”) between the City and Super Market Developers, Inc., a Missouri corporation (together with its assigns, as approved by the City, the “Company”), to be considered by the Governing Body of the City on January 22, 2019, the City is agreeing to issue industrial revenue bonds in order to enable an exemption on sales taxes levied by Kansas governmental entities for construction materials, equipment, and furnishings related to the development of property generally located at the northwest corner of E. Main Street and N. Moonlight Road in the City;

WHEREAS, the Company has requested the City issue its industrial revenue bonds in the approximate principal amount of $19,390,000 to finance a portion of the costs of acquiring, constructing and equipping an approximately 60,000 square foot grocery store, the redevelopment of an existing grocery store, and the development of two pad sites, including buildings, improvements and equipment (collectively, the “Project”), generally located at the northwest corner of E. Main Street and N. Moonlight Road in the City, in order to promote, stimulate and develop the general economic welfare and prosperity of the City and its environs and the health of the citizens thereof and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas and the health of the citizens thereof;

WHEREAS, the Company will lease the Project to the City, and the City will lease the Project back to the Company; and

WHEREAS, subject to the provisions of Section 3 of this Resolution, the City desires to finance a portion of the cost of acquiring, constructing and equipping the Project by the issuance of its industrial revenue bonds in the approximate principal amount of $19,390,000 pursuant to the Act, said bonds to be payable solely out of the rentals, revenues and receipts derived from the lease of the Project to the Company from the City;

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

Section 1. Subject to the provisions of Section 3 of this Resolution, it is hereby found and declared that the issuance of the Industrial Revenue Bonds (Taxable Under Federal Law),
Series 2020 (Main Street Market Place), in the approximate principal amount of $19,390,000 (the “Bonds”), by the City for the purpose of financing a portion of the cost of the proposed Project to be leased to the Company will promote, stimulate and develop the general economic welfare and prosperity of the City and its environs and the health of the citizens thereof as well as further promoting, stimulating and developing the general economic welfare and prosperity of the State of Kansas and the health of the citizens thereof.

Section 2. Subject to the provisions of Section 3 of this Resolution, the Governing Body of the City hereby intends to authorize the issuance of the Bonds pursuant to the Act and all necessary regulatory approvals, and upon the conditions more fully set forth in Section 3 hereof.

Section 3. Notwithstanding this Resolution of intent of the City to issue the Bonds, the issuance of the Bonds is expressly subject to presentation, completion and final approval by the Governing Body of the City of each of the conditions set forth in subparagraphs (a) through (f) below. In addition, the issuance of such Bonds is also conditioned on and subject to the reservations of rights set forth in subparagraphs (g) and (h) below:

(a) Satisfactory negotiation and approval of a base lease, lease agreement, trust indenture, ordinance and other documents necessary for the issuance of the Bonds;

(b) Obtaining all necessary zoning and building permits and compliance with all necessary regulatory approvals and with the City ordinances;

(c) Successful private placement of the Bonds or other purchase method approved by the City;

(d) Approval of the Bonds by Bond Counsel, Kutak Rock LLP, and approval of certain legal matters pertaining to the Bonds by counsel to the Company;

(e) Adequate security for the payment of the Bonds;

(f) Compliance with the terms and conditions of the Development Agreement;

(g) The City hereby reserves the right to rescind this Resolution of intent if the conditions specified in this Section 3 are not, in the sole judgment of the City, satisfied, or upon change of federal or state law or regulations affecting the City’s issuing authority; and

(h) If the Bonds are not issued for any reason, including noncompliance with the conditions of this Section 3, the City shall not be subject to any liability, whatsoever, to the Company.

Section 4. Subject to the conditions and prior approvals of Section 3, the Company is hereby authorized to proceed with all matters necessary to accomplish the purposes set forth in this Resolution.

Section 5. The Mayor, City Council, City Administrator, Finance Director, Bond Counsel, City Attorney and other officers, employees and representatives of the City are hereby directed to
take such action as they deem necessary in cooperation with all persons involved with the financing of the Project in order to present the necessary documents to the Governing Body of the City for final action. In connection therewith, Bond Counsel is directed to work with the Company and its counsel, and all others necessary, to accomplish the purposes set forth herein.

Section 6. The City and the Company expect to incur expenses in connection with the acquisition, construction and equipping of the Project prior to the issuance of the Bonds. The City and the Company hereby reasonably expect to reimburse certain of such expenditures in connection with the Project from the proceeds of the Bonds.

Section 7. This Resolution shall take effect and be in full force on the date it is adopted by the Governing Body and signed by the Mayor. This Resolution shall be of no effect and shall be null and void on December 31, 2020, in the event the Bonds have not been issued by such date.

[Remainder of Page Intentionally Left Blank]
ADOPTED by the Governing Body of the City of Gardner, Kansas, on January 22, 2019.

CITY OF GARDNER, KANSAS

By ________________________________

Mayor

(Seal)

Attest:

______________________________

City Clerk
Agenda Item: Consider adopting a resolution 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).

Strategic Priority: Promote Economic Development, Fiscal Stewardship, Quality of Life

Department: Finance

Staff Recommendation: Adopt a resolution approving the execution of a second amendment to the Developer’s Agreement with Gardner Hospitality LLC.

Background/Description of Item:
At the March 20, 2017 City Council meeting, Council adopted Resolution No. 1964 approving the execution and delivery of a developer’s agreement relating to certain incentives, including Industrial Revenue Bonds and property tax exemption, for a development project within the City (Hampton Inn).

On November 5, 2018, Council approved ordinance 2590 authorizing the City to issue industrial revenue bonds (taxable under Federal Law) Series 2018 (Hampton Inn), in the principal amount not to exceed $14,000,000, financing the acquisition, construction and equipping of a commercial facility, and authorizing the execution of certain documents in connection with the issuance of the bonds. The ordinance also approved an amendment to the Developer’s Agreement to extend the construction completion deadline from Dec 1, 2018 to February 1, 2019.

The Developer has requested another amendment to the Developer’s Agreement extending the construction completion date deadline to April 1, 2019.

The City’s bond counsel, Tyler Ellsworth of Kutak Rock, prepared the Second Amendment and the corresponding Resolution and will be at the meeting to answer any questions. Staff has requested that a representative of the Developer attend as well.

Attachments:
- Resolution 2010
- Second Amendment to Developer’s Agreement

Suggested Motion: Adopt Resolution 2011 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).
RESOLUTION NO. 2010

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 175th 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 ________________________________
Mayor

(Seal)

Attest:

_______________________________
City Clerk
SECOND AMENDMENT TO DEVELOPER’S AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPER’S AGREEMENT (this “Amendment”) is made as of ________, 2019 (the “Effective Date”), by and between the CITY OF GARDNER, KANSAS (the “City”), and GARDNER HOSPITALITY LLC, a Kansas limited liability company (the “Developer”).

RECITALS

1. The City and the Developer entered into that certain Developer’s Agreement dated March 23, 2017 (the “Original Agreement”), as amended by that certain First Amendment to Developer’s Agreement dated as of November 5, 2018 (the “First Amendment” and together with the Original Agreement, the “Agreement”), relating to the acquisition, construction, and equipping of a 5-story hotel consisting of approximately 84 rooms and an adjoining meeting space (the “Hotel”) on property located within the City.

2. The City and the Developer wish to further amend the Agreement pursuant to the terms and conditions of this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual representations, covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Definitions. All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Agreement.

Section 2. Amendment to Section 6.05. Section 6.05 of the Agreement is hereby deleted in its entirety and replaced with the following:

Section 6.05 Development Schedule.

Subject to the terms of this Agreement (including the timely implementation and funding of the Project Financing), the Developer agrees to complete the Project on or before April 1, 2019, as evidenced by a final certificate of occupancy for the Hotel.

Section 3. Full Force and Effect. Except as specifically provided herein, the Agreement remains in full force and effect in accordance with its terms.

Section 4. Governing Law. This Amendment shall be governed by, and construed in accordance with, the laws of the State of Kansas and applicable federal law without regard to choice of law rules.

Section 5. Counterparts. This Amendment may be signed in any number of counterpart copies, but all such copies shall constitute one and the same instrument.
IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

CITY OF GARDNER, KANSAS

By: __________________________
    Laura Gourley
    Interim City Administrator

[SEAL]

ATTEST:

By: __________________________
    Amy Nasta
    City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS   )
    ) SS.
COUNTY OF JOHNSON  )

On this ________, 2019, before me, a Notary Public in and for said County and State, came Laura Gourley, Interim City Administrator of the City of Gardner, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and Amy Nasta, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledge the execution of the same to be the act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____________________________________
Notary Public

My Commission Expires: _____________
IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

GARDNER HOSPITALITY LLC,
a Kansas limited liability company

By: _______________________________________
    Deepak Parmar
    Authorized Member

ACKNOWLEDGMENT

STATE OF _________  )
    ) SS.
COUNTY OF _________  )

On this _________, 2019, before me, a Notary Public in and for said County and State, came Deepak Parmar, as Authorized Member of Gardner Hospitality LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said company, and such person duly acknowledges the execution of the same to be the act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____________________________________
Notary Public

My Commission Expires: ______________

Agenda Item: Consider adopting an Ordinance amending sections 5.15.070 (Operation Regulations) and 5.15.120 (Restriction of Business to Premises) of the Gardner Municipal Code.

Strategic Priority: Promote Economic Development; Quality of Life

Department: Business and Economic Development

Staff Recommendation:
Approve an Ordinance amending sections 5.15.070 (Operation Regulations) and 5.15.120 (Restriction of Business to Premises) of the Gardner Municipal Code, allowing Gardner Licensed Massage therapists to perform massage therapy in a private residence in the City limits of Gardner and to permit licensed therapists to offer couple’s massages.

Background/Description of Item:
Tom and Mary Wykes, Gardner licensed massage therapists, have requested the City of Gardner review its City Code Sections 5.15.070 (Operation Regulations) and 5.15.120 (Restriction of Business to Premises).

- The requested change to Section 5.15.070(A)(1) is due to the need to for consistency with business restrictions, such as shorter business hours, placed on businesses located in residential areas.
- The requested change to Section 5.15.070(A)(2) is intended to make it lawful for a licensed massage therapist to provide couple’s massage.
- The requested change to Section 5.15.120(C) is intended to allow Gardner licensed therapists to perform massage in patron’s homes during normal business hours. Additionally, the requested change will result in consistency with Section 5.15.120(B).

5.15.070 Operation regulations
A. The operation of any massage establishment shall be subject to the following regulations:

1. Hours. Such business shall be closed and operations shall cease between the hours of 12:00 midnight and 6:00 a.m. each day;

   **Hours.** Such business shall be closed and operations shall cease between the hours of 10:00 p.m. and 6:00 a.m. each day provided the hours of operation for in-office massage may be extended on premises having bona fide evening and night shifts.

2. Separation of Patrons. It is unlawful for patrons to receive treatment in the same room or the same quarters at the same time, provided, that this regulation shall not apply to the provision of in-office **massage**;
5.15.120 Restriction of business to premises
A. All business or activity provided for under this chapter shall be conducted and performed on the commercial premises of a licensed massage establishment, subject to the provisions of this section.

B. Licensed massage therapists who own, operate, or are employed by a licensed massage therapy establishment within the corporate limits of the City, at the direction of a duly licensed physician, physical therapist, occupation therapist, kinesiologist, or chiropractor, may perform massage therapy services on behalf of physically incapacitated patients in such patient’s home, residence or other designated place, or such licensed massage therapist may render such treatment to persons who are bedfast or are so physically incapacitated that it is impractical to provide same to such persons at a permitted location. therapy is performed is subject to the inspection as set forth in GMC 5.15.050 and 5.15.060.

C. Licensed massage therapists may perform their services in the therapist’s home or residence; provided, that the therapist’s home is licensed as a massage establishment; and provided, that any place where massage operated in accordance with the regulations set forth in GMC 5.15.070, and subject to the provisions contained within the Gardner Land Development Code, GMC Title 17, regarding accessory home occupations.

Licensed massage therapists may perform their services on behalf of clients in clients' homes or residences or other designated places, or in the therapist's home or residence provided that the therapist's home is licensed as a massage establishment and provided that any place where massage therapy is performed is subject to the inspection as set out in Sections 5.15.070 and operated in accordance with the regulations set out in Section 5.15.120, and if conducted in a therapist's home or residence, subject to the home occupation requirements in Title 17.

D. Licensed massage therapists, with a licensed massage therapy establishment within the corporate limits of the City, may perform in-office massage on the nonpermanent commercial office premises of the massage therapist's client(s) in the course or scope of a health and wellness program, promotion, health risk assessment or the like sponsored by an unrelated business enterprise or its insurer, third-party health or medical provider, or the like. (Ord. 2552 § 1; Ord. 1943 § 2. Code 1990 § 5-317. Formerly 5.15.170)

The Gardner Municipal Code (GMC) provides for the Governing Body to issue licenses for establishments but grants authority to the City Clerk to issue licenses to individual therapists and employees.

Financial Impact:
These proposed changes do not affect the fees or change the estimated future revenues.

Suggested Motion:
Approve Ordinance 2599 allowing at home massage therapy and joint patrons massage.
AN ORDINANCE OF THE CITY OF GARDNER, KANSAS AMENDING SECTIONS 5.15.070 AND 5.15.120 OF THE GARDNER MUNICIPAL CODE RELATING TO THE OPERATION REGULATIONS OF MASSAGE ESTABLISHMENTS AND THE RESTRICTION OF BUSINESS TO PREMISES FOR MASSAGE ESTABLISHMENTS

WHEREAS, the City has previously adopted Municipal Code provisions regulating the maintenance, operation and conduct of massage establishments;

WHEREAS, the City wishes to amend its Municipal Code regulating the maintenance, operation and conduct of massage establishments relating to the operation regulations of massage establishments and the restriction of business to premises for massage establishments

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

SECTION ONE: Section 5.15.070 of the Gardner Municipal Code shall be amended to provide as follows:

“5.15.030 Operation Regulations

A. The operation of any massage establishment shall be subject to the following regulations:

1. Hours. Such business shall be closed and operations shall cease between the hours of 10:00 p.m. and 6:00 a.m. each day provided the hours of operation for in-office massage may be extended on premises having bona fide evening and night shifts;

2. Separation of Patrons. It is lawful for patrons to receive treatment in the same room or the same quarters at the same time; provided, that this regulation shall not apply to the provision of in-office massage;

3. Danger to Safety and Health. No service shall be given which is clearly dangerous or harmful in the opinion of the Chief of Police or the Director of Business and Economic Development, or their respective designees, to the safety or health of any person, and after such notice in writing to the permittee from said officials;

4. Alcoholic Beverages. No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted, or suffered to be done in or upon any premises permitted under the provisions of this chapter; provided, that this restriction shall not apply to accessory home occupations except for the portion of such premises where massage therapy occurs has been inspected and permitted pursuant to this chapter and pursuant to the provisions of the Gardner Land Development Code, GMC Title 17, regarding accessory home occupations;

5. Conduct of Premises. All permittees and operators permitted under the provisions of this chapter shall at all times be responsible for the conduct of business on their permitted premises.
and for any act or conduct of any employees or massage therapists which constitutes a violation of the provisions of this chapter; any violation of the City, state, or federal laws committed on the permitted premises by any such permittee, manager, operator, employee, or massage therapist affecting the eligibility or suitability of such person to hold a license or permit may be grounds for suspension or revocation of same;

6. Every portion of a permitted establishment, including appliances and personnel, shall be kept clean and operated in a sanitary condition;

7. All employees shall be clean and wear clean outer garments which use is restricted to the permitted establishment, except for the provision of in-home massage therapy as set forth in this chapter; provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee, except for the provision of in-home massage therapy as set forth in this chapter;

8. All operators, managers, massage establishment permit holders, employees, and massage therapists must be modestly attired; diaphanous, flimsy, transparent, form-fitting, or tight clothing is prohibited; clothing must cover employees', operators', managers', massage establishment permit holders', and massage therapists' buttocks, genitals, pubic areas, and chests at all times;

9. The specified anatomical areas of patrons must be covered by towels, cloths, or undergarments when in the presence of a massage establishment permit holder, manager, operator, employee, or massage therapist; any contact with a patron's genital area, genitals, pubic region, perineum, anus or anal region, and the area of the female breast that includes the areola and nipple is strictly prohibited;

10. All permitted establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in an approved, sanitary manner;

11. Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation; bathtubs shall be thoroughly cleaned after each use;

12. Table showers are strictly prohibited.

B. The City Clerk, Chief of Police, or the Director of Business or Economic Development may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this chapter."
SECTION TWO: Section 5.15.120 of the Gardner Municipal Code shall be amended to provide as follows:

"5.15.120 Restriction of business to premises.

A. All business or activity provided for under this chapter shall be conducted and performed on the commercial premises of a licensed massage establishment, subject to the provisions of this section.

B. Licensed massage therapists who own, operate, or are employed by a licensed massage therapy establishment within the corporate limits of the City, at the direction of a duly licensed physician, physical therapist, occupation therapist, kinesiologist, or chiropractor, may perform massage therapy services on behalf of physically incapacitated patients in such patient's home, residence or other designated place, or such licensed massage therapist may render such treatment to persons who are bedfast or are so physically incapacitated that it is impractical to provide same to such persons at a permitted location.

C. Licensed massage therapists may perform their services on behalf of clients in clients' homes or residences or other designated places, or in the therapist's home or residence; provided, that the therapist's home is licensed as a massage establishment; and provided that any place where massage therapy is performed is subject to the inspection as set forth in GMC 5.15.070, and operated in accordance with the regulations as set forth in Section 5.15.120, and if conducted in a therapist's home or residence, subject to the provisions contained within the Gardner Land Development Code, GMC Title 17, regarding accessory home occupations.

D. Licensed massage therapists, with a licensed massage therapy establishment within the corporate limits of the City, may perform in-office massage on the nonpermanent commercial office premises of the massage therapist's client(s) in the course or scope of a health and wellness program, promotion, health risk assessment or the like sponsored by an unrelated business enterprise or its insurer, third-party health or medical provider, or the like.

SECTION THREE: Any ordinance not in conformity herewith is hereby repealed or amended to conform hereto.

SECTION FOUR: This ordinance shall take effect and be in force upon its passage by the City Council and publication in the official City Newspaper as required by law.

PASSED by the City Council this 22nd day of January, 2019.

SIGNED by the Mayor this 22nd day of January, 2019.
CITY OF GARDNER, KANSAS

__________________________
Steve Shute, Mayor

Attest:

__________________________
Amy Nasta, City Clerk

Approved as to form:

__________________________
Ryan B. Denk, City Attorney
Agenda Item: Consider authorizing the approval of Change Order Request No. 1 for Turner Construction for CMAR service and installation of Fiber between City Hall and the New Gardner Justice Center.

Strategic Priority: Public Safety, Infrastructure and Asset Management

Department: Public Works, IT, Police, Municipal Court

Staff Recommendation:
Staff recommends that the City Council approve Change Order Request No. 1 for Turner Construction for Construction Manager at Risk (CMAR) service and installation of fiber between City Hall and the New Gardner Justice Center.

Background/Description:
At the July 2, 2018 meeting, the Governing Body authorized the Guaranteed Maximum Price (GMP) of $12,465,260.00 including all pre-construction services, contingencies, and allowances for Furniture, Furnishings, and Equipment (FFE). The GMP and project estimates, as noted at that time, did not include the following: any moving costs, City utility connections and/or system development fees, or network connections between City Hall and the Justice Center.

The fiber installation is necessary to meet the IT needs of the new Gardner Justice Center. The CMAR worked with the City’s Utility Department, IT, Public Works, and Police Department to develop a fiber installation plan between City Hall and the new Gardner Justice Center. The CMAR bid the work with various subcontractors to develop alternative construction pricing. Fiber construction pricing, not including CMAR fees, ranged from $110,000 to over $250,000 depending on the proposed route, type of installation, and sub-contractor. The total project cost for the selected alternative is $142,438, including construction, fiber contingency, insurance, bonding, and construction management fees.

The selected alternative is a combination of underground, and aerial fiber. The installation will be underground north along Center Street to 167th, then installed aerial east along 167th to the Justice Center property, and then underground on the Justice Center property. The conduit across the property was installed as part of the site work for the project.

In addition to providing IT services to the new Gardner Justice Center, a future connection between the new fiber and the existing city fiber located at the northeast corner of 167th and Moonlight. This connection would complete a fiber loop back to the Gardner Energy Center. The connection would be approximately $35,000 to complete at this time and is not included in the proposed change order no 1.

Financial Impact:
- The proposed Change Order No. 1 is $70,000 including sub-contractor installation, contingency, and construction management services. The new contract sum for Turner Construction Company including the change order is $12,535,260.00.
- Funds of $70,000 were included in the 2018 budget for a Fiber Connection from the City to the County for the Niche project. However, the VPN fiber connection to Niche has
improved, and is meeting the needs. A future fiber connection for Niche may be required but could be made directly from the new Justice Center.

- The total fiber cost for the project is $142,438. The balance of the funding for the fiber in the amount of $72,438.00 will come from the owner's contingency funds already included in the Guaranteed Maximum Price of the contract.

Attachments Included:
- AIA G701 – Change Order No. 1 for Fiber between Gardner Justice to City Hall
- Proposed Fiber Route Map

Suggested Motion:
Authorize the approval and execution of Change Order Request No. 1 for Turner Construction for CMAR service and installation of Fiber between City Hall and the New Gardner Justice Center.
Change Order

PROJECT (Name and address):
The City of Gardner, Kansas
120 E. Main Street
Gardner, KS 66030

CHANGE ORDER NUMBER: 01
DATE: January 8, 2019

OWNER: ☐
ARCHITECT: ☐
CONTRACTOR: ☐
FIELD: ☐
OTHER: ☐

TO CONTRACTOR (Name and address):
Turner Construction Company
1220 Washington Street Suite 100
Kansas City, MO 64105

ARCHITECT'S PROJECT NUMBER:
CONTRACT DATE: May 07, 2018
CONTRACT FOR: General Construction

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)
COR #01 - Fiber between Gardner Justice to City Hall

The original Contract Sum was $12,465,260.00
The net change by previously authorized Change Orders $0.00
The Contract Sum prior to this Change Order was $12,465,260.00
The Contract Sum will be increased by this Change Order in the amount of $70,000.00
The new Contract Sum including this Change Order will be $12,535,260.00

The Contract Time will be unchanged by Zero (0) days.
The date of Substantial Completion as of the date of this Change Order therefore is June 28, 2018.

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

TremorHL
ARCHITECT (Firm name)
1811 Baltimore Ave.
Kansas City, MO 64108

BY (Signature)
Andrew Pitts
(Typed name)
01.08.19
DATE

Turner Construction Company
CONTRACTOR (Firm name)
1220 Washington Street Suite 100
Kansas City, MO 64105

BY (Signature)
Kyle Gardner
(Typed name)
1/8/19
DATE

The City of Gardner, Kansas
OWNER (Firm name)
120 E. Main Street
Gardner, KS 66030

BY (Signature)

(Typed name)

DATE

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January 8, 2019
City of Gardner
120 E Main St
Gardner, KS 66030
Attn: Michael E. Kramer
Public Works Director

RE: City of Gardner – Gardner Justice Center
Approval Letter #29
Fiber

Dear Michael:

Based on our review of the subcontract bids for this Work, Turner Construction recommends the award of BP-43 Fiber to Ervin Cable Construction, LLC. We request your authorization for the following:

Gardner Justice Center – Ervin Cable Construction.

- Issue a Lump Sum Subcontract to Ervin Cable Construction for Fiber Between Gardner Justice and City Hall: $123,555.00
- Contingency for Fiber: $6,178.00
- GR, GC & Fee: $12,705.00
- Total Approval Letter #29 for Fiber: $142,438.00

Total Gardner Justice Center GMP Owner Contingency for Fiber: $72,438.00

Total Budget (Gain) / Overrun: $70,000.00

This letter shall serve as official notice to the Project Team for Turner to write a Subcontract to Ervin Cable Construction, LLC. Please notify the Turner project team immediately if there are any objections to making this subcontract award. Turner Construction’s Insurance, CCIP, Builders Risk, Subguard, and Property Insurance are not included in the amount above. Subcontract is carrying all insurances.

Please sign in the space provided below indicating authorization for Turner to proceed with the work indicated above.

Your approval of this letter on or before Jan. 18, 2019 would be appreciated due to the timing of this work.
Sincerely,

Kyle Gardner  
Project Manager  
Turner Construction Company

Approved and Notice to Proceed:

BY: _______________________________ Date: ____________

City of Gardner, Kansas
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Proposed Fiber Route:
City Hall to Justice Center

- Existing Electric Poles
- Overhead Lines
- Proposed Location of Aerial Fiber
- Proposed Location of Underground Fiber

Underground Conduit
See Site Plan

Aerial Fiber on 167th

Underground on Center

Underground City Hall - North on Center
The City Council took the following actions at the January 22, 2019, meeting:

1. Proclaimed the week of January 27, 2019 – February 3, 2019, as Buckle Up for Safety and Lives Week
2. Held a Public hearing on the proposed redevelopment project plan (Main Street Market Place, Project Area 1) (Passed unanimously)
3. Approved the minutes as written for the regular meeting on January 7, 2019 (Passed unanimously)
4. Approved the City expenditures prepared January 4, 2019, in the amount of $1,111,583.43; January 11, 2019, in the amount of $734,405.53 (Passed unanimously)
5. Authorize the City Administrator to purchase a new bobcat from K.C. Bobcat in the amount of $49,924.00 (Passed unanimously)
6. Authorized the City Administrator to execute a Quit Claim Deed to convey Lot 2, Symphony Farms III (commonly known as 32350 W. 167th Street) to Johnson County Fire District No. 1 (Passed unanimously)
7. Extended the Airport Advisory Board appointment process for up to 28 days until February 18, 2019 with consideration of appointments on the February 18, 2019, City Council Agenda Passed unanimously)
8. Appointed Matthew Wolff as Gardner City Treasurer effective January 22, 2019 (Passed unanimously)
10. Adopted Ordinance 2598 amending Title 13, Utilities Code of the City of Gardner, Kansas, 2008, increasing various rates and charges and amending or repealing all ordinances or regulations not in conformity herewith (Passed unanimously)
11. Accepted the dedication of right-of-way and easements on the Belfonte Car Wash plat (Passed unanimously)
12. Tabled Resolution No. 2009 declaring the intent of the City of Gardner, Kansas, to issue Industrial Revenue Bonds, in the approximate principal amount of $19,390,000, for the purpose of financing a portion of the costs of the acquisition, construction and equipping of a commercial facility within the City (Main Street Market Place) until February 18 (Passed unanimously)
13. Adopted Resolution 2009 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) (Passed unanimously)
14. Adopted Ordinance 2599, an ordinance of the City of Gardner, Kansas amending Sections 5.15.070 and 5.15.120 of the Gardner Municipal Code relating to the operation regulations of massage establishments and the restriction of business to premises for massage establishments (Passed unanimously)
15. Authorized the approval and execution of Change Order Request No. 1 for Turner Construction for CMAR service and installation of Fiber between City Hall and the New Gardner Justice Center (Passed unanimously)