

ORDINANCE NO. 2629

AN ORDINANCE LEVYING AND ASSESSING SPECIAL ASSESSMENTS ON CERTAIN LOTS, PIECES AND PARCELS OF LAND LIABLE FOR SUCH SPECIAL ASSESSMENTS TO PAY THE COSTS OF IMPROVEMENTS IN THE CITY OF GARDNER, KANSAS, AS AUTHORIZED BY RESOLUTION NO. 2031 OF THE CITY AND AMENDING RESOLUTION NO. 2031 OF THE CITY (PLAZA SOUTH SPECIAL BENEFIT DISTRICT).

WHEREAS, pursuant to Resolution No. 2031 of the City of Gardner, Kansas (the “City”), adopted on October 7, 2019, the Governing Body of the City has authorized the creation of an improvement district and the construction of the following improvements (the “Improvements”):

Construction of 188th Street, together with construction of a water main extension on the north side, beginning approximately 190 feet east of Gardner Road eastward approximately 1,135 feet to the eastern boundary of the district within the City and all related improvements permitted by K.S.A. 12-6a01 *et seq.*; City administrative costs; and legal fees;

WHEREAS, the Petition for the Improvements (the “Petition”), as well as Section 1(d) of Resolution No. 2031, contains a rounding error in the percentage of costs assessed to Tract 3;

WHEREAS, the Petition and Resolution No. 2031 state that 41.95% of the costs of the Improvements are to be assessed to Tract 3, but due to a rounding error, this percentage should instead be 41.96%;

WHEREAS, a representative of the owner of the property included in Tract 3 has consented to this correction, and it is necessary and desirable to correct this error in Resolution No. 2031 by these proceedings;

WHEREAS, prior to commencement of construction of the Improvements, the City has determined the maximum amount of assessment against each lot, piece or parcel of land deemed to be benefited by the Improvements based on the approved estimate of cost of the Improvements, which maximum assessments account for the correction to the percentage assessed to Tract 3 reference above;

WHEREAS, the City has prepared an assessment roll and filed the same with the City Clerk;

WHEREAS, the City has received a waiver from the owners of all property within the improvement district that the City provide notice of, and hold a public hearing on, the proposed maximum special assessments pursuant to K.S.A. 12-6a09; and

WHEREAS, the owners of all property within the improvement district has consented to the levy of the proposed maximum special assessments as set forth in this Ordinance;

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

SECTION 1. Pursuant to K.S.A. 12-6a01 *et seq.*, special assessments to pay the costs of the Improvements are hereby levied and assessed against the lots, pieces and parcels of land liable therefor as described on *Exhibit A* to this Ordinance, which is incorporated herein by reference, and in the maximum amounts set forth on *Exhibit A* following the description of each lot, piece or parcel of land; provided, however, that if the final cost of the completed Improvements is less than the maximum amount of the assessments set forth on *Exhibit A*, the Governing Body of the City shall adjust the assessments to reflect the cost of the completed Improvements.

SECTION 2. The amounts so levied and assessed shall be due and payable from and after the date of publication of this Ordinance; and, unless waived, the City Clerk shall notify the owners of the affected properties of the maximum amounts of their assessments, that unless the assessments are paid by August 1, 2021 (the "Prepayment Date"), bonds will be issued therefor and such assessments will be levied concurrently with general taxes and be payable in ten (10) annual installments.

SECTION 3. The City Clerk shall certify to the County Clerk, in the same manner and at the same time as other taxes are certified, for a period of ten (10) years, all of the assessments which have not been paid by the Prepayment Date, together with interest on such amount thereof at a rate not exceeding the maximum rate as prescribed by the laws of the State of Kansas; and such amounts shall be placed on the tax rolls and collected as other taxes are collected, the levy for each year being a portion of the principal amount of the assessment plus one year's interest on the amount remaining unpaid.

SECTION 4. Section 1(d) of Resolution No. 2031 of the City adopted on October 7, 2019, is hereby amended to reflect that the percentage of the cost of the Improvements assessed to Tract 3 shall be 41.96%.

SECTION 5. This Ordinance shall take effect and be in force from and after its publication once in the official City newspaper. The City Clerk is directed to file this Ordinance with the Register of Deeds of Johnson County, Kansas.

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PASSED by the Governing Body of the City of Gardner, Kansas, and approved by the Mayor on October 21, 2019.

CITY OF GARDNER, KANSAS

(Seal)

_____/s/_____
Mayor

ATTEST:

_____/s/_____
City Clerk

**EXHIBIT A
(PLAZA SOUTH SBD)**

DESCRIPTION OF PROPERTY SUBJECT TO ASSESSMENT	MAXIMUM AMOUNT OF ASSESSMENT
TRACT 1	\$382,330

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 22 EAST, IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 36; THENCE N 88°21'25" E, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 36, A DISTANCE OF 779.87 FEET; THENCE S 1°43'47" E, A DISTANCE OF 944.92 FEET; THENCE ALONG THE NORTHERLY PLAT LINE OF GNBS BUSINESS PARK II AND ALSO ALONG THE NORTHERLY PLAT LINE OF GNBS BUSINESS PARK, BOTH BEING PLATTED SUBDIVISIONS OF LAND IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS AND THEIR EASTERLY EXTENSIONS, FOR THE FOLLOWING THREE (3) COURSES; THENCE S 89°07'03" W, A DISTANCE OF 565.80 FEET; THENCE N 2°32'11" W, A DISTANCE OF 30.01 FEET; THENCE S 89°07'03" W, A DISTANCE OF 201.00 FEET TO THE NORTHWEST PLAT CORNER OF SAID GNBS BUSINESS PARK, SAID POINT ALSO BEING ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 36; THENCE N 2°32'11" W, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 36, A DISTANCE OF 904.84 FEET TO THE POINT OF BEGINNING, CONTAINING 16.5450 ACRES, MORE OR LESS, SUBJECT TO THAT PART IN STREETS AND ROADS.

TRACT 2	\$372,190
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ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 22 EAST, IN

THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS,
BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE
SOUTHWEST QUARTER OF SAID SECTION 36; THENCE
N 88°21'25" E, ALONG THE NORTH LINE OF THE
SOUTHWEST QUARTER OF SAID SECTION 36, A
DISTANCE OF 779.87 FEET TO THE POINT OF
BEGINNING; THENCE CONTINUING N 88°21'25" E,
ALONG THE NORTH LINE OF THE SOUTHWEST
QUARTER OF SAID SECTION 36, A DISTANCE OF 545.62
FEET TO THE NORTHEAST CORNER OF THE WEST
ONE-HALF OF THE SOUTHWEST QUARTER OF SAID
SECTION 36; THENCE S 2°34'17" E, ALONG THE EAST
LINE OF THE WEST ONE-HALF OF THE SOUTHWEST
QUARTER OF SAID SECTION 36, A DISTANCE OF 952.47
FEET; THENCE S 89°07'03" W, A DISTANCE OF 559.67
FEET; THENCE N 1°43'47" W, A DISTANCE OF 944.92
FEET TO THE POINT OF BEGINNING, CONTAINING
12.0340 ACRES, MORE OR LESS.

TRACT 3

\$545,480

LEGAL DESCRIPTION: OLATHE MEDICAL CENTER INC.
UNDEVELOPED AREA 188TH STREET PROPOSED
ROADWAY AND WATERLINE BENEFIT DISTRICT

ALL THAT PART OF THE SOUTHWEST QUARTER OF
SECTION 36, TOWNSHIP 14 SOUTH, RANGE 22 EAST,
IN THE CITY OF GARDNER, JOHNSON COUNTY,
KANSAS, BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE
SOUTHWEST QUARTER OF SAID SECTION 36; THENCE
N 2°32'11" W, ALONG THE WEST LINE OF THE
SOUTHWEST QUARTER OF SAID SECTION 36, A
DISTANCE OF 515.00 FEET; THENCE N 87°27'49" E, A
DISTANCE OF 100.00 FEET, TO THE POINT OF
BEGINNING, SAID POINT ALSO BEING ON THE EAST
RIGHT-OF-WAY LINE OF GARDNER ROAD AS NOW
ESTABLISHED, SAID POINT FURTHER BEING ON THE

NORTHWEST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY NO. 35 AS NOW ESTABLISHED; THENCE N 9°50'34" W, ALONG THE EAST RIGHT-OF-WAY LINE SAID GARDNER ROAD, A DISTANCE OF 245.45 FEET, TO THE SOUTHWEST CORNER OF LOT 1, OLATHE HEALTH URGENT CARE GARDNER, A PLATTED SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS; THENCE N 87°27'49" E, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 251.57 FEET; THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 1 FOR THE FOLLOWING (5) COURSES: THENCE N 2°32'11" W, A DISTANCE OF 153.99 FEET; THENCE N 42°27'49" E, A DISTANCE OF 76.96 FEET; THENCE N 2°32'11" W, A DISTANCE OF 80.84 FEET; THENCE N 43°05'31" W, A DISTANCE OF 75.21 FEET; THENCE N 20°38'09" W, ALONG THE EAST LINE OF SAID LOT 1 AND ITS NORTHERLY EXTENSION, A DISTANCE OF 95.00 FEET, TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF W. 189TH TERRACE AS NOW ESTABLISHED; THENCE WESTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID W. 189TH TERRACE, ON A CURVE TO THE RIGHT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF S 69°21'44" W, A RADIUS OF 215.00 FEET, AN ARC DISTANCE OF 67.92 FEET; THENCE S 87°27'49" W, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID W. 189TH TERRACE, A DISTANCE OF 169.56 FEET; TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SAID GARDNER ROAD; THENCE N 2°32'11" W, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID GARDNER ROAD, A DISTANCE OF 197.58 FEET, TO THE SOUTHWEST CORNER OF LOT 1, SINGH FOOD AND GAS SERVICES, A PLATTED SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS; THENCE N 89°07'03" E, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 238.50 FEET, TO THE SOUTHEAST CORNER THEREOF; THENCE N 2°32'11" W, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 164.34 FEET, TO A POINT ON THE SOUTH LINE OF LOT 1, GNBS BUSINESS PARK II, A PLATTED SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS; THENCE N 89°07'03" E, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 81.50 FEET, TO THE SOUTHWEST CORNER OF LOT 2, OF SAID GNBS BUSINESS PARK II;

THENCE N 2°32'11" W, ALONG THE WEST LOT LINE OF SAID LOT 2 AND ITS NORTHERLY EXTENSION, A DISTANCE OF 164.41 FEET; THENCE N 89°07'03" E, A DISTANCE OF 946.45 FEET, TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 36; THENCE S 2°34'17" E, ALONG SAID EAST LINE, A DISTANCE OF 435.25 FEET TO A POINT ON THE NORTHWEST RIGHT-OF-WAY LINE OF SAID INTERSTATE HIGHWAY NO. 35; THENCE SOUTHWESTERLY ALONG THE NORTHWEST RIGHT-OF-WAY LINE OF SAID INTERSTATE HIGHWAY NO. 35 FOR THE NEXT (3) COURSES: THENCE S 45°23'58" W, A DISTANCE OF 423.45 FEET; THENCE S 52°22'08" W, A DISTANCE OF 489.51 FEET; THENCE S 70°11'59" W, A DISTANCE OF 535.42 FEET, TO THE POINT OF BEGINNING, CONTAINING 21.382 ACRES MORE OR LESS.