

**REAL ESTATE SALE AGREEMENT
(STREETS OF WEST PRYOR PROJECT)**

THIS REAL ESTATE SALE AGREEMENT (this “**Agreement**”), dated as of September ____, 2018 (the “**Effective Date**”), is made between:

Seller: **CITY OF LEE’S SUMMIT MISSOURI**
a charter city and political subdivision of the State of Missouri
220 SE Green Street
Lee’s Summit, Missouri 64063

Purchaser: **STREETS OF WEST PRYOR, LLC**
a Missouri limited liability company
12701 Metcalf Ave., Suite 100
Overland Park, KS 66231
c/o Matt Pennington at Drake Development, LLC

1. Property. Seller agrees to sell to Purchaser the real property legally described on **Exhibit A** hereto and all rights and appurtenances belonging or in any way pertaining thereto (the “**Property**”) and Purchaser agrees to buy the Property from Seller, for the price and upon the terms and conditions set forth in this Agreement.

2. Exceptions. The Property shall be subject to only the Permitted Exceptions (as defined below) and all generally applicable City Code requirements regarding development of the Property.

3. Purchase Price. The purchase price for the Property (the “**Purchase Price**”) shall be Two Million Nine Hundred Seventy-Four Thousand Six Hundred Six and 48/100 Dollars (\$2,974,606.48). The Purchase Price shall be paid to the City at Closing.

4. Earnest Money. Twenty-Five Thousand and no/100 Dollars (\$25,000.00) shall be deposited in an interest-bearing account by Purchaser with interest paid in favor of the Purchaser (the “**Earnest Money**”). The deposit shall be refundable to Purchaser during the Inspection Period and shall become non-refundable to Purchaser after the expiration of the Inspection Period except in the event of a default by the Seller.

5. Prorations. The parties agree that all general state, county, school and municipal taxes (exclusive of penalties and interest) payable during the calendar year of Closing shall not be due and payable because the Seller is a political subdivision and the Property is exempt from such taxes during the year of the transaction. To the extent that a court of competent jurisdiction rules that such taxes are due and payable for the calendar year of Closing or any portion thereof, such taxes accruing after Closing shall be paid by Purchaser.

6. Closing Date. The closing under this Agreement (the “**Closing**”) shall take place at the offices of the Title Company (defined below) at a date and time to be mutually agreed upon by the parties which shall be not more than thirty (30) days following the expiration of the Inspection Period (the “**Closing Date**”). Seller shall deliver possession of the Property to Purchaser upon Closing in the same condition as it was on the Effective Date, reasonable wear and tear excepted.

7. Deliveries.

(a) The parties agree that Seller has previously provided copies of all environmental reports, engineering reports, soil reports, surveys, plats, development plans and correspondence relating to

the Property that are in possession of Seller, and Purchaser has had sufficient time to review such documents prior to the Closing.

(b) Seller shall, within fifteen (15) days after the date of this Agreement (the “**Delivery Date**”), deliver or cause to be delivered to Purchaser a title insurance commitment for the Property (the “**Commitment**”), by the terms of which First American Title of Kansas City, Missouri (attn.: Sheryl Snook), or another title insurance company reasonably acceptable to Purchaser (the “**Title Company**”) agrees to issue to Purchaser at Closing an ALTA Owner’s Policy of Title Insurance (the “**Title Policy**”) in the amount of the Purchase Price insuring a merchantable fee simple title in Purchaser’s name as of the time of the recording of the deed to Purchaser. The Title Policy shall contain no “standard” exceptions other than a survey exception limited to matters of record only if Purchaser does not obtain a survey of the Property in accordance with this Agreement. If Seller is delinquent in delivering this item, the Inspection Period shall be extended by the number of days that had lapsed due to the untimely delivery of said item.

8. Inspections.

(a) The Parties agree that Seller has provided reasonable access to Purchaser and Purchaser’s agents, and will continue to provide such reasonable access for a period of 120 days after the Effective Date (the “**Inspection Period**”) for all or any of the following to be done at Purchaser’s option and Purchaser’s expense (collectively, the “**Assessments**”):

- (i) physical condition inspections of the Property;
- (ii) structural studies of the Property;
- (iii) entitlement investigations as to title and survey, including obtaining a current ALTA Survey (the “**Survey**”) at its sole cost and expense during the Inspection Period;
- (iv) determine ADA and code requirements for permits and code compliance;
- (v) an environmental assessment conducted in accordance with the provisions of the “Environmental Matters” section below by a qualified environmental professional chosen by Purchaser (the “**Environmental Assessment**”).

(b) Purchaser may, upon written notice to Seller before expiration of the Inspection Period, extend the Inspection Period for two (2) periods of thirty (30) days each for the purpose of obtaining Approvals (*defined below*), by delivering to Title Company a non-refundable deposit in the amount of Five Thousand and no/100 Dollars (\$5,000.00) for each such extension period (each, an “**Extension Fee**”). All Extension Fees shall be due prior to the expiration of the then current Inspection Period. All Extension Fees shall be applied to the Purchase Price at Closing, but shall be non-refundable to the Purchaser, except in the event of Seller's default hereunder.

9. Purchaser’s Objections.

(a) **Title.** If the Title Policy or the Assessments disclose any title defects or encumbrances to which the Purchaser reasonably objects (“**Title Objections**”), Purchaser may, prior to the expiration of the Inspection Period, deliver written notice to Seller specifying Purchaser’s objections. Seller shall remedy all Title Objections susceptible of being remedied and shall deliver to Purchaser, not less than ten (10) days prior to the Closing Date, a revised Commitment reflecting that the Title Objections have been cured. If Seller fails to or is unable to cure, remove or otherwise correct any of the Title Objections to the satisfaction of Purchaser, then Purchaser may either: (a) elect to accept such Title Policy as Seller is able to deliver and proceed to Closing, or (b) terminate this Agreement. Any matters disclosed by the Title Policy acceptable to Purchaser will be deemed “**Permitted Exceptions**”. If Purchaser is not satisfied with Seller’s attempt to cure the Title Objections, Purchaser may terminate this

Agreement at any time prior to Closing and receive an immediate and full refund of the Earnest Money and any Extension Fee(s).

(b) **Physical Condition.** If Purchaser is not satisfied with the results of the Assessments, Purchaser shall give Seller written notice specifying Purchaser's objections prior to the expiration of the Inspection Period. Seller shall have until ten (10) days prior to the Closing Date ("**Seller's Cure Period**") to cure the objections. If Purchaser is not satisfied with Seller's attempts to cure the objections, Purchaser may terminate this Agreement at any time prior to Closing and receive an immediate and full refund of the Earnest Money and any Extension Fee(s).

(c) **Environmental Matters.** Purchaser may conduct its own environmental audit of the Property although the Seller shall provide copies to Purchaser of all previously conducted environmental audits currently in its possession and not already provided no later than ten (10) days from the Effective Date. The scope, sequence and timing of the Environmental Assessment shall be at the discretion of Purchaser; no invasive or destructive testing shall be done without Seller's prior written consent. Purchaser may terminate this Agreement at any time prior to Closing if the Environmental Assessment reveals or, if at any time prior to the expiration of the Inspection Period, Purchaser otherwise becomes aware of, the existence of any violation of an environmental law that Purchaser is unwilling to accept. If Purchaser elects to terminate this Agreement pursuant to this paragraph at any time prior to Closing, Purchaser shall receive an immediate and full refund of the Earnest Money and any Extension Fee(s).

10. Conditions Precedent to Closing. Purchaser's obligations hereunder are contingent upon the satisfaction of the following conditions precedent prior to the expiration of the Inspection Period (collectively, the "**Conditions**"):

(a) Purchaser being satisfied with the status of title to the Property and the Survey;

(b) Purchaser being satisfied with the results of all engineering, feasibility and environmental studies performed or caused to be performed by Purchaser for use of the Property as part of a mixed-use development;

(c) Purchaser securing the proper approvals and/or permits from the required authorities including, but not limited to (the "**Approvals**"):

(i) Curb-cuts from Missouri Department of Transportation;

(ii) Land disturbance permit from Missouri Department of Natural Resources;

(iii) 404 land permit from Army Corps of Engineers; and

(iv) Site plan, plat and zoning approval from Seller;

(d) Purchaser being satisfied with the financial and economic facts that encompass the Property including, but not limited to, site work costs, land acquisition costs and the construction budget.

In the event that Purchaser is not satisfied with the status of any Conditions prior to the expiration of the Inspection Period, Purchaser may terminate this Agreement and receive an immediate and full refund of the Earnest Money.

11. Seller's Representations. Seller covenants, represents and warrants to Purchaser, as follows:

(a) Seller is a duly organized, validly existing charter city and political subdivision of the State of Missouri, and is possessed and vested with full power and authority to enter into and consummate this Agreement and to perform Seller's obligations under this Agreement.

(b) There are no leases, tenancies or other rental arrangements or rights of possession pertaining to any portion of the Property, and Seller owns fee simple title to the Property and has full right and lawful authority to enter into and perform Seller's obligations under this Agreement.

(c) Seller has no actual knowledge of any special taxes or assessments levied against the Property which are not yet due and payable at the office of the tax collection authority having jurisdiction or any existing or proposed improvements to be paid for by special taxes or assessments subsequent to the date of this Agreement.

(d) Except in connection with Purchaser's planned development of the Property, Seller has no knowledge of any pending condemnation or similar proceedings affecting the Property or any portion thereof; or any legal actions, suits or other legal or administrative proceedings pending with respect to the Property.

(e) Seller is not aware of any hazardous materials in, or, or about the Property and has not received any notice of any hazardous material violation of similar notice from any governmental authority.

(f) All statements made by Seller in this Agreement are true and correct and the information provided and to be provided by Seller to Purchaser relating to this Agreement does not and will not contain any statement which, at the time and in the light of the circumstances under which it was made, is false or misleading with respect to any material fact, or omits to state any material fact (which is actually known by Seller) necessary in order to make any statement false or misleading in any material respect.

(g) This Agreement is a valid and binding contract, enforceable against Seller in accordance with its terms.

12. Purchaser's Representations. Buyer covenants, represents and warrants to Seller, as follows:

(a) Purchaser is a duly organized, validly existing limited liability company and is in good standing under the laws of the State of Missouri and is possessed and vested with full power and authority to enter into and consummate this Agreement and to perform Purchaser's obligations hereunder.

(b) The members of Purchaser have duly approved the transaction contemplated by this Agreement, and the Manager of Purchaser is authorized to execute this Agreement and to do all other such acts and to take such other action as may be necessary to consummate this Agreement.

(c) This Agreement is a valid and binding contract, enforceable against Purchaser in accordance with its terms.

13. Survival of Representations and Agreements. All representations, warranties and agreements contained in this Agreement or in any certificate, instrument or document delivered by or on behalf of either party to this Agreement or in connection with the transaction contemplated by this Agreement shall be deemed representations, warranties or agreements of that party, and shall survive, except to the extent waived by the party for whose benefit they exist, the Closing or termination of this Agreement.

14. Brokers and Commissions. Purchaser represents that Purchaser has not dealt with any brokers or persons who may claim any commissions or fees in connection with the transaction contemplated by this Agreement. In the event that any commissions, brokers or finders' fees or other like charges arise out of this Agreement or the transaction contemplated by this Agreement, such commissions, fees or charges shall be paid by Purchaser. Purchaser may include commissions, charges and fees that are incurred by Purchaser pursuant to this Agreement in a budget to be submitted to the City in connection with Purchaser's request for public incentives to be approved by the City for development on the Property, including a request for approval of tax increment financing to facilitate development on

the Property. Such commissions, charges and fees may be reimbursed from the public incentives if such reimbursement payments are approved by the City at the legislative discretion of the City Council as it considers public incentives for development of the Property.

15. Closing. The Closing shall be by escrow through the Title Company as follows:

(a) **Seller.** On or before the Closing Date, Seller shall deliver to the Title Company a special warranty deed (the “**Deed**”), conveying title free and clear of all liens and encumbrances other than the Permitted Exceptions. The form of the Deed shall be mutually agreed to by the parties prior to the end of the Inspection Period.

(b) Each party shall deliver all other documents reasonably necessary to complete the Closing and may deliver closing or escrow instructions to the Title Company consistent with the provisions of this Agreement.

16. Closing Costs. Closing costs shall be paid as follows:

(a) Purchaser’s closing costs shall be the recording fees, Purchaser’s attorney fees, title insurance endorsement and equal share of escrow fees related to the transaction;

(b) Seller’s closing costs shall be Seller’s title policy, transfer fees, document stamps, Seller’s attorney fees and equal share of escrow fees related to the transaction.

17. Default and Remedies.

(a) **Default by Seller.** If Seller defaults in the performance of its obligations under this Agreement, and does not cure the same within ten (10) business days after receipt of written notice from Purchaser (or such longer time as reasonably necessary to effect such cure), Purchaser may (i) terminate this Agreement and receive an immediate and full refund of its Earnest Money and any Extension Fee(s), or (ii) elect to treat this Agreement as being in full force and effect, in which case Purchaser may take such other actions as are available under or with respect to this Agreement or otherwise at law or equity, including but not limited to the remedy of specific performance. With respect to any of Seller’s obligations accruing after or surviving termination or Closing of this Agreement, Purchaser shall be entitled to all remedies provided by law and equity.

(b) **Default by Purchaser.** If Purchaser defaults in the performance of its obligations prior to Closing, Seller may terminate this Agreement. With respect to any of Purchaser’s obligations accruing after or surviving termination or Closing of this Agreement, Seller shall be entitled to all remedies provided by law and equity.

18. Miscellaneous.

(a) **Time for Performance.** If the date for the performance of the obligations of Seller and Purchaser under this Agreement falls on a Saturday, Sunday or observed banking holiday by national banks in Lee’s Summit, Missouri, the date of performance shall be extended to the next regular business day.

(b) **Business Day.** A “**business day**” as used herein is a day other than a Saturday, Sunday or observed banking holiday by national banks in Lee’s Summit, Missouri.

(c) **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement of the parties concerning the Property and supersedes any and all prior oral representations, covenants, understandings or agreements between the parties or their agents, and may be modified only by written agreement signed by both parties.

(d) **Governing Law.** This Agreement shall be governed by Missouri law.

19. Notices. All notices or deliveries required under this Agreement shall be hand delivered or given by mail (return receipt requested) or overnight courier (signature required) directed to Purchaser

and Seller at the address stated on the first page of this Agreement. In addition, notice shall be provided to Purchaser's counsel at the following address: Levy Craig Law Firm, c/o Jeff Bauer, 4520 Main Street, Suite 1600, Kansas City, Missouri 64111 with an email of jbauer@levycraig.com. All notices so given shall be considered effective if hand delivered, when received; if delivered by courier, one (1) business day after timely deposit with the courier service, charges prepaid; or if mailed, three (3) days after deposit, first class postage prepaid, with the United States Postal Service. Either party may change the address to which future notices shall be sent by notice given in accordance with this Section.

[Remainder of this page intentionally left blank, signature pages to follow]

EXECUTED as of the Effective Date written above.

SELLER:

CITY OF LEE'S SUMMIT,
A charter city and political subdivision of the State
of Missouri

Office of the City Attorney

William A. Baird
Mayor

PURCHASER:

STREETS OF WEST PRYOR, LLC
A Missouri limited liability company
By: Matthew L. Pennington, its Manager

Matthew L. Pennington
Manager

EXHIBIT A

LEGAL DESCRIPTIONS FOR THE PROPERTY

Tract #1:

[To be added]

Parcel ID: 51-800-04-91-01-0-00-000

7.30 +/- acres located at the southwest corner of Pryor Road and 1-470 in Lee's Summit, MO as depicted on the attached map

Tract #2:

[To be added]

Parcel ID: 51-800-04-88-00-0-00-000 and

Parcel ID: 51-800-04-81-00-0-00-000

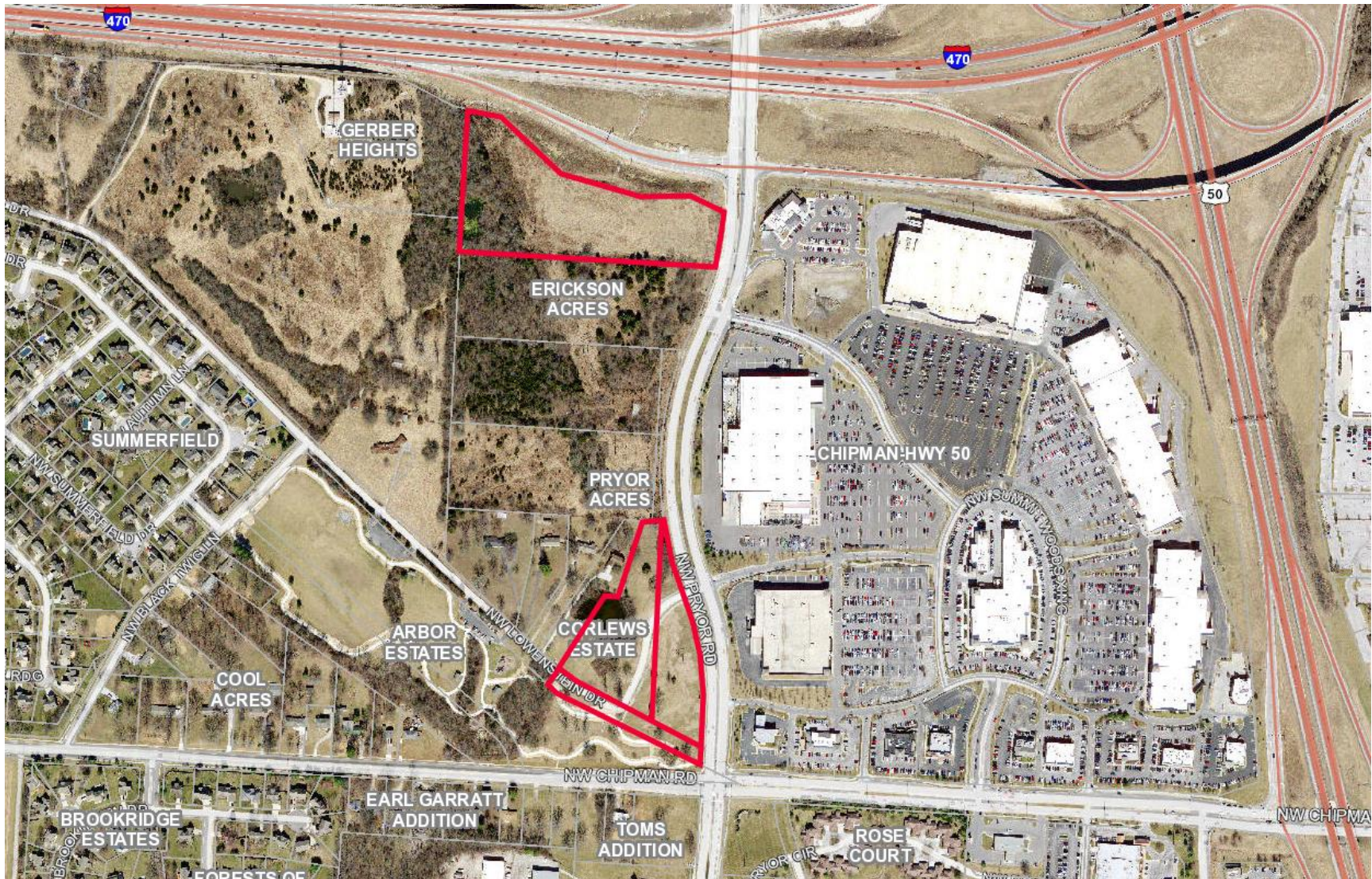
5.49 +/- acres located at the northwest corner of Pryor Road and Lowenstein Drive in Lee's Summit, MO as depicted on the attached map

Tract #3 – Lowenstein Drive Right-Of-Way:

[To be added]

1.06 +/- acres located at the northwest corner of Pryor Road and Lowenstein Drive in Lee's Summit, MO as depicted on the attached map

MAP OF THE PROPERTY



Streets of West Pryor – map of City owned property and Lowenstein Road right-of-way