

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (hereinafter "**Agreement**") is made and entered into as of the date it is executed by the last party to sign (hereinafter "**Effective Date**") by and between **the City of Lee's Summit, Missouri**, a Missouri municipal corporation, (hereinafter "**Buyer**"), whose address is 220 SE Green Street, Lee's Summit, MO 64063 and **PremierLife Real Estate Holdings**, a Missouri not for profit corporation, (hereinafter "**Seller**"), whose address is 400 NW Murray Road, Lee's Summit, Missouri 64081.

WITNESSETH:

WHEREAS, Seller is the owner of certain real property located generally on the west side of NW Pryor Road, between NW O'Brien Road and SW 1st Street, legally described in **Exhibit A**, attached hereto and incorporated by reference herein (hereinafter the "**Property**"); and

WHEREAS, on November 7, 2016, Buyer and Seller entered into a Memorandum of Understanding, as amended (the "**MOU**"), which set forth certain terms and conditions concerning the transfer of the Property from Seller to Buyer for the purpose of constructing a new Fire Station No. 3, in exchange for certain considerations to be provided by Buyer to Seller; and

WHEREAS, the parties have subsequently entered into an Amendment to said MOU "hereinafter "Amendment No. 1" which is effective as of the execution of this Agreement; and,

WHEREAS, Seller desires to sell and convey the Property to Buyer, and Buyer desires to buy and accept conveyance of the Property from Seller subject to the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge by their execution and delivery hereof, the parties agree as follows:

SECTION 1: PURCHASE AND SALE OF THE PROPERTY

Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, the Property, which is located in Lee's Summit, Jackson County, Missouri, more particularly described in the attached **Exhibit A**, at Closing, (defined herein), free and clear of all liens and encumbrances other than the Permitted Exceptions (defined herein).

SECTION 2: CONSIDERATION FOR PROPERTY

The total purchase price for the property shall be **ONE AND 00/100 DOLLARS (\$1.00)** (hereinafter "**Purchase Price**"). The Purchase Price, subject to any adjustments as hereinafter provided, shall be payable by Buyer to Seller on the Closing Date (as defined hereinafter).

SECTION 3: ESCROW INSTRUCTIONS

No Earnest Money shall be required for this transaction. Within five (5) business days of the Effective Date, the parties shall deposit a fully executed copy of this Agreement to Assured Quality Title Company (hereinafter "**Title Company**"). This Agreement shall serve as escrow instructions.

SECTION 4: TITLE COMMITMENT, TITLE POLICY AND SURVEY; ENVIRONMENTALS

Within fifteen (15) days of the Effective Date, Seller shall obtain and deliver to Buyer a title insurance commitment (hereinafter "**Title Commitment**") issued by Title Company, pursuant to which the Title Company shall agree to issue to Buyer, at Buyer's sole expense, an owner's policy of title insurance (hereinafter "**Title Policy**") in the amount of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00), insuring marketable fee simple title to the Property for Buyer at Closing, together with legible copies of all documents identified therein as exceptions to title (excluding any mortgages, deeds of trust and similar matters to be released at Closing). Buyer shall assume the costs of any requested endorsements to the Title Policy. Seller will not be deemed in default of this Agreement in the event that Seller has requested the Title Commitment from the Title Company and the Title Company has failed to produce it within such fifteen (15) business day period.

SECTION 5: DUE DILIGENCE PERIOD AND CONDITIONS

Buyer shall have the license and right for a period of thirty (30) days from the date of this Agreement to enter the Property from time to time during normal business hours for the purpose of conducting any necessary inspections or evaluations of the Property for the purpose of determining whether, in the sole discretion of Buyer, the Property is viable for the use as intended, which is the construction of a replacement Fire Station No. 3 for the City of Lee's Summit, Missouri.

Further, the parties agree that Buyer was previously extended the right, at its sole cost and expense, to procure a current Phase I Environmental Survey (hereinafter "**Environmental Survey**") of the Property for review and consideration during the Due Diligence Period. Buyer shall order the Environmental Survey within five (5) days of the Effective Date.

Buyer shall have ten (10) days after its receipt of the Title Commitment and the Environmental Survey (hereinafter "**Due Diligence Period**") to review the Title Commitment and notify Seller of any items shown or any observations made regarding the Property in connection with its intended use that Buyer, in its' sole discretion, finds objectionable (hereinafter "**Buyer's Objections**"). If Buyer fails to deliver Buyer's Objections within the Due Diligence Period, then all title exceptions disclosed on the Title Commitment shall constitute "**Permitted Exceptions**" and Buyer shall be obligated to proceed with Closing notwithstanding any uncured Buyer's Objections, in which event there shall be no adjustment to the Purchase Price.

If Buyer delivers Buyer's Objections within the Due Diligence Period, then Seller shall have the right, but not the obligation, to cause to be cured all such objections to the extent that they may be cured, and to give written notice of such cure to Buyer within fifteen (15) days of the Seller's receipt of Buyer's Objections. In the event that Buyer delivers Buyer's Objections as described herein, the Closing Date may be extended at Seller's discretion for up to fifteen (15) days. If Seller fails to, is unable to, or elects not to

cure any such objections within said cure period, Buyer may terminate this Agreement by providing Seller with written notice of termination within ten (10) days following the expiration of said cure period. If Buyer does not terminate this Agreement within such ten (10) day period, Buyer shall be deemed to have waived Buyer's Objections. If Buyer terminates this Agreement in accordance with this Section, neither party shall have any further rights or obligations hereunder or otherwise, and this Agreement shall be terminated.

SECTION 6: CONDITION OF THE PROPERTY

A. Buyer's Acknowledgement. Buyer acknowledges that Buyer is familiar with the Property being purchased pursuant to this Agreement and has relied on Buyer's knowledge of the Property, as well as the information which shall be gathered during the Due Diligence Period, rather than any representation of the Seller in connection with Buyer's negotiations with the Seller. Buyer acknowledges that Buyer has visited the Property and made a physical inspection, to Buyer's satisfaction, of the Property to be transferred to Buyer pursuant to this Agreement, or has waived its right to visit and inspect the Property. Buyer shall have the right to make such further reasonable inspections of the Property prior to Closing as Buyer shall desire. All inspection costs shall be borne solely by Buyer, and Buyer agrees to indemnify and hold the Seller, its employees, agents, and attorneys, harmless against all liability, loss, cost, and expense, including, but not limited to, attorneys' fees, arising out of any and all damage to persons or property, including, but not limited to, the Property, as a result of any such inspections conducted by Buyer or its agents. Buyer's obligations imposed by this paragraph shall survive the termination of this Agreement.

B. Statement of Seller. The Seller makes no warranty or representation whatsoever, express or implied, regarding the condition, or the fitness for any particular purpose or use, of the Property being described herein. Buyer acknowledges and agrees that the Buyer is purchasing the property "As Is" and "Where Is" on the Closing Date. The closing of this purchase by Buyer shall constitute an admission by Buyer of Buyer's complete satisfaction, solely in reliance upon Buyer's inspection of the Property, if any, with the condition of the Property, and after the closing, Buyer shall not be entitled to make or assert any claim against the Seller with respect to the condition of the Property or with respect to any warranty or representation in respect thereof, none having been made by the Seller.

SECTION 7: REPRESENTATIONS AND WARRANTIES

A. Buyer's Representations and Warranties. In order to induce Seller to enter into this Agreement and to effectuate the sale of the Property, Buyer hereby represents and warrants to Seller as of the Effective Date and as of the Closing as follows:

1. Buyer is the entity specified in the introductory paragraph of this Agreement and is qualified to do business and in good standing under the laws of the State of Missouri;
2. Buyer has been duly authorized to enter into and perform its obligations under this Agreement, which is valid, binding and enforceable against Buyer in accordance with its terms (subject to general creditor's rights and equitable principles) and does not violate any agreement or judicial order to which Buyer is a party or to which it is subject.

B. Seller's Representations and Warranties. In order to induce Buyer to enter into this Agreement and to effectuate the sale of Property, Seller hereby represents and warrants to Buyer as of the Effective Date and as of the Closing as follows:

1. Seller is the entity specified in the introductory paragraph to this Agreement and is qualified to do business and in good standing under the laws of the State of Missouri; and
2. Seller has been duly authorized to enter into and perform its obligations under this Agreement, which is valid, binding, and enforceable against Seller in accordance with its terms (subject to general creditor's rights and equitable principles) and to Seller's knowledge does not violate any agreement or judicial order to which Seller is a party or to which it or the Property is subject;
3. There is not now pending nor, to Seller's knowledge has there been threatened, any investigation, demand, action, suit, or proceeding relating to the Property before or by any agency, court, or other governmental authority. Seller has not received any notice from any federal, state, county or municipal governmental authority alleging any fire, health, safety, building, pollution, environmental, zoning or other legal violation with respect to the Property, which has not been entirely corrected in accordance with applicable law. To Seller's knowledge, the Property is not in violation of any applicable law.
4. To Seller's knowledge, no hazardous materials have been released at the Property, and none are currently located on the Property which are not being stored and maintained in accordance with all applicable laws.
5. There are no special assessments, takings, or other governmental actions filed, pending or, to Seller's knowledge, proposed, against the Property.
6. There are no option or right-of-first-refusal agreements affecting the Property.

SECTION 8: COVENANTS

From and after the Effective Date and until the Closing or earlier termination of this Agreement:

A. Title. Seller shall not convey any right, title or interest in or to the Property, or create or permit any new title exceptions with respect to the Property without Buyer's consent, other than exceptions to be cured by Closing.

B. Physical Condition and Operation. Seller will manage, operate, insure and maintain the Property in the same manner and condition as before the Effective Date, reasonable wear and tear excepted; without limiting the generality of the foregoing, Seller will not alter the Property or commit or permit waste to the Property without Buyer's consent.

C. Exclusivity. Seller agrees not to market or show the Property to any other prospective purchasers or to solicit, entertain, or accept any offers for the Property from any other prospective Purchasers.

SECTION 9: CLOSING AND POSSESSION

Provided all conditions to Closing set forth in this Agreement have been satisfied or waived, and this Agreement has not been terminated by either party in accordance with the provisions herein set forth, the transaction contemplated herein shall be closed on or before such date that is not later than thirty (30) days following the expiration of the Due Diligence Period, or such other earlier date that is mutually agreed upon, in writing, by the parties. If Closing is to occur on a Saturday, Sunday, or legal holiday, the Closing date shall be tolled to the next ensuing business day.

At Closing, Seller shall convey fee simple title to the Property to Buyer by general warranty deed, subject to any lien for real property taxes and assessments for the year in which the Closing Date occurs and any

subsequent year, as well as building and zoning laws, ordinances and restrictions, utility easements, recorded easements, rights-of-way of record, deed restrictions, use and occupancy restrictions, all other matters of record, and all Permitted Exceptions. The general warranty deed shall be in substantially the form attached hereto as **Exhibit B**. Any easements of record that exist or have previously existed on the Property in favor of the City or the public shall be reserved and re-adopted.

At Closing, Buyer shall deliver the Purchase Price as set forth in Section 2, above, to Seller in cash.

SECTION 10: PURCHASE PRICE ADJUSTMENTS

A. Seller's Closing Costs. Seller shall pay the following expenses at or before Closing:

1. One-half of the customary closing or escrow fees of the Title Company.

B. Buyer's Closing Costs. Buyer shall pay the following expenses at or before Closing:

1. All costs to conduct its Due Diligence and inspections of the Property, including a Survey, if any.
2. All costs of examinations, fees and premiums for the Title Commitment and Title Policy, including the cost of any requested endorsements to the Title Policy.
3. One-half of the customary closing or escrow fees of the Title Company.
4. All costs to record the deed and all other recordable documents at Closing.

D. Broker's Commissions. Seller represents and warrants to Buyer that no broker or any other person other than Newmark Grubb Zimmer, acted on their behalf as agent for the transaction contemplated in this Agreement. Seller agrees to indemnify and hold the Buyer harmless from and against any and all damage, loss, claims and costs (including attorneys' fees and court costs) incurred by Buyer as a result of the falsity of the immediately preceding sentences of this Paragraph. The provisions of this paragraph shall survive Closing or termination of this Agreement.

Buyer represents and warrants to Seller that no broker or any other person acted on their behalf as agent for the transaction contemplated in this Agreement. Buyer agrees to indemnify and hold the Seller harmless from and against any and all damage, loss, claims and costs (including attorneys' fees and court costs) incurred by Seller as a result of the falsity of the immediately preceding sentences of this Paragraph. The provisions of this paragraph shall survive Closing or termination of this Agreement.

SECTION 11: RISK OF LOSS

Seller bears the risk of loss, destruction or damage to the Property until Closing. In the event of damage to the Property by fire or other casualty prior to Closing, this Agreement may be terminated at the option of Buyer, which option shall be exercised, if at all, by Buyer's written notice thereof to Seller within five (5) days after ascertaining the amount of recoverable insurance proceeds, and upon the exercise of such option by Buyer, this Agreement shall become null and void and neither party shall have any further liability or obligations hereunder, except as otherwise provided in this Agreement. If Buyer

does not so elect to terminate, then this Agreement shall remain in full force and effect and Seller shall assign and transfer to Buyer on the Closing Date all of Seller's right, title and interest in and to all insurance proceeds paid or payable to Seller on account of such fire or casualty.

SECTION 12: RIGHT OF FIRST REFUSAL

Buyer hereby grants to Seller a continuing right of first refusal to purchase the Property. In the event that Buyer elects to sell the Property and receives a bona fide offer to purchase, whether verbal or written, that Buyer is prepared to accept, Buyer shall immediately notify Seller of all of the material terms of such offer ("**Buyer's Offer**"), including any written correspondence and documentation provided therewith. Seller will have thirty (30) days from the submission of the terms of said offer by Buyer to Seller to exercise its right of first refusal. In the event that Seller exercises its right of first refusal, Seller and Buyer shall promptly negotiate and execute a Contract for Sale, which Contract for Sale shall contain the same terms and conditions that are set forth in Buyer's Offer. In such event that Seller does not exercise its right to purchase the Property on the terms set forth in Buyer's Offer, then Buyer will have one hundred eighty (180) days thereafter to complete a sale of the Property with the prospective buyer on said terms and conditions. In such event that a sale transaction is not consummated, or if such sale contract is not executed in accordance with the terms and conditions set forth in Buyer's Offer, then, thereafter Seller's right of first refusal will continue to be in full force and effect and Seller shall have the right to review the transaction on the basis of any such modified terms, in accordance with the process previously set forth herein. Seller's right of first refusal shall not apply to circumstances where the Property is assigned, transferred or conveyed to an entity controlled by, controlling, or under common control with Buyer. Buyer and Seller shall execute a Right of First Refusal Agreement and Memorandum. The Memorandum shall be recorded with the Jackson County Recorder of Deeds Office.

SECTION 13: RIGHT TO REPURCHASE

A. Buyer and Seller agree that Seller shall have the right to re-purchase the Property (the "**Right to Repurchase**") if, within eighty four (84) months following the issuance of the Public Safety Bonds which were authorized by the voters of the City of Lee's Summit for the construction of a new Fire Station #3 on or about November 8, 2016 (such period, the "**Term**"), Buyer has failed to substantially complete any of the following public improvements:

1. Provide platting services for the proposed Lots 1, 2 and 3 of the commercial development proposed by PremierLife; PremierLife shall be responsible for platting of remaining parcels and lots.
2. Construction of the NW Shamrock Avenue from NW Pryor Road to the western limits of the public right-of-way dedicated to Buyer along the north side of the Property.
3. Construction of a driveway with shared access easement between the Property and the adjacent parcel between the Property and NW Pryor Road (a tier one frontage lot), said shared access driveway and easement to be located from the proposed NW Shamrock

Avenue right-of-way towards the south property line, and to be formally identified during the platting process.

4. Construction of a driveway apron/stub in alignment with the shared driveway noted in Section 13.A(3) located along the north side of proposed NW Shamrock Avenue.
5. Construction of a northbound left-turn lane along NW Pryor Road at the intersection of NW Shamrock Avenue.
6. Install, or cause to be installed, utility extensions, to include water, sewer, electric and gas, which will be adequate to support future development of the Development Area, inclusive of and terminating at the Property. Specifically, Buyer will construct, or cause to be constructed, through cooperation with any private developer, as may be applicable, 400' of 8" sanitary sewer main to be located approximately on the east side of the proposed Lot 1 and extending generally along the proposed NW Shamrock Avenue, for the purposes of providing a public sanitary sewer main. The public main will serve Lot 1. The public sanitary sewer main will also provide access to Lot 3, with the final connection point being determined during the design and development process for Lot 3. A sanitary sewer wye connection will be constructed in accordance with the City of Lee's Summit's Design and Construction manual south of Manhole 28-119 to provide a service connection to Lot 2. The construction of the 8" sanitary sewer main extension will not take place until such time as the Buyer is able to successfully negotiate the extension with future residential development which is proposed and pending. The construction of the wye connection south of Manhole 28-119 will occur with the construction of Fire Station #3 unless the permanent sewer extension referenced herein is completed contemporaneously with the construction of Fire Station #3. Buyer and Seller agree that electricity access is already available to the area to be platted, and is located along the west side of NW Pryor Road, and further agree that power may be accessed by the area to be platted as development occurs by each developer of the lot or lots to be developed.
7. Buyer will initiate re-zoning of the area of property which has been defined in the Amendment No. 1 to Memorandum of Understanding, including the parcel which is the subject of this Agreement, to P-MIX.

Notice that all of the public improvements set forth in (1) through (7) above have been completed shall be provided by Buyer to Seller upon the earlier of (i) ten (10) days following completion of the public improvements; or (ii) ten (10) days following the expiration of the Term (the "**Condition Notice**"). Upon Seller's receipt and reasonable approval of the Condition Notice, Seller's Right to Repurchase shall automatically extinguish. Seller shall, within five (5) business days following its receipt and reasonable approval of Buyer's Condition Notice, document such extinguished right by filing of record a notice releasing Seller's Right to Repurchase. A copy of the recorded release of Seller's Right to Repurchase shall be provided to Buyer within two (2) business days of such recording.

B. In the event that Buyer has failed to complete any of the public improvements set forth in paragraph A, above, on or before the expiration of the Term, Seller shall have thirty (30) days following the expiration of the Term in which to notify Buyer (the "**Repurchase Notice**") of Seller's election to close upon its Right to Repurchase (the "**Repurchase Closing**"). The Repurchase Closing shall be effectuated upon the following terms and conditions:

1. The Repurchase Closing shall occur no later than ninety (90) days following the date of the Repurchase Notice;
2. Upon the date of the Repurchase Closing, Seller shall pay to Buyer an amount equal to the Purchase Price (the "**Repurchase Price**") by either guaranteed funds or a cashier's check;
3. Buyer shall immediately, upon receipt of said Repurchase Price, tender to Seller a duly authorized, properly executed and notarized special warranty deed to the Property (the "**Repurchase Deed**"), conveying good and marketable title to the Property, subject to all Permitted Exceptions and encumbrances existing upon the date of the general warranty deed from Seller to Buyer and otherwise reasonably approved by Seller. Seller shall timely cause the Repurchase Deed to be made of record following receipt thereof from Buyer;
4. Within 48 hours of the date of the Repurchase Deed, Buyer shall have removed from the Property any and all personnel, equipment, materials, and other possessions of Buyer, and shall deliver possession of the Property to Seller upon the date of such Repurchase Deed;
5. Following the delivery of the Property to Seller as provided herein, Buyer shall have no continuing obligation to Seller pursuant to this Agreement, except for those provisions which expressly survive the Closing or termination of this Agreement.

C. It is understood that the Right of Repurchase is to be construed as being subservient to the agreed to provisions of the Right of First Refusal. The Right to Repurchase is requested as measure of last resort to ensure that Seller has the option to regain control of the Property in the event the Buyer is unsuccessful in completing the public improvements.

D. The provisions described in this Section 13, including their implementation, shall be memorialized in a separate agreement to be executed by Buyer and Seller and recorded at Closing.

E. Seller shall pay the costs to record the Repurchase Deed and Buyer shall pay the costs to record any release filed in connection with the Right of Repurchase.

SECTION 14: DEFAULTS AND REMEDIES

A. Seller Default. If Seller defaults in the performance of any of its covenants under this Agreement and fails to cure such default within ten (10) days after notice thereof from Buyer to Seller, then Buyer may, as its sole remedy, terminate this Agreement by written notice to Seller and pursue any rights or remedies available at law for reimbursement of out-of-pocket expenses incurred.

B. Buyer Default. If Buyer defaults in the performance of any of its covenants under this Agreement and fails to cure such default within ten (10) days after notice thereof from Seller to Buyer, then Seller may, as its sole remedy, terminate this Agreement by written notice to Buyer and pursue any rights or remedies available at law for reimbursement of out-of-pocket expenses incurred.

SECTION 15: ATTORNEYS' FEES

If either party obtains a judgment against the other party by reason of a breach of this Agreement, reasonable attorneys' fees as fixed by the Court shall be included in such judgment.

SECTION 16: NOTICES

All notices hereunder shall be sent by overnight delivery service or mailed by registered certified mail, postage prepaid, return receipt requested, to the address set forth below or such other substitute address as may be hereafter specified to the other party by notice given pursuant hereto:

If to Seller:

PremierLife
400 NW Murray Road
Lee's Summit, Missouri 64081

With a copy to:

Husch Blackwell LLP
4801 Main Street, Suite 100
Kansas City, Missouri 64112
Attn: Chris Kline

If to Buyer:

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

SECTION 17: HEADINGS

The headings used in this Agreement have been inserted for convenience and reference only, and shall not be deemed to modify or restrict any provision hereof, nor be used to construe any such provision.

SECTION 18: GOVERNING LAW

This Agreement shall be deemed to have been made within the County of Jackson, State of Missouri, and shall be interpreted, construed and enforced in accordance with the laws of the State of Missouri and before the Courts of Missouri in the County of Jackson.

SECTION 19: WAIVER

No delay or omission by either of the parties hereto in exercising any right or power accruing upon the non-compliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions, or agreements hereof to be performed by the other party shall not be construed to be a waiver of any subsequent breach thereof of any other covenant, condition or agreement herein contained.

SECTION 20: SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and bind the parties hereto and their respective successors and assigns. Neither party shall assign this Agreement without the other's prior written consent, except that Buyer may assign the Agreement to a related entity of the Buyer or to an affiliated entity without obtaining Seller's prior written consent, in which case the assignor shall be released from all obligations under this Agreement so long as such obligations are assumed by the assignee

SECTION 21: TIME OF THE ESSENCE

Time is of the essence, and all deadlines set forth herein shall be strictly adhered to by the parties.

SECTION 22: COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of them will, for all intents and purposes, be deemed an original.

SECTION 23: ENTIRE AGREEMENT; AMENDMENT

This Agreement contains the entire agreement with respect to the transactions contemplated herein and therein, and there are no other terms, conditions, promises, understandings, statements or representations, express or implied, concerning the same. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties unless reduced to writing and signed by them.

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

BUYER:

CITY OF LEE'S SUMMIT, MISSOURI

By: _____

Name: William Baird

Title: Mayor

SELLER:

PREMIERLIFE REAL ESTATE HOLDINGS

By: _____

Name: _____

Title: _____

EXHIBIT A