



**CITY OF BELTON
CITY COUNCIL
WORK SESSION
TUESDAY, JULY 07, 2015 – 7:00 p.m.
CITY HALL ANNEX
520 MAIN STREET
AGENDA**

- I. CALL WORK SESSION TO ORDER
- II. ITEMS FOR REVIEW AND DISCUSSION
 - A. REPORT ON THE THIRD AMENDED AND RESTATED COOPERATIVE AGREEMENT RELATED TO THE Y HIGHWAY MARKET PLACE CID (PRICE CHOPPER CID)

The main purpose of the Amendment is to revise Section 3.6 to clarify that CID revenues from Phases 2 and 3 etc. are not available to service the debt on the TIF bonds that were issued. We are also using this opportunity to consolidate into one place the two previous amendments to Section 4.8 A and Section 5.1, as well as referencing the assignment from Van Trust to the Cosentino entity.

Below is a little further explanation of the need for the amendment to Section 3.6:

- 1. The 2012 Indenture only limits the PA 1 non-captured CID revenue that can go to CID Operating Costs (i.e., \$15K). If there are CID Operating Costs in excess of \$15K, non-captured CID revenue from PA 2-5 can pay those costs pursuant to a CID budget and appropriations. This was already evident from the 2012 Indenture and Cooperative Agreement and didn't require any changes to any documents.
- 2. Non-captured CID revenues from PA's 2-5, once formation costs (which are "operating costs") are fully reimbursed, are to be paid to the Developer and the City under the TIF waterfall set out in in Section 21.C. of the TIF Contract. We need to clarify Section . 3.6 of the Cooperative Agreement to make this point clear in the CID Agreement.

Paperwork attached

Page 5

- B. REPORT ON PROPOSED DONATION TO THE CITY OF TWO INFORMATIONAL KIOSKS BY DOWNTOWN BELTON MAIN STREET

Paperwork attached

Page 37

C. REPORT ON CITY SIDEWALK COST-SHARE PROGRAM AND COMMERCIAL PROPERTY

Paperwork attached

Page 55

D. REPORT ON GOLF COURSE OPERATIONS

E. OTHER BUSINESS

III. ADJOURN

SECTION II
A

THIRD AMENDED AND RESTATED

COOPERATIVE AGREEMENT

among the

CITY OF BELTON, MISSOURI,

Y HIGHWAY MARKET PLACE COMMUNITY IMPROVEMENT DISTRICT,

and

GROUP BELTON LLC, ASSIGNEE OF CROSSROADS AT BELTON, LLC

dated as of

March 8, 2011, June _____, 2015

Table of Contents

ARTICLE 1: DEFINITIONS, RECITALS AND EXHIBITS 2
 Section 1.1 Recitals and Exhibits 2
 Section 1.2 Definitions..... 2
ARTICLE 2: REPRESENTATIONS 4
 Section 2.1 Representations by the District 4
 Section 2.2 Representations by the City 5
 Section 2.3 Representations by Developer..... 6
ARTICLE 3: COLLECTION OF FUNDS 6
 Section 3.1 Imposition of District Sales Tax..... 6
 Section 3.2 Administration and Collection of the District Sales Tax..... 6
 Section 3.3 Administrative Fee for District Sales Tax Administration by the City 7
 Section 3.4 District Operating Costs..... 7
 Section 3.5 Enforcement of the District Sales Tax..... 7
 Section 3.6 Distribution of the District Sales Tax Revenue..... 8
 Section 3.7 Records of the District Sales Tax 9
 Section 3.8 Repeal of the District Sales Tax..... 9
ARTICLE 4: FINANCING DISTRICT PROJECTS 10
 Section 4.1 Design and Construction of District Projects..... 10
 Section 4.1.1 Public Bidding, Posting Bonds and Prevailing Wage..... 10
 Section 4.2 Financing the District Projects 10
 Section 4.3 Certificates of Completion and CID Eligible Costs 10
 Section 4.4 Ownership and Maintenance of District Projects..... 11
 Section 4.5 Annual Budget..... 12
 Section 4.6 New District Projects..... 12
 Section 4.7 District Services..... 12
 Section 4.8 Issuance of Obligations..... 12
 Section 4.9 Payment of Interest Costs 13
 A. Third Party Borrowing 13
 B. Affiliate Borrowing 13
 C. Developer Equity and City Funding..... 13
 D. Interest Calculation 14
ARTICLE 5: SPECIAL COVENANTS 14
 Section 5.1 Records of District..... 14
 Section 5.2 Records of the City 14
 Section 5.3 Consents by Tenants and Transferees..... 14
 Section 5.4 Developer's Obligations to the City under Bond or Surety..... 15
ARTICLE 6: DEFAULTS AND REMEDIES..... 15
 Section 6.1 Events of Default..... 15
 Section 6.2 Remedies on Default..... 16
 Section 6.3 Rights and Remedies Cumulative 16
 Section 6.4 Waiver of Breach..... 16
 Section 6.5 Excusable Delays..... 16
ARTICLE 7: MISCELLANEOUS..... 16

Section 7.1 Effective Date and Term 16
Section 7.2 Immunities 16
Section 7.3 Modification 17
Section 7.4 Applicable Law 17
Section 7.5 Validity and Severability 17
Section 7.6 Execution of Counterparts 17
Section 7.7 City Approvals 17
Section 7.8 District Approvals..... 17
Section 7.9 Developer Approvals 17
Section 7.10 Relationship of Parties 17
Section 7.11 City's and District's Legislative Powers..... 17

THIRD AMENDED AND RESTATED COOPERATIVE AGREEMENT

THIS THIRD AMENDED AND RESTATED COOPERATIVE AGREEMENT ("Agreement"), entered into as of this 8th day of March, 2011 ~~June, 2015~~, among the CITY OF BELTON, MISSOURI, a constitutional charter city and a political subdivision of the State of Missouri ("City"), the Y HIGHWAY MARKET PLACE COMMUNITY IMPROVEMENT DISTRICT, a Missouri political subdivision ("District"), and GROUP BELTON, LLC, assignee of CROSSROADS AT BELTON, LLC, a Missouri limited liability company ("Developer") (the City, District and Developer are collectively referred to herein as the "Parties" and individually as "Party," as the context so requires).

RECITALS

WHEREAS, on December 14, 2010, the City Council passed Ordinance No. 2010-3673, pursuant to which the City approved the Petition to the City of Belton, Missouri for the creation of the District ("Petition") on 17 acres of property generally located at the northeast corner of Missouri Y Highway and Missouri State Highway 58 including that portion of the Missouri Y Highway right-of-way immediately adjacent thereto. Ordinance No. 2010-3673 also authorized the execution of this Agreement;

WHEREAS, on December 14, 2010, the City Council passed Ordinance No. 2010-3672, pursuant to which the City: (i) approved the Y Highway Market Place Tax Increment Financing Plan ("TIF Plan"); (ii) found that the area described in the TIF Plan ("Redevelopment Area") was a blighted area pursuant to the Real Property Tax Increment Allocation Redevelopment Act, R.S.Mo. §§ 99.800 *et seq.* ("TIF Act"); (iii) selected Developer as the developer designated to implement the TIF Plan; (iv) approved the Tax Increment Financing Contract between the City and Developer dated January 5, 2011 ("TIF Contract"), for the implementation of the TIF Plan;

WHEREAS, on February 25, 2011, the District passed Resolution No. 2011-04, pursuant to which the District authorized the execution of this Agreement; and

~~WHEREAS, on March 8, 2011, a Cooperative Agreement was entered into between the City, the District and Crossroads at Belton, LLC (the "Original Parties-desire-to-set") setting forth through this Agreement their~~ respective duties and obligations with respect to the administration, enforcement, and operation of the District Sales Tax and the funding of the District Projects therefrom ~~(the "Original Agreement"); and~~

WHEREAS, on the 24th day of July, 2012 the Original Parties entered into the First Amendment to Y Highway Marketplace Community Improvement District Cooperative Agreement for the purpose of amending Section 4.8A of the Original Agreement; and

WHEREAS, on April 23, 2013 the Original Parties entered into the Second Amendment to Y Highway Marketplace Community Improvement District Cooperative Agreement for the purpose of amending Section 5.1 of the Original Agreement; and

WHEREAS, on the 29th day of August, 2014, the rights, duties and obligations of Crossroads at Belton, LLC under the Original Agreement, as amended were assigned to Group Belton, LLC; and

Formatted: Font color: Auto, Not Highlight
Formatted: Font color: Auto
Formatted: Font color: Auto
Formatted: Font color: Auto
Formatted: Font color: Auto
Formatted: Font color: Auto

WHEREAS, the parties wish to further amend the Original Agreement by amending Section 3.6 and restating the entire Original Agreement as set forth in this Agreement,

Formatted: Indent: First line: 0.5", Tab stops: Not at 0.5"

Formatted: Font color: Auto

Formatted: Highlight

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants herein contained, the Parties agree as follows:

ARTICLE 1: DEFINITIONS, RECITALS AND EXHIBITS

Section 1.1 Recitals and Exhibits. The representations, covenants and recitations set forth in the foregoing recitals and the exhibits attached to this Agreement are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this **Section**, and the appropriate exhibits are incorporated into each section of this Agreement that makes reference to an exhibit.

Section 1.2. Definitions. All capitalized words or terms used in this Agreement and defined in the TIF Contract shall have the meaning ascribed to them in the TIF Contract. In addition thereto and in addition to words and terms defined elsewhere in this Agreement, the following words and terms shall have the meanings ascribed to them in this **Section** unless the context in which such words and terms are used clearly requires otherwise:

"Applicable Laws and Requirements" means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any unit of government.

"Administrative Fee" means that amount of the District Sales Tax Revenue that the City shall receive as compensation for performing the administration obligations set forth in this Agreement.

"Board" means the Board of Directors of the District.

"CID Act" means the Missouri Community Improvement District Act, R.S.Mo. §§ 67,1401, *et seq.*

"CID Eligible Costs" means, all actual and reasonable costs and expenses which are incurred by or at the direction of the City, District or Developer with respect to construction of the District Projects, including the actual and reasonable cost of labor and materials payable to contractors, builders, suppliers, vendors and materialmen in connection with the construction contracts awarded for the District Projects that is constructed or undertaken by the City, District or Developer, plus all actual and reasonable costs to plan, finance, develop, design and acquire the District Projects, including, but not limited to, the following:

- (1) actual and reasonable fees and expenses of architects, appraisers, attorneys, surveyors and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of construction, financing, preparation of plans, drawings and specifications and supervision of construction, as well as for the performance of all other duties of

architects, appraisers, attorneys, surveyors and engineers in relation to the construction of the District Projects and all actual and reasonable costs for the oversight of the completion of the District Projects; and

- (2) all other items of expense not elsewhere specified in this definition which may be necessary or incidental to the review, approval, acquisition, construction, improvement and financing of the District Projects and which may lawfully be paid or incurred under the CID Act.

"CID Revenue" means that portion of the District Sales Tax Revenue that is not allocated as Economic Activity Taxes to the Special Allocation Funding pursuant to the TIF Act and TIF Contract.

"City Council" means the governing body of the City.

"Debt Service," the amount required for the payment of interest and principal on Obligations as they come due, for the payment of mandatory or optional redemption payments and for payments to reserve funds required by the terms of the Obligations to retire or secure the Obligations.

"District Projects" means: (i) the improvement and widening of that portion of Missouri Y Highway included within the District into a four-lane divided roadway including signalization ("Y Highway Redevelopment Project"); (ii) construction of that portion of Givan Avenue that is within the District Area; (iii) construction of all other public improvements and infrastructure located within the District Area; and (iv) remediation of the blighting conditions burdening the District Area through implementation of the above-enumerated projects and development of the District Area site. Further description of the costs estimated to be incurred in the implementation of District Projects is set forth in **Exhibit A**.

"District Sales Tax" means the one percent (1%) sales tax levied by the District on the receipts from the sale at retail of all eligible tangible personal property or taxable services at retail within its boundaries pursuant and subject to the CID Act.

"District Sales Tax Revenue" means the monies actually collected, pursuant to this Agreement and the CID Act, from the imposition of the District Sales Tax.

"Event of Default" means any event specified in **Section 6.1** of this Agreement.

"Excusable Delays" means delays due to acts of terrorism, acts of war or civil insurrection, strikes, riots, floods, earthquakes, fires, tornadoes, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, national or regional material shortages, failure to obtain regulatory approval from any federal or state regulatory body, unforeseen site conditions, material litigation by parties other than a Party and not caused by any Party's failure to perform, or any other condition or circumstances beyond the reasonable or foreseeable control of the applicable Party using reasonable diligence to overcome which prevents such Party from performing its specific duties or obligation hereunder in a timely manner.

"Financing Costs" means those costs incurred as a result of issuing one or more series of Obligations to pay all or any portion of CID Eligible Costs incurred or estimated to be incurred, including but not limited to interest, loan fees, capitalized interest, legal fees, financial advisor fees, broker fees or discounts, printing, bond insurance, interest and other costs related to such financing.

"Obligations" means loans, bonds, debentures, notes, special certificates, or other evidences of loans or indebtedness issued to pay all or any portion of the TIF Reimbursable Project Costs and/or CID Eligible Costs incurred or estimated to be incurred, to pay for Financing Costs, to establish reserves to refund or secure such Obligations, to finance the interest costs associated with such Obligations or to refund, redeem or defease outstanding Obligations.

"Operating Costs" means the actual, reasonable expenses which are necessary for the operation of the District which shall include, but is not limited to, costs associated with notices, publications, meetings, supplies, equipment, photocopying, the engagement of legal counsel, accounting, financial auditing services, insurance, enforcement and collection of the District Sales Tax, and other consultants or services. Operating Costs shall specifically include costs incurred by the City for legal fees in review of the documents necessary for establishment of the district, imposition of the sales tax and negotiation of this Agreement, to the extent these costs have not been paid in accordance with a funding agreement between City and the Developer.

"Project Budget" means the budget attached hereto as **Exhibit A** which sets forth those costs estimated to be incurred in the implementation of District Projects, and the maximum amount of CID Eligible Costs which may be funded or reimbursed from CID Revenue or other Public Finance Revenue.

"Public Finance Revenue" means TIF Revenue, CID Revenue and City's Shared Sales Tax Revenue.

"TIF Act" means the Real Property Tax Increment Allocation Redevelopment Act, R.S.Mo. §§ 99.800 *et seq.*, as amended.

"TIF Contract" means the Tax Increment Financing Contract between the City of Belton, Missouri and Caymus Real Estate, LLC for the Y Highway Market Place Tax Increment Financing Redevelopment Plan dated January 5, 2011.

ARTICLE 2: REPRESENTATIONS

Section 2.1. Representations by the District. The District represents that:

A. The District is a community improvement district and political subdivision, duly organized and existing under the laws of the State of Missouri, including particularly the CID Act.

B. The District has authority to enter into this Agreement and to carry out its obligations under this Agreement. By proper action of its Board, the District has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

C. The execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement and the performance of or compliance with the terms and conditions of this Agreement by the District will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the District is a party or by which it or any of its property is bound, or any order, rule or regulation of any court or governmental body applicable to the District or any of its property, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the District under the terms of any instrument or agreements to which the District is a party.

D. There is no litigation or proceeding pending or threatened against the District affecting the right of the District to execute or deliver this Agreement or the ability of the District to comply with its obligations under this Agreement or which would materially adversely affect its financial condition.

E. The District acknowledges that the funding and construction of the District Projects are of significant value to the District, the property within the District and the general public. The District finds and determines that the District Projects are reasonably anticipated to remediate the blighting conditions within the District and will serve a public purpose by remediating blighting conditions and by promoting the economic welfare and the development of the City of Belton and the State of Missouri through: (i) the creation of temporary and permanent jobs; (ii) stimulating additional development in the area near the District Area; (iii) increasing local and state tax revenues; and (iv) providing necessary public infrastructure for the redevelopment of the District Area and other surrounding development. Further, the District finds that the District Projects conform to the purposes of the CID Act.

Section 2.2. Representations by the City. The City represents that:

A. The City is duly organized and existing under the Constitution and laws of the State of Missouri, as a constitutional charter city.

B. The City has authority to enter into this Agreement and to carry out its obligations under this Agreement, and the City's Mayor has been duly authorized to execute and deliver this Agreement.

C. The execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement, and the performance of or compliance with the terms and conditions of this Agreement by the City will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the City is a party or by which it or any of its property is bound, or any order, rule or regulation of any court or governmental body applicable to the City or any of its property, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City under the terms of any instrument or agreement to which the City is a party.

D. There is no litigation or proceeding pending or threatened against the City affecting the right of the City to execute or deliver this Agreement or the ability of the City to comply with its obligations under this Agreement.

Section 2.3. Representations by Developer. Developer represents that:

A. The Developer has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

B. The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

C. No litigation, proceedings or investigations are pending or, to the knowledge of the Developer, threatened against the Developer or any member of the Developer which are material to or impact the District or the District Projects. In addition, no litigation, proceedings or investigations are pending or, to the knowledge of the Developer, threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer, the terms and provisions of this Agreement.

D. The Developer is, to its knowledge, in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

ARTICLE 3: COLLECTION OF FUNDS

Section 3.1. Imposition of the District Sales Tax. Prior to the execution of this Agreement, on February 25, 2011, the Board adopted Resolution No. 2011-03, which imposes the District Sales Tax. The District Sales Tax was approved by the qualified voters of the District on _____, 20__.

Section 3.2. Administration and Collection of the District Sales Tax. The District Sales Tax shall be collected by the Missouri Department of Revenue ("DOR") as provided in the CID Act. The District shall notify the DOR that the District Sales Tax Revenue shall be deposited with the City as the agent of the District. The City shall receive from the DOR the District Sales Tax Revenue, which shall be deposited by the City in a special trust account, and shall be used to make those distributions and payments set forth in **Section 3.6**, in the order of priority set forth in **Section 3.6**. All District Sales Tax Revenue disbursements shall be subject to annual appropriation of the District. The City agrees to perform for the District all other

functions incident to the administration and enforcement of the District Sales Tax, pursuant to the CID Act and this Agreement. The District has enacted, or will enact, resolutions that (i) impose the District Sales Tax (subject to qualified voter approval), (ii) authorize the City to perform all functions incident to the administration, enforcement and operation of the District Sales Tax, including the costs associated with obtaining an annual independent financial audit of the District Sales Tax Revenue receipts and disbursements, and (iii) prescribe any required forms and administrative rules and regulations for reporting the District Sales Tax. The District may amend the forms, administrative rules and regulations applicable to the administration, enforcement and operation of the District Sales Tax, as needed.

Section 3.3. Administrative Fee for District Sales Tax Administration by the City.

A. From the effective date of this Agreement until the expiration of the last day of the City's 2012/2013 Fiscal Year, the City shall receive an Administrative Fee for administering the District Sales Tax in the amount of two percent (2%) of the total District Sales Tax Revenue. After the expiration of the last day of the City's 2012/2013 Fiscal Year the City shall receive an Administrative Fee for administering the District Sales Tax in the amount of one percent (1%) of the total District Sales Tax Revenue. For purposes of the calculation of the Administrative Fee, the total District Sales Tax Revenue shall include that portion of the District Sales Tax Revenue that is collected and deposited in the Special Allocation Fund as an Economic Activity Tax pursuant to the TIF Act.

B. In the event that there are insufficient District Sales Tax Revenue funds in any fiscal year to generate a sufficient Administrative Fee to cover the actual costs incurred by the City with respect to the administration of the District Sales Tax in any such fiscal year, any unpaid Administration Fee or portion thereof shall be shall be paid by the Developer, who may seek reimbursement of same as a CID Eligible Cost in accordance with this Agreement.

Section 3.4. District Operating Costs.

A. The City, on behalf of the District, shall pay for the Operating Costs of the District from District Sales Tax Revenue. The Operating Costs shall be included in the District's annual budget, as provided in **Section 4.5**. In the course of performing the administrative duties set forth in **Section 3.2**, the City may incur Operating Costs for the District, which shall be paid or reimbursed from District Sales Tax Revenue.

B. In the event that there are insufficient funds generated by District Sales Tax Revenue in any fiscal year to cover the Operating Costs, the Operating Costs shall be paid by the Developer, who may seek reimbursement of same as a CID Eligible Cost in accordance with this Agreement.

Section 3.5. Enforcement of the District Sales Tax. The District authorizes the City, to the extent permitted by law, to take all actions necessary for collection and enforcement of the District Sales Tax, and the City agrees to use its reasonable best efforts to collect and enforce the same. To the extent required by the DOR, the City may, in its own name or in the name of the District, prosecute or defend an action, lawsuit or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure the payment of the

District Sales Tax. The District hereby agrees to cooperate fully with the City and to take all action necessary to effect the substitution of the City for the District in any such action, lawsuit or proceeding if the City shall so request.

Section 3.6. Distribution of the District Sales Tax Revenue. The District and the City shall have no obligation to reimburse Developer, and no disbursements of the District Sales Tax Revenue from the special trust account will be made, for CID Eligible Costs not financed by Obligations until a Reimbursement Certificate has been approved (as described in Section 4.3) and until sufficient District Sales Tax Revenue has been collected and is available for payment to Developer. Subject to annual appropriation by the District and the terms of the trust indenture and other documents governing the issuance of Obligations, the City, on behalf of the District, shall disburse on a monthly basis the District Sales Tax Revenue in the following order of priority:

Formatted: Font: Not Bold

A. Pursuant to the TIF Act, TIF Plan and TIF Contract, for so long as the Redevelopment Projects are activated for tax increment financing, one-half (1/2) of the District Sales Tax Revenue which is generated within a Redevelopment Project Area will be allocated as Economic Activity Taxes and deposited by the City into the Special Allocation Fund, which funds shall then be subject to the distribution pursuant to the TIF Act, TIF Plan and TIF Contract.

Formatted: Tab stops: Not at 1"

B. The City shall distribute to itself the Administrative Fee, as described in **Section 3.3**, which shall be calculated as the applicable percentage of the total District Sales Tax Revenue collected each month, including any portion that is captured as Economic Activity Taxes in **Subsection A** above.

C. The City shall pay the approved Operating Costs of the District, or reimburse those parties which have incurred approved Operating Costs, as described in **Section 3.4**.

D. The City shall pay scheduled Debt Service on ~~the~~ Obligations, if any, to the extent those Obligations financed CID Eligible Costs, but only with District Sales Tax Revenue that was pledged to any particular Obligations under the trust indenture and/or other documents associated with the issuance of such Obligations (e.g., if the trust indenture for certain Obligations pledged only the District Sales Tax Revenue generated within Project Area 1, District Sales Tax Revenue generated within other project areas shall not be distributed to such Obligations under this Subsection D).

E. The City shall make payment of arbitrage rebate owed with respect to the Obligations, if any, to the extent those Obligations financed CID Eligible Costs, under Section 148 of the Internal Revenue Code of 1986, as amended, including any costs of calculating arbitrage rebate, but only with District Sales Tax Revenue that was pledged to any particular Obligations under the trust indenture and/or other documents associated with the issuance of such Obligations.

F. The City shall make payment of fees and expenses owing to any trustee for the Obligations, if any, to the extent those Obligations financed CID Eligible Costs, upon delivery to the City of an invoice for such amount, but only with District Sales Tax Revenue that was

pledged to any particular Obligations under the trust indenture and/or other documents associated with the issuance of such Obligations.

G. The City shall make payment of Obligations in advance of their stated maturity, to the extent those Obligations financed CID Eligible Costs and to the extent permitted by the CID Act, but only with District Sales Tax Revenue that was pledged to any particular Obligations under the trust indenture and/or other documents associated with the issuance of such Obligations, and only where such early redemption of Obligations is permitted without penalty or premium under the indenture and other documents associated with the Obligations.

H. The City shall make payments to Developer and the City as reimbursement for costs previously incurred according to the specified amounts and order of priority set forth in Section 21.C. of the TIF Contract, as may be amended from time to time.

H.I. Following the approval of a Reimbursement Certificate as described in **Section 4.3**, the City shall pay approved CID Eligible Costs, or reimburse those parties which have incurred approved CID Eligible Costs, to the extent such costs have not been paid or reimbursed from the proceeds of Obligations or otherwise hereunder or under the TIF Contract.

Formatted: Tab stops: Not at 1"

Formatted: Font color: Auto

Section 3.7. Records of the District Sales Tax. The City shall keep accurate records of the District Sales Tax Revenue collected and copies of such records shall be made available to the District. Any City records pertaining to the District Sales Tax shall be provided to the District, upon written request of the District, as permitted by law.

Section 3.8. Repeal of the District Sales Tax. Subject to the limitations of the CID Act, and the ability of the District to extend the District Sales Tax and the District, upon that date which is the earlier of (1) the date all amounts payable from, or to become payable from, the District Sales Tax Revenue have been fully paid; or (2) twenty-three (23) years following the activation of Tax Increment Financing within the last-activated Redevelopment Project Area within the District Area, the District shall implement the procedures in the CID Act for repeal of the District Sales Tax and abolishment of the District. The District shall not implement the procedures for repeal or modification of the District Sales Tax and abolishment of the District if the District, with the prior written consent of the City, has approved other projects pursuant to the CID Act and this Agreement. The City's obligation to perform for the District all functions incident to the administration, collection, enforcement and operation of the District Sales Tax shall terminate concurrently with the repeal of the District Sales Tax. Upon repeal of the District Sales Tax, the City shall:

A. Retain the City's Administrative Fee, if applicable, to which it is entitled in accordance with this Agreement.

B. Pay all outstanding Operating Costs from available District Sales Tax -Revenue.

C. Retain any remaining District Sales Tax Revenue until such time as the District is abolished and the District has provided for the transfer of any funds remaining in a manner permitted by the CID Act.

ARTICLE 4: FINANCING DISTRICT PROJECTS

Section 4.1. Design and Construction of District Projects. The District's primary role is to assist in the funding of the District Projects. The District Projects shall be designed and constructed by or at the direction of City and/or Developer, pursuant to the terms of the TIF Contract, subject to Applicable Laws and Requirements, and the District shall have no obligation to design and construct the District Projects. The District Projects shall be designed and constructed on a schedule to be determined by City and Developer in accordance with the TIF Contract.

Section 4.1.1 Public Bidding, Posting Bonds and Prevailing Wage To the extent Developer or contractors on behalf of Developer shall cause the design and construction of the District Projects, Developer, to the extent it is acting as Agent of the District, shall comply with all Applicable Laws and Requirements, including where and if applicable, public bidding, the posting of bonds and the payment of prevailing wages pursuant to the Prevailing Wage Act (R.S.Mo. §§ 290.210 *et seq.*) to contractors or subcontractors of Developer. Developer shall indemnify and hold harmless the City and the District for any damage resulting to either from failure of either Developer or its contractor or subcontractors to pay prevailing wages pursuant to applicable laws.

Section 4.2. Financing the District Projects.

A. Except for the Y Highway Redevelopment Project, Developer shall provide or cause to be provided the initial financing of the District Projects, and shall be eligible for reimbursement of the same from CID Revenue subject to the terms of the TIF Contract and this Agreement. With regard to the Y Highway Redevelopment Project, Developer shall provide \$1,400,000 to the City for the Y Highway Redevelopment Project's initial funding, and shall be eligible for reimbursement of such amount plus interest (subject to the limitations of **Section 4.9**) from CID Revenue pursuant to the terms of the TIF Contract and this Agreement. The City shall provide the balance of initial financing required to implement the Y Highway Redevelopment Project, and shall be eligible for reimbursement of \$1,600,000, plus Financing Costs and interest (subject to the limitations of **Section 4.9**), from CID Revenue pursuant to the terms of the TIF Contract and this Agreement.

B. The District pledges, subject to annual appropriation, the use of CID Revenue to fund District Projects in accordance with the priority of distributions set forth in **Section 3.6**. The District may, with the prior consent of the City, issue or incur debt or other obligations to finance the District Projects.

Section 4.3. Certificates of Completion and CID Eligible Costs.

A. With respect to CID Eligible Costs not funded or reimbursed by the proceeds from Obligations, Developer or City may at any time submit to the City, as the agent of the District in accordance with this Agreement, a Certificate of CID Eligible Costs ("Reimbursement Certificate"), using substantially the form attached as **Exhibit B**, for such costs incurred by Developer or City. Developer and City as appropriate shall provide itemized invoices, receipts or other information, if any, to confirm that any submitted cost has been so incurred, qualifies as

a CID Eligible Cost, and has not already been funded or reimbursed from Public Finance Revenues pursuant to the TIF Contract. If the City determines, in its reasonable discretion, that the costs submitted for reimbursement are CID Eligible Costs and have not been previously reimbursed from Public Finance Revenue, then the City shall approve the Reimbursement Certificate and the amounts stated therein for payment from the CID Revenue in accordance with this Agreement. If the City determines to not approve the Reimbursement Certificate for payment, the City shall notify the Developer in writing within sixty (60) days after receiving the Reimbursement Certificate, and shall specify in such notice the reason(s) for withholding its approval. Upon request of the Developer, the City shall hold a hearing at which the Developer may challenge the City's determination, including presentation of new and/or additional evidence. Developer shall have the right to identify and substitute other CID Eligible Costs with a supplemental application for payment, subject to the limitations of this Agreement, for any requested reimbursement that the City determines does not qualify as a CID Eligible Cost.

B. **Cost Overruns.** No Reimbursement Certificate will be approved if it exceeds the Total Cost as set out in the applicable "Cost Category" of the Project Budget. For purposes of this analysis, the following shall be deemed to be the "Cost Categories" for Project 1: (i) Site Development Costs; (ii) Givan Avenue Costs; (iii) Y Highway design and construction; (iv) Turn Lane Costs; and (v) Stormwater Basin Costs. For Project 2, "Site Development Costs" shall be the only "Cost Category." Additionally, no Reimbursement Certificate will be approved if it causes the total principal amount of the CID Eligible Costs to exceed the total maximum reimbursable amounts set out within the Project Budget which are as follows: (i) City Initial Administrative Costs: \$200,000; (ii) Project 1 Costs: \$3,250,000; (iii) Project 1 Y Highway Design and Construction: \$1,400,000 to Developer and \$1,600,000 to City; and (iv) Project 2 Costs: \$425,000.

C. With respect to CID Eligible Costs funded or reimbursed by the proceeds from Obligations, reimbursement to Developer and City shall be made in accordance with the terms and provisions of the trust indenture, agreements and documents governing the Obligations.

D. Upon substantial completion of all or a portion of the District Projects, Developer and/or City shall submit a Certificate of Completion substantially in the form attached hereto as **Exhibit C** ("Completion Certificate"). If the City, as the agent of the District in accordance with this Agreement, determines, in its reasonable discretion, that the portion of the District Projects submitted for certification have been completed in accordance with this Agreement and all relevant codes, regulations, statutes and laws, then the City shall approve the Completion Certificate. If the City determines to not approve the Completion Certificate, the City shall notify Developer as appropriate in writing within sixty (60) days after receiving the Completion Certificate, and shall specify in such notice the reason(s) for withholding its approval. Upon request of the Developer, the City shall hold a hearing at which the Developer may challenge the City's determination, including presentation of new and/or additional evidence.

Section 4.4. Ownership and Maintenance of District Projects. The District's primary role is to fund and assist in the funding of the District Projects. The District shall have no ownership of the District Projects, and title to the District Projects shall remain in the name of its current owners, including, *inter alia*, MoDOT, the City, Developer, and their respective

successors and assigns. The District shall not be responsible for maintenance of the District Projects.

Section 4.5. Annual Budget. The budget for capital and operating expenses for the District's first fiscal year shall be prepared and submitted to the City Treasurer within ninety (90) days after execution of this Agreement. For each subsequent fiscal year of the District, the District shall, no earlier than one hundred eighty (180) days and no later than ninety (90) days prior to the first day of each fiscal year, submit a proposed budget for capital and operating expenses for the upcoming fiscal year to the City Treasurer, for the City's review and approval, which shall then be approved by the Board. Each budget for the District shall generally be prepared in accordance with all applicable State statutes including R.S.Mo. § 67.010, as amended. Any amendments to the District's annual budget shall be subject to the approval of the City as described in this **Section**.

Notwithstanding the above, the City shall not have the right to approve the District's budgets after the CID Eligible Costs have been paid in full and any and all Obligations issued to fund CID Eligible Costs have been satisfied and retired.

Section 4.6. New District Projects. The District may use District Sales Tax Revenue, as such revenues are available, to pay project costs for new District Projects which have been approved in accordance with the CID Act and the approval of the City Council. The District shall not undertake new District Projects without the prior approval of the City Council. Payment of the costs of any such new District Projects shall be paid on the same priority as exists for CID Eligible Costs, in such relative proportion with CID Eligible Costs for the current District Projects as is determined at the time of the approval of such new District Projects.

Section 4.7. District Services. It is anticipated that the District will not undertake the provision of district services, as authorized in R.S.Mo. § 67.1461, until the District Projects have been completed, all CID Eligible Costs have been paid or reimbursed, and all Obligations issued to fund CID Eligible Costs have been satisfied and retired.

Section 4.8. Issuance of Obligations.

A. As set forth in the TIF Contract, one or more series of Obligations may be issued in conjunction with the reimbursement of or direct payment of TIF Reimbursable Project Costs, including CID Eligible Costs. ~~In the event proceeds from such Obligations will be utilized to fund or reimburse CID Eligible Costs, the Obligations will be subject to the following.~~ The City shall take all necessary action to place a request for the issuance of Obligations before the Council. ~~Subject to review and standard procedure, the City shall, in its sole discretion, consider such request to authorize the issuance of Obligations as provided for in the TIF Act and CID Act. Obligations shall be issued in an amount, on terms, at an interest rate or rates determined by market conditions at the time of issuance and under terms and conditions deemed acceptable by City in its sole discretion.~~ ~~The underwriter(s) for any Obligations shall be selected by City.~~ City shall solicit input from Developer and District as it relates to all components of the issuance of the Obligations in an effort to maximize the size of the issuance. ~~In all instances, the purchasers of the Obligations must be a qualified institutional buyer (as that term is defined in Rule 144A~~

Formatted: Font color: Auto

Formatted: Default Paragraph Font

~~promulgated under the Securities Act of 1933) or an accredited investor (as that term is defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933).~~

B. As an alternative to the District pledging CID Revenue toward the Debt Service of Obligations which are serviced by Public Finance Revenue, the District with the consent of the City may issue one or more series of Obligations in conjunction with the reimbursement of or direct payment of CID Eligible Costs ("CID Obligations"). CID Obligations, if issued, shall be issued in an amount, on terms and at an interest rate or rates determined by market conditions at the time of issuance and under terms and conditions deemed acceptable by City and the District. The underwriter(s) for any CID Obligations shall be selected collectively by City and the District. The City, the District and the Developer shall have right, power and authority to determine the amount, terms, interest rate or rates and other terms and conditions of the CID Obligations. Proceeds of the CID Obligations may be used to reimburse City or Developer for funds advanced, if any, together with interest (subject to limitations on interest set forth in **Section 4.9**) from the date said funds were advanced, to fund CID Eligible Costs.

Section 4.9 Payment of Interest Costs.

A. Third Party Borrowing. In the event Developer incurs interest expense on amounts Developer was loaned to fund CID Eligible Costs from a non-Affiliate third party in an arms-length transaction, Developer shall be entitled to the reimbursement from available CID Revenue for the actual interest costs incurred by Developer, substantiated by documentation submitted by Developer to the City and certified pursuant to **Section 4.3**, at an interest rate that is not in excess of the prime rate established by Commerce Bank, N.A. (the "Prime Rate"), plus three percent (3%). Notwithstanding the foregoing, the maximum rate of interest may not exceed six percent (6%).

B. Affiliate Borrowing. In the event Developer incurs interest expense on amounts Developer was loaned to fund CID Eligible Costs from an Affiliate of Developer, Developer shall be entitled to the reimbursement from available CID Revenue for the actual interest costs incurred by Developer, substantiated by documentation submitted by Developer to the City and certified pursuant to **Section 4.3**, at an interest rate that is not in excess of the Prime Rate, plus one-half percent (0.5%). For the purposes of this **Subsection**, "affiliate" shall have the meaning provided by Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended. Notwithstanding the foregoing, the maximum rate of interest may not exceed six percent (6%).

C. Developer Equity and City Funding. In the event Developer utilizes its own equity to fund CID Eligible Costs, or the City advances funds to finance CID Eligible Costs, Developer and City shall be entitled to the reimbursement of an interest amount on such advanced funds from available CID Revenue in an amount equal to six percent (6%) per annum on CID Eligible Costs actually incurred by Developer and City as appropriate, substantiated by documentation submitted to the City and certified pursuant to **Section 4.3**, from the date actually incurred until repaid, with all interest compounded annually to the extent there is inadequate CID Revenue to pay certified and accrued interest. Notwithstanding anything to the contrary contained in this Agreement, the \$425,000 in Project 2 CID Eligible Costs shall not accrue interest. Only the principal amount of \$425,000 shall be deemed a CID Eligible Cost.

D. **Interest Calculation.** For purposes of calculating interest expenses, Developer and City shall certify their actual interest expense pursuant to **Section 4.9** as a separate line item expense. For the month in which interest expense is initially incurred with respect to any advance of funds, the interest expense shall accrue from the 15th day of the month incurred for costs certified from the 1st through the 14th day of a month and from the last day of the month incurred for costs certified after the 15th day of a given month.

ARTICLE 5: SPECIAL COVENANTS

Section 5.1. Records of the District. The City shall keep proper books of record and account on behalf of the District in which full, true and correct entries will be made of all dealings or transactions of or in relation to its business affairs in accordance with generally accepted accounting principles consistently applied, and will furnish the District such information as it may request concerning the District, including such statistical and other operating information requested on a periodic basis, in order to determine whether the covenants, terms and provisions of this Agreement~~agreement~~ have been met. In addition, the City shall furnish, on behalf of the District, annual~~audited~~ financial statements of the District for each fiscal year no later than June 30th following the end of such fiscal year. For that purpose, all pertinent books, documents and vouchers relating to its business, affairs and properties shall at all times during regular business hours be open to the inspection of such accountant or other agent (who may make copies of all or any part thereof provided that the confidentiality of all records shall be maintained pursuant to such confidentiality agreements as reasonably required) as shall from time to time be designated and compensated by the inspecting party.

Formatted: Superscript

Section 5.2. Records of the City. The City shall keep and maintain adequate records pertaining to disbursements for reimbursement or payment of the costs of the District Projects. Such records shall be available for inspection by the District upon reasonable notice.

Section 5.3. Consent by Tenants and Transferees.

A. Developer shall use its reasonable best efforts to cause all leases of property in the District Area entered into after the date of this Agreement by Developer to contain a provision that is in substantial compliance with the following:

Community Improvement District: Tenant acknowledges and consents that (i) all or a portion of the Leased Premises are located within the boundaries of the Y Highway Market Place Community Improvement District ("District") created by Belton, Missouri (the "City"), (ii) that the District imposes a sales tax on economic activities occurring within the District, which tax will be applied toward the costs of improvements that will provide a generalized benefit to the District. If any of Tenant's sales activities occur within the District, Tenant shall forward to the City copies of Tenant's State of Missouri sales tax returns for its property located in the District when and as they are filed with the Missouri Department of Revenue. Tenant hereby acknowledges and agrees that the District, and the City as the agent of the District, are third party beneficiaries of the obligations in this paragraph and shall have a separate and independent right to enforce these reporting requirements.

Developer shall use its reasonable best efforts to cause a provision in substantial compliance with this provision to be included in all sales contracts entered into after the date of this Agreement by Developer with purchasers of property located within the District, requiring said sales information be provided to the City.

B. Promptly following the execution of any lease for real property within the District, Developer shall provide a certification to the City, signed by Developer and such tenant, confirming that the lease includes the provisions satisfying Developer's obligation as set forth in this **Section 5.3**. Failure of Developer to require that such restrictions be placed in any such lease shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the District's and the City's rights of enforcement and remedies under this Agreement, nor shall it affect the Developer's right to reimbursement of its CID Eligible Costs or otherwise form the basis of a default on the part of the Developer hereunder.

C. Developer, to the maximum extent reasonably possible, shall enforce the lease/sales contract obligation set forth in paragraph A of this **Section** and shall, to the maximum extent reasonably possible, require any purchaser, lessee or other transferee or possessor of the property within the District, to provide to the City a copy of their Missouri sales tax returns. This obligation shall be a covenant running with the land and shall be enforceable against Developer and against any purchaser, lessee or other transferee or possessor from Developer as if such purchaser, lessee or possessor were originally a party to and bound by this Agreement and shall only terminate upon the end of the term of the District.

Section 5.4. Developer's Obligations to the City under Bond or Surety. The Parties agree that:

A. The District Projects, or any portion thereof, which the Developer is or becomes obligated to the City to construct pursuant to any City Code provision or Ordinance, or the TIF Contract, does not diminish the consideration to the District as recited in **Section 2.1**.

B. In the event that the City constructs or causes to be constructed any portion of the District Projects pursuant to any action on a bond or other form of surety that is provided to the City by the Developer pursuant to the City Code or a City ordinance, or the TIF Contract, then the City shall be entitled to reimbursement from the District for such CID Eligible Costs that are not paid or reimbursed to the City under such bond or surety.

ARTICLE 6: DEFAULTS AND REMEDIES

Section 6.1. Events of Default. If any one or more of the following events shall occur and be continuing following the expiration of any cure provisions herein, then such event or events shall constitute an Event of Default under this Agreement:

A. Failure by any Party in the performance of any covenant, agreement or obligation imposed or created by this Agreement (except as otherwise provided in **Section 5.3**), and the continuance of such default for ninety (90) days after a non-defaulting Party has given written notice to the defaulting Party specifying such default.

Section 6.2. Remedies on Default. If any Event of Default has occurred and is continuing, then any non-defaulting Party may, upon its election or at any time after its election while such default continues, by mandamus or other suit, action or proceedings at law or in equity, enforce its rights against the defaulting Party and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Agreement. To the extent that the City must enforce its rights against the District due to an Event of Default, costs incurred by the City for such enforcement shall be deemed District Operating Costs.

Section 6.3. Rights and Remedies Cumulative. The rights and remedies reserved by the Parties under this Agreement and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The Parties shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

Section 6.4. Waiver of Breach. No waiver of any breach of any covenant or agreement contained in this Agreement shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of an Event of Default, a non-defaulting Party may nevertheless accept from the defaulting Party, any payment or payments without in any way waiving the non-defaulting Party's right to exercise any of its rights and remedies as provided herein with respect to any such default or defaults in existence at the time when such payment or payments were accepted by the non-defaulting Party.

Section 6.5. Excusable Delays. No Party shall be deemed to be in default of this Agreement because of Excusable Delays. Excusable Delays shall extend the time of performance for the period of such excusable delay.

ARTICLE 7: MISCELLANEOUS

Section 7.1. Effective Date and Term. This Agreement shall become effective on the date this Agreement has been fully executed by the Parties. Upon the expiration of the District Sales Tax as provided in **Section 3.8**, and the abolishment of the District in accordance with R.S.Mo. § 67.1481, and the terms of this Agreement, this Agreement shall terminate.

Section 7.2. Immunities. No recourse shall be had for any claim based upon any representation, obligation, covenant or agreement in this Agreement maintained against any past, present or future officer, member, employee, director or agent of the City or the District, or of any successor thereto, as such, either directly or through the City or the District, or any successor thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, members, employees, directors or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement. The District, as a separate political subdivision of the state, is responsible for compliance with all applicable state laws and agrees, to the extent permitted by law, to hold harmless and indemnify the City from and against all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including

court costs and attorneys fees, resulting from, arising out of, or in any way connected with the District's failure to comply with any applicable state law.

Section 7.3. Modification. The terms, conditions, and provisions of this Agreement can be neither modified nor eliminated except in writing and by mutual agreement between the Parties. Any modification to this Agreement as approved shall be attached hereto and incorporated herein by reference.

Section 7.4. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

Section 7.5. Validity and Severability. It is the intention of the parties hereto that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of State of Missouri, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

Section 7.6. Execution of Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 7.7. City Approvals. Unless specifically provided to the contrary herein, all approvals of City hereunder may be given by the City Manager or his/her designee without the necessity of any action by the City Council.

Section 7.8. District Approvals. Unless specifically provided to the contrary herein, all approvals of District hereunder may be given by the Chairman or his/her designee without the necessity of any action by the Board.

Section 7.9. Developer Approvals. Unless specifically provided to the contrary herein, all approvals of Developer hereunder may be given by the Managing Member of Developer or his/her designee without the necessity of any action by the members of the Developer.

Section 7.10. Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venture or any association between the City, Developer and/or District.

Section 7.11. City's and District's Legislative Powers. Notwithstanding any other provisions in this Agreement, nothing herein shall be deemed to usurp the governmental authority or police powers of City or to limit the legislative discretion of the City Council, and no action by the City Council in exercising its legislative authority shall be a default under this

Contract. Notwithstanding any other provisions in this Agreement, nothing herein shall be deemed to usurp the governmental authority of District.

IN WITNESS WHEREOF, Developer, the District, and the City have caused this Agreement to be executed in their respective names and attested as to the date as set forth below.

CITY:

CITY OF BELTON, MISSOURI

By: _____
Jimmy Odom, Mayor

ATTEST:

Patricia Ledford, City Clerk

DEVELOPER:

CROSSROADS AT BELTON, LLC

By: _____
_____, Managing Member

CID:

Y HIGHWAY MARKET PLACE
COMMUNITY IMPROVEMENT
DISTRICT

By: _____

ATTEST:

_____, District Secretary

EXHIBIT A
PROJECT BUDGET

Y Highway Market Place CID Budget

CID BUDGET			
CITY ADMINISTRATIVE COSTS			
Item No.	Description	Total Cost	CID Eligible Expense
1	City Initial Administrative Costs	\$ 50,000	\$ 50,000
2	City Ongoing Administrative Costs (4)	\$ 150,000	\$ 150,000
Subtotal - City Administrative Costs		\$ 200,000	\$ 200,000
PROJECT 1			
Lots 1-6 Site Development Construction Costs			
Item No.	Description	Total Cost	CID Eligible Expense
1	Storm Sewer Pipe	\$ 197,107	\$ 197,107
2	Curb Inlets and Storm Sewer Manholes	\$ 82,553	\$ 82,553
3	Storm Sewer 15"-18"	\$ 24,078	\$ 24,078
4	Yard Inlets Included with Storm Structures	\$ 8,026	\$ 8,026
5	French Rock Excavation	\$ 34,397	\$ 34,397
6	8" PVC San Sewer Main	\$ 22,702	\$ 22,702
7	Sanitary Manhole	\$ 10,319	\$ 10,319
8	6" San Service Line	\$ 7,189	\$ 7,189
9	Concret to Ex San Manhole	\$ 4,300	\$ 4,300
10	8" DIP water Line	\$ 50,827	\$ 50,827
11	6" DIP water Line	\$ 16,052	\$ 16,052
12	3" DIP water Line	\$ 14,332	\$ 14,332
13	Bend/ Fittings/ Valves/ Testing	\$ 12,612	\$ 12,612
14	Fire Hydrants	\$ 18,345	\$ 18,345
15	Area Grading - 6" Stripping	\$ 44,378	\$ 44,378
16	Area Grading - Cut	\$ 132,429	\$ 132,429
17	Area Grading - Fill	\$ 21,279	\$ 21,279
18	Finish Grade Site	\$ 52,051	\$ 52,051
19	Building Pad Grading	\$ 17,830	\$ 17,830
20	Pavement Grading	\$ 18,447	\$ 18,447
21	22" Aggregate Stabilization	\$ 122,969	\$ 122,969
22	Erosion Control	\$ 33,250	\$ 33,250
23	Survey	\$ 17,199	\$ 17,199
24	Mobilization and Management	\$ 74,527	\$ 74,527
25	Segmental Block Retaining Wall	\$ 133,002	\$ 133,002
26	Parking Light Poles	\$ 146,761	\$ 146,761
27	8" Reinforced Conc Pavement	\$ 140,856	\$ 140,856
28	Concrete Sidewalks	\$ 48,443	\$ 48,443
29	2' Concrete Curb and Gutter	\$ 95,076	\$ 95,076
30	8" Heavy Duty Asphalt	\$ 266,233	\$ 266,233
31	6" Light Duty Asphalt	\$ 298,108	\$ 298,108
32	Striping and Signage/Traffic Control	\$ 8,026	\$ 8,026
33	4" PVC Tele-Com Conduit (SCH 40)	\$ 49,302	\$ 49,302
34	Transformers	\$ 8,599	\$ 8,599
35	Sectionalizers	\$ 4,586	\$ 4,586
36	4" PVC Eleet Conduit (SCH 40)	\$ 38,983	\$ 38,983
37	Conc Encased UP Conduit Under Pmnt	\$ 13,759	\$ 13,759
38	Rain Garden	\$ 75,673	\$ 75,673
39	Landscaping	\$ 91,725	\$ 91,725
40	Seeding	\$ 5,733	\$ 5,733
41	6' Vinyl Privacy Fence	\$ 30,269	\$ 30,269
42	Miscellaneous Costs	\$ 6,038	\$ 6,038
43	Monument Sign	\$ 50,000	\$ 50,000
Subtotal - Site Development Costs		\$ 2,548,372	\$ 2,548,372

Y Highway Market Place CID Budget

Givan Avenue Construction			
Item No	Description	Total Cost	CID Eligible Expense
1	Rip Rap	\$ 17,199	\$ 17,199
2	2 ea. 6' X 6' RCB	\$ 290,655	\$ 290,655
3	Flowable Fill Under Public Street	\$ 20,793	\$ 20,793
4	Roadway Site Prep - 6" Striping	\$ 6,421	\$ 6,421
5	Road Grading Excess Cut from Site	\$ 2,017	\$ 2,017
6	Roadway Grading - Fill	\$ 12,166	\$ 12,166
7	Finish Grade Site	\$ 8,926	\$ 8,926
8	Pavement Grading	\$ 3,655	\$ 3,655
9	12" Flyash Stabilized Subgrade	\$ 17,362	\$ 17,362
10	9" Asphalt Concrete Pavement	\$ 109,658	\$ 109,658
11	Striping, Signage & Traffic Control	\$ 6,306	\$ 6,306
12	Concrete Drive/Approach	\$ 6,449	\$ 6,449
13	2' Concrete Curb and Gutter	\$ 21,216	\$ 21,216
14	5' Concrete Sidewalk	\$ 12,111	\$ 12,111
15	8" DIP Water Line (Public)	\$ 24,881	\$ 24,881
16	Fire Hydrants	\$ 3,669	\$ 3,669
17	Bend/ Fittings/ Valves/ Testing (Public)	\$ 3,440	\$ 3,440
18	Survey	\$ 5,733	\$ 5,733
19	Seeding	\$ 5,733	\$ 5,733
20	Mobilization and Management	\$ 22,931	\$ 22,931
21	City Inspection/Review Fee	\$ 34,397	\$ 34,397
22	Miscellaneous Costs	\$ 1,774	\$ 1,774
Subtotal - Givan Avenue Costs		\$ 637,492	\$ 637,492

Y Highway Design and Construction			
Item No	Description	Total Cost	CID Eligible Expense
1	Y Highway Design and Construction	\$ 3,000,000	
Subtotal - Y Highway Costs		\$ 3,000,000	\$ 3,000,000
PROJECT 1 TOTAL		\$	\$ 6,385,864

PROJECT 2			
Lots 2-6 Site Development Construction Costs			
Item No	Description	Total Cost	CID Eligible Expense
1	22" Aggregate Stabilization	\$ 110,698	\$ 110,698
2	Concrete Drive/Approach	\$ 6,449	\$ 6,449
3	Concrete Curb & Gutter	\$ 28,894	\$ 28,894
4	Concrete Sidewalks	\$ 21,226	\$ 21,226
5	Vault/BFP/Sump Pump/Electrical 6"	\$ 58,475	\$ 58,475
6	8" Heavy Duty Asphalt	\$ 329,850	\$ 329,850
7	6" Light Duty Asphalt	\$ 42,423	\$ 42,423
8	Striping, Signage & Traffic Control	\$ 5,733	\$ 5,733
9	Rain Garden	\$ 27,747	\$ 27,747
10	Landscaping	\$ 64,208	\$ 64,208
11	Miscellaneous Costs	\$ 46,470	\$ 46,470
Subtotal - Site Development Costs		\$ 742,174	\$ 742,174
PROJECT 2 TOTAL		\$	\$ 742,174
PROJECT 1 AND PROJECT 2 TOTAL		\$	\$ 7,128,037

EXHIBIT B

FORM OF CERTIFICATE OF CID REIMBURSABLE PROJECT COSTS

CERTIFICATE OF CID ELIGIBLE COSTS

To: Financial Services Director, City of Belton, Missouri

Copy: City Manager, City of Belton, Missouri
Chairman, Y Highway Market Place Community Improvement District

Re: Certification of Y Highway Market Place CID Eligible Costs

Terms not otherwise defined herein shall have the meaning ascribed to those terms in the Cooperative Agreement dated as of ____, 20__ (the "Agreement") between the City of Belton, the Y Highway Market Place Community Improvement District, and Caymus Real Estate, LLC. In connection with the Agreement, the undersigned ("Developer") hereby states and certifies that:

1. Each item listed on *Schedule 1* attached hereto is a CID Eligible Cost and was incurred in connection with the construction of the District Projects.
2. These CID Eligible Costs have been paid by the Developer and are reimbursable under the Agreement and, to the knowledge of the Developer, the CID Act.
3. Each item listed on *Schedule 1* has not previously been paid or reimbursed from money derived from the District Sales Tax or other Public Finance Revenue, and no part thereof has been included in any other certificate previously filed with the City.
4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
5. All necessary permits and approvals required for the work for which this certificate relates have been issued and, to the knowledge of the Developer, are in full force and effect.
6. To the knowledge of the Developer, all work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.
7. If any cost item to be reimbursed under this Certificate is deemed not to constitute a CID Eligible Cost within the meaning of the Agreement and the CID Act, the Developer shall have the right to substitute other eligible CID Eligible Costs for payment hereunder.

8. To the knowledge of the Developer, the Developer is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes a Event of Default on the part of the Developer under the Agreement.

9. All of the Developer's representations set forth in the Agreement remain true and correct as of the date hereof.

Dated this ____ day of _____, 20 ____.

[DEVELOPER _____]

By: _____

Name: _____

Title: _____

Approved for Payment this ____ day of _____, 20 ____:

FINANCIAL SERVICES DEPARTMENT, CITY OF BELTON, MISSOURI AS THE AGENT
OF THE Y HIGHWAY MARKET PLACE COMMUNITY IMPROVEMENT DISTRICT

By: _____

Title: _____

SCHEDULE 1 TO REIMBURSEMENT CERTIFICATE

Itemization of CID Eligible Costs

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

EXHIBIT C

FORM OF CERTIFICATE OF COMPLETION

CERTIFICATE OF COMPLETION

To: Financial Services Director, City of Belton, Missouri

Copy: City Manager, City of Belton, Missouri
Chairman, Y Highway Market Place Community Improvement District

Re: Completion of Y Highway Market Place CID Reimbursable Project Costs

Terms not otherwise defined herein shall have the meaning ascribed to those terms in the Cooperative Agreement dated as of ____, 20__ (the "Agreement") between the City of Belton, the Y Highway Market Place Community Improvement District, and Caymus Real Estate, L.L.C. In connection with the Agreement, the undersigned ("Developer") hereby states and certifies that:

1. The District Projects, or the portion thereof described below, have been completed in accordance with the Agreement, and all required approvals, certificates or permits have been granted or issued by the appropriate governmental entity or agency to commence operation of all improvements in the District Projects, or the portion thereof described below:

Portion of District Projects completed: _____

2. To the knowledge of the Developer, the Developer is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes a Event of Default on the part of the Developer under the Agreement.

3. All of the Developer's representations set forth in the Agreement remain true and correct as of the date hereof.

Dated this ____ day of _____, 20 ____.

[DEVELOPER _____]

By: _____

Name: _____

Title: _____

Approved this ____ day of _____, 20 ____:

FINANCIAL SERVICES DEPARTMENT, CITY OF BELTON, MISSOURI AS THE AGENT OF THE Y HIGHWAY MARKET PLACE COMMUNITY IMPROVEMENT DISTRICT

By: _____

Title: _____

SECTION II
B

R2015-

A RESOLUTION ACCEPTING THE DONATION OF TWO INFORMATIONAL KIOSKS AND APPROVING AND AUTHORIZING THE EXECUTION OF A MAINTENANCE AGREEMENT BETWEEN DOWNTOWN BELTON MAIN STREET, INC. AND THE CITY OF BELTON FOR THE MAINTENANCE OF TWO INFORMATIONAL KIOSKS.

WHEREAS, Belton Main Street, Inc. wishes to donate two informational kiosks as evidenced in Exhibit A, attached hereto; and

WHEREAS, the City of Belton wishes to accept the donation of two informational kiosks; and

WHEREAS, Belton Main Street, Inc. has agreed to install and maintain the two informational kiosks; and

WHEREAS, the installation and maintenance are described in and governed by the Maintenance Agreement between Downtown Belton Main Street, Inc. and the City of Belton, attached hereto as Exhibit B; and

WHEREAS, the City of Belton desires to approve and execute the Maintenance Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELTON, MISSOURI, AS FOLLOWS:

Section 1. That the City of Belton hereby accepts the donation of two informational kiosks by Belton Main Street, Inc.

Section 2. That the Maintenance Agreement between Downtown Belton Main Street, Inc. and the City of Belton, attached hereto as Exhibit B, for the installation and maintenance of two informational kiosks is hereby approved and the Mayor is authorized and directed to execute the Maintenance Agreement on behalf of the City.

Section 3. That this resolution shall be in full force and effect after passage and approval.

Duly read and passed this ____ day of _____, 2015.

Mayor Jeff Davis

ATTEST:

Patricia A. Ledford, City Clerk
of the City of Belton, Missouri

STATE OF MISSOURI)
COUNTY OF CASS)SS
CITY OF BELTON)

I, Patricia A. Ledford, City Clerk, do hereby certify that I have been duly appointed City Clerk of the City of Belton, Missouri, and that the foregoing Resolution was regularly introduced at a regular meeting of the City Council held on the ____ day of _____, 2015, and adopted at a regular meeting of the City Council held the ____ day of _____, 2015 by the following vote, to wit:

AYES: COUNCILMEN:
NOES: COUNCILMEN:
ABSENT: COUNCILMEN:

Patricia A. Ledford, City Clerk
of the City of Belton, Missouri

EXHIBIT A

Donation Documents

July 14, 2015

City of Belton, Missouri

Mayor Jeff Davis and the City Council

Re: KIOSK DONATION

Honorable Mayor and City Councilmembers:

Downtown Belton Main Street, Inc. ("DBMS"), a Missouri nonprofit corporation, desires to donate two informational kiosks to the City of Belton, Missouri, as depicted in **Exhibit A**. DBMS acknowledges the installation and maintenance of each kiosk will be at DBMS's expense, and governed by that certain Maintenance Agreement executed by DBMS and the City of Belton.

DOWNTOWN BELTON MAIN STREET, INC.

By: Richard Smith
Its: Board Member

STATE OF MISSOURI)
) ss.
COUNTY OF _____)

On this ____ day of June, 2015, before me, the undersigned Notary Public, in and for said state, personally appeared Richard Smith, _____ of DOWNTOWN BELTON MAIN STREET, INC., known to me to be the person described in and who executed the within Donation Letter in behalf of said corporation, and acknowledged to me that ____ executed the same for the purposes therein stated and that the foregoing instrument was authorized by the board of directors of said corporation, and ____ acknowledged execution thereof to be on behalf of and the free act and deed of said corporation.

Subscribed and sworn to me the day and year above written.

Notary Public:

My commission expires:

EXHIBIT A

Photograph of Informational Kiosk

Kiosk One

Exhibit A



Kiosk Two

Exhibit A



EXHIBIT B

Maintenance Agreement

MAINTENANCE AGREEMENT

THIS MAINTENANCE AGREEMENT (the "AGREEMENT") is made and entered into this ____ day of _____, 2015 (the "Effective Date"), by and between Downtown Belton Main Street, Inc. a nonprofit Missouri corporation ("DBMS"), and the City of Belton, Missouri, (the "City").

GENERAL

1. DBMS wishes to donate informational kiosks (the "Kiosks") to the City as evidenced by the documentation attached as **Exhibit A**, and the City wishes to accept the donation of the Kiosks.

2. DBMS shall install the Kiosks at a location of the City's choice, and maintain the Kiosks at no charge to the City. The Kiosks must be installed as approved by the City's Public Works Director, or designee. The Kiosks shall be maintained in good condition and in conformance with the City's property maintenance codes and ordinances.

3. The City may secure access to the Kiosks, and information to be posted in the Kiosks shall be submitted to the City Clerk or other designated city staff member before such information is posted. Posting of information in the Kiosks shall be at the discretion of the City.

TERM

1. This Agreement shall commence on the Effective Date and shall continue for a period of one year, subject to prior termination as hereinafter described. Thereafter, unless terminated as provided herein, this Agreement shall automatically renew for consecutive one year terms beginning on the anniversary of the Effective Date of the Agreement.

INDEMNIFICATION

1. DBMS shall indemnify and hold harmless the City against any claim of liability or loss from personal injury or property damage resulting from, arising out of, or in any way related to this Agreement, excepting, however, such claims or damages as may be due to or caused by the intentional or gross negligent acts or omissions of the City.

INSURANCE

1. During the term of this Agreement, the Kiosks shall be insured under the City of Belton general liability policy.

ENVIRONMENTAL

1. DBMS is responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity conducted in, on, or in any way related to the maintenance of the Kiosks, unless such conditions or concerns are caused by the activities of the City. DBMS agrees to not use any hazardous materials in conjunction with the maintenance of the Kiosks, and that DBMS shall be responsible for the removal, and associated costs, of any hazardous materials used by DBMS.

ASSIGNMENT

1. This Agreement shall not be assigned without the express written approval of the City, which may be withheld in the City's sole discretion.

WHOLE AGREEMENT

1. This Agreement constitutes the final and complete agreement of the parties and shall supersede and replace any prior oral or written agreements between the City and DBMS. Any subsequent modification must be in writing signed by both parties.

GOVERNING LAW

1. This Agreement shall be governed and construed under the laws of the State of Missouri.

NOTICES

1. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, addressed as follows:

City: City of Belton
 City Administrator
 506 Main Street
 Belton, MO 64012

DBMS: Downtown Belton Main Street, Inc.
 315 Main Street
 Belton, MO 64012

DEFAULT

1. In the event there is a default by DBMS with respect to any of the provisions of this Agreement or its obligations under it, or in case of any assignment or transfer of this Agreement by operation of law, the City may, at its option, terminate this Agreement by serving five (5) days notice in writing upon DBMS. Any waiver by City of any default or defaults shall not constitute a waiver of the right to terminate this Agreement for any

subsequent default or defaults, nor shall any such waiver in any way affect the City's ability to enforce any section of this Agreement. The remedy set forth in this section shall be in addition to and not in limitation of any such remedies that the City may have at law or in equity.

TERMINATION

1. This Agreement may be terminated by the City, at any time, by serving thirty (30) days written notice of termination upon DBMS. Upon the effective date of termination, this Agreement and all rights of DBMS shall absolutely cease.
2. Termination shall not release DBMS from any liability or obligation, whether of indemnity or otherwise, resulting from any events happening prior to the date of termination.
3. Upon termination of this Agreement, DBMS shall cause the kiosks to be immediately removed from the sites of installation, and the sites of installation shall be restored to their original condition, or to a condition acceptable to the City and/or owner of the sites of installation. All repairs to the sites of installation shall be completed by DBMS at no charge to the City.

SURVIVAL

1. Neither termination nor expiration will release either party from any liability or obligations under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.

BINDING EFFECT

1. The terms and provisions of this Agreement shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties have signed their names the day and year first above written.

CITY OF BELTON, MISSOURI

DOWNTOWN BELTON MAIN STREET,
INC:

JEFF DAVIS
Mayor

Chairman
Board of Directors
Downtown Belton Main Street, Inc.




 Informational Kiosk

Exhibit One



SECTION II
C



CITY OF BELTON CITY COUNCIL INFORMATION FORM

AGENDA DATE: July 7, 2015

DIVISION: Transportation

COUNCIL: Regular Meeting Work Session Special Session

<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Consent Item	<input type="checkbox"/> Change Order	<input type="checkbox"/> Motion
<input type="checkbox"/> Agreement	<input checked="" type="checkbox"/> Discussion	<input type="checkbox"/> FYI/Update	<input type="checkbox"/> Presentation	<input type="checkbox"/> Both Readings

ISSUE/RECOMMENDATION:

The new City initiative called the Cost-Share Program to replace bad sidewalk and curb has been very successful to date. Staff has received a request from a commercial property owner to replace the curb in his driveway approach due to deterioration, which is a similar issue seen throughout the City. Unlike curb in front of typical residential driveways, most commercial drives have a driveway approach that is flat and meets the edge of asphalt. In these cases, City code places responsibility for repair and replacement in the hands of the property owner.

Staff believes replacing these through the Cost-Share Program is justified because the objective is the same, but there are two concerns:

- 1) The code issue mentioned above; and
- 2) The possible large volume of work

Staff would like direction from Council. If Council would like to consider it, staff will need to identify resources necessary to manage it effectively.

PROPOSED CITY COUNCIL MOTION:

None

BACKGROUND:

Staff will have data on the progress and success of the program.

FINANCIAL IMPACT/ANALYSIS:

Uncertain

STAFF RECOMMENDATION, ACTION, AND DATE:

None

LIST OF REFERENCE DOCUMENTS ATTACHED:

None