

**ORDINANCE NO. 4146**

**AN ORDINANCE APPROVING AN AGREEMENT OF SALE BETWEEN THE CITY OF CLINTON AND BOHANNAN INVESTMENTS, LLC.**

**WHEREAS**, the City of Clinton is the owner of Lot 14 in Gerhart Industrial Park; and

**WHEREAS**, Lot 14 will subsequently be subdivided and re-platted as Lot 14 and Lot 14A; and

**WHEREAS**, Bohannan Investments, LLC is willing to accept Lot 14A from the City of Clinton to support its business operations, subject to the restrictions and conditions contained in the Agreement;

**NOW, THEREFORE BE IT HEREBY ORDAINED** by the City Council of Clinton, Missouri as follows:

1. The attached Agreement of Sale (Exhibit A) is hereby approved.
2. The Mayor and City Administrator are authorized to execute all documents related to the transaction on behalf of the City of Clinton.
3. This ordinance shall become effective immediately upon its passage and approval as provided by law.

Read both times and passed this 20<sup>th</sup> day of February, 2024.

*Carla Moberly*

Carla Moberly, Presiding Officer

ATTEST:

Ayes 6: Gene Henry, Roger House, Cameron Jackson, Austin Jones, Martha Nichols and Debbie Smith

Nays 0

Absent 1: Shelley Nelson

*Wendee Seaton*

Wendee Seaton, City Clerk

*Carla Moberly*

Carla Moberly, Mayor



## AGREEMENT OF SALE

**Effective Date of Agreement:** February 21, 2024.

**Parties:**

- a) City of Clinton, Missouri, a municipal corporation ("City")
- b) Bohannon Investments, LLC, a Missouri Limited Liability Company ("Buyer")

**WHEREAS**, Buyer desires to relocate its facility to the Gerhart Industrial Park, and,

**WHEREAS**, the City is the current legal owner of Lot 14A lying within the Gerhart Industrial Park as shown on Exhibit A; and,

**WHEREAS**, Buyer is willing to accept the Property from City, and utilize the site to support its operations in the City subject to the restrictions, and conditions contained in this Agreement; and,

**WHEREAS**, the parties wish to formalize and commit to be bound to the terms of their previous verbal agreements by this Agreement; and,

**WHEREAS**, the parties agree that the following exhibits are a part of this Agreement:

- Exhibit A Map of Property
- Exhibit B Restrictive Covenants
- Exhibit C Corporation Special Warranty Deed
- Exhibit D Release of Deed Restrictions

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. **Agreement to Sell and Purchase.** City agrees to sell and convey to Buyer, and Buyer agrees to purchase, all of City's right, title and interest in the Property, described as follows and to be conveyed by Exhibit C attached hereto:

**Lot 14A, Gerhart Industrial Park**

and subject to the restrictive covenants set out in Exhibit B and the other covenants in this contract and deed, including all improvements and easements benefitting or burdening and other rights and privileges pertaining to the Property, upon the terms and conditions contained in this Agreement.

2. **Environmental Assessment and Access to Land.** Buyer, and its respective agents, employees and representatives shall have the right to enter on to the Property at all reasonable times to conduct any inspections, engineering, surveying, soil sampling, soil test borings or environmental studies which it desires at its sole expense. In the event as a result of Buyer's inspections or review of title, Buyer determines in its sole discretion that the Property is not satisfactory, Buyer may terminate this Agreement by delivery of written notice to the City, in which event the parties shall have no further obligations to each other. Any testing or sampling done shall be done so as not to leave any hazardous conditions on the property as a result of the testing. Buyer shall cause the property to be restored after testing to its pre-testing condition.
3. **Consideration.** Buyer shall pay to City the sum of \$8,682.00 as the purchase price in certified funds at closing.

4. **Title Insurance.** The City shall deliver to Buyer a title insurance commitment from Clinton Abstract and Title, insuring fee simple marketable title to the Property. Buyer and City will equally share the cost of an owner's policy of title insurance covering the Property. In the event as a result of Buyer's review of title, Buyer determines in its sole discretion that the Property is not satisfactory, Buyer may terminate this Agreement by delivery of written notice to the City, in which event the parties shall have no further obligations to each other.
5. **Conveyance and Title.** On the closing date, City will convey the Property to Buyer by special corporate warranty deed. The title conveyed shall be marketable fee simple title, free and clear of all liens and encumbrances except encumbrances reflected on the title insurance commitment.
6. **Expenses.** The costs and expenses of the sale by City to Buyer shall be borne by the parties as follows:
  - a) City shall obtain and pay for a staked boundary survey by a registered land surveyor.
  - b) Each party shall bear its own attorney fees with respect to this transaction.
  - c) All other closing costs and expenses associated with closings of this transaction shall be shared equally by the parties.
7. **Closing.** Closing under this Agreement of the conveyance by the City shall occur at a mutually agreed upon time within 45 days of completion of the work called for under paragraphs 2 and 6(a), as soon as can be accommodated by the Title Company and satisfaction of the parties for compliance with the terms of this Agreement. The closing shall occur at Clinton Title and Abstract, 122 W. Jefferson, Clinton, MO, at a time agreed upon by the parties.
8. **Deed and Possession of Property.** City shall deliver to Buyer the deed and possession of the Property, free of all tenancies, liens and encumbrances on the closing date, together with all other documents as may be reasonably necessary to accomplish the conveyance.
9. **Representations and Warranties.** City hereby represents and warrants to Buyer that as of the closing date:
  - a) To the best of City's knowledge, the Property complies with all federal, state, and local laws, conditions and regulations applicable to the ownership and operating thereof, including, without limitation, all applicable zoning laws, environmental laws and all amendments and regulations thereto;
  - b) There is no litigation at law, in equity or in proceedings before any commission or other administrative authority, or any governmental investigations, pending or, to the knowledge of City, threatened against or affecting the Property or City's interest in the Property.
  - c) There currently are not, and at closing there will not be, any leases, agreements or understandings in effect relating to the Property which do or will materially affect the use, ownership, operation or management of the Property.
10. **Buyer's Contingencies.** Buyer's obligations hereunder are expressly conditioned and contingent upon the satisfaction of each of the following conditions precedent; it being acknowledged and agreed that such conditions precedent are included for the exclusive benefit of Buyer, and may be waived, in whole or in part, by Buyer at any time:

- a) Title Matters. Buyer shall have waived or failed to object to the condition of title to the Property, as described in paragraph 5; and any endorsements to the title policy required by Buyer shall be available, as of the closing date.
- b) Evidence of Authority. At the time of execution of this Agreement, City will deliver to Buyer a copy of a signed ordinance establishing the authority of the City's representative to execute this Agreement and convey the Property.
- c) Buyer will have secured a commitment for financing of their improvements to the property on terms satisfactory to Buyer.
- d) Buyer shall have received confirmation of utility service capacity to the property suitable to its needs.

**11. Commitments of Buyer.**

a) Commencement of Project. Buyer agrees to commence construction activities within 12 months of closing date.

b) Reacquisition Right.

1) City shall have the right to reacquire the property for the purchase price set forth in Section 3 Consideration, less purchase price expenses set forth in Section 6 Expenses, if construction activities fail to commence within 12 months of closing date.

2) City shall have right of first refusal if Buyer attempts to sell or transfer the unimproved property within 12 months of closing date. The reacquisition price shall be in accordance with Section 11.b.1.

c) The restrictions of this paragraph will be reflected in the special warranty deed, which restrictions Seller shall release upon Buyer's completion of improvements within the first twelve months of ownership, via the Release of Deed Restrictions in the form attached as Exhibit D.

**12. Default and Remedies.** If any party fails to close this transaction for any reason, the non-defaulting party shall be entitled to any remedies available at law or in equity, including specific performance.

**13. Notices.** All notices or documents to be given pursuant to this Agreement shall be in writing, and shall be given by actual delivery or by mailing the same to the party entitled thereto at the addresses set forth below or at such other address as any party may designate in writing to any other party pursuant to the provisions of this paragraph. Notices or documents given by mail shall be sent by certified United States mail, return receipt requested. Notices or documents shall be served or mailed to the following addresses, subject to change as provided above:

If to the City:           City of Clinton  
                                  105 E. Ohio  
                                  Clinton, MO 64735

If to Buyer:             Bohannon Investments, LLC  
                                  84 NW 300 Road  
                                  Clinton, MO 64735

**14. Time of Essence.** It is agreed by the parties that time shall be of the essence of all provisions of this Agreement, unless extended by mutual consent in writing.

15. **Entire Agreement.** This Agreement constitutes the entire contract between the parties hereto, and there are no other understandings, representations or warranties, oral or written, relating to the subject matter hereof which are not set forth herein. No representations or warranties have been made by the City or anyone on its behalf to Buyer as to the condition of the land herein described or the suitability of the land for the intended use except as herein provided, and it is understood and agreed that the property is sold "as is."
16. **Assignment of Agreement.** The parties shall not have the right to assign this Agreement, in whole or in part, without the prior written consent of all other parties.
17. **Brokerage Commission.** Buyer and City represent and warrant that they have not entered into any agreement giving rise to a brokerage commission or similar compensation by reason of the sale and purchase of the Property. Each party agrees to indemnify and hold harmless from and against any and all claims, costs, damages, expenses, judgments or liability resulting from any claim for brokerage commissions or similar compensation made by any party in connection with the sale and purchase of the Property.
18. **Amendment.** This Agreement may not be changed, modified or amended, in whole or in part, except in writing signed by all parties.
19. **Binding Effect.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.
20. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Missouri. The parties expressly consent to venue for any litigation arising out of this contract being exclusively in the Circuit Court of Henry County, Missouri.
21. **Merger.** Any provisions of this contract which are not fully executed at the time of closing shall not be merged into the deed but shall survive the closing and be enforceable. It is specifically agreed that City's rights of reacquisition and Buyer's obligations to be performed after closing shall survive closing and not merge into the deed.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have caused this Agreement to be duly executed the day and year first above written.

City of Clinton, Missouri

Bohannan Investments, LLC

Carla Moberly  
Carla Moberly, Mayor

Troy Bohannan  
By: Troy Bohannan  
Its: Member

Attest:  
Wendee Seaton  
Wendee Seaton, City Clerk

Attest:  
Deth L. Wilson  
By: Deth L. Wilson

Exhibit A

INSERT NEW PROPERTY MAP SHOWING THE SUBDIVISION OF LOT 14A

Exhibit B

**GERHART INDUSTRIAL PARK  
DECLARATION OF RESTRICTIVE COVENANTS**

**WHEREAS**, City of Clinton is the owner of all of the real property described on the attached Exhibit A (hereinafter sometimes referred to as the "Real Property"); and

**WHEREAS**, City of Clinton is desirous of subjecting the Real Property and all of its interests therein to the indentures, protective conditions, covenants, restrictions, reservations, easements and servitude hereinafter set forth, each and all of which is and are for the benefit of said Real Property and owner(s) thereof and shall run with the Real Property and be binding upon the parties hereto and their successors in title;

**NOW, THEREFORE**, City of Clinton hereby declares that the Real Property, lots and tracts herein described shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

The City of Clinton, fee owner of the following described real property located in the City of Clinton, County of Henry, State of Missouri, same being the real property now duly platted as Gerhart Industrial Park, a subdivision of the City of Clinton, as such plat is now recorded in Plat Book G at Pages 193 & 194 of the records in the Office of the Recorder of Deeds of the County of Henry, State of Missouri, hereby makes the following declarations as to limitations, restrictions and uses to which the lots or tracts constituting such subdivision may be put, and hereby specifies that all such declarations shall constitute covenants to run with all the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations on all future owners in such subdivisions, this Declaration of Restrictions being designed for the purpose of keeping the subdivision desirable, uniform and suitable in design and use as specified herein:

**Section 1. General Provisions**

The Real Property described herein is subjected to this Declaration to ensure the proper use and most appropriate development and improvement of each Building Site thereon, and to further ensure that the Park will always be maintained as an attractive, park-like commercial/industrial development for commercial/industrial enterprises with ample landscaped open areas; attractive high-quality structures; proper and desirable uses and appropriate development and improvements; to protect City, its successors, assigns and mortgagees against improper and undesirable uses of the Real Property; to protect against depreciation in value; to encourage the erection of attractive improvements with appropriate locations; to prevent the haphazard and inharmonious improvement of the Real Property; and to provide generally for the planned, aesthetical development of the Real Property. This paragraph shall be used by City as a standard in judging performance and interpreting the provisions of this Declaration. These covenants are not to replace but are to add to any zoning regulations that may be imposed by the City of Clinton.

**Section 2. Definitions**

- A. **Park.** "Park" shall mean the Real Property comprising the Gerhart Industrial Park which is subject to this Declaration pursuant to Section 1.2 above.
- B. **Building Site, Building Tract or Tract.** "Building Site" or "Building Tract" or "Tract" shall mean any lot, developed lot, Developed Land, Developable Land, tract, tracts, parcel or portions thereof of Real Property as set forth in the deed conveying title or in case of a lease, set forth in the lease and upon which a building or buildings and appurtenant structures is or may be erected, including therein any Real Property subject to recorded easements or right-of-ways or Declarations thereof for any purpose including Common Area purposes, affecting said Real Property within the Park.

- C. Improvements. "Improvements" shall mean any movement of earth or buildings, structures or items installed or constructed upon any portion of the Park.
- D. Developable Land. "Developable Land" shall mean any and all land within the Park which is available for development as a Building Site and shall include any land subject to Common Area usage, recorded easements or right-of-ways or declarations thereof for any purpose affecting said land. Unless expressly excluded herein, "Developable Land" shall always be deemed to include "Developed Land" wherever used herein.
- E. Developed Land. "Developed Land" shall mean any and all Developable Land which is available as a Building Site and upon which construction of Improvements has commenced or has been completed.
- F. Common Areas. "Common Area(s)" shall mean the Roadway, Storm Sewer Facilities, and Utility Easement as those easements or facilities are set forth in the recorded plat hereof. Additionally, the term "Common Area(s)" shall mean all other areas now or hereafter designated by City or its successor for the use of streets, fencing, roads or other common purposes for the common benefit of Owners, their guests, invitees, licensees, tenants, mortgagees and other authorized users thereof. The term "Common Area(s)" shall not include any portion of rights-of-way, roads or other facilities in the Park which extend onto and/or are part of any Developable Land in the Park, except to the extent that the same are actually used for common benefit purposes of more than one Owner in the Park. The term "Common Area(s)" shall collectively include Limited Common areas, as well as General Common Area(s).
- G. Owner. "Owner" or "Owners" shall mean any fee simple owner of any or all parcels, lots, blocks, Tracts or otherwise Real Property or an interest therein with the Park. As of the date of this Declaration, City is the sole Owner within the Center.
- H. City. "City" shall mean the City of Clinton.

### **Section 3. General Restrictions & Requirements**

- A. No building, loading docks or outside storage shall be constructed upon any site within seventy-five (75) feet of any street right-of-way line in existence or proposed by the City or its successor at the time of such construction. No loading docks shall be constructed so as to be at the front of a building or fronting any street.
- B. No building, loading docks or outside storage shall be constructed upon any site within thirty (30) feet of the rear property line and thirty (30) feet of the side property line. All buildings shall front on the street servicing that building. Not more than 50% of the area of any site shall be covered by buildings.
- C. Within the required set-back area from streets there shall be maintained on each site only paved walks, paved driveways, lawns and landscaping.

Walkways shall be 48 inches wide along the entire frontage of each and every street on which the lot abuts. Sidewalks shall be placed in the area of the street right-of-way situated 2 feet behind the back of the street curb, unless it is necessary to curve the sidewalk away from the curb so as to avoid a fire hydrant, street sign, tree or other obstruction; and if it shall be so necessary, the sidewalk shall be uniform and consistent with the grade of the top of the curb along which the sidewalk is constructed. The concrete surface of the sidewalk shall be scored for crack control at 4 foot intervals and broom finished.

Each site shall have a cement concrete driveway entrance leading from the street to its driveway. Driveway curb returns shall be formed with a 50-foot radius and shall be formed to appear integral to the curb to which said returns connect. All walks shall be constructed of Portland cement concrete.

All driveways and permanent parking areas shall be improved with a permanent dust-free surface consisting of a minimum of a 6 inch rolled stone base overlaid with a 4-inch asphalt base surface and a 2 inch wearing course surface, or Portland cement concrete of a minimum of 6 inches thick. At least two-thirds of the surface of the required set-back area from street shall be maintained in lawns or other landscaping. All land parcels shall be properly maintained. Growth of grass and weeds will not exceed five (5) inches in height.

- D. It shall be the obligation of the owner of each tract to maintain the exteriors of all structures and all walks, driveways, lawns and landscaping on such tract in good order, repair and condition. All exterior painted surfaces shall be maintained in first class condition.
- E. It shall be the obligation of the owner to provide no less than one (1) off-street parking space for each two (2) persons employed on the site, and in no event shall there be less than one (1) parking space for each five hundred (500) square feet of floor space in manufacturing areas and not less than one (1) parking space for each two thousand (2,000) square feet of floor space in storage areas contained in any building on the site, and one (1) parking space for each three hundred (300) square feet of gross office area contained in any building on the site. There shall be maintained on each site areas for parking, maneuvering, and unloading trucks which shall be provided in addition to the space provided for employee parking. In addition to the above, adequate visitor or transient employee parking space shall be provided in keeping with the nature of the anticipated use of the site and in no case shall there be parking or storage of vehicles in excess of those directly in the day-to-day operations of the owner at this site.
- F. Outside Storage. Materials, supplies, equipment, finished or semi-finished products or articles of any nature shall only be stored or permitted to remain on any Tract outside of the building(s) thereon provided proper screening is provided, as approved by City. The minimum proper screening shall be a minimum of 8 feet in height. Waste and rubbish storage facilities shall be properly screened from view of adjoining sites and public rights-of-way and shall not be installed, constructed or utilized without prior written consent of City. Such areas shall not be between a primary building and/or public right-of-way. All storage and secondary buildings shall be constructed of the same materials as the primary building.
- G. Landscaping.
  - 1. All Building Sites shall be landscaped in accordance with a plan submitted to and approved in writing by City prior to any development of the Building Site. Such landscaping plan shall include information regarding the type of sodding, the type of seeding, types of trees, hedges and shrubs and other information regarding other customary landscape treatment for the entire site, including fences, walls, beams and screening. Further, it shall be the responsibility of the Owner of a Building Site to landscape and maintain the area between the lot lines of said Owner's Building Site and the curbs of any roadways adjacent to such Building Site. All landscaping shall be undertaken and completed, and thereafter maintained, in accordance with such approved plan, and said plan may not be altered, amended or revised without submitting the revised landscaping plan for prior written approval by City.

2. All landscaping required hereunto or otherwise to be provided on any Building Site shall be completed (completion for such purposes shall include payment therefore) within (60) days after the substantial completion of construction of any buildings to be constructed on the Building Site; provided, however, if weather conditions do not at such time permit, then such landscaping shall be completed as soon thereafter as weather conditions permit, not to exceed 3 months. If any Owner fails to undertake and complete its landscaping within the time limit previously set forth herein, the City may, at its option, after giving the Owner ten (10) days written notice forwarded to Owner (unless within said ten (10) day period the Owner of the Building Site shall proceed and thereafter in good faith pursue with all due diligence the completion of such landscaping), undertake and complete the landscaping of the Building Site in accordance with the landscaping plan. If the City undertakes and completes such landscaping because of the failure of Owner to complete the same, the costs of such landscaping shall be assessed against the Owner, and if said Assessment is not paid within thirty (30) days after written notice of such assessment, said assessment will constitute a lien on the Building Site and may be enforced as set forth herein.
  3. If any Owner, tenant or occupant of any Tract fails to maintain the landscaping of its separate Tract, the City may, in its sole discretion, enter upon the Tract and undertake such landscaping maintenance and/or replacements. All costs of such landscaping maintenance and/or replacements undertaken by City shall also be assessed against the Tract upon which said landscaping maintenance and/or replacements is done, and failure to pay such Assessment shall constitute a lien against the Property.
- H. Maintenance. Each Owner of any Building Site shall keep the buildings, improvements and appurtenances thereto in a safe, clean, well maintained, neat wholesome condition and shall comply in all respects with all governmental statutes, ordinances, regulations, health and police and fire requirements. Each such Owner, tenant or occupant shall remove at its own expense any rubbish, refuse, waste or trash of any character which may accumulate on or about its Building Site. Rubbish, refuse, trash, garbage or other waste shall be kept only in sanitary containers. All equipment for the storage or disposal of such materials shall be kept only in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Rubbish and trash shall not be disposed of by burning in open fires, burial or the like.
- I. Signs. No signs shall be permitted anywhere within the Park without prior written approval of City, and all applicable laws and governmental regulations. The property owners shall be permitted placement of a reasonable number of signs, which shall be conservative and in good taste, for the purpose of identifying the Property or business and advertising the availability of Building Sites and buildings therein, all subject to prior written approval of City.
- J. During Construction. During construction, all Building Sites (and Streets used by construction equipment and crews) shall be kept clean and neat, and all trash, rubbish and debris (and, with respect to Street, mud and dirt) shall be kept removed therefrom during any construction work, with final removal to be accomplished promptly after completion of such work.
- K. Air Conditioning Equipment. No air conditioning or similar equipment which is visible on the exterior of any improvement on a Building Site shall be permitted without the prior written approval of City, which approval shall be based upon, among other things, the adequacy of screening and landscaping of such equipment.

- L. Antennas. No antenna for transmission or reception of radio, television or any other form of electromagnetic signals or radiation shall be erected, used or maintained on any Building site outside any building whether attached to an improvement or otherwise, without the prior written approval of City.
- M. Architectural Control and Material Usage. To preserve the harmony of exterior design and location of Improvements the Tracts as well as all other portions of construction upon Tracts herein restricted, no building, residence, privacy fence or other structure, building improvement or item shall be constructed, commenced, erected or maintained upon any Tract, nor shall any additions, changes or alterations be made thereunto until the plans and specifications showing the nature, square footage, kind, size, shape, front yard setback, height, materials, exterior color scheme, ground frontage and location of the same on the Tract shall have been submitted to and approved in writing by the City. In the event any such plans and specifications are not approved or disapproved within 30 days after their submission, approval shall be deemed to have been given and this Section fully satisfied.
- N. Each site shall be used only for manufacturing, processing, assembling, warehousing, wholesale, office, laboratory, professional, research and development activities. There shall not be permitted any junk or salvage yard or any other use which shall be offensive to the neighborhood by reason of odor, fumes, dust, smoke, noise, vibration or pollution or which will be hazardous by reason of danger of fire or explosion.
- O. Approval. Approval of Plans by City shall be based, among other things, on adequacy of Building Site dimensions, conformity and harmony of external design with neighboring structures, effect of location and use of Improvements on neighboring Building Sites, operations and uses; relation to topography, grade and finished operations and uses; relation of topography, grade and finished ground elevation of the Building Site being improved to that of neighboring Building Sites; adequacy of parking; proper facing of main elevation with respect to nearby streets; and conformity of the plans and specifications to the purpose and general plan and intent of these restrictions.

#### **Section 4. Enforcement & Duration**

- A. Binding Effect. The conditions, covenants, restrictions and reservations, easements and servitude herein contained shall run with the land, and shall be transferred non-exclusively to owners and their heirs, successors and assigns as they acquire an ownership interest in the Real property and be binding upon and inure to the benefit of the Owners, mortgagees, and their respective heirs, legatees, devisees, executors, administrators, personal and legal representatives, successors and assigns, and upon future Owners, mortgagees, optionees and successors in title, and further shall be binding upon lessees, sublessees, tenants, occupants and users of every part and Tract of the center and shall create mutual, equitable servitude upon each Tract in favor of every other such Tract; and shall create reciprocal rights and obligations between and among City and the respective Owners, mortgagees, optionees and successors in title to all Tracts and to the Common Areas and privity of contract and estate between City and all Owners and/or Mortgagees of said Tracts, their respective heirs, legatees, devisees, and executors, administrators, personal and legal representatives, successors and assigns.
- B. Right of Repurchase. If any Owner fails to commence construction of a building upon a Building Site purchased by such Owner within a two (2) year period commencing with the date of a conveyance from City to an Owner, other than City, City shall have the right to repurchase the Building Site at any time within one hundred eighty (180) days after the expiration of said two (2) year period upon giving fifteen (15) days prior written notice of its intention to repurchase to said Owner. The

repurchase price shall be the price paid by Owner for the Building Site when purchased from City plus reimbursement for any real property taxes paid by Owner relating to the Building Site, less the unpaid balance of any mortgage or deed of trust or other amounts, non-payment of which may be assessed as liens against the Building Site. The provisions of this Section shall be specifically enforceable as set forth herein. If City fails to give written notice exercising its right of repurchase within the one hundred eighty (180) day period aforesaid, said right of repurchase shall be deemed waived. "Commencement of construction of a building" as defined herein means that the Owner of the Building Site has (1) obtained approval of City; (2) obtained building permits from the appropriate governmental authorities authorizing construction of the building and improvements as approved by City; (3) entered into a construction contract with a contractor licensed to do business in Missouri for construction of a building; and (4) expended at least the sum of Ten Thousand Dollars (\$10,000.00) pursuant to such construction contract for on-site construction work. The right of Repurchase hereby reserved by City may be assigned by City.

- C. Assignments of City's Rights and Duties. Any and all of the rights, powers and reservations of City herein contained may, upon the prior written approval of City's mortgage lender on the Park, be assigned by City to any person, corporation or association which will assume any or all of the duties of City hereunder, and upon any such person, corporation or association which will assume any or all of the duties of City hereunder, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume City's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by City herein. Upon such assignment, and to the extent thereof, City shall be relieved from all liabilities, obligations and duties hereunder. The term "City" as used herein includes all such assignees and their heirs, successors and assigns.
- D. Enforcement. This declaration may be enforced, as provided hereinafter, by the Owners as well as by the City. Each Owner, by acquiring an interest in a Tract in the park shall be deemed to have irrevocably appointed the City (but not exclusively) for such purposes. The violation of any condition, covenant, restriction, reservation or other provision of this Declaration shall give to the City and the Owners the right to bring proceedings in law or equity against the party or parties violating or attempting to violate this Declaration for injunctive relief, to enjoin any such violation(s) or to cause any such violation to be remedied, or to recover damages resulting from such violation, or both. In addition, violations of any of this Declaration shall give to the City the right to enter upon the premises and remove at the expense of the Owner thereof any structure, thing or condition that may be or exists thereon contrary to the provisions hereof. All provision of this Declaration shall be specifically enforceable by the City hereunder and Owners. If, in the opinion of the City, or any Owner, it shall be necessary to secure the services of any attorney to enforce the provisions of this Declaration, then the fee of such attorney and all other costs and expenses in connection with any contemplated or actual legal proceedings in such connection shall be payable by the Owner of the Tract which is the subject of said proceedings. Every act, omission to act, or condition which violates this Declaration herein contained shall constitute a nuisance and every remedy available in law or equity for the abatement of public or private nuisances shall be available to the Owners and the City. All remedies shall be cumulative and not exclusive.
- E. Duration. The covenants, reservations and restrictions herein created and provided for shall be for a term of twenty-five (25) years commencing with the date hereof and for such additional term or terms as hereinafter provided and the terms and provisions of this Declaration shall be deemed to be and construed as covenants running with the land. Said covenants, reservations and restrictions

shall be automatically extended for successive terms of ten (10) years unless the Owners in and to Tracts within the Center whose Tracts in the aggregate contain more than seventy percent (70%) of the total number of square feet of Developable Land of the Tracts of the Center and the Mortgagees of such Tracts of said Owners shall duly consent (such consent not to be unreasonably withheld) and file in the office of the Recorder of Deeds of Henry County, Missouri, a declaration wherein said Owners and Mortgagees shall agree that said covenants, reservations and restrictions shall either be amended, modified or terminated in part or in full. Notwithstanding anything contained herein to the contrary, the provisions of this Declaration may be amended, terminated, modified or supplemented by one hundred percent (100%) of all Owners in the Park. Additionally, notwithstanding anything contained herein to the contrary, the provisions of this Declaration may be amended, terminated, modified or supplemented by City at any time and from time to time as may be required by any local, state or federal agency, authority, commission or other governmental entity or subdivision thereof having jurisdiction or review authority with respect to any of the provisions of this Declaration, or as may be allowed by any public or private utility provider. Particularly, City reserves the right to supplement this Declaration to designate General Common Areas or Limited Common Areas during a subsequent platting or re-platting of the Real Property.

Should any existing owner desire a variance from the General Restrictions & Requirements as outlined in Section 3 of the Restrictive Covenants, application may be made to the City Council who by a majority vote of the Council during a regularly scheduled meeting of said Council, may grant a variance in accordance with the request. Prior to granting any variance, a public hearing shall be held by the Council, and notice shall be sent to all owners of real property in Gerhart Industrial Park. Said notice shall state the request of variance, and inform the property owners of the date, time and location of the public hearing. Any owner of property in Gerhart Industrial Park shall be afforded the opportunity to state their opinion on any variance request. The decision of the City Council shall be considered final.

- F. No Waiver. All of the conditions, covenants, restrictions and reservations contained in this Declaration shall be construed together, but if it shall at any time be held that any one of said conditions, covenants, restrictions and reservations, or any part thereof, is invalid, such invalidity shall not affect the other Sections of this Declaration. G. Benefits and Burdens. The terms and provisions contained in this Declaration shall bind and inure to the benefit of City, the Owners of all Building Sites located within the property, the Owners of additional Property made subject to this Declaration and their respective heirs, successors, personal representatives, and assigns.
- H. Notice. Any notices required or permitted herein shall be in writing and mailed, postage prepaid by registered or certified mail, return receipt requested, and shall be directed as follows: If intended for a Building Site Owner (a) to the address of the Building Site if improved; (b) if the Building Site is not improved to the address set forth in the purchase contract or purchase contract application; or (c) if none of the foregoing to the last known address of the Owner.
- I. First Refusal. If any Owner or Owners of a Building Tract with the exception of City shall desire at any time to sell or lease the Building Tract, they shall first give City at least (7) days prior written notice of receipt of an extended offer to purchase or lease, and the terms of the proposed sale or lease. City shall have the right of first option to purchase or lease such Building Tract upon the same terms as the proposed sale or lease described in such notice. City may accept such offer within such seven (7) days subject to all conditions of such offer as well as a thirty (30) day financing contingency. Any change in terms or new proposal of any sort must be re-submitted to City, in accordance with the above provision. The provisions of this right of first option may be expressly

waived in writing by City as to any Tract, and the same, shall not apply to any mortgagee owning a recorded mortgage on any Building Tract. Further, the provisions of this section shall not be applicable to purchasers at foreclosure or other judicial sales under mortgages or to transfer in lieu of foreclosure of any such mortgage; provided that said mortgagee gives written notice of the default with respect to said mortgage to City and gives City right to cure the default in said mortgage within ten (10) days of such notice and provided further that City be given the right prior to the institution of foreclosure proceedings to purchase the mortgage indebtedness and that notice of such intention to institute mortgage foreclosure proceedings be given at least twenty (20) days prior to the institution of such proceedings.

The provisions hereof with respect to City's right of first refusal shall not apply to sales or leases made by City.

- J. Singular and Plural. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.
- K. Headings. All headings utilized in this Declaration are for convenience only and shall not be controlling in the interpretation of this Declaration.

*Signed and accepted by the City of Clinton on May 28, 1997.*

*Recorded by the Henry County Recorder of Deeds on May 29, 1997, at 2:30 p.m. in Book 613, Page 303-316.*

*Addendum accepted by property owners on December 22, 2006. Addendum recorded by the Henry County Recorder of Deeds on January 31, 2007, at 10:30 a.m. in Book 676, Page 4844-4848.*

Exhibit C

CORPORATION SPECIAL WARRANTY DEED

This deed is made on February 13<sup>th</sup>, 2024, by and between the City of Clinton, Missouri, a municipal corporation (the "Grantor"), and Bohannan Investments, LLC, a Missouri Limited Liability Company (the "Grantee") whose mailing address is Bohannan Investments, 2001 N Water, Clinton MO 64735.

The Grantor, in consideration of the sum of One Dollar and other valuable consideration paid to the Grantor by the Grantee, the receipt and sufficiency of which is acknowledged, does by these presents, sell and convey unto the Grantee, its successors and assigns, the following described real estate located in Henry County, Missouri:

Lot 14A, Gerhart Industrial Park

Subject to Restrictive Covenants recorded at Book 613 Page 303 in the office of the Recorder of Deeds of Henry County, Missouri, with addendum recorded at Book 676, Page 4844.

Grantee takes title subject to the following additional restrictions, which the parties agree and declare to be covenants running with the land to be binding and fully enforceable against Grantee or any person or entity claiming through Grantee. Grantee agrees:

- a) Use of Property. Grantee agrees to occupy and use the property to support Grantee's operations within the City of Clinton. Grantee's obligations will be waived for any time Buyer is not able to occupy and use the Property as a result of a "force majeure." "Force Majeure" shall be defined to include (but not be limited to) acts of God, war, civil disorders, lockouts, strikes, and all other similar causes without the fault or beyond the control of Grantee.
- b) Reacquisition Right. Grantor shall have the right to reacquire the property as set forth below if any of the following occur before the expiration of twenty-four months from delivery of deed by the Grantor.
- c) Grantee, or its successor or assign, fails to construct a facility of at least 17,000 square feet.
- d) The property is subject to certain other conditions and restrictions contained within an agreement between Grantor and Grantee, and notice of those additional conditions and restrictions is given.

The parties expressly agree that all of these conditions of reacquisition touch and concern the land and shall run with the land. Grantor shall give Grantee a written notice of its intention to exercise its rights of reacquisition and Grantee will have 30 calendar days to cure provided, however, that no notice to cure shall be required should Buyer be under the jurisdiction of any federal bankruptcy court. If, before construction of improvements and after notice Grantee fails to cure within 30 calendar days, City may elect to exercise its reacquisition rights over the property against Grantee, by paying \$1.00 to Grantee to reacquire the Property and upon such payment Grantee agrees to immediately execute and deliver a special warranty deed to Grantor. If no notice is required hereunder, Grantor may immediately proceed to reacquire the property. Grantor will pay all closing costs associated with its reacquisition of the Property. Grantor's reacquisition rights are cumulative to any other legal or equitable remedies available to Grantor. If, within twenty-four months from the date of delivery of deed by Grantor, Grantor has not notified Grantee or its successor or assign of an intention to reacquire the property hereunder, then any encumbrances created herein concerning Grantor's reacquisition rights and Grantee's use of the property shall expire, be released by Grantor and be unenforceable without any further action by the parties. In any event, Grantor agrees, if requested by Grantee or its successor, to execute and deliver to Grantee for recording a "Release of Deed

Restrictions", if the restrictions have expired by their own terms, or have been expressly waived in writing by Grantor. The parties agree that none of these conditions or restrictions constitute an unreasonable restriction on any party's ability to transfer the property.

To have and to hold the property described above with all the rights, privileges, appurtenances and immunities thereto belonging unto the Grantee and its successors and assigns forever. The Grantor further covenants that such real estate is free and clear from any encumbrance done or suffered by it, except as herein stated, and that it will warrant and defend the title to the real estate unto the Grantee and its successors and assigns forever, against the lawful claims and demands of all persons claiming through Grantor.

In witness whereof, the Grantor has caused this deed to be signed by its Mayor and City Clerk the day and year above written.

City of Clinton, Missouri

ATTEST

\_\_\_\_\_  
Carla Moberly, Mayor

\_\_\_\_\_  
Wendee Seaton, City Clerk

STATE OF MISSOURI )

) SS.

COUNTY OF HENRY )

On \_\_\_\_\_, 20\_\_\_\_, before me, appeared **Carla Moberly**, to me personally known, who being by me duly sworn, did say that he is the Mayor of the City of Clinton, Missouri, a municipal corporation, and the seal affixed to the foregoing deed is the official seal of the municipality and the deed was signed and sealed in behalf of the Grantor by authority of its City Council, and **Carla Moberly** acknowledged the deed to be the free act and deed of the corporation.

In witness whereof, I have placed my hand and notarial seal the day and year last above written.

Notary Public

Exhibit D

RELEASE OF DEED RESTRICTIONS

This instrument, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the City of Clinton, a municipal corporation of the State of Missouri,

Witnesseth:

WHEREAS, pursuant to that certain Warranty Deed from the City of Clinton, a municipal corporation to Bohannan Investments, LLC, a Missouri Limited Liability Company dated \_\_\_\_\_, 202\_\_ and recorded in the Recorder of Deeds office for Henry County, Missouri at book\_\_\_\_, Pages\_\_\_\_, the City of Clinton imposed certain deed restrictions on the property located in Henry County, Missouri, more particularly described as:

Lot 14A, Gerhart Industrial Park

And WHEREAS, the conditions of the restrictions have been satisfied,

THEREFORE, The City of Clinton, a municipal corporation does hereby release the above described real property from the force and effect of the above named deed restrictions and covenants and relinquishes its rights to reacquire the above described real estate.

The City of Clinton, by

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date:

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Date:

STATE OF MISSOURI )

) SS.

COUNTY OF HENRY )

On \_\_\_\_\_, 20\_\_\_\_, before me, appeared \_\_\_\_\_ and \_\_\_\_\_, to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk of the City of Clinton, Missouri, a municipal corporation, and the seal affixed to the foregoing instrument is the official seal of the municipality and the instrument was signed and sealed in behalf of the Grantor by authority of its City Council, and \_\_\_\_\_ and \_\_\_\_\_ acknowledged this instrument to be the free act and deed of the City.

In witness whereof, I have placed my hand and notarial seal the day and year last above written.

Notary Public