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November 22, 2016

TO: Lee's Summit City Council

FROM: David Bushek

RE: Summary of the TIF Contract for the New Longview TIF Plan and the Second Amended and Restated Longview Farm TIF Plan

The TIF Contract will implement the Second Amended and Restated Longview Farm Tax Increment Financing Plan and the New Longview Tax Increment Financing Plan which were approved by the City Council in December 2015. The memo summarizes the TIF Plans and the key features of the TIF Contract.

Background

The First Amended and Ratified Longview Farm Tax Increment Financing Plan (the “**2003 TIF Plan**”) was approved on October 16, 2003. The primary purpose of the 2003 TIF Plan is to encourage the preservation of historic structures in the Longview area by providing reimbursement from TIF revenues for costs incurred to preserve certain structures in the Redevelopment Area. The City and Gale Communities, Inc. (the “**Original Developer**”), entered into the First Amended and Restated Tax Increment Financing Contract (the “**TIF Contract**”) on October 28, 2003, to implement the Longview TIF Plan.

As originally approved, the Redevelopment Area for the 2003 TIF Plan encompassed the entire development area including the proposed single family residential development, multi-family development, commercial development and historic structures. The Redevelopment Area for the 2003 TIF Plan contained ten Redevelopment Project Areas which are the areas planned for commercial development within which TIF revenues could be collected. Four Redevelopment Projects have been approved and the collection of TIF revenues has been activated in these areas by the City:

Project Area

Development

1B (Commercial East B)

McDonalds

2C (Commercial Center C)

Retail commercial – CVS
Pharmacy, gas station

3 (Commercial West)

Retail and service commercial

All TIF redevelopment projects must be approved within ten years after the date of the ordinance that approves a TIF plan, so the remaining six redevelopment projects can no longer be activated by the City under the 2003 TIF Plan. The revenues generated by the four activated projects can continue to be used for eligible historic preservation costs, and the proposed restructuring is discussed below.

The Original Developer was designated as the developer of record under the 2003 TIF Plan for the entire TIF Redevelopment Area. On May 14, 2008, the City certified \$2,750,458.00 in TIF-reimbursable project costs in connection with redevelopment of the Show Horse Arena. After receiving \$132,087.93 in TIF reimbursement, the Original Developer assigned the right to receive the remaining TIF reimbursement payments for the Show Horse Arena to Hawthorn Bank. As of today, the City has paid all or nearly (pending final reconciliation at the end of 2016) all of the TIF reimbursement for the Show Horse Arena. No other reimbursable project costs associated with any other historic preservation work have been submitted by Original Developer or approved by the City.

2012 TIF Plan Approvals for Apartment Development

The TIF Agreement contains restrictions that limit the type and density of retail development based on a schedule of historic preservation improvements. On January 19, 2012, the City approved an amendment to the 2003 TIF Plan and an amendment to the TIF Contract to accommodate Original Developer's request to consolidate the remaining allowable multi-family residential development in the Redevelopment Area. On April 3, 2014, the City approved a development plan for the apartment development to the west of the dairy barn and calf barn and also approved a companion Chapter 100 tax abatement plan that allows for the abatement of sales taxes that would otherwise be paid for construction materials and personal property installed for the apartment project.

Transfer of Ownership

Mariner Real Estate Management, operating under the subsidiary of M-III Longview, LLC ("Mariner") has taken ownership of approximately 173.7 acres of property from Original Developer pursuant to a transfer in lieu of foreclosure associated with Original Developer's mortgage of certain undeveloped parcels in the Redevelopment Area. Some parcels in the developed areas of Longview are still owned by the Original Developer, and some of the developed parcels are owned by the end-users, such as Citizens Union State Bank & Trust. As a result, there are now several property owners in the original Redevelopment Area. The TIF Contract that was executed by Original Developer runs with the land in the Redevelopment Area, and that TIF contract still applies to the entire Redevelopment Area at the present time and until a new contract is approved.

Restructuring Actions

In December 2015, the City Council approved the Second Amended and Restated Longview Farm Tax Increment Financing Plan (amending the 2003 TIF Plan), to provide for a re-prioritization of the historic preservation improvements that would be funded by the 2003 TIF Plan. The 2003 TIF Plan will continue to produce TIF revenues from the four activated project areas, and the revenue from the four activated project areas are authorized to be used on the following items pursuant to this amendment:

- Finish reimbursement of the Show Horse Arena (if needed)
- Stabilize the historic barns (\$650,000) and houses (\$200,000)
- Complete a portion of the Mansion rehabilitation (\$1,100,000)
- Complete restoration of the Pergola (\$900,000)
- Fund associated professional services (\$300,000)

The boundaries of three Redevelopment Projects that have already been activated (Projects 1B, 2C and 3) were adjusted through this amendment. These adjustments eliminated the undeveloped portions of the project areas under the 2003 Plan so these undeveloped areas could be included in new redevelopment project areas pursuant to the New Longview TIF Plan.

In December 2015, the Council also approved the New Longview TIF Plan (the “**2015 TIF Plan**”), which has a Redevelopment Area that is the remaining undeveloped areas of the Longview project as a whole. The New Longview Redevelopment Area includes all of the historic structures and the parcels that are planned for future commercial development. The 2015 TIF Plan includes 15 different project areas, which will allow the City to activate the collection of TIF revenues on a parcel-by-parcel basis as new development occurs. The Council has approved Project A (LaSalle Memory Care) and Project N (Goddard Child Care). TIF revenues will be collected for up to 23 years from all activated project areas, running from the date that the project ordinance is approved.

The 2015 TIF Plan authorizes TIF revenues to be used for the following items:

- Complete historic barns redevelopment (\$9,650,000)
- Complete historic houses redevelopment (\$1,200,000)
- Complete mansion redevelopment including temporary structure (\$1,400,000)
- Lake rehabilitation (\$500,000)
- City loan repayment, professional costs and contingency (\$2,690,000)

City Loan and Other Financing

The 2015 TIF Plan calls for use of the City’s “Interfund Loan Policy” to be used to provide financing for the costs items that are to be funded by the amendment to the 2003 TIF Plan. The City loan will promptly finance the most urgent historic preservation costs, particularly stabilization of the historic barns and houses which are in serious disrepair and in need of immediate stabilization to halt continued deterioration.

The Interfund Loan Policy can be used by the City because the Special Allocation Fund that was created for the 2003 TIF Plan and the 2015 TIF Plan are funds created and managed by the City. The City's cash reserves that are available for a loan between City funds, as allowed by the Policy, can be loaned for reimbursable project costs and moneys that accumulate in the Special Allocation Funds for the two TIF plans would be used to repay the loan. The revenue from both TIF Plans would be pledged as repayment sources, and other safeguards and security for repayment will be incorporated into the TIF contract.

The remaining project costs, including the reimbursable project costs that are not financed through the City loan, are proposed to be funded through a combination of private loans and federal and state historic preservation tax credits. The total project costs for the amended 2003 TIF Plan are projected to be a maximum of \$3,650,000, which are all reimbursable project costs. The total project costs under the new TIF Plan are projected to be about \$81.8 million, of which about \$18 million will be reimbursable project costs associated with the historic preservation improvements.

Significant TIF Contract Provisions

The following summarizes key provisions of the new TIF Contract.

Covers Two TIF Plans

This single TIF Contract covers the implementation of both TIF plans. This Contract includes authorization of the City Loan pursuant to the 2003 TIF Plan and the pay-as-you-go reimbursement arrangement for the 2015 TIF Plan.

Reimbursable Project Costs Cap (Section 3.01)

The Contract includes a reimbursable project costs cap that matches the approved TIF Plans -- \$3.65 million under the 2003 TIF Plan and \$16.9 million under the 2015 TIF Plan, plus interest under the 2015 TIF Plan at the Reimbursement Interest Rate (Prime Rate Plus 2%, which would be 5.50% today) pursuant to the New Longview TIF Plan.

Shifting Among Reimbursable Project Costs (Section 3.04.B)

Developer is allowed a reasonable amount of cost shifting between reimbursable line items in the project budgets. Developer may shift up to five percent (5%) of each Reimbursable Line Item associated with the Phase 1 Historic Preservation Improvements (2003 TIF Plan) to other Reimbursable Line Items associated with the Phase 1 Historic Preservation Improvements, and may shift up to five percent (5%) of each Reimbursable Line Item associated with the Phase 2 Historic Preservation Improvements (except for the Reimbursable Line Item associated with the "Interfund Loan Repayment, Restructuring Costs and Contingency") to other Reimbursable Line Items associated with the Phase 2 Historic Preservation Improvements.

Processing Reimbursement Applications (Section 3.04.C)

Developer must submit requests for reimbursement, which will be reviewed and approved by the City. The City may request additional information to verify the eligibility of each requested reimbursable cost. Developer must itemize reimbursement between the Phase 1 Historic Preservation Improvements or Phase 2 Historic Preservation Improvements.

Separate Special Allocation Funds (Section 4.06)

The City will maintain separate funds for the 2013 TIF Plan and the 2015 TIF Plan. This will allow the City to separately account for the funds that will repay the City Loan from the 2003 TIF Plan.

Project Schedule, Design and Construction (Section 5.01)

Developer must exercise commercially reasonable efforts to complete the Redevelopment Projects and each of its obligations under the Contract with respect to the acquisition, construction and completion of the Redevelopment Projects in substantial compliance with the Project Schedule attached as **Exhibit E**. Developer must also use commercially reasonable efforts to commence and complete the Historic Preservation Improvements in accordance with the Contract. Developer must pay prevailing wages, where applicable, and will indemnify the City for all suits brought against the City for failure to make these payments.

Prohibition on Business Relocation (Section 5.02)

No business that is currently operating in the City may be relocated within one year after approval of the Project Ordinance from another location within the limits of the City to a Redevelopment Project Area without the prior written approval of the City Manager. If the City grants such approval, the sales tax base for such Tenant shall be transferred to the location of the Tenant within Redevelopment Project Area and shall be treated as sales which occurred in the Redevelopment Project Area.

“Permitted Assigns” (Definitions, Exhibit L)

Developer has previously transferred land to Lee’s Summit Memory Care, LLC (owner of the memory care development in activated Project Area A and affiliate of The LaSalle Group, Inc., a Texas corporation, the original purchaser). Property may only be transferred to Padline III, LLC (owner of the child care and education facility in activated Project Area N and affiliate of Primax Properties, LLC, a North Carolina limited liability company, the original purchaser) and Sunflower Development Group, LLC (to conduct the historic rehabilitation) without triggering the provision summarized immediately below.

City Approval of Land Sales (Section 7.02.E)

No sale, transfer or other conveyance of any fee interest in the Property in the Redevelopment Area may be made to any party except to Permitted Assigns without the prior written consent of the City.

City Loan and Security for Loan (Section 3.03)

The City will incur a loan through the Interfund Loan Policy as discussed above. The City Loan will be repaid from the 2003 TIF Plan revenues, which are projected to be about \$345,000 in 2017 and increase to an annual amount of about \$440,000 after ten years. The City Loan is projected to be repaid after about 13 years, assuming the TIF revenues are received as projected in the TIF plan. The longest remaining TIF project (Project 1B, McDonalds property) has about 16 years left and terminates in 2033.

As additional security for the City Loan, any City Loan amounts (principal and interest) which remain unpaid as of the termination of Redevelopment Project 1B for the 2003 TIF Plan will be reimbursed on a proportional basis, computed quarterly, by comparing the total outstanding and unpaid City Loan amount (principal and accrued interest) and the total outstanding and unpaid certified Reimbursable Project Costs (principal and accrued interest) for the 2015 TIF Plan.

All City Loan proceeds will be controlled and disbursed by the City according to the requirements of the Contract and the City policies and procedures which are applicable to the City Loan. The proceeds of the City Loan will remain with the City and only be paid out for Reimbursable Project Costs that are certified by the City.

The City Loan will not be incurred until a number of conditions are satisfied:

- City and Developer have coordinated and made good faith efforts to obtain delivery of executed Historic Preservation Easements for each of the Completed Historic Preservation Improvements, except the Show Horse Arena (which has already been recorded);
- Submission of a) a performance bond (for the Mansion and Pergola rehabilitation projects) or b) an alternative form of assurance, including a contractor's estimate, scope of work or work plan (for the Phase 1 Stabilization Work), that ensures completion of each of the Phase 1 Historic Preservation Improvements to the City's satisfaction;
- Written confirmation from Hawthorn Bank regarding the remaining pay off for the Show Horse Arena, or written confirmation that the reimbursement obligation for Show Horse Arena has been fully paid;
- Execution of one or more contracts, in a form satisfactory to the City's legal counsel, for the completion of one or more line items of Stabilization or Rehabilitation Work which will be funded by the City Loan to the extent of such line item;

- Written confirmation that the TDD is in good standing with all applicable laws, has conducted an annual election of directors, properly populated the TDD board of directors, has conducted an annual board of directors meeting, approved all routine annual business of the TDD including the adoption of an annual budget and the filing of an annual financial statement with the State Auditor’s Office, and corrected or rectified any of the past violations of applicable laws; and
- Developer has provided an accounting of funds, if any, received for the Historic Items as required by **Section 6.02**.

Stabilization Work (Section 6.01)

From the proceeds of the City Loan, Developer will undertake certain stabilization work of the Dairy Barns, Farm Office and Dairy Manager House to stabilize the structures in order to maintain the physical integrity of such structures and prevent further deterioration and collapse due to weather and natural causes such as rain and snow. Such work will include patching and filling holes in roofs and walls, weather-proofing to prevent water damage and leakage, adding support beams and trusses to prevent the collapse of walls, floors and roofs, and all other work to maintain the physical integrity of such structure until the permanent rehabilitation and improvements can be completed for such structure. Prior to the commencement of any Stabilization Work, Developer cannot demolish, damage, destroy, move or remove any of the Historic Structures or any of the Façades of such structures, and shall not take action to alter the Façades of such structures, without prior written City approval. After Stabilization Work has been completed for an Historic Structure which is funded by the City Loan or which is reimbursable from TIF Revenues, Developer cannot damage, demolish or destroy such structure or take action to alter the Façades of such Historic Structure without written City approval.

Accounting for Historic Items (Section 6.02)

Developer represents to the City that it has not knowingly sold any Historic Items, is not aware of the sale of any Historic Items by any third party, and has not received any proceeds as the result of the sale of any Historic Items. Developer agrees it will provide an accounting of the proceeds that result from the sale of any Historic Items sold and any proceeds received on after the Effective Date of the Contract. An amount equal to all proceeds resulting from the sale of Historic Items as itemized by Developer must be advanced by Developer for the Stabilization Work. Historic Items are defined in the definitions section of the Contract.

Historic Preservation Work (Section 6.03)

Developer must, prior to the commencement of any Work on any Historic Structure or Façade, submit to the City plans and specifications for such Work. The City is allowed to comment on the plans and Developer must take these comments into account in the Historic Preservation Work.

Plan Amendment for North Arch (Section 6.03.C)

The Contract provides that the North Arch #1 requires additional Work to prevent further deterioration and provide for the long-term viability of the structure. The Parties agree that City staff will process a proposed amendment to the 2003 TIF Plan to incorporate the additional North Arch Costs as a Reimbursable Project Cost which will be funded by the City Loan. If an amendment to the 2003 TIF Plan for the North Arch is approved by the City Council, then the City Loan will also fund the full rehabilitation of the North Arch.

Additional Historic Tax Credits (Section 6.03.G)

If the formula or methodology for state or federal Historic Tax Credits is modified or amended such that the Developer or another party associated with the Historic Preservation Improvement receives credits for Work on the Historic Preservation Improvements in excess of the Historic Tax Credit amounts itemized in the Plans, then 75% of the amount of the new credits received will be treated as follows: (1) reduce the City Loan on a dollar for dollar basis if the credits are received while the City Loan is still being disbursed, or (2) if after the City Loan has been disbursed, then such amount shall be credited to the certified Reimbursable Project Costs that are due to be paid from the Special Allocation Fund for the 2015 TIF Plan. As an incentive for a party to commit time, energy and costs toward obtaining New Historic Tax Credits, the remaining twenty-five (25%) of any New Historic Tax Credits actually received may be retained by the recipient.

Replacement of 2003 TIF Contract (Section 9.06.E)

This new Contract is intended to completely replace the 2003 TIF Contract as to Mariner and the property that Mariner owns within the TIF Redevelopment Areas. Other rights maintained by the City under the original TIF Contract will continue in effect under the terms of that contract with respect to other parties besides Mariner.

Payments to Taxing Districts from Residential Development (Section 3.06)

The TIF Commission voted unanimously to approve Resolution 2015-02 which recommends approval of the New Longview TIF Plan. The TIF Commission voted 9-1 to approve an amendment to Resolution 2015-02 to include an additional recommendation which reads as follows:

[I]nclude provisions in the tax increment financing contract to incorporate a payment to the property taxing districts to cover direct costs incurred by the taxing districts as a direct result of residential development in the tax increment financing redevelopment project areas.

This provision is incorporated in to Section 3.06 of the TIF Contract. All of the payments authorized by this Section would come exclusively from TIF revenue generated by Redevelopment Project I for a maximum of 20 years, in the total maximum amount of about \$1.49 million for the Lee's Summit School District and about \$646,000 for the remaining taxing

districts. Payments to the taxing districts would only be from captured TIF revenues that are generated by each taxing district's tax levy within the Project I area.

The TIF Commission also voted unanimously to approve Resolution 2015-03 which recommends approval of the amendment to the 2003 TIF Plan.