
THIS SPACE FOR RECORDER'S USE ONLY

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Charles Renner
Husch Blackwell, LLP
4801 Main Street, Ste. 1000
Kansas City, Missouri 64112

Title of Document: **Public Access Easement and Maintenance Agreement**

Grantor: **West Bottoms – Propco Master, LLC, a Delaware limited liability company; West Bottoms – Propco Master II, LLC, a Delaware limited liability company**

Grantee: **The City of Kansas City, Missouri**

Date of Document: _____, 2025

Grantee's Mailing Address: **1215 Union Ave., Kansas City, MO 64101**

Statutory Recording Reference, if any: **N/A**

Legal Description: **See Exhibit A attached hereto**

This cover page is attached solely for the purpose of complying with the requirements stated in §§ 59.310.2; 59.313.2 R.S.Mo. 2001 of the Missouri Recording Act. The information provided on this cover page shall not be construed as either modifying or supplementing the substantive provisions of the attached instrument. In the event of a conflict between the provisions of the attached instrument and the provisions of this cover page, the attached instrument shall prevail and control.

PUBLIC ACCESS EASEMENT AND MAINTENANCE AGREEMENT

THIS PUBLIC ACCESS EASEMENT AND MAINTENANCE AGREEMENT (this “**Agreement**”) is dated the ____ day of _____, 2025 (“**Effective Date**”), by and between West Bottoms – Propco Master, LLC, a Delaware limited liability company (“**Grantor**”), West Bottoms – Propco Master II, LLC, a Delaware limited liability company (“**Co-Grantor**”), West Bottoms Central Community Improvement District, a community improvement district and political subdivision of the State of Missouri (“**CID**”), and the City of Kansas City, Missouri, a constitutionally chartered municipal corporation of the State of Missouri (“**Grantee**”) (Grantor, Co-Grantor, CID, and Grantee each a “**Party**” and, collectively, the “**Parties**”).

RECITALS

WHEREAS, Grantor is the fee simple owner of that certain real property legally described on **Exhibit “A”** attached hereto and made a part hereof by this reference (“**Grantor Property**”) and Co-Grantor has a leasehold interest in that certain real property as generally depicted on **Exhibit “B”** attached hereto and made a part hereof by this reference (“**KCT Property**”) (Grantor Property and KCT Property are collectively, the “**Property**”); and

WHEREAS, the owner of the KCT Property acknowledges and approves of this Agreement and the incumbrance of the Public Access Easement during the term of the leasehold interest; and

WHEREAS, Grantor, Co-Grantor, and Grantee desire to enter into this Agreement to, inter alia, provide for a non-exclusive public access easement over that certain portion of the Property as legally described on **Exhibit “C”** attached hereto and made a part hereof by this reference (“**Easement Property**”).

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Grant of Easement.

A. Grantor and Co-Grantor hereby establish and create for the benefit of the public a perpetual, non-exclusive easement over, on, and across the Easement Property (“**Public Access Easement**”) for the purposes of temporary gathering, pedestrian ingress and egress, and other general recreational uses to be used for, and accessible to, the public consistent with City-owned parks and remain open to the public between the hours of 5:00 am and midnight (“**Easement Uses**”).

B. Grantor and Co-Grantor grant and convey to Grantee a perpetual, non-exclusive easement over, on, and across the Easement Property for the purpose of constructing, maintaining, repairing, replacing, installing, and removing any public utilities located within the Easement Property. Grantee shall, as soon as practicable after installation of any public utilities

and after all subsequent alterations or repairs thereto or removal thereof, restore the surfaces of the Easement Property to substantially the same condition such surfaces were in prior to such activities. Notwithstanding anything to the contrary in this Agreement, Grantor reserves the right to modify the Easement Property for purposes of maintenance, safety, or logistics, or for any other reason, provided that Grantor gives Grantee prior notice of such modification and such modification does not materially alter the nature of the Easement Property. Grantor shall provide thirty (30) days' notice of proposed modifications to Grantee who shall have the right to reject the proposed modification within fourteen (14) days of such notice. Grantor shall have the right, however, to modify the Easement Property to abate conditions posing an imminent threat to human life or safety and shall provide Grantee notice of the same within twenty-four (24) hours. Except as set forth in Section 5(C) below, no barriers, fences, or other obstructions shall be erected by any Party so as to impede or interfere with use of the Public Access Easement.

2. Maintenance of Easement Property.

A. Upon the terms and subject to the conditions contained in this Agreement, Grantor shall maintain the improvements located on the Easement Property in good repair and condition at Grantor's sole cost and expense in a manner consistent with the City Code of Ordinances. If Grantor fails to maintain the Public Access Easement in the condition required by this Agreement, Grantee shall provide Grantor with a written notice setting forth the maintenance or repair work that Grantee reasonably determines has not been done. In the event Grantor does not commence or contract to commence such maintenance or repair work within forty-five (45) days from the date of receipt of the aforesaid written notice, then (i) Grantee may perform such maintenance or repair work at the cost of Grantor and/or Co-Grantor, invoicing Grantor and/or Co-Grantor for the same; seek default remedies set forth in Section 4; (ii) Grantee may, in its sole determination, terminate this Agreement; or (iii) Grantor may, in its sole determination, terminate this Agreement. In the event Grantor terminates this Agreement pursuant to subsection (iii) of this Section, the CID shall, within one hundred eighty (180) days of such termination, reimburse the City for the cost attributable to the remaining useful life of the City-funded improvements located on the Easement Property, as calculated by the City. Upon such reimbursement, all City-funded improvements located on the Easement Property, shall remain in place and shall automatically become the property of Grantor or Kansas City Terminal Railway Company, a Missouri corporation, as applicable, and their respective successors or assigns.

B. In the event the lease between Co-Grantor and Kansas City Terminal Railway Company, a Missouri corporation, terminates for any reason, the CID, at its sole cost and expense, shall promptly remove and relocate any and all above-ground structural or architectural improvements located on the KCT Property to the Grantor's Property, in a location reasonably acceptable to the Grantor and the Grantee. Such relocation shall be completed in a good and workmanlike manner.

C. Grantor and Co-Grantor hereby grant and convey to Grantee a perpetual easement to enter upon and access the Easement Property for the purpose of accessing, inspecting, repairing, maintaining, and replacing its infrastructure within or near the Public Access Easement.

D. Grantor shall indemnify, defend, and hold harmless Grantee from and against any and all claims, actions, liability and expenses (including reasonable attorney fees)

arising from or out of Grantor's use and ownership of the Easement Property, or the failure of Grantor to maintain and repair the Public Access Easement, except to the extent such claims arise from or relate to the gross negligence or intentionally malicious acts of an indemnified party.

3. **Amendment.** Except as set forth in Section 2(A), this Agreement and any provision herein contained may be terminated, extended, modified or amended only with the express written consent of the Parties.

4. **Default and Remedies.** The Parties agree that the provisions of this Agreement will be enforced as follows:

A. **Injunctive Relief.** In the event of any violation or threatened violation by any Party of any of the provisions of this Agreement, in addition to the right to collect damages and other remedies available at law or equity, each Party will have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, written notice of the violation will be given to the Party claimed to have committed such violation.

B. **Force Majeure.** If performance of any action by any Party is prevented or delayed by act of God, war, labor disputes, or other cause beyond the reasonable control of such Party, the time for the performance of such action will be extended for the period that such action is delayed or prevented by such cause beyond the control of such Party.

C. **Notice of Default.** A Party will not be in default under this Agreement unless the Party has received written notice specifying the nature of such default and has failed to cure or commence appropriate action to cure such default within the times herein provided.

5. **Prohibited Uses and Restrictive Covenants.**

A. The Public Access Easement shall only be used for the Easement Use. For the sake of clarity, the Public Access Easement shall not be used for any loitering or overnight sleeping or long-term occupancy of any kind.

B. Grantor shall have the right to establish and enforce such rules and regulations applicable to the Public Access Easement for construction, maintenance, operation, safety, and security, including but not limited to setting quiet hours, setting hours of availability, or restricting activities within the Public Access Easement that are outside the Easement Use, notwithstanding the foregoing, such rules, regulations, and restrictions shall be consistent with those imposed in City-owned parks.

C. Grantor may temporarily close the Public Access Easement, in full or in part, for a reasonable amount of time to effectuate construction works, events, or any other lawful purpose, provide that (i) Grantor gives Grantee prior notice of said temporary closure, (ii) Grantor does not close the Public Access Easement more than thirty (30) days per calendar year for events, and (iii) Grantor does not close the Public Access Easement for more than three (3) consecutive days. If the Grantor wishes to close the Public Access Easement for more than three (3) consecutive days, then the Grantor shall obtain written approval from the Grantee.

6. Insurance. Grantor and Co-Grantor shall procure and maintain, and shall require its contractors to procure and maintain, in effect throughout the duration of this Agreement, insurance coverage not less than the types and amounts specified below. Grantor and Co-Grantor shall ensure that City is named as an additional insured on its and its contractors' policies.

A. Commercial General Liability Insurance: with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:

- a. Severability of Interests Coverage applying to Additional Insureds
- b. Contractual Liability
- c. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000.
- d. No Contractual Liability Limitation Endorsement
- e. Additional Insured Endorsement, ISO form CG2010, current edition, or its equivalent.

B. Workers' Compensation Insurance: as required by statute, including Employers Liability with limits of:

Workers' Compensation	Statutory
Employers' Liability with limits of:	\$100,000 each accident \$500,000 disease –policy limit \$100,000 disease - each employee

C. Commercial Automobile Liability Insurance: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an "any auto" basis and written on an "occurrence" basis. This insurance will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with this Agreement.

D. If applicable, Professional Liability Insurance with limits per claim and annual aggregate of \$ 2,000,000.

E. Grantor and Co-Grantor shall deliver to City, prior to the start of any work at the Property area, properly completed certificates of insurance or other evidence that the required insurance is in full force and effect, in a form acceptable to City. The receipt or acceptance of a certificate of insurance that does not incorporate the required terms and coverage shall not constitute a waiver by City of the insurance requirements contained in this License.

F. All policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained by Property Owner and its contractors will contain waiver provisions. The certificates of insurance will also contain a provision stating that should any of

the policies described in the certificate be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

G. If the coverage afforded is cancelled or changed or its renewal is refused, Grantor and Co-Grantor shall endeavor to give at least thirty (30) days prior written notice to City.

H. Regardless of any approval by City, it is the responsibility of Grantor and Co-Grantor to ensure that the required insurance coverage is procured and maintained in effect at all times. In the event Grantor and Co-Grantor fail to ensure that the required insurance is procured and maintained in effect, or that City is named as an additional insured, City may pursue any other remedies for breach of this Agreement as provided for herein and by law.

7. Miscellaneous. The Parties further agree as follows:

A. **Notices.** All notices, statements, demands, approvals, and other communications given pursuant to this Agreement will be in writing and shall be served either personally or by certified mail, or by any other delivery service which obtains a receipt for delivery unless any such notice required by law and such law provides a different form of delivery or service. Any such notice or demand served personally shall be delivered to the Party being served (provided that such notice may be delivered to the receptionist or any other person apparently in charge of such Party's office at its address hereinafter set forth), and shall be deemed complete upon the day of actual or attempted delivery, as shown by an affidavit of the person so delivering such notice. Any notice so served by certified mail shall be deposited in the United States Mail with postage thereon fully prepaid and addressed to the party or parties so to be served at its address hereinafter stated and service of any such notice by Certified Mail shall be deemed complete on the date of actual or attempted delivery as shown by the Certified Mail receipt. Service of any such notice by another delivery service shall be deemed complete upon the date of actual or attempted delivery as shown on the receipt obtained by such delivery service.

Notices to the Grantor shall be addressed to:

c/o SomeraRoad
One Hanover Square
New York NY 10004
Attn: Bronte Prins, Esq.
Email: bronte@someraroadinc.com

with a copy to:

Charles Renner
Husch Blackwell LLP
4801 Main Street, Ste. 1000
Kansas City, MO 64112
Email: Charles.Renner@huschblackwell.com

Notices to the Co-Grantor shall be addressed to:

c/o SomeraRoad
One Hanover Square
New York NY 10004
Attn: Bronte Prins, Esq.
Email: bronte@someraroadinc.com

Notices to the CID shall be addressed to:

District Manager
West Bottoms Central Community Improvement District
c/o Husch Blackwell LLP
4801 Main Street, Suite 1000
Kansas City, Missouri 64112

Notices to the Grantee shall be addressed to:

Office of City Manager
City of Kansas City, Missouri
Attn: City Manager
414 East 12th Street, 29th Floor
Kansas City, Missouri 64106

with a copy to:

Law Department
City of Kansas City, Missouri
Attn: City Attorney
414 East 12th Street, 23rd Floor
Kansas City, Missouri 64106

B. **Attorneys' Fees.** If any Party institutes any action or proceeding against the other Party relating to the provisions of this Agreement or any default hereunder, each Party shall bear its own expenses incurred.

C. **Waiver of Default.** No waiver of any default by any Party will be implied from the failure by any other Party to take any action in respect of such default. No express waiver of any default will affect any default or extend any period of time for performance other than as specified in such express waiver. The rights and remedies provided by this Agreement are cumulative and no right or remedy will be exclusive of any other, or of any other right or remedy at law or in equity which any Party might otherwise have by virtue of a default under this Agreement and the exercise of any right or remedy by any Party will not impair such Party's standing to exercise any other right or remedy.

D. **Governing Law; Severability.** This Agreement will be construed in accordance with the laws of the State of Missouri. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the

provisions hereof shall remain in full force and effect and shall not be otherwise affected, impaired or invalidated.

E. **Binding Effect.** The provisions of this Agreement will be binding on the Parties hereto and their respective successors, assigns, and mortgagees to the extent herein provided, including, but not limited to, Co-Grantor's successors and assigns with respect to the leasehold or any other interest in the KCT Property.

F. **Counterparts.** This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument. A signed copy of this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

G. **Further Cooperation.** Each Party agrees to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed intent and purpose of this Agreement. This Agreement will be recorded in the office of the Recorder of Deeds for Jackson County, Missouri.

H. **No Waiver of Sovereign Immunity.** In no event shall the language in this Public Access Easement constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions and by law.

[Signature pages follow]

IN WITNESS WHEREOF, this instrument has been executed effective as of the date first above written.

GRANTOR:

West Bottoms – Propco Master, LLC, a Delaware limited liability company

By:_____

Name: Fergus Campbell

Title: Authorized Signatory

STATE OF _____ §

§

COUNTY OF _____ §

The foregoing instrument was ACKNOWLEDGED before me this _____ day of _____, 2025, by Fergus Campbell, the Authorized Signatory of West Bottoms – Propco Master, LLC, a Delaware limited liability company, on behalf of said company.

[S E A L]

My Commission Expires:

Notary Public, State of _____

Printed Name of Notary Public

IN WITNESS WHEREOF, this instrument has been executed effective as of the date first above written.

CO-GRANTOR:

West Bottoms – Propco Master II, LLC, a Delaware limited liability company

By:_____

Name: Fergus Campbell

Title: Authorized Signatory

STATE OF _____ §

§

COUNTY OF _____ §

The foregoing instrument was ACKNOWLEDGED before me this _____ day of _____, 2025, by Fergus Campbell, the Authorized Signatory of West Bottoms – Propco Master II, LLC, a Delaware limited liability company, on behalf of said company.

[S E A L]

My Commission Expires:

Notary Public, State of _____

Printed Name of Notary Public

Printed Name of Notary Public

IN WITNESS WHEREOF, this instrument has been executed effective as of the date first above written.

GRANTEE:

CITY OF KANSAS CITY, MISSOURI,

By: _____
Kyle Elliott, Interim Director of City
Planning and Development

Approved as to form:

Assistant City Attorney

STATE OF MISSOURI)
) SS
COUNTY OF _____)

BE IT REMEMBERED that on this ____ day of _____, 2025, before me, the undersigned, a notary public in and for the county and state aforesaid, came Kyles Elliott, Interim Director of City Planning and Development, of Kansas City, Missouri, a constitutionally chartered municipal corporation of the State of Missouri, who is personally known to me to be the same persons who executed, as officials, the within instrument on behalf of Kansas City, Missouri, and such persons duly acknowledge the execution of the same to be the act and deed of said Kansas City, Missouri.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Notary Public

My Commission Expires: _____

EXHIBIT A

LOTS 17, 18, 19, 20, 21, 22, AND 23, BLOCK 43, TURNER & CO'S ADDITION TO THE CITY OF KANSAS, NOW KANSAS CITY, A SUBDIVISION IN KANSAS CITY, JACKSON COUNTY, MISSOURI, EXCEPT THE NORTH 2.00 FEET THEREOF.

ALSO, LESS AND EXCEPT, that 0.13 acre triangular tract of land beginning at the Southeast corner of the above described property; thence Westerly along the North right of way line of 11th Street a distance of 192.11 feet; thence Northeasterly a distance of 201.19 feet to a point on the east line of the above described property; thence southerly along said east line a distance of 60.00 feet to the point of beginning, as generally depicted below.

EXHIBIT B

That 0.13 acre triangular tract of land beginning at the Southeast corner of the property described as LOTS 17, 18, 19, 20, 21, 22, AND 23, BLOCK 43, TURNER & CO'S ADDITION TO THE CITY OF KANSAS, NOW KANSAS CITY, A SUBDIVISION IN KANSAS CITY, JACKSON COUNTY, MISSOURI, EXCEPT THE NORTH 2.00 FEET THEREOF; thence Westerly along the North right of way line of 11th Street a distance of 192.11 feet; thence Northeasterly a distance of 201.19 feet to a point on the east line of the above described property; thence southerly along said east line a distance of 60.00 feet to the point of beginning, as generally depicted below.



EXHIBIT C

LOTS 17, 18, 19, 20, 21, 22, AND 23, BLOCK 43, TURNER & CO'S ADDITION TO THE CITY OF KANSAS, NOW KANSAS CITY, A SUBDIVISION IN KANSAS CITY, JACKSON COUNTY, MISSOURI, EXCEPT THE NORTH 2.00 FEET THEREOF, AS MORE GENERALLY DEPICTED BELOW:

