

PERFORMANCE CONTRACT

This contract is entered into on this 24 day of June, 2016 between the City of Columbia, MO (“City”) and Drury Development Corporation, a Missouri corporation (“Drury”) and DEV, Inc., a Missouri corporation (“DEV”) (Drury and DEV to be collectively, “Subdivider”).

City and Subdivider agree as follows:

1. DEV is the current owner of certain real property known and numbered as 3100 Interstate 70 Drive Southeast located within the jurisdictional limits of the City of Columbia, Missouri, as more particularly described on Exhibit A attached hereto (the “Property”). DEV has entered into a contract with Drury to sell the Property to Drury. Following its acquisition of the Property, Drury intends to demolish the majority of the existing improvements on the Property and construct a new hotel on the Property. In anticipation of such redevelopment, DEV and Drury have submitted the Plat (as defined below) to the City for approval.

2. Subdivider shall construct, erect and install a five (5) foot wide sidewalk (the “Sidewalk”) within the City’s right of way along the perimeter of the Property along Keene Street and along Interstate 70 Drive Southeast, generally in the locations shown on Exhibit B attached hereto, which improvements are required in connection with the approval of the final plat of Drury Subdivision Plat 1, a Tract of Land located in the Northeast Quart of Section 8, Township 48 North, Range 12 West, Boone County, Missouri (the “Plat”), such Sidewalk to be completed within 36 months after the City Council approves the Plat. Notwithstanding anything stated above, the Sidewalk shall be constructed in accordance with final construction plans approved by the City in accordance with City Code requirements.

3. If street, utility or other construction of public improvements should occur on or adjacent to land in the Property at the initiative of the City Council, as benefit assessment projects, Subdivider agrees that Subdivider’s construction and installation of the Sidewalk shall not be deemed to have relieved Subdivider from any obligation to bear an equitable and proportionate share of construction costs of such public improvements and Subdivider will bear such equitable and proportionate share of construction costs of such public improvements, only if any such obligation is established by law.

4. No occupancy permit shall be issued to Subdivider or any other person for any structure constructed on the Property unless the Sidewalk has been completed in compliance with the City’s Standard Street Specifications.

5. City may construct and install the Sidewalk if not constructed or installed by Subdivider as required by this contract, and may perform such work using City employees or City may contract for performance of the work. In such event, Subdivider shall reimburse City for all reasonable costs and expenses incurred by City in connection with the construction and installation of the Sidewalk, payable within 30 days following Subdivider’s receipt of an invoice

setting out such costs and expenses in reasonable detail. Subdivider agrees to pay City for all reasonable expenses and costs, including reasonable attorneys' fees, incurred by City in collecting amounts owed by Subdivider under this paragraph.

6. City shall not require a bond or other surety to secure the construction of the Sidewalk required in connection with the final plat.

7. The obligations of Subdivider under this contract shall not be assigned without the express consent of the City Council.

8. The remedies set forth in this contract are not exclusive. City does not waive any other remedies available to enforce Subdivider's obligations under this contract or to recover damages resulting from Subdivider's failure to perform its obligations under this contract.

9. This contract is not intended to confer any rights or remedies on any person other than the parties.

IN WITNESS WHEREOF, the parties have executed this contract on the day and year first above written.

CITY OF COLUMBIA, MISSOURI

BY: _____
Mike Matthes, City Manager

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor

SUBDIVIDER

Drury Development Corporation

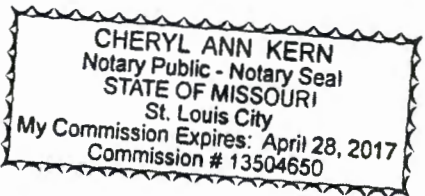
BY: [Signature]
Mark A. Kohl, Vice President

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

On this 24 day of June in the year 2016, before me, Cheryl Ann Kern (name of notary), a Notary Public in and for said state, personally appeared Mark A. Kohl, Vice President, Drury Development Corporation, known to me to be the person who executed the within Performance Contract in behalf of said corporation and acknowledged to me that he executed the same for the purposes therein stated.

My commission expires: 4-28-17

Cheryl Ann Kern
Notary Public



DEV, Inc.
BY: [Signature]
Rakesh Patel, President

STATE OF Missouri)
)
COUNTY OF Boone) ss.

On this 23 day of June in the year 2016, before me, Kristen D Warren (name of notary), a Notary Public in and for said state, personally appeared Rakesh Patel, President, DEV, Inc., known to me to be the person who executed the within Performance Contract in behalf of said corporation and acknowledged to me that he executed the same for the purposes therein stated.

My commission expires: 10/19/2019

Kristen D. Warren
Notary Public

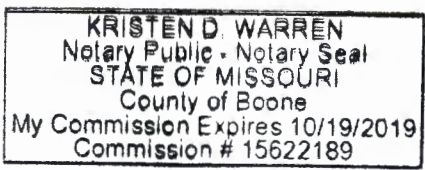


Exhibit A
The Property

A tract of land located in the Northeast Quarter of Section Eight (8), Township Forty-eight (48) North, Range Twelve (12) West, in Columbia, Boone County, Missouri, being the tract described by a warranty deed recorded in Book 1560 Page 329, except the tracts described by warranty deeds recorded in Book 2407 Page 130 and in Book 2616 Page 104, of the Boone County, Missouri Records, and described as follows:

Starting at the southeast corner of the tract of land described by a survey recorded in Book 360 Page 39, shown by said survey as being N 85°15'E 1243.3 feet from the southwest corner of the northwest quarter of the northeast quarter of Section 8-48-12, thence South 86°25'50"W, along the southerly line of said tract, 20.06 feet to the southwest corner of the tract described by a quit claim deed recorded in Book 413 Page 616, the point of beginning.

From the point of beginning, thence S 86°25'50"W, along the southerly line of the tract described by a survey recorded in Book 360 Page 39, a distance of 423.34 feet to the southeast corner of the tract described by a warranty deed recorded in Book 2616 Page 104; thence North 15°05'50"E, along the easterly line of said tract, 115.28 feet to the northeasterly corner thereof, also being the southeasterly corner of Bogan Subdivision; thence N 3°31'20"W, along the easterly line of said subdivision, 232.00 feet to the northeasterly corner thereof, also being the northerly line of the tract described by a survey recorded in Book 360 Page 39; thence along the northerly line of said tract, N 47°43'00"E 26.65 feet, thence N 81°28'00"E 397.79 feet to the northwesterly corner of the tract described by a quit claim deed recorded in Book 413 Page 616; thence S 0°55'30"W, along the west line of said tract, 393.51 feet to the beginning.

EXHIBIT B
The Sidewalk

