

Summary of the Grove Settlement Agreement and Real Estate Agreement dated August 13, 2019

The “Property” in this summary is the entirety of the Grove property including the tracts north and south of Bailey Road (see attached Map).

History

- The City advanced about \$1.4 million for purchase of the Property in 2011 by Exergonix pursuant to a Development Agreement and an Option Agreement. Exergonix acquired the Property.
- The Exergonix Agreement was assigned to Westcott in 2016 and the scope of development was revised. Westcott purchased the Property and then transferred ownership to The Grove of Lee’s Summit, LLC.
- The Assignment to Westcott included the right for the City to acquire the Property for a nominal sum if Westcott failed to achieve certain development milestones by August 15, 2019. The Property was unable to be encumbered during this time period, to protect the City’s right to purchase the Property free of encumbrances if the development milestones were not satisfied by Westcott.
- Westcott failed to achieve the development milestone and requested a settlement of the matter. Westcott’s request for a settlement was designed to eliminate the City’s right to purchase the property and allow development to proceed with financing encumbrances on the property.
- Westcott paid the City \$3,053,000 to release the City’s option to purchase the property. The City has never owned the property. The Settlement Agreement also provided for the transfer of a lot to the City for use as a fire station, including the construction of certain improvements to have the lot ready for development. These arrangements are discussed below.

Transfer of Fire Station Property and Payment or Security for “Pad Ready Improvements”

- Real Estate Agreement for Lot 4 Fire Station. When the Settlement Agreement was executed, The Grove and the City also entered into a Real Estate Agreement under which the Developer will transfer a platted Lot 4 for the construction of a fire station (see attached map). The City pays \$100 for Lot 4.
- Plat for Lot 4. Prior to the conveyance of Lot 4, Developer is obligated to plat the property to create Lot 4 and record the plat.
- Security for Pad Ready Improvements. When processing the plat, Developer is required to provide security to the City in the amount of \$400,000 (the “**Security Amount**”) to

ensure the completion of certain public improvements (the “**Pad Ready Improvements**”) which will serve the fire station on Lot 4. The security can be in the form of a letter of credit, performance bond, a cash deposit, or any other method allowed under Section 7.340 of the UDO.

- Pad Ready Improvements. These are:
 - (1) The Property has been graded so that it is level and available for construction to begin;
 - (2) public streets shall be constructed along at least two of the boundaries of the Property in accordance with the Unified Development Ordinance (“UDO”); and
 - (3) utilities (electric, water, sanitary and storm sewer) shall be available at the boundaries of the Property in connection with the Seller’s construction of the adjacent roads which are to be constructed by Seller in accordance with the UDO.
- Enforcement of Developer Obligations. Development on the Property cannot proceed until the Lot 4 plat and Security requirements are satisfied. (1) The City may withhold the issuance of a building permit for any development on the Property until the Security Amount is provided as part of the platting for Lot 4. (2) To ensure that Developer obtains approval for and records the Lot 4 Final Plat, including constructing the Pad Ready Improvements, the City may withhold the issuance of a certificate of occupancy for any building built on the Property until such time as the Lot 4 Final Plat is recorded with the Jackson County Recorder of Deeds.
- Flexibility on Security. When the Property is developed, the \$400,000 security for the Pad Ready Improvements can be combined with any other security that is required to be posted by Developer for all applicable public improvements associated with the development.
- Buyer (City) Condition to Closing. The Property has been platted as Lot 4, The Grove, a subdivision in the City of Lee’s Summit, Jackson County, Missouri and the Lot 4 Plat (as defined in the Settlement Agreement) has been recorded in Jackson County, Missouri.
- Binding Effect on Successors. The Settlement Agreement and Real Estate Agreement are binding on the successors and assigns of the original parties, are covenants running with the land and are binding on any party in possession or occupancy of the Property or any part thereof.



