

**DEVELOPMENT AGREEMENT FOR THE PARAGON STAR PROJECT**

THIS DEVELOPMENT AGREEMENT FOR THE PARAGON STAR PROJECT (“**Agreement**”) is made this \_\_\_\_ day of July, 2020, by and between Paragon Star, LLC, a Missouri limited liability company (the “**Developer**”), and the City of Lee’s Summit, Missouri, a municipal corporation (“**City**”) (each is a “**Party**” and collectively the “**Parties**”)

WHEREAS, on October 6<sup>th</sup>, 2016, the City Council concluded a public hearing for Application #PL2016-135, for preliminary development plan and rezoning from AG and CP-2 to PMIX, of approximately 120 acres of land generally lying at the Northeast corner of NE View High Drive and I-470, on property legally described in **Exhibit A** (“**Property**”) a portion of which will be developed as the Paragon Star Sports Complex as shown in **Exhibit B**, a map of the preliminary development plan, along with a portion of the property that will be developed as the Village;

WHEREAS, on October 6, 2016, the City Council approved Ordinance No. 7987 which approved the preliminary development plan for the Sports Complex portion of the Property, which was subject to the Developer entering into a development agreement with the City to provide for certain Improvements, as defined below, necessary for the Development;

WHEREAS, on June 4, 2019, the City Council concluded a public hearing for Application #PL2019-071, for a preliminary development plan in the PMIX District, of approximately 36 acres, on property legally described in **Exhibit A** (“**Village Property**”);

WHEREAS, on June 11, 2019, the City Council approved Ordinance No. 8644 which approved the preliminary development plan for the Paragon Star Village on the Village Property, which was subject to the Developer entering into a development agreement with the City to provide for other certain Improvements, as defined below, necessary for the Development;

WHEREAS, in satisfaction of the City Council's conditions of approval for Ordinance Nos. 7987 and 8644, the Developer and the City now desire to enter into this Agreement;

WHEREAS, the Parties agree that the obligations assumed by the Developer pursuant to this Agreement are reasonably related to the impact that will be caused by the Development on the public services provided by the City and other public jurisdictions and on facilities that are constructed and maintained by the City and other public jurisdictions, though the highway transportation improvements are reasonably related to the impact of both the Development and cumulative demand of area development assumed, but not necessarily constructed, per the applicable traffic studies; and

WHEREAS, the Parties seek to establish their respective rights, duties and obligations for engineering, design and construction of the public improvements that serve development of the Property, and have freely negotiated in good faith and this Agreement reflects the desires of the Parties.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions.** Words or terms not defined elsewhere in this Agreement, including **Exhibit C**, shall have the following definitions:

**“Applicable Laws”** means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, policy, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any governmental authorities that may apply to the Improvements or the other matters in this Agreement.

**“Certificate of Final Acceptance”** shall have the meaning assigned in Section 1027 of the Design and Construction manual as adopted by the City of Lee’s Summit, and as such manual may be amended from time to time.

**“Certificate of Occupancy”** shall have the meaning assigned in Division VIII (Certificates of Occupancy) of Chapter 3 of the UDO.

**“Certificate of Substantial Completion”** shall have the meaning set forth in Section 1027 of the Design and Construction manual as adopted by the City of Lee’s Summit, and as such manual may be amended from time to time.

**“CID”** means the I-470 and View High Community Improvement District.

**“City Engineer”** shall mean the City Engineer or his/her designated representative.

**“Design and Construction Manual”** shall mean the Design and Construction Manual as approved by the City Council through the adoption of numerous City ordinances and published on the City’s website, as such document may be amended from time to time.

**“Developer”** shall have the meaning as set forth on page 1.

**“Development”** means all of the site work and public and private development on both the Property and the Village Property.

**“Improvements”** shall have the meaning set forth in **Exhibit C**.

**“Interchange Improvements”** shall have the meaning set forth in **Exhibit C**.

**“Internal Roads”** shall have the meaning set forth in **Exhibit C**.

**“KCMO Improvements”** shall have the meaning set forth in **Exhibit C**.

**“Kansas City Agreement”** means the “Cooperative Agreement for Public Improvements” between Jackson County, Missouri, the City and the City of Kansas City, Missouri dated February 8, 1991, as such agreement may be amended from time to time.

“**MoDOT**” means the Missouri Department of Transportation, acting legislatively through the Missouri Highways and Transportation Commission.

“**Parking Areas**” shall have the meaning set forth in **Exhibit C**.

“**Property**” shall have the meaning set forth in **Exhibit A**.

“**Sports Complex**” means that portion of the Development on the Property which will be developed for the sports fields and associated structures and improvements pursuant to the preliminary development plan approved by Ordinance No. 7987.

“**Staff**” shall mean employees of the City of Lee’s Summit.

“**Temporary Certificate of Occupancy**” shall have the meaning as set forth in Chapter 7, Lee’s Summit Building Code, as adopted by the City of Lee’s Summit.

“**TIF Agreement**” means the Tax Increment Financing Redevelopment Agreement between the City and Paragon Star, LLC, dated October 20, 2016, as such Agreement may be amended by the Parties.

“**TIF Plan**” means the I-470 and View High Tax Increment Financing Plan that was approved by City Ordinance No. 7833 on March 10, 2016, as such Plan may be amended by the City.

“**UDO**” means the Unified Development Ordinance as set forth in Chapter 33 of the City Code.

“**Village**” means that portion of the Development on the Village Property which will be developed for residential, office, retail, restaurant and other commercial uses and the entertainment venue area pursuant to the preliminary development plan approved by Ordinance No. 8644.

“**Village Property**” shall have the meaning set forth in **Exhibit A**.

“**Water Main**” shall have the meaning set forth in **Exhibit C**.

“**Western Gateway TDD**” means the I-470 Western Gateway Transportation Development District which was approved by the Jackson County Circuit Court on May 24, 2018.

2. **Requirements for Improvements**. Unless otherwise specified herein, the provisions set forth in this Section shall be applicable to the financing, design, engineering and construction of the Improvements to be constructed by the Developer as required by this Agreement. The requirements of this Section shall be applicable to those Improvements that are within the jurisdiction and the permitting authority of the City, but do not apply to the design, engineering and construction of Improvements that are within the jurisdiction and permitting authority of Kansas City. The rules and requirements imposed by Kansas City shall apply to those Improvements within the jurisdiction and the permitting authority

of Kansas City. The City does not accept any responsibility to review and approve Improvements within the jurisdiction and the permitting authority of Kansas City, although the Parties to this Agreement will continue to work together to integrate the functionality of all Improvements in both jurisdictions.

- A. Requirement to design, engineer and construct. Except as provided otherwise in this Agreement, the Developer, at its sole cost and expense, shall design, engineer and construct the Improvements. The City shall issue certificates of occupancy for structures in the Development pursuant to the schedule set forth in **Section 3**.
- B. Construction Costs. All costs associated with designing, engineering and constructing the Improvements shall be paid by the Developer, by the Western Gateway TDD or the CID, as agreed by the Parties in other contracts. No cost shall be paid by the City for designing, engineering, constructing or managing the construction of any of the Improvements except as provided in the TIF Agreement, from tax increment financing revenues or obligations issued by the City which are repaid with tax increment financing revenues.
- C. Applicable Standards and Approvals. The Improvements shall be designed, engineered, constructed, placed into service and dedicated to the City or other appropriate governmental entity. Improvements dedicated to the City shall be dedicated in accordance with the ordinances of the City, including, but not limited to, the City's Design and Construction Manual then in effect at the time the Plans for the Improvements are submitted, and any other applicable rules, requirements and standards established by the City. All such work shall be done in good and workmanlike manner. The Developer shall be responsible for obtaining approval for any portion of the Improvements that require approval of another jurisdiction. The City agrees to cooperate in good faith with the Developer in obtaining said required approvals from other jurisdictions for the Improvements.
- D. Schedule. Prior to the construction of the Improvements, the Developer shall submit to the City Engineer a proposed Project Schedule for the Improvements to be constructed by the Developer.
- E. Design Phase. The Developer shall submit all preliminary design documents to the City for approval before proceeding with the construction of the Improvements. On the basis of such approved preliminary design documents, the Developer shall:
  - (1) Prepare detailed drawings, plans, design data, and estimates to show the character and scope of the work to be performed by contractors for all Improvements ("**Plans**").
  - (2) Furnish to the City Engineer copies of such Plans and other documents and design data as may be required to secure approval of such governmental authorities as may have jurisdiction over design criteria applicable to the Improvements.

- (3) Furnish the number of approval copies of the final Plans for the Improvements as the City may require.
  - (4) Ensure that the Plans conform to all Applicable Laws of the City, accounting for the limitations of City review versus Kansas City review as set forth in the introductory paragraph of this Section 2.
  - (5) All final Plans shall be presented to the City Engineer for approval.
- F. Construction. The Developer will construct or cause the construction of all the Improvements according to the approved Plans. The requirements set forth in **Exhibit C** shall apply to the construction of the Improvements. The Developer shall maintain, at its sole cost and expense, the Improvements until such time as said Improvements are accepted by the appropriate governmental entity. The Developer shall not do or permit others, by contract or otherwise, to do any work related to the construction of the Improvements until the Developer has paid for all required City and other governmental required permits and authorizations.
- G. Right of Way Acquisition.
- (1) The Developer shall be responsible for acquiring or negotiating for the donation of all right-of-way or easements that are needed to construct the Improvements that will be dedicated to the City or Kansas City, including all necessary temporary construction easements. The Parties acknowledge that the acquisition of right-of-way and easements for the Interchange Improvements (as defined in **Exhibit C**) are being conducted in accordance with MoDOT requirements using Federal Highway Administration requirements. The Parties acknowledge that certain of the public streets and roads within the Development are to be owned by the CID and will not be dedicated to the City but will be maintained as public roads by the CID. The Parties also acknowledge that the diverted diamond scope of the Interchange Improvements (as defined in **Exhibit C**) is to be dedicated to the State of Missouri and will be maintained by MoDOT, and the Meers Road scope of the Interchange Improvements shall be dedicated to and maintained by those parties as set forth in the Kansas City Agreement.
  - (2) In the event that the Developer is unable, after good faith negotiations, to acquire some or all of the right-of-way or easements necessary for those Improvements over which the City exercises jurisdiction, the Developer may submit a request to the City in the manner prescribed by Section 26, "Notice" below requesting that the City use its authority to acquire the property interests necessary for the Improvements. The City will respond to such a request within thirty (30) days of receipt of same, and in such response the City will indicate whether it agrees to enter into good faith negotiations or exercise its power of eminent domain to acquire the right-of-way or easements necessary for Improvements over which the City

exercises jurisdiction. The City is not obligated to use its authority to assist in the acquisition of property interests necessary for the Improvements.

- (3) In the event the City agrees to enter into good faith negotiations or exercise its power of eminent domain to acquire the right-of-way or easements necessary for Improvements over which the City exercises jurisdiction, prior to beginning any work to acquire said right-of-way or easements, the Developer shall first execute an Acquisition Funding Agreement with the City which provides for the terms and conditions under which the Developer will place all estimated Acquisition Costs in escrow with the City prior to commencement of condemnation for right-of-way or easements. The Acquisitions Costs shall include, but shall not be limited to: the actual price paid for all right-of-way or easements, whether determined by negotiation or eminent domain; expenses related to the establishment of acquisition values of right-of-way or easements, including appraisals; legal fees, other expenses paid to third parties, and expenses incurred by the City related to acquisition of right-of-way or easements, whether through negotiation or eminent domain; and any other reasonable and necessary costs or expenses related to acquisition of the right-of-way or easements. The Acquisition Funding Agreement shall obligate the Developer to reimburse the City in full for all Acquisition Costs that result from the City's use of its authority to acquire any portion of the Improvements.
- (4) The Developer shall dedicate or convey, as applicable, to the City, at no cost to the City, all property interests owned by the Developer which are necessary for the Improvements. Developer may seek reimbursement for eligible costs of property interests necessary for the Improvements from Western Gateway TDD, and/or TIF Revenues, as such costs may be allowed by the TIF Plan and TIF Contract, as amended.

H. Utility Relocation. The Parties agree that all costs associated with relocating any existing utilities from any existing public or private easement, as a result of construction of the Improvements, shall be paid by the Developer, the TDD or the CID, and are not the responsibility of the City. The Parties agree that all costs associated with relocating any existing utilities from any existing right-of-way as a result of construction of the Improvements, which are not paid by a utility company, shall be paid by the Developer, the CID or the TDD, as applicable and are not the responsibility of the City. Developer may seek reimbursement for eligible utility relocation costs from TIF revenues, as such costs may be allowed by the TIF Plan and TIF Contract, as amended.

I. Inspections and Revisions. The Developer agrees to permit City employees, agents and contractors to inspect, observe, and oversee the construction of all Improvements in order to ascertain and determine that the standards of the City have been met. The Developer shall obtain the City Engineer's approval of all revisions materially altering the design or specifications of the Improvements.

- J. Dedication. Upon completion, inspection and approval of the Improvements that are within the jurisdiction of the City, the Developer will dedicate the applicable Improvements to the City, for its use, operation and maintenance. The City shall be under no obligation to accept the dedication or conveyance of any Improvements constructed pursuant to this Agreement until it has been inspected and approved to the satisfaction of the City Engineer. The City will not accept the dedication, ownership or maintenance responsibility of any Improvements that are within the corporate jurisdiction of Kansas City. Upon written notice of the inspection and approval of the City Engineer, the Developer agrees to convey all the Improvements to the City free and clear of all liens and encumbrances or other obligations. Said conveyance shall be by appropriate document, and shall be sufficient, in the opinion of the City Attorney, to convey marketable title of record, as set forth in Title Standard 4 of the Missouri Bar.

3. Timing of Issuance of Certificates of Occupancy. Temporary Certificates of Occupancy shall not be issued for the Development until the requirements set forth in **Exhibit C** have been satisfied with respect to each particular Improvement. Final Certificates of Occupancy for the Sports Complex and Village structures will not be issued until a Certificate of Final Acceptance has been issued for Improvements described in in **Exhibit C**.

- A. A Temporary Certificate of Occupancy will not be issued until either a Certificate of Substantial Completion or a Certificate of Final Acceptance has been issued for the Improvements applicable to the portion of the Development in which the building is located, as set forth in more detail in **Exhibit C**.
- B. A Final Certificate of Occupancy will not be issued until a Certificate of Final Acceptance has been issued for the Improvements applicable to the portion of the Development in which the building is located, as set forth in more detail in **Exhibit C**.

4. Indemnification.

- A. General Indemnity. The Developer shall indemnify, release, defend, be responsible for and forever hold harmless the City, its officers, agents, employees, elected officials, and attorneys, each in their official and individual capacities, from and against all lawsuits, suits, actions, costs, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities of any character and from any cause whatsoever, brought because of bodily injury or death received or sustained, or loss or damage received or sustained, by any person, persons, or property arising out of or resulting from any act, error, or omission of the Developer or its officers, agents, employees, or subcontractors, to the extent such loss or injury arises in connection with or on account of the Developer's work or in consequence of any negligence in connection with the same, or on account of any poor workmanship, or on account of any act of commission or omission of Developer of their agents or employees, or for any cause arising during the course of construction; provided, however, that the Developer need not save harmless the City from claims, demands, losses and expenses arising

out or to the extent caused by the negligence of the City, its employees or agents. This indemnification obligation shall survive the termination or expiration of this Agreement.

- B. No Limitations or Waiver. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement, or by a limitation of the amount or type of damages or compensation payable by or for the Developer under Workers' Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Agreement, or the terms, applicability or limitation of any insurance held by the Developer. The City does not, and shall not, waive any rights against the Developer which it may have by reason of this indemnification, because of the acceptance by the City, or the deposit with the City by the Developer, of any of the insurance policies described in this Agreement. In addition, the Parties agree that this indemnification by the Developer shall not be limited by reason of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- C. Notification of Claims. With respect to any claims which are subject to indemnity hereunder, the Developer shall immediately notify the City of any and all claims filed against the Developer or the Developer and the City jointly, and shall provide the City with a copy of the same. Such notice shall be given in the manner prescribed by **Section 27** of this Agreement.
- D. Use of Independent Contractors. The fact that the Developer carries out any activities under this Agreement through independent contractors shall not constitute an avoidance of, or defense to, the Developer's duty of defense and indemnification under this section.

5. **Insurance.**

- A. General Provisions. Prior to commencing construction of the Improvements, the Developer shall file with the City evidence of liability insurance that is consistent with the requirements of the City's Design and Construction Manual and in the amounts set forth below.
- B. Limits and Coverage. Bodily Injury and Property Damage, Commercial General Liability Coverage – Occurrence Form unless otherwise agreed by the City:
  - (1) Commercial General Liability: Minimum \$3,000,000 each occurrence limit for bodily injury and property damage; \$3,000,000 policy aggregate; \$2,000,000 products and completed operations aggregate.
  - (2) Automobile Liability: Minimum \$3,000,000 combined single limit for bodily injury and property damage; applicable to owned, non-owned and hired automobiles.



- (3) Workers' Compensation: As required by state statute; if exempt, must submit letter stating the exemption; employer's liability \$1,000,000 each occurrence.
- (4) Umbrella/Excess Liability: An umbrella or excess liability policy in the minimum amount of \$3,000,000 each occurrence and aggregate; at least as broad as the underlying general liability, automobile liability and employer's liability.

The following endorsements shall attach to the policy:

- (1) The policy shall cover personal injury as well as bodily injury.
- (2) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries and property damage.
- (3) Broad form property damage liability shall be afforded.
- (4) The City shall be listed as an additional insured.
- (5) Standard form of cross-liability shall be afforded.
- (6) The policy shall not be cancelled, or materially modified so as to be out of compliance with the requirements of this section, or not renewed without thirty (30) days advance written notice of such event being given to the City.

The limits of liability for each policy coverage amount stated above shall be automatically adjusted upward as necessary to remain at all times not less than the maximum amount of liability set forth in Chapter 537.610 RSMo. applicable to political subdivisions pursuant to 537.600; provided that nothing herein or in any such policy shall be deemed to waive the City's sovereign immunity. The statutory waiver of sovereign immunity for 2020 is \$2,908,664 for all claims arising out of a single accident or occurrence.

- C. Use of Contractors and Subcontractors. The Developer shall not permit any contractor or subcontractor to commence or continue work until they shall have obtained or caused to be obtained all insurance required under this Section and the City's Design and Construction Manual. Said insurance shall be maintained in full force and effect until the completion of construction of the Improvements, and issuance of a Certificate of Substantial Completion by the City or MoDOT, as appropriate.
- D. Workers' Compensation. The Developer shall ensure that all contractors or subcontractors performing work for the Developer obtain and maintain Workers' Compensation Insurance for all employees, and in case any work is sublet, the Developer shall require any subcontractors to provide Workers' Compensation

insurance for all subcontractor's employees, in compliance with State laws, and to fully protect the City from any and all claims arising out of occurrences during construction of the Improvements. The Developer agrees to hold harmless, indemnify and reimburse the City for any damage, loss, costs, payments or expenses of any kind (including the City's reasonable attorney's fees) incurred or sustained by the City as a result of the failure of either the Developer or any contractor or subcontractor of the Developer to obtain and maintain such insurance. The Developer further waives its rights to subrogation with respect to any claim against the City for injury arising out of performance under this Agreement. The Developer shall provide the City with a certificate of insurance indicating Workers' Compensation coverage prior to commencing construction of the Improvements.

6. **Bonds.** The Developer shall, or shall ensure that its contractors shall, provide for the following bonds for the Improvements and all other public infrastructure improvements that are constructed by the Developer and dedicated to the City.
  - A. **Performance Bond.** Prior to commencement of construction and ending upon acceptance of the Improvements by the City, the Developer shall, or shall ensure that its contractors shall, maintain a Performance Bond in a form approved by the City Attorney, in an amount equal to the cost of the Improvements covered by such bond, as determined by the City Engineer, conditioned upon the faithful performance of the provisions, terms and conditions of the construction contract. The Performance Bond shall name the City as an obligee and copies of certificates of such bond shall be delivered to the City. The Parties agree that a performance bond shall not be required for the Interchange Improvements, the KCMO Improvements, the Internal Roads and the Parking Areas, as such terms are defined in **Exhibit C**, because TDD revenue bond proceeds are presently available for the completion of these Improvements.
  - B. **Payment Bonds.** Prior to commencement of construction and ending upon acceptance of the Improvements by the City, the Developer shall, or shall ensure that its contractors shall, maintain a Payment Bond in a form approved by the City Attorney, in an amount equal to the cost of the Improvements covered by such bond, as determined by the City Engineer, conditioned upon the faithful payment of the provisions, terms and conditions of the construction contract. The Payment Bond shall name the City, the Western Gateway TDD and the CID as additional obligees and copies of certificates of such bond shall be delivered to such parties.
  - C. **Maintenance Bonds.** Prior to acceptance and dedication of the Improvements, the Developer shall, or shall ensure that its contractors shall, provide a Maintenance Bond in a form approved by the City Attorney, in an amount equal to fifty percent (50%) of the cost of the Improvements as approved by the City Engineer, which shall be in effect for a term of three (3) years from the date that the City issues a Certificate of Substantial Completion for such Improvements covered by the bond, conditioned upon the faithful performance of the provisions, terms and conditions of the construction contract. The Maintenance Bond shall name the City as an obligee and copies of certificates of such bond shall be delivered to the City.

- D. **Indemnity for Failure to Provide Bonds.** The Developer shall indemnify the City and its officers and employees for any damage or loss incurred or sustained by the City, its officers or employees, as a result of the failure of the Developer or its contractors to provide the bonds set forth in this Section.
7. **Prevailing Wage.** To the extent required by law, the Developer, and all contractors and subcontractors performing work for or on behalf of the Developer with respect to the Improvements, shall pay wages in accordance with, and in all respects comply with, Missouri's Prevailing Wage Law (Sections 290.210 to 290.340, RSMo.) and all other laws relating to the payment of wages. The Developer agrees to hold harmless, indemnify and reimburse the City for any damage, loss, costs, payments or expenses of any kind (including the City's reasonable attorney's fees) incurred or sustained by the City with regard to the failure of the Developer or any contractor or subcontractor to pay prevailing wages as required by law or this Agreement. When requested, the Developer shall submit sufficient information to the City's Director of Finance to allow Staff to verify that the Developer, and its contractors and subcontractors, have complied with prevailing wage laws and regulations.
8. **Remedies.** Each Party to this Agreement agrees that if it fails to perform when due any act required by this Agreement to be performed, then, in addition to whatever other remedies are available to the non-defaulting Parties hereto, the non-defaulting Party shall have the right to enforce specific performance of this Agreement against the defaulting Party, and such non-defaulting Party shall, to the extent permitted by law, be entitled to its reasonable costs, attorneys' fees and court costs in connection with such enforcement.
9. **Rights and Remedies Non-Exclusive.** No right or remedy conferred upon or reserved to any Party in this Agreement is intended to be exclusive of any rights or remedies, and each and every right and remedy shall be cumulative and shall be in addition to every right and remedy given now or hereafter existing at law or in equity.
10. **Non-Waiver.** No waiver of any condition or covenant contained in this Agreement or of any breach thereof, shall be taken to constitute a waiver of any subsequent condition, covenant or breach.
11. **Applicable Law.** This Agreement shall be governed by and construed according to the laws of the State of Missouri.
12. **Venue.** In the event this Agreement is litigated, venue shall be proper only in the Circuit Court of Jackson County, and the Parties expressly waive any rights to venue inconsistent therewith.
13. **City Requirements and Prior Approval.** The Developer agrees to comply with all Applicable Laws, including, but not limited to, the City's Unified Development Ordinance, the Design and Construction Manual, and all planning or infrastructure requirements related to the development of the Property. The Developer acknowledges and agrees that the City's review and approval of any Plans or Plats and the issuance of any such approvals, permits, certificates or acceptances does not, and shall not, in any way be deemed to insure

the Developer, or any of its successors, assigns, tenants, licensees or any third Party, against damage or injury of any kind at any time. The Parties agree that execution of this Agreement in no way constitutes a waiver of any requirements of applicable City ordinances or policies with which the Developer must comply and does not in any way constitute prior approval of any future proposal for development.

14. **Recording and Binding Effect**. No building permits shall be issued for any structure in the development until the agreement has been fully executed. The City shall file a copy of this Agreement or a memorandum of this Agreement in the office of the Recorder of Deeds for Jackson County, Missouri ("**Office**"). This Agreement shall run with the land and be binding on and inure to the benefit of the Parties and their respective legal representatives, successors in interest, successors and assigns. Upon certification by the City Engineer of the completion of the Developer's obligations under this Agreement, Staff will execute, on behalf of the City, a document suitable for recording in the Office, in such form as is approved by the City Attorney that acknowledges the completion of the Developer's obligations under the Agreement.
15. **Time of Essence**. Time is of the essence with respect to the duties and obligations set forth herein.
16. **Estoppel Letter**. Upon request by Developer, the City shall prepare and deliver to Developer an estoppel letter confirming for the benefit of any purchaser or lender whether the Developer is or is not in default under this Agreement and verifying the status of Developer's performance of its obligations under this Agreement.
17. **Representations**. The Developer represents that it owns portions of the property described in **Exhibit A** on the date that this Agreement is executed, or has right to use those portions that are not owned by Developer pursuant to contracts with the City and the CID. Each Party represents and warrants that it (a) has made due and diligent inquiry into the facts and matters which are the subject matter of this Agreement; (b) fully understands the legal effect of this Agreement; (c) is duly authorized and empowered to execute, deliver and perform this Agreement according to its terms and conditions; and (d) has not assigned or transferred any claim against the other Party that is the subject of this Agreement.
19. **No Waiver of Breach**. No waiver of any condition or covenant contained in this Agreement or any breach thereof shall be taken to constitute a waiver of any subsequent condition, covenant or breach.
20. **Rules of Construction**. Each Party to this Agreement has received independent legal advice from its attorneys of choice with respect to entering this Agreement and the advisability of agreeing to the provisions herein. Because each Party has had its respective legal counsel review the terms of this Agreement, the normal rules of construction to the effect that any ambiguities in its terms be resolved against the drafting Party shall not be employed with regard to issues of its validity, interpretation, performance or enforcement.
21. **Assignment**. The Agreement may not be assigned or transferred, in whole or part, to any other person, firm, corporation, or entity without the prior, express, written consent of the

other Party, which consent shall not be unreasonably withheld. The Developer shall request the assignment of the Agreement, with the consent of the City, to any person, firm, corporation, or entity to which any ownership interest in the Property is transferred after the date of execution of this Agreement.

22. **Scope of Agreement.** This Agreement and the acts provided for herein is the entire agreement between the Parties with respect to the engineering, design and construction of the Improvements, the terms and provisions of this Agreement are contractual and not mere recitals and no alterations, amendment, modification, or interpretation hereof shall be binding unless in writing and signed by all Parties. The Parties acknowledge that other contracts have been executed which provide for the terms and conditions under which funding and ownership shall be handled for the Improvements.
23. **Exhibits.** All Exhibits referenced in this Agreement are incorporated into this Agreement by such reference as if set forth in full in the text of this Agreement.
24. **Headings.** The paragraph headings contained herein are for convenience in reference and are not intended to modify, expand or limit the scope of any provision of the Agreement.
25. **Severability.** Any provision of this Agreement which is not enforceable according to law will be severed from this Agreement, and the remaining provisions shall be enforced to the fullest extent permitted by law. If any one or more of the terms, provisions or conditions of this Agreement shall be declared unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the validity of the remaining terms, conditions and provisions contained herein shall in no way be affected, prejudiced, limited or impaired thereby.
26. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument.
27. **Notice.** Any notice required by this Agreement shall be deemed to be given if it is mailed by United States registered mail, postage prepaid, and addressed as hereinafter specified.

Any notice to the City shall be addressed to:

City Manager  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063

With a copy to:

City Attorney  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063

Director of Development Services  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063

Notices to Developer shall be addressed to:

Paragon Star, LLC  
801 NW Commerce Drive  
Lee's Summit, MO 64086  
Attn. William H. Brown

With a copy to:

Christine Bushyhead  
Bushyhead Law, LLC  
315 SE Main Street  
Lee's Summit, MO 64063

Each Party shall have the right to specify that notice be addressed to any other address by giving to the other Party ten (10) days' written notice thereof.

**[Remainder of this page intentionally left blank]**



**PARAGON STAR, LLC**

\_\_\_\_\_  
Philip P. Short, Manager

Notary for Paragon Star, LLC

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF JACKSON    )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of July, 2020, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Philip P. Short, the Manager of Paragon Star, LLC, who is personally known to me to be the same person who executed the within instrument on behalf of Paragon Star, LLC, and such person duly acknowledged the execution of the same to be the act and deed of Paragon Star, LLC.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

[SEAL]



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTIES**

The “Property” as defined in this Agreement consists of the following:

*All that part of the Northwest Quarter of Section 34, Township 48 North, Range 32 West, of the 5th P.M., and all of GRAHAM COMMERCIAL CENTER, a subdivision in the in the City of Lee's Summit, Jackson County, Missouri, being more particularly described as follows:*

*BEGINNING at the Northwest corner of said Northwest Quarter of Section 34; thence South 86°33'45" East, along the North line of said Northwest Quarter, a distance of 2611.91 feet, to a point on the Westerly Right-of-Way line of Union Pacific Railroad, as now established; thence South 18°46'13" West, departing said North line, along said Westerly Right-of-Way line, a distance of 76.95 feet, to a point of curvature; thence Southwesterly and Southeasterly, continuing along said Westerly Right-of-Way line, along a curve to the left, having a radius of 2508.01 feet, and a central angle of 28°06'45", a distance of 1230.57 feet, to a point of tangency; thence South 09°20'32" East, continuing along said Westerly Right-of-Way line, a distance of 30.31 feet, to a point on the South line of the North half of said Northwest Quarter; thence South 86°26'21" East, continuing along said Westerly Right-of-Way line, and along said South line of the North half of the Northwest Quarter, a distance of 16.41 feet; thence South 09°20'32" East, departing said South line of the North half of the Northwest Quarter, continuing along said Westerly Right-of-Way line, a distance of 354.98 feet, to a point on the East line of said Northwest Quarter; thence South 02°29'17" West, continuing along said Westerly Right-of-Way line, and along said East line of the Northwest Quarter, a distance of 468.48 feet, to a point on the North Right-of-Way line of Interstate 470, as now established; thence North 85°05'37" West, departing said Westerly Right-of-Way line, along said North Right-of-Way line of Interstate 470, a distance of 899.87 feet; thence North 75°10'03" West, continuing along said North Right-of-Way line, a distance of 203.04 feet; thence South 77°15'22" West, continuing along said North Right-of-Way line, a distance of 228.93 feet, to a point on the East line of the Southwest Quarter of said Northwest Quarter, said point also being the Southeast corner of said GRAHAM COMMERCIAL CENTER; thence continuing South 77°15'22" West, continuing along said North Right-of-Way line, and along the South line of said subdivision, a distance of 1.94 feet; thence South 88°33'58" West, continuing along said North Right-of-Way line, and along said South line of said subdivision, a distance of 181.11 feet; thence North 85°01'31" West, continuing along said North Right-of-Way line, and said South line of said subdivision, a distance of 100.18 feet; thence North 60°06'43" West, continuing along said North Right-of-Way line, and said South line of said subdivision, a distance of 165.44 feet; thence North 85°08'16" West, continuing along said North Right-of-Way line, and said South line of said subdivision, a distance of 199.96 feet; thence South 60°28'02" West, continuing along said North Right-of-Way line, and said South line of said subdivision, a distance of 97.23 feet; thence North 69°50'05" West, continuing along said North Right-of-Way line, and said South line of said subdivision, a distance of 342.03 feet, to the Southwest corner of said subdivision; thence North 30°28'52" West, continuing along said North Right-of-Way line, and along the West line of said subdivision, a distance of 87.88 feet; thence North 07°21'08" East, continuing along said North Right-of-Way line and it's transition to the East Right-of-Way line of View High Drive, as now established, and said West line of said subdivision, a distance of 106.53 feet; thence North 20°25'39" East, departing said West line of said subdivision, continuing along said East Right-of-Way line of View High Drive, a distance of 185.39 feet; thence North 45°30'34" West, continuing along said East Right-of-Way line, a distance of 129.40 feet; thence North 12°40'32" West, continuing along said East Right-of-Way line, a distance of 278.96 feet, to a point on said South line of the North half of the Northwest Quarter; thence North 86°26'21" West, continuing along said East Right-of-Way line, and along said South line of the North half of the Northwest Quarter, a distance of 130.00 feet, to the Southwest corner of said North half of the Northwest Quarter; thence North 02°25'47" East, along the West line of said Northwest Quarter, a distance of 1316.45 feet, to the POINT OF BEGINNING, containing 5,217,462.56 square feet or 119.78 acres, more or less.*

The “Village Property” as defined in this Agreement consists of the following:

A Tract of land in the Northwest Quarter of Section 34, Township 48 South, Range 32 West, of the 5th/ P.M., in the City of Lee's Summit, Jackson County, Missouri, being more particularly described as follows:

COMMENCING at the Southwest corner of the Northwest Quarter of said Northwest Quarter; thence South 86°26'21" East, along the South line of said Quarter-Quarter, a distance of 78.97 feet, to the POINT OF BEGINNING; thence North 03°33'19" East, departing said South line, a distance of 81.83 feet, to a point on a non-tangent curve; thence Northwest, along a curve to the right, whose initial tangent bearing is North 75°29'13" West, having a radius of 111.50 feet, and a central angle of 24°20'06", a distance of 47.36 feet; to a point of compound curvature; thence Northwesterly, along a curve to the right, having a radius of 84.00 feet, and a central angle of 16°00'54", a distance of 23.48 feet, to a point of reverse curvature; thence Northwesterly, along a curve to the left, having a radius of 106.00 feet, and a central angle of 07°58'31", a distance of 14.75 feet, to a point of reverse curvature; thence Northwesterly, along a curve to the right, having a radius of 84.00 feet, and a central angle of 12°03'20", a distance of 17.67 feet, to a point on a non-tangent line, said point also being a point on the West line of said Northwest Quarter; thence North 02°25'47" East, along said West line, a distance of 280.21 feet, to a point on a non-tangent curve; thence Northeasterly, departing said West line and along a curve to the right, whose initial tangent bearing is North 15°06'40" East, having a radius of 648.00 feet, and a central angle of 54°41'08" East, a distance of 618.48 feet, to a point of tangency; thence North 69°47'48" East, a distance of 235.03 feet, to a point of curvature; thence Northeasterly and Southeasterly, along a curve to the right, having a radius of 84.00 feet, and a central angle of 91°10'09", a distance of 133.66 feet, to a point of tangency; thence South 19°02'03" East, a distance of 13.19 feet, to a point of curvature; thence Southeasterly, along a curve to the left, having a radius of 616.00 feet, and a central angle of 18°21'00", a distance of 197.28 feet, to a point of compound curvature; thence Southeasterly, along a curve to the left, having a radius of 540.00 feet, and a central angle of 13°19'41", a distance of 125.61 feet, to a point of tangency; thence South 50°42'44" East, a distance of 438.70 feet, to a point of curvature; thence Southeasterly, along a curve to the right, having a radius of 370.00 feet, and a central angle of 21°49'29", a distance of 140.94 feet, to a point of compound curvature; thence Southeasterly, along a curve to the right, having a radius of 264.00 feet, and a central angle of 12°30'46", a distance of 57.67 feet, to a point compound curvature; thence Southeasterly and Southerly, along a curve to the right, having a radius of 368.00 feet, and a central angle of 13°59'23", a distance of 89.85 feet, to a point on a non-tangent line; thence South 01°25'13" East, a distance of 3.16 feet, to a point of curvature; thence Southerly and Southwesterly, along a curve to the right, having a radius of 49.00 feet, and a central angle of 31°51'42", a distance of 27.25 feet, to a point on a non-tangent line; thence South 30°27'25" West, a distance of 31.24 feet, to a point of curvature; thence Southwesterly and Southeasterly, along a curve to the left, having a radius of 71.00 feet, and a central angle of 118°13'12", a distance of 146.50 feet, to a point on a non-tangent line; thence South 03°33'39" West, a distance of 12.92 feet, to a point on said South line; thence North 86°26'21" West, along said South line, a distance of 1,357.83 feet, to the POINT OF BEGINNING, containing 967,175.04 square feet, or 22.20 acres, more or less.

And also:

TRACT 2

All of Lots 1, 2, 3 and 4, GRAHAM COMMERCIAL CENTER, a subdivision of land in the Southwest ¼ of the Northwest ¼ of Section 34, Township 48, Range 32, in Lee's Summit, Jackson County, Missouri.

**EXHIBIT B**

**MAP OF THE PRELIMINARY DEVELOPMENT PLANS**

*[Attached]*



**PARAGON STAR VILLAGE**

10000 South 141st  
 North Summit, MO

NO.	DATE	DESCRIPTION
1	10/15/10	ISSUED FOR PERMIT
2	11/15/10	REVISIONS
3	12/15/10	REVISIONS
4	01/15/11	REVISIONS
5	02/15/11	REVISIONS
6	03/15/11	REVISIONS
7	04/15/11	REVISIONS
8	05/15/11	REVISIONS
9	06/15/11	REVISIONS
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315	12/15/36	REVISIONS
316	01/15/37	

## EXHIBIT C

### REQUIREMENTS FOR IMPROVEMENTS

The “**Improvements**” collectively consist of all of the defined public improvement items listed below in this Exhibit. All Improvements shall be designed, engineered, and constructed by or at the direction of the Developer in the manner set forth in this Agreement and as set forth in the conditions and requirements below.

1. **Interchange Improvements** – The “**Interchange Improvements**” consist of reconstruction of the interchange of Interstate 470 and View High Drive to a four-lane diverging diamond configuration with traffic signal controlled cross-over/ramp intersections, and all associated signage, striping and appurtenant improvements as approved by MoDOT. The Interchange Improvements shall also include relocation and improvement of the Meers Road intersection with View High Drive, to the extent that such intersection relocation and improvement becomes part of the Interchange project as approved by MoDOT. The Interchange Improvements shall be substantially complete prior to the issuance of any temporary or final certificates of occupancy for use of the athletic fields, all structures within the Sports Complex, and all structures in the Village. Written verification from MoDOT that the Interchange Improvements are substantially complete shall be submitted to the City prior to the issuance of any temporary or final certificates of occupancy for any athletic fields, all structures within the Sports Complex and all structures in the Village.
2. **KCMO Improvements** – The “**KCMO Improvements**” consist of construction of the a portion of View High Parkway, including storm sewers, the Western Gateway TDD Road #4, including storm sewers, the water main extension along that portion of View Highway Parkway east to northeasterly along Western Gateway TDD Road #4, sanitary sewer extension for the Sports Complex, and a parking lot. No temporary or final certificates of occupancy for use of the athletic fields, all structures within the Sports Complex or all structures in the Village shall be issued by the City until a certificate of substantial completion has been issued by the appropriate governmental jurisdiction for the KCMO Improvements.
3. **Water Main** – The “**Water Main**” consists of the installation of approximately 6,000 linear feet of 12 inch public water main connecting to the water main along Chipman Road at a location to be established by agreement of the parties, continuing on an alignment running along or adjacent to Chipman Road, running through the property at 11904 Chipman Road and then underneath I-470 and through the area identified as the Village, to the View High Drive roundabout, then connecting to a Kansas City-owned and operated 8 inch public water main coming from the West to that location. An emergency interconnect shall be provided at the connection location of the Kansas City and City owned water mains. A twenty foot easement shall be granted for the Water Main, within which an access easement will be located to allow for maintenance. Said easement will be located from the water main connection on Chipman Road to the Village, excepting across the I-470 highway right-of-way boring. No temporary or final certificates of occupancy shall be issued by the City for use of the athletic fields, any structures within the Sports

Complex, and any structures in the Village until a certificate of substantial completion has been issued for the Water Main.

4. **Internal Roads** – No temporary or final certificates of occupancy shall be issued for use of the athletic fields, any structures within the Sports Complex, and any structures in the Village until a certificate of substantial completion has been issued for all “**Internal Roads**” for the Development consisting of View High Parkway, Paragon Parkway, River Road, and the two bridges over the Little Blue River, and all associated curbs, gutters, storm drainage, signage, striping.
5. **View High Drive** – No temporary or final certificates of occupancy shall be issued for use of the athletic fields, any structures within the Sports Complex, and any structures in the Village until the improvements to View High Drive have been constructed in accordance with engineering plans for construction that are approved by the City and Kansas City.
6. **Parking Fields and Structures** – No temporary or final certificates of occupancy shall be issued by the City for use of the athletic fields and any structures within the Sports Complex, until a certificate of substantial completion has been issued for the Parking Fields which serve the Sports Complex. No temporary or final Certificates of occupancy shall be issued for structures in the Village once a certificate of substantial completion has been issued for the “**Parking Areas**” necessary to serve those structures as set forth in the approved Preliminary Development Plan. The substantial completion of the parking structure located north of Paragon Parkway is required prior to a temporary or final certificate of occupancy for the structures constructed in that portion of the Village.
7. **Pedestrian Trails** – The “**Pedestrian Trails**” consists of the Little Blue Trace Trail, the location of which will appear on an approved Final Development Plan. The Developer will work on a mutually agreeable Memorandum of Agreement (“**MOA**”) that will provide necessary easements for the Paragon Star LLC as well as the Jackson County Parks + Rec. The MOA will be inclusive of an easement that provides a route for the construction of a segment of the Little Blue Trace Trail to begin at a location at the general area of the intersection of the Rock Island Trail and the Little Blue River and end at View High Drive. The trail will be funded, constructed and maintained by Jackson County Parks + Rec according to their schedule. The timing of the construction of the Pedestrian Trail will not impact the issuance of any temporary or final certificates of occupancy for use of the athletic fields, all structures within the Sports Complex, and all structures in the Village.
8. **Sanitary Sewer Improvements** – The Sanitary Sewer Improvements consist of the construction of a connection the existing 78-inch sewer main that is owned and operated by the Little Blue Valley Sewer District (“**LBVSD**”), along with the construction of a new sewer metering station in accordance with the requirements of the LBVSD, in order to provide sewer service to that portion of the Development that is located south of the Little Blue River. Developer shall cause the payment all annual costs associated with all ongoing metering expenses for the connection to LBVSD.