AGREEMENT FOR OUT-OF-TOWN SEWER SERVICE

THIS AGREEMENT is made and entered into this _____ day of _____, 2023 ("the Effective Date"), by and between B.T.B. Homes LLC, a Missouri Limited Liability Company ("Grantor"), and the City of Joplin, Missouri, a Missouri Municipal Corporation ("Grantee"). Grantee's mailing address is 602 S. Main St., Joplin, MO 64801.

WHEREAS, Grantor owns certain real estate (hereinafter referred to as "the Property") located outside the present corporate limits of Grantee, said real estate being described as follows: **see Exhibit A, attached hereto and incorporated by reference.**

WHEREAS, Grantor desires that Grantee treat the sewage of and from the Property upon the terms, conditions, and considerations hereinafter set forth.

NOW THEREFORE, in exchange for valuable consideration each received from the other, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. Recitals Incorporated. The above recitals are incorporated as if restated in full herein.

2. Sewer Service. Grantor shall, at its expense, provide a sewage collection system on and from the Property, and any Joplin Public Sewer System extension required by Grantee, all of which are to be constructed by Grantor in accordance with the following requirements:

a. Grantor's plans shall conform to all requirements of the Joplin City Code, including but not limited to the building code (Section 26-61 through Section 26-80), fire prevention code (Section 58-51 through Section 58-60), zoning code, and Standard Specifications. Grantor's plans must be prepared by an engineering firm or engineer licensed in Missouri. Grantor shall, at its expense, submit its plans for review by Grantee. Grantor shall be assessed fees for plan review pursuant to the rates established by Section 26-91 through Section 26-93, Section 58-68, and Section 106-62 of the Joplin City Code. Grantor shall not proceed unless Grantee has approved Grantor's plans.

b. Grantor shall, at its expense, obtain and record with the county recorder of deeds, any and all easements necessary for sewer service. Grantor shall provide Grantee with proof of said recording.

c. Grantor shall, at its expense, use an engineering firm or engineer licensed in Missouri, hereinafter referred to as "engineer," to inspect and supervise construction. Engineer shall, upon completion of construction, give approval and recommendation of acceptance of the construction by Grantor with a copy thereof to be given to Grantee. Engineer's approval must certify that all conditions of the Joplin City Code, including but not limited to the building code (Section 26-61 through Section 26-80), fire prevention code (Section 58-51 through Section 58-60), zoning code, and Standard Specifications have been satisfied. Grantor shall also provide Grantee with drawings of any public infrastructure, including the sewage collection system and

connection to the Joplin Public Sewer System as constructed, in the standard format(s) required by Grantee at that time. As an alternative to use of an engineering firm or engineer licensed in Missouri, Grantor may use City's building, fire, and public works departments in exchange for fees at the rates established by Section 26-91 through Section 26-93, Section 58-68, and Section 106-62 of the Joplin City Code.

d. Grantor shall, at its expense, obtain a connection permit prior to connection to the Joplin Public Sewer System. Grantor shall be assessed fees for connection pursuant to the rates established by Section 118-235 of the Joplin City Code.

e. Upon connection of Grantor's sewage collection system to the Joplin Public Sewer System, all right, title, and interest in any sewer main lines of Grantor's sewage collection system shall belong to City without compensation to Grantor. However, Grantor shall retain all right, title, and interest in any sewer lateral/service lines of Grantor's sewage collection system.

3. Maintenance and Repair of the Property's Sewage Collection System. Grantee shall be responsible for maintenance and repair of the Property's sewage collection system sewer main lines. Grantor shall be responsible for maintenance and repair of the Property's sewage collection system sewer lateral/service lines.

4. Discharge Requirements. Grantor must comply with any discharge requirements established by federal, state, or local law.

5. Rates for Service. Grantor shall be assessed fees for sewer service pursuant to the rates established by Section 118-202 of the Joplin City Code.

6. Payment Schedule. Grantor shall pay Grantee for any fees assessed pursuant to paragraph 5 herein within 30 days of invoice.

7. Development of the Property. Grantor agrees that the Property is governed by the Joplin City Code, including but not limited to the building code (Section 26-61 through Section 26-80), fire prevention code (Section 58-51 through Section 58-60), zoning code, and Standard Specifications. Grantor agrees that any construction or development of the Property shall conform to all requirements of the Joplin City Code and Standard Specifications. Any addresses at the Property shall conform to the City's standard numbering system. This paragraph 7 shall survive termination of this Agreement and shall be a covenant that runs with the land.

8. Annexation.

a. To the extent allowed by law, Grantee may annex the Property into the City of Joplin without further action of Grantor, after the Property becomes contiguous to the corporate limits of the City in accordance with Section 71.012, RSMo.

b. Grantor irrevocably appoints the City of Joplin Director of Public Works, herein "Director," as its attorney-in-fact for the sole purpose of presenting a verified petition requesting annexation of the Property to the Joplin City Council. The Director may exercise this

power of attorney at any time after the Property becomes contiguous to the corporate limits of the City.

c. If requested by the Director, Grantor shall, within such time as specified by the Director, submit a verified petition requesting annexation of the Property to the City Clerk for presentation to the City Council. The Director may request Grantor to present an annexation petition at any time after the Property becomes contiguous to the corporate limits of the City. The provisions of this paragraph shall be enforceable by specific performance.

d. Grantor agrees not to take any action to oppose any annexation initiated by the City or by any other property owners which includes the Property.

e. This paragraph 8 shall survive termination of this Agreement and shall be a covenant that runs with the land.

9. Amendments. The covenants and obligations herein contained are the full and complete terms of this Agreement, and no alteration, amendments, or changes to such terms shall be binding unless first reduced to writing and executed with the same formality as this Agreement.

10. Attorney's Fees and Expenses. Grantee shall be entitled to enforce this Agreement through all remedies lawfully available, and Grantor shall pay Grantee its costs of enforcement, including reasonable attorney's fees, in the event that Grantor is determined judicially to have violated the terms of this Agreement.

11. Binding Effect. This Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, legal representatives, successors, and assigns, and shall be binding in the event of the death or legal disability of the parties.

12. Choice of Law and Venue. It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Missouri, both as to interpretation and performance. Venue shall exclusively lie in the Circuit Court of Jasper County, Missouri.

13. Compliance with Law. Grantor shall comply with all federal, state, and local laws at all times.

14. Consequential Damages. In no event shall Grantee be liable to Grantor for special, indirect, or consequential damages.

15. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile signatures shall be given the same force and effect as original signatures.

16. Entire Agreement. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.

17. Headings. The headings hereof are intended as guides only and shall not be construed as having any legal effect.

18. Indemnification. Grantor hereby assumes all risk of, and responsibility for, and agrees to indemnify and save harmless Grantee, from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses, including reasonable attorney's fees, therewith made, brought or obtained on account of the loss of life or property or injury or damage to the person or property of any person or persons whomsoever, whether such person or persons be Grantee, its agents or employees, or Grantor, its agents or employees, or any third-person in any way connected with the parties hereto, which loss of life or property, or injury or damage to persons or property, shall be due to, or arise out of, result from, or be in any way connected with, this Agreement.

19. Representations. The signatories hereto represent and warrant that they have read this Agreement, that they are fully authorized in the capacities shown, that they understand the terms of this Agreement, and that they are executing the same voluntarily and solely for the consideration described herein.

20. Severability. The clauses of this Agreement are independent and several and should any part or portion of this Agreement be adjudicated to be void, this finding shall have no effect upon the remaining body of the Agreement, and it shall remain in full force and effect.

21. Termination. Grantee may terminate this Agreement upon the failure of Grantor to comply with the terms of this Agreement or any amendments thereto after ninety (90) days' notice by Grantee to Grantor.

22. Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the parties and their respective successors and permitted assigns.

23. Waiver. Grantee's rights under this Agreement shall not be affected by its prior failure to require the performance by Grantor, nor shall the waiver by Grantee of a breach of any term hereof constitute a waiver of any succeeding breach of the same or any other term or constitute a waiver of the term itself. A waiver of any right or obligation hereunder must be in writing and signed by the parties to this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Agreement is executed this _____ day of _____ , 2023.

GRANTOR

B.T.B. HOMES, LLC

_____
Bryce Benson

GRANTEE

CITY OF JOPLIN, MISSOURI

_____
Nick Edwards, City Manager

ATTEST:

_____
Holly Nagy, City Clerk

STATE OF MISSOURI)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2023, before me personally appeared **Bryce Benson**, authorized representative and member of **B.T.B. Homes, LLC**, a Missouri limited liability company, personally known to me to be the person who executed the foregoing **Agreement for Out-of-Town Sewer Service** as Grantor and acknowledged to me that he executed the foregoing instrument as his free act and deed as authorized representative and member of **B.T.B. Homes, LLC**, a Missouri limited liability company.

IN TESTIMONY WHEREOF**,** I have subscribed my name and affixed my official seal in the city or county and State aforesaid, on the day and year above written.

_____
Notary Public

My Commission Expires:

EXHIBIT A

to the
AGREEMENT FOR OUT-OF-TOWN SEWER SERVICE

Legal Description of the Property

Source: Plat of the Property prepared by Stewart & Neece Land Surveying, Inc., dated 3-31-23

PROPERTY DESCRIPTION:

A part of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) and a part of the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) and a part of the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) all in Section 29, Township 27, Range 33, Newton County, Missouri, being more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of said Section, Thence South 88 Degrees, 22 Minutes, 17 Seconds East 300.00 feet to the Point of Beginning, Thence continuing along said line South 88 Degrees, 22 Minutes, 17 Seconds East 301.80 feet, Thence North 01 Degrees, 58 Minutes, 48 Seconds East 391.72 feet, Thence South 88 Degrees, 01 Minutes, 12 Seconds East 151.19 feet to the centerline of Shoal Creek, Thence along the centerline of Shoal Creek South 78 Degrees, 06 Minutes, 58 Seconds East 41.80 feet, Thence containing along said centerline South 84 Degrees, 19 Minutes, 01 Seconds East 162.67 feet, Thence continuing along said centerline North 66 Degrees, 47 Minutes, 27 Seocnds East 58.37 feet, Thence continuing along said centerline North 77 Degrees, 51 Minutes, 13 Seconds East 115.75 feet, Thence continuing along said centerline North 78 Degrees, 22 Minutes, 40 Seconds East 199.84 feet, Thence South 01 Degrees, 54 Minutes, 29 Seconds West 496.74 feet to the Center of said Section, Thence South 87 Degrees, 56 Minutes, 41 Seconds East 633.25 feet to the West Right-of-way of Schifferdecker Avenue {A.K.A. Coyote Drive}, Thence along a curve to the right having a Radius of 592.95 feet with an Arc Length of 872.75 feet and a Chord Bearing and Distance of South 53 Degrees, 41 Minutes, 00 Seconds West 716.07 feet to the North Right-of-way line of Apricot Drive, Thence along said North Right-of-way line North 84 Degrees, 17 Minutes, 09 Seconds West 810.01 feet, Thence continuing along said North Right-of-way line along a curve to the left having a Radius of 1081.74 feet with an Arc Length of 539.97 feet with a Chord Bearing and Distance of South 81 Degrees, 24 Minutes, 50 Seconds West 534.38 feet to the East Right-of-way line of Canary Drive, Thence along said East Right-of-way line North 05 Degrees, 34 Minutes, 49 Seconds East 482.46 feet, Thence South 88 Degrees, 21 Minutes, 55 Seconds East 278.44 feet, Thence North 01 Degrees, 58 Minutes, 46 Seconds East 50.00 feet to the Point of Beginning, being subject to all easements, right-of-ways, and reservations of record, Containing 25.79 acres more or less.