

**MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING (the “**MOU**”) is made and entered into on this \_\_\_ day of \_\_\_\_\_, 2024, between **City of Lee’s Summit, Missouri**, a political subdivision of the State of Missouri (the “**City**”), and **Suburban Land Reserve, Inc.**, a Utah corporation (“**SLR**”), (each a “**Party**” and collectively the “**Parties**” as the context so requires).

**RECITALS**

1. SLR’s affiliate, Property Reserve, Inc., a Utah corporation (“**PRI**”), owns approximately 4,203 acres of property within the City as depicted in **Exhibit A** (the “**Property**”). SLR is under contract to purchase certain portions of the Property and anticipates purchasing the balance of the Property over time; after purchasing any portion of the Property, SLR intends to sell such portions of the Property to third parties for usage and development.

2. SLR and the City seek to coordinate regarding the planning, platting and zoning for development of the Property and the establishment of a financing plan for financing the construction of public infrastructure to serve development of the Property, as well as the attraction and inducement of certain private development to the Property. The Parties also seek to coordinate for the acquisition of portions of the Property for public institutional uses by the City, the Lee’s Summit R-7 School District, and possibly other governmental entities as the Property develops over time.

3. Through this MOU, the Parties seek to implement several of the purposes of the City’s Unified Development Ordinance (the “**UDO**”) as set forth in Section 1.040 of the UDO, including:

- A system of quality retail and commercial development that provides local residents with needed goods and services and enhances the City's tax base.
- A balanced transportation system that provides for safe and efficient movement of vehicles and pedestrians while re-enforcing surrounding land development patterns and that enhances and complements regional transportation facilities.
- Public facilities and services adequate to meet the needs generated for such facilities and services by development.

The Parties further seek to implement the purpose statement as set forth in Section 1.110 of the UDO which provides that, in order to prevent the premature development of land which might pose a threat to the health, safety or general welfare of the community at large, or the occupants of land in the particular area of the City, it shall be the policy of the City that no application for special use permit, preliminary or final development plan or preliminary or final plat shall be approved unless public facilities and services, which are adequate to serve the development, are either:

- Presently available,
- Are to be provided as a condition of approval of the application, or
- Are planned to be available reasonably concurrent with the anticipated impacts of the proposed development as determined by the affected utility, agency or department.

4. This MOU is intended to establish the Parties' intentions with respect to steps that will be taken by the Parties to:

- Move forward with SLR's sale of portions of the Property it acquires over time to facilitate development by third parties;
- Allow for the coordinated planning and development of the Property; and
- Establish a financing plan for the financing of significant public improvements that are needed to serve the Property as it develops over many years, as well as the attraction and inducement of certain private development to the Property.

## **AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties have hereby agreed as follows:

### **ARTICLE I**

#### **REPRESENTATIONS**

##### **Section 1.1 Representations by SLR**

SLR makes the following representations as the basis for the undertakings on its part herein contained:

- A. SLR is a Utah corporation, duly organized and in good standing and existing under the laws of the State of Utah.
- B. SLR has lawful power and authority to enter into this MOU and to carry out its obligations under this MOU. By proper action of its members, SLR has been duly authorized to execute and deliver this MOU, acting by and through its duly authorized members and officers.
- C. The execution and delivery of this MOU, the consummation of the transactions contemplated by this MOU, and the performance of or compliance with the terms and conditions of this MOU by SLR will not, to the knowledge of SLR, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under,

any mortgage, deed of trust, lease or any other restriction or any MOU or instrument to which SLR is a party or by which it or any of its property is bound.

- D. There is no litigation or proceeding pending or, to SLR's knowledge, threatened against SLR affecting the right of SLR to execute or deliver this MOU or ability of SLR to comply with its obligations under this MOU.

### **Section 1.2 Representations by City**

City makes the following representations as the basis for the undertakings on its part herein contained:

- A. City is a political subdivision of the State of Missouri.
- B. City has lawful power and authority to enter into this MOU and to carry out its obligations under this MOU. By proper action of its City Council, City has been duly authorized to execute and deliver this MOU, acting by and through its duly authorized officials.
- C. The execution and delivery of this MOU, the consummation of the transaction contemplated by this MOU, and the performance of or compliance with the terms and conditions of this MOU by City will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any ordinance, resolution, mortgage, deed of trust, lease or any other restriction or any MOU or instrument to which City is a party or by which is or any of its property is bound.
- D. There is no litigation or proceeding pending or, to the City's knowledge, threatened against City affecting the right of City to execute or deliver this MOU or the ability of City to comply with its obligations under this MOU.

## **ARTICLE II**

### **FUNDING PUBLIC INFRASTRUCTURE FOR THE PROJECT**

#### **Section 2.1 Description of the Project and Definitions**

“**North Tract**” means the northern portion of the Property, as depicted on **Exhibit A** attached hereto.

“**Project**” means the planning, design, engineering, funding and construction of public infrastructure that serves the Property as it develops over a period of years, along with the planning, zoning and other entitlement steps necessary to allow public and private development to occur on the Property.

“**South Tract**” means the southern portion of the Property, as depicted on **Exhibit A** attached hereto.

## **Section 2.2 Project Goals**

The Parties’ goals for the Project are as follows:

- To be proactive rather than reactive to development opportunities
- Provide comprehensive planning and zoning
- Provide long-term infrastructure financing plan
- Attract and induce certain private development
- Create certainty for development
- Avoid a piecemeal approach to infrastructure financing
- Secure available State and Federal funding for public infrastructure that is needed to serve the Project
- Take maximum advantage of the opportunity to work with one property owner in the initial stages to establish land-use and financing plans to achieve the goals above.

## **Section 2.3 Financing Plan**

The Parties will work to establish a long-term financing plan for public infrastructure and attracting and inducing certain private development, focusing on these categories of public infrastructure improvements:

- Sewer pump stations and associated improvements in the North Tract
- Improvements to Todd George Parkway in the North Tract
- Sewer interceptor lines in the South Tract
- Regional stormwater improvements
- Other major public infrastructure costs as agreed by the Parties
- “Site Specific” public improvements for specific development areas

The parties will investigate a financing plan that is expected to include a combination of funding from the City, funding that may be secured from the state and federal sources, and funding from financing tools that may be approved by the City including real property tax redirection or abatement, public improvement assessments (“**Assessments**”), and additional sales tax levies, utilizing statutory tools such as Chapter 100, Land Clearance for Redevelopment Authority, Community Improvement District (“**CID**”), and/or Transportation Development District (“**TDD**”). In general, real property tax redirection or abatement will be used to “make room” for Assessments, while add-on sales taxes will be levied against all sales-tax producing businesses.

The financing plan will utilize this general approach across all land use types, except for-sale single family residential developments, which will be excluded from the imposition of additional assessments and any forms of abatement but may be factored into the financing plan for the

purpose of accounting for City revenues from such development. Specific implementation of this approach to individual land use types (i.e., industrial, multi-family and other for-rent residential, retail, and office) may be tailored to best achieve the goals set forth above. For example, industrial projects may have a percentage abatement structure (known as a “floating” PILOT) that after assessments are levied still leaves market-competitive “net abatement” for industrial businesses, while multi-family projects may have a fixed-PILOT schedule.

## **Section 2.4 Sources of Funds**

The financing plan will focus on these primary sources of funds:

- Assessments
- Add-on sales tax revenue (TDD and/or CID sales tax revenue)
- City funding
- SLR funding
- State funds that have already been awarded to the City
- Additional federal and state funds that may be sought by the City and SLR

The Parties will work to cooperatively establish a targeted mix of funding contributions from the sources described above for financing public infrastructure. SLR and City staff will present the proposed financing plan to the City Council when it has been developed by the Parties.

The City Council may approve the financing plan by legislation, and may thereafter take additional actions to implement the financing plan which may include the issuance of municipal debt. If debt is contemplated, the Parties will evaluate the best issuer for this debt, which may include the City, a TDD, or a CID.

## **ARTICLE III**

### **LAND DEVELOPMENT**

#### **Section 3.1 Long-Term Land Use Plan**

The Parties acknowledge that they have already engaged in preliminary evaluations of land-use plans for development of the North Tract and South Tract. The Parties will work cooperatively to develop a mutually acceptable long-term land-use plan for development of the North Tract and South Tract. The land-use plan will identify appropriate private uses of the property, and also the possible location of institutional uses such as parks areas, fire stations, police sub-stations, schools, sewer pump stations, and other land uses associated with public facilities.

**Section 3.2 Land Use Guide**

The Parties agree that the land-use plan will be used as a guide for development of the property, just as the City uses the Ignite Comprehensive Plan as a guide for zoning decisions when development is proposed in the City. The City may adopt the SLR land use plan into the Ignite Comprehensive Plan after the document is prepared by the Parties.

**Section 3.3 Land Use Pursuant to the UDO**

The Parties agree that all final land-use decisions will be governed by the normal zoning process pursuant to the UDO, which requires City Council legislative approval.

**Section 3.4 Master Developer**

SLR will act as master developer for the North Tract and South Tract, as and when SLR acquires portions of such land over time. The financing plan discussed above will use assumptions, as mutually agreed by the Parties, with respect to the timing of SLR's acquisition of land for development.

**ARTICLE IV**

**REAL ESTATE TRANSACTIONS**

**Section 4.1 Real Estate Terms and Conditions**

The Parties will discuss potential real estate terms and conditions as follows:

- A. The Parties will discuss the potential terms and conditions under which the City and other governmental entities may acquire portions of the Property for governmental institutional uses. This discussion will include possible City land uses for parks, water and sewer improvements, stormwater improvements, transportation improvements, fire and police stations and sub-stations, and other public uses of property. The Parties will also evaluate the terms under which easements may be granted to the City for utilities that serve the Property.
- B. The discussion will include School District transactions for school property, and transactions that may involve other governmental entities.
- C. These discussions will include an evaluation of the consideration to be provided to SLR for the land transactions, and the volume of land that is expected to be needed for each type of public land use. The overall goal will be to identify the key terms and conditions under which these transactions will occur for development of the entirety of the North

Tract and South Tract. The Parties may enter into a real estate contract to memorialize these terms when the financing plan is finalized by the Parties.

**Section 4.2 Cooperation with Other Parties**

The Parties have already engaged in preliminary discussions with representatives of the Lee's Summit R-7 School District to evaluate land-use needs for the School District to provide for the location of additional schools as the Property develops. The Parties agree to continue these discussions with the School District, and also to engage in discussions with representatives of other governmental entities to identify land needs for other governmental institutional uses.

**ARTICLE V**

**GENERAL TERMS**

**Section 5.1 Intent**

The MOU is intended to be a cooperative effort to develop a long-term land-use development plan and financing plan for financing the construction of public infrastructure to serve development of the Property, as well as the attraction and inducement of certain private development to the Property.

**Section 5.2 Contractual Agreement**

This MOU is a contractual arrangement, but the Parties' obligations are limited to the discussions, investigations and cooperative efforts associated with the tasks described herein. Neither party is obligated by the MOU to fund any design, engineering or construction costs that may be associated with the public infrastructure or private development that is contemplated for the Property. The Parties may enter into other agreements, including the Cooperative Agreement discussed above, which will contain additional obligations on these matters.

**Section 5.3 Costs and Expenses**

Each Party will pay its own costs and expenses that may be incurred in carrying out the tasks and work described herein, and neither Party has any obligation to pay for the other Party's costs and expenses unless otherwise agreed in writing.

**Section 5.4 Construction and Enforcement**

This MOU shall be construed and enforced in accordance with the laws of the State of Missouri.

**Section 5.5 Execution of Counterparts**

This MOU may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**Section 5.6 Approval by City**

The City Council hereby delegates authority to the City Manager to take such further actions and sign such documents as deemed necessary to carry out the purpose and intent of this MOU. The City Manager, in his/her discretion, may seek the advice, consent or approval of City Council for any action that requires consent or approval by City Manager pursuant to this MOU.

**Section 5.7 Binding Effect**

This MOU shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

**Section 5.8 Electronic Transaction**

The transaction described herein may be conducted and related documents may be received, delivered or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 5.9 Tax Implications**

SLR acknowledges and represents that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to SLR any advice regarding the federal or state income tax implications or consequences of this MOU and the transactions contemplated hereby, and (2) SLR is relying solely upon their own tax advisors in this regard.

*[Remainder of this page intentionally left blank]*



IN WITNESS WHEREOF, the Parties hereto have executed this Development MOU pursuant to all requisite authorizations as of the date first above written.

**City of Lee's Summit, Missouri**

By: \_\_\_\_\_  
Mark Dunning, City Manager

Attest:

\_\_\_\_\_  
Trisha Fowler Arcuri, City Clerk

Approved as to form:

\_\_\_\_\_  
David Bushek,  
Chief Counsel of Economic Development & Planning

**Suburban Land Reserve, Inc.**

By: \_\_\_\_\_  
[NAME]

**EXHIBIT A**

**MAPS OF NORTH AND SOUTH TRACTS**

*[See attached]*