

**ROAD MAINTENANCE AGREEMENT**

**THIS ROAD MAINTENANCE AGREEMENT (“Agreement”)** is entered into this \_\_\_\_ day of October, 2024 by **CITY OF LEE'S SUMMIT, MISSOURI** (the “**City**”), and **OLDHAM INVESTORS, 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 Company is a limited liability company engaged in the business of land development, and is pursuing the Oldham Village project in Lee’s Summit generally located southwest of the intersection of Highways 50 and 291 in Lee’s Summit (the “**Project**”).

C. It is anticipated that the City and the Missouri Highways and Transportation Commission (“**MHTC**” or “**Commission**”) have or will enter into a Relinquishment Agreement which is attached hereto as **Exhibit A** and incorporated herein by reference, under which the City has agreed to accept title to approximately 0.226 Miles of US 50 which is part of Oldham Road, where shown on the exhibit attached to the Relinquishment Agreement (the “**City Relinquished Roadway**”).

D. It is anticipated that the Commission will consider approval of a separate agreement between Developer and the Commission under which the MHTC will relinquish or vacate and Developer will take title to approximately \_\_\_\_ acres of Oldham Road from the City Relinquished Roadway on the north to Jefferson Street on the south (the “**Developer Relinquished Roadway**”).

D. The parties seek to enter into this Maintenance Agreement to provide for the terms and conditions under which the City will accept the City Relinquished Roadway and Developer will provide security to the City for the risks assumed by the City from the acceptance of such roadway while the Project remains under consideration by the City. This agreement is designed to address the risks associated with the City’s accommodation to enter into the Relinquishment Agreement prior to the City Council rendering decisions on the Project requested incentives and zoning for the Oldham Village project, on the schedule requested by Drake Development (“**Developer**”). This agreement sets forth the terms under which security will be provided to the City by Developer in exchange for the City executing the City Road Relinquishment Agreement with MHTC prior to entering to any final contracts with developer for the Oldham Village project.

**AGREEMENT**

1. **Initial Security**: Developer will initially post security in an amount to cover the City’s anticipated cost associated with maintenance of the City Relinquished Roadway. The

following terms and conditions shall apply to this security instrument:

A. This security will be in the amount of **\$185,000**, which has been calculated to cover one 20-year life-cycle of the City Relinquished Road.

B. This security instrument has been provided to the City concurrently with the execution of this Maintenance Agreement.

C. This security instrument or, any replacement security, shall be a letter of credit, performance bond, or other instrument acceptable to the City Attorney. Such security instrument shall specify the term and conditions under which the security may be drawn upon to complete the designated improvements.

2. **Second Security**: Developer will post the second security in an amount to cover the City's anticipated cost associated with maintaining the Developer Relinquished Road pursuant to an agreement between Developer and MHTC. The following terms and conditions shall apply to this security instrument:

A. This security will be in the amount of **\$200,000**, which has been calculated to cover one 20-year life-cycle of the Drake Relinquished Road. This security instrument shall be provided to the City in final binding form prior to the time that Developer takes title to the Drake Relinquished Road from MoDOT.

B. This instrument will be a letter of credit, performance bond, or other instrument acceptable to the City Attorney. If this instrument involves the use of other funds due to Developer by the City pursuant to another contract between the parties, such as a payment stream due to Developer for another tax increment financing project in the City, then review of such instrument will be subject to bond council review for the City along with City Attorney review.

C. Developer shall not close the Drake Relinquished Road or take such road out of public service until demolition of such road is approved by the City pursuant to applicable City Code requirements. Such security instrument shall specify the term and conditions under which the security may be drawn upon to complete the designated improvements.

3. **Security to record Final Plat**. It is anticipated that, if the Project received favorable approvals from the City and Developer elects to proceed with the Project, then security for the Oldham Road relocation project, which is anticipated to occur as part of the overall Project, shall be provided in accordance with the requirements of the City's Unified Development Ordinance prior to recording the final plat for the Project, or prior to the recording of the first final plat if such plat will only cover a phase of the Project. It is anticipated that this security will cover the Oldham Road relocation and other public improvements which must be constructed in connection with the overall Project pursuant to a development agreement to be negotiated between the City and Developer.

4. **Termination.** This agreement shall terminate upon the earlier of (1) all of the security instruments discussed above are provided in accordance with this Agreement, or (2) Developer delivers written notice to the City that either (a) Developer elects to not proceed with the Project or (b) Developer is unable to secure the necessary approvals from governmental entities.

5. **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:

Oldham Investors, LLC  
7200 W. 132<sup>nd</sup> Street  
Suite 150  
Overland Park, KS

With a copy to:

Ralph Bellar  
Lewis Rice  
1010 Walnut  
Kansas City, MO 64106-2147

Each party may specify that notice be addressed to any other person or address by giving to the other party ten (10) days prior written notice thereof.

6. **Legal Representation.** The Company understands and acknowledges that this arrangement is an accommodation to the Developer in which the City's legal counsel is not providing legal representation to the Company and that no attorney-client relationship between the Company and the City's legal counsel shall exist by any reason.

7. **Further Approvals.** Developer acknowledges that nothing in this agreement shall bind the City to take any particular action requested by Developer for the Project. The City Council contains full legislative discretion to render all legislative decisions that are being requested by Developer for the Project, notwithstanding the parties actions pursuant to this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

**CITY OF LEE’S SUMMIT, MISSOURI**

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

[SEAL]

ATTEST:

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

Approved as to form:

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

**OLDHAM INVESTORS, LLC**

By:

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Name: Matt Pennington

Title: Manager