



CITY OF WASHINGTON, ILLINOIS

City Council Agenda Communication

Meeting Date: December 13, 2021

Prepared By: Jon Oliphant, AICP, Planning & Development Director

Agenda Item: First Reading Ordinance – Purchase Agreement for a Portion of the 123 N. Main Parking Lot

Explanation: Attached is an agreement for the purchase of a portion of the property at 123 N. Main Street that is currently owned by S&R Land Trust. The property currently contains a duplex adjacent to N. Main and 22 parking spaces on the rear of the lot.

The lot would be subdivided into two parcels. The parcel totaling 0.152 acres that the City would purchase would be on the rear and abut the alley that connects with E. Jefferson Street. The City would acquire 18 of the 22 spaces to be used as public parking with the other four spaces to serve as parking for the duplex parcel. A reciprocal ingress/egress easement would provide access for both parcels to and from N. Main and the alley. The City would be responsible for the maintenance within the easement in a similar manner as is the case with the parking lot on the southeast side of the Square. Through a separate transaction, S&R Land Trust plans to sell the duplex parcel to Heider Properties. As a result, Heider Properties is also referenced in the easement agreement.

Fiscal Impact: The City would pay S&R Land Trust \$38,000 to acquire the 0.152 acres. Payment in that amount would come from the TIF Fund.

Action Requested: Approval of the attached purchase agreement. A first reading ordinance is scheduled for the December 13 City Council meeting. This property is subject to removal from the TIF district along with 58 other parcels upon the effective date of the new boundaries on December 22. Therefore, a redevelopment agreement would need to be approved by the Council at its meeting on December 20 in order for the purchase price to be paid from the TIF Fund.

ORDINANCE NO. _____

(Adoption of this ordinance would approve the purchase of a portion of the real estate commonly known as 123 N. Main Street in the amount of \$38,000 to be used for public parking.)

**AN ORDINANCE AUTHORIZING AN AGREEMENT
FOR THE PURCHASE OF THE 123 N. MAIN LOT**

WHEREAS, the City of Washington (the “City”) is an Illinois home-rule municipality pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home-rule power, the City may exercise any power and perform any function relating to its government and affairs; and

WHEREAS, the City Council of the City of Washington hereby determines that it is in the best interest that the City purchase certain real property that is legally described in Exhibit “A” attached hereto (the “Property”); and

WHEREAS, the Property is located within the Downtown Square Redevelopment Project Area (the “Area”), which was duly established by the City pursuant to its home-rule powers and the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 *et seq.*, as amended from time to time (the “Act”),

WHEREAS, pursuant to Section 11-74.4-4(c) of the Act, the City may:

Within a redevelopment project area, acquire by purchase, donation, lease or eminent domain; own, convey, lease, mortgage or dispose of land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality determines is reasonably necessary to achieve the objectives of the redevelopment plan and project. No conveyance, lease, mortgage, disposition of land or other property owned by a municipality, or agreement relating to the development of such municipal property shall be made except upon the adoption of an ordinance by the corporate authorities of the municipality. Furthermore, no conveyance, lease, mortgage, or other disposition of land owned by a municipality or agreement relating to the development of such municipal property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. The procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids.

WHEREAS, the City hereby determines that the Property will be purchased using tax increment allocation financing funds for the Area (the “TIF Funds”), pursuant to its home-rule powers and powers granted to it pursuant to Section 11-74.4-4 of the Act; and

WHEREAS, the Seller, S & R Land Trust, has agreed to furnish the Property and has agreed to sell it to the City for the purchase price of \$38,000.00, due and payable from the TIF Funds on the closing date; and

WHEREAS, the City hereby determines that the manner of the purchase and the price for the Property is reasonably necessary to achieve the objectives of the Redevelopment Plan established for the Area; and

WHEREAS, pursuant to its home-rule powers, the City Council of the City of Washington hereby determines that it is advisable, necessary, and in the best interests of the public health, safety, and welfare of the City and its citizens that the City purchase the Property.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Washington, Illinois as follows:

Section 1. The foregoing recitals are incorporated herein as findings of the City Council.

Section 2. The Real Estate Purchase Agreement attached hereto as Exhibit “B” is by reference expressly made a part hereof (the “Agreement”), and the City Council hereby approves the purchase of the Property as set forth in the Agreement. The Mayor, City Clerk, and the City Administrator of the City are hereby authorized and empowered to make, execute and deliver any and all documents necessary to effectuate the purchase of the Property pursuant to the Agreement.

Section 3. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 4. That all ordinances or parts thereof in conflict herewith are hereby expressly repealed.

Section 5. This Ordinance shall be in full force from and after its passage, approval, and notification as provided by law and shall take effect upon its passage as required by law.

PASSED AND APPROVED this ____ day of _____, 2021.

AYES: _____

NAYS: _____

Gary W. Manier, Mayor

ATTEST:

Valeri L. Brod, City Clerk

EXHIBIT A

LEGAL DESCRIPTION

A PART OF LOTS FOUR (4) AND FIVE (5) IN THE ORIGINAL TOWN (NOW CITY) OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 88°-17'-14" EAST (BEARING BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, WEST ZONE 1202), ALONG THE NORTH LINE OF SAID LOT 4, 128.00 FEET TO THE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED: FROM THE POINT OF BEGINNING, THENCE CONTINUING NORTH 88°-17'-14" EAST, ALONG SAID NORTH LINE, 72.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 4; THENCE SOUTH 01°-17'-37" EAST, ALONG THE EAST LINE OF SAID LOTS 4 AND 5 AND THE WEST RIGHT OF WAY LINE OF A PUBLIC ALLEY, 74.00 FEET TO A POINT 14 FEET SOUTH OF THE NORTH LINE OF SAID LOT 5; THENCE SOUTH 88°-17'-14" WEST, PARALLEL TO AND 14 FEET NORMALLY DISTANT SOUTH OF THE NORTH LINE OF SAID LOT 5, 108.00 FEET; THENCE NORTH 01°-17'-37" WEST, 24.00 FEET; THENCE NORTH 43°-02'-15" EAST, 21.12 FEET; THENCE NORTH 88°-17'-14" EAST, 21.52 FEET; THENCE NORTH 01°-42'-46" WEST, 35.00 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 0.152 ACRE, MORE OR LESS.

Parcel Identification No: 02-02-24-100-007

Commonly known as: parking lot off N. Main Street, Washington IL 61571

EXHIBIT B

COMMERCIAL VACANT LAND SALES CONTRACT
(Parking Lot)

Seller:	S & R Land Trust	Buyer:	City of Washington
Seller:	by Mark W. Swisher, Trustee	Buyer:	by Jim Snider, City Admin.
Address:	525 S. Elm Street Washington, IL 61571	Address:	301 Walnut Street Washington, IL 61571
Telephone:	241-2757	Telephone:	444-3196
Seller's Attorney:	Dean R. Essig	Buyer's Attorney:	Derek A. Schryer
Firm's Name:	Essig Law Office	Firm's Name:	Davis & Campbell, LLC
Attorney's Addr.:	135 Washington Square Washington, IL 61571	Attorney's Addr.:	401 Main Street, Ste. 1600 Peoria, IL 61602
Attorney's Phone:	444-8041	Attorney's Phone:	673-1681
Attorney's E-mail:	essig@essiglaw.com	Attorney's E-mail:	daschryer@dcamplaw.com

1. **MUTUAL COVENANTS.** Seller agrees to sell and Buyer agrees to purchase, upon the terms set forth in this Contract, the premises legally described as follows:

A PART OF LOTS FOUR (4) AND FIVE (5) IN THE ORIGINAL TOWN (NOW CITY) OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 88°-17'-14" EAST (BEARING BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, WEST ZONE 1202), ALONG THE NORTH LINE OF SAID LOT 4, 128.00 FEET TO THE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED: FROM THE POINT OF BEGINNING, THENCE CONTINUING NORTH 88°-17'-14" EAST, ALONG SAID NORTH LINE, 72.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 4; THENCE SOUTH 01°-17'-37" EAST, ALONG THE EAST LINE OF SAID LOTS 4 AND 5 AND THE WEST RIGHT OF WAY LINE OF A PUBLIC ALLEY, 74.00 FEET TO A POINT 14 FEET SOUTH OF THE NORTH LINE OF SAID LOT 5; THENCE SOUTH 88°-17'-14" WEST, PARALLEL TO AND 14 FEET NORMALLY DISTANT SOUTH OF THE NORTH LINE OF SAID LOT 5, 108.00 FEET; THENCE NORTH 01°-17'-37" WEST, 24.00 FEET; THENCE NORTH 43°-02'-15" EAST, 21.12 FEET; THENCE NORTH 88°-17'-14" EAST, 21.52 FEET; THENCE NORTH 01°-42'-46" WEST, 35.00 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 0.152 ACRE, MORE OR LESS.

PIN: Part of 02-02-24-100-007

Commonly known as: *parking lot off N. Main Street, Washington, IL 61571*

(hereinafter "Premises"), containing approximately 0.152 acres, and with a present zoning classification of residential (R-1).

2. **OFFER AND ACCEPTANCE.** These terms shall constitute an offer which shall expire unless this offer is accepted on or before December 16, 2021, or withdrawn in writing prior to acceptance.

3. **PURCHASE PRICE.** Buyer agrees to pay Seller the total sum of \$38,000.00. Buyer has paid \$500.00 as earnest money (payable to the DEAN ESSIG TRUST ACCOUNT), to be held in the escrow account of the Seller's attorney for delivery to Seller at time of closing. The balance of the purchase price, adjusted by prorations and credits allowed the parties by the Contract, shall be paid to Seller when closed, as follows: (a) if the amount is \$50,000 or more, the funds shall be wired to the closing agent's account prior to closing; or (b) if the amount is less than \$50,000, the funds may be provided by cashier's check or other form of payment acceptable to Seller.

4. **FINANCING.** This Contract is NOT subject to financing.

5. **CLOSING.** The closing shall be on or before December 30, 2021, or such other time as may be mutually agreed in writing ("Closing Date").

The closing shall be held at THE OFFICE OF DEAN R. ESSIG, 135 WASHINGTON SQUARE, WASHINGTON, ILLINOIS, or such other place as the parties may agree. If the closing is delayed past the closing date due to the fault of either party, even if this transaction is subsequently closed, the defaulting party shall pay damages as provided for in this Contract. The non-defaulting party will be entitled to collect damages as soon as the default occurs and the notice and cure provisions provided for in paragraph 18 are not applicable to this paragraph.

(a) **Seller's Deliveries.** At closing, Seller shall deliver to Buyer the following:

- (i) Deed. An executed warranty deed to Premises (in the form required by Section 7 hereof) prepared by Seller and in a form reasonably acceptable to Buyer (the "Deed").
- (ii) Title Policy. The Title Policy provided for in Section 9 hereof.
- (iii) Closing Date Certificate. An executed closing date certificate confirming the accuracy of the representations and warranties set forth in this Contract.
- (iv) Seller's Affidavit. An executed Seller's Affidavit (as defined in Section 12).

- (v) Other Documents. Such other documents, instruments, certifications and confirmations as may be reasonably required by Buyer to fully effect and consummate the transactions contemplated hereby.
- (vi) Evidence of Authorization. Evidence satisfactory to Buyer and the Title Insurer that Seller is authorized to execute this Contract and proceed with the transactions provided for herein.

(b) Buyer's Deliveries. At Closing, Buyer shall deliver to Seller the following:

- (i) Purchase Price. The Purchase Price in the form as set forth in Section 3 hereof.
- (ii) ALTA Statement. An executed ALTA Statement in the form required by the Title Insurer.
- (iii) Other Documents. Such other documents, instruments, certifications and confirmations as may reasonably be required by Seller to fully effect and consummate the transactions contemplated hereby.
- (iv) Evidence of Authorization. Evidence satisfactory to Seller and the Title Insurer that Buyer is authorized to execute this Contract and proceed with the transactions provided for herein.

(c) Joint Deliveries. At Closing, Seller and Buyer shall jointly deliver to each other the following:

- (i) Closing Statement: An agreed upon closing statement.
- (ii) ALTA Statement. An executed ALTA Statement in the form required by the Title Insurer.
- (iii) Transfer Tax Filings. Executed documents complying with the provisions of all federal, state, county and local law applicable to the determination of transfer taxes.

(d) Closing Costs. Seller shall pay the following costs: Seller's attorneys' fees, the insurance premium for the Title Policy, any transfer taxes and the cost of documentary stamps,. Buyer shall pay the following costs: Buyer's attorneys' fees, costs for inspections pursuant to Section 11, and 100% of the recording fees for recording the Deed.

(e) **Special Assessments.** Seller will pay any unpaid special assessments confirmed prior to the Closing Date. Seller knows of no proceeding for special assessments against the Premises.

6. **POSSESSION.** Sole and exclusive possession of the Premises shall be delivered to Buyer on the Closing Date. If Seller does not give possession on the date provided for in this Contract, Buyer may seek possession by any means available in law or equity. Prior to possession, Seller shall remove all debris and personal property not sold to Buyer. If Seller fails to provide Buyer with possession on the day provided for in this Contract, Buyer will be entitled to collect damages upon the failure to provide possession. The notice and cure provisions in Section 15 of this Contract are not applicable to this paragraph. Seller shall deliver possession at time of closing.

7. **CONVEYANCE.** Seller's conveyance shall be by a recordable Warranty Deed (or Trustee's or Executor's Deed if applicable), subject only to the Permitted Objection (as defined below), at the closing of this transaction upon Buyer's compliance with the terms of this Contract. Seller shall also provide the state and county transfer tax declarations and any other transfer tax declaration, or zoning exemption certificate. Within ten (10) days after acceptance of this Contract, Buyer shall notify Seller or Seller's attorney, in writing, how Buyer will take title to the Premises.

8. **SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS.** In addition to all other representations, covenants and warranties by Seller herein, Seller hereby represents, covenants and warrants, as of the date hereof and as of the Closing Date, as follows:

(a) **Ownership and Authority.** Seller is the sole owner of and has good and merchantable fee simple title to the Premises, free and clear of all liens, encumbrances, easements, covenants, restrictions, dedications or rights-of-way, or other matters affecting title to the Premises or use of the Premises, except the Permitted Objections and other matters approved in writing by Buyer.

(b) **Liens and Liabilities.** Except for the Permitted Objections, the Premises is not subject to any liens, encumbrances, security interests, liabilities, easements, covenants, restrictions, dedications, rights-of-way, leases or judgments of any kind whatsoever. Seller shall be responsible for all debts, claims, contracts and liabilities in any way connected solely with the conduct of its operations on the Premises, and Buyer shall have no liability for Seller's operations conducted on the Premises or otherwise or for any liabilities, known, unknown, contingent or otherwise, of Seller.

(c) **Notice of Litigation or Violation.** Seller has received no notice, nor has Seller any knowledge, of any actions or claims filed or threatened by anyone against the Premises or Seller in connection with any injury or damage sustained incidental to the use or occupancy of the Premises. Seller shall promptly notify Buyer of any such notice received between the date hereof and the Closing Date. Seller knows of no violation of any federal, state, county or municipal law, ordinance, order, rule or regulation affecting the Premises, and Seller has received no notice of any such violation issued by any governmental authority.

(d) Leases and Other Rights in Premises. There are no leases (oral or written), options, purchase contracts, or other agreements of any kind or nature, written or oral, whereunder or whereby any party could claim or assert any right, title or interest in the Premises.

(e) Governmental Regulation. To the best of Seller's knowledge, the Premises complies in all respects with all statutes, ordinances, regulations and administrative or judicial orders or holdings, whether or not appearing in public records, and the consummation of the transactions contemplated by this Contract shall not violate any such statutes, ordinances, regulations and administrative or judicial orders or holdings or any other agreement or indenture by which Seller is bound.

(f) Hazardous Substances.

- i. To the best of Seller's knowledge, Seller has not: (i) conducted or authorized the storage, treatment, or disposal on the Property of any petroleum, or petroleum products, or hazardous substances, (ii) handled, treated, stored, transported, released or disposed of any petroleum or petroleum products, hazardous or toxic materials, substances, pollutants, contaminants or wastes on the Property, (iii) allowed the migration of any petroleum, or petroleum products, or hazardous substance from the Property onto any neighboring property, (iv) become aware of any pending or threatened litigation or proceedings before any court or any administrative agency in which any person or entity alleges the release or threat of release, on or in the Property of any petroleum, or petroleum products, or hazardous substance, (v) received actual or constructive knowledge that any governmental or quasi-governmental authority or agency (federal, state or local) or any employee or agent thereof has determined, or threatens to determine, that there is a release or threat of release on or in the Property of any petroleum, or petroleum products, or hazardous substance. There have been no communications or agreement with any governmental or quasi-governmental authority or agency (federal, state or local) or any person or entity, including, but not limited to, any prior owners of the Property relating in any way to the release or threat of release, on or in any part of the Property of any petroleum, or petroleum products, or hazardous substance. For purposes of this Contract, "hazardous substance" shall mean any matter giving rise to liability under the Resource, Conservation, Recovery Act, 42 U.S.C. Section 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., any state or local law regulating hazardous or toxic waste, asbestos, environmental protection, spill compensation, clean air and water, or under any common law theory based on nuisance or strict liability;

- ii. To the best of Seller's knowledge, there are no underground storage tanks, pipe lines, dry wells, or other underground storage structures whether active or inactive located on the Premises; and
- iii. To the best of Seller's knowledge, no polychlorinated biphenyls, asbestos or hazardous substances were stored, treated or disposed of on the Premises, and that there currently are no polychlorinated biphenyls, asbestos or hazardous substances located on the Premises.

(g) Mechanics Liens. Seller has fully paid all bills, claims and obligations for labor performed and materials furnished for or on behalf of Seller in and about the improvement of the Premises, and no such bills, claims or obligations are outstanding or unpaid.

(h) Encroachments. To the best of Seller's knowledge, no improvements upon the Premises encroach upon adjoining real estate, nor do any improvements upon adjoining real estate encroach upon the Premises.

(i) Special Assessments. There are no special assessments against the Premises and to the best of Seller's knowledge; there are no proceedings for special assessments against the Premises.

(j) Authority. Seller has all requisite power and authority and is fully to enter into this Contract and perform the obligations under this Contract and to carry out the transactions contemplated hereby. Neither the execution or delivery of this Contract nor the consummation of the transactions provided for herein or the fulfillment of the terms and conditions hereof shall result in a breach of any terms, conditions or provisions or constitute a default under, with or without giving notice or lapse of time or both, or conflict with any provision of law or of Seller's Trust Agreement or of any other agreement, indenture or instrument to which Seller is a party or by which it is bound.

(k) Subdivision, Roadway and Utilities. All subdivision requirements of applicable governmental entities that apply to the Premises have been met, the Premises has access to a public street (publicly used, dedicated and accepted) and, all utilities including, without limitation, gas, electric, water, sanitary sewer, storm sewer and data/telephone are available at the boundary line of the Premises.

(l) Flood Plain. The Premises is not located in a flood plain.

(m) Casualty Insurance. Until Closing, Seller shall, at its expense, keep the Premises and the improvements thereon constantly insured with an insurance company against loss by fire and other casualties with extended coverage in the same amounts as currently carried by Seller as of the date hereof.

Buyer acknowledges that except as expressly stated herein, neither Seller nor Seller's agents, have made any representations regarding zoning laws, building lines, use and occupancy restrictions, or conditions and covenants of record. Buyer's intended use of the Premises shall be as parking lot.

9. **EVIDENCE OF TITLE.** Seller shall provide Buyer with a 2006 ALTA form title commitment ("Title Commitment") for a 2006 ALTA Form Owner's Title Insurance Policy, including extended coverage ("Title Policy") issued by Chicago Title Insurance Company or such other reputable title insurance company as the parties agree ("Title Insurer"), covering the Premises in the amount of the Purchase Price showing merchantable record title to the Premises to be in Seller. At Closing, Seller shall cause the Title Insurer to issue the Title Policy to Buyer (in accordance with the Title Commitment provided for in this Section 9), subject only to the Permitted Objections and other matters approved or waived in writing by the Buyer. Within ten (10) days after Buyer's receipt of the aforesaid Title Commitment, Buyer shall furnish to Seller written notification of any objections to or defects in title of record set forth in the Title Commitment. If Buyer fails to give said notice within said ten (10) day period, Buyer shall be deemed to have accepted all matters then affecting title to the Premises set forth in the Title Commitment ("Permitted Objections"). If Buyer does give said notice, Buyer shall be deemed to have accepted all matters set forth in the Title Commitment not set forth in the notice. After receipt of said notice, Seller shall have the right, at its election, to endeavor to cure such objections to or defects in title set forth therein and shall notify Buyer of such election within five (5) days. If Seller does elect to endeavor to cure such objections to or defects in title, it shall promptly commence and diligently pursue efforts to cure such objections. In the event Seller fails to cure Buyer's objections to or defects in title within ten (10) days of receiving notice of such objections to or defects in title, or if Seller shall determine that its efforts to cure will not be successful, Buyer may either (i) waive such title objections to or defects in title and proceed with closing hereunder or (ii) terminate this Contract as provided in Section 11(g).

10. **BUYER'S DUE DILIGENCE.** Buyer may engage in due diligence analysis with respect to the Premises. With prior notice to Seller, Buyer, its employees, agents, representatives and independent contractors shall have the right to enter upon the Premises at any reasonable time during normal business hours to perform such tests, measurements, inspections and other activities (including without limitation soil, mine subsidence and environmental explorations) of the Premises that Buyer desires to make at Buyer's sole cost and expense; provided with respect to any drilling activities Buyer shall obtain Seller's prior written consent. In addition, Buyer may conduct such other due diligence with respect to the Premises as Buyer, in its sole discretion, deems reasonable including, without limitation, the size and location of utilities, zoning and other applicable government documentation. If Buyer determines that the Premises is not acceptable to Buyer in Buyer's sole discretion, then Buyer shall have the right to terminate this Contract as provided in Section 11(c).

The Buyer's satisfaction of itself of the matters set forth in this Section 10 shall be done for the Buyer's own account and not as a representative or agent of the Seller. Further, the Buyer shall forever fully protect, defend and hold the Seller harmless from all reasonable losses, costs, damages, attorneys' fees and expenses of every kind and nature whatsoever which the Seller may suffer,

expend or incur and which arise out of, relate to, or are in any way connected with the Buyer's due diligence activities pursuant to this Section 10. Further, the Buyer shall, within seven (7) days of recordation, pay and discharge of record or bond over all mechanics' and materialmen's liens which

11. CONDITIONS ON THE OBLIGATIONS OF BUYER. The obligations of the Buyer to consummate the transactions contemplated by this Contract shall be subject to the satisfaction or fulfillment on or before the Closing Date of each of the following conditions, any one or more of which may be waived only in writing by the Buyer:

(a) Prior to the Closing Date, the Seller shall cause to be executed and properly recorded the easement for the benefit of the Premises in a form substantially similar to the Reciprocal Easement Agreement attached hereto as Exhibit A and shall cause the Title Insurer to insure the interest of the Premises under said Reciprocal Easement Agreement;

(b) If this Contract has not have been duly approved by the City Council of the City of Washington on or before the Closing Date, then Buyer may terminate this Contract and the parties shall have no further rights or liability under this Contract; and

(c) If all of the conditions set forth in Sections 10 and 11 are not satisfied (or waived by Buyer) on or before the Closing Date, then Buyer may terminate this Contract and the parties shall have no further rights or liability under this Contract.

12. SELLER'S AFFIDAVIT. Upon Buyer's request, Seller shall execute at the closing a standard Seller's Affidavit on the form approved by the Peoria County Bar Association. The Seller's Affidavit will be prepared and provided by the Buyer to the Seller. If a term or provision in the standard Seller's Affidavit differs from the actual terms or provisions of this Contract or any amendments, the terms of the Seller's Affidavit will be modified to conform to the terms or conditions as provided for in this Contract.

13. TAXES AND ASSESSMENTS. Real estate taxes and any special service district taxes shall be prorated through (and including) the date of possession and a credit for same allowed Buyer. If the amount of the taxes is not then ascertainable, prorating shall be on the basis of the most current net taxable value of the property (current equalized assessed value, less all exemptions) times the most current tax rate. All exemptions shall extend to the benefit of Buyer. Special assessments which are a lien upon the Premises as of the date of closing shall be Seller's expense and paid in full at closing or a credit for same allowed Buyer. Transfer taxes shall be paid by Seller.

14. MISCELLANEOUS PRORATIONS. Premiums on any insurance policies assigned to Buyer; rents, if applicable; accrued interest on any assumed mortgage; private service contracts; and homeowners and/or condominium association dues and assessments, if any, shall be prorated as of the closing date.

15. **DEFAULT.** If either party does not perform any obligation under this Contract (a “default”), the non-defaulting party shall give written notice of the default to the defaulting party. Notice must be given no later than seven (7) days after the scheduled closing date (or any written extension thereof) or possession. Failure to provide the notice shall limit available remedies of the non-defaulting party to recovery of the earnest money deposit. If notice is properly given, and the defaulting party does not cure the default within ten (10) days of the notice, the non-defaulting party may pursue any remedy available in law or equity, including specific performance. Amounts recoverable for damages are not limited to the amount of the earnest money deposit. In the event of litigation, the defaulting or losing party shall pay upon demand the reasonable attorney’s fees and court costs (if any) incurred by the prevailing party.

16. **EARNEST MONEY.** Upon receipt of a written request by Buyer or Seller for return or delivery of the earnest money, the holder shall promptly give the other party a copy of such request, and provide both parties a statement of how the holder proposes to distribute the earnest money. If the holder does not receive written objection to the proposed distribution from Buyer or Seller within thirty (30) days from service of the request and statement, the holder may proceed to distribute the earnest money in accordance with the proposed distribution. The Buyer and Seller instruct the holder of the earnest money that in the event of any dispute regarding the right to the earnest money, the holder shall retain the funds until receipt of joint written instruction from both Seller and Buyer or Order of Court. Alternatively, the holder may interplead any funds held into the Court for distribution after resolution of the dispute between Seller and Buyer, and the holder may retain from the funds the amount necessary to reimburse holder for court costs and reasonable attorney’s fees incurred due to the interpleader. If the amount held is inadequate to reimburse holder for court costs and attorney’s fees, Buyer and Seller shall jointly and severally indemnify holder for additional costs and fees incurred.

17. **NOTICES.** Any notice required under this Contract shall be in writing and shall be deemed served upon Seller or Buyer when personally delivered, deposited for mailing by first class mail, or sent by facsimile with written confirmation by first class mail sent the same day to the Buyer, Seller or their Attorneys at the addresses and facsimile numbers set forth herein.

18. **ENTIRETY OF AGREEMENT.** This Contract contains the entire agreement between the parties and NO ORAL REPRESENTATION, WARRANTY or COVENANT exists. This Contract supersedes and nullifies any agreement (or offer or counteroffer) as may have been given and entered into by the parties prior to the date of the acceptance hereof.

19. **PERFORMANCE.** Except for acceptance (of offer or counteroffer), possession or counteroffer, whenever the time for performance falls upon a Saturday, Sunday, or state or federal holiday, the time for performance shall be extended to the next business day.

20. **TIME OF THE ESSENCE.** Time for performance of the obligations of the parties is of the essence of this Contract.

21. **INDEMNITY**. Seller hereby agrees to indemnify, defend and hold harmless Buyer and its officers, shareholders, directors, employees, agents and beneficiaries against any and all losses, liabilities, fines and penalties and damages (including, without limitation, any damages or injury to persons, property or the environment as provided hereunder), or actions or claims in respect thereof, except for liabilities specifically assumed by the Buyer pursuant to the terms of the Contract (including, without limitation, amounts paid in settlement and reasonable cost of investigation, reasonable attorneys' fees and other legal expenses) resulting from claims (whether or not ultimately successful) to which the Buyer or any of its officers,, employees, beneficiaries or agents may become subject or which the Buyer or any of its officers, employees, beneficiaries or agents may suffer or incur either directly or indirectly, insofar as such losses, liabilities or damages (or actions or claims in respect thereof) arising out of, are with respect to, or are based upon: (i) the inaccuracy in any respect of any representation or warranty, or a breach of any covenant of the Seller contained herein; (ii) any obligations, liabilities or charges of the Seller not expressly assumed by the Buyer except to the extent that Buyer receives a credit therefor on the closing statement; (iii) any misrepresentation in, or omission of a material fact from, any opinion, certificate or instrument of transfer or conveyance to be furnished to the Buyer by or on behalf of the Seller under this Contract; or (iv) the ownership of the Premises on or prior to the Closing Date.

22. **BROKERAGE COMMISSIONS**. In the event Seller has engaged a broker in connection with the sale of the Premises, Seller shall be responsible for paying any commission payable to such broker and Seller agrees to indemnify and hold Buyer harmless against any brokerage commissions due to any real estate broker claiming to have been engaged by Seller with regard to this transaction.

23. **COUNTERPARTS**. This Contract may be executed in any number of counterparts, each of which shall be an original, and such counterparts together shall constitute one and the same instrument.

24. **SURVIVAL**. The representations, warranties, covenants and agreements contained in this Contract shall survive the Closing and the delivery of the deed without limitation.

25. **BINDING EFFECT**. The provisions of this Contract shall inure to the benefit of and bind the successors and assigns of the parties hereto.

26. **AMENDMENT AND WAIVER**. This Contract may be amended at any time in any respect only by an instrument in writing executed by Seller and Buyer. Either party may waive any requirement to be performed by the other hereunder, provided that said waiver shall be in writing and executed by the party waiving the requirement.

27. **CHOICE OF LAW**. It is the intention of Seller and Buyer that the internal laws of Illinois, and not its law of conflicts, shall govern the validity of this Contract, the construction of its terms and interpretation of the rights and duties of Buyer and Seller.

28. **DELIVERY BY FACSIMILE OR PDF**. This Contract, the agreements referred to in

this Contract, and each other agreement or instrument entered into in connection with this Contract, to the extent signed and delivered by means of a facsimile machine or by emailed PDF, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party to this Contract or to any such agreement or instrument shall raise the use of a facsimile machine or email to deliver a signature or the fact that any signature or agreement or instrument was transmitted through the use of a facsimile machine or email as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

**THIS CONTRACT INCLUDES ADDITIONAL AMENDMENTS RELATIVE TO:
NONE.**

Signature Pages to follow.

CAUTION: THIS WILL BE A LEGALLY BINDING CONTRACT WHEN FULLY SIGNED AND THE PARTIES SHOULD SEEK LEGAL COUNSEL.

BUYER'S OFFER MADE THIS _____ DAY OF _____, 20_____.

CITY OF WASHINGTON, Buyer

Signature

Printed Name

Title

SELLER'S ACCEPTANCE OF OFFER, DATED THIS _____ DAY OF _____, 20____:

S & R LAND TRUST, Seller

by Mark W. Swisher, Trustee

REAL-EST/S&R (Swisher) to City – Parking Lot Contract

DEE:ss 12/02/2021

EXHIBIT A
RECIPROCAL EASEMENT AGREEMENT

See attached.

This document prepared by and
return to after recording:

RECIPROCAL EASEMENT AGREEMENT

THIS RECIPROCAL EASEMENT AGREEMENT (this “**Agreement**”), made and entered into this _____ day of _____, 2021, by and between _____ (“**Heider**”), with an address of _____, Washington, Illinois 61571, and S&R Land Trust, an Illinois land trust with an address of _____, Washington, Illinois 61571 (“**S&R Land Trust**”) [individually, a “**Party**”, and collectively, the “**Parties**”].

WITNESSETH:

WHEREAS, under a separate agreement between the parties, Heider has acquired title to a tract of land located in the City of Washington, Tazewell County, Illinois, described on Exhibit A attached hereto (the “**Heider Parcel**”);

WHEREAS, S&R Land Trust owns property described on Exhibit B attached hereto (the “**S&R Land Trust Parcel**”) which “**S&R Land Trust Parcel**” lies adjacent to the “**Heider Parcel**” and is depicted in the Plat; and

WHEREAS, S&R Land Trust desires to obtain and Heider is willing to grant an easement upon, over and across a portion of the “**Heider Parcel**” shown as the “**Ingress/Egress & Maintenance Easement**” in the Plat of Survey prepared by Austin Engineering Co., Inc. attached hereto as Exhibit C (hereinafter the “**Plat**”) (the Ingress/Egress & Maintenance Easement located on the Heider Parcel is hereinafter referred to as the “**S&R Land Trust Easement**”) as a means of providing S&R Land Trust ingress and egress to S&R Land Trust Parcel as shown on the Plat in accordance with the terms and conditions of this Agreement. The S&R Land Trust Easement is legally described on Exhibit D attached hereto.

WHEREAS, S&R Land Trust desires to obtain and Heider is willing to grant an easement upon, over and across a portion of the “**Heider Parcel**” shown as the “**Maintenance Easement**” in

the Plat (the Maintenance Easement located on the Heider Parcel is hereinafter referred to as the “**S&R Land Trust Maintenance Easement**”) as a means of providing S&R Land Trust access to the S&R Land Trust Maintenance Easement for the purpose of maintenance thereof in accordance with the terms and conditions of this Agreement. The S&R Land Trust Maintenance Easement is legally described on Exhibit E attached hereto.

WHEREAS, Heider desires to obtain and S&R Land Trust is willing to grant an easement upon, over and across a portion of S&R Land Trust’ property shown as the “Ingress/Egress Easement” on the Plat (the Ingress/Egress Easement located on the S&R Land Trust Parcel is hereinafter referred to as the “**Heider Easement**”) as a means of providing Heider ingress and egress to the Heider Parcel as shown on the Plat, in accordance with the terms and conditions of this Agreement. The Heider Easement is legally described on Exhibit F attached hereto.

WHEREAS, the S&R Land Trust Easement, the S&R Land Trust Maintenance Easement, and the Heider Easement shall be collectively referred to as the “**Easement Area**”.

NOW, THEREFORE, for and in consideration of the mutual grants and promises provided herein, Heider and S&R Land Trust hereby subject their portion of the Easement Area to the easements, covenants and restrictions hereinafter set forth.

1. Incorporation of Background. The prefatory statements set forth above are material to and incorporated in and made a part of this Agreement.

2. Grant of Easements.

(a) S&R Land Trust Easement. Heider hereby grants, gives and conveys to S&R Land Trust and its successors and assigns, as easements appurtenant to the S&R Land Trust Parcel, non-exclusive, irrevocable and perpetual easements for ingress and egress over, upon and across S&R Land Trust Easement depicted and legally described on the Plat, as those areas may from time to time be constructed and maintained for such use, for the passage and accommodation of people and passenger, commercial and industrial vehicular traffic to provide access for motor vehicle and pedestrian traffic to and from the S&R Land Trust Parcel from and to the public roadway commonly known as North Main Street, Washington, Illinois.

(b) S&R Land Trust Maintenance Easement. Heider hereby grants, gives and conveys to S&R Land Trust and its successors and assigns, as easements appurtenant to the S&R Land Trust Parcel, non-exclusive, irrevocable and perpetual easements for ingress and egress over, upon and across the S&R Land Trust Maintenance Easement depicted and legally described on the Plat, as those areas may from time to time be constructed and maintained for such use, for the purpose of maintenance, repairs and replacements of the S&R Land Trust Maintenance Easement.

(c) Heider Easement. S&R Land Trust hereby grants, gives and conveys to Heider and its successors and assigns, as easements appurtenant to the Heider Parcel, non-exclusive, irrevocable and perpetual easements for ingress and egress over, upon and

across Heider Easement depicted and legally described on the Plat, as those areas may from time to time be constructed and maintained for such use, for the passage and accommodation of people and passenger, commercial and industrial vehicular traffic to provide access for motor vehicle and pedestrian traffic to and from the Heider Parcel from and to an alley that connects to the public roadway commonly known as Jefferson Street, Washington, Illinois.

3. Maintenance, Repair and Replacement. The Parties acknowledge that it is desirable to coordinate the joint maintenance, repair and replacement of the improvements located on or that are part of the easements described in Easement Area and the Parties shall mutually agree on the maintenance, repairs and replacements to be made to such easements as well as the service provider(s) to perform such work. The cost of such maintenance, repairs and replacements will initially be divided 50% to S&R Land Trust and 50% to Heider (the Party paying the vendor will be reimbursed by the other Party within 30 days after delivering a copy of the invoice requesting payment). The parties acknowledge that S&R Land Trust currently has a contract for the sale of the S&R Land Trust Parcel. After conveyance of the S&R Land Trust Parcel to any third party, the cost of such maintenance, repairs and replacements to the Easement Area shall be divided 100% to the successor-in-interest to S&R Land Trust, as well as its successors, and 0% to Heider. For the avoidance of doubt, maintenance and repair shall include, without limitation, the prompt removal of trash, debris, snow and ice, to patch, stripe and resurface the road easements and to maintain and repair the base, poles, lenses, wiring and bulbs of any parking lot lights. In the event the Parties are unable to mutually agree upon maintenance, repairs and/or replacements to be made and the service provider to perform such work then the Heider shall perform such maintenance, make such repairs or construct such replacements in a commercially reasonable manner and the cost of such services will be paid as provided in this Section 3.

4. Liens, Rights and Remedies

(a) Lien Rights. If, at any time, a Party fails ("Defaulting Party") within ten (10) days after notice or demand to pay any sum of money due any other Party ("Creditor Party") under or pursuant to the provisions of this Agreement, then, in addition to any other rights or remedies the Creditor Party may have, the Creditor Party shall have (a) a lien against the Parcel(s) owned by the Defaulting Party, and (b) for a default under Section 5(b), a lien against any insurance proceeds payable to the Defaulting Party for such loss or damage described in Section 5(b), to secure the repayment of such sum of money and all interest on such sum accruing pursuant to the provisions of this Section 4. Such liens shall arise immediately upon the recording of a notice by the Creditor Party with the Office of the Recorder of Deeds, Tazewell County, Illinois, and may be enforced by a proceeding in law or equity. Such liens shall continue in full force and effect until such sum of money and any accrued interest thereon shall have been paid in full. The liens provided for in this Section 4(a) shall be subject and subordinate to any mortgage, trust deed or other encumbrance constituting a lien on the Parcel owned by the Defaulting Party, including without limitation any first mortgage.

(b) Mortgagee Subrogation. The holder of a mortgage or trust deed on all or any portion of the Defaulting Party's Parcel shall have the right to be subrogated to the

position of the holder of any lien arising pursuant to this Section 4 affecting the Defaulting Party's Parcel upon payment of the amount secured by such lien.

(c) **Default Interest.** Interest shall accrue on sums owned by a Defaulting Party to a Creditor Party and shall be payable from the date any such sum first became due hereunder until paid in full, at a rate of interest equal to the lesser of: (i) the floating rate that is equal to three percent (3%) per annum in excess of the prime rate of interest from time to time published in the *Wall Street Journal*, or any successor, or (ii) the then maximum lawful rate of interest in Illinois applicable to the capacity of the Defaulting Party and the nature of the debt.

(d) **Remedies not Exclusive.** The rights and remedies of a Party provided for in this Section 4 or elsewhere in this Agreement are cumulative and not intended to be exclusive of any other remedies to which such Party may be entitled at law or in equity or by statute. Either Party may enforce, by a proceeding in equity for mandatory injunction, without bond, the other Party's obligation to execute or record any document that such other Party is required to execute under or pursuant to this Agreement. The exercise by the Party of any right or remedy to which it is entitled hereunder shall not preclude or restrict the exercise of any other right or remedy provided hereunder.

(e) **No Set-Off.** Each claim of any Party arising under this Agreement shall be separate and distinct, and no defense, set-off, offset or counterclaim arising against the enforcement of any lien or other claim of any Party shall thereby be or become a defense, set-off, offset or counterclaim against the enforcement of any other lien or claim.

(f) **Limitations on Actions.** Actions to enforce any right, claim or lien under this Agreement shall be commenced within three (3) years immediately following the date the cause of action accrued, or such other shorter period as may be provided by law or statute; provided, however, that if prior to expiration of the period in which such action must be commenced, the holder of a first mortgage is diligently proceeding to foreclose its first mortgage, then such period in which an action by the Party must be commenced shall be further extended for such additional time as may reasonably be necessary in order for the holder of the first mortgage to obtain possession of the Parcel that it encumbers.

(g) **Attorneys Fees.** A Defaulting Party shall pay the reasonable attorneys' fees and court costs paid or incurred by a Creditor Party in successfully enforcing its rights against a Defaulting Party under this Agreement.

5. **General Covenants and Restrictions.** The Parties covenant and agree generally as to all of the various easements set forth in this Agreement as follows:

(a) **Limits on Interference.** The Parties agree that they will not unnecessarily interfere with the use and enjoyment of the other Party's easement.

(b) Insurance. Each Party shall secure and maintain in full force and effect insurance coverage for their respective Parcels and their respective activities under this Agreement, for commercial general liability in an aggregate amount of at least \$2 million, with a per occurrence limit of at least \$1 million. Certificates evidencing such insurance will be made available for examination upon request by the other Party.

(c) Right to Perform the Other Party's Obligations. If a Party (the "Failing Party") shall fail to perform any obligation imposed upon it hereunder or shall violate any term, provision or condition of this Agreement, the other Party(s) (the "Curing Party") of a Parcel may give notice to the Failing Party specifying the failure or violation. If the Failing Party refuses or fails to undertake, or to agree to or commence to undertake, in each case within ten (10) days after such notice, and thereafter diligently cure the failure or violation, the Curing Party may, but shall not be obligated to, enter upon the Failing Party's Parcel and cure such failure or violation. In such event the Curing Party shall provide the Failing Party with a good faith estimate of the cost of curing the violation and give the Failing Party time to cure the violation. Notwithstanding the foregoing, in the event of an emergency and/or in the event access to or from the Curing Party's Parcel is restricted or limited in any respect, the Curing Party shall not be required to give notice to the Failing Party and the Curing Party may, but shall not be obligated to, immediately enter upon the Failing Party's Parcel and cure such situation. In the event the Curing Party undertakes such cure (in an emergency or otherwise), the Curing Party shall not be liable or responsible to the Failing Party for any losses or damages thereby sustained by the Failing Party or anyone claiming by, through or under the Failing Party, except for the Curing Party's gross negligence or willful misconduct. If the Curing Party undertakes the aforesaid cure, all the costs and expenses therefore shall be assessed and paid by the Failing Party (or proratably by the then owners of the Failing Party's Parcel) within thirty (30) days of the rendering of a statement therefore, which statement shall specify the details of the acts performed and the costs related thereto.

(d) Taxes. The Parties agree that they will pay their respective real estate taxes when due and owing as to their respective Parcels and further agree that the existence of easements on or across their respective Parcels for the benefit of the other Party will not alter or otherwise shift that Party's real estate tax burden with respect to that Party or Parcel.

(e) Liens. In the event any mechanic's lien is filed against the Parcel of a Party as a result of services performed or materials furnished for the use of the Party of another Parcel, the Party permitting or causing such lien to be so filed shall cause such lien to be discharged prior to the entry of final judgment (after all appeals) for the foreclosure of such lien and further shall indemnify, defend, and hold harmless the other Party and its Parcel against liability, loss, damage, costs or expenses (including reasonable attorney's fees and costs of suit) on account of such claim of lien. Upon request of the Party whose Parcel is subject to such lien, the Party permitting or causing such lien to be filed shall promptly cause such lien to be released and discharged of record, either by paying the indebtedness that gave rise to such lien or posting bond or other security as shall be required by law to obtain such release or discharge. Nothing

herein shall prevent a Party permitting or causing such lien from contesting the validity thereof in any manner such Party chooses so long as such contest is pursued with reasonable diligence. In the event such contest is determined adversely (allowing for appeal to the highest appellate court), such Party shall promptly pay in full the required amount, together with any interest, penalties, costs, or charges necessary to release such lien. For purposes of the foregoing, a Party of a Parcel shall be deemed to have permitted or caused such lien upon or against another Party's Parcel if such lien was permitted or caused by an occupant of the Parcel of such Party, or through such Party's use of an easement granted herein located on that Parcel.

(f) Notices.

(i) All notices, requests, demands and other communications that are required or may be given pursuant to the terms of this Agreement shall be in writing and shall be deemed delivered (A) on the date of delivery when delivered by hand on a business day during normal business hours or, if delivered on a day that is not a business day or after normal business hours, then on the next business day, (B) on the date of transmission when sent by facsimile transmission during normal business hours on a business day with telephone confirmation of receipt or, if transmitted on a day that is not a business day or after normal business hours, then on the next business day, (C) on the second business day after the date of dispatch when sent by a reputable courier service that maintains records of receipt or (D) five (5) business days after the date of dispatch when sent by first class or airmail letter; provided, however, that, in any such case, such communication is addressed as provided in the immediately following paragraph (ii).

(ii) All notices, requests, demands and other communications that are required or may be given pursuant to the terms of this Agreement shall be addressed as follows:

if to Heider to:

Washington, Illinois 61571
Telephone: (309) ____ - ____
Facsimile: (309) ____ - ____

or to such other address as the Heider may designate in a written notice to S&R Land Trust; and

if to S&R Land Trust, to:

S&R Land Trust
Attention: Trustee

Washington, Illinois 61571
Telephone: (309) ____ - ____
Facsimile: (309) ____ - ____

or to such other address as S&R Land Trust may designate in a written notice to the Heider.

(g) Force Majeure. Neither Party shall be liable for delay in delivery or nonperformance in whole or in part (other than a failure to pay any amount due hereunder), nor shall the other Party have the right to terminate this Agreement, where delivery or performance has been affected by a condition beyond such Party's reasonable control, including fires, floods, earthquakes, embargoes, shortages, epidemics, quarantines, war, acts of war (whether war be declared or not), terrorism, insurrections, riots, civil commotion, strikes, lockouts or other labor disturbances, acts of God or acts, or omissions or delays in acting by any government authority; provided, however, that the Party affected by such a condition shall, within ten (10) days of its occurrence, give notice to the other Party stating the nature of the condition, its anticipated duration and any action being taken to avoid or minimize its effect. The suspension of performance shall be of no greater scope and no longer duration than is reasonably required and the nonperforming Party shall use commercially reasonable efforts to remedy its inability to perform.

(h) Further Assurances. Each Party shall duly execute and deliver, or cause to be duly executed and delivered, such further instruments and do and cause to be done such further acts and things, including the filing of such assignments, agreements, documents and instruments, as may be necessary or as the other Party may reasonably request in connection with this Agreement or to carry out more effectively the provisions and purposes hereof, or to better assure and confirm unto such other Party its rights and remedies under this Agreement.

(i) Relationship of Parties. The relationship between the Parties is that of independent contractors. Neither Party, nor any employee or agent of a Party, shall have the authority to bind or act on behalf of the other Party without its prior written consent. No employee or agent of a Party shall be considered to be an employee of the other Party. Each Party shall be solely and entirely responsible for its acts and the acts of its Affiliates, and for the acts of its and its Affiliates employees, consultants and agents, during performance of this Agreement. This Agreement shall not constitute, create, or in any way be interpreted as a joint venture, partnership or business organization of any kind.

(j) Amendments; Modifications. This Agreement may not be amended or modified except in a writing duly executed and recorded in the Tazewell County Recorder's office by both Parties.

(k) Severability. If any provision, sentence, phrase or word of this Agreement or the application thereof to any person or circumstance shall be held invalid, the remainder of this Agreement, or the application of such provision, sentence, phrase or word to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. The Parties shall make a good faith effort to replace the invalid or unenforceable provision with a valid one that conforms as nearly as possible with the original intent of the Parties.

(l) Waiver. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by either Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion.

(m) Governing Law; Dispute Resolution. This Agreement shall be governed and construed in accordance with the laws of the State of Illinois, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction. Any action to enforce this Agreement shall have venue in the courts of Tazewell County, Illinois.

(n) Remedies. The rights and remedies herein expressly provided are cumulative and not exclusive of any other rights or remedies that the Party would otherwise have at law, in equity, by statute or otherwise.

(o) Binding Effect; Successors and Assigns. The terms of this Agreement and all easements reserved and established and all covenants and restrictions made hereunder shall constitute covenants running with the land and shall inure to the benefit of and be binding upon the Parties and all successive owners of any Parcels comprising the Easement Area, their tenants, their occupants, their permittees, their mortgagees, and their respective successors and assigns and any other person who claims by, through and under such persons.

(p) Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Easement Area thereof to the general public.

(q) Headings; Interpretation. The headings in this Agreement are inserted merely for the purpose of convenience and shall not affect the meaning or interpretation of this Agreement. This Agreement shall be construed fairly according to its terms, without regard to the identity of the drafter of any provision in this Agreement.

(r) Entire Agreement. This Agreement represents the entire understanding and agreement among the Parties with respect to the subject matter of, and the transactions contemplated by, this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed these presents on the day and year first above mentioned.

Heider

By: _____

Name:

Its:

STATE OF ILLINOIS)
) ss.
COUNTY OF TAZEWELL)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the Manager of _____, LLC. appeared before me this day in person and acknowledged that she signed, sealed and delivered the foregoing instrument as her free and voluntary act and the free and voluntary act of such limited liability company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this ____ day of _____, 2021.

Notary Public

S&R Land Trust

Mark Swisher, Trustee

STATE OF ILLINOIS)
) ss.
COUNTY OF TAZEWELL)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Mark Swisher, personally known to me to be the Trustee of S&R Land Trust, LLC. appeared before me this day in person and acknowledged that she signed, sealed and delivered the foregoing instrument as her free and voluntary act and the free and voluntary act of such limited liability company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this ____ day of _____, 2021.

Notary Public

EXHIBIT A

**LEGAL DESCRIPTION OF
HEIDER PARCEL**

A PART OF LOTS FOUR (4) AND FIVE (5) IN THE ORIGINAL TOWN (NOW CITY) OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 88°-17'-14" EAST (BEARING BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, WEST ZONE 1202), ALONG THE NORTH LINE OF SAID LOT 4, 128.00 FEET; THENCE SOUTH 01°-42'-46" EAST, 35.00 FEET; THENCE SOUTH 88°-17'-14" WEST, 21.52 FEET; THENCE SOUTH 43°-02'-15" WEST, 21.12 FEET; THENCE SOUTH 01°-17'-37" EAST, 18.00 FEET TO A POINT LYING 8 FEET SOUTH OF THE SOUTH LINE OF SAID LOT 4; THENCE SOUTH 88°-17'-14" WEST, PARALLEL TO AND 8 FEET NORMALLY DISTANT SOUTH OF THE SOUTH LINE OF SAID LOT 4, 92.00 FEET TO THE EAST RIGHT OF WAY LINE OF MAIN STREET; THENCE NORTH 01°-17'-37" WEST, ALONG SAID EAST RIGHT OF WAY LINE, 68.00 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 0.175 ACRE, MORE OR LESS.

P.I.N.: Part of 02-02-24-100-007.

EXHIBIT B

LEGAL DESCRIPTION OF S&R LAND TRUST PARCEL

A PART OF LOTS FOUR (4) AND FIVE (5) IN THE ORIGINAL TOWN (NOW CITY) OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 88°-17'-14" EAST (BEARING BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, WEST ZONE 1202), ALONG THE NORTH LINE OF SAID LOT 4, 128.00 FEET TO THE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED: FROM THE POINT OF BEGINNING, THENCE CONTINUING NORTH 88°-17'-14" EAST, ALONG SAID NORTH LINE, 72.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 4; THENCE SOUTH 01°-17'-37" EAST, ALONG THE EAST LINE OF SAID LOTS 4 AND 5 AND THE WEST RIGHT OF WAY LINE OF A PUBLIC ALLEY, 74.00 FEET TO A POINT 14 FEET SOUTH OF THE NORTH LINE OF SAID LOT 5; THENCE SOUTH 88°-17'-14" WEST, PARALLEL TO AND 14 FEET NORMALLY DISTANT SOUTH OF THE NORTH LINE OF SAID LOT 5, 108.00 FEET; THENCE NORTH 01°-17'-37" WEST, 24.00 FEET; THENCE NORTH 43°-02'-15" EAST, 21.12 FEET; THENCE NORTH 88°-17'-14" EAST, 21.52 FEET; THENCE NORTH 01°-42'-46" WEST, 35.00 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 0.152 ACRE, MORE OR LESS.

P.I.N.: Part of 02-02-24-100-007.

EXHIBIT C

PLAT

See attached.

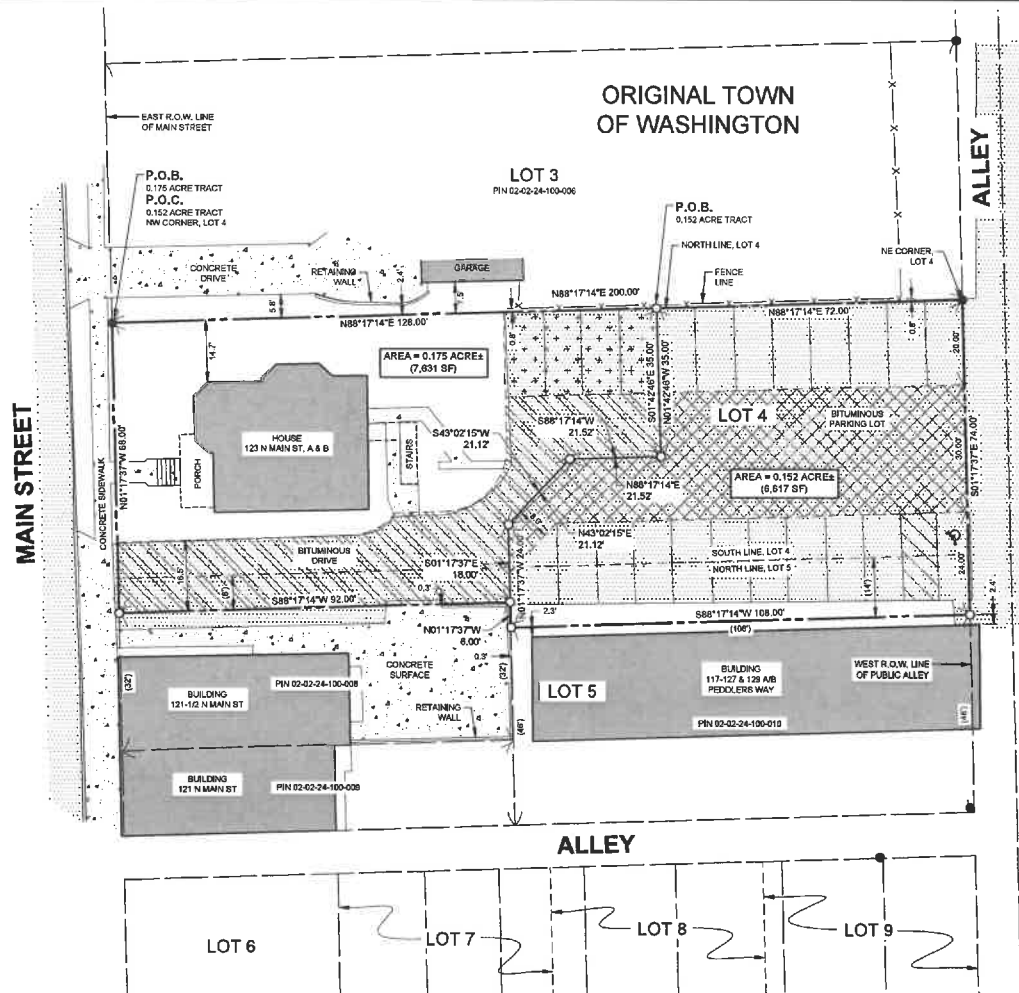


EXHIBIT D

LEGAL DESCRIPTION OF S&R LAND TRUST EASEMENT

A PART OF LOTS FOUR (4) AND FIVE (5) IN THE ORIGINAL TOWN (NOW CITY) OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 88°-17'-14" EAST (BEARING BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, WEST ZONE 1202), ALONG THE NORTH LINE OF SAID LOT 4, 128.00 FEET; THENCE SOUTH 01°-42'-46" EAST, 20.00 FEET TO THE POINT OF BEGINNING OF THE EASEMENT TO BE DESCRIBED: FROM THE POINT OF BEGINNING, THENCE CONTINUING SOUTH 01°-42'-46" EAST, 14.97 FEET; THENCE SOUTH 88°-17'-14" WEST, 21.52 FEET; THENCE SOUTH 43°-02'-15" WEST, 21.12 FEET; THENCE SOUTH 01°-17'-37" EAST, 18.00 FEET TO A POINT 8 FEET NORMALLY DISTANT SOUTH OF THE SOUTH LINE OF SAID LOT 4; THENCE SOUTH 88°-17'-14" WEST, PARALLEL TO AND 8 FEET NORMALLY DISTANT SOUTH FROM THE SOUTH LINE OF SAID LOT 4, 92.00 FEET TO THE EAST RIGHT OF WAY LINE OF MAIN STREET; THENCE NORTH 01°-42'-46" WEST, ALONG SAID EAST RIGHT OF WAY LINE, 16.50 FEET; THENCE NORTH 88°-17'-14" EAST, 54.61 FEET; THENCE IN A NORTHEASTERLY DIRECTION, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 15.00 FEET, FOR AN ARC DISTANCE OF 12.62 FEET, SAID CURVE BEING SUBTENDED BY A CHORD HAVING A BEARING OF NORTH 64°-11'-33" EAST AND A LENGTH OF 12.25 FEET; THENCE NORTH 88°-17'-14" EAST, 11.47 FEET; THENCE IN A NORTHEASTERLY DIRECTION, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 15.00 FEET, FOR AN ARC DISTANCE OF 23.45 FEET, SAID CURVE BEING SUBTENDED BY A CHORD HAVING A BEARING OF NORTH 43°-29'-49" EAST AND A LENGTH OF 21.14 FEET; THENCE NORTH 01°-17'-37" WEST, 11.61 FEET; THENCE NORTH 88°-17'-14" EAST, 36.17 FEET TO THE POINT OF BEGINNING, SAID EASEMENT CONTAINING 2,367 SQUARE FEET, MORE OR LESS.

EXHIBIT E

**LEGAL DESCRIPTION OF
S&R LAND TRUST MAINTENANCE EASEMENT**

A PART OF LOT FOUR (4) IN THE ORIGINAL TOWN (NOW CITY) OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 88°-17'-14" EAST (BEARING BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, WEST ZONE 1202), ALONG THE NORTH LINE OF SAID LOT 4, 128.00 FEET TO THE POINT OF BEGINNING OF THE EASEMENT TO BE DESCRIBED: FROM THE POINT OF BEGINNING, THENCE SOUTH 01°-42'-46" EAST, 20.00 FEET; THENCE SOUTH 88°-17'-14" WEST, 36.17 FEET; THENCE NORTH 01°-17'-37" WEST, 20.00 FEET TO THE NORTH LINE OF SAID LOT 4; THENCE NORTH 88°-17'-14" EAST, ALONG SAID NORTH LINE, 36.02 FEET TO THE POINT OF BEGINNING, SAID EASEMENT CONTAINING 722 SQUARE FEET, MORE OR LESS.

EXHIBIT F

**LEGAL DESCRIPTION OF
HEIDER EASEMENT**

A PART OF LOTS FOUR (4) AND FIVE (5) IN THE ORIGINAL TOWN (NOW CITY) OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 88°-17'-14" EAST (BEARING BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, WEST ZONE 1202), ALONG THE NORTH LINE OF SAID LOT 4, 128.00 FEET; THENCE SOUTH 01°-42'-46" EAST, 20.00 FEET TO THE POINT OF BEGINNING OF THE EASEMENT TO BE DESCRIBED: FROM THE POINT OF BEGINNING, THENCE NORTH 88°-17'-14" EAST, 71.84 FEET TO THE EAST LINE OF SAID LOT 4; THENCE SOUTH 01°-17'-37" EAST, ALONG SAID EAST LINE, 30.00 FEET; THENCE SOUTH 88°-17'-14" WEST, 96.83 FEET; THENCE SOUTH 43°-17'-14" WEST, 16.00 FEET; THENCE NORTH 01°-17'-37" WEST, 11.30 FEET; THENCE NORTH 43°-02'-15" EAST, 21.12 FEET; THENCE NORTH 88°-17'-14" EAST, 21.52 FEET; THENCE NORTH 01°-42'-46" WEST, 14.97 FEET TO THE POINT OF BEGINNING, SAID EASEMENT CONTAINING 2,651 SQUARE FEET, MORE OR LESS.