

## COMMUNITY INVESTMENT AGREEMENT

**THIS COMMUNITY INVESTMENT AGREEMENT (the “Community Investment Agreement”)** is dated as of April \_\_\_\_\_, 2024 (the “**Effective Date**”), by and between **CITY OF KANSAS CITY, MISSOURI**, a constitutional charter city and political subdivision organized and existing under the laws of the State of Missouri (the “**City**”) and **COMMUNITY BUILDERS OF KANSAS CITY**, a Missouri nonprofit corporation (the “**Community Builders**”).

### RECITALS:

**WHEREAS**, Community Builders, by and through a wholly owned affiliate, OZ Development Company, LLC (the “**Development Entity**”), is the owner of an approximately 11 acre parcel of real property located generally adjacent to and south of Dr. Martin Luther King Jr. Boulevard in Kansas City, Missouri (the “**Property**”). The Property is depicted and legally described on **Exhibit A** attached and incorporated by this reference; and

**WHEREAS**, the Property is within a continually distressed census tract plagued by severe poverty and unemployment and, for nearly 100 years, has been the subject to extreme disinvestment and a lack of new commercial and residential development; and

**WHEREAS**, the Property has been the subject of multiple findings of substantial blight, including, among others, the Brush Creek Corridor Tax Increment Financing Plan Area and the Town Fork Creek Urban Renewal Area, for conditions which include defective and inadequate street layout, insanitary and unsafe conditions, deterioration of site improvements, environmental contamination, and other characteristics adverse to public health, safety and welfare of Kansas City residents; and

**WHEREAS**, an urban redevelopment district plan described in and approved by City Ordinance No. 200858 dated November 5, 2020, as amended (“**UR Plan**”) prepared by Community Builders and referred to as the “Offices at Overlook” contemplates (a) a plan for a 60,000 square foot, three-story office building having approximately 60,000 square feet of floor area to be known as the “**Building 1**” (“**Building 1**”) on the westernmost portion of the Property; and (2) 185 surface parking spaces, interior driveways, a health fitness trail, a public plaza and various other improvements ( the “**Building 1 Site Improvements**”) (together, Building 1 and the Building 1 Site Improvements constitute the “**Phase 1 Redevelopment Project**” and is hereinafter referred to as the “**Project**”) and (b) other improvements on the Property in future phases including, among others, additional office development and the construction of one-or more multi-family housing facilities.

**WHEREAS**, the Property is located within an area (the “**TIF Plan Area**”) described by the Tax Increment Financing Commission of Kansas City, Missouri (the “**TIF Commission**”) as the Offices at Overlook Tax Increment Financing Plan (the “**TIF Plan**”), which TIF Plan was filed by the Development Entity and approved by the City by its passage of Ordinance No. 200942, and subsequent ordinances (each and collectively, the “**TIF Ordinance**”); and

**WHEREAS**, pursuant to the TIF Ordinance, the City committed, subject to actual collection, that the earnings taxes, utility taxes and the capital improvements portion of sales taxes generated by the TIF Plan Area which are not subject to capture and that would otherwise be deposited into the City’s general revenues (the “**Additional City EATs**”) would be allocated to the Development Entity, to pay up to \$2,995,838 in certified Project costs; and

**WHEREAS**, the Property is also located within an area (the “**PIEA Plan Area**”) described by the Planned Industrial Expansion Authority of Kansas City (the “**PIEA**”) as the Offices at Overlook General Development Plan (the “**PIEA Plan**”), which PIEA Plan was filed by the Development Entity and approved by the City by its passage of Ordinance No. 200990; and

**WHEREAS**, the foregoing agreements and Community Builders’ obligations concerning implementation of the Project are set forth in (a) an agreement (the “**Tax Contribution and Disbursement Agreement**”) dated July 9, 2021 by and among the City, the TIF Commission, the PIEA, the Development Entity and the Cost Certifier (as defined therein), as amended; (b) the agreement (the “**Development Agreement**”) dated July 29, 2021, among the Development Entity, the TIF Commission, and the PIEA, as amended (a Memorandum of which is recorded in the Office of the Recorder of Deeds for Jackson County, Missouri, as Document No. 2021E0080049); and

**WHEREAS**, on December 10, 2020, the City, by Ordinance No. 200996 (the “**CCED Ordinance**”), agreed to provide additional financing in the amount of \$4,000,000 in its fiscal year 2020-21 for certain Project costs associated with regrading, parking, curbs and sidewalks, retaining walls, lighting, landscape, stormwater management, Health and Wellness Trail and seven market driven pad sites, which are defined as “Central City EDI” in the TIF Plan, by committing funds previously appropriated to Account No 21-2200-575998-B-57, the Central City Economic Development Sales Tax Fund (the “**Central City Sales Tax**”), and expressed its intent to appropriate an additional \$1,000,000 in its fiscal year 2021-22; and

**WHEREAS**, by separate letters each dated April 28, 2020, the Public Improvements Advisory Committee of the City approved funding for the Project in the amount of \$188,000 and \$47,000 from the sales tax for public improvements (the “**PIAC Grant**”); and

**WHEREAS**, the City, pursuant to Ordinance No. 220563 dated July 14, 2022, allocated an additional \$150,000 of Central City Sales Tax to the Development Entity, to assist the Development Entity in paying for infrastructure preparedness for the Building 1 Site Improvements; and

**WHEREAS**, despite this previous investment, the Development Entity has been unable to secure the necessary construction financing to complete the project, due to lending disparities and other redlining and appraisal biases which routinely and adversely impact financing of East Side development projects; and

**WHEREAS**, in furtherance of the public purposes achieved from supporting Community Builders’ charitable purpose and its community mission to redevelop the Property and implement the Project in the PIEA Plan Area and the TIF Plan Area, and in order to ameliorate some of the particular challenges associated with developing in a severely distressed census tract which is plagued by discrimination, disinvestment and perceptions of investment risk, the City wishes to provide a fund to help secure financing for the Office and Overlook Project, pursuant to the terms and conditions set forth in this Community Investment Agreement; and

**WHEREAS**, the City’s public participation provisions contemplated by this Community Investment Agreement are reasonable and further a substantial public purpose.

### **Agreement**

**NOW, THEREFORE**, in consideration of the mutual representations, covenants and agreements herein contained, and City and Community Builders do hereby agree as follows

## ARTICLE I

### DEFINITIONS

#### Section 1.1. Rules of Interpretation.

(a) The foregoing recitals are true and correct and incorporated by reference as if fully set forth below.

(b) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(c) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including governmental entities, as well as natural persons.

(d) Wherever in this Community Investment Agreement it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation except in the case of a City payment which shall be subject to appropriation by the City Council.

(e) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Community Investment Agreement as a whole and not to any particular Article, Section or other subdivision.

(f) The Table of Contents and the Article and Section headings of this Community Investment Agreement shall not be treated as a part of this Community Investment Agreement or as affecting the true meaning of the provisions hereof.

(g) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

## ARTICLE II

### REPRESENTATIONS

**Section 2.1. Representations by the City.** The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a constitutional charter city and municipal corporation duly organized and validly existing under the laws of the State of Missouri. The City has lawful power and authority to enter into the transactions contemplated by this Community Investment Agreement and to carry out its obligations hereunder notwithstanding any provision of Missouri law. By proper action of its governing body, the City has been duly authorized to execute and deliver this Community Investment Agreement, acting by and through its duly authorized officers.

(b) The Property is located wholly within the incorporated limits of the City.

(c) No member of the governing body of the City or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in Community Builders or in the transactions contemplated hereby.

**Section 2.2. Representations by Community Builders.** Community Builders makes the following representations as the basis for the undertakings on its part herein contained:

(a) Community Builders is a Missouri nonprofit corporation and federally recognized 501(c)(3) organization validly existing and in good standing under the laws of the State of Missouri and duly authorized to transact business in the State of Missouri.

(b) Community Builders will exercise commercially reasonable efforts to construct and complete the Project in accordance with the TIF Plan, the PIEA Plan, and the UR Plan, by and through the Development Entity or other affiliate of Community Builders.

(c) Community Builders has lawful power and authority to enter into this Community Investment Agreement and to carry out its obligations hereunder and Community Builders has been duly authorized to execute and deliver this Community Investment Agreement, acting by and through its duly authorized officers and representatives.

(d) The execution and delivery of this Community Investment Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Community Investment Agreement by Community Builders will not, to the best of Community Builders' knowledge, 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 restrictions or any agreement or instrument to which Community Builders is a party or by which it or any of its Property is bound, or Community Builders' organizational documents, or any order, rule or regulation applicable to Community Builders or any of its Property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the Property or assets of Community Builders under the terms of any instrument or agreement to which Community Builders is a party.

(e) Upon issuance of the Certificate of Occupancy, the Project, inclusive of the Property, will comply in all material respects with all presently applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, ordinances, rules and regulations.

(f) Community Builders has full control of the Development Entity and the representations and obligations of Community Builders in this Community Investment Agreement shall be binding on the Development Entity, and the obligations of the Development Entity under this Community Investment Agreement shall be binding on Community Builders.

## ARTICLE III

### TERM

**Section 3.1. Term.** This Community Investment Agreement and the City's agreement to pay the "Annual City Investment" (defined in Article IV below) will commence on the Effective Date and, unless otherwise extended by the parties, shall, subject to Section 5.4 below, expire on the date that is

twelve (12) years following the “Escrow Date” (hereinafter defined), unless earlier terminated pursuant to the provisions of this Community Investment Agreement.

## ARTICLE IV

### PUBLIC INVESTMENT

**Section 4.1. Annual City Investment Maximum.** Subject to appropriation and the provisions of this Community Investment Agreement, the City agrees to provide an annual amount not to exceed \$1.6 million dollars (the “**Annual City Investment**”). Each Annual City Investment will be deposited into a segregated, interest-bearing escrow account (the “**Escrow Account**”) with an independent and duly licensed escrow company (the “**Escrow Agent**”). The Annual City Payment will be used by the Development Entity in accordance with Sections 4.3 and 4.4. below. The City’s maximum Annual City Investment shall be reduced if, in the final offering statement or executed lending agreement for the Project financing (the “**Project Financing Agreement**”), the annual debt service requirement is less than \$1.6 million dollars.

**Section 4.2. Creation of Escrow.** Within ten (10) days following the Effective Date, Community Builders will cause the creation of the Escrow Account with an Escrow Agent approved by the City.

#### **Section 4.3. Deposits; Annual Affidavit.**

(a) Subject to appropriation and pursuant to the “Escrow Agreement” described in Section 4.4 below, on or before the date on which Community Builders closes on its financing for the Project pursuant to the Project Financing Agreement (the “**Escrow Date**”), the City will deposit the first payment of the Annual City Investment into the Escrow Account. The Escrow Date shall be no earlier than May 1, 2024 and no later than November 1, 2024. The City Manager may consent in writing to an extension of the Escrow Date. Any extension past June 30, 2025, shall require the consent of the City Council.

(b) Beginning June 1, 2025, and continuing throughout the Term of this Community Investment Agreement, the Development Entity shall annually submit to the City an affidavit (the “**Annual Affidavit**”) setting forth, for the period of time from the Escrow Date to May 1, 2025 in the first year, and the twelve (12) month period immediately preceding May 1 in each subsequent year, the balance of the Escrow Account, an accounting of all payments made from the Escrow Account, the total revenue generated by Project, the annual operating costs of the Project, and debt service payments required for the Project pursuant to the Project Financing Agreement. The annual operating costs of the Project and the annual debt service payments required for the Project pursuant to the Project Financing Agreement shall collectively be the “**Annual Costs.**” The Annual Costs less the total revenue generated by the Project shall be the “**Annual Gap.**”

(c) The City shall have ten (10) Business Days after receiving the Annual Affidavit to lodge any objection that the payments made out of the Escrow Account were not eligible under this Community Investment Agreement, that annual operating costs provided are not reasonable, or that the Annual Gap was increased due to a violation by Community Builders of Article VI below. In the alternative, the City may request additional documentation related to the subject of the City’s objection. In such event, the City shall be allowed an additional ten (10) Business Days to review the additional documentation after Community Builders provides the additional information.

(d) Beginning June 30, 2025 and subject to appropriation, if the City does not object to or request more information within the time provided in subsection (c), the City shall, by June 30, 2025,

make its Annual City Investment less the balance of the Escrow Account provided in the Annual Affidavit and any anticipated Annual City Equity payments for the year. If the City objects to or requests more information within the time provided in subsection (c), the City shall make its Annual City Investment less the balance of the Escrow Account provided in the Annual Affidavit, timely following Community Builders' commercially reasonable resolution of such objection or request.

**Section 4.4. Use of Escrow.** The City authorizes Community Builders to withdraw such portion of the Annual City Investment deemed necessary to satisfy the Annual Gap, subject to the requirements set forth in this Community Investment Agreement and in the Escrow Agreement.

**Section 4.5. Administration of Escrow Account.** The process of establishing, managing, withdrawing funds from, disbursing, reconciling and liquidating the Escrow Account and the interest accruing thereon will be set forth in an escrow agreement ("**Escrow Agreement**"), the form of which Escrow Agreement will be (a) consistent with this Community Investment Agreement; (b) mutually acceptable to the City, Community Builders, and the Escrow Agent, and (c) executed by all parties thereto prior to the Escrow Date. The Escrow Agreement will include provision for the City to receive periodic statements reflecting the balance in the Escrow Account. Upon execution, the Escrow Agreement will, *ipso facto*, be incorporated as **Exhibit B** to this Community Investment Agreement by reference.

**Section 4.6. Annual Appropriation.** The City Manager or other officer of the City at any time charged with the responsibility of formulating budget proposals shall include in the budget proposals submitted to the City Council, in each Fiscal Year during the Term of this Community Investment Agreement, an appropriation for the Annual City Investment required for the next ensuing Fiscal Year; it being the intention of the City that the decision to appropriate or not to appropriate under this Community Investment Agreement shall be made solely by the City Council and not by any other official of the City.

**Section 4.7. Refinancing.**

(a) If, at any time following the Escrow Date during the Term, Community Builders desires to refinance the Project (in each event, a "**Refinancing**"), Community Builders will provide written notice of such proposed Refinancing to the City ("**Refinancing Notice**"), no fewer than 30 days' prior to the closing date of the proposed Refinancing (the "**Closing Date**"). The Refinancing Notice will include: (a) the intended Closing Date of the proposed Refinancing; (b) the name of the lender or investor which will provide funds for the Refinancing; (c) the debt service coverage requirements of the proposed Refinancing; (d) the term of the loan or other investment summarized in the Refinancing Notice; and (e) such other information as Community Builders may deem appropriate. Upon receipt of a Refinancing Notice, the City will have ten (10) Business Days in which to submit reasonable objections to, or solicit answers regarding, the matters set forth in the Refinancing Notice (the "**City Refinancing Response**"). Upon receipt of the City Refinancing Response, Community Builders will have ten (10) Business Days in which to respond to the objections and questions of the City set forth in the City Refinancing Response (the "**Developer Refinancing Response**"). In the event the City has further questions or objections to the Refinancing described in the Refinancing Notice or Developer Refinancing Response, authorized representatives, one each of the City and Community Builders, will work cooperatively to resolve such questions or objections within ten (10) Business Days following the date of the Developer Refinancing Response. In no event shall Community Builders close on the proposed Refinancing without the written consent of the City Manager or their designee. Timely following the Closing Date, Community Builders will provide written confirmation of the Refinancing to the City, along with a copy of the executed and recorded Project Financing Agreement related to the Refinancing.

(b) In the event the annual debt service obligation set forth in the Project Financing Agreement for the Refinancing is fixed at a number less than \$1.6 million annually, the City's maximum

Annual City Investment will be proportionately reduced, as of the next ensuing Fiscal Year and each year thereafter during the Term.

## ARTICLE V

### EQUITY PARTICIPATION

**Section 5.1. Annual Equity Participation Payments.** In any year in which the Annual Gap is positive (meaning that the total revenue generated by the Project in the prior Project year exceeds the Annual Costs) the City shall be entitled to ten percent (10%) of the Annual Gap (the “**Annual City Equity Payment**”). Community Builders shall pay the Annual City Equity Payment to the Escrow Agent to be deposited in the Escrow Account within 45 days of the Annual Affidavit.

**Section 5.2 Final Equity Distribution.** Upon sale or refinancing of the Project, the City shall be entitled to twenty percent (20%) of the net proceeds from sale or Refinancing of the Project or any portion thereof, after deducting all costs and expenses of such sale or Refinancing (the “**Final City Equity Payment**”). Community Builders shall pay the Final City Equity Payment to the City Treasurer within 45 days of the closing of the sale or Refinancing. In no event shall the Final City Equity Payment exceed the cumulative total of the Annual City Investment actually paid by the City, less the cumulative totals of any Annual City Equity Payments actually paid to the City. A Final City Equity payment shall not be triggered by a transfer by Community Builders to a wholly controlled subsidiary, with the consent of the City.

## ARTICLE VI

### SAFEGUARDING THE COMMUNITY INVESTMENT

**Section 6.1. Maintenance and Repairs.** To ensure that the objectives of this Community Investment Agreement, the TIF Plan and the PIEA Plan, Community Builders, by and through the Development Entity or other affiliate, shall construct and thereafter keep Building 1 and the Project in safe operating condition and in good repair, reasonable wear, tear and depreciation excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary. All such costs of routine maintenance and repair shall constitute and be included within and be permissible Annual Costs. Notwithstanding the foregoing, Community Builders (and as applicable, the condominium of which the Project is a part) shall, at such party’s own expense, pay the extraordinary cost and expense to maintain and repair the Project. The City will have no liability for the obligations of Community Builders pursuant to this Article VI, and Community Builders will indemnify the City pursuant to Article VII below in connection with any claims made against the City related hereto.

#### **Section 6.2. Leasing Efforts.**

(a) Community Builders agrees to use all good faith commercially reasonable efforts to maximize lease rent derived from the Project and to minimize the Annual Costs of the Project. Community Builders agrees to and shall exercise best faith efforts to lease all of Building 1, following the Effective Date. Such good faith commercially reasonable efforts will be evidenced by, among other things, installing signage and engaging a reputable broker or leasing agent to identify and contract with one or more tenants for Building 1 (each and collectively, a “**Tenant**”). As a part of its best faith efforts, Community Builders will develop a high-level plan of implementation that includes such goals and objectives as Community Builders may deem appropriate. In exercising such good faith commercially reasonable efforts, Community Builders will retain full discretion and control over its marketing and

leasing activities. A failure of Community Builders to exercise good faith commercially reasonable efforts shall constitute an “Event of Default” governed by Article VIII below.

(b) Community Builders will evidence its binding commitment from each Tenant in one or more executed and legally binding lease agreements. If and at such time that Community Builders enters into a lease, Community Builders will timely provide written notice of the lease to the City and the Escrow Agent (each, a “**Lease Notice**”). Each Lease Notice will indicate the amount of square footage in Building 1 being leased by the Tenant pursuant to such lease.

**Section 6.3. Good Faith Commercially Reasonable Efforts.** Community Builders agrees to use all good faith commercially reasonable to minimize Annual Costs, including the of the condominium association created for the governance of the Project Community Builders agrees to use all good faith commercially reasonable efforts to maximize the total revenue generated by the Project, to minimize the Annual Gap.

**Section 6.4. Performance Reports.** Community Builders will submit an annual report regarding on the Project by June 1 each year following the Escrow Date (“**Annual Performance Report.**”) The Annual Performance Report shall include information on the status of construction, current leasing rolls, leasing status, and any pending claims or litigation.

## ARTICLE VII

### STANDARD OPERATING REQUIREMENTS

**Section 7.1. Exculpation.** Community Builders releases the City from, agrees that the City shall not be liable for, and agrees to hold the City harmless from and against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause related to this Community Investment Agreement, unless and except to the extent such loss is the result of the City’s gross negligence or willful misconduct. This provision shall survive termination of this Community Investment Agreement.

**Section 7.2. Indemnification of City.** Community Builders shall indemnify and save and hold harmless the City and their governing body members, officers, agents and employees from and against all third party claims, demands, costs, liabilities, damages or expenses, including attorneys’ fees, by or on behalf of any person, firm or corporation arising from the execution of this Community Investment Agreement, and against and from all third party claims, demands, costs, liabilities, damages or expenses, including attorneys’ fees, arising or related to this Community Investment Agreement or any related document; provided, however, the indemnification contained in this Section 7.2 shall not (i) extend to the City if such liability is a result of gross negligence or willful misconduct by the City, or are the result of the performance or failure to perform by the City of its obligations hereunder. This Section 7.2 shall survive any termination of this Community Investment Agreement.

**Section 7.3. Equal Opportunity in Employment.** Community Builders will refrain from any unlawful employment practice at the Property as presently defined in the Code of Ordinances of the City (the “**Code**”). Community Builders will post at Building 1 notices of the provisions of Section 38-103 of the Code. Community Builders will not, and will contractually obligate its contractors at the Property to not, discriminate against any employee or applicant for employment because of race, color, religion, ancestry or natural origin, sex disability, age, sexual orientation or gender identity in a manner prohibited by Chapter 38 of the Code. The City has the right to take action as directed by the City’s Human Relations Department to enforce this provision.



**Section 7.4. M/WBE Utilization.** City and Community Builders are committed to ensuring that minority and women's business enterprises ("M/WBE") participate to the maximum extent possible in the performance of contracts funded with public tax dollars. Community Builders agrees make a good faith effort to comply with all requirements of City's Minority and Women's Business Enterprise Program as enacted in the Code, §§ 3-421 through 3-469 and as hereinafter amended (the "**Program**"), for the expenditure of the funds under this Community Investment Agreement. Community Builders shall require Developer to ensure that it and its contractors and subcontractors collectively meet, or make a good faith effort to meet, both the MBE and WBE goals set forth in the Program or the Contractor Utilization Plan/Request for Waiver. Failure to comply with these requirements may result in liquidated damages, which shall be the difference between the monetary amount of the MBE/WBE participation finally approved, and as may be modified or waived, in accordance with the Program, and the amount actually paid to certified MBEs and WBEs appearing on a contractor utilization plan ("**CUP**") or duly approved modification. The City may elect to require Community Builders to require its Contractors to demonstrate compliance by it and its subcontractors with the Program requirements and CUP/Request for Waiver prior to City tendering any payment to Community Builders.

**Section 7.5. Affirmative Action.** Community Builders shall contractually require contractors utilized in connection with this Agreement maintain in effect, throughout the duration of this Agreement, an Affirmative Action Program in accordance with the provisions of Chapter 3, Article IV, Division 1 of the Code and the rules and regulations relating thereto, as amended. If Community Builders or its contractors fail, refuse or neglect to comply with the provisions of Chapter 3 and the rules and regulations relating thereto, then such action shall be deemed a total breach of this Community Investment Agreement and, in such event, this Community Investment Agreement may be terminated, canceled or suspended, in whole or in part, and the contractor or developer may be declared ineligible for any further contracts funded by City for a period of one (1) year.

**Section 7.6. Construction Workforce Utilization.** Community Builders agrees comply with all requirements of City's Construction Employment Program as enacted in Code §§ 3-501 through 3-525 and as hereinafter amended, for the Project under this Community Investment Agreement. Community Builders shall meet or exceed the construction employment goals. Community Builders and its subcontractors will submit monthly workforce hour reports through the City's designated electronic reporting system. Community Builders' compliance with this provision shall be a material part of this Community Investment Agreement.

**Section 7.7. ADA.** Community Builders shall use reasonable efforts to comply in all material respects with all provisions of the Americans With Disabilities Act, Public Law 101-336 as well as 28 C.F.R. Parts 35 and 36 and 29 C.F.R. Part 1630, as amended from time to time, to the extent applicable.

**Section 7.8. Prevailing Wage.** Community Builders will pay and require its contractors and subcontractors to pay to all workers performing work on the Project not less than the prevailing hourly rate of wages for the class or type of work performed by the worker in accordance with the Law, Rules, Wage Order and any applicable Wage Increase, as required by Code § 3-622.

**Section 7.9. Quality Services Assurance Act.** Community Builders shall pay and require that all contractors working on the Project pay all employees who will do work pursuant to the Redevelopment Agreement in the city limits of Kansas City, Missouri at least \$15.00 per hour as provided in Code § 3-66.

**Section 7.10. Ban the Box.** Community Builders will not, and will contractually obligate its contractors to not, base a hiring or promotional decision on an applicant's criminal history or sentence related thereto, unless the employer can demonstrate that the employment-related decision was based on

all information available including consideration of the frequency, recentness and severity of a criminal record and that the record was reasonably related to the duties and responsibilities of the position. Nevertheless, Community Builders and its contractors and subcontractors may inquire about an applicant's criminal history after it has been determined that the individual is otherwise qualified for the position, and only after the applicant has been interviewed for the position. Any such inquiry may be made of all applicants who are within the final selection pool of candidates from which a job will be filled. This provision shall not apply to positions where employers are required to exclude applicants with certain criminal convictions from employment due to local, state or federal law or regulation.

**Section 7.11. Construction Completion Timeline.** Pursuant to Code § 74-12, the incentive granted pursuant to this Community Investment Agreement is contingent on Community Builders substantially completing Project within three (3) years from \_\_\_\_ (will fill in the approval date of Ordinance 230977). If the Redevelopment Project is not substantially complete by such date, then Community Builders shall forfeit all right to the incentive authorized by this Community Investment Agreement and shall be required to pay to the City the total Annual City Investments actually made by the City (less the cumulative totals of any Annual City Equity Payments actually paid to the City) that were previously paid to the Escrow Account. Such repayment shall be made within sixty (60) days of the City notifying Community Builders of its failure to substantially complete the Project within the time provided by this Community Investment Agreement.

**Section 7.12 Monitoring Best Faith Efforts and Audit of Records.** The City may, at the City's expense and upon delivery of at least 30 days' prior written notice, monitor and evaluate Community Builders' activities under this Community Investment Agreement, including observing Community Builders' programs and premises related to the Community Investment. Community Builders shall keep adequate records to substantiate its best faith efforts to lease Building 1 in the Project, and shall make its books, financial records, and other documents and materials pertaining to the Community Investment and this Community Investment Agreement available to the City at reasonable times for review and audit. Community Builders shall comply with all reasonable requests of the City for information. The City's right to audit the records of Community Builders with respect to this Community Investment Agreement will survive for a period of two (2) years after the expiration or earlier termination of this Community Investment Agreement. In the event the City determines in good faith, through its audit activities or otherwise, that Community Builders is not exercising best faith efforts to market the Project and secure Leases of Building 1, the notice, cure and default provisions set forth in Article VIII below will apply.

**Section 7.13 Books and Records.** Development Entity shall maintain at its principal place of business separate books of accounts for the Project which shall show a true and accurate record of all costs and expenses incurred, all changes made, all credits made and received, and all income derived in connection with the conduct of the Development Entity and the operation of the Project. The Development Entity shall also maintain at its principal place of business such books and records as may be required under the Act. Development Entity shall use either the cash or accrual method of accounting (as determined by the Development Entity in its reasonable discretion) in preparation of its financial reports and for tax purposes and shall keep its books and records accordingly. City or its designated representative shall have the right, at any reasonable time, to have access to and inspect and copy (at such Development Entity's expense) the contents of such books or records.

**Section 7.14 Financial Reports.** Development Entity shall be responsible for the preparation of financial reports associated with the operation of the Project and shall submit such audited reports to the City no later than June 1 of each calendar year during the term of this Community Investment Agreement.

## ARTICLE VIII

### DEFAULTS AND REMEDIES

**Section 8.1. Events of Default.** If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an “**Event of Default**” or “default” under this Community Investment Agreement:

(a) Default by either party in the due observance or performance of any other covenant, agreement, obligation or provision of this Community Investment Agreement to be observed or performed, and such default continues for 45 days after the non-defaulting party with written notice specifying such default (or such longer period as is reasonably required to cure such default; provided that (1) the defaulting party has commenced such cure within said 45 day period, and (2) the defaulting party diligently prosecutes such cure to completion), except, however the City’s failure to deposit any amounts contemplated in this Community Investment Agreement shall not constitute default on the part of the City if the City Council voted against such appropriation; or

(b) Default if Development Entity does not complete construction of the Project within 18 months after commencement thereof, subject to events of force majeure and excusable delay; or

(c) A material default of Development Entity under the TIF Plan or the PIEA Plan.

(d) Failure of either party to reasonably, unconditionally and timely provide consent to the Escrow Agent or its execution of the Escrow Agreement.

(e) Default of either party under the Escrow Agreement.

**Section 8.2. Remedies on Default.** If any Event of Default referred to in Section 8.1 hereof has occurred and continues beyond the period provided to cure, then the defaulting party may give the non-defaulting party written notice of intention to terminate this Community Investment Agreement on a date specified therein, which date shall not be earlier than 30 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the non-defaulting party may terminate this Community Investment Agreement. A termination of this Community Investment Agreement will constitute a concurrent termination of the Escrow Agreement.

**Section 8.3. Rights and Remedies Cumulative.** The rights and remedies reserved by the parties hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The parties shall, to the extent provided for by law, each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Community Investment Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

**Section 8.4. Waiver of Breach.** No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement.

## ARTICLE IX

### TERMINATION; LIQUIDATION OF ESCROW

#### Section 9.1. Termination.

a. If and at such time all of Building 1 of the Project is leased, as confirmed by the single or collective Lease Notices submitted to the City and the Escrow Agent pursuant to Section 5.2 above or other documentation that demonstrates the Project is fully leased, the objectives of this Community Investment Agreement will be deemed fulfilled, and either of the parties may terminate this Community Investment Agreement, upon providing written notice to the Escrow Agent and the other party (the “**Termination Notice**”). Upon the date of such Termination Notice, neither party will have any further obligations hereunder, except for the audit and indemnity obligations set forth in Articles V and VII, respectively.

b. Upon the termination of this Community Investment Agreement pursuant to Section 9.1(a) above, any Community Investment remaining in the Community Investment Escrow and all interest accrued thereon will be released to the City.

c. Notwithstanding anything the provision in subsection (a) and (b) the City, subject to approval by the City Council, and Community Builders may mutually elect to use any funds remaining in the Escrow Account for the benefit of a future redevelopment project, either by entering into an amendment to this Community Investment Agreement or by entering into a new agreement.

## ARTICLE X

### ASSIGNMENT

**Section 10.1. Assignment.** Community Builders shall not pledge, assign and transfer the Community Investment Agreement and Community Builders’ rights to receive Annual City Investment to a successor owner or developer of the Project or the Property, without the express the advance written approval of the City.

## ARTICLE XI

### AMENDMENTS, CHANGES AND MODIFICATIONS

**Section 10.1. Amendments, Changes and Modifications.** Except as otherwise provided herein, this Community Investment Agreement may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the party against whom enforcement of any such modification, amendment, alteration or termination is sought, which consent, however, shall not be unreasonably withheld.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

**Section 12.1. Notices.** It shall be sufficient service of any notice, certificate or other communication required or desired to be given hereunder to be given or filed with the City or Community Builders, if the same is duly mailed, postage prepaid, sent by overnight delivery or other delivery service or sent by facsimile with receipt confirmed by telephone, addressed as follows:

(a) To the City:

City of Kansas City, Missouri  
Attention: Tammy Queen, Director of Finance  
414 East 12<sup>th</sup> Street, 3<sup>rd</sup> Floor East  
Kansas City, Missouri 64106  
Facsimile: (816) 513-1020  
Email: [finance@kcmo.org](mailto:finance@kcmo.org)

with a copy to:

City Attorney  
414 East 12<sup>th</sup> Street, 28<sup>th</sup> Floor  
Kansas City, Missouri 64106  
Facsimile: (816) 513-3133

(b) To Community Builders:

Community Builders of Kansas City  
Attention: Emmet Pierson, Jr., President & CEO  
4001 Dr. Martin Luther King Jr. Boulevard, Suite 301  
Kanas City, MO 64130  
Facsimile: (816) 448-2943  
Email: [epierson@cb-kc.org](mailto:epierson@cb-kc.org)

with copies to:

Hardwick Law Firm, LLC  
Attention: Allison Bergman, Esq.  
2405 Grand Boulevard, Suite 800  
Kansas City, Missouri 64108  
Facsimile: (816) 221-1132  
Email: [abergman@hardwicklaw.com](mailto:abergman@hardwicklaw.com)

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed. The City and Community Builders may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

**Section 12.2. City Shall Not Unreasonably Withhold Consents.** Wherever in this Community Investment Agreement it is provided that the City shall, may or must give its consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold or refuse to give such consents or refuse to execute such supplemental agreements or schedules.

**Section 12.3. Limitation on Liability of City.** No provision, covenant or agreement contained in this Community Investment Agreement or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

**Section 12.4. Governing Law.** This Community Investment Agreement shall be construed in accordance with and governed by the laws of Missouri.

**Section 12.5. Binding Effect.** This Community Investment Agreement shall be binding upon and shall inure to the benefit of the City and Community Builders and their respective successors and assigns.

**Section 12.6. Severability.** If for any reason any provision of this Community Investment Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

**Section 12.7. Electronic Storage.** The parties hereto agree that the transactions described herein may be conducted and related documents may be 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 12.8. Execution in Counterparts.** This Community Investment Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**Section 12. Business Days.** As used herein, the term “**Business Days**” means any day other than a Saturday, Sunday, or legal holiday of the City of Kansas City.

[The remainder of this page intentionally left blank.]

**IN WITNESS WHEREOF**, the City has caused this Community Investment Agreement to be executed by its duly authorized signatories, as of the Effective Date first above written.

**CITY OF KANSAS CITY, MISSOURI**

By: \_\_\_\_\_  
Name: Brian Platt  
Title: City Manager

[SEAL]

ATTEST:

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
City Attorney

Approved as to form:

\_\_\_\_\_

[SIGNATURES CONTINUE ON NEXT PAGE]

**IN WITNESS WHEREOF**, Community Builders has caused this Community Investment Agreement to be executed by its duly authorized signatories, as of the Effective Date first above written.

**COMMUNITY BUILDERS OF KANSAS CITY**

By: \_\_\_\_\_

Name: Emmet Pierson, Jr.

Title: Managing Member



**ACKNOWLEDGMENT**

STATE OF MISSOURI        )  
  ) SS  
COUNTY OF JACKSON     )

**BE IT REMEMBERED**, that on this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Brian Platt, City Manager of Kansas City, Missouri, a body politic and corporate duly authorized, incorporated and existing under and by virtue of the laws of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed in behalf of said City by authority of its Governing Body, and said officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Printed Name: \_\_\_\_\_  
Notary Public in and for said State

[SEAL]

My commission expires:

**ACKNOWLEDGMENT**

STATE OF MISSOURI        )  
  ) SS.  
COUNTY OF JACKSON     )

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned, a Notary Public, appeared Emmet Pierson, Jr., to me personally known, who, being by me duly sworn, did say that he is the President and CEO of Community Builders of Kansas City, a Missouri nonprofit corporation, that said instrument was signed in behalf of said corporation by authority of its Board of Directors, that said officer acknowledged said instrument to be executed for the purpose therein stated and as the free act and deed of said corporation.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Typed or Printed Name: \_\_\_\_\_  
Notary Public in and for said State

[SEAL]

My commission expires:

\_\_\_\_\_



**EXHIBIT B**

**Escrow Agreement**

[Executed copy to be appended]