

ORDINANCE NO. 2634

AN ORDINANCE AUTHORIZING THE CREATION OF THE PLAZA SOUTH COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF GARDNER, KANSAS; AND AUTHORIZING THE IMPOSITION OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX TO BE COLLECTED WITHIN SUCH DISTRICT.

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

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

WHEREAS, a petition (the “Petition”) was filed by Plaza South Developers, LLC, a Kansas limited liability company (the “Developer”), with the City Clerk requesting: (a) that the community improvement district described therein (the “CID”) be created; (b) that the City levy a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within the CID in the amount of 1.00% (the “CID Sales Tax”); and (c) that certain community improvement district project costs to be incurred within the CID be financed on a pay-as-you-go basis, all in accordance with the Act; and

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

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

WHEREAS, pursuant to Resolution No. 2035 of the City, adopted on October 21, 2019, the Governing Body of the City directed a public hearing on the proposed CID be held and declared its intent to levy the CID Sales Tax in the proposed CID; and

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

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

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

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

Section 2. Authorization of Community Improvement District Project; Estimated Costs. The Governing Body of the City hereby authorizes the project within the CID described on *Exhibit C* attached hereto (the “Project”) and approves the total estimated cost of the Project at \$950,000. Notwithstanding the approval of the Project by this Ordinance, the Project and owner or owners of all property comprising the Project must comply with all applicable zoning, planning, permit and other laws and regulations applicable to the Project.

Section 3. Method of Financing. The Project within the proposed CID is expected to be financed on a pay-as-you-go basis, from revenues received from the imposition of the CID Sales Tax, as more particularly set forth in a memorandum of understanding between the City and the Company (the “MOU”). No special assessments shall be implemented under the Act to pay for the Project and no special or general obligations bonds or notes will be issued to finance the Project.

Section 4. Levy of Sales Tax. In accordance with the Act and to provide funds to pay a portion of the costs of the Project, the Governing Body of the City hereby levies a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within the CID in the amount of 1.00%, *i.e.*, the “CID Sales Tax.” The collection of the CID Sales Tax shall commence on July 1, 2021, or the earliest date thereafter on which the Kansas Department of Revenue agrees to begin the imposition of the CID Sales Tax and shall expire 12 years from the date the Department of Revenue begins the collection of the CID Sales Tax. The CID Sales Tax shall be administered, collected and subject to the provisions of K.S.A. 12-187 *et seq.*, this Ordinance and the MOU.

Section 5. Authorization to Execute Documents. The Mayor, City Clerk and other appropriate officers of the City are hereby authorized and directed to execute, attest, acknowledge and deliver for and on behalf of and as the act and deed of the City, any other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

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

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

CITY OF GARDNER, KANSAS

(Seal)

/s/
Mayor

ATTEST:

/s/
City Clerk

EXHIBIT A

Legal Description of Plaza South CID

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.

EXHIBIT B

Map of Plaza South CID

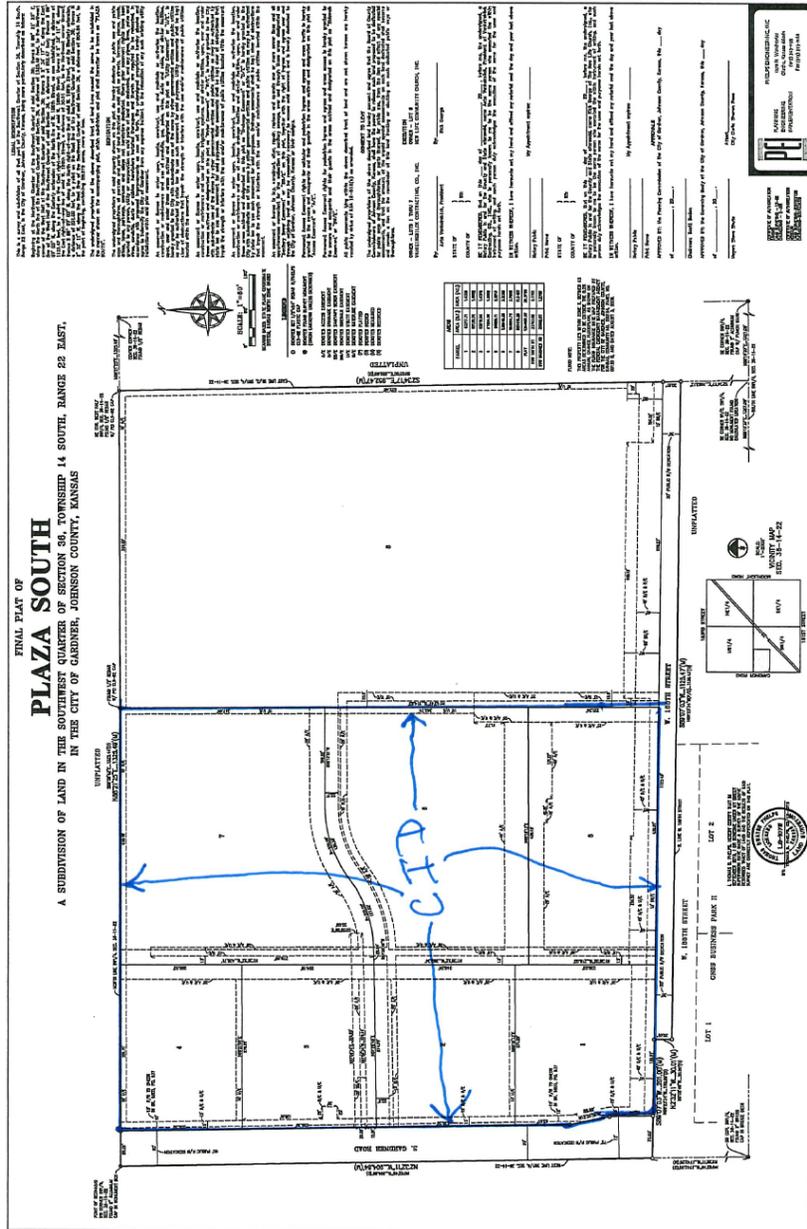


EXHIBIT C

Project Description

The general nature of the proposed community improvement district project (the “Project”) is: construction of turn lane on Gardner Road and water, sanitary sewer, and storm sewer public infrastructure for Plaza South commercial project at Northeast Corner of 188th Street and Gardner Road in Gardner, Kansas, all within the Plaza South CID located on the property legally described on *Exhibit A*.