

## REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (this “**Agreement**”) is made and entered into as of the date of the last signature below, by and between WEST LEX, LLC, a Nebraska Limited Liability Company (“**Seller**”), and CITY OF LEXINGTON (“**Buyer**”).

### **RECITALS**

A. WHEREAS, Seller owns that certain real estate (as defined in Neb. Rev. Stat. § 76-201), described as the portion identified on the attached **Exhibit A** with the full and correct legal description to be provided pursuant to a survey or the title commitment (“**Property**” or “**Premises**”).

### **AGREEMENT**

1. **Property.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, the Seller’s interest in the Property, free and clear of all liens and encumbrances, subject, however, to easements of record, apparent easements, public highways and all governmental rules and regulations.

2. **Price and Payment.** Buyer agrees to pay Seller the sum of Three Hundred Fifty Thousand Dollars 00/100ths (\$350,000.00) for Seller’s interest in the Property (the “**Purchase Price**”) on the Closing Date. Buyer shall pay the Purchase Price as follows:

- a. On the Closing Date, Buyer shall pay to Seller the sum of \$350,000.00, upon delivery of the Deed, in a simultaneous transaction. Such payment shall be made in cash, by wire transfer of immediately available funds, by certified funds, or other “good funds” as defined in Neb. Rev. Stat. § 76-2,121.

3. **Inclusions.** This Agreement shall include all permanent improvements situated on the premises, and the following personal property: None.

4. **Closing.** The Closing shall be held as soon as is reasonably practicable (the “**Closing Date**”), at a time and place mutually agreed upon by the parties, but in no case shall the Closing Date be later than September 30, 2022. Time is to be construed as the essence of this Agreement.

5. **Taxes.** Seller shall pay the 2022 and all prior real estate taxes including interest and penalties owed, or otherwise give credit for the same. If 2022 taxes are not available, then Seller shall give Credit to Buyer based on the 2021 taxes. 2023 and future real estate taxes shall be the responsibility of Buyer.

6. **Deed.** Seller shall execute a Warranty Deed of conveyance to Buyer, free and clear of all encumbrances, subject, however, to easements of record, apparent easements and all governmental rules and regulations, and deliver the same to the Buyer on Closing Date upon payment of the purchase price.

7. **Possession.** Seller shall give Buyer quiet and peaceable possession of the real estate on Closing Date.

8. **Division of Expenses.** Seller and Buyer agree that the closing expenses in connection with the sale and purchase of the Property shall be divided as follows:

- a. **Attorney Fees:** ½ Buyer, ½ Seller, payable to Heldt, McKeone & Copley.

- b. Closing Fees: ½ Buyer, ½ Seller, payable to Heldt, McKeone & Copley.
- c. Documentary Stamp Tax: N/A
- d. Deed: Buyer.
- e. Owner's Title Insurance premium and Closing Protection Letter: ½ Buyer, ½ Seller, payable to Heldt, McKeone & Copley.
- f. Survey (if any): Buyer.

9. **Condition of Property**. Buyer acknowledges that Buyer has examined and inspected the premises, and that Buyer is purchasing the same in an "as is" condition, subject to Buyer's own inspection and not by reason of any representation or warranty of Seller, express or implied, other than those specifically set forth in this Agreement.

10. **Representations of Seller**. Seller hereby makes the following warranties and representations, which shall survive closing:

- a. Seller is not a party to any contract, written or oral, which will give rise to a lien (including but not limited to, construction lien, mechanic's lien, storage and repair lien, threshing, and agister's lien) or other encumbrance on the Property or improvements;
- b. Seller has no knowledge of any fence disputes, boundary disputes, water disputes, or drainage disputes, existing, actual or threatened, special assessments, taxes, or condemnation proceedings concerning the Property;
- c. No hazardous or toxic material, substance, pollutant, contaminant, waste, asbestos, or petroleum has been released into the environment, discharged, placed or disposed at, near, or on the Property. Seller has not been advised of any action by the Nebraska Department of Environmental Quality or the Environmental Protection Agency, or any other administrative agency;
- d. Seller has full legal authority to enter into this Agreement, and the consent or acquiescence of no other Party is required to bind Seller to the terms of this Agreement;

11. **Representations of Buyer**. Buyer hereby makes the following warranties and representations, which shall survive closing:

- a. Except as expressly set forth in this Agreement Buyer has not entered into this Agreement based on any representations of the Seller;
- b. Buyer has full legal authority to enter into this Agreement, and the consent or acquiescence of no other party is required to bind Buyer to the terms of this Agreement.

12. **Default**. In the event either Party should default under the terms and conditions to be performed by that Party pursuant to this Agreement, the other Party shall have such rights and remedies as are allowed by law, including specific performance. The election or forfeiture of any one remedy shall not bar the election or cause the forfeiture of any other remedy.

13. **Tax Identifying Numbers.** Seller and Buyer agree to provide Heldt, McKeone & Copley with any tax identifying numbers needed to prepare an IRS 1099-S tax form prior to Closing.

14. **Contingencies.** This Agreement is contingent upon the approval of the City Council.

15. **Assignment.** This Agreement may be transferred or assigned by either party without the written consent of the other party.

16. **Severability.** Except to the extent the same would operate to deprive either party of the economic benefit of its bargain hereunder, if any term or provision of this Agreement or the application thereof to any person or circumstances shall 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 not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

17. **Further Assurances.** Each undersigned party will, whenever it shall be reasonably requested to do so by the other, promptly execute, acknowledge, and deliver, or cause to be executed, acknowledged, or delivered, any and all such further conveyances, confirmations, instruments, or further assurances and consents as may be necessary or proper, in order to effectuate the covenants and agreements herein provided. Each of the undersigned parties shall cooperate in good faith with the other and shall do any and all other acts and execute, acknowledge and deliver any and all documents so requested in order to satisfy the conditions set forth herein and carry out the intent and purposes of this Agreement.

18. **Interpretations.** Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

19. **Entire Agreement.** This Agreement contains the entire agreement of the parties relating to this matter. It supersedes any prior agreements or understandings among them and shall not be modified or altered or amended in any manner except in writing and signed by both parties.

20. **Governing Law.** All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

21. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legatees, devisees, personal representatives, successors and permitted assigns.

22. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. This Agreement may be executed by facsimile signature which shall be valid for all purposes.

23. **Waiver.** One or more waivers of any covenants, conditions, rules or regulations by Buyer or Seller shall not be construed as a waiver of a further breach of the same or different kind at any other time.

**SELLER:**

West Lex, LLC, a Nebraska Limited Liability Company

Date: \_\_\_\_\_

By \_\_\_\_\_  
Delane A. Wycoff, Managing Member

**BUYER:**

City of Lexington

Date: \_\_\_\_\_

By \_\_\_\_\_  
Joe Peplitsch, City Manager

# Exhibit A



June 30, 2022  
17:13 PM

DISCLAIMER: This map is not intended for conveyances, nor is it a legal survey. The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments.

Parcels  
Sections

