

FUNDING AGREEMENT
FOR THE STREETS OF WEST PRYOR PROJECT

THIS FUNDING AGREEMENT (“Agreement”) is entered into this ____ day of September 2018 by **CITY OF LEE'S SUMMIT, MISSOURI** (the “**City**”), and **STREETS OF WEST PRYOR, LLC**, a Missouri limited liability company (the “**Company**”).

RECITALS

A. The City is a constitutional charter city incorporated and exercising governmental functions and powers pursuant to the Constitution and the Statutes of the State of Missouri. The principal office of the City is located at the City Hall, 220 SE Green St., Lee's Summit, Missouri 64063.

B. The Tax Increment Financing Commission of Lee's Summit, Missouri (the “**Commission**”) was created pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 et seq. of the Revised Statutes of Missouri (the “**Act**”), and under Ordinance No. 3724, adopted by the City Council of the City. The principal office of the Commission is located at City Hall, 220 SE Green St., Lee's Summit, Missouri 64063.

C. The Company is a limited liability company engaged in the business of land development with registered office address at 4520 Main Street, Suite 1600, Kansas City, MO 64111.

D. The City has been requested by the Company to consider a potential plan for economic development-based financing for the Company related to the development of the Streets of West Pryor project which is proposed to be located on land west of Pryor Road between Chipman Road on the south and I-470 on the north, which may include, without limitation, a tax increment financing plan in accordance with the Act and economic incentive tools or options that are or may become available to the City which may include a community improvement district, a transportation development district, tax abatement through Chapter 100 of the Revised Statutes of Missouri, and a refunding or rebate of taxes that are imposed by the City within the Project area (the incentives to be requested by the Company are collectively referenced herein as the “**Plan**”) and, if such Plan is approved then the City may be requested to provide such other services and assistance as may be required to implement and administer the Plan through its completion.

E. The City and the Tax Increment Financing Commission do not have a source of funds to finance costs incurred by them, in the form of additional City staff time, legal, fiscal, planning, transportation and engineering consultants, direct out-of-pocket expenses and other costs, resulting from services rendered in connection with the review, evaluation, processing and consideration applications for tax increment financing assistance authorized by the Act, or any other local or state economic development-based financing tool or option that is or may become available to the City.

F. If the Company's Plan is approved by the City Council and if sufficient revenues are generated by the redevelopment contemplated by the Plan, Commission and City costs covered by this Agreement and paid by Company may be, in part as related to a tax increment financing plan, reimbursed to Company from monies deposited into the Special Allocations Fund for such TIF plan pursuant to 99.845 RSMo.

G. The parties agree that Article X, Section 22 of the Constitution of the State of Missouri is not applicable and therefore shall not apply to any term of this Agreement including but not limited to any reimbursement for internal staff, legal, transportation, financial, engineering expenses or any third-party consulting or legal fee of any type.

AGREEMENT

1. Services to be Performed by the Commission and/or the City. The City (or, if directed by the City, the Commission) shall:

a. Prepare or consult with the Company on the preparation of and consider the Plan in accordance with the provisions of the Act, give all notices, make all publications and hold hearings as required by the Act on behalf of the City or the Commission for the economic incentive tools that are proposed by the Company;

b. Provide necessary staff, legal, financial, engineering and transportation assistance to prepare and present the Plan to the Commission and the City (including all staff reports, consultant reports and other third party reports, analysis and other information) and to permit consideration of the Plan by the Commission and the City, to prepare any resolutions or motions and, if the Commission recommends approval of the Plan, to prepare and present required ordinances to the City Council of the City.

c. Apply to the appropriate local or state agencies, authorities or entities as necessary or as required by the Plan, or as requested by the Company and approved by the City.

d. Participate in the court process required to form a transportation development district, if this incentive is proposed by the Company and after proper authorization by the City Council.

e. Provide any other assistance requested by the Company and agreed to by the City in connection with the Plan.

f. If the City Council of the City approves the Plan, provide the necessary staff and legal assistance to prepare and negotiate definitive agreements between the Company and the City for implementation of the Plan and the approved economic incentive tools.

g. If a definitive agreement is entered into, provide the necessary staff and legal assistance to administer such agreement and Plan until funds are available in the Special Allocation Fund and from other approved economic incentive funding sources.

2. Initial Deposit. The City acknowledges receipt of an initial deposit of funds (the “**Deposit**”) from the Company in the amount equal to (1) the Full Funding Level as required in Table 1 based on the incentive amount being requested, or (2) the Minimum Initial Deposit as specified in Table 1. The City shall disburse the Deposit as set forth in Section 4 and shall bill the Company pursuant to Section 3 to re-establish the Deposit to the Minimum Initial Deposit amount. Further, prior to consideration or approval by the City Council of any ordinance, Company shall deposit with the City an amount equal to an amount determined by City staff to be sufficient to cover costs incurred during the City Council process from which additional disbursements may be made as required.

The Full Funding Level is only an estimate of expenses to be incurred through the consideration and approval process. The Company will be billed for actual out-of-pocket or City authorized third party consultant costs for services as set forth in Section 1. The City shall bill the Company monthly, or at such other interval or times as City shall determine to be appropriate, pursuant to Section 3 to re-establish the Deposit. In addition, if a Chapter 100 tax abatement plan and one or more Chapter 100 bond issuances are proposed by Company, the fees associated with such Chapter 100 bond transactions are not covered by this Agreement and such bond transaction fees shall be as negotiated between the City, Company and bond counsel selected by the City prior to such transactions.

Table 1

Incentive Requested:	Less Than \$5,000,000	\$5,000,000 to \$25,000,000	More than \$25,000,000
Minimum Initial Deposit	\$25,000	\$50,000	\$75,000
Full Funding Level:	\$25,000	\$50,000	\$75,000

3. Additional Funding. If the Minimum Initial Deposit is \$25,000 or \$50,000, then the City shall submit from time to time an itemized statement for administrative expenses, internal legal expenses, and actual out-of-pocket expenses necessary to perform its obligations hereunder or for any additional obligations or expenditures incurred by the City or Commission. The account shall be replenished as provided below in this section to the full balance of \$25,000 or \$50,000, as applicable according to Table 1, until termination of this Agreement.

If the initial deposit is \$75,000, then Company shall be requested to replenish the account to the full amount of \$75,000 when the ongoing balance falls to \$50,000. This arrangement shall be repeated until termination of this Agreement.

Subject to the remaining provisions of this Section 3, such statements may be submitted upon execution of consultant contracts relating to the Plan or as expenses are incurred by the City in connection with the City's and/or Commission's review and consideration of the Plan. The Company may be billed in advance for the full amount of third party consultant contracts expenses or internal expenses upon approval of the contract by the City Manager or the City Council.

The Company shall pay the City the amounts set forth on such statements (the “**Additional Funds**”) within ten (10) days of receipt thereof or before final consideration of the application. As to any amounts billed in advance for any contract or consultant fees, City shall have the right to elect not to execute any such contract or to engage or authorize such consultant, contractor or staff member to proceed until such advance billing amount is paid by the Company. Company has reviewed the internal legal expense rate and agrees it is reasonable, lawful and that the City is entitled to seek full reimbursement of said expenses based on the hours that internal legal Counsel spends on Company’s project.

If any such amounts are not so paid when due, the unpaid balance shall accrue interest at the rate of two percent (2%) per month from the date billed until paid, but in no event shall such interest rate exceed twenty-four percent (24%) per annum. Further the Commission and City shall be relieved of any and all obligations hereunder (including without limitation any obligation to review or consider the Plan) until all such amounts (with interest) are paid, or the City may terminate this Agreement pursuant to

Section 6.a.

In addition, if such funds (including any advance-billed costs) are not so received, all work by staff and third party consultants on the TIF application shall cease until full payment is made, including penalties, and the fund balance is restored to the Deposit amount as set forth in Section 2 or, prior to any consideration or approval by the City Council, an amount sufficient to cover anticipated costs incurred during final consideration process is deposited as provided herein. Company acknowledges and agrees that the City shall have the right to delay final consideration of the Plan, or consideration or approval by the City Council of any ordinances with respect to the Plan or the projects contemplated therein, until all outstanding expenses have been paid and the fund balance is sufficient to cover all remaining cost anticipated to be incurred by or on behalf of the City through the anticipated conclusion of such final consideration process, including but not limited to meeting expenses, court reporting, attorneys' fees and other third party consultant preparation and attendance.

4. Disbursement of Funds.

a. The City shall disburse the Deposit and Additional Funds for reimbursement for costs to the City on or before the thirty (30th) day of each month, which shall cover internal costs and external consulting fees and the payment of all out-of-pocket expenses incurred by the Commission and/or the City in connection with the performance of its obligations under this Agreement as payment for such expenses become due. Upon reasonable notice, the Commission and/or City shall make its records available for inspection by Company with respect to such disbursements.

b. All of the services set forth in Section 1 are eligible redevelopment costs under the Act and as such are reimbursable from the Special Allocation Fund, but only to the extent ultimately set forth in the approved Plan and the redevelopment contract to be entered into in connection with any implementation of the Plan.

5. Plan Administration. In addition to the services set forth in Section 1, the Commission and/or City will be required to provide services from time to time for the continuing administration of the Plan and management of the Special Allocation Fund. The Commission and/or City may be reimbursed from the Special Allocation Fund for meeting expenses at \$250 per meeting and, upon appropriate itemization, staff time and expenses. In addition, the City may retain monies deposited in the Special Allocation Fund each year, in an amount equal to the documented expenses of the Commission and/or the City that are reasonable or incidental to the general operations of the Commission and/or City with respect to administration of the Plan.

6. Termination.

a. In the event the Company fails to perform any of its obligations herein, the City may terminate this Agreement, and any other agreement between the parties, at its sole discretion upon ten (10) days written notice to the Company. Termination by the City shall also terminate any duties and obligations of the Commission and the City with respect to this Agreement, including, but not limited to, the Commission's or City's processing of Company's application and/or Plan. Upon such termination, the City shall retain the Deposit and Additional Funds, if any, necessary to reimburse all outstanding expenses incurred by the City and/or the Commission pursuant to this Agreement and any monies due and owing to the City and/or the Commission pursuant to any other agreement and shall pay all remaining refundable Deposit and Additional Funds, if any, to the Company within ninety (90) days of such termination.

b. The parties hereto acknowledge that the Company may determine to abandon the Plan. Upon notice of abandonment by the Company, this Agreement shall terminate and the City may terminate any other agreement between the parties and shall retain the Deposit and Additional Funds, if any, necessary to reimburse its staff time accumulated to the date of termination and outstanding expenses incurred pursuant to this Agreement and any monies due and owing to the Commission or the City pursuant to any other agreement and shall pay all remaining refundable Deposit and Additional Funds, if any, to the Company within sixty (60) days of such termination.

c. In the event the Deposit and Additional Funds are insufficient to reimburse the City for the outstanding expenses of the City and/or the Commission payable hereunder, the Company shall reimburse the City as set forth in Section 3.

7. Subsequent Redevelopers. In the event the Commission or City selects another redeveloper pursuant to a request for proposals or other bid process to carry out the Plan, the City shall require the subsequent redeveloper to assume all obligations of the Company under this Agreement as of the date it is designated as redeveloper and to reimburse the Company for its expenditures hereunder.

8. Notice. Any notice, approval, request or consent required by or asked to be given under this Agreement shall be deemed to be given if it is in writing and mailed by United States mail, postage prepaid, or delivered by hand, and addressed as follows:

To the City:

City Manager
City of Lee's Summit, Missouri
220 SE Green St.
Lee's Summit, MO 64063

With a copy to:

City Attorney
City of Lee's Summit, Missouri
220 SE Green St.
Lee's Summit, MO 64063

To the Company:

Streets of West Pryor, LLC
4520 Main Street, Suite 1600
Kansas City, MO 64111

With a copy to:

Charles Miller, Esq.
Lewis, Rice & Fingersh, LLC
1010 Walnut, Suite 500
Kansas City, MO 64106

Each party may specify that notice be addressed to any other person or address by giving to the other

STREETS OF WEST PRYOR, LLC

By: _____

Name: _____

Title: _____

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

On this ___ day of September, 2018, before me, a Notary Public in and for said state, personally appeared _____, the Manager of Streets of West Pryor, LLC, a Missouri limited liability company, known to me to be the person who executed the within Funding Agreement on behalf of said limited liability company and acknowledged to me that he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires: