

INTERGOVERNMENTAL COOPERATION AGREEMENT

between the

CITY OF COLUMBIA, MISSOURI

and the

ST. CHARLES ROAD TRANSPORTATION DEVELOPMENT DISTRICT

dated as of

July 12, 2019

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INTERGOVERNMENTAL COOPERATION AGREEMENT

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT (the “**Agreement**”) is made and entered into this July 12, 2019 by and between the City of Columbia, Missouri (the “**City**”), a municipal corporation and political subdivision of the State of Missouri, and its successors in interest and assigns, and the St. Charles Road Transportation Development District (as defined herein, the “**District**”), a political subdivision of the State of Missouri.

WITNESSETH:

WHEREAS, the District is a political subdivision of the State of Missouri, created and existing under the Missouri Transportation Development District Act, Sections 238.200 *et seq.* of the Revised Statutes of Missouri, as amended (the “**TDD Act**”), for the purpose of funding, promoting, planning, designing, constructing, improving, maintaining, and operating bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit and any similar related improvement or infrastructure; and

WHEREAS, the City is a municipal corporation and political subdivision duly organized and existing under the laws of the State of Missouri and its charter and a local transportation authority as defined in the TDD Act; and

WHEREAS, the District was created for the purpose of funding 75% of the cost of those projects listed on the attached **Exhibit A (the “Transportation Project”)**, being the obligation of St. Charles Road Development, LLC (the “**Developer**” and “**Owner**”) pursuant to that certain Pre-Annexation and Development Agreement dated March 9, 2015, between the Owner and the City (the “**Development Agreement**”).

WHEREAS, the District was formed pursuant to the TDD Act, by a petition (the “**Petition**”) filed with the Circuit Court of Boone County (the “**Circuit Court**”) seeking to form a transportation development district under the TDD Act and a Judgment and Order entered by the Circuit Court on November 23, 2015 (as defined herein, the “**TDD Order**”), for purposes including the funding of the Transportation Project to serve the District and imposing a TDD Sales Tax (as defined herein) and TDD Special Assessments to pay costs including the costs of the Transportation Project (as defined herein, the “**Transportation Project Costs**”); and

WHEREAS, subject to and in accordance with the TDD Act, the Petition and the TDD Order, the District has imposed special assessments and a one-half cent (1/2 cent) sales tax (as defined herein, the “**TDD Special Assessment**” and the “**TDD Sales Tax**”) on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the District (if such property and services are otherwise subject to sales tax under Missouri law) the TDD Special Assessments and the TDD Sales Tax referred to herein as the **TDD Revenues**, and

WHEREAS, the Owner owns all of the real property in the District; and

WHEREAS, the City and the District are authorized under Section 238.260 of the TDD Act to enter into contracts in order for the City to assist the District in project funding, promotion, planning, design, right-of-way acquisition, relocation assistance services, construction, maintenance and operation; and

WHEREAS, the City and the District desire to provide for the planning, development, acquisition, construction and financing of the Transportation Project to serve the District and the City, and

WHEREAS, pursuant to Ordinance No. 023409 adopted by the City Council of the City on June 17, 2019 (the "TDD Ordinance") the City is authorized to enter into this Agreement to provide for the planning, development, acquisition, construction and financing of the Transportation Project and

WHEREAS, pursuant to a resolution adopted by the Board of Directors of the District on June 26, 2019 (the "TDD Resolution") the District is authorized to enter into this Agreement; and

WHEREAS, pursuant to the provisions of Section 238.227.4 of the TDD Act, the District and the City, in its capacity as the local transportation authority, are authorized to enter into a contract to provide for the deposit of all proceeds of the TDD Revenues into a special trust account to be used to fund the Transportation Project Costs (as defined herein), to pay District Administrative Costs (as defined herein) and to pay principal of and interest on TDD Obligations (as defined herein); and

WHEREAS, the Owner is a third party beneficiary of this Agreement.

WHEREAS, the parties to this Agreement desire to provide a mechanism for the pledge of the TDD Revenues and the use of the same as provided herein;

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

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. The words and terms as used in this Agreement and not otherwise defined in the Recitals or herein shall have the following meanings.

"Agreement" means this Intergovernmental Cooperation Agreement as from time to time amended in accordance with the terms hereof.

"Board of Directors" means the board members of the District and their successors in interest and assigns selected pursuant to Section 238.220.3 of the TDD Act.

"Business Day" means any day other than a Saturday, Sunday or any other day in which banking institutions are required or authorized by law to close.

"Circuit Court" means the Circuit Court of Boone County.

"City" means the City of Columbia, Missouri, a municipal corporation and political subdivision duly organized and existing under the laws of the State of Missouri and its charter, and its successors in interest and assigns.

"City Administrative Costs" means extraordinary direct out-of-pocket expenses incurred by the City related to the performance of its obligations pursuant to this Agreement and permitted to be funded pursuant to the TDD Act, including without limitation the costs of outside legal counsel, financial

advisors, Costs of Issuance to the extent not funded from the proceeds of TDD Obligations, costs of litigation and such other costs authorized as City Administrative Costs pursuant to the provisions of this Agreement.

"City Obligations" means any bonds, notes, lease obligations or other evidence of indebtedness issued or incurred by the City to pay Transportation Project Costs.

"City Representative" means the Director of Public Works or such other person at the time designated to act on behalf of the City as evidenced by a written certificate furnished to the District containing the specimen signature of such person and signed on behalf of the City by the City Manager. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the City Representative.

"Commercial Development" means the retail and commercial development, including land, buildings and improvements owned by the Owner within the District.

"County" means Boone County, Missouri.

"Commission" means the Missouri Highways and Transportation Commission.

"Developer" means St. Charles Road Development, LLC, and its successors in interest and assigns.

"District" means the St. Charles Road Transportation Development District, which was established as a political subdivision of the State of Missouri pursuant to the Petition, the TDD Act and the TDD Order, and its successors in interest and assigns.

"District Administrative Costs" means overhead expenses of the District permitted to be funded pursuant to the TDD Act, including without limitation the following: (a) reimbursement of the Board of Directors of the District for actual expenditures in the performance of duties on the behalf of the District pursuant to Section 238.222 of the TDD Act; (b) expenses incurred in the exercise of the contractual powers of the District pursuant to Section 238.250 of the TDD Act; (c) the cost of insurance obtained by the District pursuant to Section 238.255 of the TDD Act; (d) the cost of any audit by the state auditor pursuant to Section 238.272 of the TDD Act or any other audit performed for the District; (e) expenses incurred by the District in the exercise of the powers granted under Section 238.252 of the TDD Act, which consist of compensation of employees or contractors, suits by or against the District, the purchase of personal property necessary or convenient for the District's activities, and the collection and disbursement of funds for District activities; and (f) costs authorized as District Administrative Costs pursuant to the provisions of this Agreement.

"District Extraordinary Costs" means those costs of the District, other than District Formation Costs and District Administrative Costs, such as expenses associated with litigation and lobbying which in the judgment of the Board of Directors of the District are necessary for the ongoing operation of the District and the continued levy and collection of the TDD Revenues and any unreimbursed District Administrative Costs and which are certified by the District to the Finance Director of the City accompanied by a description and bills or receipts for such expenses.

"District Formation Costs" means the costs incurred by the District to the date of this Agreement in connection with the formation, organization and operation of the District in the total amount certified by the District to the Finance Director of the City.

"District Representative" means the Executive Director of the District or such other person at the time designated to act on behalf of the District as evidenced by a written certificate furnished to the City containing the specimen signature of such person and signed on behalf of the District by the Chair of the Board of Directors of the District. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the District Representative.

"Event of Default" means any Event of Default as described herein.

"Fiscal Year" means the District's fiscal year, which shall be the calendar year.

"Operating Fund" means a segregated fund to be created and maintained by the treasurer of the District in which shall be deposited all moneys transferred to the District by the City pursuant to this Agreement, including any investment earnings thereon, and from which the District shall pay District Administrative Costs, District Formation Costs and District Extraordinary Costs.

"Owner" means St. Charles Road Development, LLC, the Owner of all the real property within the District, and each such entity's successors in interest and assigns.

"Petition" means the petition filed with the Circuit Court seeking to form the District under the TDD Act.

"Pledged Revenues" means the District's TDD Sales Tax and Special Assessment proceeds pledged to the City hereunder.

"Somerset Development Agreement" means that certain agreement entered into between the City and the Developer on March 9, 2015 and approved by Ordinance 022373.

"Somerset Impact Fees" means fees due to the city pursuant to the Somerset Development Agreement.

"Somerset Project" means the development which occurs within the original boundaries of the District.

"St. Charles Road TDD Revenues" means all TDD Special Assessment and TDD Sales Tax revenues deposited by the City (including investment earnings thereon) in the St. Charles Road Transportation Development District Trust Fund, provided that such revenues do not include (a) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer, and (b) any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

"TDD Act" means the Missouri Transportation Development District Act, Sections 238.200 *et seq.* of the Revised Statutes of Missouri, as amended.

"TDD Bonds" means any bonds issued by the City payable from the Pledged Revenues pursuant to the provisions of this Agreement.

"TDD Issuance Costs" means all fees and expenses incurred in connection with the issuance of TDD Obligations, including those of the City's financial advisors, the City's legal counsel(s), including bond counsel, the costs of printing any TDD Obligations and any official statement relating thereto, underwriter's discount or placement agent's fee, if any, the fees and expenses of any trustee or paying

agent, the costs of credit enhancement, if any, and the fees of any rating agency rating any TDD Obligations.

"TDD Obligations" means any bonds, notes, lease obligations or other evidence of indebtedness, including any TDD Bonds, issued or incurred by the City to pay Transportation Project Costs pursuant to the TDD Act and this Agreement.

"TDD Order" means the Judgment and Order entered by the Circuit Court on November 23, 2015 as the same may be amended from time to time, establishing the District as a transportation development district and political subdivision pursuant to the TDD Act.

"TDD Ordinance" means Ordinance No. 023409 adopted by the City Council of the City on June 17, 2019 authorizing the execution and delivery of this Agreement by the City.

"TDD Resolution" means the resolution adopted by the Board of Directors of the District on June 26, 2019 authorizing the execution and delivery of this Agreement by the District.

"TDD Revenues" means the TDD Sales Tax and the TDD Special Assessments.

"TDD Sales Tax" means the sales tax approved by the Circuit Court of Boone County and by the Owners to be imposed by the District on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the District if such property and services are otherwise subject to sales tax under Missouri law.

"TDD Special Assessments" means the special assessments approved by the Circuit Court of Boone County and by the Owner to be imposed on the real property in the District.

"Transportation Project" means the road improvements included in the District's formation petition and the attached **Exhibit A**.

"Transportation Project Costs" means all costs necessary or incidental to plan, acquire, finance, develop, design, construct and maintain the Transportation Project, including, without limitation, (a) costs of all estimates, studies, surveys, plans, drawings, reports, tests, specifications and other preliminary investigations of architects, appraisers, surveyors and engineers; (b) all professional service costs, including without limitation, architectural, engineering, legal, financial, planning or special services incurred; (c) costs of acquisition of right-of-way; (d) costs of demolition and clearing and grading of land; (e) costs of construction; (f) costs of maintaining, repairing and replacing the Transportation Project; and (g) costs of principal and interest on TDD Obligations, TDD Issuance Costs, capitalized interest on TDD Obligations and funding of debt service reserves or other reserves necessary to market the TDD Obligations.

Section 1.2. Rules of Interpretation

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context indicates otherwise, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

(b) All references in this Agreement to designated "*Articles*," "*Sections*" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this

instrument as originally executed. The words "*herein*," "*hereof*," "*hereunder*" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) Whenever an item or items are listed after the word "*including*," such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the City. The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a municipal corporation and political subdivision duly organized and existing under the laws of the State of Missouri and its charter.

(b) The City, acting in its capacity as a "local transportation authority" within the meaning of Section 238.202.1(4) of the TDD Act, has lawful power and authority to enter into this Agreement and to carry out its obligations hereunder. By proper action of its City Council, the City 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 hereby, 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 applicable to the City or any of its property of any court or governmental body, 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) No official or employee of the City has any significant or conflicting interest, financial or otherwise, in the Transportation Project or in the transactions contemplated hereby.

(e) There is no litigation or proceeding pending or, to the City's knowledge, 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 2.2. Representations by the District. The District makes the following representations as the basis for the undertakings on its part herein contained:

(a) The District is a political subdivision, duly organized and existing under the laws of the State of Missouri.

(b) The District has lawful power and authority to enter into this Agreement and to carry out its obligations hereunder. By proper action of its Board of Directors, 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 hereby, 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 applicable to the District or any of its property of any court or governmental body, 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 agreement to which the District is a party.

(d) The members of the Board of Directors and the officers of the District are all representatives of the Owner as required by Section 238.220.2(1) of the TDD Act. 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.

ARTICLE III

TDD REVENUES

Section 3.1. Deposit of TDD Revenues. Boone County will collect the TDD Special Assessments per Section 238.233.1 RSMo. The Department of Revenue will collect the TDD Sales Taxes per Section 238.235.3 RSMo. and remit them to the District. The District will remit all TDD revenues to the City within seven Business Days of receipt. The City shall deposit TDD Revenues into a special trust account established in the custody of the City designated as the "*TDD Revenues Fund – St. Charles Road Transportation Development District*" (the "**TDD Revenues Fund**") and apply such fund as described herein. Moneys in the TDD Revenues Fund shall not be deemed to be City funds and shall not be commingled with any funds of the City. The City may invest any or all of the moneys deposited into the TDD Revenues Fund in accordance with applicable laws relating to investment of District funds in such investments as determined by the City, in its sole discretion. All interest earned upon the balance in the TDD Revenues Fund shall be credited to the TDD Revenues Fund. The City shall keep accurate records of the amount of St. Charles Road TDD Revenues remitted to it and such records shall be open to the inspection of officers of the District.

Section 3.2. Application of TDD Revenues. On the first day (and if such day is not a Business Day, the next succeeding Business Day) of each January during the term of this Agreement, the City will disburse the proceeds of the TDD Revenues on deposit in the TDD Revenues Fund as follows:

(a) First, to the treasurer of the District to reimburse the District Formation Costs and to reimburse any sums advanced by the Developer to fund the administration and operation of the District.

(b) Second, to the treasurer of the District for deposit in the Operating Fund for payment of District Administrative Costs, an amount which together with the amount on deposit in the Operating Fund at the close of the preceding calendar year as certified by the District to the City will equal \$43,500 (or a different number by agreement of the parties as experience with this District reveals a better estimate of its operating costs);

(c) Third, the remainder of the TDD Revenues shall be disbursed monthly, in the following order of priority:

(i) payment of Transportation Project Costs and payment of the scheduled principal and interest on any TDD Obligations or City Obligations issued to pay Transportation Project Costs;

(ii) transfer to the general fund of the City the amount necessary to fully reimburse the City for payment of City Administrative Costs;

(iii) transfer to the treasurer of the District the amount necessary to reimburse the District Extraordinary Costs; and

(d) Fourth, after payment in full of the Transportation Project Costs, the TDD Obligations, the City Administrative Costs and the District Administrative Costs, all remaining funds shall be transferred to the treasurer of the District.

The District has adopted (or will adopt within 15 days after execution of this Agreement) a budget for its current Fiscal Year which appropriates the TDD Revenues collected during such Fiscal Year for application as provided in this Section. The District hereby covenants and agrees that the officer of the District at any time charged with the responsibility of formulating budget proposals is hereby directed to include in the budget proposal submitted to the Board of Directors for each Fiscal Year a request for an appropriation of the TDD Revenues collected during such Fiscal Year for deposit in the TDD Revenues Fund. The District shall promptly deliver to the City a copy of its annual budget. If in any Fiscal Year the Board of Directors fails to adopt a budget the budget for the prior Fiscal Year shall continue. Any funds appropriated as the result of such a request are pledged by the District to the City pursuant to this Agreement.

In the event the Board of Directors has failed to adopt a budget by the first day of each Fiscal Year, the District shall be deemed to have adopted a budget for such Fiscal Year which provides for application of the TDD Revenues collected in such Fiscal Year in accordance with the budget for the prior Fiscal Year.

Section 3.3. Pledge of St. Charles Road TDD Revenues.

(a) The District hereby pledges and assigns the TDD Revenues to the City, as herein provided, for the purposes and to be applied as set forth in this Agreement.

(b) The pledge and assignment of the TDD Revenues by the District to the City and the obligation of the District to perform all of its other obligations, covenants and agreements hereunder, shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, including the failure of consideration or frustration of commercial purpose, including the failure of the City to perform its obligations hereunder. The District hereby waives the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Agreement or which releases or purports to release the District therefrom.

(c) The Developer shall receive credit against the Somerset Impact Fees for revenue produced by the TDD from special assessments and sales taxes generated by the Somerset Project within the boundaries of the TDD. To avoid duplication of charges, the Owner's Funding Obligation as set forth in paragraph 2 of the March 9, 2015 development agreement between the Developer and the City will be deemed satisfied by construction of the improvements by either the Developer or the District.

(d) Nothing in this Agreement shall be construed to release the City from the performance of any agreement on its part herein contained or as a waiver by the District of any rights or claims the District may have against the City under this Agreement or otherwise, but any recovery upon such rights and claims shall be had from the City separately, it being the intent of this Agreement that the District shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Agreement including the pledge and assignment of the TDD Revenues to the City, so that nothing shall interrupt the flow of revenue to pay the TDD Obligations. It is the intent of this clause that the District may have all of its remedies for default except the withholding of payment of the TDD Revenues to the City.

Section 3.4. No Other Bonds or Uses of St. Charles Road TDD Revenues. During the term of this Agreement the District shall not issue any indebtedness or obligations secured by the TDD Revenues and shall not pledge or otherwise encumber the TDD Revenues except as provided in this Agreement.

Section 3.5. No Repeal or Reduction of Rate of TDD Sales Tax or Special Assessments. The District covenants and agrees that it will not repeal or reduce the rate of the TDD Sales Tax or TDD Special Assessments during the term of this Agreement. However, the Developer has reached an agreement to sell a portion of the property within the District to the University of Missouri (or designated entity owned by the University of Missouri) ("University"), which is an exempt entity under state law. The City recognizes that the University considers itself exempt from the requirement of building permits and certificates of occupancy and is also exempt from property or sales taxes. The City agrees that although the University may become an owner of property in the District, the University will not be required to obtain building or occupancy permits, pay special assessments or sales taxes on their purchases, or suffer any special assessment against real property owned by it, obtain tree preservation plan approval, obtain individual stormwater management plan approval, construct or pay for public improvements unless otherwise required herein, maintain insurance under this Agreement or the Development Agreement, or under any preliminary or final plat referenced in this Agreement or the Development Agreement. The portion of the property within the District purchased by the University will be subject to any access road encumbrance reflected on the final plat for that portion. The University will be responsible for constructing or paying for construction of the access road over its portion of the property within the District as shown on the final plat. The University may request vacation and relocation of the access easement over the portion of the property within the District it purchases and the City shall consent to that vacation request upon Columbia Fire Department approval of an alternative location for the access road. The exemptions listed within this section apply only to the University and will terminate if the University transfers a portion of the property within the District to any non-University entity. All obligations under this Agreement or the Development Agreement that apply to that portion of the property within the District transferred by the University to a non-University entity will automatically reinstate and apply to the non-University entity successors and assigns.

Section 3.6. Release of Pledge of TDD Sales Tax or TDD Special Assessments and Termination of District. Upon determination by the City that (a) the repeal of the TDD Sales Tax or TDD Special Assessments will not impair the City's ability to repay any liabilities which it has incurred payable from the Pledged Revenues pursuant to the provisions of this Agreement, including the TDD Obligations, and (b) the costs of the Transportation Project, including Transportation Project Costs, the Collection Fee, the District Administrative Costs, the District Extraordinary Costs, the City Administrative Costs and the TDD Obligations have been, or that sufficient funds are on deposit in the TDD Revenues Fund such that such will be, paid in full, the City may and shall, at the request of the District, provide written notice of the termination of the pledge and assignment of the TDD Revenues (a "**Notice of Pledge Termination**") pursuant to the provisions of this Agreement. Upon receipt of such

written notice, the District may apply the TDD Revenues in any manner permitted under the TDD Act or implement the procedures in the TDD Act for repeal of the TDD Sales Tax, termination of TDD Special Assessments and abolishment of the District.

Upon the expiration or notice of repeal of the TDD Sales Tax or TDD Special Assessments and at the direction of the Board of Directors, the City shall promptly apply all or a portion of any moneys remaining in the TDD Revenues Fund to the final payment of Transportation Project Costs, City Administrative Costs, District Administrative Costs, and District Extraordinary Costs; or transfer any moneys remaining in the TDD Revenues Fund to the District to be applied in any manner permitted by the TDD Act.

Section 3.7. Title to the Transportation Project; Maintenance.

(a) Title to the state portion of the Transportation Project (as designated by the Commission) and all real estate (or interests therein) upon which the state portion of the Transportation Project is or will be located shall be vested in the name of the State of Missouri.

(b) Title to the local portion of the Transportation Project and all real estate (or interests therein) upon which the local portion of the Transportation Project is or will be located shall be vested in the name of the City.

(c) City shall at all times be responsible for the maintenance of the local portion of the Transportation Project.

Section 3.8. Dedication of Transportation Project. Upon completion and submission for dedication of the local portion of the Transportation Project relating to the City's street system, the City shall proceed with the necessary steps for acceptance of such portions of such project intended for dedication to the City in accordance with the ordinances and regulations of the City and the City's normal procedures for acceptance of such project.

Section 3.9. Limitation on Powers of the District.

(a) The District shall not be permitted to collect business license taxes on its own behalf or to charge and collect tolls or fees for the use of the Transportation Project.

(b) The District may not limit and control access from adjacent property to the Transportation Project.

(c) The District may exercise such other implied powers necessary or convenient for the District to accomplish its purposes which are not inconsistent with its express powers, but subject to this Agreement.

Section 3.10. Governmental Approvals. The parties agree to use their best efforts to cooperate with each other to obtain all necessary permits from and approvals by the City and the Commission in connection with the Transportation Project.

ARTICLE IV

COVENANTS REGARDING OPERATIONS OF THE DISTRICT

Section 4.1. Open Meetings and Records of the District. The District will comply with (a) Chapter 610 of the Revised Statutes of Missouri, as amended, as it pertains to political subdivisions such as the District and (b) the Open Meetings and Records Policy adopted by the District in compliance therewith. The District will provide notice of the time, date and place of each meeting and the tentative agenda of such meeting as provided in its Open Meetings and Records Policy to the City.

Section 4.2. Records. The City covenants that it will keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to deposits and payments of the TDD Revenues in accordance with generally accepted accounting principles consistently applied.

Section 4.3. District Audit. The District will cause to be performed, at the District's expense, an annual audit of the District and will, within 180 days of the end of the District's fiscal year (a) present such audit at a regular or special meeting at the District for approval by the District and (b) send a copy of such audit to the City. The City shall cooperate with the District regarding performance of such audit by the City's auditors.

Section 4.4. District Budget. Not later than 60 days prior to the beginning of the District's fiscal year, the District will prepare or cause to be prepared, at the District's expense, an annual budget for the District and present such budget, following review and comment by the Finance Director of the City, not later than December 31 at a meeting of the District's Board of Directors for approval by the District. The District hereby directs the officer of the District at any time charged with the responsibility of formulating the budget proposal to include in the budget proposal submitted to the Board of Directors for each Fiscal Year a request for an appropriation of the TDD Revenues collected during such Fiscal Year for application as provided in this Agreement.

Section 4.5 City Selection of Individual to Hold Position as a Representative of Owner on the Board of Directors of the District Board members are required to be a property owner or a representative of a property owner pursuant to Section 238.220.2(1) RSMo. The District agrees it shall appoint an individual selected by the City Council to hold a position as a representative of the Owner pursuant to Section 238.220.2(1) on the Board of Directors; provided however, such individual shall have independent voting authority as a member of such Board of Directors and shall not be required to act in a fiduciary capacity or otherwise vote or take any action at the direction of the Owner. The designation as the Owner's representative is purely for purposes of meeting the requirements of Section 238.220.2(1) RSMo. and such individual shall not be deemed to be an agent or employee of the Owner. In accordance with state law, such individual shall have all of the authority and privileges of other Board members.

ARTICLE V

DEFAULTS AND REMEDIES

Section 5.1. Remedies on Default. Unless performance is waived by the party for whose benefit a condition or obligation is intended, if any party to this Agreement fails to satisfy its obligations under this Agreement, the non-defaulting party may, then or at any time thereafter, and while such default continues, take any one or more of the following actions:

(a) by mandamus or other suit, action or proceedings at law or in equity, to enforce its rights against the defaulting party and their officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Agreement; or

(b) take any other action at law or in equity to enforce this Agreement.

Section 5.2. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the District hereunder 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 City and the District shall each 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 5.3. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained 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 a breach by the District of any covenant, agreement or undertaking by the District, the City may nevertheless accept from the District any payment or payments hereunder without in any way waiving the City's right to exercise any of its rights and remedies as provided herein with respect to any such default or defaults of the District which were in existence at the time when such payment or payments were accepted by the City.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.1. Actions Contesting the Validity and Enforceability of the TDD Revenues. In the event a third party brings an action against the District or the District's officials, agents, employees or representatives contesting the formation of the District, or the validity or legality of the TDD Sales Tax, the TDD Special Assessments, or this Agreement, the City may, at its option, assume the defense of such claim or action with counsel of the City's choosing. The parties expressly agree that so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City and the District in any such proceeding; provided, the District and its counsel shall consult with the City throughout the course of any such action and the District shall pay all reasonable and necessary costs incurred by the City in connection with such action as District Extraordinary Costs. All cost of any such defense, incurred by the City, shall be deemed to be City Administrative Costs.

Section 6.2. Notices. All notices or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when mailed by first class, registered or certified mail, postage prepaid, addressed as follows:

To the City:

City of Columbia, Missouri
Finance Department
701 East Broadway
Columbia, MO 65201
Facsimile: (573) 874-7761
Attention: Finance Director

To the District:

St. Charles Road Transportation Development District
601 East Broadway, Suite 203
P.O. Box 1304
Columbia, MO 65205
Facsimile:
Attention: Chairman of the Board of Directors

With a copy to:

Rouse Frets White Goss Gentile Rhodes, PC4510 Belleview, Suite 300
Kansas City, MO 64111
Facsimile: (816) 753-9201
Attention: Michael T. White

All notices given by first class, certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed. A duplicate copy of each notice or other communication given hereunder by any party hereto shall also be given to the other parties. The City and the District may from time to time designate, by notice given hereunder to the other such parties, another address to which subsequent notices or other communications shall be sent.

Section 6.3. Immunity of Officers, Employees and Members of the City and the District. No recourse shall be had for the payment of the principal of or premium or interest on any TDD Obligations or for any claim based thereon or upon any representation, obligation, covenant or agreement in this Agreement contained against any past, present or future officer, member, employee, director or agent of the City or the District, or, respectively, of any successor public or private corporation thereto, as such, either directly or through the City or the District, or respectively, any successor public or private corporation 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.

Section 6.4. Amendments. This Agreement may be amended from time to time by the mutual agreement of the Board of Directors of the District and the City Council of the City.

Section 6.5. Assignment. Except as provided herein hereof, this Agreement may be assigned by the District or the City only with the prior written consent of the non-assigning party.

Section 6.6. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 6.7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. In interpreting this Agreement, the provisions of the TDD Act shall prevail over any conflicting provisions of other Missouri laws.

Section 6.8. Effective Date; Termination Date. This Agreement shall be in effect from and after its execution by the parties hereto and shall remain in effect until the delivery by the City of a Notice of Pledge Termination pursuant to the provisions hereof. From and after the delivery by the City of a Notice of Pledge Termination, the City shall continue to apply the TDD Revenues until this Agreement is terminated by the District which shall terminate this Agreement. From and after the delivery by the City of a Notice of Pledge Termination, the City may terminate this Agreement at its election by providing the District with 30 days advance written notice.

Section 6.9. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers or officials.

Executed by the City on July 12, 2019.

CITY OF COLUMBIA, MISSOURI

[SEAL]

By John Glascock
Name: John Glascock
Title: Interim City Manager

ATTEST:

Sheela Amin
Name: Sheela Amin
Title: City Clerk


APPROVED AS TO FORM:

Nancy Thompson
Name: Nancy Thompson
Title: City Counselor


Executed by the District on June 26, 2019.

**ST. CHARLES ROAD
TRANSPORTATION DEVELOPMENT
DISTRICT**

[SEAL]

By 
Name: Robert A. Wolverton
Title: Executive Director

ATTEST:


Name: Scott Atkins
Title: Board member

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF BOONE)

On this 12 day of July, 2019, before me appeared John Gleason to me personally known, who being by me duly sworn, did say that (s)he is the Interim City Manager of the **CITY OF COLUMBIA, MISSOURI**, a municipal corporation and political subdivision organized and existing under the laws of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and that said instrument was signed and sealed in behalf of said City by authority of its City Council and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.



Heather L. Cole
Notary Public State of Missouri

(SEAL)

My commission expires: 1-3-20.

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF BOONE)

On this 26th day of June, 2019, before me appeared Robert Wolverton, to me personally known, who being by me duly sworn, did say that (s)he is the Executive Director of the Board of Directors of the **ST. CHARLES ROAD TRANSPORTATION DEVELOPMENT DISTRICT**, a political subdivision organized and existing under the laws of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said District, and that said instrument was signed and sealed in behalf of said District by authority of its Board of Directors and said individual acknowledged said instrument to be the free act and deed of said District.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Patricia Pelaccio
Notary Public State of Missouri

(SEAL)

My commission expires: 06/18/2021

PATRICIA PELACCIO Notary Public - Notary Seal STATE OF MISSOURI Boone County My Commission Expires: 06/18/2021 Commission Number 13768993
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EXHIBIT A

TRANSPORTATION PROJECT

The Transportation Project shall consist of: the following improvements and activities, any of which may be completed in phases at the discretion of the District. Lettered projects correspond with projects identified in the 2012 Boone County Traffic Study. Projects listed as "Segments D, G, and H" in that study have been removed based on assumption they would be funded by separate public and private methods (page 66 of the Study).

Segment A. Extend Battle Avenue north to Mexico Gravel Road

Classification: Minor Arterial

Number of Lanes: 3

Traffic Control at Intersections:

Mexico Gravel road: Side Street Stop Control

Segment F: Traffic Signal

Roadway Width: 52'

Right-of-Way Width: 100' Right-of-Way with 20' Utility Easement on both Sides

Segment B. Extend Battle Avenue south to connect with an extension of Clark Lane

Classification: Minor Arterial

Number of Lanes: 3

Traffic Control at Intersections:

Traffic Signal at Battle Avenue and Clark Lane

Roadway Width: 52'

Right-of-Way Width: 100' Right-of-Way with 20' Utility Easement on both Sides

Segment C. Extend Clark Lane east to connect with an extension of Battle Avenue

Classification: Minor Arterial

Number of Lanes: 3

Traffic Control at Intersections:

Battle Avenue and Clark Lane: Traffic Signal

Clark Lane and St. Charles Road: To be determined based on treatments to existing St. Charles Road.

Roadway Width: 52'

Right-of-Way Width: 100' Right-of-Way with 20' Utility Easement on both Sides

Segment E. Extend Clark Lane from Segment C to future north/south collector road

Classification: Minor Arterial

Number of Lanes: 3

Traffic Control at Intersections:

Traffic Signal at Clark Lane and Segment I/north/south collector road

Roadway Width: 52'

Right-of-Way Width: 100' Right-of-Way with 20' Utility Easement on both Sides

Segment F. East/west collector from Battle Avenue to Route Z

Classification: Neighborhood Collector

Number of Lanes: 3

Traffic Control at Intersections:

Segment F and Battle Avenue: Traffic Signal

Segment F and Route Z: Traffic Signal

Roadway Width: 38'

Right-of-Way Width: 66' Right-of-Way with 20' Utility Easement on both Sides

Segment F¹. East/west collector from Lake of the Woods to Battle Avenue

Classification: Neighborhood Collector

Number of Lanes: 3

Traffic Control at Intersections:

Segment F¹ and Lake of the Woods Road: Side Street Stop

Segment F¹ and Battle Avenue: Traffic Signal

Roadway Width: 38'

Right-of-Way Width: 66' Right-of-Way with 20' Utility Easement on both Sides

Segment I. Relocate I-70 NOR/ABC Drive - North/south collector from Clark Lane to ABC Lane

Classification: Commercial Collector

Number of Lanes: 3

Traffic Control at Intersections:

Traffic Signal at Clark Lane and Segment I

Roadway Width: 42'

Right-of-Way Width: 66' Right-of-Way with 20' Utility Easement on both Sides

Segment I¹. Relocate I-70 NOR/ABC Drive - East/west collector from north/south collector to Route Z

Classification: Commercial Collector

Number of Lanes: 3

Traffic Control at Intersections:

Clark Lane and Segment I: Traffic Signal

Segment I¹ and Route Z: Traffic Signal

Roadway Width: 42'

Right-of-Way Width: 66' Right-of-Way with 20' Utility Easement on both Sides

Additional Improvements not listed in traffic study:

Segment J. Improvements to St. Charles Road from Lake of the Woods Road to Route Z

Classification: Major Collector

Number of Lanes: 3

Roadway Width: 38'

Right-of-Way Width: 100' Right-of-Way with 20' Utility Easement on both Sides

Segment K. Improvements to Mexico Gravel Road from Lake of the Woods Road to Route Z

Classification: Major Arterial

Number of Lanes: 2

Roadway Width: 38'

Right-of-Way Width: 66' Right-of-Way with 20' Utility Easement on both Sides

Segment L. Improvements to Lake of the Woods Road from St. Charles Road to Mexico Gravel Rd.

Classification: Minor Arterial

Number of Lanes: 3

Roadway Width: 38'

Right-of-Way Width: 100' Right-of-Way with 20' Utility Easement on both Sides

The extension and improvement of St. Charles Road from Lake of the Woods Golf Course to Route Z, and such other major arterial streets as the city may, from time to time, determine are necessary to accommodate the traffic generated by the development of the Subject Property.