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# MEMORANDUM



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**TO:** Mayor and City Council

**FROM:** Kim Nakahodo, Interim City Administrator

**DATE:** October 5, 2021

**RE:** Northgate Village Redevelopment Area and the Blume NKC Project

- Consideration of the Development Agreement
- Consideration of the Real Estate Sale Agreement

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## Previous Action

The original Northgate Village was identified as an area prime for redevelopment during the development of the City's 1996 Comprehensive Plan. The apartment complex consisted of 666 single-story "garden style" apartments built between 1947 and 1951 and had served a useful life for most of its 50 plus year existence. Unfortunately, the last years of the complex saw an increasing amount of deterioration which became an increasing problem for the community and surrounding neighborhoods. At the time, these apartments constituted approximately one-quarter of the city's residential population and spanned approximately 56 acres. Because the apartment complex represented a substantial portion of the city's residential community, the City decided to take the significant step of designating the area for redevelopment purposes.

## TIF Plan

In 1996, the City authorized the formation of the North Kansas City TIF Commission to help finance the Northgate Redevelopment project. In 1999 the City issued a Request for Proposals and selected the development team of Hunt-Midwest Enterprises and The Rainen Companies. The City was impressed with the proposal featured a mixed-use redevelopment that included single-family homes, townhomes, a retail sites along Burlington St., senior apartments, and multiple styles of apartment living. This proposal met many of the goals in the City's Master Plan including increasing homeownership and increasing residential options – specifically senior housing.

Beginning in 2000, the City attempted to purchase the Northgate Village property through negotiation but was unable to do so. In the Spring of 2001, the City initiated condemnation proceedings. In November of 2002, the City settled with the landowner for the final purchase price of \$14 million dollars.

The development agreement for the Northgate TIF (2000) established an eight-year time frame for the redevelopment. However, that schedule could not begin until the City took possession of the property, which occurred in 2002. Therefore the development timeline ran to January 29, 2010. Demolition of the original 666 unit apartment complex was completed in 2005.

The property along Burlington Street, north of E. 29<sup>th</sup> Avenue was identified for commercial development by Hunt-Midwest Enterprises. The only completed commercial development was the former Ruby Tuesday restaurant at 2909 Burlington. An adjacent site was sold to Russell Stover for a retail store but no construction was ever undertaken. The Russell Stover site was repurchased by the City in 2018. The City is owner of the Project site of approximately 2.77 acres along Burlington and between East 29<sup>th</sup> Avenue and East 32<sup>nd</sup> Avenue.

#### City RFP Process

A request for proposal for a new developer of the commercial property was issued in September 2020. The City accepted the proposal of Box Real Estate Development (the "Developer") and entered into negotiations with the Developer for the sale and development of the property. Now before the Council are the fully negotiated agreements.

#### Consideration of the Development Agreement & Real Estate Sale Agreement

The major business terms of the agreements are as follows:

- The Developer will pay the City a purchase price of \$3.00 per square foot (estimated to be \$361,984) for the property. The proceeds of this sale will be allocated to the Northgate Capital Project Fund, which serves as the TIF Special Allocation Fund to reimburse the City's financial investment into the TIF area.
- The Project will be not less than (i) 26 residential units and (ii) a minimum of 25,000 square feet of commercial space, which may be located in vertical mixed use townhomes, vertical mixed-use retail office buildings and vertical mixed use retail flats and which may be platted as townhomes, including ground floor commercial space.
- The current development budget is estimated to be approximately \$21 million, to be financed by the Developer with private debt and equity.

- Construction requirements will be in compliance with the TIF design guidelines.
- This Project includes a Chapter 100 property tax abatement for ten years. Upon completion of the Project the City will receive an annual payment of approximately \$151,000 payment in lieu of tax (PILOT) for 10 years. The PILOT payments are detailed in Exhibit B of the Development Agreement. The City will receive the full PILOT payment until the Northgate TIF expires in December 2032. The City and other taxing jurisdictions will split the PILOT payments for the remaining one year of the Chapter 100 abatement.
- The City will have no liability or financial risk with respect to payment of the Chapter 100 Bonds, since the bonds are payable solely from lease payments of the Developer. All of the Chapter 100 bonds will be purchased by the Developer and will not be sold to the public.
- Under the Development Agreement the City Council agrees to approve the Chapter 100 bonds prior to the beginning of construction. This will be done at a later date by a separate ordinance approved by the City Council.
- As part of the Chapter 100 bond issuance, the Developer will receive a sales tax exemption on construction materials used to construct the Project.
- There is an extensive due diligence and City approval process that must be completed by the Developer prior to the Chapter 100 bond issuance. In the event the Developer does not proceed with the Project the City will have the right to repurchase the property for the original purchase price.
- The Developer will have to follow the City's regular process relating to zoning, planning, TIF Commission design review, and other governmental approvals.
- The closing date for the Project is expected to occur in Spring, 2022. The Project site will transfer to the Developer at closing.
- The City will have no financial liability for cost overruns or any other Developer obligations.
- The City and the Developer will execute two agreements: the Real Estate Sale Agreement and the Development Agreement.

Staff recommends the approval of the Development Agreement and the Real Estate Sale Agreement.

Please let me know if you have any questions or comments.

**AN ORDINANCE ADOPTING AND APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF NORTH KANSAS CITY, MISSOURI AND BLUME NKC LLC FOR A CERTAIN DEVELOPMENT PROJECT IN THE CITY; AND APPROVING A REAL ESTATE SALE AGREEMENT BETWEEN THE CITY AND BLUME NKC LLC.**

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**WHEREAS**, the City of North Kansas City, Missouri (the “**City**”) is a body corporate, a third class city and political subdivision of the State of Missouri, duly created, organized and validly existing under and by virtue of the Constitution and laws of the State of Missouri; and

**WHEREAS**, the City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (“**Chapter 100**”), to purchase, construct, extend and improve certain projects and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

**WHEREAS**, the City is owner of certain real property consisting of approximately 2.77 acres and located generally along Burlington and between East 29<sup>th</sup> Avenue and East 32<sup>nd</sup> Avenue in the City of North Kansas City, Missouri (the “**Project Site**”); and

**WHEREAS**, Blume NKC LLC (the “**Company**”) proposes a project for sale to the City and leaseback or lease to the City and leaseback to the Company by the City and development under Chapter 100, consisting of the Project Site and construction materials necessary to the construction and improvement of the Project Site (collectively, the “**Project**”); and

**WHEREAS**, the City finds that the Project serves a public purpose in that it will promote economic development in the City and serve as a catalyst for additional investment and development; and

**WHEREAS**, the City and the Company propose to enter into a Real Estate Sale Agreement (the “**Purchase Agreement**”) for the sale of the Project Site to the Company; and

**WHEREAS**, the City and the Company desire to enter into a Development Agreement for the purpose of setting forth the covenants, agreements and obligations of the City and the Company with respect to the Project and the Project Site.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH KANSAS CITY, MISSOURI, AS FOLLOWS:**

**Section 1.** Authorization of Development Agreement. The City Council does hereby find and determine that it is in the best interests of the City of North Kansas City, Missouri to enter into a Development Agreement with Blume NKC LLC for the redevelopment of certain real

property within the City for the purpose, among other things, of constructing and improving infrastructure, reducing underutilized property in the City, fostering economic activity within the City and generally undertaking those things in the Development Area that would be in the best interests of the City by furthering the health, safety and welfare of its residents and citizens. The City Council does hereby authorize the City to enter into the Development Agreement with Blume NKC LLC for the purposes and under the terms described therein, which Agreement shall be in substantially the form of “**Exhibit 1**”, attached hereto and incorporated herein by reference.

**Section 2.** Authorization of Purchase Agreement. The City Council does hereby further find and determine that it is in the best interests of the City of North Kansas City, Missouri to enter into a Real Estate Sale Agreement (the “**Purchase Agreement**”) with Blume NKC LLC for the City’s sale and the Company’s purchase of the real estate and related assets described in the Purchase Agreement, at the price and on the terms and conditions set forth therein. The City Council does hereby authorize the City to enter into the Purchase Agreement with Blume NKC LLC for the purposes and under the terms described therein, which Purchase Agreement shall be in substantially the form of “**Exhibit 2**”, attached hereto and incorporated herein by reference.

**Section 3.** Approval of Provisions of Development Agreement and the Purchase Agreement. The provisions of the Development Agreement and the Purchase Agreement are hereby approved and adopted by the City Council of the City of North Kansas City, Missouri. The Mayor and the City Clerk are hereby authorized and directed to execute both the Development Agreement and the Purchase Agreement on behalf of the City of North Kansas City, Missouri.

**Section 4.** Further Authority. The City shall, and the mayor, city clerk, city officials, legal counsel and employees of the City are hereby authorized and directed to take such further action, and execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 5.** Severability. The sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

**Section 6.** Governing Law. This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

**Section 7.** Effective Date. This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor.

*[remainder of page intentionally left blank]*

**PASSED** this 5<sup>th</sup> day of October, 2021.

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Bryant DeLong, *Mayor*

ATTEST:

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Crystal Doss, *City Clerk*

**APPROVED** this 5<sup>th</sup> of October, 2021.

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Bryant DeLong, *Mayor*

**APPROVED AS TO FORM:**

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Anthony W. Bologna, *City Attorney*

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Thomas E. Barzee, Jr., *City Counselor*

# **EXHIBIT “1”**

EXECUTION COPY

**DEVELOPMENT AGREEMENT**

**by and between**

**CITY OF NORTH KANSAS CITY, MISSOURI**

**and**

**BLUME NKC LLC**

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## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Agreement**”) is dated as of \_\_\_\_\_, 2021 (“**Effective Date**”), by and between the **CITY OF NORTH KANSAS CITY, MISSOURI**, a third-class city and municipal corporation duly organized and existing under the laws of the State of Missouri (the “**City**”) and **BLUME NKC LLC**, a Missouri limited liability company (the “**Company**”).

### RECITALS

A. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (“**Chapter 100**”), to purchase, construct, extend and improve certain projects and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

B. The City is owner of certain real property consisting of approximately 2.77 acres and located generally along Burlington and between E. 29<sup>th</sup> Avenue and E. 32<sup>nd</sup> Avenue in the City of North Kansas City, Missouri, which is legally described in **Exhibit A** attached hereto and incorporated herein (the “**Project Site**”).

C. The Company proposes a project for sale to the City and leaseback or lease to the City and leaseback to the Company by the City and development under Chapter 100, consisting of the Project Site and construction materials necessary to the construction and improvement of the Project Site as described in Article II below (collectively, the “**Project**”).

D. The City finds that the Project serves a public purpose in that it will promote economic development in the City and serve as a catalyst for additional investment and development.

E. The City and the Company entered into a Real Estate Sale Agreement of even date herewith (the “**Purchase Agreement**”) for the sale of the Project Site to the Company.

F. By Ordinance No. \_\_\_\_\_ passed on \_\_\_\_\_, the City Council has authorized the City’s execution of this Agreement.

G. The parties desire to enter into this Agreement for the purpose of setting forth the covenants, agreements and obligations of the City and the Company with respect to the Project and the Project Site.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement hereby agree for the Term of this Agreement as follows:

**ARTICLE I**  
**Definitions and Construction**

1.1 **Definitions.** Unless the context or use clearly indicates another or a different meaning or intent, for purposes of this Agreement the following definitions shall apply to the following capitalized word or phrase:

“**ADA**” shall have the meaning set forth in Section 2.8.

“**Applicable Laws**” shall mean any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, City Code, code interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, design guidelines, directive, policies, requirement or decision of or agreement with or by the City or other governmental bodies.

“**Bonds**” or “**Chapter 100 Bonds**” shall mean industrial development revenue bonds issued by the City pursuant to Chapter 100 in order to provide for financing of a portion of the Project, to allow the Project to be exempt from ad valorem property taxes (subject to the payment of PILOTs, as described in Section 3.2), and to allow purchases of construction materials financed by the Chapter 100 Bonds to be exempt from all state and local sales taxes.

“**Bond Counsel**” shall have the meaning set forth in Section 4.5(a).

“**Bond Closing**” shall have the meaning set forth in Section 4.1.

“**Bond Issuance Diligence Approval Date**” shall have the meaning set forth in Section 2.4.

“**CERCLA**” shall have the meaning set forth in Section 7.28(d).

“**Chapter 100**” shall have the meaning given in Recital A.

“**Chapter 100 Plan**” shall mean the Chapter 100 plan (including any amendments thereto) for the Project and the issuance of the Bonds.

“**City**” shall mean the City of North Kansas City, Missouri, a third-class city and municipal corporation duly organized and existing under the laws of the State of Missouri.

“**City Administrator**” shall mean the City Administrator (or his/her designee) of the City.

“**City Code**” shall mean the building, construction and zoning codes of the City and all other applicable laws and regulations of the City which are applicable to the Project.

“**City Council**” shall mean the governing body of the City.

“**Closing**” shall have the meaning set forth in the Purchase Agreement.

“**Closing Date**” shall mean the date on which the Closing occurs.

**“Closing or Post-Closing Activities”** shall have the meaning set forth in Section 2.4.

**“Commercial Facility”** shall mean a facility comprised of buildings and improvements in accordance with Article II hereof for not less than (i) a minimum of twenty-six (26) residential units and (ii) a minimum of twenty-five thousand (25,000) square feet of commercial space, which may be located in vertical mixed use townhomes, vertical mixed-use retail office buildings and vertical mixed use retail flats and which may be platted as townhomes, including ground floor commercial space within such structures, and the Parking Improvements, to be operated for profit by the Company in accordance with this Agreement.

**“Company”** shall mean Blume NKC LLC, a Missouri limited liability company and its successors and permitted assigns.

**“Completion Guarantor”** shall mean such guarantor or guarantors as the lender or equity investor(s) require with respect to completion of the Project.

**“County”** shall mean Clay County, Missouri.

**“Cure Period”** shall have the meaning set forth in Section 6.1(a).

**“Development Plan”** shall have the meaning set forth in Section 2.1.

**“Development Schedule”** shall have the meaning set forth in Section 2.4.

**“Effective Date”** shall have the meaning set forth in the preamble to this Agreement.

**“Events of Default”** or **“Default”** shall have the meaning set forth in Section 6.1.

**“Financing Documents”** shall have the meaning set forth in Section 2.4(e).

**“Force Majeure”** shall have the meaning set forth in Section 7.21.

**“GMP”** shall have the meaning set forth in Section 2.4(e)(ii).

**“Governmental Approvals”** shall have the meaning set forth in Section 2.4(a).

**“Infrastructure”** shall mean the “horizontal” or surface and subsurface improvements to service the Project improvements constructed and installed within, upon, and beneath the Project Site, including, but not limited to, open space design, conduits, sanitary and storm sewer lines, storm drainage and other utilities, and streetscape, all of which infrastructure shall be consistent with the studies prepared pursuant to the Development Plan and City Code.

**“Latest Permissible Bond Closing Date”** shall have the meaning set forth in Section 4.1.

**“Lease”** shall mean a lease agreement entered into between City, as landlord, and the Company, as tenant, for the lease of the Project, which lease shall be substantially in the form of the agreement in the Bond Documents.

“**Member**” or “**Members**” shall have the meaning ascribed to such term in the Operating Agreement of the Company.

“**Option Purchase Price**” shall have the meaning set forth in Section 6.2(b).

“**Parking Improvements**” shall mean at least 158 ground level or structured parking improvements the Company constructs for the Project (unless a smaller amount of parking spaces is permitted by City Code).

“**Parties**” shall mean the City and the Company.

“**PILOT**” shall have the meaning set forth in Section 3.2(a).

“**Plat**” shall have the meaning set forth in Section 2.4(d).

“**Project**” shall have the meaning given in Recital C.

“**Project Lender**” shall mean any lender providing financing for the construction of the Project which is secured by a first priority deed of trust.

“**Project Site**” shall mean the property legally described in Exhibit A attached hereto.

“**Project Site Interests**” shall have the meaning set forth in Section 6.2(b).

“**Process**” shall have the meaning set forth in Section 2.5.

“**Substantial Completion**” and “**Substantially Complete**” shall have the meaning set forth in Section 2.6.

“**Term**” means the period beginning on the Effective Date and ending on the second anniversary of the Effective Date; provided, however, that if the Bond Closing occurs, the Term shall automatically be extended and shall continue until the expiration of any period of tax abatement associated with the Development Plan.

“**TIF Commission**” means the Tax Increment Financing Commission of the City of North Kansas City, Missouri.

“**TIF Plan**” means the Northgate Village Tax Increment Financing Plan, as amended from time to time.

1.2 **Construction.** As used herein, words of any gender shall be deemed and construed to include correlative words of each other gender, and unless the context otherwise requires, the singular shall include the plural and vice-versa.

**ARTICLE II**  
**The Project and Development Process**

2.1 **Description of Project.** The Project will be the Commercial Facility (including the Parking Improvements). The Project will be designed, developed and constructed as a mixed use (residential over commercial/service) development where dwelling units are accommodated on upper stories or otherwise separated from the principal commercial function of each building, to include amenities for its residential units consistent with a Class A residential apartment project, including but not limited to the following amenities: (a) in-unit washer/dryer, refrigerator, oven/range, and microwave, (b) attached motor vehicle garages, and (c) ground level commercial space of a minimum of 250 square feet per unit. The Company shall have the sole right to plan, design and carry out the Project in such manner as the Company shall determine to be necessary or desirable, provided, however, that the Project is in substantial accordance and compliance with this Agreement, applicable City Code, the TIF Plan, any covenants or restrictions of record and the final development plan with respect to the Project approved by the City's Planning Commission and the City Council, as applicable, (the "**Development Plan**").

2.2 **Infrastructure.** In connection with the construction of the Project, the Company shall complete the Infrastructure. The Infrastructure will be constructed in a manner that the Project is connected to the City's fiber optic network. The Company hereby agrees to construct, or cause to be constructed, the Infrastructure in substantial accordance and compliance with this Agreement, the City Code, and the Development Plan.

2.3 **No Acquisition or Eminent Domain for Project.** It is not contemplated by Company that the acquisition or termination of any real property rights from any third parties is necessary for the acquisition, construction, installation and maintenance of the Project or any public improvements associated therewith.

2.4 **Closing or Post-Closing Activities.** Prior to Closing, or within one hundred fifty (150) days following the Closing, the Company shall complete the following activities for the Project (collectively, the "**Closing or Post-Closing Activities**"):

(a) Company, at the Company's cost and expense, shall, prepare a construction, development, permit and governmental approval schedule ("**Development Schedule**") for the Project pertaining to the matters to be set forth in the Development Plan. Such Development Schedule shall be submitted to the City for approval and shall identify, generally, the permits, land use approvals, zoning requirements and related regulatory review requirements necessary to implement the Project ("**Governmental Approvals**").

(b) The Company or its consultants shall prepare designs for Infrastructure for the Project, if and when required by City Code for development of the Project.

(c) (i) The Company will prepare the Development Plan for the Project, which Development Plan will be reviewed and approved by the City and any constituent body thereof from which approval of the Development Plan is required by City ordinance or under the City Code. The Development Plan shall provide a complete description of the Project, including generally, such things as are required to secure all permits from the City

for the Project Site that is the subject of the Development Plan. Notwithstanding the foregoing, any future amendment to the approved Development Plan shall be subject to the review and approval of the City in accordance with City ordinance or City Code.

(ii) The Parties shall periodically (at least every sixty (60) days after the Closing or such other regular period mutually acceptable to the Parties) review the Development Schedule to ensure it is accurate in light of market conditions and, in the event the Parties determine the Development Schedule is not accurate in light of such market conditions, the Development Schedule shall be amended in writing by agreement of the Parties, consent to which shall not be unreasonably withheld, conditioned or delayed.

(d) The Company, at the Company's sole cost and expense, will prepare a plat or plats for the Project in accordance with applicable City ordinances (each a "**Plat**" and together the "**Plats**") and submit the Plats to the City for approval (which may be done as part of the Development Plan application and approval process) in accordance with the City Code. The Plats shall be consistent with the Development Plan. The Plats, and any subsequent rezoning or plat applications related to the Project, shall be prepared, filed and, as applicable, recorded by the Company, at the sole cost and expense of the Company. Any future amendment to the approved Plats shall be subject to the review and approval of the City, consent to which shall not be unreasonably withheld, conditioned or delayed.

(e) As a condition precedent to the obligations of the City to issue the Bonds and execute the Lease, the Company shall provide to the City, on or before the dates identified below, true and correct copies of the following documents in form and content satisfactory to the City, each to be reviewed and approved by the City in its sole and absolute discretion as a condition to the City's obligation to issue the Bonds (the "**Financing Documents**"):

(i) Financial statements demonstrating the Company has the equity adequate to complete the Project (when combined with the construction loan proceeds), which the Company shall provide to the City at least thirty (30) days prior to the date proposed for the Bond Closing;

(ii) A guaranteed maximum price construction contract for the Project ("**GMP**"), which the Company shall provide to the City at least ten (10) days prior to the date proposed for the Bond Closing;

(iii) Confirmation that construction loan documents are ready to close and immediately fund the Project, which together with Company equity and all other sources of financing, meet or exceed, in the aggregate, the GMP and the cost of furnishing and equipping the Project, which the Company shall provide to the City at least ten (10) days prior to the date proposed for the Bond Closing;

(iv) A payment bond in an amount equal to the GMP naming City, Company, and/or its lender as obligees, the form of which the Company shall provide to the City at least thirty (30) days prior to the date proposed for the Bond Closing;

(v) Liability, casualty, workers compensation, and other insurance in types and amounts obtained on similar projects in the Kansas City metropolitan area, which the Company shall provide to the City at least thirty (30) days prior to the date proposed for the Bond Closing (which may be policies held by the general contractor or the Company);

(vi) The identity of the members, partners, officers and principal executives or other key personnel or investors of Company and any transfers of interests among such parties, which the Company shall provide to the City at least thirty (30) days prior to the date proposed for the Bond Closing;

(vii) Such other financial due diligence as requested by the City and the City shall have the right to have its outside financial consultant confidentially conduct full financial due diligence relating to Company, and the other Financing Documents, which the Company shall provide to the City at least thirty (30) days prior to the date proposed for the Bond Closing; provided such outside financial consultant executes a confidentiality agreement in form and substance reasonably acceptable to Company;

(viii) The identity of the Completion Guarantor and evidence reasonably satisfactory to the City's outside financial consultant that the Completion Guarantor will be required to deliver a completion guaranty for the Project to the lender providing the construction loan for the Project and/or the Company's equity investors which the Company shall provide to the City at least ten (10) days prior to the date proposed for the Bond Closing; .

(ix) An updated Development Schedule, which the Company shall provide to the City at least thirty (30) days prior to the date proposed for the Bond Closing; and

(x) Complete sources and uses allocation for the Project, including the Infrastructure costs in form and substance reasonably satisfactory to the City's outside financial consultant which the Company shall provide to the City at least ten (10) days prior to the date proposed for the Bond Closing.

Completion of the foregoing to the City's satisfaction must occur no later than the number of days prior to the date proposed for the Bond Closing respectively identified for each of the foregoing items (i) through (x) (as to each of the foregoing items (i) through (x), respectively, the "**Bond Issuance Diligence Approval Date**").

2.5 **Development Process.** Prior to or following the Closing (as applicable), Company shall perform the following undertakings in accordance with the process ("**Process**") set forth below:

(a) Company shall exercise commercially reasonable efforts to obtain all Governmental Approvals for the Project.

(b) Company shall: (i) commence construction of the Project improvements within one hundred twenty (120) days following the Closing Date; and (ii) Substantially Complete construction of the Project on or before twenty-four (24) months following the commencement of construction.

(c) The Company agrees that it will enter into the necessary contracts with contractors for the Project improvements and cause those contracts to provide that all work performed under such contracts be in accordance with the Development Plan and this Agreement.

(d) Commencing upon the date construction of the Project improvements begins and thereafter on a bi-annual basis until Substantial Completion of the Project, the Company shall prepare and deliver to the City a written update regarding the status of the Process for the Project which is then subject to the Process by Company at the time of delivering the status update. The Parties shall meet on an as-needed basis to discuss the Project status report.

**2.6 Certificates of Substantial Completion.** Within sixty (60) days after Substantial Completion of the Project in accordance with the provisions of this Agreement, the Company will submit to the City a Certificate of Substantial Completion for the City's approval. "**Substantial Completion**" or "**Substantially Complete**" shall mean that the Company shall have been granted a certificate of occupancy by the City building official and shall have completed all work as required by this Agreement with respect to the Project. The City shall, within ten (10) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The City's execution of the Certificate of Substantial Completion shall constitute evidence of the satisfaction of the Company's agreements and covenants to construct the Project; provided, however, that the issuance of the Certificate of Substantial Completion shall not relieve Company of its other obligations under this Agreement and which shall continue to survive until the end of the Term unless otherwise specifically stated herein.

## **2.7 Project Zoning, Planning, Platting, and Construction.**

(a) Conformance with Agreement. The Project shall be developed, and the Project constructed in accordance with this Agreement and Applicable Laws.

(b) Zoning, Planning and Platting. The City and the Company agree to collaborate on any zoning, planning, and platting applications submitted in accordance with Applicable Laws by the Company in due course and good faith. The Project Site is currently zoned C-3, General Business.

(c) Construction Plans. The Company shall submit Construction Plans for any portion of the Project it elects to construct for review and approval pursuant to the City's Code. Construction Plans may be submitted in phases or stages. All Construction Plans shall be in sufficient completeness and detail to show that construction will be in conformance with the Project and this Agreement.

(d) Construction Permits and Approvals. Before commencement of construction or development of any buildings, structures or other work or improvements by the Company, the Company, shall, at its own expense, secure or cause to be secured any and all permits and approvals which may be required by Applicable Laws, the City and any other governmental agency having jurisdiction as to such construction, development or work. Such permits and approvals may be obtained by the Company in phases corresponding to particular stages of construction. The City shall cooperate with and provide all usual assistance to the Company in securing these permits and approvals, and shall diligently process, review, and consider all such permits and approvals as may be required by Applicable Law; except provided that the City shall not be required to issue any such permits or approval for any portion of the Project not in conformance with this Agreement or Applicable Law.

(e) No Waiver. Nothing in this Agreement shall constitute a waiver of the City's right to consider and approve or deny Governmental Approvals pursuant to the City's regulatory authority as provided by City's unified building code and applicable state law. The Company acknowledges that satisfaction of certain conditions contained in this Agreement may require the reasonable exercise of the City's discretionary zoning authority by the City Council in accordance with the City's zoning ordinance and Applicable Laws.

(f) Periodic Review. The City shall have the right to review in a monthly project team meeting the design and construction of the Project to determine that it is being designed, constructed and completed in accordance with this Development Agreement, the Development Plan, the Construction Plans, and all Applicable Laws. If the Project is not being designed or constructed in accordance with this Development Agreement, the Development Plan, the Construction Plans, or all Applicable Laws, after consulting with the Company, the City shall promptly deliver written notice to the Company and the Company shall promptly correct such deficiencies.

2.8 **ADA.** The Company shall construct the Project in compliance with and otherwise comply with the provisions of the Americans with Disabilities Act ("ADA"), 42 U.S.C. A Section 1201, et seq., as amended from time to time, and regulations promulgated under the ADA, including, without limitation, 28 C.F.R. Part 35 and 29 C.F.R. Part 1630.

2.9 **Use Restrictions.** Company and its successors and assigns and every successor in interest to all or any part of the Project Site shall, upon acceptance of title or any other interest thereto, including but not limited to the leasehold interest created under the Lease:

(a) devote all uses of the Project Site in accordance with and subject to the provisions regarding use set forth in the Development Plan for the term of any tax abatement thereunder; and

(b) not discriminate on the basis of race, color, religion, sexual orientation, family status, handicap, sex or natural origin in the sale, lease or rental or in the use or occupancy of all or any part of the Project Site in perpetuity;

(c) restrict use of the Project Site to prohibit any use of the Project Site for: adult book and video stores, community correctional facilities, half-way houses, drug or alcohol rehabilitation facilities, used car lots, multi-game, casino-style gambling facilities, commercial billboards, vape stores, vaping parlors, tattoo shops, pawn shops, payday lenders; and

(d) comply with the terms of the Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property within the Northgate Retail Center filed September 22, 2020 in the Office of the Recorder of Deeds for Clay County, Missouri under Document No. 2020034897, in Book 8807 at Page 35.

It is intended and agreed that the covenants provided in this Section 2.9 shall be set forth in a separate covenant and restriction, which at the option of the City is to be filed of record running with the land, notwithstanding the expiration of the Term (in which case the covenants in (b) and (c) provided in this Section 2.9 shall continue nonetheless) binding to the fullest extent permitted by law and equity for the benefit and in favor of and enforceable by: the City, its successors and assigns, any successor in interest in the Project Site or any part of the Project Site, the owner of any other real estate or of any interest in real estate that is subject to the real estate use requirements and restrictions required hereunder, and the United States, against the Company, its successors and assigns, and every successor in interest to the Project Site, or any part thereof or any interest therein, and any party in possession or occupancy of the Project Site or any part thereof.

**2.10 Rights of Access.** Representatives of the City shall have the right to access the Project, without charges or fees, at normal construction hours during the period of construction, for the purpose of ensuring compliance with this Agreement, including, but not limited to, the inspection of the work being performed in constructing, renovating, improving, equipping, repairing and installing the Project, and the right to order a work stoppage for any violation of this Agreement or Applicable Law, so long as it complies with all safety rules. Except in case of emergency, prior to any such access, such representatives of the City will check in with the on-site manager. Such representatives of the City shall carry proper identification, shall insure their own safety, assuming the risk of injury, and shall not interfere with the construction activity, except pursuant to Applicable Law.

**2.11 Encumbrances and Liens.** The Company agrees that no mechanics' or other liens shall be established or remain against the Project for labor or materials furnished in connection with the acquisition, construction, additions, modifications, improvements, repairs, renewals or replacements. However, the Company shall not be in default if mechanics' or other liens are filed or established and the Company contests in good faith said mechanics' liens and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom.

### **ARTICLE III Obligations of the City**

**3.1 Bonds.** Subject to (i) the Company's compliance with its obligations for delivery of the Financing Documents prior to the Bond Issuance Diligence Approval Date, (ii) the

requirements of Chapter 100 and (iii) approval by the City Council of the Chapter 100 Plan for the Project and of the issuance of the Bonds, the City shall issue the Bonds as follows:

(a) The proceeds of the sale of the Bonds shall be used to reimburse the Company for costs of the Project, including the acquisition of the Project Site and the costs of construction materials purchased by the Company on behalf of the City as part of the Project;

(b) The proceeds of the Bonds shall be used for any purpose related to the Project permitted under Chapter 100 and contained in the Company's Chapter 100 Plan;

(c) The Bonds shall be issued in accordance with Chapter 100, shall be purchased by the Company (and may not be sold or transferred by the Company to any person or entity other than to a permitted transferee of the Project contemporaneously with the Project's transfer to such permitted transferee pursuant to Section 7.3 hereof, subject at all times to the terms of the Chapter 100 bond indenture) and be revenue bonds secured and repaid solely from rents payable by the Company under the Lease (nothing herein shall prevent the Company from pledging or collaterally assigning the Bonds to a Project lender.

### 3.2 **Project Site Tax Exemption.**

(a) So long as the City owns title to the Project, the City expects that the Project will be exempt from ad valorem taxes until ten (10) years following the year of Substantial Completion of the Project. The first year of such exemption period for purposes of this Agreement shall begin on January 1 of the calendar year of the Closing Date. The Company covenants and agrees that, during each year the Project is exempt from ad valorem taxes (but not any applicable levee tax) by reason hereof, the Company will make annual payments in lieu of taxes to the City (each such payment, a "PILOT") as described in Section 3.2(b). The City and the Company hereby agree that the tax abatement provided by this Agreement shall only apply to property financed with the proceeds of the Bonds (i.e., property constituting a part of the Project) and shall not apply to property not financed with proceeds of the Bonds.

(b) The Company covenants and agrees to make PILOT payments to the City on or before each December 31, commencing December 31 of the first (1<sup>st</sup>) calendar year of the tax exempt period described in Section 3.2(a), in the amounts, and in the years, calculated set forth in **Exhibit B** attached hereto. The PILOT payments shall be distributed by the City as set forth and provided in the TIF Plan and following termination of the TIF Plan to the taxing jurisdictions in proportion to the amount of taxes which would have been paid in each year had the Project not been exempt from taxation pursuant to the issuance of the Chapter 100 Bonds.

(c) If the Company fails to operate the Project as a multifamily and commercial facility (which means making multifamily and commercial space available for rent, and alternatively with respect to the commercial space only, includes occupancy and operation of commercial space by the Company), other than temporary closures customary in the applicable industry, then in addition to any other remedies that may be available to the City

under the Lease or hereunder, the PILOTS required by this Section 3.2 shall be increased to an amount equal to 100% of the ad valorem taxes that would otherwise have been due on the Project during each year following such failure, including the year in which the failure occurs, and during which the Project is exempt from ad valorem property taxes as provided herein.

(d) Nothing in this Agreement shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit hereunder to such extent it has made any payment for ad valorem taxes on the Project to the County for years in which a PILOT is due under Exhibit B.

(e) The City and the Company hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments or levee taxes and shall not serve to reduce or eliminate any other licenses, permits, or fees owing to the City or any other taxing jurisdiction with respect to the Project. The Company hereby agrees to make payments with respect to all special assessments, levee taxes, licenses, permits, and fees which would otherwise be due with respect to the Project if such Project was not owned by the City.

### 3.3 **Sales Tax Exemption.**

(a) The City will cooperate with the Company and will assist the Company as it seeks all approvals and certifications required to cause all purchases of construction materials financed by the Chapter 100 Bonds to be purchased and titled in such a fashion as to be exempt from all state and local sales taxes.

(b) The City will issue a City sales tax exemption certificate for construction materials and the City shall provide such other documentation as may be necessary from time to time to effect said sales tax exemption. If the Chapter 100 Bonds are not issued, there shall be no sales tax exemption, and sales taxes will be due and owing on any construction materials purchased as part of the Project. Any sales taxes assessed against such construction materials shall be paid by Company.

(c) On or promptly after the date of the Bond Closing, the City shall upon the request of the Company issue a City sales tax exemption certificate for construction materials to be incorporated into the Project at the Project Site. The Company shall use the exemption certificate only for the purposes specified in the exemption certificate and shall not use the exemption certificate for the purchase of any personal property other than construction materials. The Company shall indemnify and defend the City and its respective officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, claims, damages, loss, costs or expenses of any nature whatsoever by any person or entity, arising out of the City's furnishing of the exemption certificate.

3.4 **Permitting and Approval Assistance.** From and after the Effective Date of this Agreement, subject to the City Code, City ordinances and policies, the City shall assist and support the Company in obtaining all permits and approvals that are sought by the Company in connection

with the Project that may be available to the Company from time to time in connection with the Project. To the extent the Project specifications contained in this Agreement conflict with the Development Plan, this Agreement shall control. The City will not unreasonably withhold any consent or approval required by any City ordinance, code, regulation or any other governmental approval required by law related to the Project; *provided that* nothing herein shall be construed to obligate the City, acting as a party hereto, to (a) grant permits or other approvals the City would not be obligated to grant, acting as a political subdivision, absent this Agreement or (b) waive or reduce costs and fees for licenses, permits, or other approvals which may be due or may become due with respect to the Project.

#### **ARTICLE IV Closing**

4.1 **Bond Closing.** Subject to the completion of the contingencies set forth in Section 4.6, the issuance of the Bonds and delivery of the Bond Documents (the “**Bond Closing**”) shall occur not later than ninety (90) days following the Closing (the “**Latest Permissible Bond Closing Date**”). The Company shall have the right to extend the Latest Permissible Bond Closing Date one (1) time for a period of not more than thirty (30) days, which such right the Company shall exercise by giving written notice to the City of the Company’s election to do so not less than thirty (30) days’ prior to the Latest Permissible Bond Closing Date as originally identified in this Section 4.1.

4.2 **Bond Issuance.** At the Bond Closing Chapter 100 Bond proceeds in an amount necessary to pay for the construction materials (as identified in the Bond Documents) may be distributed to or at the direction of the Company.

4.3 **Deliverables by the City at Closing.** The City shall deliver the following documents to the Company and the trustee under the Bond Documents at the Bond Closing:

- (a) The Lease and other Bond Documents; and
- (b) The City’s sales tax exemption certificate relating to the construction materials to be incorporated into the Project.

4.4 **Deliverables by the Company.** The Company shall deliver the following documents to the City and the trustee under the Bond Documents at Closing:

- (a) Warranty Deed (or base lease) and Bill of Sale from the Company to the City;
- (b) The Lease and other Bond Documents;
- (c) The final documents described in Section 2.4(e) (ii), (iii), (iv) and (v); and
- (d) Such closing certificates and proof of due organization, corporate good standing, due authorization, insurance coverage and compliance with other covenants of

the Bond Documents as the City customarily requires in connection with the execution of Model Bond Documents.

4.5 **Contingencies.** Notwithstanding any other provision of this Agreement, the obligations of the City and Company as set forth herein with respect to the Bond Closing, and the execution and delivery of any of the Bond Documents are subject to the following conditions precedent:

(a) Approval by the City Council, in its sole discretion, of (i) the Chapter 100 Plan for the Project, (ii) the issuance of the Chapter 100 Bonds, and (iii) fulfillment of all terms and conditions required by Gilmore & Bell PC (or such other law firm approved by the City), the City's bond counsel ("**Bond Counsel**"), in order for the purchase and delivery of the Chapter 100 Bonds to be consummated;

(b) Obtaining by the Company of any necessary governmental licenses, permits and approvals, including passage of any required approving ordinances by the City Council;

(c) The Company obtaining the necessary financing to construct the Project, as determined by the Company in its sole and absolute discretion and the decision by the Company to proceed with the construction of the Project; and

(d) Issuance of an opinion from Bond Counsel that the Chapter 100 Bonds constitute valid and legally binding special obligations of the City and issuance of an opinion from Company counsel relating to the organization and existence of the Company, the execution of the Bond Documents by the Company as valid and binding agreements of the Company, and certain other matters customarily required by the City in connection with the execution of Model Bond Documents;

*provided that* all such conditions shall be deemed to have occurred upon the execution and delivery by the City and the Company of the Bond Documents and the issuance of the Chapter 100 Bonds by the City.

## **ARTICLE V Company Obligations, Representations, And Warranties**

5.1 **Project Operation and Maintenance.** Company shall be responsible for the operation and maintenance of the Project and the City shall have no operation or maintenance obligations for the Project.

5.2 **Company Authorization.** Company makes the following covenants, representations, and warranties to the City:

(a) Company is a limited liability company existing under the laws of the State of Missouri, has lawfully executed and delivered this Agreement acting by and through its members or managing member, has received all approvals necessary for it to enter into this

Agreement effectuate the purposes of this Agreement with respect to the Project, and the person executing this Agreement on behalf of Company is authorized to execute and deliver the same.

(b) There are no statutes, regulations or other laws which may prevent Company from entering into this Agreement or to perform or observe its obligations or undertakings contained herein.

(c) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions of this Agreement, nor the consummation of the transactions contemplated by this Agreement, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is now a party or by which the Company is bound.

(d) This Agreement is the valid and binding obligation of Company, enforceable against the Company in accordance with its terms.

(e) There is no litigation or other proceedings pending or to the knowledge of the Company threatened against the Company or any other person affecting the right of the Company to execute or deliver this Agreement or the ability of the Company to comply with its obligations under this Agreement.

(f) Following the Closing, the Company shall timely pay or cause to be paid the PILOTS, property taxes or assessments assessed against the Project Site pursuant to the terms of this Agreement.

All representations, covenants and warranties of the Company contained in this Agreement, in any certificate or other instrument delivered by the Company pursuant to this Agreement, or otherwise made in conjunction with the Project transactions contemplated by this Agreement shall survive the execution and delivery of this Agreement and the Closing.

## **ARTICLE VI**

### **Default and Termination; Estoppel**

6.1 **Events of Default Defined.** The following shall be “**Events of Default**” under this Agreement and the terms “**Events of Default**” and “**Default**” shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by the Company to observe and perform any covenant, term condition or agreement on its part to be observed or performed under this Agreement, which failure continues uncured for a period of thirty (30) days after written notice from the City specifying the default (or if the default is not susceptible of cure within thirty (30) days, a period not to exceed one hundred twenty (120) days during which the Company diligently and in good faith proceeds to cure such default to completion (the “**Cure Period**”).

(b) The filing by the Company of a voluntary petition in bankruptcy, or failure by the Company to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of the Company to carry on its operation, or adjudication of the Company as a bankrupt, or assignment by the Company for the benefit of creditors, or the entry by the Company into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Company in any proceedings whether voluntary or involuntary instituted under the provisions of the federal bankruptcy laws, as amended, or under any similar acts which may hereafter be enacted which is not dismissed within sixty (60) days.

(c) The failure of the Company to complete the Project in accordance with the provisions of Section 2.5(b) of this Agreement and subject to any extensions by the period of time equal to the delays caused by any Force Majeure Conditions.

(d) Failure by the City to observe and perform any covenant, term, condition or agreement on its part to be observed or performed under this Agreement, which failure continues uncured following the Cure Period.

## 6.2 Remedies on Default.

(a) Whenever any Event of Default shall have occurred and be continuing, the non-defaulting party shall have the right, at its option and without any further demand or notice, to take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the Company or the City, as applicable, under this Agreement, including, but not limited to, terminating this Agreement and terminating tax abatement on any portion of the Project Site then owned by the Company, or instituting such proceedings as may be necessary or desirable, in the non-defaulting party's sole opinion, to compensate the non-defaulting party for any damages resulting from all breaches by the defaulting party, including, but not limited to, a proceeding for breach of contract and/or damages. Notwithstanding the foregoing or anything in this Agreement to the contrary: (i) prior to Closing, the City's sole remedy shall be termination of this Agreement; (ii) after Closing but prior to commencement of construction, the City's sole remedies shall be termination of this Agreement and the remedy set forth in (b) immediately below; (iii) no party shall have the right to consequential, special, remote, or punitive damages; and (iv) the City shall not have the right to enjoin the Company from engaging in any construction activities after Closing except for issues of life, safety, health or stop orders issued pursuant to Applicable Laws.

(b) If the Company, subject to Force Majeure Conditions, has not timely commenced construction of the Project as required by Section 2.5(b) hereof, the Company hereby grants to the City, and the City shall have, the option to acquire from the Company in consideration of the amount equal to the amount paid by the Company to the City at the Closing (the "**Option Purchase Price**"), at the election of the City, (i) the Project Site, (ii) the Lease, and the leasehold estate created thereby with respect to the Project Site, and the Chapter 100 Bonds (collectively, the "**Project Site Interests**"); or (iii) both (i) or (ii). If the City chooses to exercise either option (i), (ii) or (iii), the City will notify the Company in writing of its exercise of such option and state with specificity in the notice any facts

demonstrating that Company has not proceeded with due diligence to commence construction of the Project as required by Section 2.5(b) hereof. The closing on such option (i), (ii) or (iii) as exercised by the City will occur on the thirtieth (30<sup>th</sup>) day after the City delivers such written notice to the Company (or such earlier date as the City and the Company shall mutually agree). On the date for such closing, the City shall pay to Company the Option Purchase Price and, simultaneously, the Company shall either: (x) with respect to option (i), convey to the City by special warranty deed fee simple title to the Project Site, free and clear of all liens and encumbrances (except the Permitted Exceptions in the conveyance to the Company and all other liens and encumbrances approved by the City, which approval shall not be unreasonably withheld or conditioned) (y) with respect to option (ii), by assignment of the Lease and a delivery of the Chapter 100 Bonds together with a Bond power (or assignment of the Bonds in form and content satisfactory to the City in its sole discretion) all in such form and along with such other documents as the City may reasonably require, and Company's rights under this Agreement shall automatically terminate; or (z) with respect to option (iii), the Company shall deliver all documents under both (x) and (y). All costs and expenses of the closing of either such option (i), (ii) or (iii), as applicable (e.g. recording fees) will be borne by the City (except the Company shall pay its own attorney's fees). The parties agree that the interests of any party which may hereafter claim an interest in the Project Site Interests by, though, or under the Company, shall be deemed junior and inferior to the options (i), (ii) (iii) of the City under this Section 6.2(b). Upon exercise of the remedies in this Section 6.2(b) by the City any such interests in the Project Site Interests by, though, or under the Company shall be deemed automatically extinguished, null, and void.

(c) Except as limited pursuant to Sections 6.2(a), (b), and (d), the City shall, in no way, be limited to the terms of this Agreement in enforcing, implementing and/or causing performance of the provisions of this Agreement and/or the Development Plan or pursuant to applicable City ordinances or in exercising its right and authority to condemn the Project Site after the Company's Default and failure to cure during the Cure Period provided in this Agreement.

(d) Before enforcing any remedies against the Company due to the occurrence of an Event of Default on the part of the Company other than the remedies set forth in Section 6.2(b), the City shall provide notice and an opportunity to cure such Event of Default to each holder of any deed of trust affecting the Project Site which is filed of public record as of the date which is twenty (20) days prior to the issuance of such action by the City. Such notice shall provide a fifteen (15) day holder cure period for a monetary Event of Default, and a sixty (60) day holder cure period for a non-monetary default.

(e) No delay or omission of a party to exercise any right or remedy occurring upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or acquiescence to such Event of Default. Every right and remedy given by this Article or by law may be exercised from time to time and as often as may be deemed expedient by the City. No waiver of any breach of any covenant or agreement contained in this Agreement 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. In case of a breach, the non-defaulting Party may nevertheless accept from the defaulting Party any payment or payments made under this Agreement without in any way waiving right of the non-defaulting Party to exercise any of its rights and remedies provided for in this Agreement with respect to any such default or defaults of the defaulting Party which were in existence at the time such payment or payments were accepted by the non-defaulting Party.

(f) The rights and remedies set forth herein and provided by law shall be construed as cumulative and continuing rights and may be exercised concurrently or alternatively. No one of them shall be exhausted by the exercise of such option on one or more occasions.

**6.3 Purchase Agreement Termination.** In the event the Purchase Agreement is terminated pursuant to the terms thereof, this Agreement shall automatically terminate and the Parties hereto shall have no further obligations to one another, except for any obligation that survives such termination as explicitly stated in this Agreement.

## **ARTICLE VII Miscellaneous**

**7.1 Notices.** All notices shall be sent either by certified mail, return receipt requested, personal messenger or overnight delivery via a reputable overnight delivery service. Any notice sent by (a) certified mail, return receipt requested shall be deemed delivered two (2) days after deposited in the United States Mail; (b) personal messenger shall be deemed delivered when actually received; and (c) an overnight delivery service shall be deemed delivered on the business day following the date the notice is deposited with the overnight delivery service addressed as specified below:

If to City:

City of North Kansas City, Missouri  
Attention: City Administrator  
2010 Howell Street  
North Kansas City, Missouri 64116

With a copy to:

City of North Kansas City, Missouri  
Attention: City Counselor  
2010 Howell Street  
North Kansas City, Missouri 64116

And

Bryan Cave Leighton Paisner LLP  
1200 Main Street, Suite 3800  
Kansas City, Missouri 64105  
Attention: Stephen S. Sparks  
Email: [sssparks@bclplaw.com](mailto:sssparks@bclplaw.com)

If to the Company:

Blume NKC LLC  
3152 S.W. Grandstand Circle  
Lee's Summit, MO 64081  
Email: [rpearson@boxdevco.com](mailto:rpearson@boxdevco.com) and [jl Larson@boxdevco.com](mailto:jl Larson@boxdevco.com)

With a Copy to:

Polsinelli PC  
900 W. 48<sup>th</sup> Place, Suite 900  
Kansas City, Missouri 64112  
Attention: Marc Abbott  
Email: [mabbott@polsinelli.com](mailto:mabbott@polsinelli.com)

Such address may be changed by a party by giving the other party ten (10) days' notice of such change in writing.

7.2 **Severability.** If any term, covenant, condition, or provision of this Agreement, or the application to any person or circumstance shall, at any time or to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall (except to the extent such result is clearly unreasonable) not be affected thereby, and under such circumstances each term, covenant, condition, and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law, insofar as such enforcement is not clearly unreasonable. In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. Notwithstanding the above, the City or the Company shall have the right to terminate this Agreement in the event it determines that a material provision of this Agreement has been declared invalid or unenforceable by a final order of a court of competent jurisdiction. The provisions of this Section 7.2 shall survive termination of this Agreement.

7.3 **Transfer and Assignment.**

(a) After Substantial Completion and subject to the provisions of the Lease and the other Bond Documents, the Company may freely sell and assign, to any other person or entity, any or all of the Project and the Company's rights, duties, and obligations under this Agreement, the Bond Documents and the Lease, provided that (i) the Company provides ten days' notice to the City prior to the sale or assignment and (ii) the proposed assignee or purchaser assumes the duties and obligations of the Company under this

Agreement, at which time the Company shall be released in full from all obligations under this Agreement (which release at the Company's request, the City will document in recordable form). The Parties agree to work in good faith to enable the assignment and transfer of the Bonds, Bond Documents, the Lease, by the Company to any subsequent purchaser or assignee and all applicable agreements related thereto in order to promptly and expeditiously enable any such assignment or sale by the Company.

(b) Prior to Substantial Completion the Company may not sell, transfer or assign any or all of the Project and the Company's rights, duties, and obligations under this Agreement, the Bond Documents and the Lease to any person without the prior approval and consent of the City, approval and consent may be withheld by the City in its sole and absolute discretion; provided that, no City consent shall be required for the Company to collaterally assign or pledge this Agreement or solely the Company's rights hereunder to a construction or permanent Project lender. Notwithstanding the foregoing, without the City's consent, but with notice to the City, the Company may assign this Agreement to any entity that the Company controls, that the Company is controlled by or that the Company is under common control with; provided, that, such assignment must be in writing and provides for the assumption of all of the Company's obligations under this Agreement arising before or after such assignment, in which event the Company shall be released from any obligations hereunder.

7.4 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

7.5 **Survival.** The terms and covenants contained in this Agreement shall not be deemed to have merged at the Bond Closing, but will be deemed to survive the Bond Closing until the expiration of the term of the Lease.

7.6 **Consents and Approvals.** The City and Company commit to work harmoniously with each other, and except in instances where a consent or approval is specified to be within the sole discretion of either party, any consent or approval contemplated under this Agreement shall not be unreasonably withheld, conditioned or delayed, except that the Company acknowledges that this covenant does not apply to permits required from the City in connection with the Project. Nothing herein shall be deemed to usurp the governmental authority or police powers of the City. The Parties agree that the decision to approve the issuance of the Bonds is within the sole discretion of the City Council.

7.7 **Entire Agreement.** This Agreement incorporates all prior negotiations and discussions between the parties regarding its subject matter and represents the entire agreement of the City and Company for the Project. This Agreement may only be modified by written instrument executed by the Parties.

7.8 **Headings.** The captions and section headings contained in this Agreement are for convenience of reference only and shall not be considered in any interpretation of the provisions of this Agreement.

7.9 **Negation of Partnership.** It is mutually understood and agreed that nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstances whatsoever as creating or establishing the relationship of co-partners or creating or establishing the relationship of a joint venture between the City and Company or as constituting the Company as the agent or representative of the City for any purpose or in any manner under this Agreement, it being understood that the Company is an independent contractor hereunder.

7.10 **Representatives not Individually Liable.** No member, official, representative or employee of the City shall be personally liable to the Company or any successor in interest in the event of any default or breach by the City for any amount which may become due to the Company or successor or on any obligations under the terms of the Agreement. No partner, member, representative or employee of the Company or any of its members, shareholders, directors, officers, employees or representatives shall be personally liable to the City in the event any default or breach by the Company for any amount which may become due to the City or on any obligations under the terms of this Agreement.

7.11 **Ancillary Documents.** The City and Company hereby agree that all other agreements and other documents to be executed by the Parties to effectuate the transactions contemplated in this Agreement shall be consistent with the terms and conditions of this Agreement.

7.12 **Compliance with Applicable Laws.** Company agrees that in its execution and performance of Company's obligations, rights, responsibilities, and duties under this Agreement it shall do so in accordance with all Applicable Laws and that nothing contained in this Agreement shall be deemed to waive the requirements of any Applicable Laws or otherwise excuse Company from its compliance with any Applicable Laws.

7.13 **Payment or Performance on Saturday, Sunday or Holiday.** Whenever the provisions of this Agreement call for any payment or the performance of any act on or by a date that is a Saturday, Sunday, or legal holiday of the State of Missouri, then such payment or such performance shall be required on or by the immediately succeeding day that is not a Saturday, Sunday, or legal holiday of the State of Missouri.

7.14 **Incorporation of Recitals and Exhibits.** The recitals set forth above are true and correct and are incorporated herein by reference and made a part of this Agreement. Unless otherwise provided herein, all exhibits attached hereto are incorporated herein by reference.

7.15 **Conflict of Terms.** It is the intention of the City and Company that if any provision of this Agreement is capable of two constructions, one of which would render the provision valid and enforceable, then the provision shall have the meaning which renders it valid and enforceable.

7.16 **No Waiver.** No failure on the part of the City or Company to enforce any covenant or provision contained in the Agreement nor any waiver of any right under this Agreement shall discharge or invalidate such covenant or provision or affect the right of the other party to enforce the same in the event of any subsequent default.

**7.17 No Tax Representations or Warranties.** The Parties hereby agree that neither the City nor Company is making any representations or warranties to the others about the tax treatment, implications or treatment of the transactions contemplated in this Agreement. The City does not agree to offset credit or pay to the Company any amount for any loss of benefit anticipated by the Company in the event that any tax exemptions are denied by third parties or by an order of a court. In such event, the Company agrees to pay all taxes finally determined to be due and owing along with any applicable interest and penalties.

**7.18 Costs and Expenses; Costs of Issuance.** In consideration of this Agreement, and the City's agreements and covenants set forth herein, the Company hereby agrees to pay, concurrently with and contingent upon the issuance of the Bonds, the City's actual costs and expenses in connection with the issuance of the Bonds, including the fees of Bond Counsel, outside counsel to the City and the City's financial advisor.

**7.19 Company Lender.** The Parties hereto acknowledge that a third party lender may provide Company capital for the transaction contemplated herein through providing financing to Company for Company's development of the Project. In such event, the City and Company each agree to work in good faith to structure the transactions contemplated herein to include such third party lender in a manner and in a capacity not inconsistent with the terms of this Agreement. The City hereby agrees that when the City acquires fee title to the Project Site as part of the Chapter 100 process, the City will agree to take such fee title subject to the Deed of Trust recorded against the Project Site by the Project lender.

**7.20 Termination.**

(a) At any time prior to issuance of the Chapter 100 Bonds, the Company may, by giving written notice to the City, abandon the Project and terminate this Agreement if the Company determines in its sole and absolute discretion that the Project is no longer economically feasible. If such termination is prior to Closing, the Purchase Agreement shall automatically terminate as if the Company exercised its right to terminate the Purchase Agreement during the Due Diligence Period provided therein. If such termination is after Closing but before commencement of construction, the City may exercise the Option to Purchase pursuant to the terms of Section 6.2(b) as if an Event of Default had occurred.

(b) Within thirty (30) days of any termination of this Agreement and upon written notice of the dollar amounts due, the Company shall make a PILOT payment to the City equal to the pro rata amount payable pursuant to Section 3.2 hereof from January 1 of the year in question through the effective date of the termination.

(c) Upon termination of this Agreement in accordance with the terms hereof, the Parties shall have no further rights or obligations hereunder except as are described in this Section 7.20 and as may expressly survive termination, and the Parties agree in good faith to unwind and terminate any prior agreements related to the Project, including any Bond documents (in accordance with the terms of any Bond Documents).

7.21 **Force Majeure.** Notwithstanding any other provision of this Agreement to the Contrary, neither the City nor the Company, as the case may be, nor any successor in interest, shall be considered in breach of or default in any of its obligations, including, but not limited to, the beginning and completion of construction, or progress in respect thereto, in the event of enforced delay in the performance of such obligations due to causes beyond its control, including but not limited to, strikes, lockouts, actions of labor unions, riots, storms, floods, litigation, explosions, acts of God or of the public enemy, acts of government, insurrection, mob violence, civil commotion, sabotage, malicious mischief, vandalism, inability (notwithstanding good faith and diligent efforts) to procure, or general shortage of, labor, equipment, facilities, materials, or supplies in the open market, defaults of independent contractors or subcontractors (provided that remedies are being diligently pursued against the same), failures of transportation, fires, other casualties, epidemics or pandemics, quarantine restrictions, freight embargoes, severe weather, inability (notwithstanding good faith and diligent efforts) to obtain governmental permits or approvals, or delays of subcontractors due to such causes (“**Force Majeure**”), it being the purpose and intent of this section that in the event of the occurrence of any such enforced delays, the time or times for the performance of the covenants, provisions, and agreements of this Agreement shall be extended for the period of the enforced delay (including any time reasonably required to recommence performance due to such enforced delay). This Section shall not apply to the obligation of the Company to make PILOT payments.

7.22 **Insurance and Indemnification.**

(a) The Company releases the City and its redevelopment agencies, including the TIF Commission (including their respective officials, officers, agents, and employees) (the “**City Parties**”) from, and agrees that the City shall not be liable for, and indemnifies the City against, any liabilities, losses, damages (including attorneys’ fees), causes of action, suits, claims, costs and expenses, demands and judgments of any nature imposed upon or asserted against the City or any of their officials, officers, agents, and employees disputing the representation and warranties made by the Company in this Agreement.

(b) The Company releases the City Parties from, and agrees that the City shall not be liable for, and indemnifies the City against, any liabilities, losses, personal injuries, damages (including attorneys’ fees), causes of action, suits, claims, costs and expenses, demands and judgments of any nature imposed upon or asserted against the City Parties alleged to have occurred on the Project or associated with the design, development, construction, or maintenance and operation of the Project, including but not limited to any claims that the Project or any portion thereof violates Missouri’s prevailing wage act, Sections 290.210 through 290.340, inclusive, of the Revised Statutes of Missouri, as amended, except when the result of the City Parties’ sole negligent acts or omissions or intentional misconduct.

(c) So long as the Project is owned by the City or the Company, all risk of loss with respect to the Project shall be borne by the Company, except when the result of the City Parties’ sole negligent acts or omissions or intentional misconduct.

(d) The Company shall cause its contractors to maintain adequate general liability insurance and shall name the City as an additional insured under this insurance

policy. The Company and/or its general contractor shall also, at its expense, maintain or cause to be maintained a policy of all risk casualty insurance or during construction builder's risk insurance insuring the Project owned by the City. Such policies of insurance shall name the City and such other persons designated by the City as additional insureds and shall each contain a provision that such insurance may not be canceled without at least thirty (30) days' advance written notice to the City (except for non-payment of premium, which shall be terminable on ten (10) days' advance written notice to the City). Duplicate copies or certificates of such policies bearing notations evidencing payment of premiums or other evidence of such payment shall be furnished to the City upon the City's request.

**7.23 Governing Law and Jurisdiction.** This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri. The Parties agree to the exclusive jurisdiction of the court of the Federal District of Western Missouri or state court in Clay County, Missouri. The Parties agree and acknowledge that the venue provided for above is the most convenient forum for both the City and the Developer. The Parties waive any objection to venue and any objection based on a more convenient forum in any action instituted under this Agreement.

**7.24 Waiver.** The City and the Company acknowledge and agree that the amounts payable to the City under the Bond Documents shall constitute payments due the City under the Lease. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company in any bankruptcy court.

**7.25 Electronic Storage of Documents.** The City and the Company agree that the transaction described herein may be conducted and related documents may be stored by electronic means.

**7.26 Employee Verification.** The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo., as amended, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the business entity receiving tax abatement, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement. The Company shall provide such affidavits and documentation to the City on or before November 15 of each year during the term of this Agreement, beginning November 15, 2021, and also on the date of the Closing.

**7.27 Equal Employment Opportunity During Performance of this Agreement.** During the performance of this Agreement, the Company agrees, for itself and its successors and assigns, as follows:

(a) The Company will not discriminate against any employee or applicant for employment because of race, color, religion, sexual orientation, family status, handicap, sex, or national origin. The Company will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to

the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Company agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.

(b) The Company will, in all solicitations or advertisements for employees placed by or on behalf of the Company, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sexual orientation, family status, handicap, sex or national origin.

(c) The Company will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the Company's commitments under Section 202 of Executive Order 11246 (the "**Executive Order**"), and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Company will comply with all provisions of the Executive Order, and of the rules, regulations and relevant orders of the Secretary of Labor.

(e) The Company will furnish all information and reports required by the Executive Order, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to its books, records and accounts by the City and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Company's non-compliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Company may be declared ineligible for further government contracts and/or federally assisted construction contracts in accordance with the procedures authorized in the Executive Order, and such other sanctions may be imposed and remedies invoked as provided in the Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Company agrees, for itself and its successors and assigns, that it will include the provisions listed in in subsections (a) through (f) above in every contract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of the Executive Order, so that such provision will be binding upon each contractor or vendor that does business with the Company in conjunction with the Project, as well as those contractor's subcontractors. For the purpose of including the provisions of Section 7.27 in any construction contract or purchase order, the terms "City", "Company" and "Contract" may be changed to appropriately reflect the name or designation of the parties to such contract or purchase order.

(h) Upon the issuance of additional or conflicting rules, regulations, or orders of the Secretary of Labor pursuant to section 204 of the Executive Order, the requirements of this Article shall automatically be amended to conform and comply with such changes.

(i) For the sole purpose of determining the Company's compliance with the provisions of this Section 7.27, the City and its duly appointed agents shall be permitted, at reasonable times, and after three (3) days prior notice to the Company, to examine the books and records of the Company.

#### **7.28 Project Environmental.**

(a) The Company has undertaken or will undertake, at its sole cost and expense, such due diligence as it deems necessary to assess the environmental condition of the Project Site.

(b) The Company covenants that, while in ownership or possession and control of all or any portion of the Project Site, it shall not place or cause to be placed, nor permit any other Person to place or cause to be placed, any Hazardous Substances on or about all or any portion of the Project Site in excess of *de minimis* quantities reasonably necessary to the Company's use of all or any portion of the Project Site.

(c) The Company agrees to protect, defend, indemnify and hold harmless, the City and the City's council members, officers, directors, employees, agents, affiliates, successors and assigns, from and against any and all claims, demands, losses, damages, costs, expenses, liabilities, assessments, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, causes of action, remedial action requirements and/or enforcement actions of any kind (including, without limitation, reasonable and necessary attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part: (i) the breach of the covenants of the Company contained in subsection (a) above; (ii) Company's or Company's employees', agents', contractors' or subcontractors' use, handling, generation, manufacture, production, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of Hazardous Substances on, under, from or about all or any portion of the Project Site; or (iii) any other activity carried on or undertaken on all or any portion of the Project Site by the Company or any employees, agents, contractors or subcontractors of the Company in connection with the use, handling, generation, manufacture, production, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of any Hazardous Substance at any time located, transported or present on, under, from, to or about all or any portion of the Project Site, including without limitation: (A) the cost of any required or necessary repair, cleanup or detoxification of any portion of the Project Site and the preparation and implementation of any closure, remedial or other required plans; and (B) liability for personal injury or property damage arising under any statute or common law tort theory, including damages assessed for the maintenance of a public or private nuisance, response costs or for the carrying on of any abnormally dangerous activity.

(d) The foregoing indemnity obligation includes without limitation: (i) the costs of removal or remedial action incurred by the United States government or the State or response costs incurred by any other person, or damages from injury to, destruction of or loss of natural resources, including the cost of assessing such injury, destruction or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (“**CERCLA**”), 42 U.S.C. §9601 *et seq.*; (ii) the clean-up reasonable and necessary costs, fines, damages or penalties incurred pursuant to any applicable provisions of State law; and (iii) the reasonable and necessary cost and expenses of abatement, correction or cleanup, fines, damages, response costs or penalties which arise from the provisions of any other Applicable Law.

(e) The foregoing indemnity shall further apply to any residual contamination on, under, from or about all or any portion of the Project or affecting any natural resources, arising in connection with the use, handling, generation, manufacturing, production, storage, release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of any such Hazardous Substance on, under, from or about all or any portion of the Project and irrespective of whether any of such activities were or will be undertaken in accordance with any Applicable Laws. This indemnity is intended to be operable under 42 U.S.C. Section 9607(e)(1), and any successor section thereof, and shall survive the Closing under this Agreement in all respects.

(f) The foregoing indemnity obligations include within them all costs and expenses (including, without limitation, reasonable and necessary attorneys’ fees) incurred in enforcing any right to indemnity contained in this Agreement.

The Company shall have no obligations under this Section 7.28 in the event that any of the aforementioned claims, demands, losses, damages, costs, expenses, liabilities, assessments, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, causes of action, remedial action requirements and/or enforcement actions of any kind arise out of or related to (x) the negligent acts or omissions of the City or (y) Company’s performance under this Agreement which is prosecuted without negligence or intentional misconduct.

7.29 **Memorandum of Agreement.** The Parties agree that a Memorandum of Agreement relative to this Agreement, in the form attached hereto as **Exhibit C** will be recorded in the real property records of Clay County, Missouri.

**IN WITNESS WHEREOF**, the Company has caused this Agreement to be executed in its name and attested by its duly authorized officers. The City has caused this Agreement to be executed in its name with its affixed and attested by its duly authorized officers. All of the above occurred as of the date first above written.

CITY OF NORTH KANSAS CITY, MISSOURI

By: \_\_\_\_\_  
Bryant DeLong, Mayor

ATTEST:

By: \_\_\_\_\_  
Crystal Doss, City Clerk

BLUME NKC LLC

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT A**

**PROJECT LEGAL DESCRIPTION**

Lot 2, Northgate Village Retail Center, 2<sup>nd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri; and

Lot 1, Northgate Village Retail Center, 3<sup>rd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri.

**EXHIBIT B**

**SCHEDULE OF PILOT PAYMENTS\***

<b>Construction</b>	<b>2021</b>	<b>PILOT calculated as explained below in Note B-i</b>
	<b>2022</b>	<b>Percentage completion of project on 1/1/2022 as explained below in Note B-ii</b>
	<b>2023</b>	<b>Percentage completion of project on 1/1/2023 as explained below in Note B-ii</b>
<b>1</b>	<b>2024</b>	\$151,468
<b>2</b>	<b>2025</b>	\$151,468
<b>3</b>	<b>2026</b>	\$152,983
<b>4</b>	<b>2027</b>	\$154,513
<b>5</b>	<b>2028</b>	\$156,058
<b>6</b>	<b>2029</b>	\$157,619
<b>7</b>	<b>2030</b>	\$159,195
<b>8</b>	<b>2031</b>	\$160,787
<b>9</b>	<b>2032</b>	\$162,395
<b>10</b>	<b>2033</b>	\$164,018

\*The table above assumes the Bond Closing takes place in 2021 and Substantial Completion of the Project occurs in 2023. The total fixed PILOT will be payable beginning in 2024 and continuing through 2033 as described in Section 3.2.

Note B-i: The fair market value of the property is the purchase price of \$361,984. The PILOT due will be calculated based on the prorated ownership period of the property for the year 2021.

The following example will illustrate the calculation of the PILOT in 2021:

1. Developer purchases the parcel on December 1, 2021. Developer's ownership in 2021 equals 30 days of the 365 day year. The ownership percentage for Developer is 8.22%.

2. The Market Value is the Purchase Price: \$ \$361,984.
3. The Assessed Value is \$84,838 (based on an allocation of the Residential and Commercial square footage for the Commercial Facility)
4. The assessment rate in North Kansas City is \$7.9623 per \$100 of Assessed Value.
5. The PILOT payment for 2021 is calculated as follows:

Property Purchase Date: December 1, 2021  
 Developer Ownership Period (days): 30  
     Year Fraction: 8.22%  
 Parcel Market Value: \$361,984  
 Parcel Assessed Value: \$84,838  
 Assessment Rate (Per \$100 of AV): \$7.9623  
**PILOT Payment Due: \$555**

Note B-ii: The following example will illustrate the calculation of PILOTs in 2022 and 2023:

1. Because no construction is expected to have taken place by December 31, 2021 is expected that the 2022 PILOT will be calculated as follows:

Property Purchase Date: December 1, 2021  
 Abatement Calculation Date: January 1, 2022  
     PILOT Payment Date: December 31, 2023  
 Developer Ownership Period (days): 365  
     Year Fraction: 100%  
 % of Construction Complete: 0%  
 Residential FMV Allocation: 66%  
 Commercial FMV Allocation: 34%  
     Parcel Market Value: \$361,984  
     Parcel Assessed Value: \$84,838  
 Assessment Rate (Per \$100 of AV): \$7.9623  
**PILOT Payment Due: \$6,755**

2. If construction has occurred prior to 1/1/2022 Developer will share with the City the cumulative amount of funds spent on construction (excluding interest costs, accounting and legal fees) from construction start to 12/31/2021, along with the total amount of projected construction cost (excluding interest costs, accounting and legal fees), all as evidenced by construction pay application documentation.
3. By way of further example here is a calculation for 1/1/2023:

Abatement Calculation Date: January 1, 2023  
     PILOT Payment Date: December 31, 2023

Projected Total Construction Budget:	\$16,690,648
Total Construction Draws on 12/31/22:	\$11,127,099
% of Construction Complete:	67%
Residential FMV Allocation:	66%
Commercial FMV Allocation:	34%
Calculated Assessed Value:	\$2,607,849
Assessment Rate (Per \$100 of AV):	\$7.9623
Total Property Taxes Before Abatement:	\$138,430
Abatement:	50%
<b>PILOT Payment Due:</b>	<b>\$69,215</b>

4. The PILOT payments beginning on 12/31/2024 and continuing through 12/31/2033 are fixed PILOT payments not subject to adjustments due to construction progress.

**EXHIBIT C**

**Title of Document:** Memorandum of Development Agreement

**Date of Document:** \_\_\_\_\_ 2021

**Grantor(s):** City of North Kansas City, Missouri

**Grantee(s):** Blume NKC LLC  
a Missouri limited liability company

**Grantee(s) Mailing Address:** c/o Blume NKC LLC  
Attn: Russell Pearson  
3152 S.W. Grandstand Circle  
Lee's Summit, MO 64081

**Legal Description:** See Exhibit A

**Reference Book and Page(s):** N/A

**WHEN RECORDED RETURN TO:**

Stephen S. Sparks  
Bryan Cave Leighton Paisner LLP  
1200 Main Street, Suite 3800  
Kansas City, MO 64105

## MEMORANDUM OF DEVELOPMENT AGREEMENT

**THIS** MEMORANDUM OF DEVELOPMENT AGREEMENT (this “Memorandum”) is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2021 (the “Effective Date”), by CITY OF NORTH KANSAS CITY, MISSOURI (“City”), and BLUME NKC LLC, a Missouri limited liability company (“**Developer**”).

### RECITALS

The City and Developer executed that certain Development Agreement dated as of \_\_\_\_\_, 2021 (the “Agreement”), regarding a multi-use residential commercial project to be developed on the real property legally described and depicted on Exhibit A attached hereto and incorporated herein by reference, (the “**Project**”).

A. The parties desire to record this Memorandum to give notice of certain provisions contained in the Agreement.

NOW THEREFORE, in consideration of the foregoing recitals, the mutual covenants herein contained and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Development Agreement.** The Agreement sets forth, among other things, the conditions and requirements under which the Developer will develop the Project, and the obligations of each party regarding the same.

**2. Memorandum.** This Memorandum is executed for the purposes of giving notice of the existence of the Agreement. The Agreement is deemed to be a material part hereof as though set forth in length herein. Whenever a conflict of provisions between this Memorandum and the Agreement shall occur, the provisions of the Agreement shall govern.

**3. Miscellaneous.** Upon the expiration or earlier termination of the Agreement, this Memorandum shall automatically terminate without further act of the parties hereto, and upon request by any party hereto, the other party shall execute any documents reasonably required to evidence such termination and to remove any exceptions to title resulting from the Agreement.

**[Remainder of page left blank intentionally. Signature pages follow.]**

IN WITNESS WHEREOF, the parties have caused this Memorandum to be executed as of the Effective Date.

CITY:

CITY OF NORTH KANSAS CITY, MISSOURI

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

Name: Bryant DeLong

Title: Mayor

STATE OF MISSOURI        )  
  ) ss.  
COUNTY OF CLAY

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me personally appeared Bryant DeLong, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say such person is the Mayor of CITY OF NORTH KANSAS CITY, MISSOURI, and acknowledged said instrument to be such person’s free act and deed and the free act and deed of said entity.

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

\_\_\_\_\_  
Print Name:

Notary Public in and for said County and State

My Commission Expires:

\_\_\_\_\_

[SIGNATURE PAGE TO MEMORANDUM OF DEVELOPMENT AGREEMENT]



## **EXHIBIT A**

### **Legal Description**

Lot 2, Northgate Village Retail Center, 2<sup>nd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri; and

Lot 1, Northgate Village Retail Center, 2<sup>nd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri.

## **EXHIBIT “2”**

EXECUTION COPY

**REAL ESTATE SALE AGREEMENT**

**by and between**

**CITY OF NORTH KANSAS CITY, MISSOURI,**

**as the Seller**

**and**

**BLUME NKC LLC**

**or its assignee,**

**as the Purchaser**

\_\_\_\_\_, 2021

## REAL ESTATE SALE AGREEMENT

THIS REAL ESTATE SALE AGREEMENT (this “**Agreement**”) is made and entered into as of \_\_\_\_\_, 2021 (“**Effective Date**”), by and between the CITY OF NORTH KANSAS CITY, MISSOURI, a third class City and municipal corporation under the laws of the State of Missouri (the “**Seller**”) and BLUME NKC LLC, a Missouri limited liability company, its successors and assigns (collectively, the “**Purchaser**”).

### PRELIMINARY STATEMENTS

- A. The Seller is the owner of the real estate and related assets hereinafter described;
- B. The Seller desires to sell, and the Purchaser desires to buy, the real estate and related assets hereinafter described, at the price and on the terms and conditions set forth herein; and
- C. Simultaneously with the execution of this Agreement by the parties hereto, the parties will execute a development agreement (the “**Development Agreement**”) addressing certain issues related to the development of the Property (as defined below) and the ongoing operations of such Property thereafter.

In consideration of the recitals, the mutual covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are mutually, conclusively acknowledged, it is agreed by and between the parties as follows:

1. **Property.**

The real estate which is the subject of this Agreement consists of approximately 2.77 acres of land, more or less, and is legally described and depicted on **Exhibit A** attached hereto and is generally located on Burlington between E. 29<sup>th</sup> Avenue and E. 32<sup>nd</sup> Avenue, North Kansas City, Missouri, together with all rights, benefits, privileges, easements and other appurtenances to such land and, all of Seller’s rights in and to strips and gores and any unpaid award for damage by reason of any condemnation proceedings or change of grade of any highway, street, road or avenue (collectively, the “**Property**”).

2. **Sale/Conveyance.**

On the Closing Date (as herein defined) the Seller agrees to sell and convey to the Purchaser, and the Purchaser agrees to buy from the Seller, at the price and upon the other terms and conditions hereafter set forth, the Property, subject to Permitted Exceptions (as defined herein).

3. **Transfer of Title.**

Title to the Property shall be conveyed to the Purchaser by a special warranty deed (the “**Deed**”) executed by the Seller, in the form attached hereto as **Exhibit B**.

4. **Purchase Price; Earnest Money.**

The purchase price for the Property shall be THREE DOLLARS (\$3.00) per square foot. The Purchase Price is estimated to be Three Hundred Sixty-One Thousand Nine Hundred and Eighty-Four (\$361,894) Dollars (the “**Purchase Price**”). The Purchase Price shall be payable by the Purchaser to the Seller as follows:

(a) Within five (5) business days after the Effective Date of this Agreement, the Purchaser shall deposit into a strict joint order escrow trust (the “**Escrow**”) established with the Thomson-Affinity Title, Liberty, Missouri (the “**Title Insurer**”) as earnest money hereunder, the sum of FIVE THOUSAND and No/100 Dollars (\$5,000.00) (with any interest earned thereon, the “**Earnest Money**”).

(b) If requested by Purchaser, the Earnest Money shall be invested through Closing in United States treasury obligations or such other interest bearing accounts or securities but only as are directed and approved by the Purchaser in writing and any interest earned on the Earnest Money shall be administered, paid or credited (as the case may be) in the same manner as the Earnest Money and, when credited to the escrow account shall constitute additional Earnest Money. At the closing of the transactions contemplated by this Agreement (the “**Closing**”), which shall occur on the Closing Date (defined below), the Purchaser shall receive a credit against the Purchase Price for the Earnest Money.

(c) If Purchaser terminates this Agreement prior to the end of the Due Diligence Period, or on or before the Closing Date because it is unable to obtain the Governmental Approvals (defined below) or it disapproves of the terms of the Governmental Approvals, pursuant to the terms hereof, Purchaser shall send a notice to the Title Insurer and the Title Insurer shall return the Earnest Money to Purchaser. Such a notice by Purchaser shall automatically terminate this Agreement and the same shall be of no further force or effect.

(d) The Purchase Price less a credit for the Earnest Money shall be paid by the Purchaser to the Seller by wire transfer of immediately available federal funds on the Closing Date (as defined below).

5. **Representations and Covenants.**

(a) The Seller’s Representations and Warranties. As a material inducement to the Purchaser to execute this Agreement and consummate this transaction, the Seller represents and warrants to the Purchaser as of the date hereof and continuing through and including the Closing Date as follows:

(1) Organization and Authority. The Seller has been duly organized and is validly existing as a third class city and municipal corporation in the State of Missouri. The Seller has the full right and authority to enter into this Agreement, consummate or cause to be consummated the sale and make or cause to be made transfers and assignments contemplated herein and has obtained all consents (if any) required therefor. The persons signing this Agreement on behalf of the Seller are authorized to do so. This Agreement and all of the documents to be delivered by the Seller at the Closing have been (or will be)

authorized and properly executed and will constitute the valid and binding obligations of the Seller, enforceable against the Seller in accordance with their terms.

(2) Ownership. Seller holds good and marketable title to the Property free and clear of all liens and encumbrances except for Permitted Exceptions (as defined herein).

(3) Conflicts. To Seller's knowledge, there is no agreement to which the Seller is a party or binding on the Seller or the Property, which is in conflict with this Agreement or which would limit or restrict the timely performance by the Seller of its obligations pursuant to this Agreement.

(4) Documents and Records. Within five (5) business days of the Effective Date, the Seller will provide to the Purchaser true, correct and complete copies of the items scheduled in **Schedule 5(a)(4)** attached hereto to the extent they exist and were created since January 30, 2002 and are in Seller's possession (all of the foregoing collectively the "**Property Information**") including, without limitation, the most recent survey of the Property, if any (the "**Survey**").

(5) Litigation. There is no action, suit or proceeding pending or, to the Seller's knowledge, threatened against either the Seller or the Property which (i) if adversely determined, would materially affect the Property, or (ii) which challenges or impairs the Seller's ability to execute, deliver or perform this Agreement or consummate the transaction contemplated hereby.

(6) Leases. There are no leases, licenses, occupancy or use, or other rental agreements to which the Seller is a party or is bound affecting any portion of the Property as of the Effective Date, which will be in force on the Closing Date.

(7) Contracts. Except as reflected in the Title Commitment delivered to Purchaser under **Section 11** and as are stated in the Northgate Village Tax Increment Financing Plan, as amended (the "**TIF Plan**"), there are no contracts or other agreements in place which affect the Property.

(8) Notice of Violations. The Seller has received no written notice since January 30, 2002 that either the Property or the use thereof violates any laws, rules and regulations of any federal, state, city or county government or any agency, body, or subdivision thereof having any jurisdiction over the Property that have not been resolved to the satisfaction of the issuer of the notice.

(9) Withholding Obligation. The Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

(10) Condemnation. There are no pending or, to the Seller's knowledge, threatened condemnation or similar proceedings affecting the Property or any part thereof.

(11) Insurance Notices. Seller has not received any uncured notices from any insurance company which has issued a policy with respect to any portion of the

Property, or by any board of fire underwriters, or from any governmental authority, of zoning, building, fire or health code violations in respect to the Property.

(12) Environmental. Seller has no knowledge of any violation of Environmental Laws (as defined below) related to the Property or the presence or release of Hazardous Materials (as defined below) on or from the Property. Seller has not manufactured, introduced, released or discharged from, on, under or adjacent to the Property any Hazardous Materials or any toxic wastes, substances or materials (including, without limitation, asbestos), and Seller has not used the Property or any part thereof for the generation, treatment, storage, handling or disposal of any Hazardous Materials, in violation of any Environmental Laws. The term “**Environmental Laws**” includes without limitation the Resource Conservation and Recovery Act and the Comprehensive Environmental Response Compensation and Liability Act and other federal laws governing the environment as in effect on the date of this Agreement together with their implementing regulations and guidelines as of the date of this Agreement, and all state, county and other local laws, regulations and ordinances that are equivalent or similar to the federal laws recited above or that purport to regulate Hazardous Materials.

(b) The Purchaser’s Representations and Warranties. As a material inducement to the Seller to execute this Agreement and consummate this transaction, the Purchaser represents and warrants to the Seller that the Purchaser has been duly organized and is validly existing as a limited liability company organized pursuant to the laws of the State of Missouri. The Purchaser has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement, consummate or cause to be consummated the purchase, and make or cause to be made the deliveries and undertakings contemplated herein or hereby. The persons signing this Agreement on behalf of the Purchaser are authorized to do so. This Agreement and all of the documents to be delivered by the Purchaser at the Closing have been (or will be) authorized and properly executed and will constitute the valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their terms. Neither Purchaser nor any of its respective officers, directors, shareholders, partners, members or affiliates (including indirect holders of equity interests in Purchaser) is or will be an entity or person (i) that is listed in the Annex to, or is otherwise subject to the provisions of Executive Order 13224 issued on September 24, 2001 (“**EO13224**”), (ii) whose name appears on the United States Treasury Department’s Office of Foreign Assets Control (“**OFAC**”) most current list of “**Specifically Designated National and Blocked Persons**” (which list may be published from time to time in various mediums including the OFAC website, <http://www.treas.gov/offices/enforcement/ofac/sdn/t1lsdn.pdf>), (iii) whose name appears on the United States Treasury Department’s Office of Foreign Assets Control (“**OFAC**”) most current list of the “**Foreign Sanctions Evaders (FSE) List**”, (iv) who commits, threatens to commit or supports “**terrorism**,” as that term is defined in EO13224, (v) is subject to sanctions of the United States government or is in violation of any federal, state, municipal or local laws, statutes, codes, ordinances, orders, decrees, rules or regulations relating to terrorism or money laundering, including EO13224 and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, or (vi) who is otherwise affiliated with any entity or person listed above (any and all parties described in clauses (i) – (vi) above are herein referred to as a “**Prohibited Person**”). Purchaser covenants and agrees that neither Purchaser nor any of its respective officers, directors, shareholders, partners, members or affiliates (including

indirect holders of equity interests in Purchaser) shall (aa) conduct any business, nor engage in any transaction or dealing, with any Prohibited Person, including the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (bb) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in EO13224. The provisions of this Section shall survive the Closing or termination of this Agreement.

(c) Representations and Warranties Prior to Closing. The continued validity in all respects of the foregoing representations and warranties shall be a condition precedent to the obligation of the party to whom the representation and warranty is given to close the transaction contemplated herein. If (i) any of the Seller's representations and warranties shall not be true and correct at any time on or before the Closing whether not true and correct as of the date of this Agreement, or (ii) any change in facts or circumstances has made the applicable representation and warranty no longer true and correct and regardless as to whether the Purchaser becomes aware of such fact through the Seller's notification or otherwise, then the Purchaser may, at the Purchaser's option, exercised by written notice to the Seller (and as its sole and exclusive remedy), either (y) proceed with this transaction, accepting the applicable representation and warranty as being modified by such subsequent matters or knowledge and waiving any right relating thereto, if any, or (z) terminate this Agreement and declare this Agreement of no further force and effect, in which event the Earnest Money shall be immediately returned to the Purchaser and the parties shall have no further liability hereunder by reason thereof, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement, and, if the breach of any representation and warranty of the Seller hereunder results from the willful and intentional misconduct of the Seller, then, in that event, Purchaser shall also have the rights and remedies available to the Purchaser under Section 15(b) of this Agreement upon a default by the Seller of its obligations under this Agreement.

(d) Covenants of the Seller. The Seller covenants and agrees that during the period from the date of this Agreement through and including the Closing Date:

(1) The Seller will not enter into any contracts, licenses, easements, leases, deeds of trust, options, or agreements, or encumber the Property in any way, that will be an obligation affecting the Property subsequent to the Closing Date.

(2) The Seller will continue to operate and maintain the Property in accordance with past practices and will not make any material alterations or changes thereto.

(3) The Seller will maintain liability insurance of a level and type consistent with the insurance maintained by the Seller prior to the execution of this Agreement with respect to the Property.

(4) The Seller shall not do anything, nor authorize anything to be done, which would affect the condition of title as shown on the Title Commitment.

6. **Due Diligence Period; Governmental Approvals Contingency.**

(a) The Purchaser shall have a period beginning on the Effective Date and ending at 11:59 p.m., local time where the Property is located, on the date that is ninety (90) days from the Effective Date (the “**Due Diligence Period**”), to examine, inspect, and investigate the Property, and, in the Purchaser’s sole discretion, to determine whether the Purchaser wishes to proceed to purchase the Property.

(b) The Purchaser may terminate this Agreement for any reason or for no reason by giving written notice of such termination to the Seller on or before the last day of the Due Diligence Period. If this Agreement is terminated pursuant to this **Section 6**, the Earnest Money shall be immediately returned to the Purchaser, and neither party shall have any further liability or obligation to the other under this Agreement except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement.

(c) The Purchaser, during the Due Diligence Period and through the Closing, shall have reasonable access to the Property for the purpose of conducting surveys, architectural, engineering, geo-technical and environmental inspections and tests, and any other inspections, studies, or tests reasonably required by the Purchaser. The Purchaser shall give the Seller not less than twenty-four (24) hours prior notice before entering onto the Property to perform inspections or tests, and in the case of tests (i) the Purchaser shall specify to the Seller the precise nature of the test to be performed, and (ii) the Seller may require, as a condition precedent to the Purchaser’s right to perform any such test, that the Purchaser deliver the Seller evidence of public liability and other appropriate insurance naming the Seller as an additional insured thereunder. Such examination of the physical condition of the Property may include an examination for the presence or absence of hazardous or toxic materials, substances or wastes (collectively, “**Hazardous Materials**”), which shall be performed or arranged by the Purchaser at the Purchaser’s sole expense. The Purchaser shall keep the Property free and clear of any liens and will indemnify, protect, defend, and hold each of the Seller and its Mayor, elected officials, staff, officers, directors members, managers, employees, and agents (each, a “**Seller Related Party**”) harmless from and against all losses, costs, damages, claims, liabilities and expenses (including reasonable attorneys’ fees and court costs) arising from physical damage to the Property and injury to persons asserted against or incurred by any Seller Related Party as a result of such entry by the Purchaser, its agents, employees or representatives except if any such damage is the result of misconduct or negligence of any Seller Related Party. If any inspection or test damages the Property and the Purchaser does not acquire the Property, the Purchaser will restore the Property to substantially the same condition as existed prior to any such inspection or test. The Purchaser and its agents, employees and representatives may, upon not less than 24 hours prior telephonic notice to the Seller, examine and make copies of all books and records and other materials relating to the condition of the Property in the Seller’s possession at the office where such records are maintained.

(d) During the Due Diligence Period and thereafter for the duration of the term of this Agreement and up to and through Closing, Purchaser shall have the right to conduct further investigation and pursue approvals, including, without limitation, the right to apply for applicable preliminary and final development plans, preliminary and final plats, rezoning, incentives, all permitting, and all other approvals or agreements required by the applicable governmental authorities or desired by Purchaser for the development and construction of the Property, including

approvals required by the TIF Plan (collectively, the “**Governmental Approvals**”). Seller and Purchaser agree that Governmental Approvals are expressly reserved to the discretion of the City and in the case of the TIF Plan, the Tax Increment Financing Commission of the City of North Kansas City, in their respective sole and absolute discretion, subject to all applicable laws. Notwithstanding anything herein to the contrary, if prior to the Closing Date Purchaser is unable to secure all Governmental Approvals (including, without limitation, all necessary permits) or if Purchaser disapproves of the terms of the Governmental Approvals in its sole discretion, Purchaser may elect by written notice to Seller on or before the Closing Date to either: (i) terminate this Agreement, in which case the Earnest Money shall be immediately returned to Purchaser and neither party shall have any further rights or obligations under this Agreement, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement; or (ii) extend the Closing Date to allow Purchaser further opportunity to attempt to secure the Governmental Approvals on terms satisfactory to Purchaser in its sole discretion, provided that such extension of the Closing Date shall not go beyond the earlier of: (x) ten (10) business days after all such Governmental Approvals on terms satisfactory to Purchaser in its sole discretion are secured; or (y) one hundred and eighty (180) days after the original Closing Date (the “**Outside Governmental Approvals Deadline**”). If such Governmental Approvals are not secured by the Outside Governmental Approvals Deadline, this Agreement shall automatically terminate following the Outside Governmental Approvals Deadline, in which case the Earnest Money shall be immediately returned to Purchaser and neither party shall have any further rights or obligations under this Agreement, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement.

7. **As Is Sale.**

**EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES OF THE SELLER SET FORTH IN THIS AGREEMENT AND THE CLOSING DOCUMENTS (AS DEFINED BELOW), THE PURCHASER UNDERSTANDS AND AGREES THAT THE SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESSED OR IMPLIED, WITH RESPECT TO THE PROPERTY OR THE TRUTH, ACCURACY OR COMPLETENESS OF ANY MATERIALS, DATA OR INFORMATION DELIVERED BY THE SELLER TO THE PURCHASER IN CONNECTION WITH THE TRANSACTION CONTEMPLATED HEREBY. THE PURCHASER ACKNOWLEDGES AND AGREES THAT UPON CLOSING THE SELLER SHALL TRANSFER AND CONVEY TO THE PURCHASER AND THE PURCHASER SHALL ACCEPT THE PROPERTY “AS IS, WHERE IS, WITH ALL FAULTS”, EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT OR IN ANY AGREEMENT OR INSTRUMENT EXECUTED BY THE SELLER AND DELIVERED TO THE PURCHASER AT CLOSING (“CLOSING DOCUMENTS”).**

**THE PURCHASER REPRESENTS TO THE SELLER THAT THE PURCHASER HAS CONDUCTED, OR WILL CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS THE PURCHASER DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY**

**INFORMATION PROVIDED BY OR ON BEHALF OF THE SELLER OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO, OTHER THAN SUCH REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE SELLER AS ARE EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE CLOSING DOCUMENTS.**

**8. Closing.**

(a) The Closing shall be accomplished through the escrow referred to in **Section 8(b)** below, and shall take place on the date (the “**Closing Date**”) that is selected by the Purchaser by written notice to the Seller, which date shall be no later than forty-five (45) days after the date upon which the Due Diligence Period expires, 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.

(b) On or prior to the date set for Closing under this Agreement, the parties shall establish a customary deed and money escrow with the Title Insurer.

**9. Conditions to the Purchaser’s Obligation to Close.**

(a) The Purchaser shall not be obligated to proceed with the Closing unless and until each of the following conditions has been either fulfilled or waived in writing by the Purchaser:

(1) This Agreement shall not have been previously terminated pursuant to any other provision hereof;

(2) The Seller shall deliver or cause to be delivered to the Purchaser all instruments and documents to be delivered to the Purchaser at the Closing pursuant to **Section 12** and **Section 14** or any other provision of this Agreement;

(3) Seller shall have performed all of its obligations required to be performed hereunder on or before Closing;

(4) The Title Insurer shall have committed to issue a title policy satisfying the requirements of **Section 11** hereof;

(5) There shall exist no pending or threatened actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, against or involving Seller that could affect Seller’s ability to perform its obligations under this Agreement;

(6) Purchaser shall have conducted, immediately prior to the Closing, a re-inspection of the Property which confirms that no material change has occurred from the date of the original Property inspection. If the Property has materially changed, other than by an Act of God or the actions of third parties over whom Seller has no control, from the date of the original Property inspection, the Purchaser shall have the rights and remedies under **Section 15(b)** hereof;

(7) Seller shall be in good standing and it and the Property are in full compliance with all building and zoning codes applicable to the Property, if any, and the Property shall be free of all liens;

(8) Purchaser, in its sole discretion, has secured acceptable Governmental Approvals and the City has approved a Chapter 100 Plan acceptable to Purchaser in its sole discretion (unless Purchaser shall have elected to pursue approval of a Chapter 100 Plan to a date after Closing); and

(9) The Development Agreement shall be in full force and effect in the form originally executed and of even date herewith, except with respect to any amendments agreed to in writing by Seller and Purchaser.

(b) In the event that any of the foregoing conditions shall not have been fulfilled on or before the time for Closing hereunder, then Purchaser shall have the remedies provided for in **Section 15(b)** hereof.

10. **Conditions to the Seller's Obligation to Close.**

(a) The Seller shall not be obligated to proceed with the Closing unless and until each of the following conditions has been fulfilled or waived in writing by the Seller:

(1) The Purchaser shall be prepared to pay to the Seller the Purchase Price and all other amounts to be paid to it at Closing pursuant to the provisions of this Agreement;

(2) The Purchaser shall be prepared to deliver to the Seller all instruments and documents to be delivered to the Seller at the Closing pursuant to **Section 13** and **Section 14** or any other provision of this Agreement; and

(3) This Agreement shall not have been previously terminated pursuant to any other provision hereof.

(b) In the event that any of the foregoing conditions shall not have been fulfilled on or before the time for Closing hereunder, then Seller shall have the remedy provided for in **Section 15(a)** hereof.

11. **Title Insurance.**

(a) Within fifteen (15) days of the Effective Date of this Agreement, the Seller, at Seller's sole cost and expense, shall deliver (or cause the Title Insurer to deliver to the Purchaser) a commitment for the Title Policy described in **Section 11(b)** below dated on or after the Effective Date (the "**Title Commitment**"), together with legible copies of all of the underlying documentation described in such Title Commitment (the "**Title Documents**") to the extent not already delivered to Purchaser. Purchaser may obtain an updated ALTA survey of the Property at Purchaser's sole cost and expense (the "**Updated Survey**").

(b) Purchaser shall have until the day that is fifteen (15) days prior to expiration of the Due Diligence Period in which to review the Title Commitment, the Title Documents, the Updated Survey, and the Survey and notify Seller in writing, at Purchaser's election, of such objections as Purchaser may have to any matters contained therein ("**Purchaser's Objection Notice**"; any of said objections listed on Purchaser's Objection Notice are deemed the "**Objectionable Exceptions**"). If Seller does not notify Purchaser in writing within five (5) business days after receiving the Purchaser's Objection Notice, Seller shall conclusively be deemed to have agreed to remove all said Objectionable Exceptions at or before Closing. On the other hand, if Seller notifies Purchaser in writing within five (5) business days after receipt of the Purchaser's Objection Notice that it has elected not to cure one or more of said Objectionable Exceptions ("**Seller's Notice**"), Purchaser shall have the right to either (i) terminate this Agreement by delivering written notice within five (5) business days after receipt of such Seller's Notice, in which event, the Earnest Money shall be returned to Purchaser and neither party shall have any further rights or obligations under the Agreement, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement, (ii) Purchaser may consummate the transaction contemplated by this Agreement in accordance with the terms hereof, in which event, all those Objectionable Exceptions that Seller has so elected not to cure shall conclusively be deemed to constitute "**Permitted Encumbrances**", or (iii) extend Purchaser's time period to exercise its rights under (i) or (ii) of this subsection for an additional ten (10) days to attempt to address any outstanding title and/or survey issues with Seller.

(c) The Seller, at its sole expense, shall cause to be delivered to the Purchaser at Closing an owner's title insurance policy with extended coverage (the "**Title Policy**") issued by the Title Insurer, dated the day of Closing, in the full amount of the Purchase Price, the form of which shall be American Land Title Association Owner's Policy, Standard Form B, 2006 (or such other form required or promulgated pursuant to applicable state insurance regulations), insuring good and marketable title to Purchaser, subject only to the Permitted Exceptions (as defined below). The Title Policy may contain any endorsements reasonably requested by the Purchaser which are available in Missouri; provided that, the Purchaser shall satisfy itself as to the availability of any such endorsements prior to the expiration of the Due Diligence Period. The costs of any such endorsements shall be paid for by the Purchaser unless otherwise provided herein.

(d) Prior to Closing, Seller shall remove or cure (1) liens of an ascertainable amount, which liens the Seller shall cause to be released at the Closing or affirmatively insured over by the Title Insurer with the Purchaser's approval and, (2) any exceptions or encumbrances to title which are not reflected on the Title Commitment delivered to Purchaser on the Effective Date, unless Purchaser consents to same. In addition, the Seller and Purchaser shall provide the Title Insurer with all affidavits, ALTA statements or personal undertakings (collectively, the "**Owner's Affidavit**"), in form and substance reasonably acceptable to the Title Insurer, that will permit the Title Insurer to provide extended coverage and to remove the standard "mechanics lien" and "GAP" exceptions and otherwise issue the Title Policy.

(e) "**Permitted Exceptions**" shall mean: (1) any exception arising out of an act of the Purchaser or its representatives, agents, employees or independent contractors; (2) zoning and subdivision ordinances and regulations; (3) Permitted Encumbrances, as described in **Section 11(b)** above; (4) other title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount, which Seller (with the consent of Purchaser) elects to have removed or

insured over by the Title Insurer by the payment of money and which are removed or insured over at or prior to Closing; and (5) real estate taxes and assessments not yet due and payable for the year in which the Closing Date occurs and any subsequent years.

12. **Documents to be Delivered to the Purchaser at Closing.**

At Closing, the Seller shall deliver or cause to be delivered to the Purchaser each of the following instruments and documents, properly signed and notarized by Seller, as applicable:

(a) Deed. The Deed, in the form attached hereto as **Exhibit B**.

(b) The Title Policy. The Title Policy, provided, however, that the Title Policy may be delivered after the Closing if at the Closing the Title Insurer, issues a currently effective, duly-executed “marked-up” Title Commitment and irrevocably commits in writing to issue the Title Policy in the form of the “marked-up” Title Commitment after the Closing.

(c) FIRPTA. An affidavit, in the form attached hereto as **Exhibit C**, stating the Seller’s U.S. taxpayer identification number and that the Seller is a “United States person”, as defined by Internal Revenue Code Section 1445(f)(3) and Section 7701(b).

(d) Owner’s Affidavit. The Owner’s Affidavit referred to in **Section 11(d)** above.

(e) Surveys, Plans, Permits and Specifications. All existing surveys, blueprints, drawings, designs, plans and specifications, permits, and operating manuals for or with respect to the Property or any part thereof to the extent the same are in the Seller’s possession or control.

(f) Other Documents. Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required to carry out the terms and intent of this Agreement.

13. **Documents to be Delivered to the Seller at Closing.**

At Closing, the Purchaser shall deliver or cause to be delivered to the Seller each of the following instruments, documents and amounts:

(a) Purchase Price. The Purchase Price calculated pursuant to **Section 4** hereof.

(b) Other Documents. Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required to carry out the terms and intent of this Agreement.

14. **Documents to be Delivered by the Seller and the Purchaser at Closing.**

At Closing, the Purchaser and the Seller shall deliver or cause to be delivered each of the following instruments and documents:

(a) Escrow Instructions. Escrow instructions as described in **Section 8(b)**.

- (b) Settlement Statement. Executed settlement statement.

15. **Default; Termination.**

(a) If the Purchaser defaults in any material respect hereunder, and such default is not cured within ten (10) days after written notice to Purchaser, the Seller's sole remedy shall be to terminate this Agreement by giving written notice thereof to the Purchaser, whereupon the Earnest Money shall be paid to the Seller as liquidated damages as the Seller's sole and exclusive remedy, 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. The parties acknowledge and agree that the Seller's actual damages in the event of purchaser's default are uncertain in amount and difficult to ascertain and that said amount of liquidated damages was reasonably determined and is not a penalty. The Seller may not exercise its sole remedy if the Seller is in default in any material respect under this Agreement.

(b) If the Seller defaults in any material respect hereunder, and such default is not cured within ten (10) days after written notice to Seller, the Purchaser may enforce this Agreement under applicable law, or terminate this Agreement by written notice to Seller, whereupon the Earnest Money 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. The Purchaser may not exercise its remedies hereunder if the Purchaser is in default in any material respect under this Agreement.

16. **Expenses.**

(a) Transfer taxes, if any, and title insurance premiums for the extended coverage Title Policy (other than the costs of the endorsements to such Title Policy, except for extended coverage) and one-half (1/2) of the escrow fee, shall be borne and paid by the Seller.

(b) The costs of the endorsements to the Title Policy, one-half (1/2) of the escrow fee and any other recording fees respecting the Deed, shall be borne and paid by the Purchaser.

(c) All other costs, charges, and expenses shall be borne and paid as provided in this Agreement, or in the absence of such provision, in accordance with applicable law or local custom.

(d) Fifty percent (50%) of the cost of the Updated Survey up to a maximum amount of \$5,000 shall be paid by Seller at Closing, but shall only be payable if Closing occurs pursuant to this Agreement.

(e) In the event a Phase I environmental report is obtained by Purchaser pursuant to Section 6(c) and such report recommends a further environmental study, including a Phase II groundwater or soil test (or both) the Seller shall pay at Closing the cost of such Phase II reports up to a maximum amount of \$10,000, but only if the Closing occurs pursuant to this Agreement.

17. **Intermediaries.** The Seller represents to the Purchaser, and the Purchaser represents to the Seller, that there is no broker, finder, or intermediary of any kind with whom such party has dealt in connection with this transaction. If any claim is made for broker's or finder's fees or commissions in connection with the negotiation, execution or consummation of this Agreement or the transactions contemplated hereby by or through acts of Seller or Purchaser or their respective partners, agents or affiliates, then Seller or Purchaser, as applicable, shall defend, indemnify and hold harmless the other party from and against any such claim based upon any statement, representation or agreement of such party, which obligation shall survive Closing. Purchaser discloses that Russell Pearson, a member of Purchaser, holds a Missouri real estate salesperson license.

18. **Risk of Loss.** All risk of loss shall be borne by Seller until Closing. Seller agrees to give Purchaser prompt notice of any fire or other casualty affecting the Property between the date hereof and Closing or of any actual or threatened taking or condemnation of all or any portion of the Property. If prior to the Closing there shall occur any such damage, or actual or threatened taking or condemnation, then in any such event Purchaser may at its option terminate this Agreement by notice to Seller within twenty (20) days after Purchaser has received the notice referred to above or at the Closing, whichever is earlier, and the Earnest Money shall be returned to Purchaser. If Purchaser does not so elect to terminate this Agreement, then the Closing shall take place as provided herein without abatement of the Purchase Price, and there shall be assigned to Purchaser at the Closing all of Seller's interest in and to all insurance proceeds or condemnation award that are allocable to the Property, plus a credit for the amount of any insurance deductible.

19. **General Provisions.**

(a) **Entire Agreement.** This Agreement, including all exhibits and schedules attached hereto and documents to be delivered pursuant hereto, shall constitute the entire agreement and understanding of the parties with respect to the subject matter contained herein, and there are no other prior or contemporaneous written or oral agreements, undertakings, promises, warranties, or covenants related to such subject matter not contained herein.

(b) **Amendments in Writing.** This Agreement may be amended only by a written agreement executed by all of the parties hereto.

(c) **Waiver.** No waiver of any provision or condition of this Agreement by any party shall be valid or effective unless in writing signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default.

(d) **Time of the Essence.** Time is of the essence of this Agreement. In the computation of any period of time provided for in this Agreement or by law, any date falling on a Saturday, Sunday or legal holiday when banks are not open for business in North Kansas City, Missouri, shall be deemed to refer to the next day which is not a Saturday, Sunday, or legal holiday when banks are not open for business in such location.

(e) **Severability.** Except as otherwise provided in the succeeding sentence, every term and provision of this Agreement is intended to be severable, and if any term or provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall

not affect the legality or validity of the remainder of this Agreement. The preceding sentence shall be of no force or effect if the consequence of enforcing the remainder of this Agreement without such illegal or invalid term or provision would be to cause any party to lose the benefit of its economic bargain.

(f) Headings. Headings of sections are for convenience of reference only, and shall not be construed as a part of this Agreement.

(g) Successors and Assigns. Except as provided below, Purchaser may not assign this Agreement without the Seller's consent. However, without Seller's consent but with notice to Seller, Purchaser may assign this Agreement to any entity that Purchaser controls, that Purchaser is controlled by, or that Purchaser is under common control with; provided that, such assignment must be in writing and provides for the assignment of all of the Purchaser's obligations under this Agreement arising before or after such assignment, in which event Purchaser shall be released from any obligations hereunder. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties.

(h) Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to be an adequate and sufficient notice if given in writing and delivery is made either by (i) personal delivery, in which case the notice shall be deemed received the date of such personal delivery or refusal of receipt, (ii) nationally recognized overnight air courier service, next day delivery, prepaid, in which case the notice shall be deemed to have been received one (1) business day following delivery to such nationally recognized overnight air courier service or refusal of receipt, or (iii) email, provided that delivery thereof is acknowledged by the receiving party, evidenced by the sender's receipt of a receipt evidencing delivery from its email program, or the sender of an email notice otherwise does not receive any indication that such email did not get delivered properly to the applicable recipient, and to the following addresses or email addresses, as applicable:

IF TO THE PURCHASER:

Blume NKC LLC  
3152 S.W. Grandstand Circle  
Lee's Summit, Missouri 64081  
Email: [rpearson@boxdevco.com](mailto:rpearson@boxdevco.com) and [jlanson@boxdevco.com](mailto:jlanson@boxdevco.com)

with copies to:

Polsinelli PC  
900 W. 48<sup>th</sup> Place, Suite 900  
Kansas city, MO 64112  
Attention: Marc Abbott  
Email: [mabbott@polsinelli.com](mailto:mabbott@polsinelli.com)

IF TO THE SELLER:

City of North Kansas City, Missouri  
2010 Howell Street  
North Kansas City, Missouri 64116  
Attention: City Administrator  
Email: [knakahodo@nkc.org](mailto:knakahodo@nkc.org)

with a copy to:

Thomas E. Barzee, Jr.  
2010 Howell Street  
North Kansas City, Missouri 64116  
Email: [tebarzee@nkc.org](mailto:tebarzee@nkc.org)

and with a copy to:

Stephen S Sparks  
Bryan Cave Leighton Paisner LLP  
Suite 3800  
1200 Main Street  
Kansas City, Missouri 64105  
Email: [sssparks@bclplaw.com](mailto:sssparks@bclplaw.com)

or to such additional or other persons, at such other address or addresses as may be designated by notice from the Purchaser or the Seller, as the case may be, to the other party. Any notice to be delivered pursuant to this Agreement (including without limitation, any notice or responses related to title, survey or other due diligence matters) may be delivered by either Purchaser or its counsel or Seller or its counsel and the delivery of notice by counsel instead of the applicable Purchaser or Seller is expressly permitted and agreed to by the parties to this Agreement and each party's counsel shall be deemed a permitted and authorized agent of such party for purposes of delivering notices until the time that the Purchaser or Seller notifies the other party in writing that their counsel does not have authority to deliver notices of this Agreement on its behalf, respectively.

(i) Governing Law; Choice of Forum. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Missouri, notwithstanding any choice of law rules to the contrary.

(j) Counterparts; Non-Paper Records. This Agreement may be signed or otherwise authenticated in any number of counterparts and by different parties to this Agreement on separate counterparts, each of which, when so authenticated, shall be deemed an original, but all such counterparts shall constitute one and the same Agreement. Any signature or other authentication delivered by facsimile or electronic transmission shall be deemed to be an original signature hereto. Each party who signs or otherwise authenticates this Agreement hereby: (1) agrees that the other party may create a duplicate of this Agreement by storing an image of it in an electronic or other medium (a "**Non-Paper Record**"); (2) agrees that, after creating the Non-Paper Record, such party may discard or destroy the original in reliance on this Section; (3) agrees that the Non-Paper Record shall be treated as the original for all purposes; and (4) expresses its present

intent to adopt and accept the Non-Paper Record as an authenticated record of this Agreement. This Agreement, when signed or authenticated pursuant to this Section, shall be evidence of the existence of this Agreement and may be received in all courts and public spaces as conclusive evidence of the existence of this Agreement and that this Agreement was duly executed by the parties to this Agreement.

(k) Attorney's Fees. In the event of any action or proceeding brought by either party against the other under this Agreement, the prevailing party shall be entitled to recover all costs and expenses including its attorneys' fees in such action or proceeding in such amount as the court may adjudge reasonable. The prevailing party shall be determined by the court based upon an assessment of which party's major arguments made or positions taken in the proceedings could fairly be said to have prevailed over the other party's major arguments or positions on major disputed issues in the court's decision. If the party which shall have commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

(l) Construction. This Agreement shall not be construed more strictly against the Purchaser merely by virtue of the fact that the same has been prepared by the Purchaser or its counsel, it being recognized both of the parties hereto have contributed substantially and materially to the preparation of this Agreement. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders and any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(m) 1031 Exchange. The Purchaser may structure the purchase of the Property as a like-kind exchange under Internal Revenue Code Section 1031 at Purchaser's sole cost and expense. Seller shall reasonably cooperate therewith, provided that Seller shall incur no material costs, expenses or liabilities in connection with Purchaser's exchange and the Seller shall not be required to take title to or contract for purchase of any other property. If Purchaser uses a qualified intermediary to effectuate the exchange, any assignment of the rights or obligations of such party hereunder shall not relieve, release or absolve such party of its obligations to the other party hereunder.

(n) Reporting Obligations. The Seller and the Purchaser hereby designate the Title Insurer to act as and perform the duties and obligations of the "reporting person" with respect to the transaction contemplated by this Agreement for purposes of 26 C.F.R. Section 1.6045-4(e)(5) relating to the requirements for information reporting on real estate transaction closed on or after January 1, 1991. If required, the Seller, the Purchaser and the Title Insurer shall execute at Closing a designation agreement designating the Title Insurer as the reporting person with respect to the transaction contemplated by this Agreement.

(o) Excusable Delays. The parties hereto acknowledge and agree that Purchaser's acquisition of the Property pursuant to this Agreement is dependent on Purchaser's ability to secure financing for the acquisition and development of the Property, the timing of which may or may not be affected by the COVID-19 pandemic and the effect on the lending market it has had and may have in the future. The parties agree that in the event of any such delay, the Closing Date shall be extended to accommodate such delay but not for a period longer than ninety

(90) days and the parties shall cooperate to document such extension. If Closing has not taken place and such delay remains at the end of such 90-day period, this Agreement shall automatically terminate, in which case the Earnest Money shall be immediately returned to Purchaser and neither party shall have any further rights or obligations under this Agreement, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

**SELLER:**

**CITY OF NORTH KANSAS CITY, MISSOURI**

By: \_\_\_\_\_  
Bryant DeLong, Mayor

ATTEST:

By: \_\_\_\_\_  
Cyrstal Doss, City Clerk

[SEAL]

**PURCHASER:**

**Blume NKC LLC,**  
a Missouri limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

Lot 2, Northgate Village Retail Center, 2<sup>nd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri; and

Lot 1, Northgate Village Retail Center, 3<sup>rd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri.

**EXHIBIT B**

**FORM OF MISSOURI SPECIAL WARRANTY DEED**

THIS DEED is made as of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF NORTH KANSAS CITY, MISSOURI ("Grantor") and Blume NKC LLC, a Missouri limited liability company ("Grantee"), with an address of 3152 S.W. Grandstand Circle, Lee's Summit, Missouri 64081.

WITNESSETH, that Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, to Grantor paid by Grantee (the receipt of which is hereby acknowledged) does by these presents GRANT, BARGAIN AND SELL, CONVEY AND CONFIRM, unto Grantee and its successors and assigns, the following described land, lots, tracts or parcels of land, lying, being and situate in the County of Clay and State of Missouri (the "Property"), to wit:

See **Exhibit A** attached hereto.

SUBJECT TO: The permitted exceptions described on **Exhibit B** attached hereto.

TO HAVE AND TO HOLD, the Property aforesaid, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any way appertaining unto the said Grantee and unto its successors and assigns forever; Grantor hereby covenanting that it has good right to convey the same; that the said Property is free and clear from any encumbrances done or suffered by, through or under Grantor, except as above stated; and that it will warrant and defend the title of the said Property unto Grantee and unto its successors and assigns forever, against the lawful claims and demands against Grantor and Grantor's successors and assigns, and all and every person or persons whomsoever, lawfully claiming or to claim the same by, through, or under Grantor, except as set forth above.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

**IN WITNESS WHEREOF**, Grantor has caused this instrument to be executed as of the day and year first above written.

**GRANTOR:**

**CITY OF NORTH KANSAS CITY, MISSOURI**

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Cyrstal Doss, City Clerk

**ACKNOWLEDGMENT**

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF CLAY     )

BE IT REMEMBERED, that on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, the Mayor of the City of North Kansas City, Missouri, who is 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 person duly acknowledged the execution of the same to be 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.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:  
\_\_\_\_\_

**Exhibit A**

LEGAL DESCRIPTION

Lot 2, Northgate Village Retail Center, 2<sup>nd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri; and

Lot 1, Northgate Village Retail Center, 3<sup>rd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri.

**Exhibit B**

PERMITTED EXCEPTIONS

**EXHIBIT C**

**FORM OF FIRPTA AFFIDAVIT**

Section 1445 of the Internal Revenue Code, as amended, provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the Transferee (as defined below) that withholding of tax is not required upon the disposition of a United States real property interest by the CITY OF NORTH KANSAS CITY, MISSOURI, a third class City and municipal corporation of the State of Missouri (the “**Transferor**”) to BLUME NKC LLC, a Missouri limited liability company (the “**Transferee**”) relating to the real property described on **Schedule A** hereto (the “**Transferred Interests**”), the undersigned, being first duly sworn upon oath, does hereby depose and say, and does hereby on behalf of the Transferor represent that the following is true as of the date hereof:

1. \_\_\_\_\_ is the Mayor of the Transferor and is familiar with the affairs and business of the Transferor;
2. The Transferor is not a foreign person; that is, the Transferor is not a nonresident alien, a foreign corporation, foreign partnership, foreign trust or foreign estate (as all such terms are defined in the Internal Revenue Code of 1986, as amended, and United States Treasury Department Income Tax Regulations in effect as of the date hereof);
3. The Transferor is a third class City and municipal corporation of the State of Missouri duly organized, validly existing and in good standing under the laws of the State of Missouri;
4. The Transferor’s United States employer identification number is 44-6000236;
5. The Transferor’s office address and principal place of business is 2010 Howell Street, North Kansas City, Missouri 64116; and
6. Transferor is not a disregarded entity as defined in §1.1445-2(b)(2)(iii).

The undersigned and the Transferor understand that this affidavit and certification may be disclosed to the United States Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

All terms (whether capitalized or not) used but not defined herein shall have the same respective meanings as in the Internal Revenue Code of 1986, as amended, and the United States Treasury Department Income Tax Regulations in effect as of the date hereof.

Under penalties of perjury, we declare that we have examined this affidavit and certificate, and to the best of our knowledge and belief, it is true, correct and complete. We further declare that we have authority to sign this affidavit and certificate on behalf of the Transferor.



## **SCHEDULE A**

### **LEGAL DESCRIPTION OF THE PROPERTY**

Lot 2, Northgate Village Retail Center, 2<sup>nd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri; and

Lot 1, Northgate Village Retail Center, 3<sup>rd</sup> Plat, a Subdivision in the City of North Kansas City, Clay County, Missouri.

**SCHEDULE 5(a)(4)**  
**PROPERTY INFORMATION**

1. Copies of all contracts if any.
2. Copies of all governmental licenses and permits if any.
3. Copies of all environmental, engineering, geo-technical reports if any.
4. Copies of any agreements that will be binding on the Purchaser after closing.
5. Copies of all insurance policies if any.
6. Copies of the real estate tax bills for the last three tax years for which bills are available.
7. A copy of the most recent survey of the Property if any.
8. A copy of the Seller's existing Owner's Title Insurance Policy if any.
9. Summary of all pending and threatened litigation and claims.
10. All other documentation reasonably requested by the Purchaser if in Seller's possession or control.