

ATTACHMENT 1 –
DRAFT

MEMORANDUM OF UNDERSTANDING

This **Memorandum of Understanding** (“MOU” and/or “Agreement”) is entered into this _____ day of _____, 202__, by and between the City of Republic, Missouri, a municipal corporation and Charter City located in Greene County, Missouri, being duly organized and existing under the laws of the State of Missouri (“City”), and Drury Properties, Inc. (“Drury” and/or “Owner”). City and Owner are referred to together herein as “the Parties.”

WITNESSETH:

WHEREAS, Drury is currently the owner of approximately 2.12 acres of improved real property located near the intersection of existing Farm Road 107 and U.S. Highway 60 in Republic, Missouri, as shown on **Exhibit A** hereto (the “Property”); and

WHEREAS, the Republic School District is currently planning for construction of a new school building on certain real property it owns adjacent to and north of the Property; and

WHEREAS, in order to ensure safe and adequate access to the new school, once constructed, certain infrastructure and other improvements must be made to various areas surrounding the Property, including portions of the Property itself; and

WHEREAS, among those necessary improvements is the realignment of existing Farm Road 107 and the construction of a new intersection at the realigned Farm Road 107 and U.S. Highway 60, which will require right-of-way access to a portion of the Property; and

WHEREAS, the School District has agreed to convey to Owner its interest in approximately 0.86 acres (37,735 square feet) of land located immediately to the north of the Property, as shown on Exhibit A), in exchange for Owner’s agreement to grant the City right-of-way access to the affected portion of the Property consisting of approximately 0.6 acres, as identified on Exhibit A; and

WHEREAS, in exchange for good and valuable consideration, the sufficiency of which is acknowledged by the Parties, upon completion of the transfer of the aforementioned 0.86 acres of property from the School District to Owner, Owner agrees to grant the aforementioned right-of-way access to the City, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, conditions, and agreements set forth herein, Owner and City mutually acknowledge and agree as follows:

1. **Consideration and Terms.** In exchange for Owner’s grant to City of full right-of-way access to the 0.6 acres of real property shown on Exhibit A, attached hereto and expressly incorporated as though fully set forth at length herein, Owner and City agree to the following terms:

- a) Construction of the new/realigned Farm Road 107 will commence upon completion of School’s transfer to Owner of fee simple interest in the 0.86 acres of real property identified on Exhibit A, or, alternatively, upon Owner’s transfer of a temporary construction easement or easements allowing for such construction.

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- b) Owner’s access to the improvements currently located at 5905 U.S. Hwy 60, including the building and parking spaces/areas, except those to the north and west directly impacted by the construction of the new/realigned Farm Road 107, will remain intact and unencumbered until such time as the alternate access points are provided. Until that time, Owner shall have continued, unimpeded use of the building located at 5905 U.S. Hwy 60, and all unaffected parking spaces, including those existing parking areas to the south and east that will not be affected by the construction.
- c) To the extent fencing on the Property must be removed or altered in connection with construction of the new/realigned Farm Road 107, Owner shall be entitled to replacement/repair of such fencing in an agreeable configuration, for the purpose of securing the business that currently operates from the building on the Property.
- d) City recognizes that Owner shall have the right to immediate use of the property deeded to Owner by the School District, upon completion of such transfer.
- e) Access points for the Property:
 - i. Owner shall have full ingress to and egress from the Property along the newly constructed/realigned Farm Road 107, at 300 feet from U.S. Highway 60. Owner recognizes and acknowledges that the Missouri Department of Transportation (“MODOT”) intends to construct a fully signalized intersection at U.S. Highway 60 and the newly constructed/realigned Farm Road 107 during the year 2027, at which time Owner’s access may become inherently or in fact restricted to right in, right out access, which shall not in any way constitute a breach of this Agreement.
 - ii. Owner shall have secondary full access in an agreeable location to the north of the Property to service the Property from the portion of Farm Road 107 that is being constructed.
 - iii. The Parties acknowledge that both access points referenced above will be constructed to the new right-of-way line from the roadway, and further that if additional grading is needed beyond those right-of-way lines to service the Property, such work shall be provided be in conjunction with the project.
 - iv. Access to the property located at or near 5745 U.S. Highway 60 shall be provided to the nearest lane of U.S. Highway 60 as a shared access with 5731 U.S. Highway 60 in the vicinity of the existing access located at the western property line. Owner acknowledges that a traffic study may be required at or prior to the time of development of 5745 U.S. Highway 60, depending upon the use(s) and development plan.
 - v. An additional access to the Property shall be provided along a future backage road extension of Farm Road 107, in conjunction with development of 5745 U.S. Highway 60, 5731 U.S. Highway 60, or the development of the City-owned parcel located to the north, provided that funds for such access are available to City and approved by the City Council. The access referenced in this sub-paragraph is expressly contingent upon availability of funds and approval by City Council of the specified uses for those funds.
- f) The City agrees to install (1) a waterline extension along the northern Property line to the Northwest corner of the Property with a flush hydrant for future development, and (2) a flush hydrant on the existing main located along the eastern Property line. The Parties acknowledge and agree that this work is

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considered ancillary to the road construction referenced herein and the School District’s installation of waterline to service the new school building to the North of the Property.

2. **Public Entity Immunity.** The City preserves all immunities, sovereign, governmental and otherwise, recognized by law. Nothing in this MOU or any transactions under this MOU shall be construed or deemed in any way as a waiver by the City of sovereign immunity or governmental immunity recognized under common law, state law, ordinances, regulations, the Missouri Constitution, or the United States Constitution, including but not limited to § 537.600 RSMo., *et seq.*

3. **Law and Venue.** This MOU shall be governed by the laws of the State of Missouri. Any lawsuit, claim, or other action filed by or against one or both of the Parties to this MOU relating in any way to the interpretation of this MOU or to the exercise of rights and/or duties under this MOU, shall have proper venue solely in the Circuit Court of Greene County, Missouri.

4. **Assignment.** Neither party may assign their rights or obligations under this MOU without the prior written consent of the other party.

5. **Severability.** A determination by a court of competent jurisdiction or other authoritative decision-making body that any clause, sentence, paragraph, section, or part of this MOU is unconstitutional, invalid or otherwise unenforceable shall not affect in any way the validity or enforceability of the remaining clauses, sentences, paragraphs, sections or parts of this MOU.

6. **Entire Agreement.** This MOU constitutes the entire agreement between the Parties hereto and there are no other understandings, written or oral, relating to the subject matter hereof, and may not be changed, modified or amended, in whole or in part, except in writing signed by the Parties.

7. **Headings.** The headings formatted in bold herein are merely for purposes of convenience and reference only, and do not constitute material terms of this MOU.

8. **Incorporation of Whereas Clauses.** The “WHEREAS” clauses in this MOU above are incorporated into this paragraph by reference as though fully set forth at length herein and form a material part of this MOU.

CITY OF REPUBLIC, MISSOURI

DRURY PROPERTIES, INC.

By: _____
David Cameron, City Administrator

By: _____

Date: _____

Name: _____

ATTEST:

Title: _____

Date: _____

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Laura Burbridge, City Clerk

Date: _____

APPROVED AS TO FORM:

Megan McCullough, City Attorney

Date: _____