

Legislation Text

File #: BILL NO. 22-178, **Version:** 1

An Ordinance Approving the Development Services Agreement between the City of Lee's Summit, Missouri and Lane4 Property Group, Inc., for the Downtown Market Plaza Project
(Note: First read by Council on September 6, 2022. Passed by unanimous vote.)

Issue/Request:

Development Agreement to establish the contractual relationship with Lane4 Property Group, Inc., for construction of the Public Improvements for the Downtown Market Plaza Project.

Key Issues:

Approval of a Development Agreement with Lane4 for the company to provide services for construction of the public improvements for the Project.

Proposed City Council Motion:

I move for adoption of an Ordinance Approving the Development Agreement between the City of Lee's Summit, Missouri and Lane4 Property Group, Inc., for the Downtown Market Plaza Project

Background:

On April 20, 2021, the City Council passed Ordinance No. 9123 which approved a Development Structure Agreement for the Downtown Market Plaza Project (the "Downtown Project") between the City, Lane4 Property Group, Inc. (the "Developer") and Biederman Redevelopment Ventures ("BRV"). That Agreement was executed on May 21, 2021.

On April 20, 2021, the City Council also passed Ordinance No. 9124 which approved Amendment #12 to the Fiscal Year 2022 City Budget. This ordinance appropriated \$3,530,000 to the Green Street Improvements Fund for the Downtown Project, from funds previously accumulated by the City from the sale of surplus property and the release of a property acquisition option.

On May 3, 2021, the City Council approved Ordinance No. 9142, which approved a Cooperative Agreement between the City and the Downtown Lee's Summit Community Improvement District for the Downtown Project. That Cooperative Agreement established the contractual relationship between the City and the CID for the CID's formal participation in the Downtown Project. Under this Cooperative Agreement, the CID has committed \$120,000 for the design and engineering of the Farmer's Market Pavilion, and has also committed \$4 million for construction of the Farmer's Market Pavilion.

On January 4, 2022, the City Council passed Ordinance No. 9316 which approved an Amended and Restated Development Structure Agreement for the Downtown Project. That amended Agreement included approval of a contract between the City and GLMV Architects ("GLMV") for the architectural work associated with the Downtown Project. The Amended & Restated Agreement was executed by the parties on January, 2022.

After the Amended & Restated Development Structure Agreement was executed, GLMV held meetings involving interested citizens and businesses to gather input on the design, layout and functionality of the public improvements within the Downtown Project, focusing significantly on the Farmer's Market Pavilion. BRV also held a series of meetings with interested citizens and elected officials to gather input on the programming for the public improvements that are planned for the Downtown Project.

On March 8, 2022, the City Council approved Ordinance No. 9350 which authorized an application to be filed with the Missouri Development Finance Board ("MDFB") to seek participation in MDFB's Tax Credits for Contributions program. City staff is planning to file that application after the City Council approves the Chapter 353 Redevelopment Plan, which is the subject of this public hearing.

On March 8, 2022, the City Council also approved Ordinance No. 9351, which authorized City staff to file documents with the Missouri Secretary of State to form the Downtown Market Plaza Redevelopment Corporation (the "Redevelopment Corporation"). The Redevelopment Corporation is the implementing entity that will carry out the Chapter 353 Redevelopment Plan, and will be responsible for the implementation steps for the Downtown Project according to the City Council's legislative directives for the project.

Impact/Analysis:

A summary of the primary terms of the Development Agreement:

The Developer will construct the Public Improvements according to the Plans which are approved by the City. Developer will perform the services listed in Exhibit C, which are grouped into these primary categories:

- Due Diligence
- Pre-Development Design
- Pre-Development Construction
- Pre-Development Other Tasks
- Zoning & Entitlements
- Financial Analysis & Budgeting
- Marketing & Leasing
- Project Financing
- Project Design & Construction Management
- Project Commissioning
- Project Accounting

Except for the payment obligations set forth in this Agreement, the City shall have no liability, obligation or responsibility with respect to the construction of the Public Improvements under the responsibility of Developer.

The City shall have the right to review in a project team meeting, which shall occur at least monthly, the design and construction of the Public Improvements to determine that they are being performed and completed in accordance with this Agreement and all Applicable Law and Requirements.

No material change to the Plans shall be permitted without the prior written consent of the City. A material change is any change or modification that substantially or significantly alters the general appearance, design, area, use, maintenance, operation, or compliance with Applicable Laws and Requirements of the Public

Improvements.

Developer shall provide the City with monthly progress reports and updates on the status of the Public Improvements and all reports relating to the Public Improvements prepared for submission to the City.

City Payments shall be made as set forth in this paragraph to reimburse the Developer for the actual costs incurred by the Developer to design, engineer, and construct the Public Improvements. City Payments from the Available Funds shall be disbursed by the City upon submission of the completed requisition by the Developer.

Payments:

Retainer: The City will pay to Developer a “Retainer” in the amount of \$10,000 per month, due on the first day of each month, beginning the first day of the calendar month following the effective date of this Agreement. The final monthly payment under the prior Development Services Agreement shall be made for the calendar month during which this Agreement is executed. The Retainer remains in place until construction commences, after which the Development Fee and Owner’s Representation Fee will commence.

Development Fee: In exchange for Developer’s performance of the development services identified in Exhibit C for the Public Improvements, the City will pay to Developer an amount equal to five percent (5%) of the total costs of the Public Improvements as set forth in the approved Budget, not including: land costs; commissions, marketing and advertising fees; permits, fees and assessments; legal fees; taxes and insurance; and development and management fees.

Owner’s Representation Fee: In exchange for Developer’s performance of the owner’s representation services identified in Exhibit C for the Public Improvements, the City will pay to Developer an amount equal to one percent (1%) of the total costs as set forth in the approved Budget, not including: land costs; commissions, marketing and advertising fees; permits, fees and assessments; legal fees; taxes and insurance; and development and management fees

Payment Terms: The Development Fee and the Owner’s Representation Fee will be paid to Developer as follows:

- twenty-five percent (25%) upon the earlier of (i) construction commencement and (ii) one year after approval of the schematic design;
- fifty percent (50%) in equal monthly installments over the projected length of the construction period; and
- twenty-five percent (25%) upon the issuance of a certificate of Final Completion for all of the Public Improvements.

Timeline:

The term of the Development Agreement will commence promptly at execution. Payments to the Developer will transition during construction as described above. Construction of the Public Improvements is expected to commence in 2023.

David Bushek, Chief Counsel of Economic Development & Planning
Mark Dunning, Assistant City Manager

Recommendation: Staff recommends approval of the Ordinance.