
COOPERATIVE AGREEMENT

among the

CITY OF SPRINGFIELD, MISSOURI,

and

**BRODY CORNERS
COMMUNITY IMPROVEMENT DISTRICT**

and

WEST SUNSHINE DEVELOPMENT, LLC

dated as of

_____, 2023

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COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”), entered into as of this ____ day of _____, 2023, among the **CITY OF SPRINGFIELD, MISSOURI**, a constitutional charter city and political subdivision of the State of Missouri (the “**City**”), the **BRODY CORNERS COMMUNITY IMPROVEMENT DISTRICT**, a Missouri community improvement district (the “**District**”), and **WEST SUNSHINE DEVELOPMENT, LLC** (the “**Developer**”) (the City, District and Developer being sometimes collectively referred to herein as the “**Parties**”, and individually as a “**Party**”, as the context so requires).

WITNESSETH:

WHEREAS, on March 7, 2022, the City Council of Springfield, Missouri (the “**City Council**”) adopted Special Ordinance 27662, which approved the Brody Corners Tax Increment Financing Plan (the “**Redevelopment Plan**”) describing a proposed redevelopment project (the “**Redevelopment Project**”), and which authorized the City to enter into a redevelopment agreement (the “**Redevelopment Agreement**”) with the Developer; and

WHEREAS, on March 7, 2022, the City Council also adopted Special Ordinance 27663, which approved the Redevelopment Project described in the Redevelopment Plan; and

WHEREAS, the Redevelopment Agreement was executed on March 29, 2022; and

WHEREAS, the terms of the Redevelopment Plan and Redevelopment Agreement contemplated that the Developer would petition the City to establish a community improvement district (“**CID**”) to assist in funding reimbursable project costs associated with implementation of the Redevelopment Project; and

WHEREAS, on _____, 2023, the owners of record of more than fifty percent (50%) by assessed value of the real property within the boundaries of the District and the owners of record of more than fifty percent (50%) per capita of all owners of real property within the boundaries of the District filed the “Petition to Establish the Brody Corners Community Improvement District” (the “**Initial Petition**”), which proposed formation of the District; and

WHEREAS, on _____, 2023, the owners of record of more than fifty percent (50%) by assessed value of the real property within the boundaries of the District and the owners of record of more than fifty percent (50%) per capita of all owners of real property within the boundaries of the District filed the “Amended Petition to Establish the Brody Corners Community Improvement District” (the “**Petition**”), which amended the legal description of the District; and

WHEREAS, the City Council adopted Special Ordinance _____, which approved the Petition and established the District, on _____, 2023; and

WHEREAS, the Petition requires the District and the Developer to enter into an agreement with the City which shall provide for the collection and administration of the District revenues, the method of certifying eligible project costs, payment of ongoing District operating costs, disbursement of District revenues, and other rights, duties, and obligations of the District, City, and Developer for the operations of the District; and

WHEREAS, the City, the District, and the Developer desire to enter into this Agreement to set forth the Parties' duties and obligations with respect to the administration, enforcement, and operation of the District.

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

ARTICLE 1: RECITALS, EXHIBITS, AND DEFINITIONS

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.

Words and terms defined elsewhere in this Agreement shall have the meanings assigned therein. Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the following meanings:

"Administrative Fee" means that amount of the CID Sales Tax Revenue that the City shall receive as reimbursement for the reasonable and actual expenses incurred by the City for performing certain administrative duties of the District, including establishing the District, reviewing the District's annual budgets and reports required to be submitted to the City, and administering and accounting for the CID Sales Tax, pursuant to Section 3.3 of this Agreement.

"CID Act" means the Missouri Community Improvement District Act, Sections 67.1401, *et seq.*, RSMo., as amended.

"CID Projects" means the services and public improvements within the District, eligible under the CID Act, that are provided for and constructed for, or in connection with, the District, as described in **Exhibit "A-1"** attached hereto.

"CID Sales Tax" means the sales and use tax levied by the District on taxable retail sales within the District's boundaries, per Section 67.1545 of the CID Act, at a maximum rate of one percent (1.0%) pursuant to the Petition.

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

"City Council" means the governing body of the City of Springfield, Missouri.

"District" means the Brody Corners Community Improvement District, which includes all real property described on **Exhibit "A"** and as set forth on the map in **Exhibit "B."**

"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, pandemic or public health emergency, 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. Excusable Delays shall extend the time of performance for the period of such excusable delay.

“Operating Costs” means the actual, reasonable expenses which are necessary for the operation of the District, which include, but are not limited to, costs associated with notices, publications, meetings, supplies, equipment, photocopying, the engagement of special legal counsel, financial auditing services, and other consultants or services.

“Ordinance” means an ordinance enacted by the City Council.

“Parties” or **“Party”** means the City, the District, and/or the Developer, as the context requires.

“Petition” means the Amended Petition to Establish the Brody Corners Community Improvement District, which the which the City Clerk accepted as in substantial compliance with RSMo. 67.1421 on _____, 2023.

“Reimbursable Project Costs” means all actual and reasonable costs and expenses which are incurred by or at the direction of the Developer or the District with respect to the construction of the CID 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 CID Projects that are constructed or undertaken by the Developer, plus all actual and reasonable costs to plan, finance, develop, design and acquire the CID Projects, and the ongoing administration of the District, 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 CID Projects and all actual and reasonable costs for the oversight of the completion of the CID Projects;

(2) All Operating Costs of the District; and

(3) 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 CID Projects and which may lawfully be paid or incurred by the District under the CID Act.

“Special Allocation Fund” means the fund, including any accounts and subaccounts created therein, maintained by the City into which Tax Increment Financing Revenues, as defined

in the Redevelopment Agreement, are deposited, as required by the Real Property Tax Increment Redevelopment Act, Sections 99.800, *et seq.*, RSMo., as amended, and the Redevelopment Agreement.

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 District's Board of Directors (the "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, to its knowledge, 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 construction of the CID Projects is of significant value to the District, the property within the District and the general public. The District finds and determines that the CID Projects will promote the economic welfare and the development of the City and the State of Missouri through: (i) the creation of temporary and permanent jobs; (ii) stimulating additional development in the area near the CID Projects; (iii) increasing local and state tax revenues; and (iv) providing necessary public access and infrastructure improvements for the District and other surrounding development. Further, the District finds that the CID Projects conform to the purposes of the CID Act.

F. The District acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. District therefore covenants that, to the extent the District has any employees, it will enroll and actively participate in a federal work authorization program required by Section 285.530, RSMo, for public employers; that it will not knowingly violate subsection 1 of Section 285.530, RSMo; that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work related to this Agreement; and that its employees are lawfully eligible to work in the United States.

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 Mayor of the City or his designee 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, to its 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.

E. The City acknowledges that construction of the CID Projects is of significant value to the City and the general public. The City finds and determines that the CID Projects will promote the economic welfare and the development of the City and the State of Missouri through: (i) the creation of temporary and permanent jobs; (ii) stimulating additional development in the area near the CID Project; (iii) increasing local and state tax revenues; and (iv) providing necessary public improvements for the District and other surrounding development. Further, the City finds that the CID Projects conform to the purposes of the CID Act.

Section 2.3 Representations by the Developer.

The 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 obligations 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 or the CID Projects. In addition, no litigation, proceedings or investigation 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 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, and operations as contemplated by this Agreement.

E. The Developer acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. As a condition of this Agreement, the Developer shall provide a notarized affidavit acceptable to the City stating that the Developer is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with this Agreement, and that the Developer does not knowingly employ any person who is an unauthorized alien in connection with this Agreement. Additionally, the Developer must provide documentation ty evidencing current enrollment in a federal work authorization program. The Developer covenants that it will not knowingly violate subsection 1 of Section 285.530, RSMo; that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work related to this Agreement; and that its employees are lawfully eligible to work in the United States.

ARTICLE 3: COLLECTION OF REVENUES

Section 3.1 Imposition of the CID Sales Tax.

The District may approve a resolution that, subject to the approval of the District's qualified voters, imposes the CID Sales Tax. The CID Sales Tax shall appear before the qualified voters by mail-in ballot pursuant to Section 67.1545 of the CID Act. If the ballot measure passes, the District shall notify the Director of the Missouri Department of Revenue of the election results.

Section 3.2 Administration and Collection of the CID Sales Tax.

The Parties anticipate that the CID Sales Tax will be collected by the Missouri Department of Revenue, as provided in the CID Act.

The District shall receive the CID Sales Tax Revenue collected by the Department of Revenue. The District shall then deposit the CID Sales Tax Revenues directly into a special trust fund in accordance with Section 67.1545 of the CID Act. The Sales Tax Revenues shall be used to pay the City's Administrative Fee, to reimburse the District for Operating Costs incurred by the District, and to reimburse the Developer for Operating Costs or Reimbursable Project Costs incurred by the Developer, in the order of priority set forth in Section 3.6.

The District shall have no obligation to reimburse the Developer for Project Costs until a Certificate of Completion and Reimbursable Project Costs has been approved as described in Section 4.3 and CID Sales Tax Revenues have been collected and are available for payment to Developer in accordance with this Agreement.

Section 3.3 Administrative Fee.

The City shall receive an Administrative Fee in the amount of one and one-half percent (1.5%) of the total CID Sales Tax Revenues for its administration efforts with the District and its review of project costs for certification and reimbursement. Said fee shall be paid on a quarterly basis within 60 days of the end of the quarter and shall be accompanied by a Certificate of Administrative Fee signed by an officer of the District certifying that the payment amount is 1.5% of the CID Sales Tax revenues during that period. A sample Certificate of Payment of Administrative Fee is attached as "Exhibit D".

Section 3.4 Operating Costs.

The District shall pay for the Operating Costs of the District incurred by or on behalf of the District from CID Sales Tax Revenues. 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. The District shall approve the Operating Costs incurred by the City and shall reimburse the City for these costs. In the event the CID Sales Tax Revenues do not fully cover the District's Operating Costs, the Developer may advance the Operating Costs, and any amounts so advanced shall be reimbursed in subsequent fiscal years.

Section 3.5 Enforcement of the CID Sales Tax.

Upon request by the Board of Directors of the District, the City agrees, to the extent permitted by law, to take any and all actions necessary for collection and enforcement of the CID Sales Tax. The City may, in its own name or in the name of the District, prosecute or defend in 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 any CID Sales Tax. The District hereby agrees to cooperate fully with the City and to take all action necessary to effectuate the substitution of the City for the District in any such action, lawsuit or proceeding if the City shall so request. The costs for all actions taken by the City for enforcement and legal proceedings for enforcement and collection of the CID Sales Tax shall be treated as Operating Costs of the District.

Section 3.6 Distribution of the CID Sales Tax Revenues.

No disbursements of the CID Sales Tax Revenues shall be made until the City has approved a Certificate of Completion and Reimbursable Project Costs as set forth in Section 4.3. After the City has approved a Certificate of Completion and Reimbursable Project Costs for the CID Projects, and to the extent Reimbursable Project Costs remain unpaid, the District shall make disbursements of the entire balance of the CID Sales Tax Revenues not later than sixty (60) days after the end of each calendar quarter in the following order of priority:

- A. The District shall transfer fifty percent (50%) of the gross CID Sales Tax Revenues to the Special Allocation Fund that is maintained by the City for the Redevelopment

Plan, which shall then be disbursed by the City in accordance with the Redevelopment Agreement.

- B. The District shall pay the City's Administrative Fee as set forth in Section 3.3.
- C. The District shall pay Operating Costs of the District.
- D. The District shall pay Developer's Reimbursable Project Costs.

Section 3.7 Records of the CID Sales Tax.

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

Section 3.8 Repeal of the CID Sales Tax.

Upon the occurrence of the earlier of the following: (1) the Developer has been fully reimbursed for the costs incurred by the Developer to: (a) finance the CID Project and Reimbursable Project Costs, and (b) pay ongoing Operating Costs associated with and required by the business of the District; or (2) the date that is twenty-seven (27) years after the date on which the City Council adopts an ordinance forming the District, the District shall implement the procedures in the CID Act for repeal of the CID Sales Tax and abolishment of the District.

The District shall not implement the procedures in the CID Act for repeal or modification of the CID Sales Tax and abolishment of the District if: (1) any CID Sales Tax Revenues are due to the City for outstanding Administrative Fees; (2) the District, with the prior written consent of the City, has approved another project pursuant to the CID Act; or (3) any portion of the District's obligations remain unpaid.

The City's obligation to perform for the District any functions incident to the administration, collection, enforcement and operation of the CID Sales Tax for the District shall terminate concurrent with the repeal of the CID Sales Tax levied by the District.

Upon repeal of any CID Sales Tax, the District shall:

- 1. Pay the City's Administrative Fee to which it is entitled in accordance with this Agreement.
- 2. Pay all outstanding Operating Costs to the District.
- 3. Pay all unpaid Reimbursable Project Costs to the Developer.
- 4. Retain any remaining CID Sales Tax Revenues 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 CID PROJECTS

Section 4.1 Design and Construction of CID Projects.

As allowed by the CID Act, the District's role is solely to fund and assist in the funding of the CID Projects and the Operating Costs. The CID Projects shall be designed and constructed by or at the direction of Developer, and the District shall have no obligation to design or construct the CID Projects. The CID Projects shall be designed and constructed on a schedule to be determined by the Developer, in accordance with plans approved by the City and in accordance with all applicable City codes and ordinances. To the extent applicable, the Developer shall comply with all laws regarding the payment of prevailing wages to contractors or subcontractors of the Developer for the construction of the CID Projects. The Developer shall indemnify and hold harmless the City for any damage resulting from failure of the Developer, the District, or any contractor or subcontractor of the Developer or the District to pay prevailing wages pursuant to applicable laws.

Section 4.2 Financing the CID Projects.

The Developer shall provide or secure the financing of the CID Projects. The District shall be allowed and is authorized to issue and incur District obligations, such as promissory notes to the Developer, for certified reimbursement expenses as well as bonds and other financing mechanisms as the District determines is in its best interest. The District shall impose the CID Sales Tax within the boundaries of the District to assist in the funding of the CID Projects.

Section 4.3 Certificate of Completion and Reimbursable Project Costs.

Upon completion of the CID Projects (or any applicable portion of any CID Projects), or upon payment by the Developer of any Operating Costs, the Developer shall submit a Certificate of Completion and Reimbursable Project Costs using the form attached as **Exhibit "C"**: The Developer shall provide itemized invoices, receipts or other information to confirm that any such cost is so incurred and does so qualify. If the City reasonably determines that the CID Projects, or an applicable portion of any CID Projects, have been completed in accordance with all relevant codes, regulations, statutes and laws, and that the costs submitted for reimbursement are Reimbursable Project Costs, then the City shall approve the Certificate of Completion and Reimbursable Project Costs and the amounts stated therein for payment. If the CID Projects, or an applicable portion of any CID Project, are not complete, or any amount submitted for reimbursement are not Reimbursable Project Costs, then the City shall not approve the certificate and the amounts stated therein for payment and shall specify in writing within sixty (60) days after receiving Developer's Certificate of Completion and Reimbursable Project Costs the reason(s) for withholding its approval. If the City does not specify reasons for withholding its approval within said 60-day period, the Certificate of Completion and Reimbursable Project Costs shall be deemed approved. If the City withholds approval, the Developer or the District may request a hearing to challenge the City's determination. The City shall hold a hearing at which the Developer or the District may present new and/or additional evidence. Developer shall have the right to identify and substitute other Reimbursable Project Costs with a supplemental application for payment, subject to the limitations of this Agreement, for any requested reimbursement that does not qualify as a Reimbursable Project Cost.

Section 4.4 Ownership, Maintenance and Dedication of CID Projects.

The District's sole role is to fund and assist in the funding of the CID Project and the Operating Costs. The District shall have no ownership of the CID Projects, and title to the CID Projects shall at all times be vested in the name of the Developer, the City or other appropriate entity; provided, however, the District shall be entitled to hold leasehold or easements rights with

respect to any part of the CID Projects. The District shall not be responsible for maintenance of such CID Projects that are dedicated to, and accepted by, the City. The Developer shall be responsible for obtaining and maintaining insurance for the design, construction, operation and maintenance of the CID Projects in such form and amounts as required by applicable City policy or ordinance, the City's Risk Manager, or state law.

Section 4.5 Annual Budget.

The fiscal year for the District shall be the same as the fiscal year of the City.

The budget for the District's first fiscal year shall be prepared and submitted to City Council 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 the upcoming fiscal year to City Council, the Missouri Department of Revenue, and the State Auditor. Each budget for the District shall generally be prepared in accordance with all applicable state statutes including Section 67.1471 RSMo, as amended. City Council may review the proposed budget and provide comments to the District, which comments shall be submitted in writing no later than sixty (60) days prior to the first day of the relevant fiscal year. The District shall consider the City Council's comments, if any, and it may amend the proposed budget accordingly if it so chooses. The District shall adopt the annual budget no later than thirty days (30) prior to the first day of the fiscal year.

Section 4.6 New CID Projects.

The District may use CID Sales Tax Revenues, as such revenues are available, to pay Reimbursable Project Costs for all CID Projects which have been determined by the City Council to be necessary and approved in accordance with the CID Act. The District shall not undertake any CID Projects other than those shown in Exhibit D to the Petition, except with the prior approval of the City Council. Payments due to the City pursuant to the priority established in Section 3.6 for its Administrative Fee shall take priority over any costs associated with new CID Projects.

ARTICLE 5: SPECIAL COVENANTS

Section 5.1 Records of the Districts.

The District 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 sound accounting principles, consistently applied. The District shall make its books and records available to the City and shall furnish the City such information as it may reasonably 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 have been met. In addition, the District shall, within one hundred twenty (120) days after the end of each fiscal year, submit a report to the Springfield City Clerk, the Missouri Department of Revenue, and the State Auditor stating the services provided; revenues collected and expenditures made by the District during such fiscal year; and the dates the District adopted its annual budget, submitted its proposed annual budget to the City Council, and submitted its annual report to the City Clerk; and must include copies of written resolutions approved by the Board during the fiscal year. For that purpose, all pertinent books, documents and vouchers relating to the District's business, affairs and properties that are otherwise considered public information and not confidential in nature shall at all times during

regular business hours be open to the inspection of the City by its 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 applicable confidentiality laws and such confidentiality agreements as the City reasonably requires) as shall from time to time be designated and paid for by the inspecting party.

Section 5.2 Records of the City.

The City shall keep and maintain adequate records of the disbursements it authorizes the District to make for reimbursement or payment of the Reimbursable Project Costs (including Operating Costs) to the Developer and the Administrative Fees paid to the City. Such records shall be available for inspection by the District upon reasonable notice. The District shall submit to the City Clerk true and accurate copies of all agendas at least twenty-four hours in advance, annual meeting notices and minutes, the adopted budget and any reports or filings provided to State agencies.

Section 5.3 Consent by Developer, Tenants and Transferees.

A. Developer shall cause all leases of property in the District to contain provisions that are in substantial compliance with the following:

Community Improvement District: Tenant acknowledges and consents that the Leased Premises are a part of the Brody Corners Community Improvement District (the "District") created by Springfield, Missouri (the "City"), and that the District may impose a sales and use tax on all retail sales made in the District which are subject to taxation pursuant to RSMo. §§ 144.010 to 144.525, which will be applied toward the costs of services or improvements for the District. If the District imposes a sales and use tax, Tenant shall (i) add the Tax to the Tenant's sales price as applicable, and when so added such Tax shall constitute a part of the price, and shall be a debt of the purchaser to the retailer until paid; (ii) provide a copy of its business license / occupancy certificate to the District; and (iii) prominently display the rate of the Tax imposed or increased at the cash register area. Tenant hereby acknowledges and agrees that the District and the City are third party beneficiaries of the obligations in this paragraph and shall have a separate and independent right to enforce both these reporting requirements.

B. Developer shall insert in any document concerning the sale of any real property that is subject to the CID Sales Tax provisions that are in substantial compliance with the following, and shall cause any transferee to insert language reasonably similar to the following, and shall have such document signed by the transferee indicating acknowledgement and agreement to the following:

Community Improvement District: Transferee acknowledges and consents that the Property is a part of the Brody Corners Community Improvement District (the "District") created by Springfield, Missouri (the "City"). The District may impose a sales and use tax on eligible retail sales within the District, which will be applied towards the costs of services or improvements for the District. During the term of the Brody Corners Community Improvement District ("District"), each Transferee shall ensure that every retailer within the District (i) adds any sales and use taxes adopted by the District (the "CID Sales Tax") to the retailer's sales price and when so added such CID Sales Tax shall constitute a part of the price, shall be a debt of

the purchaser to the retailer until paid; (ii) notify the District in case of any sale, lease transfer or other disposition of any part of property within the District; (iii) provides a copy of its business license / occupancy certificate to the District; and (iv) ensure that every retailer shall prominently display the rate of the CID Sales Tax at the cash register area. Transferee shall include in each tenant's lease an acknowledgement by the tenant of the CID Sales Tax that runs as a covenant with the land. Moreover, each Transferee shall lend reasonable cooperation to the District in connection with the District's efforts to fund, promote, plan, design, construct, improve, maintain, and operate one or more projects for the benefit of the District. To that end, Transferee agrees, upon reasonable request by the District, in its capacity as owner of part of the real property located in the District, to execute and deliver all further ballots, instruments and documents as may be reasonably required by the District for such purposes. Transferee hereby acknowledges and agrees that the District, and the City, are third party beneficiaries of the obligations in this paragraph and shall have a separate and independent right to enforce these reporting requirements.

C. At least ten (10) business days following its execution, the Developer shall provide a certification to the City, signed by Developer and each such tenant/transferee, confirming that each lease/sales contract affecting real property within the District includes the provisions satisfying the Developer's obligation as set forth in this Section 5.3. Failure of the Developer to include such restrictions in any such lease or sale contract 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.

D. Developer, to the maximum extent possible, shall enforce the lease/sales contract obligations set forth this Section and shall require any purchaser, lessee or other transferee or possessor of real property within the District, to provide to the District and the City a copy of their Missouri sales tax receipts and filing indicating the amount of the sales tax paid. This obligation shall be a covenant running with the land and shall be enforceable against the Developer, to the extent Developer continues to own property within the District, and against any purchaser, lessee or other transferee or possessor 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 CID 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, does not diminish the consideration to the District as recited in Section 2.1 and shall be a Reimbursable Project Cost that may be reimbursed in accordance with this Agreement.

B. In the event that the City constructs or causes to be constructed any portion of the CID 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 an Ordinance, then the City shall be entitled to reimbursement from the District for such Reimbursable Project Costs or Operating Expenses that are not paid or reimbursed to the City under such bond or surety. The City shall complete a certificate in substantial compliance with the form in **Exhibit "C"** to receive such reimbursement, which shall be approved by the District in accordance with Section 4.3.

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, such event or events shall constitute an Event of Default under this Agreement:

A. Failure by the District to make a payment in a timely manner as required by this Agreement, and the continuance of such failure for ten (10) days following written notice to District of such failure; or

B. Failure by any Party in the performance of any covenant, agreement or obligation imposed or created by this Agreement, and the continuance of such default for sixty (60) 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 require and compel duties and obligations required by the provisions of this Agreement.

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.

ARTICLE 7: MISCELLANEOUS

Section 7.1 Effective Date and Term.

This Agreement shall become effective on the date set forth herein. Upon expiration of the CID Sales Tax as provided in Section 3.8, the District shall be abolished in accordance with Section 67.1481, RSMo.

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. The District shall defend, indemnify, and hold harmless the City and its officers, agents, employees, and elected officials, each in their official and individual capacities, from and against all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorney fees, resulting from, arising out of, or in any way connected with District's failure to comply with any applicable law.

The Developer shall defend, indemnify, and hold harmless the City and the District, their officers, agents, employees, and elected officials, each in their official and individual capacities, from and against all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorney fees, arising out of or resulting from any act, error, omission, negligence, or intentional act of the Developer or its agents, employees, or subcontractors, to the extent conducted pursuant to this Agreement and/or in connection with the ownership, design, development, redevelopment, use or occupancy of the property within the District or a portion thereof and the CID Projects, except to the extent such claims are attributable to negligence or willful misconduct of the City or the District.

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. In the event of any dispute under this Agreement, venue shall be proper only in the Circuit Court of Greene County, Missouri. The Parties agree that the engagement of common special legal counsel among two or more Parties to this Agreement does not materially limit the representation of those Parties and will not adversely affect the relationship between such Parties.

Section 7.5 Notices

Notices required by this Agreement shall be deemed given if deposited in United States mail, first class, postage prepaid, or with a reputable overnight carrier and address as specified

below, or to such other address with respect to any Party as that Party may, from time to time, designate in writing and forward to the other Parties.

City

City of Springfield
ATTN: [NAME]
840 N Boonville Ave
Springfield, MO 65802

District

Brody Corners Community Improvement District
ATTN: [NAME]
[ADDRESS]
[CITY STATE ZIP]

Developer

West Sunshine Development, LLC
ATTN: [NAME]
[ADDRESS]
[CITY STATE ZIP]

Section 7.6 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 the 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 7.7 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 7.8 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 7.9 District Approvals.

Unless specifically provided to the contrary herein, all approvals of any District hereunder may be given by the Executive Director or his designee without the necessity of any action by the District.

Section 7.10 Conflicts.

No salaried officer or employee of the City and no member of the City Council shall have a financial interest, direct or indirect, in this Agreement. A violation of this provision renders the Agreement void. Any applicable federal regulations and applicable provisions in Section 105.450

et seq., RSMo. shall not be violated. District and Developer covenant that they presently have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this Agreement. The District and Developer further covenant that in the performance of this Agreement no person having such interest shall be employed or compensated by District or Developer.

Section 7.11 Discrimination.

District and Developer agree in the performance of this Agreement not to discriminate on the ground or because of race, color, religion, sex, sexual orientation, gender identity, national origin, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of District or Developer or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a), if applicable.

- a. The District and Developer and any authorized subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.
- b. The District and Developer and any authorized subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

Section 7.12 Certificate of Compliance with Section 34.600, RSMo. (Anti-Discrimination Against Israel Act).

That pursuant to Missouri Revised Statutes, Sections 34.600 et., seq., District and Developer shall not, for the duration of the contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

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IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ATTEST:

THE CITY OF SPRINGFIELD, MISSOURI

City Clerk

By: _____
City Manager

APPROVED AS TO FORM:

City Attorney or designee

**BRODY CORNERS COMMUNITY
IMPROVEMENT DISTRICT**

By: _____

Name:

Title:

ATTEST

By: _____

WEST SUNSHINE DEVELOPMENT, LLC

By: _____

Name:

Title:

ATTEST

By: _____

EXHIBIT A
DISTRICT LEGAL DESCRIPTION

ALL OF THE RECORD PLAT OF BRODY'S CORNERS, AS RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS FOR GREENE COUNTY, MISSOURI, EXCLUDING LOT 8 THEREOF, AND INCLUDING ALL SANITARY SEWER AND UTILITY EASEMENTS, PUBLIC RIGHTS OF WAY, AND COMMON GROUNDS AS DESIGNATED ON SAID PLAT.

EXHIBIT A-1
ESTIMATED COSTS OF CID PROJECT

Uses	Project Costs	Reimbursable Project Costs ¹
1. Land Acquisition Costs	\$1,800,000.00	\$0.00
2. Cost of Buildings	\$20,500,000.00	\$0.00
3. Professional Fees	\$150,000.00	\$150,000.00
4. Financing Fees	\$300,000.00	\$300,000.00
5. Parking Lot	\$500,000.00	\$0.00
6. Lighting	\$125,000.00	\$0.00
7. Signage	\$75,000.00	\$0.00
8. Sitework:	\$3,020,225.00	\$2,437,162.00
9. Offsite Fresh Water	\$303,048.00	\$303,048.00
10. Offsite Road Improvements	\$252,467.00	\$252,467.00
Total	\$27,025,740.00	\$3,442,677.00
Total Cost of Project:	\$27,025,740.00	
Total Reimbursable Costs:	\$3,442,677.00	

¹ The Reimbursable Projects Costs will be reimbursed by the TIF and the CID with interest at a rate not to exceed 6% per annum as per the TIF Redevelopment Agreement between the City of Springfield and the West Sunshine Development, LLC dated as of March 7, 2022.

EXHIBIT B
MAP OF DISTRICT

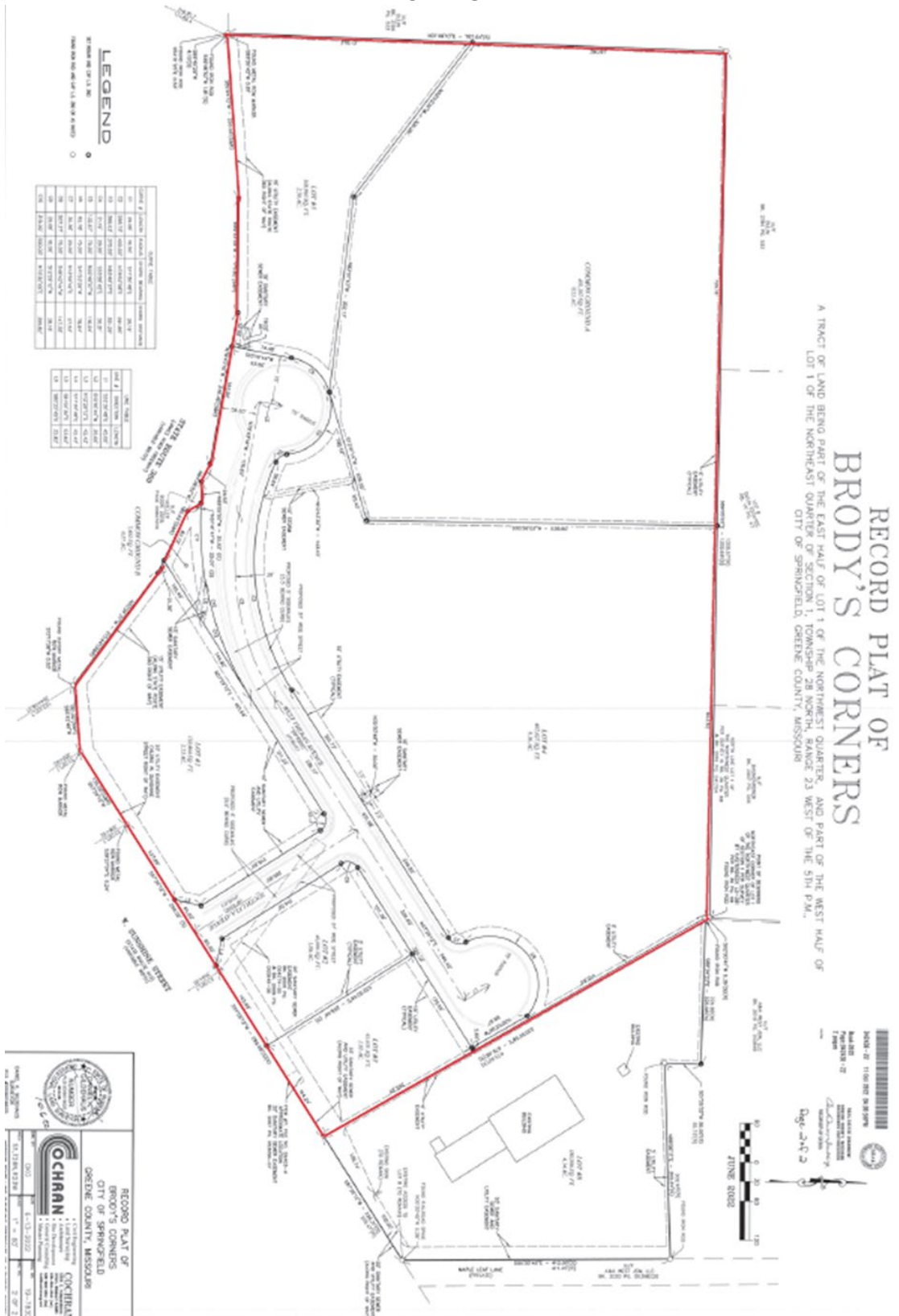


EXHIBIT C
**FORM OF CERTIFICATE OF COMPLETION
AND REIMBURSABLE PROJECT COSTS**

**CERTIFICATE OF COMPLETION
AND REIMBURSABLE PROJECT COSTS**

To: City Manager, City of Springfield, Missouri
cc: Executive Director, Brody Corners Community Improvement District

Re: Completion and Certification of Reimbursable Project Costs

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cooperative Agreement dated as of _____, 20____ (the "Agreement") between the City of Springfield, the Brody Corners Community Improvement District and the Developer. In connection with said Agreement, the undersigned hereby states and certifies that:

1. The capital improvements of the CID Projects, or an appropriate portion thereof, 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 agency to commence operation of said improvements in the CID Project.
2. Each item listed on *Schedule 1* attached hereto as a Reimbursable Project Cost and was incurred in connection with the construction /administration of the CID Project.
3. These Reimbursable Project Costs have been paid by the Developer and are reimbursable under the Agreement and the CID Act.
4. No item listed on *Schedule 1* has previously been paid or reimbursed from money derived from the CID Sales Tax, and no part thereof has been included in any other certificate previously filed with the City.
5. With respect to Reimbursable Project Costs, 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.
6. With respect to Reimbursable Project Costs, all necessary permits and approvals required for the work for which this certificate relates have been issued and are in full force and effect.
7. With respect to Reimbursable Project Costs, all work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.
8. If any cost item to be reimbursed under this Certificate is deemed not to constitute a Reimbursable Project Cost within the meaning of the Agreement and the CID Act, the Developer shall have the right to substitute other eligible Reimbursable Project Costs for payment hereunder.

9. 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 Developer Event of Default under the Agreement.

10. All of the Developer’s representations set forth in the Agreement remain true and correct in all material respects as of the date hereof.

11. The parties acknowledge and agree that the Developer may submit more than one Certificate as appropriate stages of the CID Project are completed and the City shall consider and approve each Certificate provided it is otherwise in compliance with the Cooperative Agreement.

12. The parties hereto acknowledge and agree that Reimbursable Project Costs include the Operating Costs of the District and that the Developer shall be entitled to submit requests for said Operating Costs under and as a part of this Certificate.

Dated this _____ day of _____, 20____.

WEST SUNSHINE DEVELOPMENT, LLC

By: _____

Name: _____

Title: _____

Approved:

**CITY OF SPRINGFIELD, MISSOURI,
agent for the Brody Corners Community Improvement District**

By: _____

Name: _____

Title: _____

Date: _____

**SCHEDULE 1 TO CERTIFICATE OF COMPLETION
AND REIMBURSABLE PROJECT COSTS**
Itemization of Reimbursable Project Costs

EXHIBIT D
FORM OF
CERTIFICATE OF PAYMENT OF ADMINISTRATIVE FEE

To: City of Springfield, Missouri

Re: Certification of Payment of Administrative Fee

1. The City is entitled to receive an Administrative Fee for its administration efforts with the District in the amount of one and one-half percent (1.5%) of the total CID Sales Tax Revenues.
2. Said fee shall be paid on a quarterly basis within 60 days of the end of the quarter.
3. The District's total CID Sales Tax Revenues for the quarter beginning on [DATE] and ending on [DATE] are: \$_____.
4. The District submits to the City payment of its Administrative Fee for the quarter beginning on [DATE] and ending on [DATE] in the amount of \$_____, which is 1.5% of the CID Sales Tax Revenues during that period.

Dated this ____ day of _____, 20__.

**BRODY CORNERS COMMUNITY
IMPROVEMENT DISTRICT**

By: _____

Name: _____

Title: _____

Payment accepted this ____ day of _____, 20_____:

CITY OF SPRINGFIELD, MISSOURI,

By: _____

Name: _____

Title: _____