

REAL ESTATE PURCHASE SALE AGREEMENT

THIS REAL ESTATE PURCHASE SALE AGREEMENT ("Agreement") is made by and between 3 LIPS, LLC ("Seller") and the City of Republic, Missouri ("Buyer" and/or "the City") (together referred to herein as "the Parties") as of the date of final acceptance by the last party to sign this Agreement ("Effective Date").

1. **THE PROPERTY.** The City has offered to purchase, and the Seller is willing to sell, by special warranty deed, certain real property located at the address commonly known as 2493 North Commercial Avenue in Republic, Missouri, in the County of Greene in the State of Missouri, more particularly described as follows:

A 70.0' Right-of-Way being a part of the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of Section 2, Township 28 North, Range 23 West, in the City of Republic, Greene County, Missouri, being a part of the tract of land recorded in the Greene County Recorder's Office in Book 2022 at Page 013313-22, more particularly described as follows:

COMMENCING at an existing 1/2" iron bar marking the Southeast corner of said SE¼ of the SW¼; thence N01°43'56"E, along the East line of said SE¼ of the SW¼, a distance of 194.68 feet; thence N88°16'04"W, a distance of 24.99 feet to a point on the West right-of-way line of Commercial Avenue, as it now exists, for a POINT OF BEGINNING; thence along a non-tangent curve to the left having a radius of 477.00 feet, an arc length of 218.65 feet, a central angle of 26°15'48" and a chord distance of 216.74 feet which bears S76°27'22"W; thence S63°19'28"W, a distance of 298.01 feet to a point on the South line of said SE¼ of the SW¼; thence N88°45'11"W, along said South line, a distance of 149.48 feet; thence N63°19'28"E, a distance of 430.10 feet; thence along a tangent curve to the right having a radius of 547.00 feet, an arc length of 253.36 feet, a central angle of 26°32'18" and a chord distance of 251.10 feet which bears N76°35'37"E to a point on said West right-of-way line; thence S01°44'05"W, along said West right-of-way line, a distance of 70.04 feet to the POINT OF BEGINNING.

Containing 42,004 square feet or 0.964 acres, more or less, and subject to any rights-of-way, easements, and restrictions of record.

The property described in this paragraph above, together with any attached improvements located thereon, except any exclusions listed herein, is hereinafter referred to as the "Property". The Property shall be free from all liens and encumbrances, except for standard easements and restrictions, if any.

2. **PURCHASE PRICE; TERMS.** The City agrees to buy, and the Seller agrees to sell, the Property, pursuant to the following terms and conditions:
 - a. **Purchase Price.** The City agrees to pay the amount of One Hundred and Eleven Thousand Three Hundred Ten Dollars and Sixty Cents (\$111,310.60) for the Property ("Purchase Price"), payable in cash or certified check, to be paid to Seller on or before the closing date listed herein.
 - b. **Contingencies.** This Agreement is subject to the following contingencies, and City may elect to declare this Agreement null and void prior to the closing without obligation or liability to Seller if:

- i. *(If applicable)* An environmental assessment of the Property performed by or on behalf of the City discloses that hazardous substances may have been released on the Property, or that the Property is otherwise contaminated or environmentally impaired.
- ii. *(If applicable)* A survey or inspection of the Property discloses encroachments, violations of subdivision or other restrictions, boundary line disputes, or rights or claims of third parties in possession, on any portion of the Property, which would impact or inhibit in any way the City's ability to obtain clear title to the Property or the City's ability to utilize the Property for its intended use(s) for the Property, or which the City otherwise deems in good faith to be unacceptable.
- iii. *(If applicable)* The title insurance commitment referred to in paragraph 7 of this Agreement shall fail to show merchantable title in Seller, or shall contain exceptions unacceptable to City.
- iv. *(If applicable)* The City does not have appropriated unencumbered funds necessary to purchase the Property.

3. SELLER'S REPRESENTATIONS. Seller represents to City that:

- a. Seller has no knowledge of any underground tanks, toxic or hazardous substances, or dump sites on the Property, either at present or in the past; and
- b. Seller has no knowledge of any real estate listing agreement or other agreement providing for commission owed or payable to a real estate agent or broker in connection with any services relating to the Property; and
- c. Seller has no knowledge of any unpaid improvements or other work that has been performed on or about the Property that would give rise to the filing of any mechanics' liens against the Property; and
- d. Seller has the full authority to enter into this Agreement and to legally bind Seller to all its terms and conditions; and
- e. Seller is not aware of any options, contracts of sale, leases or other rights in favor of any third parties, to which the Property is subject; and
- f. Seller is not aware of any pending or threatened legal proceedings involving or relating to the Property.

The representations contained hereinabove will continue to be true as of the date of the closing, unless Seller has given City notice to the contrary in writing prior thereto.

4. CLOSING, DELIVERY OF DEED AND POSSESSION.

- a. The "Closing" refers to the Seller's delivery of the special warranty deed referenced herein above to the City in exchange for the Purchase Price paid by the City after all contingencies have been met and all documents have been signed. The Closing shall be completed on or around January 15, 2024 ("Closing Date").
- b. On or before the date of the Closing, the Seller shall execute and deliver to the appropriate title company or other closing agent the special warranty deed referenced herein above, and all other documents and funds reasonably necessary to complete the Closing.
- c. On or before the date of Closing, Seller and Buyer each agree to deliver to the designated Closing agent a cashier's check, wire or other acceptable form of certified funds in an amount sufficient to satisfy their respective obligations under this Agreement.
- d. The Seller shall deliver possession of the Property to Buyer on or before the Closing Date.

- e. The Seller acknowledges that any funds or other proceeds received into its possession from the sale of the Property pursuant to this Agreement may not be disbursed until the deed conveying interest to the Property as provided for herein has been duly recorded.
 - f. Seller acknowledges that disbursement of proceeds may not be made until after the deed or instrument of conveyance and, if applicable, mortgage or deed of trust have been recorded.
 - g. Buyer shall pay the cost of survey, if any, the cost for the title commitment and title policy, if any, the cost for recording the Seller's Deed; and the closing costs charged by Hogan Title.
5. **MAINTENANCE OF PROPERTY.** Seller shall maintain the Property in its present condition through the date on which it transfers possession to the City. Seller shall advise The City of any substantial change in the condition of the Property prior to closing. Unless otherwise agreed upon by the Parties in writing, Seller shall remove all possessions, trash and debris from the Property upon vacating or prior to delivery of possession.
6. **INSURANCE AND CASUALTY LOSS** - Seller agrees to maintain any applicable insurance affording coverage on or for the Property until the Closing or delivery of possession, whichever occurs sooner. If, prior to that date, improvements on the Property are damaged or destroyed, by theft, vandalism, fire, natural elements such as wind, rain, hail, ice or the like, or any other causes, including those that could be covered by what is commonly known as fire and extended coverage insurance, the Parties agree that the risk of that damage or destruction shall be borne as follows: If the damage is minor (defined as requiring repairs at a cost of under \$1,000), Seller shall repair the Property, provided the work can be completed before the closing date. If the damage is substantial (defined as requiring repairs exceeding a cost of \$1,000), Seller may elect to perform the repairs, and Seller shall have the time reasonably necessary to complete said repairs, after which time the Closing may occur. If Seller elects not to make the repairs, Seller shall notify the City in writing and the City may cancel this Agreement by written notice to Seller within five (5) calendar days after receiving notice. If the City elects to cancel pursuant to this paragraph, the City shall have no remedy or recourse against Seller for any costs, fees, damages, or other alleged injuries, including but not necessarily limited to consequential damages, inconvenience damages, or reliance damages, allegedly or actually arising from the delay and/or cancellation of this Agreement.
7. **PROPERTY TAXES AND FEES; DETERMINATION AND PRORATION** - All general, state, county, school and municipal real estate taxes, homeowners' association dues and/or fees, special assessments, interest on existing loans to be assumed by the City, and any other contractual obligation of Seller relating to the Property to be assumed by the City for years prior to the current calendar year, shall be paid by Seller. Any of the preceding items which become due and accrue during the calendar year in which Seller's deed is delivered (including rents, if applicable) shall be prorated between the Parties as of the Closing date, with each party to bear their respective share of the prorated amount owed. Seller's prorated amount shall be delivered by the Closing agent or company (or the City, if agreed upon by the Parties) to the appropriate County Collector within ten (10) days of Closing by the closing company or the City, as a service to the Seller. If there is no Closing agent or company involved, the amount due shall be paid by the City out of the Seller's proceeds. Any of the preceding items which become due and accrue for all years after the calendar year in which Seller's deed is delivered (including rents, if applicable), to the extent permitted by law, shall be assumed and paid by the City. If the current year's taxes cannot be determined, the aforementioned proration shall be based on the preceding year's taxes with adjustments for known changes in assessed valuation or tax levies.

8. PROPERTY INSPECTION. The City may, at the City's expense, employ independent, qualified inspectors of City's choice (and shall arrange for any inspections and testing systems) in order to make the following determinations:

- a. To determine whether there are any material defects in the plumbing systems, including septic tank, wastewater treatment system and water well, if any, sewer and water lines.
- b. To determine the presence of termite or other wood destroying insect infestation in the accessible areas of the Property, by a reputable, licensed pest control firm, selected by the City, and obtain any necessary certificates. Notwithstanding any provision in this paragraph to the contrary, City's termite and wood destroying insect inspection and report shall be completed and provided to Seller no more than thirty (30) days nor less than (10) days prior to the Closing Date, if possible. If the City's inspection report reveals evidence of past untreated or current termite or wood destroying insect infestation, Seller agrees to pay for the usual and customary cost of having the Property treated for the control of the infestation by a reputable, licensed pest control firm, and if there is evidence of damage to the Property as a result of any infestation, and Seller and the City cannot reach Agreement on the allocation of costs of repairs within five (5) days of the City's delivery of such inspection and report to Seller, the City may waive by written notice within such time period any requirement that Seller pay such additional costs and proceed to Closing, or the City may terminate this Agreement by written notice to Seller.
- c. To determine whether there exists on the Property any of the following: sink holes, voids in soil composition, or environmentally hazardous or otherwise regulated substance which might impose liability on the City as the subsequent owner of the Property.
- d. Such other inspections as City deems reasonably necessary.

Seller shall give the City, or its designated agent, reasonable access to the Property for the purpose of making the inspections.

Seller acknowledges and agrees that the right of inspection contained in this paragraph shall not in any way relieve the Seller from the obligation to satisfy any contingencies contained in this Agreement within the applicable time periods.

9. REMEDIES UPON DEFAULT – Seller or Buyer shall be in default under this Agreement if either fails to comply with any material provision of this Agreement. If either party defaults, the party claiming a default shall notify the other party in writing of the nature of the default and terminate this Agreement or extend the time for performance by a written document signed by all Parties. The notifying party may, but is not required to, provide the defaulting party with a deadline for curing the default. The failure to assert a default shall not constitute a waiver of the right to assert a default of the same or any other provision of this Agreement. If this Agreement shall not be timely closed due to the fault of Buyer, then 10% of the total sale price shall be paid by Buyer to Seller as liquidated damages (and not as a penalty), it being agreed by the Parties that actual damages as a result of a breach of this Agreement are difficult, if not impossible, to ascertain. If legal action must be brought due to a breach of this Agreement, the prevailing party in such action shall be entitled to collect its reasonable attorney fees from the defaulting party / party in breach.

10. CONFLICTS OF INTEREST. No salaried or fully employed officer or employee of the City, or any member of the City Council of the City, or the mayor of the City, shall have a financial interest, direct or indirect, in or to

this Agreement. A violation of this provision renders the Agreement void. Any federal regulations, and applicable provisions in Section 105.450 *et seq.*, RSMo., shall not be violated.

11. **PROVISIONS NOT MERGED WITH DEED.** No provision of this Agreement is intended to or shall be merged by reason of any deed transferring title to the Property from the Seller to the City, or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.
12. **NOTICE.** All written notices required or permitted under this Agreement may be given by facsimile or by first class mail addressed to City and Seller by one of three different means: Facsimile Transmission, if both parties have a facsimile number; U.S. Postal Service mail methods; or by hand delivering a copy of the same to the receiving party; or may give notice by any combination of the above methods:
 - a. The date of notice shall be:
 - (1) The date upon which notice is hand delivered to the receiving party;
 - (2) The date of delivery of notice by FAX transmission which shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party;
 - (3) The third day following mailing of the notice, whichever first occurs.
 - b. It shall be sufficient if notices to the City are addressed as follows:

Republic City Hall
213 North Main Avenue
Republic, Missouri 65738
c/o Megan McCullough, City Attorney
 - c. It shall be sufficient if notices sent to the Seller are addressed as follows:

3 Lips, LLC
520 S Union Ave
Springfield, MO 65802
13. **HEADINGS.** The headings or captions of this Agreement are for convenience and reference only, and in no way define, limit, or describe the scope or intent of the Agreement or any provision hereof.
14. **SEVERABILITY.** In the event any one or more of the phrases, sentences, clauses, paragraphs or sections contained in this Agreement shall be declared invalid by the final order, decree or judgment of any court, the City may, at its sole option, set this Agreement aside.
15. **VENUE AND JURISDICTION.** This Agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this Agreement be adjudicated, venue shall be proper only in the Circuit Court of Greene County, Missouri.
16. **ENTIRE CONTRACT.** This Agreement contains the entire Agreement of the parties. No modification, amendment, or waiver of any of the provisions of this Agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated

WHEN SIGNED BY ALL PARTIES, THIS IS A LEGALLY BINDING DOCUMENT. BY SIGNING THIS AGREEMENT, THE PARTIES ACKNOWLEDGE THEY UNDERSTAND ALL TERMS AND PROVISIONS CONTAINED IN THIS AGREEMENT AND INTEND TO BE BOUND BY THEM.

SELLER: 3 LIPS, LLC	BUYER: The City of Republic, Missouri
By: _____	By: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
	ATTEST:

	Laura Burbridge, City Clerk
	APPROVED AS TO FORM:

	Megan E. McCullough, City Attorney

