

**FIRST AMENDMENT TO THE AMENDED AND RESTATED
DEVELOPMENT AGREEMENT FOR THE PARAGON STAR PROJECT
BETWEEN PARAGON STAR, LLC AND THE CITY OF LEE'S SUMMIT, MISSOURI**

This FIRST AMENDMENT TO THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR THE PARAGON STAR PROJECT BETWEEN PARAGON STAR, LLC AND THE CITY OF LEE'S SUMMIT, MISSOURI (“**First Amendment**”) is made this ___ day of May, 2023, 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 January 5, 2021, the City and Developer executed the Amended and Restated Development Agreement For the Paragon Star Project (the “**Agreement**”) to establish the rights, duties and obligations of the parties for the construction of public improvements in connection with the Development; and

WHEREAS, the parties desire to amend the Agreement to adjust the sequence of construction for certain public improvements for the Development and allow for the use of the Sports Complex prior to the construction of certain public improvements; and

WHEREAS, the parties have freely negotiated in good faith and this First Amendment 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:

All words and terms that are not defined in this First Amendment shall have the meanings assigned to them in the Agreement.

1. Section 6.A. of the Agreement shall be amended to read as follows:

A. **Performance Security.** 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 contracts. Notwithstanding the foregoing, for the Interchange Improvements, including acquisition of property interests, multi-use trail, and MODOT permit fee, and the Internal Road, Paragon Parkway, as such terms are defined in **Exhibit C** (“Outstanding TDD Funded Projects”), upon execution of this Agreement, the Developer shall obtain a Performance Bond in the amount of \$8,200,000 to cover the costs for the construction or completion of construction of the Outstanding TDD Funded Projects. The Performance Bond shall name the City as a dual obligee and copies of such bond shall be delivered to the City via email and regular mail addressed to the City Manager, 220 SE Green Street, Lee’s Summit, Missouri, 64063.

In the absence of the acquisition of all property interests necessary for the construction of the Interchange Improvements by negotiation by June 20, 2023, the Parties agree to use their reasonable best efforts to achieve the timely and expedient condemnation of all

property interests necessary for the construction of the Interchange Improvements in such a manner that results in a commissioner's award filed with the Jackson County Circuit Court ("Court") by December 31, 2023. The District's counsel shall prosecute the condemnation action.

In the event the condemnation action is to be filed, the Parties agree to cause a meeting of the Board of Directors ("Board") of the I-470 Western Gateway Transportation Development District (the "District") to be held during the months of July, September and November of 2023, and every other month thereafter in 2024 until the Interchange Improvement is advertised for bid. At said District Board meetings the Board shall receive a status report from the District condemnation counsel of the condemnation action and Board shall discuss the Interchange Improvements construction schedule, and provide direction regarding same. Subsequent Board meetings shall be held when scheduled. The Missouri Highways and Transportation Commission Final Plans for Proposed State Highway Project No. J413470 / STP- 3400 (444) Jackson County ("Final Plans") shall be completed by December 31, 2023 and ready for bid.

In the event a commissioner's award is not filed with the Jackson County Circuit Court ("Court") by December 31, 2023 or the Final Plans are not completed by December 31, 2023, the City shall have the ability to pursue the release of performance bond proceeds for the payment of costs related to the Interchange Improvements. The City shall provide the Developer twenty (20) days written notice of its decision to pursue the release of performance bond proceeds. Once the Interchange Improvements are completed, and in the event Paragon Parkway is not completed, any remaining performance bond proceeds shall be used to complete the construction of Paragon Parkway. Once the Interchange Improvements and Paragon Parkway are constructed, any remaining performance bond proceeds shall be returned to the performance bond surety.

2. The Developer agrees that it will not request any additional funds to be paid from the proceeds of the Transportation Sales Tax Revenue Bonds Series 2019 issued by the Western Gateway Transportation Development District other than for costs related to the Interchange Project and Paragon Parkway.
3. **Sports Complex.** The Developer will enter into an escrow agreement with a financial institution or advisor designated by the Developer to hold funds sufficient to pay costs related to the completion of the Sports Complex and the parking lot to the north of the Sports Complex (the "Remaining Sports Complex Improvements") in the amount of \$6,000,000. The money held by the financial institution or advisor shall be disbursed for costs of the Remaining Sports Complex Improvements, or to reimburse the Developer for the costs of the Remaining Sports Complex Improvements. The City will be designated as a third-party beneficiary of the escrow agreement with the financial institution or advisor. On a monthly basis the Developer will share with the City Manager the Paragon Star Billing & Payment Summary by Bid Package maintained by Fogel Anderson reflecting the invoicing, payments, retainage, balance due to invoice, and pending/proposed change orders accounting for Bid Package 8 Sports Complex and the portion of Bid Package 4 related to the KCMO Improvement parking lot. In the event the Bid Package 8 Sports Complex and Bid Package 4 KCMO Improvement parking lot construction is not completed by December 31, 2023, the City may request disbursement of funds held pursuant to the escrow agreement to pay the Remaining Sports Complex Improvements. In the event the Bid Package 8 Sports Complex and Bid Package 4 KCMO Improvement parking lot construction is completed, and the

contractors are paid in full, the Parties will allow any remaining funds in the Remaining Sports Complex Improvements account returned to the Developer, including any interest earned during the term of the escrow agreement.

4. **Cedar Creek Connection.** The Developer will enter into an escrow agreement with a financial institution or advisor designated by the Developer to hold funds in the amount of \$50,000, or less depending on awarded construction bid amount plus an easement value of \$5,000, to pay costs related to the completion of the water main connection from the water main installed from Chipman Road to the Village to the existing water main servicing the Cedar Creek subdivision, including any necessary easements (the “Remaining Water Main Improvements”). The moneys held by the financial institution or advisor shall be disbursed for costs of the Remaining Water Main Improvements, or to reimburse the Developer for the costs of the Remaining Water Main Improvements. The City will be designated as a third-party beneficiary of the escrow agreement with the financial institution or advisor. On a monthly basis the Developer will share with the City Manager the costs related to the Remaining Water Main Improvements reflecting the invoicing, payments, retainage, balance due to invoice, and pending/proposed change orders. In the event the Remaining Water Main Improvements construction is not completed by December 31, 2023, the City may request disbursement of funds held pursuant to the escrow agreement to pay the Remaining Water Main Improvements; notwithstanding the foregoing in the event the power of eminent domain is exercised to acquire any necessary easements the December 31, 2023 deadline shall be extended by the number of days of delay caused by the condemnation action. In the event the Remaining Water Main Improvements are completed, and the contractors are paid in full, the Parties will allow any remaining funds in Remaining Water Main Improvements account be returned to the Developer, including any interest earned during the term of the escrow agreement.
5. Exhibit C of the Agreement shall be deleted and replaced with the attached Exhibit C.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on 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 and Planning*

Notary for City of Lee's Summit

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

BE IT REMEMBERED, that on this ____ day of March, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Mark Dunning, the City Manager of the City of Lee's Summit, Missouri, a City duly incorporated and existing under and by virtue of the laws of the State of Missouri, who are personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

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]

PARAGON STAR, LLC

Name: _____

Date: _____

Notary for Paragon Star, LLC

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

BE IT REMEMBERED, that on this ____ day of March, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came _____, the _____ of Paragon Star, LLC, who is personally known to me to be the same person who executed the within instrument on behalf of said entity, and such person duly acknowledged the execution of the same to be the act and deed of such entity.

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 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**” collectively 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 the restriping of View High Drive to match the original four-lane configuration, a multi-use trail to be located along the east side of View High Drive from the interchange south to Chipman Road, and 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 any use located 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 use located in the Village.

2. **KCMO Improvements** – The “**KCMO Improvements**” consist of construction of 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 Village Phase 1 and Village Phase 2 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 Village Phase 1 and Village Phase 2 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 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, and striping. No temporary or final certificates of occupancy shall be issued for use of the athletic fields and any structures within the Sports Complex, until a certificate of substantial completion has been issued for all “Internal Roads” except Paragon Parkway for which a certificate of substantial completion is not required for a temporary certificate of occupancy for use of the athletic fields and any structures within the Sports Complex.
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** – Temporary or final certificates of occupancy may be issued by the City for use of the athletic fields and any structures within the Sports Complex on a proportionate basis per the amount of parking that 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 until 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 Village Phase 1 and Village Phase 2.

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.