

AGENDA SUMMARY

July 18, 2024 Approved by the Board of Commissioners



SUBJECT: Ordinance 4889-24 Third Reading & Final Reading
An ordinance providing for the conveyance of a certain parcel of Real Property located on Lakeview Drive in the Town of Unicoi, Tennessee and owned by the City of Johnson City, Tennessee, to Roger and Sharon Gardner (Administration)

MEETING: City Commission - Jul 18 2024

DEPARTMENT: Administration

STAFF CONTACT: Steve Willis, Assistant City Manager

SUMMARY:

The City Commission on April 18, 2024 selected Keller Williams Realty to market and sell of a portion of the now closed Buffalo Valley Golf Course property owned by the City of Johnson City. The property consists of 2 parcels - (1) which covers the majority of the property - approximately 91 acres, and (2) a small parcel which is approximately .53 of an acre. Keller Williams has received a written offer for the smaller parcel (0050 D 036.12) from an adjacent land owner.

WHICH COMMISSION STRATEGIC GOAL DOES THIS SUPPORT?

Excellence in Government

FINANCIAL IMPACT:

The written offer for parcel 0050 D 036.12 is \$15,000.

STAFF RECOMMENDATION:

Staff recommends approval and requests authorization for the Mayor to sign any and all documents necessary to facilitate this conveyance.

SUPPORTING DOCUMENTS:

[BV Lakeview Drive Parcel - Lot-Land Purchase and Sale Agreement](#)

[BV Lakeview Drive Exhibit A Plat](#)

[ORDINANCE NO 4889-24 BV Lakeview Drive Parcel](#)

[Quitclaim Deed - Lakeview Drive Unicoi - Roger and Sharon Gardner](#)

LOT/LAND PURCHASE AND SALE AGREEMENT

- 1 **1. Purchase and Sale.** For and in consideration of the mutual covenants herein and other good and valuable consideration,
 2 the receipt and sufficiency of which is hereby acknowledged, the undersigned buyer
 3 Roger Gardner Sharon Gardner ("Buyer") agrees to buy and
 4 the undersigned seller City of Johnson City ("Seller")
 5 agrees to sell all that tract or parcel of land, with such improvements as are located thereon, described as follows:

6 All that tract of land known as: TBD Lakeview Dr
 7 (Address) UNICOI (City), Tennessee, 37605 (Zip), as
 8 recorded in Unicoi County Register of Deeds Office,
 9 _____ deed book(s), 2 page(s), and/or 7 instrument number and as further described
 10 as:
 11 0050 D 036.12

12 together with all fixtures, landscaping, improvements, and appurtenances, all being hereinafter collectively referred to as
 13 the "Property."

- 14 ☐ **This box must be checked to be part of this Agreement.** The full and legal description of said Property is as described
 15 in the attached "Legal Description Exhibit."

16 **A. LEASED ITEMS.** Leased items that remain with the Property (e.g. billboards, irrigation systems, fuel tank, etc.)
 17 _____ Buyer shall assume any and all lease payments as of Closing. If leases are not
 18 assumable, the balance shall be paid in full by Seller at or before Closing.

- 19 ☐ Buyer does not wish to assume a leased item. **(THIS BOX MUST BE CHECKED IN ORDER FOR**
 20 **IT TO BE A PART OF THIS AGREEMENT.)**

21 Buyer does not wish to assume Seller's current lease of _____; therefore,
 22 Seller shall have said lease cancelled and leased items removed from Property prior to Closing.

23 **B. FUEL.** Fuel, if any, shall be adjusted and charged to Buyer and credited to Seller at Closing at current market prices.

- 24 **2. Purchase Price, Method of Payment and Closing Expenses.** Buyer warrants that, except as may be otherwise
 25 provided herein, Buyer shall at Closing have sufficient cash to complete the purchase of the Property under the terms of
 26 this Lot/Land Purchase and Sale Agreement (hereinafter "Purchase and Sale Agreement" or "Agreement"). The
 27 purchase price to be paid is: \$ 15,000.00
 28 fifteen thousand U.S. Dollars,

29 ("Purchase Price") which shall be disbursed to Seller or Seller's Closing Agency by one of the following methods:

- 30 i. a Federal Reserve Bank wire transfer;
 31 ii. a Cashier's Check issued by a financial institution as defined in 12 CFR § 229.2(i); OR
 32 iii. other such form as is approved in writing by Seller.

33 This price is based **(Select one. The sections not checked are not a part of this Agreement.):**

- 34 ☒ for entire Property as a tract, and not by the acre **OR**
 35 ☐ per acre with the Purchase Price to be determined by the actual amount of acreage of the Property, \$ _____ per
 36 acre based on a current or mutually acceptable survey **OR**
 37 ☐ for entire Property as a tract but with the Purchase Price to be adjusted upward or downward at \$ _____ per
 38 acre in the event the actual amount of acreage of the Property based on a current or mutually acceptable survey should
 39 vary more or less than _____ acre(s) from the _____ estimated acreage.

40 **A. Appraisal (Select either 1 or 2 below. The sections not checked are not a part of this Agreement).**

- 41 ☒ **1.** This Agreement **IS NOT** contingent upon the appraised value either equaling or exceeding the
 42 agreed upon Purchase Price.
 43 ☐ **2.** This Agreement **IS CONTINGENT** upon the appraised value either equaling or exceeding the agreed
 44 upon Purchase Price If appraised value is equal to or exceeds the Purchase Price, this contingency is satisfied.
 45 In consideration of Buyer having conducted an appraisal, the sufficiency of such consideration being hereby

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acknowledged, if the appraised value of the Property does not equal or exceed the Purchase Price, Buyer shall promptly notify the Seller via the Notification Form or equivalent written notice. Buyer shall then have 3 days to either:

1. waive the appraisal contingency via the Notification Form or equivalent written notice
OR

2. terminate the Agreement by giving notice to Seller via the Notification Form or equivalent written notice. Upon timely termination, Buyer is entitled to a refund of the Earnest Money/Trust Money.

In the event Buyer fails to either waive the appraisal contingency or terminate the Agreement as set forth above, this contingency is deemed satisfied. Thereafter, failure to appraise shall not be used as the basis for loan denial or termination of Agreement. Seller shall have the right to request any supporting documentation showing appraised value did not equal or exceed the agreed upon Purchase Price.

B. Closing Expenses.

1. **Seller Expenses.** Seller shall pay all existing loans affecting the Property, including all penalties, release preparation costs, and applicable recording costs; any accrued and/or outstanding association dues or fees; fee (if any) to obtain lien payoff/estoppel letters/statement of accounts from any and all associations, property management companies, mortgage holders or other liens affecting the Property; Seller's Closing fee, document preparation fee and/or attorney's fees; fee for preparation of deed; notary fee on deed; and financial institution (Bank, Credit Union, etc.) wire transfer fee or commercial courier service fee related to the disbursement of any lien payoff(s). Seller additionally agrees to permit any withholdings and/or to pay any additional sum due as is required under the Foreign Investment in Real Property Tax Act. Failure to do so shall constitute a default by Seller.

In the event Seller is subject to Tax Withholding as required by the Foreign Investment in Real Property Tax Act, (hereinafter "FIRPTA"), Seller additionally agrees that such Tax Withholding must be collected from Seller by Buyer's Closing Agent at the time of Closing. In the event Seller is not subject to FIRPTA, Seller shall be required as a condition of Closing to sign appropriate affidavits certifying that Seller is not subject to FIRPTA. *It is Seller's responsibility to seek independent tax advice or counsel prior to the Closing Date regarding such tax matters.*

2. **Buyer Expenses.** Buyer shall pay all transfer taxes and recording fees on deed of conveyance and deed of trust; Buyer's Closing fee, document preparation fee and/or attorney's fees; preparation of note, deed of trust, and other loan documents; mortgage loan inspection or boundary line survey; credit report; required premiums for private mortgage, hazard and flood insurance; required reserved deposits for insurance premiums and taxes; prepaid interest; re-inspection fees pursuant to appraisal; and any costs incident to obtaining and closing a loan, including but not limited to: appraisal, origination, discount points, application, commitment, underwriting, document review, courier, assignment, photo, tax service notary fees, and any wire fee or other charge imposed for the disbursement of the Seller's proceeds according to the terms of this Agreement.

3. **Title Expenses.** Cost of title search, mortgagee's policy and owner's policy (rates to be as filed with the Tennessee Department of Commerce and Insurance) shall be paid as follows:
buyer paid

Simultaneous issue rates shall apply.

Not all of the above items (Seller Expenses, Buyer Expenses and Title Expenses) are applicable to every Transaction and may be modified as follows:

Buyer to pay buyer's closing expenses

Seller to pay seller's closing expenses

Closing Agency for Buyer & Contact Information: Express Title & Closing

508 Princeton Rd STE 401, Johnson City, TN 37601

Closing Agency for Seller & Contact Information: Express Title & Closing

508 Princeton Rd STE 401, Johnson City, TN 37601

C. **Financial Contingency – Loan(s) To Be Obtained:** This Agreement is conditioned upon Buyer's ability to obtain a loan(s) in the principal amount up to 0 % of the Purchase Price listed above to be secured by a deed of trust on the Property. "Ability to obtain" as used herein means that Buyer is qualified to receive the loan described herein based upon Lender's customary and standard underwriting criteria. In consideration of Buyer, having acted in good faith and in accordance with the terms below, being unable to obtain financing by the Closing Date, the sufficiency of such consideration being hereby acknowledged, Buyer may terminate this Agreement by providing

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written notice via the Notification form or equivalent written notice. Seller shall have the right to request any supporting documentation regarding loan denial. Upon termination, Buyer is entitled to a refund of the Earnest Money/Trust Money. Lender is defined herein as the financial institution funding the loan.

The loan shall be of the type selected below (Select the appropriate boxes. Unselected items shall not be part of this Agreement):

☐ Conventional Loan ☐ Rural Development/USDA

☒ Other Cash

Buyer may apply for a loan with different terms and conditions and also Close the transaction provided all other terms and conditions of this Agreement are fulfilled and the new loan does not increase any costs charged to Seller. Buyer shall be obligated to Close this transaction if Buyer has the ability to obtain a loan with terms as described herein and/or any other loan for which Buyer has applied and been approved.

Loan Obligations: The Buyer agrees and/or certifies as follows:

- (1) Within three (3) days after the Binding Agreement Date, Buyer shall make application for the loan and shall pay for credit report. Buyer shall immediately notify Seller or Seller's representative of having applied for the loan and provide Lender's name and contact information, and that Buyer has instructed Lender to order credit report. Such certifications shall be made via the Notification form or equivalent written notice;
- (2) Within fourteen (14) days after the Binding Agreement Date, Buyer shall warrant and represent to Seller via the Notification form or equivalent written notice that:
 - a. Buyer has notified Lender of an Intent to Proceed and has available funds to Close per the signed Loan Estimate; and
 - b. Buyer has requested that the appraisal be ordered and affirms that the appraisal fee has been paid.
- (3) Buyer shall pursue qualification for and approval of the loan diligently and in good faith;
- (4) Buyer shall continually and immediately provide requested documentation to Lender and/or loan originator;
- (5) Unless otherwise stated in this Agreement, Buyer represents that this loan is not contingent upon the lease or sale of any other real property and the same shall not be used as the basis for loan denial; and
- (6) Buyer shall not intentionally make any material changes in Buyer's financial condition which would adversely affect Buyer's ability to obtain the Primary Loan or any other loan referenced herein.

Should Buyer fail to timely comply with 2.C.(1) and/or 2.C.(2) above and provide notice as required, Seller may make written demand for compliance via the Notification form or equivalent written notice. If Buyer does not furnish Seller the requested documentation within two (2) days after such demand for compliance, Buyer shall be considered in default and Seller's obligation to sell is terminated.

THIS BOX MUST BE CHECKED IN ORDER FOR IT TO BE A PART OF THIS AGREEMENT.

☒ **Financing Contingency Waived** (e.g. "All Cash", etc.):

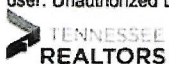
Buyer's obligation to Close shall not be subject to any financial contingency. Buyer reserves the right to obtain a loan. Buyer shall furnish proof of available funds to close in the following manner:

(e.g. bank statement, Lender's commitment letter) within five (5) days after Binding Agreement Date. Should Buyer fail to do so, Seller may make written demand for compliance via the Notification form or equivalent written notice. If Buyer does not furnish Seller with the requested notice within two (2) days after such demand for compliance, Buyer shall be considered in default and Seller's obligation to sell is terminated. Failure to Close due to lack of funds shall be considered default by Buyer.

In the event that this Agreement is contingent upon an appraisal, Buyer must order the appraisal and provide Seller with the name and telephone number of the appraisal company and proof that appraisal was ordered within five (5) days of the Binding Agreement Date. Should Buyer fail to do so, Seller may make written demand for compliance via the Notification form or equivalent written notice. If Buyer does not furnish Seller with the requested notice within two (2) days after such demand for compliance, Buyer shall be considered in default and Seller's obligation is terminated.

3. **Earnest Money/Trust Money.** Buyer has paid or shall pay within 5 days after the Binding Agreement Date to Express Title & Closing (name of Holder) ("Holder") located at 508 Princeton Rd STE 401 Johnson City TN 37601 (address of Holder), an

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Earnest Money/Trust Money deposit of \$ 1,000.00 by check (OR
(“Earnest Money/Trust Money”).

A. Failure to Receive Earnest Money/Trust Money. In the event Earnest Money/Trust Money (if applicable) is not timely received by Holder or Earnest Money/Trust Money check or other instrument is not honored, for any reason by the bank upon which it is drawn, Holder shall promptly notify Buyer and Seller of the Buyer’s failure to deposit the agreed upon Earnest Money/Trust Money. Buyer shall then have one (1) day to deliver Earnest Money/Trust Money in immediately available funds to Holder. In the event Buyer does not deliver such funds, Buyer is in default and Seller shall have the right to terminate this Agreement by delivering to Buyer or Buyer’s representative written notice via the Notification form or equivalent written notice. In the event Buyer delivers the Earnest Money/Trust Money in immediately available funds in the form of a wire transfer or cashier’s check to Holder before Seller elects to terminate, Seller shall be deemed to have waived Seller’s right to terminate, and the Agreement shall remain in full force and effect.

B. Handling of Earnest Money/Trust Money upon Receipt by Holder. Earnest Money/Trust Money (if applicable) is to be deposited promptly after the Binding Agreement Date or the agreed upon delivery date in this Earnest Money/Trust Money section or as specified in the Special Stipulations section contained herein. Holder shall disburse Earnest Money/Trust Money only as follows:

- (a) at Closing to be applied as a credit toward Buyer’s Purchase Price;
- (b) upon a written agreement signed by all parties having an interest in the funds;
- (c) upon order of a court or arbitrator having jurisdiction over any dispute involving the Earnest Money/Trust Money;
- (d) upon a reasonable interpretation of the Agreement; or
- (e) upon the filing of an interpleader action with payment to be made to the clerk of the court having jurisdiction over the matter.

Holder shall be reimbursed for, and may deduct from any funds interpleaded, its costs and expenses, including reasonable attorney’s fees. The prevailing party in the interpleader action shall be entitled to collect from the other party the costs and expenses reimbursed to Holder. No party shall seek damages from Holder (nor shall Holder be liable for the same) for any matter arising out of or related to the performance of Holder’s duties under this Earnest Money/Trust Money section. Earnest Money/Trust Money shall not be disbursed prior to fourteen (14) days after deposit unless written evidence of clearance by bank is provided.

4. Closing, Prorations, Special Assessments and Association Fees.

A. Closing Date. This transaction shall be closed (“Closed”) (evidenced by delivery of warranty deed and payment of Purchase Price, the “Closing”), and this Agreement shall expire at 11:59 p.m. local time on the 30th day of July, 2024 (“Closing Date”), or on such earlier date as may be agreed to by the parties in writing. Such expiration does not extinguish a party’s right to pursue remedies in the event of default. Any extension of this date must be agreed to by the parties in writing via the Closing Date/Possession Date Amendment or equivalent written agreement.

1. Possession. Possession of the Property is to be given (Select the appropriate boxes below. Unselected items shall not be part of this Agreement):

☒ at closing as evidenced by delivery of warranty deed and payment of Purchase Price;

OR

☐ as agreed in the attached and incorporated Temporary Occupancy Agreement;

B. Prorations. Real estate taxes, rents, dues, maintenance fees, and association fees on said Property for the calendar year in which the sale is Closed shall be prorated as of the Closing Date. In the event of a change or reassessment of taxes for the calendar year after Closing, the parties agree to pay their recalculated share. Real estate taxes, rents, dues, maintenance fees, and association fees for prior years and rollback taxes, if any, shall be paid by Seller.

C. Greenbelt. If property is currently classified by the property tax assessor as “Greenbelt” (minimum of 15 acres or otherwise qualifies), does the Buyer intend to keep the property in the Greenbelt? (Select the appropriate boxes below. Unselected items shall not be part of this Agreement):

- ☐ Buyer intends to maintain the property’s Greenbelt classification and acknowledges that it is Buyer’s responsibility to make timely and proper application to insure such status. Buyer’s failure to timely and properly make application shall result in the assessment of rollback taxes for which Buyer shall be obligated to

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pay. Buyer should consult the tax assessor for the county where the property is located prior to making this offer to verify that their intended use shall qualify for Greenbelt classification.

- ☐ Buyer does not intend to maintain the property's Greenbelt status and rollback taxes shall be payable by the Seller at time of closing.

D. Special Assessments. Special Assessments approved or levied prior to the Closing Date shall be paid by Seller at or prior to Closing unless otherwise agreed as follows:

E. Association Fees. Buyer shall be responsible for all homeowner or condominium association transfer fees, related administration fees (not including statement of accounts), capital expenditures/contributions incurred due to the transfer of the Property and/or like expenses which are required by the association, property management company and/or the bylaws, declarations or covenants for the Property (unless otherwise specifically addressed herein and/or unless specifically chargeable to Seller under applicable bylaws, declarations, and/or neighborhood covenants).

5. Title and Conveyance.

A. Seller warrants that at the time of Closing, Seller shall convey or cause to be conveyed to Buyer or Buyer's assign(s) good and marketable title to said Property by general warranty deed, subject only to:

- (1) Zoning;
- (2) Setback requirements and general utility, sewer, and drainage easements of record on the Binding Agreement Date upon which the improvements do not encroach;
- (3) Subdivision and/or condominium declarations, covenants, restrictions, and easements of record on the Binding Agreement Date; and
- (4) Leases and other encumbrances specified in this Agreement.

If title examination, closing or loan survey pursuant to Tenn. Code Ann. § 62-18-126, boundary line survey, or other information discloses material defects, Buyer may, at Buyer's discretion:

- (1) accept the Property with the defects **OR**
- (2) require Seller to remedy such defects prior to the Closing Date. Buyer shall provide Seller with written notice of such defects via the Notification form or equivalent written notice. If defects are not remedied prior to the Closing Date, Buyer may elect to extend the Closing Date by mutual written agreement evidenced by the Closing Date/Possession Amendment form or other written equivalent. If defects are not remedied by the Closing Date or any mutually agreed upon extension thereof, this Agreement shall terminate, and Buyer shall be entitled to a refund of Earnest Money/Trust Money.

Good and marketable title as used herein shall mean title which a title insurance company licensed to do business in Tennessee shall insure at its regular rates, subject only to standard exceptions. The title search or abstract used for the purpose of evidencing good and marketable title must be acceptable to the title insurance agent and the issuing title insurance company. Seller agrees to execute such appropriate affidavits and instruments as may be required by the issuing title insurance company.

B. Buyer warrants Buyer is not a sanctioned nonresident alien, sanctioned foreign business, or sanctioned foreign government or an agent, trustee, or fiduciary thereof and therefore is not precluded from purchasing Property pursuant to Tenn. Code Ann. §66-2-301, et seq.

C. Deed. Name(s) on Deed to be: Roger and Sharon Gardner

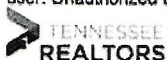
It is the Buyer's responsibility to consult the closing agency or attorney prior to Closing as to the manner in which Buyer holds title.

6. Inspections and other requirements made a part of this Agreement.

ALL INSPECTIONS ARE TO BE MADE AT BUYER'S EXPENSE. Buyer, its inspectors and/or representatives shall have the right and responsibility to enter the Property during normal business hours for the purpose of making inspections and/or tests. Buyer agrees to indemnify Seller for the acts of themselves, their inspectors and/or representatives in exercising their rights under this section. Buyer's obligations to indemnify Seller shall also survive the termination of this Agreement by either party, which shall remain enforceable. Buyer shall make such inspections as indicated in this section and either accept the Property in its present condition by written notice to Seller or terminate the Agreement as provided for in each section marked below.

[Select any or all of the following stipulations. Unselected items are not a part of this Agreement.]

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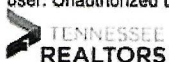
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- 249 ☐ **A. Feasibility Study.** Buyer shall have the right to review all aspects of the Property, including but not limited to,
 250 all governmental, zoning, soil and utility service matters related thereto. In consideration of Buyer having conducted
 251 Buyer's good faith review as provided for herein, the sufficiency of such consideration being hereby acknowledged,
 252 Buyer shall provide written notification to Seller and/or Seller's Broker within _____ days after Binding
 253 Agreement Date that Buyer is not satisfied with the results of such review, and this Agreement shall automatically
 254 terminate and Broker shall promptly refund the Earnest Money/Trust Money to Buyer. If Buyer fails to provide notice,
 255 then this contingency shall be deemed to have been waived by Buyer. Seller acknowledges and agrees that Buyer
 256 and/or Buyer's agents and employees may have free access during normal business hours to visit the Property for the
 257 purpose of (1) inspection thereof and (2) conducting such soil and other tests thereon as are deemed reasonably
 258 necessary by Buyer. Buyer hereby agrees to indemnify and hold Seller, Broker, and Broker's Affiliated Licensees
 259 harmless from and against any and all loss, injury, cost, or expense associated with Buyer's inspection of and entry
 260 upon Property.
- 261 ☐ **B. Building Permit.** This Agreement is contingent upon Buyer's ability to acquire all required licenses and permits
 262 from the appropriate governmental authority to make specific improvements on the Property. In consideration of
 263 Buyer, having acted in good faith, being unable to acquire all required licenses and permits from the appropriate
 264 governmental authority to make specific improvements to the Property, the sufficiency of such consideration hereby
 265 being acknowledged, Buyer may terminate this agreement by providing written notification to Seller and/or Seller's
 266 Broker within _____ days after the Binding Agreement Date. Upon termination, holder shall promptly refund the
 267 Earnest Money/Trust Money to Buyer. If Buyer fails to provide said notice, then this contingency shall be deemed to
 268 have been waived by Buyer.
- 269 ☐ **C. Permit for Sanitary Septic Disposal System.** This Agreement is contingent upon the Buyer's ability to obtain
 270 a permit for a sanitary septic disposal system from the respective Tennessee Ground Water Protection Office for the
 271 county in which the Property is located (generally, located at the local Health Department) to be placed on the Property
 272 in a location consistent with Buyer's planned improvements. In consideration of Buyer, having acted in good faith,
 273 being unable to meet this condition, the sufficiency of such consideration being hereby acknowledged, Buyer must
 274 notify Seller and/or Seller's Broker in writing within _____ days after the Binding Agreement Date. With proper
 275 notice, the Agreement is voidable by Buyer and Earnest Money/Trust Money refunded. If Buyer fails to provide said
 276 notice, this contingency shall be deemed to have been waived by Buyer.
- 277 ☐ **D. Rezoning.** This Agreement is contingent upon the Property being rezoned to _____
 278 by the appropriate governmental authorities on or before _____. (Buyer or Seller)
 279 _____ shall be responsible for pursuing such rezoning, and paying all associated cost. All
 280 rezoning applications shall be submitted to Seller for Seller's approval prior to filing, which approval shall not be
 281 unreasonably withheld. All parties agree to cooperate, to sign the necessary documentation and to support the rezoning
 282 application. In consideration of Buyer having acted in good faith, Buyer may provide notification to Seller and/or
 283 Seller's Broker within 48 hours after the above date that the Property cannot be so zoned, the sufficiency of such
 284 consideration being hereby acknowledged, and this Agreement shall automatically terminate. Upon termination,
 285 holder shall promptly refund the Earnest Money/Trust Money to Buyer. If Buyer fails to provide said notice, then this
 286 contingency shall be deemed to have been waived by Buyer.
- 287 ☐ **E. Well Test.** This Agreement is contingent upon the well water serving the Property passing testing for suitability
 288 for drinking as performed by a testing laboratory selected by Buyer, or required by Buyer's Lender, prior to Closing.
 289 Buyer shall be responsible for ordering, supervising and paying for any such well water sample test. This Agreement
 290 shall also be contingent upon said well providing an adequate quantity of water to serve Buyer's intended purpose
 291 for the Property. In consideration of Buyer, having conducted a well test as provided for herein, the sufficiency of
 292 such consideration being hereby acknowledged, Buyer may provide written notification to Seller and/or Seller's
 293 Broker within _____ days after the Binding Agreement Date that test results are unacceptable, and in such event this
 294 Agreement shall automatically terminate, and Holder shall promptly refund the Earnest Money/Trust Money to Buyer.
 295 If Buyer fails to provide said notice, then this contingency shall be deemed to have been waived by Buyer.
- 296 ☐ **F. Other Inspections.** See Special Stipulations for additional inspections required by Buyer.
- 297 ☒ **G. No Inspection Contingencies.** Buyer accepts the Property in its present condition. All parties acknowledge
 298 and agree that the Property is being sold "AS IS" with any and all faults.
- 299 **7. Final Inspection.** Buyer and/or Buyer's inspectors/representatives shall have the right to conduct a final inspection of
 300 Property on the Closing Date or within ____ day(s) prior to Closing Date only to confirm Property is in the same or better

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condition as it was on the Binding Agreement Date, normal wear and tear excepted, and to determine that all repairs/replacements have been completed. Property shall remain in such condition until the Closing Date at Seller's expense. Closing of this sale constitutes acceptance of Property in its condition as of the time of Closing, unless otherwise noted in writing.

- 8. Buyer's Additional Due Diligence Options.** If any of the matters below are of concern to Buyer, Buyer should address the concern by specific contingency in the Special Stipulations section of this Agreement.
- A. Survey and Flood Certification.** Survey Work and Flood Certifications are the best means of identifying boundary lines and/or encroachments and easements or flood zone classifications. Buyer may obtain a survey, closing loan survey or Boundary Line Survey and Flood Zone Certifications.
 - B. Insurability.** Many different issues can affect the insurability and the rates of insurance for property. These include factors such as changes in the Flood Zone Certifications, changes to the earthquake zones maps, the insurability of the buyer, and previous claims made on the Property. It is the right and responsibility of Buyer to determine the insurability, coverage and the cost of insuring the Property. It is also the responsibility of Buyer to determine whether any exclusions shall apply to the insurability of said Property.
 - C. Water Supply.** The system may or may not meet state and local requirements. It is the right and responsibility of Buyer to determine the compliance of the system with state and local requirements. [For additional information on this subject, request the "Water Supply and Waste Disposal Notification" form.]
 - D. Waste Disposal.** The system may or may not meet state and local requirements. It is the right and responsibility of Buyer to determine the compliance of the system with state and local requirements. In addition, Buyer may, for a fee, obtain a septic system inspection letter from the Tennessee Department of Environment and Conservation, Division of Ground Water Protection. [For additional information on this subject, request the "Water Supply and Waste Disposal Notification" form.]
 - E. Title Exceptions.** At Closing, the general warranty deed shall be subject to subdivision and/or condominium declarations, covenants, restrictions and easements of record, which may impose obligations and may limit the use of the Property by Buyer, including the property being part of a Planned Unit Development (PUD). There may also be fees and assessments connected with these exceptions.
 - F. Toxic/Foreign Substances.** Testing (including but not limited to a Phase 1 study) may be performed to determine the presence of radon or other potentially toxic substances. Buyer may wish to inquire or have the property inspected for underground tanks, tires, appliances, garbage, foreign and/or unnatural materials, asbestos, polychlorinated biphenyl (PCB's), ureaformaldehyde, methane gas, radioactive material, or methamphetamine production.
 - G. Land Issues.** Buyer may be interested in learning more about the presence of any fill, mine shaft, well, diseased or dead trees or private or non-dedicated roadways on the Property as well as any sliding, settling, earth movement, upheaval or earth stability problems detected through inspections or evaluations previously performed on property or to be performed.
 - H. Rights and Licenses.** Certain Property may contain mineral, oil and timber rights which may or may not transfer with the Property. It is possible licenses or usage permits were granted for crops, mineral, water, grazing, timber, hunting or fishing, including a Crop Rotation Program. Buyers should consult their closing agency for questions regarding any leases which may be in the chain of title.
- 9. Disclaimer.** It is understood and agreed that the real estate firms and real estate licensee(s) representing or assisting Seller and/or Buyer and their brokers (collectively referred to as "Brokers") are not parties to this Agreement and do not have or assume liability for the performance or nonperformance of Seller or Buyer. Buyer and Seller agree that Brokers shall not be responsible for any of the following, including but not limited to, those matters which could have been revealed through a survey, flood certification, title search or inspection of the Property; the insurability of the Property or cost to insure the Property; for the condition of the Property, any portion thereof, or any item therein; for building products and construction techniques; for any geological issues present on the Property; for any issues arising out of the failure to physically inspect the Property prior to entering into this Agreement and/or Closing; for the necessity or cost of any repairs to the Property; for hazardous or toxic materials; for the tax or legal consequences of this transaction; for the availability, capability, and/or cost of utility, sewer, septic, or community amenities; for any proposed or pending condemnation actions involving the Property; for acreage or square footage; for applicable boundaries of school districts or other school information; for the appraised or future value of the Property; for any condition(s) existing off the Property which may affect the Property; for the terms, conditions, and availability of financing; and for the uses and zoning of the Property whether permitted or proposed. Buyer and Seller acknowledge that Brokers are not experts with respect to the above matters and that they have not relied upon any advice, representations or statements of Brokers (including their firms and affiliated licensees) and

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waive and shall not assert any claims against Brokers (including their firms and affiliated licensees) involving same. Buyer and Seller understand that it has been strongly recommended that if any of these or any other matters concerning the Property are of concern to them, that they secure the services of appropriately credentialed experts and professionals of Buyer's or Seller's choice for the independent expert advice and counsel relative thereto. Buyer and Seller acknowledge that photographs, marketing materials, and digital media used in the marketing of the property may continue to remain in publication after Closing. Buyer and Seller agree that Brokers shall not be liable for any uses of photographs, marketing materials or digital media which the Broker is not in control.

10. Brokerage. As specified by separate agreement, Seller agrees to pay Listing Broker at Closing the agreed upon compensation. The Listing Broker shall direct the closing agency to pay the Selling Broker, from the compensation received, an amount in accordance with the terms and provisions specified by separate agreement. The parties agree and acknowledge that the Brokers involved in this transaction may receive compensation from more than one party. All parties to this Agreement agree and acknowledge that any real estate firm involved in this transaction shall be deemed a third party beneficiary only for the purposes of enforcing their commission rights, and as such shall have the right to maintain an action on this Agreement for any and all compensations due and any reasonable attorney's fees and court costs.

11. Default. Should Buyer default hereunder, the Earnest Money/Trust Money shall be forfeited as damages to Seller and shall be applied as a credit against Seller's damages. Seller may elect to sue, in contract or tort, for additional damages or specific performance of the Agreement, or both. Should Seller default, Buyer's Earnest Money/Trust Money shall be refunded to Buyer. In addition, Buyer may elect to sue, in contract or tort, for damages or specific performance of this Agreement, or both. In the event that any party hereto shall file suit for breach or enforcement of this Agreement (including suits filed after Closing which are based on or related to the Agreement), the prevailing party shall be entitled to recover all costs of such enforcement, including reasonable attorney's fees. In the event that any party exercises its right to terminate due to the default of the other pursuant to the terms of this Agreement, the terminating party retains the right to pursue any and all legal rights and remedies against the defaulting party following termination. The parties hereby agree that all remedies are fair and equitable and neither party shall assert the lack of mutuality of remedies, rights and/or obligations as a defense in the event of a dispute.

12. Other Provisions.

- A. Binding Effect, Entire Agreement, Modification, Assignment, and Binding Agreement Date.** This Agreement shall be for the benefit of, and be binding upon, the parties hereto, their heirs, successors, legal representatives and assigns. This Agreement constitutes the sole and entire agreement between the parties hereto and no modification of this Agreement shall be binding unless signed by all parties or assigns to this Agreement. No representation, promise, or inducement not included in this Agreement shall be binding upon any party hereto. It is hereby agreed by both Buyer and Seller that any real estate agent working with or representing either party shall not have the authority to bind the Buyer, Seller, or any assignee to any contractual agreement unless specifically authorized in writing within this Agreement. Any assignee shall fulfill all the terms and conditions of this Agreement. The parties hereby authorize either licensee to insert the time and date of receipt of the notice of acceptance of the final offer. The foregoing time and date shall be referred to for convenience as the Binding Agreement Date for purposes of establishing performance deadlines.
- B. Survival Clause.** Any provision contained herein, which by its nature and effect is required to be performed after Closing shall survive the Closing and delivery of the deed, and shall remain binding upon the parties to this Agreement and shall be fully enforceable thereafter.
- C. Governing Law and Venue.** This Agreement is intended as a contract for the purchase and sale of real property and shall be interpreted in accordance with the laws and in the courts of the State of Tennessee.
- D. Time of Essence.** Time is of the essence in this Agreement.
- E. Terminology.** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa; (2) all pronouns shall mean and include the person, entity, firm or corporation to which they relate; (3) the masculine shall mean the feminine and vice versa; and (4) the term day(s) used throughout this Agreement shall be deemed to be calendar day(s) ending at 11:59 p.m. local time unless otherwise specified in this Agreement. Local time shall be determined by the location of Property. **In the event a performance deadline**, other than the Closing Date (as defined herein), Date of Possession (as defined herein), and Offer Expiration Date (as defined in Time Limit of Offer Section), occurs on a Saturday, Sunday or legal holiday, the performance deadline shall extend to the next following business day. Holidays as used herein are those days deemed federal holidays pursuant to 5 U.S.C. § 6103. In calculating any time period under this Agreement, the commencement day shall be the day following the initial date (e.g. Binding Agreement Date).

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Katherine Sullivan

Keller Williams Realty, Inc.

F. Responsibility to Cooperate. Buyer and Seller agree to timely take such actions and produce, execute, and/or deliver such information and documentation as is reasonably necessary to carry out the responsibilities and obligations of this Agreement. Except as to matters which are occasioned by clerical errors or omissions or erroneous information, the approval of the closing documents by the parties shall constitute their approval of any differences between this Agreement and the Closing. Buyer and Seller agree that if requested after Closing, they shall correct any documents and pay any amounts due where such corrections or payments are appropriate by reason of mistake, clerical errors or omissions, or the result of erroneous information.

G. Notices. Except as otherwise provided herein, all notices and demands required or permitted hereunder shall be in writing and delivered either (1) in person; (2) by a prepaid overnight delivery service; (3) by facsimile transmission (FAX); (4) by the United States Postal Service, postage prepaid, registered or certified, return receipt requested; or (5) Email. **NOTICE** shall be deemed to have been given as of the date and time it is actually received. Receipt of notice by the real estate licensee or the Broker assisting a party as a client or customer shall be deemed to be notice to that party for all purposes under this Agreement as may be amended, unless otherwise provided in writing.

H. Risk of Loss. The risk of hazard or casualty loss or damage to the Property shall be borne by Seller until transfer of title. If casualty loss prior to Closing exceeds 10% of the Purchase Price, Seller or Buyer may elect to terminate this Agreement with a refund of Earnest Money/Trust Money to Buyer.

I. Equal Housing. This Property is being sold without regard to race, creed, color, sex, religion, handicap, familial status, or national origin.

J. Severability. If any portion or provision of this Agreement is held or adjudicated to be invalid or unenforceable for any reason, each such portion or provision shall be severed from the remaining portions or provisions of this Agreement, and the remaining portions or provisions shall be unaffected and remain in full force and effect. In the event that the contract fails due to the severed provisions, then the offending language shall be amended to be in conformity with state and federal law.

K. Alternative Dispute Resolution. In the event the parties elect to utilize Alternative Dispute Resolution, incorporate "Resolution of Disputes by Mediation Addendum/Amendment" (RF629).

L. Contract Construction. This Agreement or any uncertainty or ambiguity herein shall not be construed against any party but shall be construed as if all parties to this Agreement jointly prepared this Agreement.

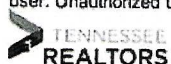
M. Section Headings. The Section Headings as used herein are for reference only and shall not be deemed to vary the content of this Agreement or limit the scope of any Section.

13. Method of Execution. The parties agree that signatures and initials transmitted by facsimile, other photocopy transmittal, or by transmittal of digital signature as defined by the applicable State or Federal law shall be acceptable and may be treated as originals and that the final Lot/Land Purchase and Sale Agreement containing all signatures and initials may be executed partially by original signature and partially on facsimile, other photocopy documents, or by digital signature as defined by the applicable State or Federal law.

14. Exhibits and Addenda. All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part of this Agreement:

15. Special Stipulations. The following Special Stipulations, if conflicting with any preceding section, shall control:

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Katherine Sullivan

Keller Williams Realty, Inc.

16. **Time Limit of Offer.** This Offer may be withdrawn at any time before acceptance with Notice. Offer terminates if not countered or accepted by 2:00 o'clock ☐ a.m./☒ p.m. on the 18th day of July, 2024.

LEGAL DOCUMENTS: This is an important legal document creating valuable rights and obligations. If you have any questions about it, you should review it with your attorney. Neither the Broker nor any Agent or Facilitator is authorized or qualified to give you any advice about the advisability or legal effect of its provisions.

NOTE: Any provisions of this Agreement which are preceded by a box "☐" must be marked to be a part of this Agreement. By affixing your signature below, you also acknowledge that you have reviewed each page and have received a copy of this Agreement.

WIRE FRAUD WARNING: Never trust wiring instructions sent via email. Cyber criminals are hacking email accounts and sending emails with fake wiring instructions. These emails are convincing and sophisticated. Always independently confirm wiring instructions in person or via a telephone call to a trusted and verified phone number. Never wire money without double-checking that the wiring instructions are correct. **NEVER ACCEPT WIRING INSTRUCTIONS FROM YOUR AGENT OR BROKER.** KG Buyer Initials SG Buyer Initials

Buyer hereby makes this offer.

DocuSigned by:

Roger Gardner

BUYER DE47FE8CB399404...

5/14/2024 | 2:50 at EDT o'clock ☐ am/ ☐ pm

Offer Date

DocuSigned by:

Sharon Gardner

BUYER DE47FE8CB399404...

5/14/2024 | 2:54 at EDT o'clock ☐ am/ ☐ pm

Offer Date

Seller hereby:

- ☐ **ACCEPTS** – accepts this offer.
☐ **COUNTERS** – accepts this offer subject to the attached Counter Offer(s).
☐ **REJECTS** – rejects this offer and makes no counter offer.

SELLER

SELLER

at o'clock ☐ am/ ☐ pm

Date

at o'clock ☐ am/ ☐ pm

Date

Acknowledgement of Receipt. hereby acknowledges receipt of the final accepted offer on at o'clock ☐ am/ ☐ pm, and this shall be referred to as the Binding Agreement Date for purposes of establishing performance deadlines as set forth in the Agreement.

For Information Purposes Only:

Listing Company: _____

Listing Firm Address: _____

Firm License No.: _____

Firm Telephone No.: _____

Listing Licensee: Melanie Trinkle

Licensee License Number: _____

Licensee Email: melanietrinkle@kw.com

Licensee Cellphone No.: _____

Home Owner's / Condominium Association ("HOA/COA") / Property Management Company: _____

Selling Company: KW Johnson City

Selling Firm Address: 3009 Greenline Rd

Firm License No.: 261144

Firm Telephone No.: 423-433-6500

Selling Licensee: Katherine Sullivan

Licensee License Number: 359604

Licensee Email: kjsullivan103@kw.com

Licensee Cellphone No.: 703-475-0883

Phone: _____

Email: _____

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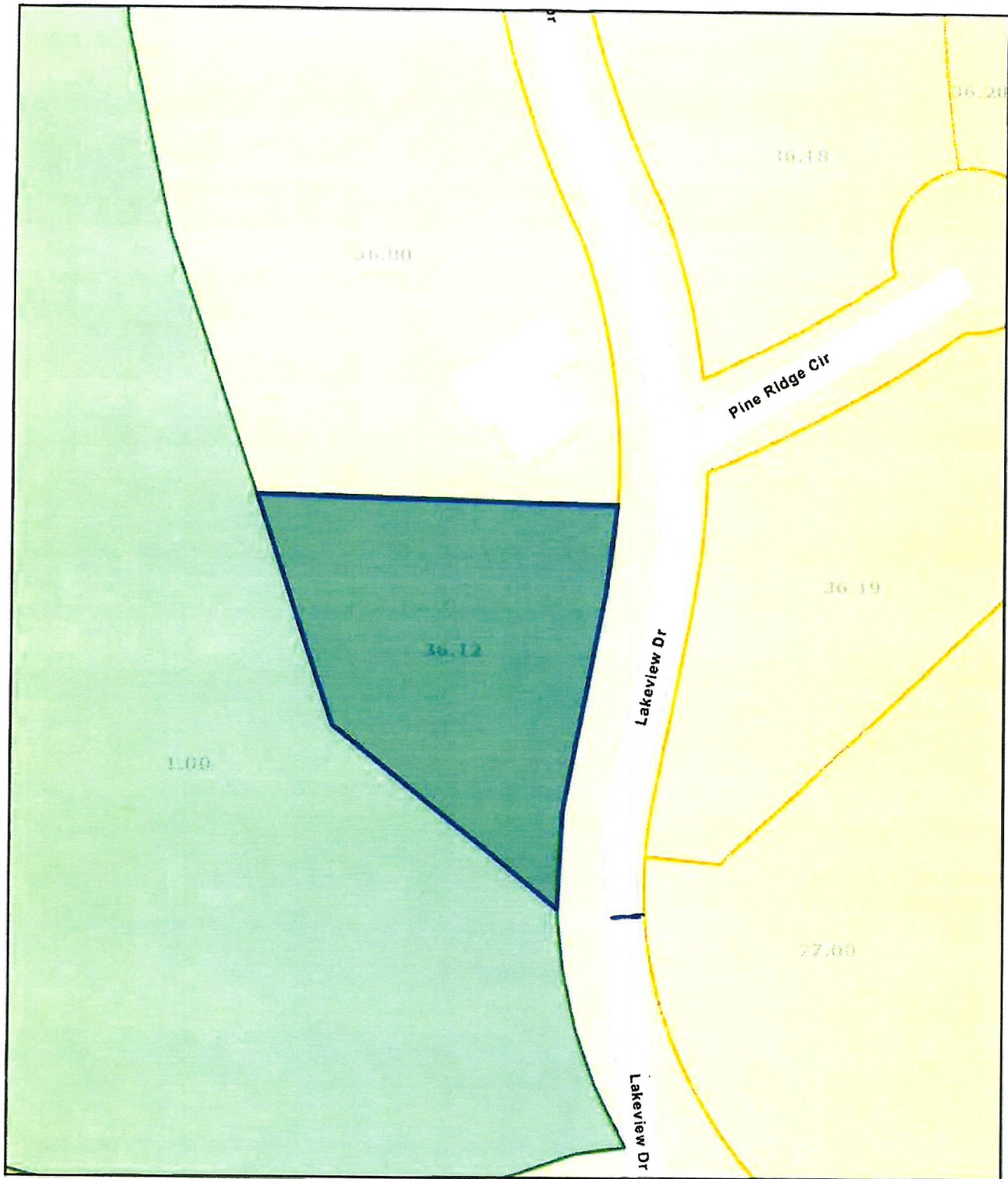
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Katherine Sullivan

Keller Williams Realty, Inc.

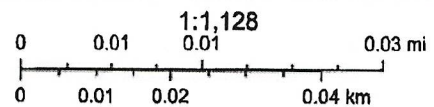
EXHIBIT "A"

Unicoi County - Parcel: 005O D 036.12



Date: September 8, 2023

County: Unicoi
Owner: CITY OF JOHNSON CITY
Address: LAKEVIEW DR
Parcel Number: 005O D 036.12
Deeded Acreage: 0
Calculated Acreage:
Date of TDOT Imagery: 2019
Date of Vexcel Imagery: 2021



Esri Community Maps Contributors, State of North Carolina DOT, Tennessee
STS GIS, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,
GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau,
USDA, State of Tennessee, Comptroller of the Treasury

The property lines are compiled from information maintained by your local
county Assessor's office but are not conclusive evidence of property
ownership in any court of law.

ORDINANCE NO. 4889-24

AN ORDINANCE PROVIDING FOR THE CONVEYANCE OF A CERTAIN PARCEL OF REAL PROPERTY OWNED BY THE CITY OF JOHNSON CITY, TENNESSEE, LOCATED IN THE FIFTH (5TH) CIVIL DISTRICT OF UNICOI COUNTY, TENNESSEE, TO ROGER AND SHARON GARDNER UPON THE TERMS AND CONDITIONS CONTAINED HEREIN AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH

BE IT ORDAINED BY THE CITY OF JOHNSON CITY as follows:

SECTION I. That the conveyance to Roger and Sharon Gardner, of a certain parcel of land owned by the City of Johnson City located within the 5th Civil District of Unicoi County, Tennessee, more particularly described in this ordinance as Exhibit "A", which exhibit is incorporated fully into this instrument by reference as though set forth verbatim, for the total purchase price of Fifteen Thousand Dollars (\$15,000.00).

SECTION II. BE IT FURTHER ORDAINED that the Mayor of the City of Johnson City be and is hereby authorized to sign a deed (a copy of which is attached hereto as Exhibit "B") and other such other instruments as may be reasonably necessary to effectuate the aforementioned conveyance, which instruments shall in form and content be satisfactory to the City Manager and legal counsel for the City.

SECTION III. BE IT FURTHER ORDAINED that all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION IV. BE IT FURTHER ORDAINED that this ordinance shall take effect from and after its passage on third and final reading and publication as required by law, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING ON THE
FIRST READING June 06,2024

PASSED IN OPEN, PUBLIC MEETING ON THE
SECOND READING June 20,2024

PASSED IN OPEN, PUBLIC MEETING ON THE
THIRD READING July 18,2024

APPROVED AND SIGNED IN OPEN MEETING
ON THE 18th DAY OF July, 2024

FOLLOWING PASSAGE ON THIRD
READING


VICE-MAYOR

ATTEST:


CITY RECORDER

APPROVED AS TO FORM:


STAFF ATTORNEY

Exhibit "B"

Prepared by:
Blake Watson
Staff Attorney
601 E. Main Street
Johnson City, Tennessee 37604

QUITCLAIM DEED

This deed is made and entered into as shown below by and between the CITY OF JOHNSON CITY, TENNESSEE, a Municipal Corporation incorporated by Chapter 189 of the 1939 Private Acts of the Tennessee General Assembly, hereinafter referred to as the "Party of the First Part", and Roger and Sharon Gardner., referred to as the "Party of the Second Part":

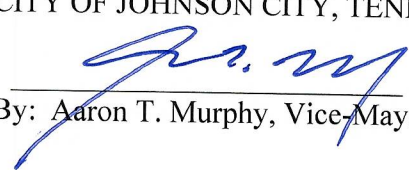
WITNESSETH:

That for and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Party of the First Part hereby conveys and quitclaims unto the Party of the Second Part all of its right, title and interest, if any, in and to the following described parcel of land, in the Ninth (5th) Civil District of Unicoi County, Tennessee, and being more particularly described as follows:

LEGAL DESCRIPTION ATTACHED AS EXHIBIT "A"

IN TESTIMONY WHEREOF, witness the signature of the Party of the First Party on the day and date first above written.

CITY OF JOHNSON CITY, TENNESSEE


By: Aaron T. Murphy, Vice-Mayor

Attest:


City Recorder

STATE OF TENNESSEE
COUNTY OF WASHINGTON

Before me, a Notary Public in and for the said State and County, personally appeared Todd Fowler, with whom I am personally acquainted, or whose identity was proven to me on satisfactory evidence, and who, upon oath, acknowledged himself to be the ^{vice} Mayor of the City of Johnson City, a Municipal Corporation, the within named bargainor, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the City of Johnson City, a Municipal Corporation by himself as such officer.

WITNESS my hand and official seal at office in the State and County aforesaid on this the 18th day of July, 2024.

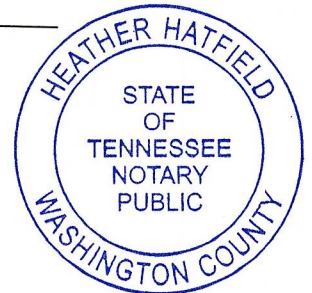
Heather Hatfield
NOTARY PUBLIC

My Commission Expires: Aug. 01, 2027

Property Owner City of Johnson City
Address 601 E. Main Street, Johnson City, TN 37604

Person or Agency Responsible for Payment of Taxes

Name Roger and Sharon Gardner
Address 194 Lakeview Drive, Unicoi, TN 37692



STATE OF TENNESSEE
COUNTY OF WASHINGTON

I, or we, hereby swear or affirm that the actual consideration for this transfer is \$ _____, which amount is equal to or greater than the amount which the property transferred would command at a fair voluntary sale.

AFFIANT _____

Subscribed and sworn to before me this _____ day of _____, 2024.

NOTARY PUBLIC

My Commission expires _____