

(Published in the Garden City Telegram on the 23rd day of July, 2024)

## ORDINANCE NO. 2983 - 2024

### SUMMARY

On July 16, 2024, the City of Garden City, Kansas adopted Ordinance No. 2986-2024, amending the Development Plan and authorizing an amendment to the Development Agreement for the Lost River Addition – Phase One Reinvestment Housing Incentive District within the City in order to extend the duration of said district, revise the costs eligible for reimbursement thereunder, and consent to the assignment of the original developer's rights and obligations thereunder to a new developer, all by adopting an Amended Development Plan and Agreement, making certain findings in conjunction therewith, and amending Ordinance No. 2902-2021.

A complete copy of the ordinance may be viewed free of charge at [www.garden-city.org](http://www.garden-city.org) or may be obtained from the City Clerk, at the City Administrative Center, 301 North Eighth Street, Garden City, Kansas 67846. This Ordinance Summary is certified that it is legally accurate and sufficient, by James R. Dummermuth, Assistant City Attorney.

(Published in the Garden City Telegram on the 23<sup>rd</sup> day of July, 2024)

ORDINANCE NO. 2983-2024

**AN ORDINANCE OF THE CITY OF GARDEN CITY, KANSAS AMENDING THE DEVELOPMENT PLAN AND AUTHORIZING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE LOST RIVER ADDITION – PHASE ONE REINVESTMENT HOUSING INCENTIVE DISTRICT WITHIN THE CITY IN ORDER TO EXTEND THE DURATION OF SAID DISTRICT, REVISE THE COSTS ELIGIBLE FOR REIMBURSEMENT THEREUNDER, AND CONSENT TO THE ASSIGNMENT OF THE ORIGINAL DEVELOPER’S RIGHTS AND OBLIGATIONS THEREUNDER TO A NEW DEVELOPER, ALL BY ADOPTING AN AMENDED DEVELOPMENT PLAN AND AGREEMENT, MAKING CERTAIN FINDINGS IN CONJUNCTION THEREWITH, AND AMENDING ORDINANCE NO. 2902-2021.**

**WHEREAS**, the Kansas Reinvestment Housing Incentive District Act, K.S.A. 12-5241 et seq., (“Act”) authorizes any city incorporated in accordance with the laws of the State of Kansas (“State”) with a population of less than 60,000 to designate reinvestment housing incentive districts within such city; and

**WHEREAS**, prior to such designation, the governing body of such city shall conduct a housing needs analysis to determine what, if any, housing needs exist within its community; and

**WHEREAS**, after conducting such analysis, the governing body of such city may adopt a resolution making certain findings regarding the establishment of a reinvestment housing incentive district, as well as providing the legal description of the proposed district and a map depicting the existing parcels of real estate in the proposed district; and

**WHEREAS**, after publishing such resolution, the governing body of such city shall send a certified copy thereof to the Secretary of Commerce of the State (“Secretary”) requesting that the Secretary agree with the finding contained in such resolution; and

**WHEREAS**, if the Secretary agrees with such findings, such city may proceed with the establishment of a reinvestment housing incentive district within such city and adopt a plan for the development or redevelopment of housing and public facilities in the proposed district; and

**WHEREAS**, Garden City, Kansas has an estimated population of 28,151 and, therefore, constitutes a city as said term is defined in the Act; and

**WHEREAS**, a housing needs analysis was conducted on behalf of the City of Garden City, Kansas (“City”) in 2008 and last updated in 2021 to determine whether housing needs exist within the corporate limits of the City and said analysis concluded that a total of 1,395 housing units are needed to address the housing needs in the City for the 5-year period from 2025 to 2030; and

**WHEREAS**, The Northeast Territory Addition (“Property”) was named as a proposed rural housing incentive district, now known as a reinvestment housing incentive district, within the corporate limits of Garden City, Kansas by Resolution No. 2506-2012 that was passed on October 16, 2012 (“Resolution of Required Findings”); and

**WHEREAS**, the Resolution of Required Findings included a legal description of the Property, a map depicting the existing parcels of real estate located therein, and the following findings and determinations:

1. There is a shortage of quality housing of various price ranges in the City despite the best efforts of public and private housing developers;
2. The shortage of quality housing can be expected to persist and additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the City;
3. The shortage of quality housing is a substantial deterrent to the future economic growth and development of the City;
4. The future economic well-being of the City depends on the Governing Body providing additional incentives for the construction or renovation of quality housing in the City; and

**WHEREAS**, the Resolution of Required Findings was published on October 20, 2012 in the Garden City Telegram and a certified copy of the same was thereafter sent to the Secretary of Commerce of the State of Kansas ("Secretary") requesting review of such resolution and approval of the findings contained therein; and

**WHEREAS**, the Resolution of Required Findings is, in all respects, compliant with K.S.A. 12-5244 and is otherwise compliant with the Act; and

**WHEREAS**, the Secretary advised the Governing Body in writing on or about November 27, 2012 of its agreement with each of the findings contained in the Resolution of Required Findings, which thereby authorizes the Governing Body to proceed with the establishment of reinvestment housing incentive districts within the Property; and

**WHEREAS**, the Governing Body passed and approved Resolution No. 2876-2021 on May 4, 2021 that, inter alia, provided notice that a public hearing was to be held on June 15, 2021 at 2:00 p.m. in the City Commission Chambers of the City Administrative Center located at 301 North 8<sup>th</sup> Street in Garden City, Kansas, wherein the Governing Body was to consider the designation of the Property as a Rural Housing Incentive District and to consider the adoption of a plan for the development of housing and public facilities within the Property ("Public Hearing Resolution"); and

**WHEREAS**, a public hearing was held on June 15, 2021 and, upon and considering the information and public comments received at said hearing, the Governing Body passed and approved Ordinance No. 2902-2021 with an effective date of June 19, 2021 ("Original RHID Ordinance"), which established the Property as a Rural Housing Incentive District to go by the name of Lost River Addition – Phase One ("Established District") and adopted a plan for the development of housing and public facilities within the District ("Original Development Plan"); and

**WHEREAS**, the City and WVG Investments LLC, a Kansas limited liability company ("WVG Investments LLC"), thereafter entered into a development agreement in support of the Original Development Plan on June 15, 2021 ("Original Development Agreement"); and

**WHEREAS**, WVG Investments LLC desires to assign all rights in relation to the Original Development Plan and the Original Development Agreement to a new developer who is under contract to purchase the real property that is subject to the Original Development Plan and the Original Development Agreement, namely Speer Construction Inc, a Kansas for profit corporation ("Speer Construction Inc"); and

**WHEREAS**, Speer Construction Inc desires to revise the costs that are eligible for reimbursement pursuant to the Original Development Plan and the Original Development Agreement and, further, desires to extend the duration of the district to the maximum extent permitted by law in order to allow the greatest duration of time for Speer Construction Inc to recoup its eligible costs; and

**WHEREAS**, the City desires to allow the amendment of the Original Development Plan and the Development Agreement to accomplish the proposed assignment, revisions, and extension in order to promote the development of residential housing within the corporate limits of Garden City, Kansas because there still exists a persistent shortage of quality housing available in the city and this housing shortage continues to present a substantial deterrent to future economic growth and development and, further, to impose new terms and conditions with respect to the most current development policies and subdivision regulations; and

**WHEREAS**, the Act permits modification of a development plan without having to undergo the same procedure for public notice and hearing as required for the initial establishment of a district, but only in the event that the modifications neither result in the addition of area to the district nor a substantial change to the development plan; and

**WHEREAS**, notwithstanding that the proposed assignment, revisions, and extension do not constitute a substantial change to the Original Development Plan, the City desires to undergo such public notice and hearing procedure for the sole purpose of informing the public and taxing subdivisions of such assignment, revisions, and extensions; and

**WHEREAS**, the City has caused there to be prepared an amended plan for the development of housing and public facilities in the Established District ("Amended Development Plan"); and

**WHEREAS**, the Amended Development Plan includes, inter alia:

1. The legal description and map required by K.S.A. 12-5244(a), and amendments thereto;
2. The existing assessed valuation of the real estate in the Established District, listing the land and improvement values separately;
3. A list of the names and addresses of the owners of record of all real estate parcels within the Established District;
4. A description of the housing and public facilities project or projects that are proposed to be constructed or improved in the Established District, and the location thereof;
5. A listing of the names, addresses and specific interests in real estate in the Established District of the developers responsible for development of the housing and public facilities therein;
6. The contractual assurances, if any, the Governing Body has received from such developer or developers, guaranteeing the financial feasibility of specific housing tax incentive projects in the Established District; and
7. A comprehensive analysis of the feasibility of providing housing tax incentives in the Established District, as provided in the Act, that shows the public benefits derived from the Established District will exceed the costs and that the income therefrom, together with other sources of funding, will be sufficient to pay for the public improvements that may be undertaken in the Established District. The analysis identifies any other sources of public or private funds to be used to finance such public improvements; and

**WHEREAS**, the City has caused there to be prepared an amended three-party development agreement and consent to assignment between the City, WVG Investments LLC, and Speer Construction Inc (“Amended Development Agreement”) that includes, amongst other provisions: (1) the contractual assurances, if any, the Governing Body has received from Speer Construction Inc, guaranteeing the financial feasibility of specific housing tax incentive projects in the Established District; and (2) the financial obligations of Speer Construction Inc in relation to the public improvements within the Established District, including, but not limited to, the limitations on reimbursement of eligible expenses and the requirement for Speer Construction Inc to provide the City with certain surety and guarantees that the public improvements will be completed and, separately, will be done in a satisfactory manner to the City; and

**WHEREAS**, the Amended Development Plan is, in all respects, compliant with K.S.A. 12-5245 and is otherwise compliant with the Act; and

**WHEREAS**, the Governing Body passed and approved Resolution No. 3113-2024 on June 4, 2024 providing notice that a public hearing was to be held on July 16, 2024 at 1:15 p.m. wherein the Governing Body was to consider an amendment to the Original Development Plan and the Original Development Agreement for the Established District by adopting the Amended Development Plan and authorizing the Amended Development Agreement, which will extend the duration of the Established District, revise the costs eligible for reimbursement under the Original Development Plan and Original Development Agreement, and consent to the assignment of WVG Investment LLC’s rights and obligations under the Original Development Plan and Original Development Agreement to Speer Construction Inc. (“Second Public Hearing Resolution”); and

**WHEREAS**, the Second Public Hearing Resolution is, in all respects, compliant with subsection (b) of K.S.A. 12-5245 and is otherwise compliant with the Act; and

**WHEREAS**, a public hearing was held on July 16, 2024 at 1:15 p.m. and, upon and considering the information and public comments received at said hearing, the Governing Body deems it advisable to amend the Original Development Plan and Original Development Agreement for the Established District by adopting the Amended Development Plan and authorizing the Amended Development Agreement, which will extend the duration of the Established District, revise the costs eligible for reimbursement under the Original Development Plan and Original Development Agreement, and consent to the assignment of WVG Investment LLC’s rights and obligations under the Original Development Plan and Original Development Agreement to Speer Construction Inc.

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the City of Garden City, Kansas, as follows:

**SECTION 1. Findings.** The Governing Body of the City of Garden City, Kansas (“Governing Body”) hereby finds that due notice of the public hearing conducted on July 16, 2024 at 1:15 p.m. was made in accordance with the provisions of the Kansas Reinvestment Housing Incentive District Act, K.S.A. 12-5241 et seq. (“Act”).

**SECTION 2. Establishment of Reinvestment Housing Incentive District.** The rural housing incentive district previously established within the corporate limits of the Garden City, Kansas (“City”) in accordance with the provisions of the Act and under name of the Lost River Addition – Phase One, which shall hereafter be known as the Lost River Addition – Phase One Reinvestment Housing Incentive District and shall be amended as set forth in this Ordinance, consists of the following described real property in Garden City, Finney County, Kansas:

A Tract of Land in the East Half (E½) of Section 5, Township 24 South, Range 32 West of the 6th P.M., Garden City, Finney County, Kansas more particularly described as follows: Commencing at the Center corner of said Section 5 being a found 1/2" R-bar, CPS; thence North 00°58'22" East on the West line of the

Northeast Quarter of said Section 5 a distance of 32.71 feet to the Point of Beginning being a found 5/8" R-bar, Wilson; thence continuing North 00°58'22" East on said West line a distance of 274.63 feet to a set 1/2" R-bar, CPS cap typical; thence South 87°55'29" East a distance of 694.09 feet to a set 1/2" R-bar; thence South 88°40'27" East a distance of 655.07 feet to a set 1/2" R-bar; thence North 82°17'01" East a distance of 60.70 feet to a set 1/2" R-bar; thence South 88°28'22" East a distance of 373.62 feet to a set 1/2" R-bar; thence South 15°10'31" West a distance of 20.58 feet to a found 5/8" R-bar, origin unknown; thence South 01°46'01" West on the West line of the Church of Christ Tract a distance of 309.31 feet to a found 5/8" R-bar, Wilson; thence North 88°15'24" West on the North line of the City's Walking Path Tract a distance of 424.41 feet to a found 5/8" R-bar, Wilson; thence South 84°44'07" West on said North line a distance of 84.11 feet to a found 5/8" R-bar, Wilson; thence North 87°55'09" West on said North line a distance of 1,245.54 feet to a set 1/2" R-bar; thence North 00°58'22" East a distance of 45.51 feet to a set 1/2" R-bar; thence North 88°15'09" West on said North line a distance of 20.00 feet to the Point of Beginning, containing 13.2 acres, more or less ("District").

The boundaries of the District do not contain any property not referenced in Resolution No. 3113-2024, which provided notice of the public hearing referenced in Section 1 of this Ordinance.

**SECTION 3. Adoption of Amended Development Plan.** The amended plan for the development of housing and public facilities in the District, as presented to the Governing Body on this date, is hereby approved and adopted ("Amended Development Plan").

**SECTION 4. Authorization of Amended Development Agreement.** The amended three-party development agreement and consent to assignment between the City, WVG Investments LLC, and Speer Construction Inc, as attached as an exhibit to the Amended Development Plan and as presented to the Governing Body on this date, is hereby authorized ("Amended Development Agreement").

**SECTION 5. Extension to Duration of District.** The duration of the District is hereby extended to a period of **twenty-five (25) years** and shall, therefore, expire on June 19, 2046, which is twenty-five (25) years from the date of the establishment of the District as a Rural Housing Incentive District on June 19, 2021 pursuant to Ordinance No. 2902-2021.

**SECTION 6. Nullification.** This Ordinance shall be null and void if, within thirty (30) days following the conclusion of the public hearing on July 16, 2024, any of the following events occur:

1. The Board of Education of Unified School District No. 457 determines by resolution that the District will have an adverse effect on such school district; or
2. The Board of County Commissioners of Finney County, Kansas determines by resolution that the District will have an adverse effect on such county.

As of this date, the City has not received a copy of any such resolution and is not aware of the adoption of any such resolution by said boards.

**SECTION 7. Reimbursement.** The City is authorized to reimburse the developer of the District for all or a portion of the costs of implementing the Amended Development Plan through the use of property tax increments allocated to the City under the provisions of the Act, subject to any and all provisions of the Act and of the Amended Development Plan, including, but not limited to, the Amended Development Agreement attached thereto.

**SECTION 8. Further Action.** The Mayor, City Clerk, and other officials and employees of the City, including the City Attorney and Assistant City Attorney, are hereby further authorized and directed to take such other actions as may be appropriate to accomplish the purposes of this Ordinance.

**SECTION 9. Transmission of Documents.** The City Clerk shall transmit a copy of the description of the land within the District, a copy of this Ordinance, and a map or plat indicating the boundaries of the District, to the clerk, appraiser, and treasurer of Finney County, Kansas and to the Board of Education of Unified School District No. 457, the Board of County Commissioners of Finney County, Kansas, the Board of Trustees of Garden City Community College, and the governing body of the West Plains Extension District No. 19. Such documents shall be transmitted as promptly as practicable following the adoption of the Development Plan, but in any event, on or before the January 1st next following such adoption.

**SECTION 10. Amendment.** That Ordinance No. 2902-2021, as previously existing, be and the same is hereby repealed, to be replaced as specified in this Ordinance.

**SECTION 11. Severability.** If any section, clause, sentence, or phrase of this Ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this Ordinance.

**SECTION 12. Effective Date.** This ordinance shall be in full force and effect from and after its publication, or a publication of a summary thereof, in the Garden City Telegram, the official city newspaper.

APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, this 16<sup>th</sup> day of July, 2024.

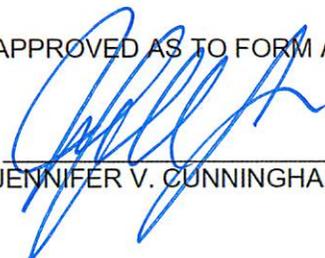
  
MANUEL F. ORTIZ, Mayor

ATTEST:

  
\_\_\_\_\_  
CELYN N. HURTADO, City Clerk  
KORI A. LONGORIA, Deputy City Clerk



APPROVED AS TO FORM AND CONTENT:

  
\_\_\_\_\_  
JENNIFER V. CUNNINGHAM, City Attorney

Approximate Location



**Legend**

 Lost River Addition - Phase One

