

Legislation Text

File #: BILL NO. 22-160, **Version:** 1

An Ordinance Approving the Amendment to the Termination of Rights, Duties, Obligations and Settlement Agreement between the City of Lee's Summit and LS Industrial, LLC.

(Note: First read by City Council on August 9, 2022. Passed by unanimous vote.)

Issue/Request:

An ordinance to terminate the obligation of LS Industrial, LLC (the "Developer") to provide a 2.5 acre parcel of property in a pad-ready state of development to the City for the construction of a fire station, in exchange for a payment to the City.

Key Issues:

Release by the City of a real estate obligation imposed upon Developer in exchange for a payment to the City.

Proposed City Council Motion:

I move for adoption of an Ordinance Approving the Amendment to the Termination of Rights, Duties, Obligations and Settlement Agreement Between the City of Lee's Summit and LS Industrial, LLC

Background:

The City previously invested funds for the acquisition of certain real property located within the City which is east of Missouri Highway 291 and north and south of Bailey Road (the "Property") to facilitate redevelopment of the Property. The Property was acquired on June 15, 2011, subject to the terms and conditions of its agreements with the City as set forth in an Option Agreement dated June 15, 2011 which was recorded on June 17, 2011 as Instrument No. 2011E0056563, and the First Amended Option Agreement dated September 2, 2011, a Memorandum of which was recorded on December 8, 2011 as Instrument No. 2011E0114613 (two documents together referenced herein as the "Option Agreement").

Rights under the Option Agreement were assigned to Westcott Investment Group, LLC ("Westcott"), with the express approval of the City, and the Property was conveyed to Westcott. The Property as owned by Westcott was subject to the Option Agreement, all of which was memorialized in the Assignment and First Amended and Restated Development Agreement to Promote Economic Development dated June 13, 2016 (the "Restated Development Agreement").

The parties to the Restated Development Agreement negotiated to terminate that document. In order to terminate the Restated Development Agreement and free the property from the obligations of that agreement in order to facilitate development of the Property, the City of Lee's Summit entered into the Termination of Rights, Duties and Obligations and Settlement Agreement with Westcott Investment Group, LLC, a Delaware limited liability company and The Grove at Lee's Summit, LLC, a Missouri limited liability company ("The Grove") (collectively, the "Former Developers") dated August 13, 2019 and recorded on August 15, 2019 with the Register of Deeds of Jackson County, Missouri, as Instrument No. 2019E0064040 (the "Termination and Settlement Agreement") to terminate the rights, duties and obligations of the Former Developers and the City

under the Restated Development Agreement;

The Termination and Settlement Agreement contained the obligation imposed upon the Former Developers to provide the City with a pad ready site on which the City could construct a fire station (the “Pad Ready Obligation”). Developer purchased the Property from The Grove and inherited the Pad Ready Obligation, and Developer now seeks to develop the Property.

The City and Developer have negotiated for the release of the Pad Ready Obligation as imposed upon Developer in exchange for a payment to the City to compensate the City for not receiving the property for use as a fire station as required by the Pad Ready Obligation.

Impact/Analysis:

The City will receive a payment of \$381,150.00 for release of the Pad Ready Obligation.

Timeline:

The transaction will be completed promptly after the ordinance is approved.

David Bushek, Chief Counsel of Economic Development & Planning

Recommendation: Staff recommends approval of the ordinance.