

# COUNCIL ACTION FORM

Meeting Date: May 29, 2025

Staff Contact: Leslie Herring

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**Agenda Item:** Consider Fourth Amendment to Real Estate Purchase Agreement [for 2511 W. 50th St. (former Westwood View Elementary School Site)]

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## Background/Description of Item

In March 2023, the City and Karbank Real Estate entered into a Funding and Exclusivity Agreement to explore a mixed-use redevelopment proposal by Karbank to the Westwood City Council for real estate owned by the City of Westwood located on Rainbow Blvd. between 50<sup>th</sup> and 51<sup>st</sup> Street (5000 and 5050 Rainbow Blvd.).

In June 2023, following that initial presentation and Agreement execution, the Shawnee Mission School District and the City of Westwood entered into a Purchase Agreement to leverage its option to purchase the former Westwood View Elementary School located at 2511 W. 50<sup>th</sup> St.<sup>1</sup> The school site was intended to be acquired by the City with funding by Karbank to create a feature public park, developed with the incremental property taxes and other revenues generated by Karbank's redevelopment – investment in – 5000 and 5050 Rainbow Blvd.

In October 2023, Karbank concluded the public rezoning process required to allow the mixed-use redevelopment and received conditional approval from the Governing Body. In November 2023, the City received a legal challenge to its right to sell 5000 Rainbow – Joe Dennis Park – without first publishing notice and holding a public vote if it received a resident petition requesting such vote.

In December 2023, upon authority granted by the City Council at the November 9, 2023 regular City Council meeting, Mayor Waters executed amendments to such agreements to extend the contractual deadlines to address the legal issues surrounding the City's ability to sell 5000 Rainbow Blvd.

In June 2024 and December 2024, the City Council extended the agreements by way of a second and third amendment, respectively, to allow the Johnson County District Court and then Kansas State Court of Appeals to rule on the legal questions at hand.

In November 2024, the Kansas Court of Appeals issued a ruling. The ruling suggested that the City may have the legal authority to hold an election on whether the City should sell Joe Dennis Park and, in December 2024, the City Council called a special election for the most immediate date available with the Johnson County Election Office. In April 2025, the City held an election on this question and the results were 47% in favor and 53% opposed to the sale of the park.

Since the City's ability to sell 5000 Rainbow Blvd. was decided by Westwood voters, Karbank canceled its purchase agreement with the City the week following the election. The City is – as of today – still under contract with the School District to purchase the school site. Under the current (third) amendment to the City's Real Estate Purchase Agreement with the School District, the City's due diligence period – the date by which the funds must be paid to the School District – expires June 1, 2025.

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<sup>1</sup> In February 2019, the City of Westwood and the Shawnee Mission School District entered into an option agreement, providing the City the ability to acquire the former Westwood View School Site. This option expired in February 2024 and is no longer valid outside of the current Purchase Agreement.

## Staff Comments/Recommendation

Staff recommends that the City Council consider the following options available today:

- A. **Amend [to extend] the Purchase Agreement.** On May 12<sup>th</sup>, the School Board approved a Fourth Amendment, which is included in these meeting materials. This Fourth Amendment would:
- i. Keep the purchase price for the property at \$2,650,000 plus carrying costs of \$135,000 (added under the Third Amendment).
  - ii. Add additional carrying costs in amounts not to exceed:
    - \$25,000 for half of the prorated utility expenses incurred by the School District for the time the school has been vacant; and
    - \$400,000.00 for the School District's demolition costs to be incurred in 2025.
  - iii. Extend the closing date to November 28, 2025 to allow the School District sufficient time to demolish the building and grounds. Demolition is expected to conclude by mid-October. The due diligence period – when payment in full must be made to the School District – would expire October 31, 2025.
- B. **Assign the City's purchase rights to another buyer.** Over the past eight weeks, various groups have approached both the School District and the City to express interest in assuming the City's right to purchase the property.
- C. **Terminate the Purchase Agreement with the School District.** Cancellation of the contract would end the City's ability to purchase the property – or to assign its right to purchase to a buyer – now or in the future. The School District would then move forward on its own with selling the property. Although the City would have some authority through Planning Commission and the City Council to review future site plans, rezoning requests, and/or property platting, the City would give up its ability to be involved in the selection of the buyer for the property.
- D. **Take no action.** In policy analysis, doing nothing is always an option; in this case, it isn't. If the City Council were to take no action today, the City would be obligated to transfer the School District \$2,785,000 tomorrow. At this moment – and on a consistent basis – the City's liquid assets are less than the purchase price. Most of City's funds are obligated and are in investment accounts with varying dates of maturity. The City's General Fund reserve balance is less than half of the current purchase price. We simply don't have the cash – and won't – by tomorrow, May 30<sup>th</sup>. If the City takes no action today and doesn't wire funds to the School District tomorrow, it would be in default of the Purchase Agreement and subject to potential legal claims by the seller (the School District).

Staff recommends the City Council consider the options identified by staff and take action deemed to be in the best interest of the city.