

**OPTION AGREEMENT  
FOR THE PURCHASE AND SALE  
OF REAL PROPERTY**

THIS OPTION AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY (the "Agreement"), is entered into by and between the **City of Joplin** ("Seller") and **Kevin Parker** ("Buyer") (sometimes hereinafter referred to individually as a "Party" or collectively as the "Parties") on the Effective Date set forth on the signature page below, as follows:

W I T N E S S E T H:

WHEREAS, the Parties hereto desire to enter into this Agreement providing an option for the purchase and sale of certain real property and to reduce that Agreement to writing.

NOW, FOR AND IN CONSIDERATION of the covenants, agreements, and premises herein, Ten Dollars (\$10) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. PURCHASE AND SALE

1.1 Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase certain real property in Jasper County, Missouri which consists of approximately 31,700 square feet as more particularly described and depicted on Exhibit A attached hereto and made a part hereof ("Property"). However, if at Seller's sole discretion, Seller requires additional land included in Exhibit A for the 20<sup>th</sup> Street viaduct, Seller may take that land and reduce the purchase price as specified in ¶2 at a flat rate of **Zero and 68/100 DOLLARS (\$0.68)** per square foot. If this Option Agreement is not closed by June 1, 2016, then it shall automatically terminate.

2. PURCHASE PRICE. The purchase price ("Purchase Price") for the Property shall be the amount of **Twenty One Thousand One Hundred and 00/100 DOLLARS (\$21,100.00)**. The Purchase Price for the Property will be paid to Seller in immediately available funds at Closing.

3. WARRANTY OF TITLE: TITLE EXAMINATION: SURVEY

3.1 Seller hereby represents and warrants to Buyer that, as of the date hereof, record title to the Property is vested in the Seller's name, and the Seller is the record owner of fee simple title to the Property.

3.2 Upon Buyer obtaining and examining record title, the Buyer shall notify Seller of any objections affecting marketability of title to the Property other than the following: (i) general utility easements of record serving only the Property and (ii) ad valorem taxes and special assessments not yet due and payable. If, at any time prior to Closing, title is found to be defective or objectionable, Seller shall have until the date of Closing (or such longer period as Buyer consents to in writing) to cure any such defects or objections. In the event that Seller fails to cure any such identified defects or objections within the period hereinabove set out, then Buyer, at its option, may elect to:

3.2.1 Waive any such title defect or objection and consummate the transaction without reducing the Purchase Price; provided, however, that Buyer shall have the right to apply all or any portion of the Purchase Price to the cure of any such title defect or objection that can be cured by payment of money, such as security deeds and liens; or

3.2.2 Terminate this Agreement by written notice to Seller, and thereafter no Party to this Agreement shall have any rights, obligations or liabilities hereunder; or

3.2.3 Pursue any other rights or remedies afforded by this Agreement.

#### 4. ACCESS AND INSPECTION

4.1 Upon the execution of this Agreement and during the term hereof, up to and including the date of Closing (unless this Agreement is earlier terminated pursuant to other provisions of this Agreement), Buyer and its agents, employees, independent contractors, engineers, surveyors and other representatives shall have the right to have full and complete access to the Property for the purpose of inspecting the Property, conducting surveys, undertaking engineering analysis, plans or examinations, percolation tests, soil tests, borings, environmental analysis or other examination, mapping or testing on the Property and to perform all activities related to any of the foregoing in any respect and for any other reasonable purpose related to the purchase of the Property or the planned development thereof as is deemed necessary or appropriate by Buyer. Buyer shall indemnify and hold Seller harmless from any liability or damage to Seller as a result of Buyer's activities on the Property, including reasonable attorney's fees actually incurred. Following the Effective Date, Seller agrees to and shall promptly provide to Buyer copies of all Underlying Title Documents, as defined below, in Seller's possession, or upon Buyer's request any Underlying Title Document that can be obtained by reasonable means. Underlying Title Documents shall include, but are not limited to documents related to custody or control of the property, title to the Property, title insurance policies, all surveys, all engineering tests and studies and any other written information or documentation relevant to the sale of the Property (the "Underlying Title Documents"). If the purchase contemplated by this Agreement is not

consummated, Buyer agrees to return to Seller all Underlying Title Documents that Seller provided to Buyer in connection with Buyer's Inspection Rights.

## 5. CLOSING AND POST-CLOSING

5.1 Unless otherwise agreed in writing between Buyer and Seller, the closing of the purchase and sale of the Property ("Closing") shall occur on or before June 1, 2016 at the office of First American Title Company or at any other location that the Parties agree upon.

### 6.2 At Closing:

6.2.1 Buyer shall pay to Seller, subject to the adjustments and prorations hereinafter provided for, the balance of the Purchase Price.

6.2.2 Seller shall execute and deliver to Buyer a general warranty deed conveying fee simple and marketable title to the Property using the legal description published in the Joplin Globe on August 20, 2015, free and clear of all liens, special assessments, easements, reservations, restrictions and encumbrances whatsoever except for the Permitted Exceptions.

6.2.3 Real property ad valorem taxes applicable to the Property for the calendar year in which the Closing occurs shall be prorated as of the date of the Closing between the Seller and the Buyer, and said proration will be based upon the most recently available tax information and evaluation with respect to the Property or upon the actual tax bills if they have been prepared and issued. Buyer and Seller shall make adjustments between themselves post-Closing, if necessary, based on the actual tax bills for the Property, to correct the proration of taxes at Closing, and this provision shall survive Closing and the execution of the general warranty deed.

6.2.4 Seller shall be responsible for all charges or assessments incurred against the Property up to and including the date of Closing, except for any such charges or assessments as may be caused by any activities of Buyer.

6.2.5 Seller shall pay for the State of Missouri fees, if any, required to be paid in connection with the transfer of the Property and fees associated with the recording of the general warranty deed from Seller to Buyer. Each Party shall bear the costs of its own attorney's fees and expenses of Closing.

6.2.6 As used herein, the term "marketable title" shall mean such title as will be insured by a reputable title insurance company of Buyer's choosing doing business in the State of Missouri at its regular policy rates subject only to the Permitted Exceptions.

## 7 SELLER'S REPRESENTATIONS AND WARRANTIES

7.1 Seller hereby represents and warrants to Buyer, and covenants with Buyer, and at Closing will again represent, warrant and covenant, as follows:

7.1.1 That this Agreement constitutes a valid and binding obligation of Seller and is enforceable against Seller in accordance with its terms;

7.1.2 That the execution and delivery of all instruments and documents required hereunder to be obtained or authorized by Seller in order to consummate this transaction have been or will be obtained and authorized as so required;

7.1.3 That there are no actions, suits, claims, demands or proceedings of any kind or nature, legal or equitable, affecting the Property or any portion thereof, and that there are no liens, special assessments, easements, reservations, restrictions, covenants or encumbrances other than matters of public record or matters disclosed by Seller affecting the Property, except that Seller expressly reserves construction and other easements pending completion of the 20<sup>th</sup> Street viaduct. The location(s) of said easement(s) are unknown at this time, but are reserved at the sole discretion of the City of Joplin.

7.1.4 That there are no other persons or entities claiming by, through or under Seller who have any rights to acquire the Property or have any rights therein or claims thereto or for any portion thereof except as may appear of public record;

7.1.5 That, except as disclosed in the public records on the Effective Date, there are no outstanding city, county, state or federal tax liens, or claims or demands against Seller which do constitute or may eventually constitute a lien against the Property;

7.1.6 That Seller shall not take any action during the term of this Agreement which would hamper or impede the consummation of this purchase and sale transaction or which would cause any of the representations and/or warranties made in this Paragraph 8.1 to become untrue, inaccurate or incomplete in any respect;

7.1.7 That Seller shall undertake those acts necessary to ensure that the representations and warranties set forth herein remain true, accurate and complete during

the term of this Agreement and will notify Buyer promptly of any occurrence, notification or variation in the representations or warranties contained herein;

7.1.8 That Seller has received no notification, written or otherwise, from any individual, corporation, governmental agency, bureau or authority which pertains to or concerns the environmental or ecological condition of the Property;

7.1.9 That, to the best of Seller's knowledge, there presently does not exist and that there has never existed on, above, or under the Property any Hazardous Material.

7.1.9.1 Seller agrees that Hazardous Materials shall mean: (a) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et. seq.), as amended from time to time, and regulations promulgated thereunder; (b) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, known as "CERCLA" (42 U.S.C. Section 9601 et. seq.), as amended from time to time, and the Superfund Amendments and Reorganization Act of 1986, as amended and regulations promulgated thereunder; (c) asbestos; (d) polychlorinated biphenyls; (e) petroleum, petroleum by-products or petroleum constituents; (f) any substance the presence of which is prohibited by any governmental regulation; and (g) any other substance which by any governmental regulation requires special handling in its collection, storage, treatment, or disposal.

## 8. DEFAULT AND REMEDIES

8.1 In the event of a default, breach of warranty, or breach of other representation contained in this Agreement ("Defaulting Act"), and prior to the exercise of the rights hereinafter provided to either Party, the defaulting Party shall be entitled to written notice of the Defaulting Act and up to fifteen (15) days after the receipt of such written notice in which to cure such Defaulting Act. If the Defaulting Act has not been corrected within that period of time, then an event of default shall have occurred and the Parties shall be entitled to the rights and remedies hereinafter set forth.

8.2 In the event (i) that any warranty or representation contained in this Agreement is not accurate, true and complete in all respects or (ii) Seller fails to comply with or perform any of the conditions, covenants, or agreements contained herein, and further provided that Seller fails to cure after written notice, then, at Buyer's option, Buyer may either:

8.2.1 Terminate this Agreement, and thereafter no Party to this Agreement shall have any rights, obligations or liabilities hereunder; or

8.2.2 File suit in any court of competent jurisdiction for specific performance of Seller's obligations under and pursuant to the terms and provisions of this Agreement and/or for any damages which Buyer shall be entitled to receive under this Agreement or applicable law.

8.3 In the event Buyer fails to comply with or perform any of the covenants, agreements or other obligations to be performed by Buyer and fails to cure such problem within the period provided above, then Seller shall be entitled to any remedy available at law.

8.4 Except as specifically provided in this Section 11, neither Buyer nor Seller shall have any further rights, obligations or liabilities to the other as a result of the breach of this Agreement. It is the express intention of the Parties to limit the rights and remedies which are available to Buyer and Seller under the laws of the United States, the State of Missouri or of any other state, county or municipality to those remedies expressly provided and set forth in this Agreement. Except as otherwise expressly provided in this Agreement, no action for damages or claims for liability, costs, expenses or losses shall be maintainable by Buyer or Seller against the other as a result of this Agreement.

## 9. NOTICES

9.1 Unless otherwise provided in this Agreement, any written notice to Buyer or Seller shall be deemed received by the Party to whom such notice was sent upon record of delivery by Federal Express or equivalent courier to such Party. Notices should be sent to the following addresses unless another address is furnished in writing by a Party.

To Seller: City of Joplin  
602 S. Main St.  
Joplin, MO 64801

To Buyer: Kevin Parker

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## 10. MISCELLANEOUS PROVISIONS

10.1 Possession. Possession of the Property shall be delivered to Buyer upon delivery of the general warranty deed from Seller.

10.2 Assignment. Buyer may freely assign its rights hereunder without the prior written consent of Seller. Any assignee shall expressly assume all of Buyer's duties, obligations, and liabilities hereunder, and a copy of such assignment and assumption shall be

provided with reasonable promptness to Seller.

10.3 No Waiver: Rights Cumulative. Neither the failure of either Party to exercise any power or right herein provided or to insist upon strict compliance with any obligation herein specified, nor any custom, use or practice at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms and provisions of this Agreement. Except as expressly limited by the terms of this Agreement, all rights, powers and privileges conferred herein shall be cumulative and not restrictive of those provided at law or in equity.

10.4 Entire Agreement; Modification. This Agreement contains the entire agreement of the Parties and no representations, inducements, promises or other agreements, oral, written or otherwise, between the Parties which are not embodied within this Agreement shall be of any force or effect. Any amendment to this Agreement shall not be binding upon any of the Parties hereto unless such amendment is in writing and fully executed by all Parties whose rights, as set forth in this Agreement, pertain thereto.

10.5 Survival. This Agreement and each of the provisions hereof shall survive the Closing hereunder.

10.6 Binding Effect. The provisions of this Agreement shall inure to the benefit of and shall be binding upon the Parties hereto and their respective heirs, executors, legal representatives, successors and assigns.

10.7 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same Agreement.

10.8 Scanned Signatures. The Parties may execute this Agreement via scanned or faxed signatures and such signatures may be relied upon as if original.

10.9 Headings: Gender. The headings inserted at the beginning of each paragraph are for the convenience of the Parties only and do not add to or subtract from the meaning and contents of each paragraph. Words of any gender used in this Agreement should be held and construed to include any other gender, and words of a singular number shall be held to include the plural, and vice-versa, unless the context requires otherwise.

10.10 Further Assurances. On and after the Effective Date, Seller and Buyer shall, at the request of the other, make, execute and deliver or obtain and deliver all such affidavits, deeds, approvals, certificates, resolutions and other instruments and documents, and shall do or

cause to be done all such other things which either Party may reasonably require to effectuate the provisions and intention of this Agreement.

10.11 Severability. This Agreement is intended to be performed in accordance with and only to the extent permitted by all applicable laws, ordinances, rules and regulations. If any of the provisions of this Agreement or the application thereof to any person or circumstances shall for any reason and to any extent be invalid or unenforceable, then the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by law.

10.12 Business Days. If any date of significance hereunder falls upon a Saturday, Sunday or legal holiday, such date shall be deemed moved to the next succeeding business day which is not a Saturday, Sunday or legal holiday.

10.13 Time of the Essence. Time is of the essence for this Agreement.

10.14 Choice of Law. This Agreement shall be governed by and construed and enforced in accordance with substantive laws of the State of Missouri.

11. Contingent on Council approval. This Agreement is contingent on the approval of the Joplin City Council.

*[Signatures on Following Page]*



IN WITNESS WHEREOF, the Parties have set their hands and seals as of this \_\_\_\_\_ day of \_\_\_\_\_, 2015 (the “Effective Date”).

**BUYER: Kevin Parker**

Signed: \_\_\_\_\_

Printed: \_\_\_\_\_

**SELLER: City of Joplin**

Signed: \_\_\_\_\_

Printed: Samuel L. Anselm  
City Manager

*[Remainder of Page Left Blank]*

## **EXHIBIT A**

ALL OF LOTS NUMBERED ONE (1), TWO (2) AND THREE (3) IN HARMONY HEIGHTS SUB-DIVISION IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF, EXCEPT, THAT PART DESCRIBED AS FOLLOWS:

ALL THAT PART OF LOTS NUMBERED ONE (1), TWO (2) AND THREE (3) IN HARMONY HEIGHTS SUB-DIVISION IN THE CITY OF JOPLIN, IN THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 14, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE S88°55'35"E, 795.83 FEET ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE S02°04'19"W, 49.85 FEET TO A POINT AT THE INTERSECTION OF THE CURRENT NORTH RIGHT-OF-WAY LINE OF 20TH STREET AND THE EAST RIGHT-OF-WAY LINE OF WISCONSIN AVENUE AND BEING THE POINT OF BEGINNING; THENCE S89°14'09"E, 146.85 FEET, ALONG SAID NORTH RIGHT-OF-WAY LINE, TO A POINT ON A NON-TANGENT CURVE HAVING A RADIUS OF 5854.58 FEET AND A CHORD BEARING AND DISTANCE OF S30°46'33"E, 35.20 FEET, SAID CURVE BEING ON THE WEST RIGHT-OF-WAY LINE OF THE KANSAS CITY SOUTHERN RAILROAD; THENCE ALONG SAID CURVE 35.20 FEET; THENCE N89°14'09"W, 100.93 FEET; THENCE S02°04'19"W, 75.31 FEET; THENCE S34°59'49"W, 119.59 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE N02°04'19"E, 204.21 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF WISCONSIN AVENUE TO THE POINT OF BEGINNING.

AND, RESERVING A PUBLIC UTILITY EASEMENT DESCRIBED AS FOLLOWS:

ALL THAT PART OF LOT NUMBERED ONE (1) IN HARMONY HEIGHTS SUB-DIVISION IN THE CITY OF JOPLIN, IN THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 14, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE S88°55'35"E, 795.83 FEET ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE S02°04'19"W, 49.85 FEET TO A POINT AT THE INTERSECTION OF THE CURRENT NORTH RIGHT-OF-WAY LINE OF 20TH STREET AND THE EAST RIGHT-OF-WAY LINE OF WISCONSIN AVENUE; THENCE S89°14'09"E, 146.85 FEET TO A POINT ON A NON-TANGENT CURVE HAVING A RADIUS OF 5854.58 FEET AND A CHORD BEARING AND DISTANCE OF S30°46'33"E, 35.20 FEET, SAID CURVE BEING ON THE WEST RIGHT-OF-WAY LINE OF THE KANSAS CITY SOUTHERN RAILROAD; THENCE ALONG SAID CURVE 35.20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHEASTERLY ALONG SAID CURVE OF THE WEST RAILROAD RIGHT-OF-WAY LINE AN ARC DISTANCE OF 17.65 FEET; THENCE N89°14'09"W, 110.58 FEET; THENCE N02°04'19"E, 15.00 FEET; THENCE S89°14'09"E, 100.93 FEET TO THE POINT OF BEGINNING.

SUBJECT TO ALL OTHER EASEMENTS, RESTRICTIONS, RESERVATIONS OR RIGHT-OF-WAY CONVEYANCES OF RECORD, IF ANY.