

## Property Sale and Development Agreement

This **PROPERTY SALE AND DEVELOPMENT AGREEMENT** (“**Agreement**”), dated as of the \_\_\_\_ day of **April**, 2021 (“**Effective Date**”), is between **KENTON COUNTY, KENTUCKY** (“**Grantor**”); and, together, **AL. NEYER, LLC**, an Ohio limited liability company and **URBAN SITES, LLC**, an Ohio limited liability company (collectively, “**Grantee**”).

### 1. **PROPERTY DESCRIPTION AND CONDITION.**

- A. **Property Description.** Grantor is the owner of the real property having the address 303 Court Street, Covington, Kentucky 41011 described on **Exhibit A** attached hereto and made a part hereof, with all appurtenant rights, privileges, and easements (“**Property**”). Grantor shall transfer to Grantee, for real and valuable consideration, title to the Property and Grantee agrees to pay for the Property on the terms and subject to the conditions contained in this Agreement.
- B. **Condition of the Property.** Grantee acknowledges and agrees that it is relying on its own inspections and examinations with regard to the condition and suitability of the Property and that it is purchasing the Property from Grantor in “**AS IS, WHERE IS, AND WITH ALL FAULTS AND DEFECTS**” condition without any representation or warranty from Grantor as to the Property’s condition, its suitability for Grantee’s intended use, or otherwise, except as otherwise provided in this Agreement. Grantor and Grantee acknowledge that preliminary estimates to create a viable shell necessary to redevelop the Property exceed Three Million and xx/100 Dollars (\$3,000,000.00).

### 2. **GRANTOR’S WARRANTIES AND COVENANTS.**

Grantor represents, warrants, and covenants to Grantee as to the following matters, and shall be deemed to remake all of the following representations, warranties, and covenants to Grantee as of the Closing Date:

- A. The execution and delivery of this Agreement by Grantor, the execution and delivery of every other document and instrument delivered pursuant hereto by or on behalf of Grantor, and the consummation of the transactions contemplated hereby will not constitute or result in the breach of or default under any oral or written agreement to which Grantor is a party or which affects the Property; constitute or result in a violation of any order, decree, or injunction with respect to which Grantor and/or the Property is bound; and/or cause or entitle any party to have a right to declare a default under any oral or written agreement which affects the Property. This Agreement and every other document and instrument delivered pursuant hereto have been validly executed and delivered by, and are binding obligations of, Grantor. The party executing this Agreement on behalf of Grantor is legally authorized to do so.
- B. To the best of Grantor’s knowledge, the Property is in full compliance, with regard to the existing use and the intended use described herein, with applicable building codes, environmental, zoning and land use laws and other local, state and federal laws and regulations. To the best of Grantor’s knowledge, there is no condition existing with respect to the maintenance, operation, use, or occupancy of the Property which violates any statute, ordinance, law, or code or detrimentally affects the use and operation of the Property or the value of the Property, nor has Grantor received any notice, written or otherwise, from any governmental agency alleging violations of any law, statute, ordinance, or regulation relating to the Property.
- C. No work has been performed or labor, materials, equipment or fuel furnished to the Property within the last ninety (90) days for which the Grantor owes anyone for performing such work.
- D. There are no existing leases, tenancy rights and/or other contracts or arrangements with respect to the Property. Prior to the Closing, Grantor shall not lease, encumber, or transfer all or any part of the Property. Grantor warrants that, except for this Agreement there are no purchase contracts, options, leases, or any other agreements of any kind, oral or written, formal or informal, which are unrecorded whereby any person or entity other than Grantor will have acquired or will have any basis to assert any right, title, or interest in, or right to possession, use, enjoyment or proceeds of, any part or all of the Property.

- E. Grantor has not engaged in any activity which has caused the Property or any part thereof to be contaminated by any hazardous or toxic waste materials, nor has Grantor knowingly permitted any other person or entity to engage in any such activity on the Property, nor does Grantor have any knowledge of any such activity or contamination, nor has Grantor received any notice, written or otherwise, from any governmental agency alleging such contamination.
- F. To the best of Grantor's knowledge, no fact or conditions exists which would result in the termination or impairment of access to the Property from adjoining public or private streets or ways of which could result in discontinuation of necessary sewer, water, electric, gas, telephone, or other utilities or services.
- G. To the best of Grantor's actual knowledge, as of the Effective Date, the Property is free from any and all city, county, and state orders.
- H. On the Closing Date, title to the Property shall be free, clear, and unencumbered, excepting those restrictions, conditions, and easements of record.
- I. On the Closing Date, any outstanding taxes or orders relating to the Property, if any, shall be settled from proceeds of the sale by Grantor.
- J. Grantor covenants that it shall reasonably cooperate with Grantee to provide such information and approvals as are required in Grantee's pursuit of public financing, including but not limited to Tax Increment Financing and Industrial Revenue Bonds and to execute the Plans, as hereinafter defined, at the Property.
- K. Grantor covenants that it shall reasonably assist Grantee in securing necessary third-party approvals required for the redevelopment of the Property, including but not limited to zoning approval for a high-rise apartment development project with ground floor retail, with a unit mix and anticipated square footage consistent with the Plans, as hereinafter defined, approval of demolition permit and Kentucky Transportation Cabinet approval of the existing curb cut locations.

The foregoing representations, warranties and covenants shall survive the Closing.

3. **PARKING ARRANGEMENT.** Upon Grantee's notification to Grantor that Grantee's development of the Property has been substantially completed, for a period of one hundred and twenty (120) months ("**Initial Parking Term**"), Grantor shall make sixty-four (64) subterranean and one hundred (100) above-surface parking spaces at the Kenton County Parking Garage located at 220 Madison Ave, Covington, KY 41011 ("**Garage**") available to Grantee, to be used exclusively by occupants and management of the Property ("**Parking Arrangement**"). Grantee shall notify Grantor of the number of parking spaces needed for the following month at least thirty (30) days in advance of the first day of the following month. During the Initial Parking Term, Grantor shall make the Parking Arrangement available to Grantee at no cost to Grantee. The above notwithstanding, Grantee recognizes that Grantor requires continued access to the basement level of the Garage and shall preserve at least twenty (20) spaces in the basement level for Grantor's continued use at any given time. For the avoidance of doubt, Grantor acknowledges that there are currently at least eight-four (84) spaces in the basement level and the sixty-four (64) subterranean spaces mentioned above will be available for Grantee's use in accordance with this Section 3.

After the Initial Parking Term, Grantee shall have the option to extend the Parking Arrangement every five (5) years (any extensions so exercised, collectively, the "**Extended Parking Term**"). During the Extended Parking Term, Grantee shall pay Grantor for the parking spaces it requires at a base year rental rate of Twenty-Five and xx/100 Dollars (\$25.00) per parking space per month for the spaces it requires on or above the first floor of the Garage and Forty and xx/100 Dollars (\$40.00) per parking space per month for the spaces it requires in the basement level of the Garage, with rent increasing ten percent (10.00%) above the prior period's rent rate upon the exercise of each renewal option. Unless Grantee notifies Grantor that it does not desire to renew the Parking Arrangement, the Parking Arrangement shall be deemed to continue for each successive renewal period. Grantee may decline its option to rent parking spaces under the Parking Arrangement at any time during the Extended Parking Term, provided it gives at least thirty (30) days' notice to Grantor of such intent. Grantor

shall ensure that the Parking Arrangement shall remain in full force and effect should ownership of the Garage transfer from Grantor to another party. Grantor agrees that the Parking Arrangement shall not be modified nor the parking spaces relocated to another property without Grantee's prior written consent.

Grantor's and Grantee's rights and obligations related to the Parking Arrangement shall survive the Closing. At Closing, Grantor and Grantee agree to record a memorandum evidencing the rights and obligations associated with the Parking Arrangement.

4. **TRANSFER TERMS.** Grantor shall transfer the Property to Grantee for Ten and xx/100 Dollars (\$10.00), subject to the terms and conditions contained in Section 8 of this Agreement.
5. **INSPECTION PERIOD.** Grantee, at its sole cost and expense, shall have until **March 31, 2021** ("**Inspection Period**") to conduct such reasonable inspections, investigations, title examinations, and verifications of the Property as are necessary to determine if the Property is suitable for Grantee's intended use. During the Inspection Period, Grantee may enter the Property during reasonable business hours to conduct tests and inspections. Grantee shall promptly repair any damage to the Property resulting from its inspections and Grantee shall hold Grantor harmless from any loss or expense arising out of Grantee's activities on the Property. Grantor shall cooperate with Grantee in Grantee's inspections, studies, and in obtaining all required approvals. In the event that Grantee is not satisfied with the condition of the Property or the results of any of the inspections and reviews referred to above in Grantee's sole and absolute discretion, Grantee may notify the Grantor in writing to that effect within the Inspection Period, and this Agreement shall be null and void and the parties shall be released from all further obligations hereunder. At Grantee's option, Grantee may, no later than thirty (30) days prior to the expiration of the Inspection Period, notify Grantor of any conditions identified during Grantee's examination of the Property that negatively impact the proposed development or are otherwise unsatisfactory to Grantee. Grantor shall notify Grantee of its intent to cure such unsatisfactory conditions at least seven (7) days prior to expiration of the Inspection Period. It shall be in Grantee's sole discretion to determine if the actions taken by Grantor to remedy such conditions identified during Grantee's examination of the Property are sufficient to permit Grantee to proceed to Closing.
6. **GRANTEE'S PLANS.** **Upon execution of this Agreement**, Grantee shall provide Grantor with preliminary plans for the construction and development of the Property as generally illustrated on **Exhibit A-1** attached hereto ("**Plans**"). The Plans shall be subject to Grantor's approval, not to be unreasonably withheld, conditioned or delayed. Grantor shall have fifteen (15) days to review and approve the Plans or submit its objections to Grantee. Should Grantor fail to respond within such fifteen (15) day period, the Plans shall be deemed approved by Grantor. The Plans shall be subject to reasonable modification and shall include the following: approximately **one hundred thirty-three (133)** – residential units and up to approximately eight thousand (8,000) square feet of first-floor retail space, to be constructed of high quality materials and in a manner consistent with industry standards for commercial mixed-use projects. The project shall contain no less than forty percent (40%) glazing on the façade. The Plans shall propose a high-quality mixed-use redevelopment consistent with similar projects in Kenton County, Kentucky.
7. **GRANTEE'S CONSTRUCTION.** Subject to any delay caused by force majeure events, Grantee agrees that it shall use reasonable efforts to ensure that construction (including site work and demolition of the existing structure on the Property) shall commence no later than sixty (60) days after the Closing Date, as such term is defined herein ("**Construction Commencement Date**"). Grantee's obligation under this Section 7 shall survive the Closing.
8. **GRANTEE'S CONTINGENCIES.** Grantee's performance of this Agreement is contingent upon and subject to the satisfaction of all of the following conditions:
  - A. Grantor's authorization to: (i) sell the Property; (ii) enter into this Agreement; and (iii) authorize the County Judge Executive to complete all necessary documentation related to and necessary to facilitate the sale of the Property, including but not limited to, the execution of this Agreement and Grantor's approval of the Plans.

B. Grantee's procurement of debt, equity and public financing sufficient to acquire and develop the Property for an approximately \$31,400,000 use ("Project Financing") in accordance with the Plans. Should Grantee procure Project Financing, but the availability of such financing necessitate delaying the Construction Commencement Date, Grantee may extend the Construction Commencement Date by up to one hundred twenty (120) days.

C. Grantor obtaining all necessary approvals for the Parking Arrangement.

If any contingency set forth in this Section 8 is not satisfied or waived by Grantee, in Grantee's sole and absolute discretion within the time periods stated herein, Grantee may terminate this Agreement without further liability or obligation to Grantor or anyone claiming by, through, or under Grantor, by providing written notice to Grantor of such termination.

9. **CLOSING.** The above Inspection Period notwithstanding, provided the contingencies set forth in this Agreement are satisfied or waived as provided for herein and subject to any delays caused by force majeure events, the parties agree to close the purchase and sale of the Property ("**Closing**") on or before the later of ten (10) business days after Grantee's securing of Project Financing (including any required state ratification of locally-provided public incentives) or June 1, 2021 (the "**Closing Date.**") The Closing shall occur at the Independence Courthouse in Kenton County, Kentucky, unless otherwise mutually agreed to in writing by Grantor and Grantee.
10. **NOTICE.** Any notice required or permitted under this Agreement shall be in writing and deemed to have been given upon (a) the date of recipient's signature if sent by certified mail, postage prepaid, return receipt requested, (b) the next day if given by Federal Express/Next Day Delivery service with proof of delivery; or (c) the date of delivery if given by hand delivery to the parties at the following addresses:

**Grantee:**

Al. Neyer, LLC  
302 W. 3<sup>rd</sup> Street  
Suite 800  
Cincinnati, Ohio 45202  
Attn: Dan Ruh

Al. Neyer, LLC  
302 W. 3<sup>rd</sup> Street  
Suite 800  
Cincinnati, Ohio 45202  
Attn: Legal Services

Urban Sites, LLC  
1209 Sycamore St.  
Cincinnati, OH 45202  
Attn: Daniel Lipson

**Grantor:**

Office of the County Judge Executive  
Kenton County, Kentucky  
303 Court Street  
Covington, Kentucky 41011

11. **CONVEYANCE.** At Closing, Grantor shall convey transferable and marketable title to the Property to Grantee by limited warranty deed in fee simple absolute free and clear of all liens and encumbrances except (a) all restrictions, conditions, agreements, and easements of record; (b) legal highways; (c) applicable zoning and other governmental statutes, ordinances and regulations; and (d) real estate taxes and assessments which are a lien upon the Property but not yet due and payable.
12. **PRO-RATIONS.** Real estate taxes, utility costs and any other assessments, if any, shall be prorated as of the Closing Date. Grantor shall pay all installments of assessments, if any, which may become due and payable prior to Closing Date. Grantor shall pay for the transfer tax, if any, and deed preparation. Grantee shall pay all

costs and expenses associated with securing financing, Grantee's Due Diligence, and Closing (including, but not limited to, Grantee's attorneys' fees).

- 13. POSSESSION.** Exclusive possession of the Property shall be given to Grantee at Closing. If prior to Closing, the Property is taken or made subject to condemnation, eminent domain, or is substantially damaged or destroyed, then Grantor shall promptly notify Grantee and Grantee may elect to either terminate this Agreement or proceed to Closing.
- 14. SOLE CONTRACT.** This Agreement constitutes the entire agreement of the parties with regard to the Property and no oral or implied agreements exist. Any amendments to this Agreement shall be made in writing, signed by both parties, and copies shall be attached to all copies of this original Agreement.
- 15. ASSIGNMENT.** Grantee may assign its rights and obligations under this Agreement upon written notice to Grantor.
- 16. BINDING EFFECT.** This Agreement shall be binding on the parties, their respective heirs, administrators, executors, successors, and permitted assigns.
- 17. CLARIFICATION OF DATES.** Any date specified in this Agreement which falls on a Saturday, Sunday or legal holiday shall be extended to the first regular business day after such date which is not a Saturday, Sunday or legal holiday. The term "legal holiday" shall mean any day on which state or national banks are not open for business.
- 18. COUNTERPARTS.** This Agreement may be executed by the parties in counterparts, each of which shall be deemed an original, but all of such counterparts, taken together, shall constitute one and the same Agreement.

SIGNED as of the Effective Date.

GRANTEE:  
**AL. NEYER, LLC,**  
an Ohio limited liability company

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**URBAN SITES, LLC,**  
an Ohio limited liability company

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

GRANTOR:  
**KENTON COUNTY, KENTUCKY**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit A**

**Legal Description**

Group: 1616  
PIDN: 054-14-06-001.00  
Address: 303 Court Street  
Covington, Kentucky 41011

Beginning at the intersection of the southerly line of Third Street and the easterly line of Scott Street; thence eastwardly along the said southerly line of Third Street one hundred sixty-eight (168) feet, more or less, to the westerly line of Short Street (formerly Market Street); thence southwardly along the said westerly line of Short Street one hundred forty-eight (148) feet to the northerly line of Market Space one hundred sixty-eight (168) feet to the easterly line of Scott Street; thence northwardly along the said easterly line of Scott Street one hundred forty-eight (148) feet to the point of beginning.

Also conveyed herewith is all of the Grantors' right, title and interest in and to that portion of the real estate closed as a public way by Order of the Kenton Circuit Court in Case No. 85-CI-1650 and described in Encumbrance Book 42, Page 559 of the Kenton County Clerk's Records.

