

**LETTER OF CREDIT DEPOSIT AGREEMENT  
GUARANTEEING SUBDIVISION IMPROVEMENTS  
BETWEEN THE CITY OF SUNSET HILLS, MISSOURI AND  
MANORS AT LYNSTONE PARK LLC**

**THIS DEPOSIT AGREEMENT (“ESCROW AGREEMENT”), is made and entered into this 22<sup>nd</sup> day of MARCH 2024, by Manors at Lynstone Park LLC a Missouri limited liability company (hereinafter referred to as the “DEVELOPER”), and the CITY OF SUNSET HILLS, MISSOURI (hereinafter referred to as the as “CITY”).**

**WITNESSETH:**

**WHEREAS**, the DEVELOPER is the owner of several tracts of land being Lots 1-6, 23-24, and 39-44 in block 33 of Mecham Park an Lots 1-7 and 38-44 in block 44 of Mecham Park, (the “Property”), and wishes to develop the Property as the Manors at Lynstone Park (the “Development”); and

**WHEREAS**, the CITY approved a Preliminary Plat to subdivide the Property into 9 lots to facilitate the Development; and

**WHEREAS**, before the CITY may approve a record plat for the Development (the “Final Plat”): 1) Improvement Plans for the Final Plat must be reviewed and approved by the CITY Planning and Zoning Commission, and 2) the CITY Planning and Zoning Commission must receive and approve a satisfactory guarantee in the form provided by the CITY to ensure completion of all required improvements associated with the Final Plat (the “Plat Improvements”); and

**WHEREAS**, the improvement plans for the Plat Improvements have been submitted to the CITY together with the estimated costs of construction, installation, and completion of the Plat Improvements, all in accordance with the CITY’s subdivision regulations; and

**WHEREAS**, the DEVELOPER desires to establish the Plat Improvement guarantees in the form of this ESCROW AGREEMENT and accompanying letter of credit which shall require completion of such improvements within 24 months hereof, unless otherwise extended by the Planning and Zoning Commission; and,

**NOW, THEREFORE**, in consideration of the covenants, promises, and agreements herein provided,

**IT IS HEREBY MUTUALLY AGREED:**

1. The DEVELOPER, has deposited an irrevocable standby letter of credit with the CITY in the sum of Six Hundred Sixty Thousand Nine Hundred and Forty Four Dollars and Ninety Cents (\$660,944.90) (the “DEPOSIT SUM”) payable to the CITY and guaranteeing the construction, installation, maintenance, and completion of all required Plat Improvements, all in accordance with the improvement plans approved by the CITY and on file with the Public Works Director (the “Approved Improvement Plans”) and in accordance with the CITY ordinances regulating the same.

The DEPOSIT SUM shall consist of an amount equal to 110% of the estimated costs of the construction, completion, and installation of the Plat Improvements (“ESTIMATED COSTS”) as set forth on the attached Estimate Sheet (**Exhibit 1**). Nothing in the estimates or specification of component items shall in any way limit the CITY or require release based on each line item, and DEVELOPER agrees it continues to be obligated to compete and guarantee completion of all Plat Improvements. The CITY and DEVELOPER agree that the DEPOSIT SUM shall guarantee the construction, installation, completion, and maintenance of the required Plat Improvements, all in accordance with the Approved Improvement Plans therefore and in accordance with the ordinances of the CITY regulating the same.

2. The DEPOSIT SUM guarantees the construction, installation, maintenance, and completion of all Plat Improvements in accordance with the Approved Improvement Plans and City Code requirements which are incorporated in this ESCROW AGREEMENT by reference and as summarized in the attached Exhibit 1 and as required by the ordinances and regulations of the City. Any release of part of or a portion of the DEPOSIT SUM is only an accommodation to the DEVELOPER and is not a waiver of any kind by the CITY of its rights under the ESCROW AGREEMENT that the entire DEPOSIT SUM guarantees each and every improvement.

3. In the event the DEPOSIT SUM herein provided is insufficient to complete Plat Improvements as reasonably determined by the CITY, the DEVELOPER will, upon demand by the CITY accompanied by a detailed itemization of the requested additional sum, deposit with the CITY additional monies which, in the opinion of the CITY, will be required to complete Plat Improvements, and said additional sum shall be subject to the terms of this ESCROW AGREEMENT. In the event that the DEVELOPER does not deposit the additional monies with the CITY within 10 days or does not request a hearing from the CITY within that time, the Final Plat shall be deemed in default and/or abandoned as set forth in paragraph 8.

4. The DEVELOPER guarantees: (a) that all required utilities and improvements will be installed, constructed, and completed in accordance with the Approved Improvement Plans and the ordinances of the CITY not later than 24 months after the later of: i) approval of Final Plat, or ii) the date of this Agreement Date appearing on the signature page below (“Completion Date”), and (b) that the Final Plat, including all lots, common ground, streets, and improvements, and all adjacent streets used for the hauling of construction equipment, materials, and supplies will be safeguarded, protected, and kept free of associated mud, trash, weeds, and debris during the construction period and otherwise properly maintained and constructed all in accordance with City Code and approved plans.

5. (a) That the CITY may, through written authorization of the Public Works Director, release or reduce portions of the DEPOSIT SUM upon completion of components within categories and shall release corresponding portions of the DEPOSIT SUM upon completion of categories of improvements as provided that a qualified, licensed engineer employed by the DEVELOPER certifies to the CITY the completion of such work; PROVIDED FURTHER that in no event shall the CITY release any part of the DEPOSIT SUM except as provided herein.

(b) In order to obtain such written authorization for a release, upon completion of any such category of improvement, the DEVELOPER shall first make written request for inspection, and include therewith a certification by the DEVELOPER’s engineer, to the Public Works Director (or

the appropriate inspecting authority), with a copy to the City Administrator. Upon receipt of the DEVELOPER's written request for inspection and certification by the DEVELOPER's engineer, the CITY (or the appropriate inspecting authority) shall inspect the construction, installation, and completion of the Plat Improvement(s) that have been certified complete by the DEVELOPER. Upon receipt of the inspection report, the CITY's Public Works Director will review the report, verify that the Plat Improvements comply with all laws and requirements of the CITY, and authorize such release.

(c) Except for discretionary releases that may be granted by the Public Works Director in the public interest, no category of any Plat Improvements shall be eligible for release until each and every component and requirement that makes up that category of Plat Improvements is deemed complete by the City. No category or subdivision may be deemed to be complete until there is a certification by the CITY that the Plat Improvements are complete. No certification shall be issued by the CITY unless all of the following takes place: (i) the DEVELOPER submits a written request to the CITY for inspection of the Plat Improvements; (ii) the inspection is completed by the CITY's inspector who determines that the Plat Improvements are complete and recommends to the CITY's Public Works Director that it be released; and (iii) the CITY's Public Works Director reviews the CITY's inspection report, determines that the Plat Improvements comply with all laws and requirements of the CITY, and authorizes such release.

(d) Upon certification by the CITY that the construction and installation of a category of Plat Improvements is complete (in accordance with §5(b) and (c) above), the CITY shall authorize the release of the ESTIMATED COST originally retained for that category minus a maximum retention of five percent (5%), as otherwise provided in this Section 5. The DEVELOPER shall not be released of any responsibility for installation, construction, completion, or maintenance for the required improvements, irrespective of any release that may have been issued based on specific improvements or inspections, prior to final approval of all improvements and release of the entire DEPOSIT SUM for all categories.

(e) IN NO EVENT SHALL the CITY be required to release, disburse, or otherwise dispose of more than ninety-five percent (95%) of the DEPOSIT SUM, until the CITY has certified as provided herein that all categories of Plat Improvements have been completed in accordance with the Approved Improvement Plans and the regulations and ordinances of the CITY and the "as built drawings" have been approved by the CITY.

6. Upon completion of all of the Plat Improvements and prior to final release, the DEVELOPER shall submit to the Public Works Director three (3) copies of "as built" drawings which show the actual installation of the said improvements, and that if after the Public Works Director or her designee reviews the "as built" drawings submitted it reasonably determines that all of the improvements have been completed and, as applicable, accepted by the respective utilities, then the Public Works Director shall approve the "as built" drawings. This Agreement shall not be deemed to create any commitment by the CITY to accept any improvement for dedication and maintenance.

7. Upon approval of the "as built" drawings and completion of the final improvements and certifications required, the final DEPOSIT SUM amounts shall be released within thirty (30) days after completion of all Plat Improvements.

8. In the event the DEVELOPER shall be in default or abandon the Final Plat, or fail to complete the obligations herein, including, but not limited to, the failure to complete the Plat Improvements by the Completion Date, or the failure to properly maintain the improvements, including keeping the Plat Improvements free of mud, debris, erosion, or otherwise, whichever occurs first, the DEVELOPER shall forfeit to the CITY the then current balance of the DEPOSIT SUM or any portion thereof, along with any additional sums deposited pursuant to paragraph 3 above, which funds the CITY may thereafter use to complete the Plat Improvements or otherwise rectify the DEVELOPER's failure hereunder. The CITY may further apply such necessary amount of the DEPOSIT SUM to remedy any failure of the DEVELOPER to perform its maintenance obligations in the Final Plat. For the purpose of this Agreement and the CITY's rights hereunder, any and all of the remaining DEPOSIT SUM may be applied to completion or maintenance of any improvements, and no limitation of any kind shall be implied from the line item calculations of separate improvements. If the CITY is required to remedy any failure of the DEVELOPER to perform its Maintenance Obligations during this Agreement, the CITY may also require DEVELOPER to provide the CITY additional monies as may be needed as set forth in paragraph 3 herein.

9. Exercise or waiver by CITY of any enforcement action under this agreement or the CITY's Code does not waive or foreclose any other or subsequent enforcement action whatsoever. The DEPOSIT SUM and/or deposit placed under this Agreement shall be governed by the provisions of the Subdivision Code, Appendix A, and the DEVELOPER agrees to the provisions thereof as if set forth herein. The CITY shall be entitled to its costs, including reasonable attorneys' fees, in enforcement of DEVELOPER'S obligations under this Agreement.

10. Nothing in this Agreement is deemed to create a third party beneficiary or benefit any party besides the parties to this Agreement.

11. The CITY and DEVELOPER hereby accept this agreement as a lawful and satisfactory ESCROW AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals this \_\_\_\_ day of \_\_\_\_\_, 2024 ("Agreement Date").

ACCEPTED:

**CITY OF SUNSET HILLS, MISSOURI**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

ATTESTED:

\_\_\_\_\_  
City Clerk

**Manors at Lynstone Park, LLC**  
a Missouri Limited Liability Company

By:  

Its: SAL VITALE, Steve Bersche  
PRINCIPALS Steve Bersche

Dated: 3/22/24 3/22/24

STATE OF MISSOURI            )  
  ) ss:  
COUNTY OF ST. LOUIS        )

On this 22 day of March, 2024, before me appeared Sal Vitale, personally known, who being by me duly sworn, did say that he is the Principal of Manors at Lynstone Park LLC Business of the State of Missouri, and that the foregoing instrument was signed and sealed on behalf of said company, by authority of its Members, and said Sal Vitale acknowledged said instrument to be the free act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Rachel Alexa Fiala  
Notary Public

My Commission Expires: 8/28/2027



**Exhibit 1**

**Plat Improvements Cost Estimates**

**OPINION OF PROBABLE CONSTRUCTION COSTS  
The Manors at Lynstone Park  
November 24, 2023**

<b>ITEM</b>	<b>QUANTITY</b>	<b>UNIT PRICE</b>	<b>TOTAL</b>
1. Clearing/grubbing	1.75 ac.	\$19,398	\$33,947
2. Bulk grading	1,500 cy	\$14	\$21,000
3. SWPPP			
a. siltation basin	1 LS	\$12,000	\$12,000
b. silt fence	790 LF	\$7.50	\$12,000
c. washdown station	1 LS	\$8,065	\$8,065
d. inlet protection	4 each	\$100	\$400
e. construction entrance/parking	1 LS	\$2,000	\$2,000
4. 12" RCP CL 3 storm pipe	412 LF	\$82	\$33,784
5. 15" RCP CL 3 storm pipe	68 LF	\$82	\$5,576
6. Double Curb Inlet	2 each	\$9,000	\$18,000
7. Area inlets	2 each	\$6,000	\$12,000
8. Storm sewer manholes	3 each	\$6,000	\$18,000
9. 15" RCP Flared end section (FES)	1 each	\$1,200	\$1,200
10. 15" end of pipe	1 each	\$1,000	\$1,000
11. MSD Type 7 light stone revetment	11 sy	\$47	\$517
12. Storm sewer granular backfill	171 cy	\$4	\$684
13. Det basin outlet structure (OS-10)	1 LS	\$9,000	\$9,000
14. Biodetention basin (incl underdrains, special soil, filter fabric, etc)	1 LS	\$87,737	\$87,737
15. Retaining Walls (PCC)	2,178	\$24	\$52,272
16. Fencing above detention basin	100 LF	\$17	\$1,700
17. 6" PVC Sanitary sewer laterals to BL	240 LF	\$150	\$36,000
18. 6"x8" Wye	9 each	\$62	\$558
19. Granular backfill for sewer laterals	264 cy	\$4	\$1,056
<b>TOTAL THIS SHEET</b>			<b>\$368,496</b>
NOTES:			
Site Development Engineering, Inc. assumes no responsibility for the unit prices provided herein.			Rev 2.15.24
			Rev 11/27/2023
			<b>11/24/2023</b>

Sheet 1 of 2



Site Development Engineering, Inc.  
3512 Yaeger Crossing Court • St. Louis, MO 63129  
(314) 822-4800

**OPINION OF PROBABLE CONSTRUCTION COSTS**  
**The Manors at Lynstone Park**  
**November 24, 2023**

ITEM	QUANTITY	UNIT PRICE	TOTAL
20. Water service lines to R/W + 5'	240 LF	\$150	\$36,000
21. Granular backfill for water service line	23 cy	\$4	\$92
22. Sawcut exist. Rayburn and Spears St.	100 LF	\$6	\$600
23. Fine grading for street	1,778 sy	\$2	\$3,556
24. 7" PCC street, incl 4" rolled stone base	978 sy	\$80	\$78,240
25. 4" PVC street underdrain	791 LF	\$35	\$27,685
26. 4" x 5'W conc sidewalk incl 4" rolled stone base (rsb)	2,870 SF	\$7	\$20,090
27. 6" x 5' conc sidewalk incl 4" rsb	720 SF	\$8	\$5,760
28. Handicap ramps	4 each	\$1,420	\$5,680
29. 8' w painted cross walk	1 LS	\$250	\$250
30. "no parking" sign	4 each	\$340	\$1,360
31. stop sign	1 each	\$340	\$340
32. street name sign	1 each	\$340	\$340
33. street lights	1	\$750	\$750
34. survey monumentation	LS	\$1,700	\$1,700
35. common ground vegetation	LS	\$9,735	\$9,735
36. lot vegetation (per lot average)	9	\$4,465	\$40,185
<b>TOTAL THIS SHEET</b>			<b>\$232,363</b>
<b>TOTAL SHEET 1/2</b>			<b>\$368,496</b>
This opinion of probable construction cost (OPCC) is to be considered an estimate and is based on the plans submitted to the City of Sunset Hills on 11/13/2023. Contractors are to rely on their own quantity takeoffs and unit prices for submitting bids.			
<b>TOTAL</b>			<b>\$600,859</b>
NOTES:			
Site Development Engineering, Inc. assumes no responsibility for the unit prices provided herein.			
			Rev. 2.15.24
			Rev 11/27/2023
			<b>11/24/23</b>

Sheet 2 of 2

Site Development Engineering, Inc.  
3512 Yaeger Crossing Court ~ St. Louis, MO 63129  
(314) 822-4800

