

AN ORDINANCE APPROVING THE TRANSFEREE AGREEMENT BETWEEN RED LEE'S SUMMIT EAST, LLC, LEE SUMMIT COVENANT GROUP, LLC, AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR THE TRANSFER OF PROPERTY IN THE LEE'S SUMMIT EAST TAX INCREMENT FINANCING REDEVELOPMENT AREA.

WHEREAS, on August 24, 2006, the City Council of Lee's Summit, Missouri adopted Ordinance No. 6263 approving the Lee's Summit East Tax Increment Financing Plan (the "Plan"); and,

WHEREAS, On May 27, 2008, the City and RED Lee's Summit East, LLC ("Developer") entered into an Amended and Restated Tax Increment Financing Contract, as amended by that certain First Amendment thereto dated as of October 20, 2008, as further amended by that certain Second Amendment thereto fully executed as of July 23, 2009, as further amended by that certain Third Amendment thereto dated effective as of March 17, 2011, and as further amended by that certain Fourth Amendment thereto dated effective as of February 28, 2012, that set forth the respective obligations and duties of the City and Developer with respect to the implementation of the Plan (the "Redevelopment Agreement"); and,

WHEREAS, the Developer is selling certain property described as Lot 23, SUMMIT FAIR, THIRD PLAT, a subdivision in the City of Lee's Summit, Jackson County, Missouri, (the "Property"), which is a portion of the Redevelopment Area (as defined in the Redevelopment Agreement) to Lee Summit Covenant Group, LLC, and pursuant to Section 32 of the Redevelopment Agreement, Transferee is required to enter into this Agreement to confirm its agreement to comply with certain provisions of the Redevelopment Agreement as it relates to the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

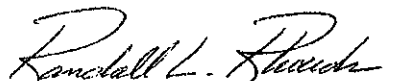
SECTION 1. That the TRANSFEREE AGREEMENT, appended hereto as **Exhibit A** and made a part hereof, between RED Lee's Summit East, LLC, Lee Summit Covenant Group, LLC, and the City is hereby approved and the City Manager is authorized to execute this Agreement in substantially the same form as attached hereto and any related document on behalf of the City.

SECTION 2. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.


PASSED by the City Council for the City of Lee's Summit, Missouri, this 28<sup>th</sup> day of February, 2013.

ATTEST:

  
City Clerk Denise R. Chisum

  
Mayor Randall L. Rhoads


APPROVED by the Mayor of said city this 4<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

  
\_\_\_\_\_  
City Clerk Denise R. Chisum

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy City Attorney John L. Mautino

**EXHIBIT A**  
**TRANSFeree AGREEMENT**

## TRANSFeree AGREEMENT

THIS TRANSFeree AGREEMENT (this "Agreement") is dated as of the 24<sup>th</sup> day of May, 2013 and is made by and among RED LEE'S SUMMIT EAST, LLC, a Missouri limited liability company ("Developer"), LEE SUMMIT COVENANT GROUP, LLC, a Delaware limited liability company ("Transferee"), and the CITY OF LEE'S SUMMIT, MISSOURI, a municipal corporation ("City").

### RECITALS

A. On August 24, 2006, the City Council of Lee's Summit, Missouri (the "City Council") adopted Ordinance No. 6263 approving the Lee's Summit East Tax Increment Financing Plan (the "Plan").

B. On May 27, 2008, the City and Developer entered into an Amended and Restated Tax Increment Financing Contract, as amended by that certain First Amendment thereto dated as of October 20, 2008, as further amended by that certain Second Amendment thereto fully executed as of July 23, 2009, as further amended by that certain Third Amendment thereto dated effective as of March 17, 2011, and as further amended by that certain Fourth Amendment thereto dated effective as of February 28, 2012, that set forth the respective obligations and duties of the City and Developer with respect to the implementation of the Plan (the "Redevelopment Agreement").

C. Developer is selling a portion of the Redevelopment Area (as defined in the Redevelopment Agreement) to Transferee (the "Property"), as more particularly described on Exhibit "A" attached hereto, and pursuant to Section 32 of the Redevelopment Agreement, Transferee is required to enter into this Agreement to confirm its agreement to comply with certain provisions of the Redevelopment Agreement as it relates to the Property.

NOW, THEREFORE, in consideration of the foregoing and the covenants and obligations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by and among Developer, Transferee and the City as follows:

1. Recitals Incorporated. The above Recitals are hereby incorporated into this Agreement in full and form an integral part hereof.
2. Definitions. All capitalized terms not otherwise defined herein shall have the meaning assigned to them in the Redevelopment Agreement.
3. Agreement by Transferee. Transferee hereby agrees that, at all times during its ownership of the Property, it will comply with the requirements of the Plan and the obligations in the Redevelopment Agreement relating to the Property, specifically, the requirements set forth in Sections 9E, 18B, 19, 32A, and 32B of the Redevelopment Agreement.
4. City's Consent. Upon the execution of this Agreement, the sale of the Property to Transferee shall be deemed to have been approved and consented to by the City, and City hereby waives the requirement of 60 days prior notice of the transfer as required under Section 32E of

the Redevelopment Agreement. Notwithstanding the foregoing, Transferee shall be under no obligation to purchase the Property from Developer pursuant to this Agreement.

5. **Representations and Warranties of Transferee.** Transferee is a Delaware limited liability company qualified to conduct its business in the State of Missouri and has all requisite power and authority to enter into, execute this Agreement and to perform its obligations hereunder. Transferee shall be the initial owner of the retail building intended to be operated on the Property as of the date of this Agreement. This Agreement, assuming the due execution and delivery hereof by Developer and City and assuming that this Agreement is enforceable against Developer and City, constitutes legal, valid and binding obligations of Transferee, enforceable against Transferee in accordance with the terms and conditions herein, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or similar laws affecting creditors' rights generally and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at law).

6. **Notices.** All notices, requests and other communications hereunder shall be deemed to be duly given if delivered by hand or if mailed by certified or registered mail with postage prepaid as follows:

**If to Transferee:**

Lee Summit Covenant Group, LLC  
c/o Covenant RE Management, Inc.  
17000 Red Hill Avenue  
Irvine, CA 92614  
Attn: Christopher Aguon  
Facsimile No.: (714) 388-3951

**With a copy to:**

The Law Office of Hans Lauterbach  
1001 Avenida Pico, Suite C - 499  
San Clemente, CA 92673  
Attn: Hans Lauterbach  
Facsimile No.: (949) 366-0116

**If to Developer:**

RED Lee's Summit East, LLC  
c/o RED Development  
7500 College Blvd., Suite 750  
Overland Park, Kansas City 66210  
Attn: Director of Legal/Leasing  
Facsimile No.: (913) 214-4639

**With a copy to:**

The Katz Law Firm  
7227 Metcalf Avenue  
Katz Law Building, First Floor  
Overland Park, Kansas 66204  
Attn: Richard B. Katz, Esq.

**If to City:**

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

**With a copy to:**

David Frantze  
Stinson Morrison Hecker LLP  
1201 Walnut, Suite 2900  
Kansas City, MO 64106-2150

7. **Successors and Assigns.** All rights, benefits and obligations of Developer and Transferee hereunder shall inure to and bind Developer and Transferee, respectively, and this Agreement shall be binding upon and inure to the benefit of the parties' respective successors and assigns.

8. **Governing Law.** This Agreement shall be governed by the laws of the State of Missouri.

9. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

10. **Expenses.** Except as otherwise provided herein, each of the parties hereto will pay its own costs and expenses, including attorney's fees, incurred by such party or on its behalf in connection with this Agreement and the transactions contemplated herein, except that Developer shall pay for all expenses incurred by the City.

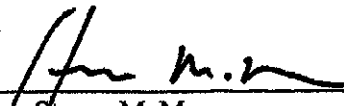
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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**DEVELOPER:**

**RED LEE'S SUMMIT EAST, LLC,**  
a Missouri limited liability company

By: Summit Fair Development, Inc.  
Its: Manager

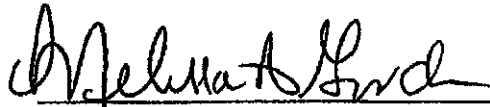
By:   
Name: Steven M. Maun  
Title: President

STATE OF KANSAS            )  
  ) ss.  
COUNTY OF JOHNSON    )

On this 9<sup>th</sup> day of May, 2013 before me, a Notary Public in and for said state, personally appeared Steven M. Maun, President of Summit Fair Development, Inc., the Manager of RED LEE'S SUMMIT EAST, LLC, personally known by me to be the person who executed the within instrument on behalf of said company and acknowledged to me that he executed the same for the purposes therein stated.

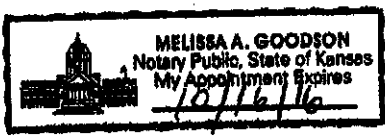
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year above written.

[SEAL]

  
Notary Public

My Commission Expires:  
\_\_\_\_\_

Printed Name: \_\_\_\_\_



**TRANSFeree:**

**LEE SUMMIT COVENANT GROUP, LLC,  
a Delaware limited liability company**

By: Covenant RE Management, Inc.  
a California corporation,  
its Managing Member

By:   
Stephen E. Thome, IV, its President

State of California )

County of Orange )

On May 22, 2013 before me, Kimberly M. Taylor, Notary Public (insert name and title of the officer) personally appeared Stephen E. Thome, IV, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Kimberly M. Taylor





**CITY:**

**THE CITY OF LEE'S SUMMIT, MISSOURI**

By: *[Signature]*

Print Name: Stephen A. Arbo

Title: City Manager

STATE OF Missouri )  
COUNTY OF Jackson )

ss.

On this 4 day of April, 2013, before me personally appeared Stephen A. Arbo, to me known, who being by me duly sworn, did say that he/she is the City Manager of The City of Lee's Summit, Missouri, a Missouri municipal corporation, that said instrument was signed on behalf of said corporation by authority of its City Council, and acknowledged said instrument to be the free act and deed of said corporation.

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



JINA M. MCPHERSON-BELLAMY  
My Commission Expires  
April 3, 2016  
Jackson County  
Commission #1247832

*[Signature]*  
Print Name: Jina M. McPherson-Bellamy  
Notary Public in and for said County and State

My Commission Expires:  
4/3/2016

**Exhibit "A"**

**Legal Description of Property**

**Lot 23, SUMMIT FAIR, THIRD PLAT, a subdivision in the City of Lee's Summit, Jackson County, Missouri.**

**Non-exclusive easements for ingress and egress over the common area, the passage and parking of vehicles, the passage and accommodation of pedestrians and incidental uses, utility lines, pedestrian and vehicular traffic within the access roads, the discharge of surface storm water drainage and/or runoff as established by the Construction, Operation and Reciprocal Easement Agreement dated as of July 31, 2008, and recorded as of August 13, 2008, as Instrument Number 2008E0087161, as amended by that certain First Amendment dated as of November 7, 2008, and recorded as of November 10, 2008, as Instrument Number 2008E0117315, in the Official Records of Jackson County, Missouri.**

**Non-exclusive easements for storm water drainage and detention as established by the Storm Water Drainage and Detention Easement Agreement dated May 15, 2007, recorded June 5, 2007, as Document No. 2007E0074477.**