

## **SETTLEMENT AGREEMENT**

This Settlement Agreement (“Settlement Agreement”) is entered by St. Louis County, Missouri and Robert B. Glarner, Jr., P. David Glarner, Boreas LLC, and Gadwall LLC. All of the foregoing are collectively referred to herein as the “Parties.”

### **RECITALS**

**WHEREAS**, St. Louis County, Missouri (“County”) is a public body, corporate and politic, that operates pursuant to the Charter adopted by the St. Louis County voters on November 6, 1979, as amended from time to time (“County Charter”);

**WHEREAS**, Robert and David Glarner (the “Glarner”), through various affiliated entities including Specklebelly LLC, Boreas LLC and Gadwall LLC, are the owners of the formerly abandoned Northwest Plaza mall in St. Ann, Missouri, now known as the Crossings at Northwest (the “Crossings”);

**WHEREAS**, the Glarner, Specklebelly LLC, Boreas LLC, and Gadwall LLC are collectively referred to herein as the “Glarner Entities”;

**WHEREAS**, the County is the tenant under that certain Lease with Specklebelly LLC, dated August 30, 2016, for 140,082 rentable square feet located at the Crossings (“Primary Office Lease”), which Lease was

later assigned from Specklebelly LLC to Boreas LLC pursuant to the terms of the Primary Office Lease;

**WHEREAS**, the County is also the tenant under that certain Lease with Gadwall LLC, dated August 30, 2016, for 15,193 rentable square feet of space located at the Crossings (“Office Tower Lease”);

**WHEREAS**, the Primary Office Lease and Office Tower Lease are collectively referred to herein as the “Leases”;

**WHEREAS**, the County currently operates various County offices in the space it occupies under the Leases, including the Board of Elections, Workforce Development, County Assessor’s Office, and a Municipal Court;

**WHEREAS**, the County Council’s Ethics Committee initiated an investigation into the County’s approval of the Leases and issued a report dated July 12, 2018 (“Ethics Committee Report”) that was adopted by the Council;

**WHEREAS**, the Glarner Entities deny the findings and conclusions of the Ethics Committee Report, any wrongdoing related to the selection of the Crossing site, the negotiation of the Leases, or the terms of the Leases, and any irregularity in the form of the Leases or the County’s approval of the Leases;

**WHEREAS**, on February 3, 2020, the County and the Glarners entered an agreement whereby the Parties agreed to meet to mediate the County's challenges to the validity of the Leases;

**WHEREAS**, on September 23, 2020, representatives of the County and the Glarner Entities met with an independent, third-party mediator and reached a preliminary agreement, attached hereto as Exhibit A ("Preliminary Agreement"), to resolve all issues between them relating to the Leases; and

**WHEREAS**, the Parties have determined that resolution of these issues and avoidance of the costs of litigation is in their respective best interests.

**NOW, THEREFORE**, in consideration of the promises and the mutual covenants of the Parties stated in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Recitations**. The above recitations are true and correct and are incorporated herein by this reference.

2. **Amendment to Office Tower Lease**. The parties to the Leases have agreed to amend the Office Tower Lease: (i) to provide that the landlord will abate the rental due under the Office Tower Lease from the County for years 2021 and 2022; (ii) to shorten the term of the

Office Tower Lease by setting a December 31, 2027 termination date; (iii) to eliminate escalations of the rental for the lease years following 2020 and for the remaining term; and (iv) to modify certain non-economic terms of the Office Tower Lease. All of the aforesaid amendments shall be in accordance with the Office Tower Lease Amendment in the form attached hereto and incorporated herein as Exhibit B (“Office Tower Lease Amendment”).

3. **Release of the Glarner Entities.** Subject to and conditioned upon the Glarner’s performance of all their obligations of this Settlement Agreement, the County and its agents, representatives, employees, successors, predecessors, and assigns, release and forever discharge the Glarner Entities, and their respective agents, attorneys, representatives, employees, successors, predecessors, assigns, and affiliated entities, jointly and severally, from any and all demands, claims, rights, proceedings, and causes of action of any nature and description whatsoever, known or unknown, suspected or unsuspected, disclosed or undisclosed, absolute or contingent that the County may have against any of the Glarner Entities relating to actions taken by the Glarner Entities or the County (including any employee, agent, officer or body of said Parties) prior to the date of this Settlement Agreement with respect to the Primary Office Lease or Office Tower Lease, including, without

limitation, the selection of the Crossing site, the negotiation and approval of the Leases, the terms and form of the Leases, and the facts and conclusions contained in the Ethics Committee Report, as well as any proceedings brought by the Parties prior to this Settlement Agreement regarding the Primary Office Lease or Office Tower Lease.

4. **Release of the County.** Subject to and conditioned upon the County's performance of all its obligations of this Agreement, the Glarner Entities, their agents, representatives, employees, successors, predecessors, assigns, and affiliated entities, release and forever discharge the County and its respective agents, attorneys, representatives, employees, successors, predecessors, and assigns, jointly and severally, from any and all demands, claims, rights, proceedings, and causes of action of any nature and description whatsoever, known or unknown, suspected or unsuspected, disclosed or undisclosed, absolute or contingent that the Glarner Entities may have relating to actions taken by the Glarner Entities or the County (including any employee, agent, officer or body of said Parties) prior to the date of this Settlement Agreement with respect to the Primary Office Lease or Office Tower Lease, including, without limitation, the selection of the Crossing site, the negotiation and approval of the Leases, the terms and form of the Leases, and the facts and conclusions contained in the Ethics

Committee Report as well as any proceedings brought by the Parties prior to this Settlement Agreement regarding the Primary Office Lease or Office Tower Lease.

5. **No Admission of Liability**. This Agreement is entered into as a settlement and compromise of disputed claims, and for purposes of avoiding the burden, expense and uncertainty of continued litigation. Nothing in this Settlement Agreement shall constitute or be construed as an admission of liability on behalf of the Parties or their agents, affiliates, assigns, parents, successors, subsidiaries, and/or successors, or an admission as to the validity of any of the allegations made by either party with respect to the Leases.

6. **Joint Statement**. The Parties will agree upon a joint statement to the press and public relating to this Settlement Agreement and the resolution of all disputes between them. Other than that agreed-upon statement, no Party will make any statement or comment, oral or written, or provide any information or interviews to the press or make any public statements relating the disputes between the Parties resolved pursuant to this Settlement Agreement or the terms of this Settlement Agreement. Each Party will use its best efforts to ensure that its officers, employees, agents, and elected representatives comply with the terms of this paragraph. Any breach of the agreement in this paragraph by any

individual affiliated with the County will release the Glarner Entities from their obligations in this paragraph, and any breach of the agreement in this paragraph by any individual affiliated with the Glarner Entities will release the County from its obligations in this paragraph.

7. **Attorney Representation**. This Settlement Agreement is entered into voluntarily by the Parties who stipulate and agree that they are under no duress or undue influence. The Parties represent that in the execution of this Settlement Agreement, they had the opportunity to consult legal counsel of their own selection and that said attorneys have reviewed this Settlement Agreement, made any desired changes and advised their respective clients with respect to the advisability of making this Settlement Agreement and release provided herein and of executing this Settlement Agreement.

8. **Entire Agreement**. With the exception of the Leases and the Office Tower Lease Amendment, the Settlement Agreement constitutes the sole and entire agreement among the Parties relating to the Leases and supersedes all prior and contemporaneous statements, promises, understandings or agreements relating to such agreement, whether written or oral, including the Preliminary Agreement. In the event of any conflict between this Settlement Agreement and the Preliminary Agreement, the terms of this Settlement Agreement shall control.

9. **Partial Invalidity**. In the event that any provision of this Settlement Agreement is declared by any court of competent jurisdiction or any administrative judge to be void or otherwise invalid, all of the other terms, conditions and provisions of this Settlement Agreement shall remain in full force and effect to the same extent as if that part declared void or invalid had never been incorporated in the Settlement Agreement and in such form, the remainder of the Settlement Agreement shall continue to be binding upon the Parties.

10. **Survival**. All representations and warranties contained herein shall survive the execution and delivery of this Settlement Agreement.

11. **Applicable Law**. This Settlement Agreement shall be subject to and governed by the laws of the State of Missouri, without regard to conflict of law rules.

12. **Costs**. The Parties have agreed to bear their own attorneys' fees and costs with respect to the disputes between them resolved in this Settlement Agreement and the preparation of any and all documents necessary to enter into this Settlement Agreement.

13. **Notices**. All notices that are required or permitted under this Settlement Agreement shall be given in writing and shall be deemed to have been given, delivered, or made, as the case may be (notwithstanding



lack of actual receipt by the addressee), (i) when delivered by personal delivery (provided a receipt or affidavit of delivery is obtained from the sending party), (ii) certified or registered mail (provided a return receipt is obtained from the sending party), or (iii) one (1) business day after having been deposited with an expedited, overnight courier service (provided confirmation is provided by such overnight courier service that delivery was made), addressed to the party to whom notice is intended to be given at the address(es) set forth below:

If to the County:           Beth Orwick  
  County Counselor  
  Office of the County Counselor  
  41 S. Central, 9<sup>th</sup> Floor  
  St. Louis, MO 63105  
  BOrwick@stlouisco.com

With a copy to:           Stephen O'Brien  
  Dentons US LLP  
  One Metropolitan Square, Suite 3000  
  St. Louis, MO 63102  
  stephen.obrien@dentons.com

If to the Glarner  
Entities:                   Raven Development  
  Attn: David and Robert Glarner  
  
  1701 Macklind Avenue  
  St. Louis, MO 63110  
  david@glarnerstl.com  
  bob@glarnerstl.com

With a copy to:                   Husch Blackwell LLP  
  Attn: JoAnn T. Sandifer  
  190 Carondelet Avenue, Suite 600  
  St. Louis, MO 63105  
  [joann.sandifer@huschblackwell.com](mailto:joann.sandifer@huschblackwell.com)

Any party may change the address to which its notices are sent by giving the other parties written notice of any such change in the manner provided in this Section, but notice of change of address is effective only upon receipt.

14.    **Amendments.** This Settlement Agreement may be amended or otherwise modified only by a writing that is signed and acknowledged by each of the parties hereto and properly approved by the County Council.

15.    **Authority and Representations.** Each person(s) executing this Settlement Agreement as an agent or in a representative capacity warrants that he or she is duly authorized to do so. The individual executing this Agreement on behalf of the County warrants that all appropriate approvals have been obtained to bind the County to this Agreement and that this Agreement comports with all legal requirements.


16.    **Counterparts; Execution.** This Settlement Agreement may be signed and executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one Agreement. Delivery of an executed counterpart of a signature page of

this Agreement by facsimile or email shall be effective as delivery of an originally executed counterpart of this Agreement.


**[THE REMAINDER OF THIS PAGE INTENTIONALLY BLANK.  
SIGNATURE PAGES TO FOLLOW.]**

Dated: March 31, 2021

ST. LOUIS COUNTY, MISSOURI

By: 

Dated: March 29, 2021



ROBERT B. GLARNER, JR.

Dated: March 29, 2021




P. DAVID GLARNER

Dated: March 29, 2021

BOREAS LLC

By: Swiss LLC, its Manager


By: 

P. David Glarner, Manager

Dated: March 29, 2021

GADWALL LLC

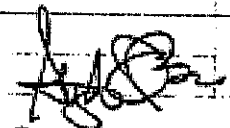
By: Swiss LLC, its Manager

By: 

P. David Glarner, Manager

# EXHIBIT A

- 1) No amendments to Specklebelly lease.
- 2) Landlord will abate the rent on the Gadwall lease in 2021 and 2022.
- 3) The Gadwall lease will terminate ~~at~~ <sup>on</sup> 12/31/2027.
- 4) There will be no escalation of the Gadwall <sup>rent</sup> ~~rent~~ during the remaining term of the lease.
- 5) ~~Non-~~ The attorneys for the parties will negotiate in good faith to amend the non-economic terms of the Gadwall lease, specifically <sup>including</sup> Sections: 1.3, 1.4, 1.11, 2.1, 4.1, 7.4, 7.3, 8.2, 15.1, 15.4, 16.1 and 20.2.
- 6) The parties will release ~~on~~ a mutually agreed to statement regarding the settlement and agree to make no further statement.

  
for ~~Blaisdell~~

David Walker

9.23.20

with - Will H. Hardy  
med / etc