

**THIRD AMENDMENT TO  
REAL ESTATE SALE AGREEMENT**

THIS THIRD AMENDMENT TO REAL ESTATE SALE AGREEMENT (“**Amendment**”) is entered into effective as of the \_\_\_ day of July, 2023 (the “**Effective Date**”), by and between the **CITY OF LEE’S SUMMIT, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (“**Seller**”), and **ARCHVIEW PROPERTIES, LLC**, an Indiana limited liability company, d/b/a Archview Investors, LLC in the State of Missouri, its successors and assigns (“**Purchaser**”).

**RECITALS:**

A. WHEREAS, Purchaser and Seller have entered into that certain Real Estate Sale Agreement dated February 23, 2022, as amended (collectively, the “**Agreement**”) whereby Seller has agreed to sell and Purchaser has agreed to buy certain real estate situated at the southwest corner of NE Tudor Road and NE Douglas Street in Lee’s Summit, Missouri, as more particularly described therein.

B. Seller and Purchaser now desire to amend the Agreement on the terms set forth below.

**NOW THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Purchaser agree as follows:

1. **Closing Date; Closing Extension Payments.**

The “**Closing Date**” for this transaction shall be the date that is selected by the Purchaser by at least three (3) days written notice to the Seller, which date shall be no later than December 21, 2023 (the “**Closing Date**”), provided that all conditions precedent to the Closing have been fulfilled or have been waived in writing by the respective party entitled to waive same.

2. **Approvals Period.** The parties acknowledge and agree that the Approvals Period currently expires on June 28, 2023. Within three (3) business days after the Effective Date of this Amendment, Purchaser shall deposit XXX and No/100 Dollars (\$XXX) (the “**Initial Approvals Period Extension Payment**”) with the Title Insurer which shall extend the expiration of the Approvals Period to 11:59 p.m., central time, on August 1, 2023; provided, however, that Purchaser’s XXX and No/100 Dollars (\$XXX) deposit for a Closing Date extension pursuant to Section 10(a) of the Agreement shall be treated as the Initial Approvals Period Extension Payment. Subsequently, beginning on August 1, 2023, and continuing through November 1, 2023, Purchaser may elect to extend the expiration of the Approvals Period to 11:59 p.m., central time, on the first day of the month following the expiration of the then applicable Approvals Period by depositing XXX and No/100 Dollars (\$XXX) (each an “**Approvals Period Extension Payment**”) with the Title Insurer on August 1<sup>st</sup>, September 1<sup>st</sup>, October 1<sup>st</sup>, and November 1<sup>st</sup>, respectively (for purposes of clarification, Purchaser’s deposit of an Approvals Period Extension Payment on August 1<sup>st</sup> shall extend expiration of the Approvals Period to September 1<sup>st</sup>; an Approvals Period deposit made on September 1<sup>st</sup> shall extend expiration of the Approvals Period to October 1<sup>st</sup>, etc.).

Lastly, Purchaser may elect to extend the expiration of the Approvals Period from December 1, 2023, to 11:59 p.m., central time, on December 11, 2023, by depositing XXX and No/100 Dollars (\$XXX) (the “**Final Approvals Period Extension Payment**”) with the Title Insurer on December 1, 2023. The Initial Approvals Period Extension Payment, each Approvals Period Extension Payment, and the Final Approvals Period Extension Payment shall be applicable to the Purchase Price at Closing but shall be non-refundable to Purchaser, except in the event of a default by the Seller; provided that, at Closing, the Approvals Period Extension Payment for the month of Closing shall be prorated based on the timing of Closing during such month and credited to Purchaser at Closing.

3. **Seller’s Default.** Section 18(b) of the Agreement shall be deleted in its entirety and replaced with the following:

“(b) If the Seller defaults in any material respect hereunder, and such default is not cured within ten (10) business days after written notice to Seller, the Purchaser may, at its sole election, either: (1) terminate this Agreement, whereupon the Earnest Money, any Extension Fees, the Initial Approvals Period Extension Payment, the Approvals Period Extension Payments, and the Final Approvals Period Extension Payment paid hereunder shall be immediately returned to the Purchaser, and neither party shall have any further liability or obligation to the other, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement; or (2) assert and seek judgment against the Seller for specific performance, provided that if a court of competent jurisdiction determines that the remedy of specific performance is not available to the Purchaser (for example, but not in limitation, because the Seller’s default arose under the last sentence of **Section 6(c)** or the Seller has sold all or any portion of the Property to a third party in violation of the terms of this Agreement), then the Purchaser shall have all remedies available to it at law or in equity, including, without limitation, the right to seek judgment against the Seller for actual contract damages. The Purchaser may not exercise its remedies hereunder if the Purchaser is in default in any material respect under this Agreement.”

4. **Miscellaneous.** All capitalized terms used this in this Amendment but not otherwise defined herein shall have their same meanings as set forth in the Agreement. The parties hereby ratify and affirm the Agreement, which Agreement shall remain in full force and effect, except as specifically modified by this Amendment. This Amendment shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. This Amendment may be signed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. For purposes of this Amendment, any signature transmitted by facsimile or e-mail (in pdf. or comparable format) shall be considered to have the same legal and binding effect as any original signature. Each party hereby represents and warrants to the other that the person or entity signing this Amendment on behalf of such party is duly authorized to execute and deliver this Amendment and to legally bind the party on whose behalf this Amendment is signed to all of the terms, covenants, and conditions contained in this Amendment.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Real Estate Sale Agreement by and through their duly authorized officers intending to be bound by the terms hereof effective as of the date first above written.

**SELLER:**

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

By: \_\_\_\_\_  
William A. Baird, Mayor

Attest:

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

Approved as to Form

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

**PURCHASER:**

**ARCHVIEW PROPERTIES, LLC,**  
an Indiana limited liability company, d/b/a  
Archview Investors, LLC in the State of Missouri

By: \_\_\_\_\_  
James E. Thomas, Jr., Manager