

PROPERTY MANAGEMENT AGREEMENT

This PROPERTY MANAGEMENT AGREEMENT is effective on the date the last party executes the Agreement, by and between the City of Columbia, Missouri, a Municipal corporation ("City"), and LaHue Enterprises, LLC, a Missouri Limited Liability company, doing business as Hawthorne Management Company ("Manager").

WHEREAS, City is the owner of a building described as The West Half of Lot Two Hundred Thirty in the Original Town of Columbia, Missouri, commonly known as 910 and 912 E. Walnut Street, consisting of three residential apartment units and one commercial unit; and

WHEREAS, City desires to have Manager manage, preserve, rent, lease, sublease, operate, and maintain the premises for a term commencing from effective date, as defined herein 2018 and ending on September 30, 2019 unless terminated sooner pursuant to other provisions in the Agreement.

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated in this Agreement by reference, the mutual promises and respective undertakings and obligations and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

City engages Manager as an independent contractor to manage, preserve, rent, lease sublease, operate and maintain the premises described above and Manager accepts such engagement under the following terms and conditions:

1. TERM.

a. The effective date of this Agreement is the date the last party executes the Agreement. The term of this Agreement shall end September 30, 2019, but shall automatically renew for consecutive one (1) year terms unless terminated as set forth in this Agreement.

b. Either party may terminate this Agreement with or without cause at any time by giving not less than ninety (90) days advance written notice to the other party.

c. Within the ninety (90) days after the notice of termination is received, Manager will turn over to City all keys to the premises, security deposits, and rent moneys held by Manager, less any fees due Manager, and provide a final accounting of all moneys received and paid out by Manager.

2. OBLIGATIONS OF MANAGER.

General Duties:

- a. Manager shall use due diligence in the management, leasing, preservation operation and maintenance of the above described premises.
- b. Render to City on a monthly basis an accounting of rental income, expenses and all expenditures with receipts for each. Manager shall keep and maintain in accordance with acceptable business practices accurate records of all transactions for the management and care of the premises. All such records shall be available to City for its inspection at all reasonable times.
- c. To keep the units rented, advertising the availability with "For Rent" signs as needed, to sign, renew, sublease, cancel if necessary, and collect all rents when due.
- d. To make and cause to be made and to supervise the work being done to repair, maintain and clear the common areas. Manager shall secure the prior oral or written approval of City before incurring any expenditure in excess of two hundred dollars (\$200.00) for any repairs, maintenance, cleaning or preservation unless the needed repairs are an emergency and are necessary to protect the property from imminent damage or destruction, or to continual service to the current tenants.
- e. Manager shall secure prior written authorization from City before taking any legal actions to evict or recover possessions or to sue to recover rents or other security due.
- f. To hire, and supervise all labor and employees necessary to maintain and fulfill the obligations of this Agreement.
- g. To collect all rents, security deposits, and other sums due from tenants and deposit and maintain same in a trust account in an FDIC insured banking institution.
- h. To conduct regular inspections of the building and the building systems and equipment.
- i. Manager is not responsible for snow removal from sidewalks in front of building.

3. OBLIGATIONS OF CITY.

a. Maintenance. City shall maintain the exterior of the property including roof, walls, glass and foundation. City shall maintain all heating, ventilating, air conditioning, foundation and wiring. Manager shall give City notice of such maintenance issues immediately upon being made aware of a need for maintenance, repair or replacement.

b. City shall pay all utilities that are City's obligations under any lease agreement.

c. City shall insure the building structure under the terms City deems necessary.

4. COMPENSATION OF MANAGER.

a. City shall pay Manager a monthly management fee of nine percent (9%) of the gross rent collected from the property with a minimum monthly fee of forty dollars (\$40.00). Manager may deduct its fees from the rental income each month.

b. Any late rent fees shall be paid fifty percent (50%) to City and fifty (50%) to Manager.

c. In addition to the fees set forth above, City shall reimburse to Manager for expenses incurred necessary to preserve and protect the property up to a total of two hundred dollars (\$200.00) per repair and repairs in excess of two hundred dollars (\$200.00) upon prior approval by City, unless in emergency where the building or tenants are in imminent danger and such action is required immediately. Such items may be deducted from the monthly rental incomes by Manager and Manager shall provide receipts and paid invoices to City verifying same.

5. NOTICES.

Any notice required under this Agreement shall be in writing and delivered or mailed registered mail, postage prepaid to the addresses specified below:

To City:
City of Columbia, Missouri
ATTN: City Manager
701 E. Broadway
Columbia, MO 65201

To Manager:
Hawthorne Management Company
106 N. Garth Avenue
Columbia, MO 65203

and

City of Columbia
Public Works Department
701 E. Broadway
Columbia, MO 65201

6. GENERAL PROVISIONS.

a. **No Waiver of Immunities.**

In no event shall the language of this agreement constitute or be construed as a waiver of defenses with regard to sovereign, governmental or official immunities and protections of the State and Federal statutes and constitution.

b. **Non Assignment.**

Neither party shall assign this Agreement or any part thereof without the prior express written consent of the other party.

c. **Non Employment of Unauthorized Aliens.**

Manager agrees to comply with RSMo. § 285.530 and shall not knowingly hire for employment any unauthorized alien to perform work in connection with this Agreement.

d. **Manager an Independent Contractor.**

Manager is considered an independent contractor and shall in no manner be an employee of City. Manager shall maintain all Workers' Compensation and employee's liability insurance as required by the State of Missouri.

e. **Manager shall comply with all state and federal Housing laws, including but not limited to non-discriminatory leasing.**

f. **Hold harmless agreement.**

To the fullest extent not prohibited by law, Manager shall indemnify and hold harmless the City of Columbia, its directors, officers, agents, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney's fees) for bodily injury and/or property damage arising by reason of any act or

failure to act, negligent or otherwise, of Manager of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Manager or by any subcontractor, or of anyone for whose acts manager or its subcontractor may be liable, in connection with providing these services. this provision does not, however, require Manager to indemnify, hold harmless, or defend the City from its own negligence.

g. **Governing Law and Venue.**

This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this Agreement, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri. The Parties agree to waive any defense of forum non conveniens.

h. **Insurance.**

During the term of this Agreement and any extension thereof, Manager shall maintain Workers' Compensation insurance in accordance with Missouri Revised Statutes, and Manager shall maintain Commercial General Liability insurance coverage at a limit of \$1,000,000 each occurrence and \$3,000,000 annual aggregate coverage. Manager may satisfy these liability limits required under an umbrella or excess liability policy.

i. **Addendum to Property Management Agreement.**

The addendum attached hereto shall be incorporated herein.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have hereto caused this Agreement to be executed by their duly authorized officers on the day and year of the last signatory below.

CITY OF COLUMBIA, MISSOURI

By: _____
Mike Matthes, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor

**LAHUE ENTERPRISES, LLC, D/B/A
HAWTHORNE MANAGEMENT COMPANY**

By: Cheryl LaHue
Cheryl LaHue, President

Date: 07.27.18

ATTEST:

By: _____

Addendum to Property Management Agreement

City acknowledges receipt of a Broker Disclosure Form.

AGENT ___ is x is not permitted to offer subagency to one or more other brokers.

AGENT ___ is x is not permitted to act as a dual AGENT.

AGENT ___ is x is not permitted to act as a transaction broker.

AGENT ___ is x is not authorized to cooperate with and compensate other designated brokers (listed below if applicable)

Other designated brokers: _____

Seller's or Landlord's Agent's Duties and Obligations ('339.730 RSMo.)

1. A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:

a. To perform the terms of the written agreement made with the client;

b. To exercise reasonable skill and care for the client;

c. To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:

1) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease.

2) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or letter of intent to lease.

3) Disclosing to the client all adverse material facts actually known or that should have been known by the licensee; and

4) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee.

d. To account in a timely manner for all money and property received;

e. To comply with all requirements of sections 339.710 to 339.860, subsection 2 of section 339.100, and any rules and regulations promulgated pursuant to those sections; and

f. To comply with any applicable federal, state and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations.

2. A licensee acting as a seller's or landlord's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule or regulation or failure to disclose the information would constitute a misrepresentation or

unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action shall arise against a licensee acting as a seller's or landlord's agent for making any required or permitted disclosure.

3. A licensee acting as a seller's or landlord's agent owes no duty or obligation to a customer, except that licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the licensee. A seller's or landlord's agent owes no duty to conduct an independent inspection or discover any adverse material facts for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of any statement made by the client or any independent inspector.

4. A seller's or landlord's agent may show alternative properties not owned by the client to prospective buyers or tenant and may list competing properties for sale or lease without breaching any duty or obligation to the client.

5. A seller or landlord may agree in writing with a seller's or landlord's agent that other designated brokers may be retained and compensated as subagents. Any designated broker acting as a subagent on the seller's or landlord's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections 1 to 4 of this section.