

MEMORANDUM

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

TO: Thomas Thomas, City Manager

SUBJECT: Watchtower Plaza Redevelopment

DATE: 11/28/2012

The City of Rock Island as part of long term program of redevelopment along the 11th Street corridor is pleased to present the following redevelopment project for Watchtower Plaza. The development consists of an assemblage of several parcels of property, relocation of the existing businesses. The City of Rock Island will be purchasing the parcels and completing necessary relocations before demolition. After demolition is complete the City of Rock Island will be selling to Price Properties, LLC who intends to construct a Walmart super store on the location.

Recommendation:

- 1) Council Authorize entering into an agreement with Price Associates LLC for the sale of approximately 20 acre tract for the amount of \$4,500,000, authorize the City Manager to execute the contract documents and refer to the City Attorney for ordinances.

Submitted by: Jeffery A. Eder, Community and Economic Development Director

Approved: Thomas Thomas, City Manager

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "Agreement") is made and entered into by and between **PRICE PROPERTIES, LLC**, an Alabama limited liability company ("Buyer"), and **THE CITY OF ROCK ISLAND, ILLINOIS**, a municipal corporation ("Seller"). The "Effective Date" of this Agreement is the date on which this Agreement is fully executed by all parties hereto, as indicated on the signature pages of this Agreement.

1. Sale and Purchase. Pursuant to this Agreement, Seller shall sell and Buyer shall purchase the approximately 20-acre (+/-) tract of land located in Rock County, Illinois, depicted or described on Exhibit A hereto, together with all improvements thereon, easements, water rights, mineral rights and other rights appurtenant thereto, and rights, title and interest in public rights of way adjoining or existing on the property, but, recognizing the public nature of Seller, only to the extent such right, title and interest in public rights of way would be conveyed by a private seller to a private buyer in the normal course of a conveyance of real property (collectively, the "Property").
2. Purchase Price. The purchase price for the Property (the "Purchase Price") is \$4,500,000.00. Within 15 days after Seller delivers to Buyer written evidence that Seller has satisfied the Property Control Contingency (as defined and described in Section 16 below), Buyer will pay \$25,000.00 (the "Deposit") to an interest bearing escrow account with Lawyers Title Insurance Corporation ("Title Company"), 2398 E. Camelback Road, Suite 350, Phoenix, AZ 85016, with interest accruing to Buyer. Such interest shall be included in any refund of the Deposit hereunder. Any amounts required to be deposited by Buyer with the Escrow Agent pursuant to the terms of this Agreement may, at Buyer's election, be allocated pursuant to an irrevocable letter of credit existing in favor of Escrow Agent. The balance of the Purchase Price after application of any deposits made pursuant to this Agreement will be paid through the Escrow upon closing of this sale ("Closing") by certified check or Federal wire transfer. Contemporaneously with the execution and delivery of this Agreement, Buyer has paid to Seller, as further consideration for this Agreement, the receipt of which Seller hereby acknowledges, the sum of One Hundred Dollars (\$100.00) (the "Independent Consideration"), in addition to the Deposit and the Purchase Price and independent of any other consideration provided hereunder, which Independent Consideration is fully earned by Seller and is not refundable under any circumstance. The Deposit, once made, shall be fully refundable to Buyer until the date that is 10 days after Buyer's satisfaction of the Real Estate Committee Contingency set forth in Section 16(d) and thereafter shall be nonrefundable except as set forth in Section
3. Escrow. This Agreement will be delivered as escrow instructions to establish an escrow (the "Escrow") with Title Company as escrowholder ("Escrow Agent"). Escrow fees are subject to approval of Buyer and Seller. Not less than five (5) business days prior to Escrow Closing, Seller shall execute the deed for the Property and deliver it to Title Company to hold until Closing. If there is any inconsistency between any escrow instructions and this Agreement, this Agreement shall control.
4. Survey. Buyer shall obtain a survey of the Property (the "Survey") suitable to Buyer and Title Company, containing the certification of the surveyor of the number of net square feet contained in the Property, exclusive of any land lying within roadways, streets, highways, alleys, canals, wetlands, flood plains or rights of way or areas that are, by

dedication or easement or use over time, open to public use (the "Net Square Feet"). The Survey will show each Schedule B exception contained in the Commitment and its effect on the Property.

5. Title Review. The Title Company shall, at Seller's expense, provide Buyer with a commitment for an ALTA owner's title policy on the Property (the "Commitment"), and copies of all instruments shown by the Commitment as exceptions. Buyer shall deliver or cause to be delivered to Seller a copy of the Commitment and the underlying exception documents. At Closing Seller shall pay and release all amounts secured by mortgages, deeds of trust or other liens on the Property ("Monetary Liens") and terminate all existing tenancies or rights to possession of the Property ("Tenancy Rights"). Buyer shall have 30 days after receipt of the Commitment, Survey and copies of all documents constituting exceptions to title and survey (the "Review Period"), to review the Commitment and Survey. If Buyer objects to any matters in the Commitment or Survey, Buyer shall notify Seller in writing. Within 30 days of receipt of notice, Seller shall clear the title of the matters to which Buyer objects. If Buyer does not either accept or object to the Commitment and Survey within the Review Period, Buyer shall be in default and Seller may give Buyer notice pursuant to Section 9. Except for Monetary Liens, Tenancy Rights and matters to which Buyer objects, exceptions contained in the Commitment are the "Permitted Exceptions". The Permitted Exceptions shall not be deemed to include any of the standard exceptions to coverage found in the Commitment or the Policy. If the Commitment is amended or supplemented after Buyer has submitted its objections to Seller, the same time periods, procedures and notices for objections and clearance of title shall apply to matters disclosed thereby.
6. Title Insurance and Deed. At Closing, Seller shall convey marketable fee simple title to the Property to Buyer, by general warranty deed in a form acceptable to Buyer, subject only to the Permitted Exceptions. The deed shall specifically list the Permitted Exceptions on an exhibit and shall not contain language such as or similar in context to "subject to all matters of record." Buyer shall obtain at Closing, at Seller's expense, a standard form ALTA Owner's Title Insurance Policy (the "Policy") issued by the Title Company, insuring marketable fee simple title to Buyer in the full amount of the Purchase Price and containing no exceptions or conditions other than the Permitted Exceptions. Buyer has the right to elect to obtain an ALTA extended coverage title insurance policy and such endorsements to the Policy as Buyer may require. Buyer will be responsible for the increase in premium between a standard form policy and an extended form policy and the costs of any endorsements other than endorsements obtained by Seller to cure Buyer's title objections as set forth in Section 5.
7. Risk of Loss and Condemnation. Until Closing, Seller has the risk of loss or damage to the Property. If any loss or damage occurs prior to Closing, Buyer may, at its option, either (i) cancel this Agreement and receive a refund of the Deposit, or (ii) accept the Property with the Purchase Price reduced by the cost of replacement or repair. If all or any part of the Property is condemned or any condemnation action or proceeding is commenced prior to Closing, Buyer may, at its option, either (a) cancel this Agreement and receive a refund of the Deposit, or (b) complete the purchase, with all condemnation proceeds and claims being assigned to Buyer.
8. Taxes and Assessments. Seller acknowledges it is exempt from paying real estate taxes, but the Underlying Sellers (as defined in Section 33 below) may not be. Therefore, notwithstanding Seller's tax-exempt status, taxes for all prior years and any taxes which become due or which are levied as a result of a change in the use of the Property in implementing Buyer's plan for the development of the Property shall be Seller's responsibility. If Seller's closing with the Underlying Sellers occurs before the

tax rate is fixed for the then-current year, Seller will ensure that taxes for such closing are apportioned upon the basis of the tax rate for the preceding year applied to the latest assessed valuation, to be adjusted between the parties based on actual taxes for the year in which such closing occurs at the time actual taxes are determined. Seller will ensure the Underlying Sellers shall each deliver its prorated share of taxes plus an additional five (5) percent to Escrow Agent for payment to the taxing authority before delinquency based on the amount of prorated taxes for the entire tax parcel multiplied by the percentage derived by dividing the number of square feet contained in the applicable portion of the Property by the number of square feet contained in the tax parcel as a whole with an equitable adjustment for any improvements that affect taxes. Seller shall ensure that the Underlying Sellers do not allow such taxes to become delinquent prior to the closing with Underlying Sellers. Assessments, either general or special, for improvements completed prior to Closing, whether matured or unmatured, shall be the responsibility of Seller (including all principal and interest), as shall rollback taxes. The Seller will provide to Buyer such real property tax information for the Property as Buyer requests. Any Federal, state and local documentary or revenue stamps, transfer, sales and other taxes relating to the sale of the Property shall be paid by Seller at Closing and both parties agree to execute any tax forms required.

9. Notice of Default. In the event either party is in default of any provision hereof, including pursuant to Section 19, the non-defaulting party, as a condition precedent to its remedies, must give the defaulting party written notice of the default in strict accordance with the notice requirements of Section 18. The defaulting party shall have ten business days from receipt of such notice to cure the default. If the default is timely cured, this Agreement shall continue in full force and effect. If the default is not timely cured, the non-defaulting party may pursue its applicable remedies set forth in Sections 10 or 11.
10. Remedies of Seller. If Buyer defaults under this Agreement, Seller's sole and exclusive remedy shall be to retain the Deposit as liquidated damages, and cancel this Agreement with Buyer responsible for the payment of any escrow cancellation fees. The parties acknowledge that: (i) it would be impracticable to fix the actual damages suffered by Seller as a result of such default; and (ii) the amount of the liquidated damages represents a fair and reasonable compensation to Seller for such default.
11. Remedies of Buyer. If Seller defaults under this Agreement, Buyer may, at its option, (a) cancel this Agreement in which case the Title Company is irrevocably instructed to return the Deposit, to Buyer, Seller shall be responsible for any escrow cancellation fees and Buyer may recover from the Seller all reasonable expenses paid or incurred by Buyer in connection with this Agreement, or (b) proceed with this Agreement and purchase the Property pursuant to this Agreement, subject to an abatement in the Purchase Price or (c) pursue any other legal or equitable remedy, including without limitation a suit for specific performance; provided, however, that if specific performance is not an available remedy because of Seller's wrongful conveyance of the Property to a third party or any other wrongful acts of Seller, Buyer shall have the right to pursue any other legal or equitable remedy under applicable law.
12. Right of Entry and Inspection. Seller shall obtain, through the Underlying Agreements (as defined in Section 33 below), the right for Buyer or its authorized agents (whether directly or by assignment by Buyer of the Underlying Agreements to Seller as contemplated pursuant to Section 33 below), at Buyer's sole expense, to enter upon the Property for any lawful purpose, including making Inspections (as defined below) and erecting signs Buyer deems necessary. Buyer may select qualified professionals to make "Inspections" (including tests, borings, surveys, studies, inspections, investigations

and interviews of persons familiar with the Property) concerning the Property, including but not limited to tests of structures, wells, septic tanks, underground storage tanks, soils, geologic hazards, utility lines and systems and environmental hazards. Buyer shall order the Inspections within 30 days of receipt of the Survey. Buyer shall keep the Property free of any liens, and repair any material physical damages to the Property arising from the Inspections. If any Inspections disclose matters unsatisfactory to Buyer, which Seller is unable or unwilling to correct at Seller's expense, Buyer may cancel this Agreement and receive a refund of the Deposit. In the event that, during the course of the Inspections, Buyer or its agents shall enter upon the Property and place any equipment or install any borings (including monitoring wells) upon the Property, and in the further event that this Agreement is terminated prior to the removal of such equipment or capping of the borings, Buyer, through its agents, shall have, and Seller hereby grants to Buyer, a temporary license of up to 90 days to enter upon the Property to remove such equipment or properly cap the borings. This provision shall survive the termination of this Agreement. Seller hereby grants Buyer a non-exclusive license to enter the Property at any time to remove any monitoring wells or other improvements placed upon the Property during the Inspections and to perform the repairs described above. Such license shall expire 90 days after the date this Agreement is terminated.

13. Brokerage Fees. Buyer shall be responsible for the payment of a brokerage fee or commission, payable only upon Closing, to Jason Price of Price Properties ("Buyer's Broker"), pursuant to the terms of a separate written agreement. Seller shall be responsible for the payment of a brokerage fee or commission, payable only upon Closing, to Ted Rebitzer of Real Estate Advisors LLC ("Seller's Broker"), Seller's broker, pursuant to the terms of a separate written agreement. Both parties represent that no other broker is involved in this Agreement and each party indemnifies the other against brokerage or commission claims arising out of the indemnifying party's actions.
14. Seller's Warranties. Seller makes the following representations and warranties which are true and accurate as of the date of this Agreement and as of Closing:
 - (a) Seller has no knowledge of any violations of city, county, state, federal, building, land use, fire, health, safety, environmental, hazardous materials or other governmental or public agency codes, ordinances, regulations, or orders with respect to the Property, or any lands adjacent to the Property.
 - (b) No litigation is pending, threatened or likely with respect to the Property, Seller's interest therein, or which would inhibit Buyer obtaining clear title to the Property.
 - (c) Seller has no knowledge of any facts concerning the Property that would adversely affect the ability of Buyer to develop the Property as a retail facility.
 - (d) The Property is not contaminated with, nor threatened with contamination from outside sources by, any chemical, material or substance to which exposure is prohibited, limited or regulated by any federal, state, county, local or regional authority or which is known to pose a hazard to health and safety and the Property has never been used for a landfill, trash pit, dump site, underground improvements, storage of hazardous or regulated substances, or by a manufacturer of any product or for any other industrial use, nor is the Property subject to any wetlands or other environmental limitation.
 - (e) Except as disclosed to Buyer in writing, there are no unrecorded leases, arrangements, agreements, understandings, options, contracts, or rights of first refusal affecting or relating to the Property in any way.

- (f) Except to the extent this Agreement provides otherwise, the Property will remain in the condition existing as of the execution of this Agreement until Closing.
 - (g) The individual signing this Agreement on behalf of Seller has the authority to bind the Seller to the agreements set forth herein.
 - (h) At Closing all utility services including water, gas, electrical, telephone and sanitary sewer to the Property will be available at no expense to Buyer except customary tap in fees.
 - (i) The Property does not contain sinkholes, caverns, faults, conduits, voids, mines, or other geological anomalies which could affect the development of the Property.
15. Environmental Indemnity. Seller hereby indemnifies and agrees to defend and hold Buyer harmless from all claims, costs, liabilities, judgments or expenses resulting from any representations and warranties in Section 14(d) being untrue. Seller agrees, at its sole cost and expense, to perform all acts necessary to cause the Property to comply with all federal, state and local environmental laws, rules and regulations. Buyer may postpone Closing until Seller does so, or, postpone Closing and undertake actions necessary to fulfill Seller's obligations hereunder and receive a credit against the Purchase Price for the expenses incurred by Buyer in fulfilling Seller's duties hereunder.
16. Contingencies.
- (a) Governmental Approvals. This Agreement is conditioned on Seller obtaining, at its sole cost and expense, all approvals deemed necessary by Buyer for its use of the Property, including, without limitation, replatting and rezoning of the Property to Buyer's satisfaction and all permits and approval required for Seller to complete the Grading and Demolition and any other work to be performed by Seller ("Seller Governmental Approvals"), and Buyer obtaining, at its sole cost and expense, all approvals, permits and licenses deemed necessary by Buyer for the construction of its planned facilities, subject only to conditions and stipulations acceptable to Buyer (the "Buyer Governmental Approvals") (together, Seller Governmental Approvals and Buyer Governmental Approvals, the "Governmental Approvals"). Each party shall reasonably cooperate with the other party in the pursuit of the Governmental Approvals including, without limitation, executing any application necessary to obtain each and every Governmental Approval. Buyer shall have the right to review and approve any and all submittals by Seller for any Seller Governmental Approval. "Final Approval" of the Governmental Approvals shall be the date when: (i) all of the Governmental Approvals have been reviewed and finally approved by the appropriate governmental agencies, (ii) any ordinances with respect thereto have taken effect, (iii) the time has passed for appeal of all Governmental Approvals, (iv) no notice of referendum or initiative with respect to any Governmental Approval has been published or publicized and (v) any appeals or litigation with respect to (iii) or (iv) above have been prosecuted and resolved in a manner which is satisfactory to Buyer and is not subject to remand to lower courts or governmental agencies. If Final Approval has not occurred on or before the expiration of the Feasibility Period, as the same may be extended, Buyer may, at its option, either (a) terminate this Agreement, in which case this Agreement shall be of no further force and effect, and Title Company is irrevocably instructed to return to Buyer the Deposit, or (b) waive some or all parts of this contingency, (with or without imposition of further conditions not involving additional dollar

expense by Seller) at Buyer's sole and absolute discretion, and proceed with the Closing.

- (b) Feasibility Period. Buyer shall have a 180-day period from the later of (i) the date the Seller satisfies the Property Control Contingency in subsection (c) below or (ii) the date Buyer satisfies the Real Estate Committee Contingency in subsection (d) below (the "Feasibility Period") to determine the feasibility of Buyer's planned development of the Property. At any time prior to the end of the Feasibility Period, the Buyer may, for any reason in its sole and absolute discretion, cancel this Agreement; provided, however, that from and after 10 days after the later of (i) Buyer's satisfaction of the Real Estate Committee Contingency set forth in subsection (d) below or (ii) Seller's satisfaction of the Property Control Contingency set forth in subsection (c) below, then in the event of any subsequent cancellation the Deposit (and any Additional Deposit) shall be nonrefundable to Buyer except in the event of a termination pursuant to Sections 7, 11, 15, 16(a), 16(f), 16(g) or 16(h). Buyer may extend the Feasibility Period for an additional three (3) months by giving written notice to Seller of such extension on or before the expiration of the original Feasibility Period and placing an additional \$10,000.00 (the "Additional Deposit") into escrow with Escrow Agent for such extension.
- (c) Property Control Contingency. Seller acknowledges Seller does not currently own fee title to the Property, the Property comprises multiple individual parcels of real estate owned by distinct owners (collectively, the "Underlying Sellers"). This Agreement shall be contingent (the "Property Control Contingency") on Seller, on or before the date that is 60 days from the Effective Date (the "Property Contingency Date"), (i) negotiating and entering into purchase agreements (collectively, the "Underlying Agreements") with each of the Underlying Sellers (ii) negotiating and entering into lease termination (the "Lease Terminations") and/or relocation agreements for any tenant of the Property ("Tenant Relocations") and (iii) providing Buyer with a copy of the fully executed Underlying Agreements, Lease Terminations and Tenant Relocations on or before the Property Contingency Date. Seller shall be solely responsible for negotiating and entering into the Underlying Agreements and the Lease Terminations and for satisfying any conditions in such agreements. Seller shall ensure that the Underlying Agreements, any Lease Terminations and any Tenant Relocations will contain rights in favor of Seller, including assignment and inspection rights, sufficient to enable Buyer to conduct its Inspections and other due diligence regarding the Property and the project. See Section 33 below for further requirements and representations relating to the Underlying Agreements. Notwithstanding the above, Seller shall have the right, on a one-time basis, to extend the Property Contingency Date by 60 days by giving written notice to Buyer of such extension on or before the Property Contingency Date. In the event Seller extends the Property Contingency Date, such extension shall automatically extend the Feasibility Period by such 60 days and not affect Buyer's right to extend Feasibility Period as set forth above.
- (d) Real Estate Committee Contingency. Notwithstanding anything to the contrary set forth herein, in the event that Buyer does not obtain approval of this Agreement and the transaction contemplated thereby from its real estate committee within 60 days of Seller's satisfaction of the Property Control Contingency, then Buyer shall provide Seller with written notice of its failure to obtain such approval (the "Buyer Notice"), and any time within 20 days of receipt

of the Buyer Notice Seller may, at its option and without constituting a default under this Agreement, elect to terminate this Agreement by delivering written notice to Buyer and upon the delivery of such notice this Agreement shall terminate and any Deposit shall be paid to Buyer.

- (e) Escrow Closing. In the event that Buyer does not terminate this Agreement prior to the expiration date of the Feasibility Period, as the same may be extended, then upon such date (the "Escrow Closing Date") that is within 45 days after the later of (i) the expiration of the Feasibility Period, as the same may be extended, or (ii) the date Seller acquires the Property in fee pursuant to the Underlying Agreements, Buyer shall deliver to Escrow Agent an irrevocable letter of credit (the "Letter of Credit") in the name of Seller and Escrow Agent in the amount equal to the Purchase Price less the amount of the Deposit and the Additional Deposits (the "Purchase Price Deposit"), provided the following conditions have been satisfied (the "Escrow Conditions"):
- (i) This Agreement remains in full force and effect and there is no existing uncured default under this Agreement and all conditions required for the Closing have been satisfied;
 - (ii) Seller and Escrow Agent have each executed and delivered to Buyer the Escrow Agreement;
 - (iii) Seller shall have executed the deed subject to the Permitted Exceptions as required herein and Buyer and Seller shall have executed and/or delivered all other information and documents required hereunder to effectuate Closing (collectively, the "Closing Documents") and delivered such Closing Documents to Escrow Agent to hold until Closing;
 - (iv) All conditions and contingencies of this Agreement other than the Release Conditions have been satisfied, including, without limitation, Final Approval of all Seller Governmental Approvals and Buyer Governmental Approvals.
 - (v) In the event any parcel comprising the Property is subject to a lease, then Seller has delivered to Buyer written confirmation that all leases have been terminated pursuant to the Lease Terminations, any and all conditions to the relocation of any tenants have been satisfied and the relocations have been completed pursuant to the Tenant Relocations and no party remains in possession of or has an interest in the Property other than Seller.

The Purchase Price Deposit shall be applicable to Purchase Price For purposes of this Agreement, the term "Escrow Closing" shall be deemed to refer to the delivery by Buyer of the Letter of Credit, the executed Escrow Agreement, the executed Closing Documents applicable to Buyer (collectively, the "Buyer Deliverables") to Escrow Agent following satisfaction of the Escrow Conditions. If Buyer shall fail to deliver the Buyer Deliverables to the Escrow Agent on the Escrow Closing Date, then Buyer shall be in default hereunder and Seller shall give Buyer notice in accordance with Section 18 herein and if Buyer fails to timely cure such default, then Seller may exercise its remedies under Section 10 herein. If Seller shall fail to deliver the executed Escrow Agreement, the executed and acknowledged Deed, the executed Closing Documents

applicable to Seller or fails otherwise to satisfy any Escrow Conditions on the Escrow Closing Date (collectively, the "Seller Deliverables"), then Seller shall be in default hereunder and Buyer may give Seller notice in accordance with Section 18 herein and if Seller fails to cure such default, then Buyer may exercise its remedies set forth in Section 11 herein. In addition, in the event Seller has not satisfied its obligations and Escrow Conditions on or before 60 days following the expiration of the Feasibility Period, as the same may be extended, then Seller shall be in default hereunder and Buyer may give Seller notice in accordance with Section 18 herein and if Seller fails to timely cure such default, then Buyer may exercise its remedies under Section 10 herein.

The term "Closing" shall be deemed to refer to the release of the Purchase Price Deposit to Seller, the recording of the Deed and the delivery of the Closing Documents to the applicable parties upon the satisfaction of the Release Conditions (as defined below), all in accordance with the terms of the Escrow Agreement. The Escrow Agreement shall set forth the procedures for Closing upon the satisfaction of the below conditions (the "Release Conditions"):

- (aa) This Agreement remains in full force and effect, there is no uncured default under this Agreement and all conditions required for the Closing have been satisfied;
- (bb) Buyer has not delivered an Environmental Notice under Section 16(f) herein, or if Buyer has delivered an Environmental Notice, then (i) Seller has either paid for the cost of the Clean-Up, (ii) Seller has performed the Clean-up to Buyer's satisfaction prior to Closing, (iii) or Buyer in its sole discretion has elected to proceed to Closing and perform the Clean-Up itself subject to a Purchase Price credit in the amount of an Environmental Correction Amount.
- (cc) Buyer has not delivered an Inspections Notice under Section 16(h) herein, or if Buyer has delivered an Inspections Notice, then (i) Seller has either paid for the cost to correct the Changed Condition to the Property, or (ii) Seller has corrected the Changed Condition to the Property to Buyer's satisfaction at Seller's cost prior to Closing.
- (dd) Escrow Agent confirms that no liens or encumbrances have been recorded or levied against the Property after the Escrow Closing Date without Buyer's prior written approval, and the Property is not subject to any Monetary Liens, and Seller has provided Escrow Agent with an updated owner's affidavit in form satisfactory to Buyer and Escrow Agent.
- (ee) Seller shall have demolished and removed all improvements existing on the Property and shall have performed and completed rough grading upon the Property ("Demolition and Grading") to Buyer's satisfaction and to Buyer's standards.
- (ff) Storm Water. Buyer shall be satisfied that the Property is in compliance with all Storm Water Requirements and the NOT has been filed (each as defined below).

Seller shall not, through any action or inaction of Seller, consent to or permit the recording of additional liens or encumbrances against the

Property from the date of the Escrow Closing to the date of Closing, or Seller shall be in default hereunder and Buyer may exercise its remedies set forth under Section 11 herein.

The Purchase Price Deposit shall be non-refundable (but remain applicable to the Purchase Price) to Buyer, provided, however, such Purchase Price Deposit shall be immediately refundable to Buyer in the case of any cancellation of this Agreement pursuant to Sections 7, 11, 15, 16(a), 16(g) or 16(h). The Closing shall occur on the date (the "Closing Date") that is 30 days after the satisfaction of the Release Conditions. Prior to Closing, the parties shall execute and deliver to Escrow Agent a settlement statement that reflects the proration of taxes and other expenses as set forth in this Agreement. At the Closing, Escrow Agent shall release the Purchase Price Deposit to Seller in accordance with the terms of the approved settlement statement, record the deed in the real property records of Rock Island County, Illinois and deliver the Closing Documents to the respective parties. The Escrow Agreement shall provide that in the event Seller has not satisfied its Release Conditions on or before 90 days following the Escrow Closing Date, as the same may be extended, then Seller shall be in default hereunder and Buyer may give Seller notice in accordance with Section 18 herein and if Seller fails to timely cure such default, then Buyer may exercise its remedies under Section 10 herein.

- (f) Escrow Agreement. Prior to the expiration of the Feasibility Period, Buyer and Seller shall negotiate a form of Escrow Agreement that will set forth the terms of the Escrow Closing and the Release Conditions for the Closing subject to the requirements outlined herein. If, despite their good faith efforts, Buyer and Seller are not able to agree to an Escrow Agreement prior to the expiration of the Feasibility Period, then either party may thereafter terminate this Agreement and in the event of such termination the Deposit shall be paid to Buyer; provided, however, that each of Buyer and Seller may void the other party's termination of this Agreement by agreeing to such other party's form of Escrow Agreement.

- (g) Contamination Discovered After Escrow Closing. During the Feasibility Period, Buyer may obtain from an environmental consultant a Phase I Environmental Site assessment of the Property, a Phase II Limited Site Investigation or such other environmental reports (each, an "Environmental Report", and collectively, the "Environmental Reports") as may be necessary to determine whether the Property is affected by Contamination or otherwise complies with all federal, state and local environmental laws, rules and regulations (the "Environmental Laws"). In the event that any of the Environmental Reports are amended or supplemented after the Escrow Closing and such amended or supplemented Environmental Reports reveal new information or test results that indicate that the Property is affected by Contamination or does not otherwise comply with all Environmental Laws, Buyer may, at its sole option, provide written notice to Seller (the "Environmental Notice") within 15 business days after its receipt of such amended or supplemented Environmental Reports and Buyer may in its sole discretion elect to (i) cancel this Agreement and receive a refund of the Deposit, the Additional Deposits and the Purchase Price Deposit, as applicable, (provided, however, that Seller may void Buyer's termination of this Agreement under this Section by either agreeing to pay for the cost of the Clean-Up to Buyer's satisfaction, or performing the Clean-Up to Buyer's satisfaction prior to

Closing, and the payment of such sums or the performance of the Clean-Up shall be deemed a condition to Buyer's obligation to proceed to the Closing) or (ii) perform the Clean-Up at its own cost and expense subject to a Purchase Price credit at Closing for the cost to clean-up the Contamination, up to the Environmental Correction Amount, or (iii) waive such objection.

- (h) Change in Condition of Property After Escrow Closing. During the Feasibility Period, Buyer shall conduct its Inspections of the Property in order to satisfy itself of the condition of the Property. In the event that any Inspections of the Property after the Escrow Closing reveals any change in the condition of the Property that adversely affects Buyer's proposed development of the Property (a "Changed Condition"), then Buyer may at its sole option, provide Seller with written notice (the "Inspections Notice") detailing the Changed Condition and Buyer may in its sole discretion elect to (i) cancel this Agreement and receive a refund of the Deposit, the Additional Deposits and the Purchase Price Deposit, as applicable, (provided, however, that Seller may void Buyer's termination of this Agreement under this Section by either correcting the Changed Condition to Buyer's satisfaction at Seller's sole cost and expense prior to Closing, or by agreeing to pay for the cost to correct the Changed Condition prior to Closing, and the correction of the Changed Condition or the payment of such sums to correct the Changed Condition shall be deemed a condition for Buyer to proceed to Closing), or (ii) waive such objection.
- (i) Government Funding. During the Feasibility Period, Seller shall use diligent and good faith efforts to pursue and secure those economic incentives benefitting the proposed development of the Property and Buyer which Seller has previously proposed, including, without limitation, enterprise zone incentives such as property tax rebates by the City of Rock Island and the Rock Island Milan School District #41, an Investment Tax Credit, a Retail Sales Tax Waiver and a Job Tax Credit (per eligible person hired); provided, however, the terms of any such incentives must be approved by Buyer and not be detrimental to the project or Buyer's business.
- (j) Storm Water. In connection with the Demolition and Grading and any other earth-disturbing activities performed by Seller prior to Closing, Seller shall be responsible for filing a Notice of Intent for coverage to the Illinois Environmental Protection Agency Division of Water Pollution Control Permit Section and for obtaining, maintaining and terminating a comprehensive Storm Water Pollution Prevention Plan ("Comprehensive SWPPP") for the Property which meets the requirements of all applicable federal, state or local laws, regulations, ordinances, permits or other authorizations, approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, including but not limited to the Clean Water Act, 33 U.S.C. § 1251 et seq. and the 2008 NPDES General Permit for Stormwater Discharges From Construction Activities (the "EPA Permit") and applicable general permit authorization to discharge storm water under the National Pollutant Discharge Elimination System/State Disposal System Permit Program, and if applicable, any replacement permit for the same that may become effective (the "Storm Water Permit") and any applicable state statutes or requirements of the Illinois Environmental Protection Agency or the Illinois Pollution Control Board (collectively, the "Storm Water Requirements").

Seller shall, prior to the Closing, satisfy all requirements for terminating its Storm Water Permit and Comprehensive SWPPP, including submitting a Notice of

Termination (“NOT”) to Illinois Environmental Protection Agency for the termination of its Storm Water Permit and Comprehensive SWPPP, and shall take all other necessary steps to terminate its Storm Water Permit and Comprehensive SWPPP. In the event Seller fails to satisfy this condition prior to the expiration of the Closing, then Buyer may (i) delay the Closing until such time as stabilization has occurred and the Storm Water Permit and Comprehensive SWPPP have been achieved or (ii) terminate this Agreement and the Deposit will be returned to Seller. Buyer’s obligation to close is conditioned on upon its receipt of written evidence that the Illinois Environmental Protection Agency has accepted Seller’s Notice of Termination and any other evidence sufficient to satisfy Buyer that its Storm Water Permit has been terminated.

In the event Seller satisfies all requirements set forth in the IPCA Permit for termination of its Storm Water Permit, and the IPCA nonetheless will not allow Seller to terminate its Storm Water Permit before closing, and it is not otherwise within Seller’s control to terminate its Storm Water Permit before closing, then Buyer’s obligation to close shall not be conditioned on Seller’s termination of its Storm Water Permit. Instead, Buyer’s obligation to close shall be conditioned on its receipt of the results of a storm water compliance audit (the "Storm Water Audit") conducted by Buyer or its agents confirming that Seller has complied with all of the terms and conditions of the Comprehensive SWPPP and the Storm Water Requirements, and that the Property satisfies the requirements of Final Stabilization as defined in the EPA Permit. Seller shall, at its sole cost and expense, take all actions necessary to promptly cure any deficiencies identified in the Storm Water Audit. Furthermore, Buyer’s obligation to close shall be conditioned upon the Seller’s satisfaction of all requirements for “Change of Coverage” set forth in the EPA Permit and Seller’s satisfaction of any other steps necessary to transfer its Storm Water Permit to Buyer.

17. Information. Within ten days after the date of this Agreement, Seller shall provide Buyer with copies of all surveys, site plans, studies, engineering reports, environmental studies, agreement pertaining to any water rights or supply, matters similar to the results of Inspections and other materials prepared for Seller, in Seller’s possession or available to Seller relating to the Property and shall disclose in writing any other reports of which Seller is aware. If this Agreement is canceled, the information provided will be returned to Seller; otherwise, Buyer may retain the information. Seller shall disclose any material changes with respect to any information contained in this Agreement which occur prior to Closing.

18. Notices. All notices and communications required or permitted to be given hereunder shall be in writing and hand delivered or mailed by certified or registered mail, postage prepaid, or by Federal Express, Airborne Express, or similar overnight delivery service, addressed as follows:

If to Seller:

City of Rock Island, Illinois
1528 Third Avenue
Rock Island, IL 61201
Attention: Thomas Thomas

If to Buyer:

Price Properties, LLC
Suite G-50
1200 Corporate Drive
Birmingham, AL 35242
Attention: Jason Price
ACRE # _____

With Copy To:

Kutak Rock LLP
1650 Farnam Street
Omaha, NE 68102
Attention: Margot J. Wickman
ACRE # _____

Notice shall be deemed to have been given upon receipt or refusal.

19. Closing. Escrow Closing shall occur as set forth in Section 16(e) above. Closing (as further defined in Section 16(f)) shall occur at a place and time mutually agreed upon by the parties, within 45 days following the date when all the Release Conditions have been satisfied, as set forth in Section 16(f) and as may be further set forth in the Escrow Agreement. Seller shall deliver to Buyer and Title Company all information and documents required of it for Closing at least five (5) days prior to Closing. If Seller fails to do so, Buyer may, at its option, delay Closing until ten days after all information and documents are delivered. Each party authorizes the Title Company to prepare the settlement statements for the Closing on HUD forms, show both the Buyer and Seller columns on a single settlement statement and disclose to the other party both the Buyer's and the Seller's half of any settlement statement, pre-audit or similar closing statement. Seller shall deliver possession of the Property to Buyer at Closing.
20. Closing Costs. Notwithstanding anything to the contrary contained herein, Closing costs shall be paid as follows:

By Seller (Seller hereby authorizing Title Company to deduct the following expenses from the Seller's proceeds due at Closing):

- (a) Title insurance examination and standard owner's policy premium.
- (b) Expenses of placing title in proper condition.
- (c) Preparation of General Warranty Deed, affidavits and any other documents required to convey title.
- (d) Revenue stamps, transfer tax, documentary stamps or excise tax.
- (e) One-half the escrow fee, if any.
- (f) Brokerage or finder's fees or commissions to Seller's and Buyer's broker, as set forth in Section 13.

By Buyer:

- (a) Recording fees.

- (b) One-half the escrow fee, if any.
- (c) Cost difference, if any, between extended owner's title policy and standard owner's title insurance policy and any endorsements for which Buyer is responsible pursuant to Section 6.

21. Time of Essence. Time is of the essence of this Agreement.
22. Entire Agreement. This Agreement contains the entire agreement between Seller and Buyer, and there are no other terms, conditions, promises, undertakings, statements or representations, either written or oral or express or implied, concerning the sale contemplated by this Agreement.
23. Headings. The Section headings are for convenience of reference only and do not modify or restrict any provisions hereof and shall not be used to construe any provisions.
24. Modifications and Waiver. This Agreement may be amended only by an instrument in writing signed by both Seller and Buyer. This Agreement may be terminated only in accordance with the terms of this Agreement or by an instrument in writing signed by both Seller and Buyer. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, nor shall any waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the party making the waiver.
25. Successors. This Agreement shall inure to the benefit of and bind the parties hereto and their respective executors, heirs, administrators, successors and assigns. Seller may not assign this Agreement without the prior written consent of Buyer. Buyer may freely assign this Agreement to Wal-Mart Real Estate Business Trust or Wal-Mart Stores, Inc. without consent by Seller and may further assign this Agreement without consent by Seller.
26. Internal Revenue Code. Seller agrees to comply with Section 1445 of the Internal Revenue Code and will complete and submit to Buyer the form attached as Exhibit B.
27. Attorney's Fees; Court Costs. In any action or proceeding arising out of this Agreement, each party shall bear its own attorney's fees, and the prevailing party shall be entitled to recover only court costs from the non-prevailing party incurred by such party in enforcing its rights hereunder. In the event of a legal dispute, the laws of the State where the Property is located shall prevail.
28. Survival. All warranties, indemnities, representations and covenants herein and the provisions of Section 8 shall survive Closing.
29. Dates of Performance. If any date for performance of any obligation hereunder falls on a Saturday, Sunday or nationally established holiday, the time for performance of such obligation shall be extended until the next business day following such date.
30. Enforceability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof.
31. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument.

32. Confidentiality. Seller agrees that it shall keep the transaction evidenced by this Agreement and each of its terms confidential and shall release no information to any third party concerning this Agreement without the express written consent of Buyer, which may be given or withheld in Buyer's sole and absolute discretion.
33. Underlying Purchase. Seller agrees as follows with respect to the Underlying Agreements and its obligations thereunder:
- (a) Seller hereby represents, warrants and covenants that (i) the Seller shall at all times keep the Underlying Agreements in full force and effect, and Seller shall not default thereunder, (ii) the Seller shall close the transaction evidenced by the Underlying Agreement prior to Escrow Closing, (iii) Seller shall provide Buyer with copies of all notices received or delivered in connection with any of the Underlying Agreements, (iv) Seller shall, on or before the Property Contingency Date, provide Buyer with a true and complete copy of each of the Underlying Agreements, and (v) Seller shall not consent to any modification to any of the Underlying Agreements without the express written consent of Buyer in each case.
 - (b) Seller shall, and hereby does, assign to Buyer the right to require specific performance of the Underlying Sellers' obligations under the Underlying Agreements, as well any and all rights of entry to the Property or similar rights to perform Inspections and otherwise conduct Buyer's due diligence.
 - (c) Seller shall, and hereby does, assign to Buyer all representations and warranties made to Seller by the Underlying Sellers.
 - (d) Seller acknowledges that Buyer has not and will not assume any obligation or liability of Seller arising in connection with the Underlying Agreements.
 - (e) Seller shall use Title Company and Escrow Agent for Seller's own acquisitions under the Underlying Agreements.
 - (f) Seller shall use its own surveyor for any survey required by the Underlying Agreements; provided, however, Seller's election to use its own surveyor shall not diminish Buyer's right to obtain its own survey, as contemplated by Section 4 of this Agreement
 - (g) Seller shall provide to Buyer with copies of closing statements for Seller's own purchases no later than five (5) business days before the scheduled Escrow Closing.
 - (h) Seller shall provide to Buyer with copies of Underlying Sellers' deeds at least five (5) business days prior to the Escrow Closing.
 - (i) Seller shall provide Buyer with a gap indemnity satisfactory to Buyer and not contingent upon recordation, that is either (i) executed by Underlying Sellers for the benefit of Buyer or (ii) executed by Underlying Sellers to Seller and freely assignable to Buyer by the Seller.
 - (j) Seller shall provide Buyer with a gap indemnity satisfactory to Buyer and not contingent upon recordation, and executed by Seller.
 - (k) Seller shall provide to Buyer with a tax proration agreement satisfactory to Buyer executed by Underlying Sellers if so requested by Buyer.

(l) Seller shall provide to Buyer any other information requested by Buyer pertaining to Seller's acquisition of the Property.

(m) Seller shall provide Buyer with a copy of the closing instruction letter for Seller's acquisition of the Property at least five (5) business days prior to Escrow Closing.

(n) Seller agrees that if it closes on any purchase of the Underlying Property prior to Purchaser being prepared to close into Escrow Closing, Seller does so at its own risk and Buyer shall have no liability to Seller for such purchase.

34. Repurchase Right. In the event Buyer fails to open its proposed development to the public on the Property fully staffed and stocked for one day not later than 36 months after the date of Closing (the "**Opening Deadline**"), Seller shall have the right (the "**Repurchase Right**") to repurchase the Property by paying to Buyer a payment (the "**Repurchase Payment**") equal to the sum of (i) the Purchase Price, (ii) 5% of the Purchase Price. Seller shall give Buyer written notice of its intention to exercise said Repurchase Right within ninety (90) days of the expiration of the Opening Deadline. In the event Seller fails to exercise its Repurchase Right within such ninety (90) day period, the Repurchase Right shall expire and Seller shall have no further rights with respect to the Property hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THE CITY OF ROCK ISLAND, ILLINOIS, a
municipal corporation

By: _____

Name: _____
City Manager

Date: _____, 2012

PRICE PROPERTIES, LLC, an Alabama limited
liability company

By: _____

Jason Price, Member

Date: _____, 2012

EXHIBIT A TO PURCHASE AGREEMENT

(Depiction or Legal Description of the Property)

EXHIBIT B TO PURCHASE AGREEMENT

(Form of Non-Foreign Affidavit)

ENTITY TRANSFEROR

Personally appeared before me the undersigned officer, duly authorized to administer oaths, _____, who being duly sworn according to law, deposes and says on oath as follows:

1. The undersigned is presently _____ of _____, a _____ limited liability company (the "Company").

2. The undersigned is familiar with the affairs of the Company and has personal knowledge of the facts sworn to in this Affidavit, and is authorized on behalf of the Company to make this Affidavit.

3. The Company is the owner of that certain property (the "Property") described on Exhibit "A" attached hereto and by this reference made a part hereof and the Company has caused to be executed and delivered that certain deed, of even date herewith, conveying the Property to _____, a _____ partnership ("Purchaser").

4. Section 1445 of the Internal Revenue Code provides that a purchaser of a U.S. real property interest must withhold tax if the seller is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the Purchaser that the withholding of tax is not required upon the disposition of the Property by the Company, the undersigned hereby certifies the following on behalf of the Company:

- (a) The Company is not a disregarded entity as defined in Section 1.1445-2(b)(2)(iii);
- (b) The Company's U.S. Employer Identification Number is _____;
- (c) The Company's office address is _____.

5. The Company understands that this certification may be disclosed to the Internal Revenue Service by the Purchaser and that any false statement contained herein could be punished by fine, imprisonment, or both.

6. Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Company.

GIVEN under my hand and seal this _____ day of _____, 200__.

Sworn to and subscribed

EXHIBIT B TO PURCHASE AGREEMENT

in the presence of:

Notary Public

_____(SEAL)

My Commission Expires:

[NOTARIAL SEAL]

INDIVIDUAL TRANSFEROR

Section 1445 of the Internal Revenue Code provides that a transferee (buyer) of a U.S. real property interest must withhold tax if the transferor (seller) is a foreign person. To inform the transferee (buyer) that withholding of tax is not required upon my disposition of a U.S. real property interest,

I, _____ hereby certify the following:

1. I am not a nonresident alien for purposes of U.S. income taxation;
2. My U.S. taxpayer identifying number (Social Security Number) is _____.
3. My home address is _____.

I understand that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement I have made here could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete.

Date: _____

INITIAL

