
COOPERATIVE AGREEMENT

among the

CITY OF LEE'S SUMMIT, MISSOURI,

the

**SUMMIT ORCHARDS
COMMUNITY IMPROVEMENT DISTRICT,**

and

TOWNSEND SUMMIT, LLC

dated as of

March 5, 2019

COOPERATIVE AGREEMENT

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COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”), entered into as of this 5th day of March, 2019, by and among the **CITY OF LEE’S SUMMIT, MISSOURI**, a constitutional charter city and political subdivision of the State of Missouri (the “**City**”), the **SUMMIT ORCHARDS COMMUNITY IMPROVEMENT DISTRICT**, a community improvement district and political subdivision of the State of Missouri (“**District**” or “**CID**”), and **TOWNSEND SUMMIT, LLC**, a Missouri limited liability company (the “**Developer**”) (the City, the District and the Developer being sometimes collectively referred to herein as the “**Parties**”, and individually as a “**Party**”, as the context so requires).

WITNESSETH:

WHEREAS, the City Council of the City of Lee’s Summit, Missouri (the “**City Council**”), did on ____, 2019, pass Ordinance No. ____, which approved the formation of the District and the Petition to Establish the Summit Orchards Community Improvement District (the “**Petition**”), and also approved this Agreement and authorized the City Manager to execute this Agreement; and

WHEREAS, on _____, 2019, the CID Board of Directors adopted Resolution No. _____ authorizing and directing the District to enter into this Agreement; and

WHEREAS, the District is authorized under the CID Act (defined below), subject to qualified voter approval, to impose a district-wide sales tax and to enter into this Agreement for the administration of the District Revenues; and

WHEREAS, Townsend Summit LLC is the current owner of the majority of the real estate which is located within the District boundaries, and the property will be developed by Developer in accordance with the land-use approvals granted by the City; and

WHEREAS, the Parties desire to set forth through this Agreement their respective duties and obligations with respect to the administration, enforcement, and operation of the District Sales Tax, the use of the District Revenues, and this Agreement.

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

ARTICLE 1

DEFINITIONS, RECITALS AND EXHIBITS

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

Section 1.2. Definitions. 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:

“**Action**” shall have the meaning set forth in **Section 7.4**.

“**Affiliate**” means any person, entity or group of persons or entities which controls a party, which a party controls or which is under common control with a party. As used herein, the term “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract, by vote of the District Board of Directors, or otherwise.

“**Annual Board of Directors Report**” means the Annual Board of Directors Report in substantially similar form to **Exhibit E**, filed with the City by the Developer pursuant to **Section 5.6(E)**.

“**Applicable Laws and Requirements**” means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, policy, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any Governmental Authorities.

“**Application for Reimbursement**” means the Application for Reimbursement in substantially similar form to **Exhibit D**, filed with the City by the Developer pursuant to **Section 6.3**.

“**Art Features**” means the structures which are constructed for the Development Project and funded pursuant to the line item in the CID Budget as Public Art.

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

“**CID Board of Directors**” means the governing body of the District.

“**CID Budget**” means the budget for the CID as set forth in **Exhibit C**.

“**CID Obligations**” means bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the District pursuant to the CID Act, subject to the restrictions in **Section 6.4**.

“**CID Petition**” means the petition to establish the District, approved by the City Council on _____, 2019, by Ordinance No. ____.

“**CID Public Improvements**” means the following terms and any land and features associated with such items:

- (1) the Internal Drives;
- (2) the Art Features;
- (3) the Public Landscape;
- (4) the Public Signage;
- (5) all sidewalks and pedestrian paths within the Development Area that are funded with CID Revenues.

“**City Council**” means the City Council of the City.

“**City Indemnified Parties**” shall have the meaning set forth in **Section 7.2**.

“**City Manager**” means the City Manager of the City.

“**County Assessor**” shall mean the County Assessor of Jackson County, Missouri.

“**Costs of Formation**” means those costs and expenses which are eligible to be paid under the CID Act and which are or have been incurred by or at the direction of the City, Developer, and the District and their staff and consultants in the process of preparing for the District, petitioning the City for formation of the District, considering the CID Petition, holding public meetings and hearings and forming the District, negotiating and approving this Agreement, and holding the first meeting of the District, including all activities through the conclusion of the first District meeting.

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

“**District Sales Tax**” means the sales tax levied by the District on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the District boundaries pursuant to the CID Act in the maximum amount of one percent (1.0%), as established by resolution of the District and approved by the qualified voters of the District, in accordance with this Agreement.

“**Development Area**” means the property within the CID boundaries.

“**Development Project**” means the work undertaken by or at the direction of Developer or the District within the Development Area in accordance with the CID Petition.

“**Event of Default**” means any event specified in **Section 8.1** of this Agreement.

“**Excusable Delays**” means delays due to acts of terrorism, acts of war or civil insurrection, strikes, riots, floods, earthquakes, fires, tornadoes, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, national or regional material shortages, failure to obtain regulatory approval from any Federal or State regulatory body, unforeseen site conditions, material litigation by parties other than the Parties not caused by the Parties’ 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.

“**Governmental Authorities**” or “**Governmental Authority**” means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence, that have jurisdiction over some or all of the Development Area and/or Development Project, including the City.

“**Internal Drives**” means, with reference to the line-items in the CID Budget, the following improvements which will be funded by the District and maintained by the District as provided in this Agreement:

In the Eastern portion of the District –

- the primary East-West Drive through the eastern portion of the Development Area
- the North-South drive connecting Chipman Road to the East-West Drive

In the Western portion of the District

- Improvements to Outerview Road

- Donovan Road from Ward Road to Outerview Road

including all curbing, gutters, storm drainage, landscaping, sidewalks, signage and pedestrian areas and paths that are constructed for such improvements.

“**Mayor**” means the Mayor of the City.

“**Maintenance Costs**” shall have the meaning set forth in **Section 3.2**.

“**Maintenance Reserve Fund**” shall have the meaning set forth in **Section 3.2**.

“**Maximum Amount**” shall have the meaning set forth in **Section 6.1**.

“**Maximum Reimbursement Interest**” shall have the meaning set forth in **Section 6.3**.

“**Operating Costs**” means the actual, reasonable expenses which are necessary for the operation of the District which shall include, but are not limited to, costs associated with notices, publications, meetings, supplies, equipment, photocopying, the engagement of special legal counsel, financial auditing services performed for the District or the City on behalf of the District, and other consultants or services, and shall also include reasonable attorneys’ fees for the formation of the District.

“**Phase 1**” shall have the meaning set forth in **Exhibit F**.

“**Phase 2**” shall have the meaning set forth in **Exhibit F**.

“**Property Maintenance Code**” means Chapter 16 of the Lee’s Summit Code of Ordinances.

“**Public Landscape**” means the trees, plants and vegetation, and any associated planters. Containers and irrigation systems, which are constructed for the Development Project and funded pursuant to the line item in the CID Budget as Landscape, including any land areas associated with such features.

“**Public Signage**” means the signage, including monuments signs, pylon signs and another types of signs, which are constructed for the Development Project and funded pursuant to the line item in the CID Budget as Signs in Monuments or Pylons.

“**REA**” shall have the meaning set forth in **Section 3.2**.

“**Reimbursable Project Costs**” means those actual and reasonable costs and expenses of the Development Project which are set forth in the column labeled “CID Reimbursable” in the CID Budget.

“**RSMo**” means the Revised Statutes of Missouri, as amended.

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 the CID 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 Reimbursable Project Costs are authorized in the CID Petition.

D. 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.

E. The District acknowledges that the construction of the Development Project is of significant value to the District, the property within the District and the general public. The District finds and determines that the Development Project 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; and (iii) increasing local and state tax revenues. Further, the District finds that the CID conforms to the purposes of the CID Act.

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

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

A. The City is duly organized and existing under the 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 is duly authorized to execute and deliver this Agreement.

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

Section 2.3. Representations by 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 obligation of the Developer, enforceable in accordance with its terms.

B. The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or

of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

C. No litigation, proceedings or investigations are pending or, to the knowledge of the Developer, threatened against the Developer, any member of the Developer or the Development Project which litigation, proceedings or investigations 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 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. Developer therefore covenants, and will provide an affidavit from any general contractor directly employed by Developer to construct the Development Project attesting that it is not knowingly in violation of subsection 1 of Section 285.530, RSMo, and 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

DEVELOPMENT PROJECT

Section 3.1. Development Project. Developer, or its successors and assigns, will undertake the Development Project in accordance with all Applicable Laws and Requirements and the CID Petition. The District is not authorized to make, and the Developer will not receive reimbursement for, any improvements or services other than those listed in the column labelled “Reimbursable Public Improvements” in the CID Budget attached hereto as Exhibit C. The City shall not have any obligation to design and construct the Development Project.

Section 3.2. Ownership and Maintenance of CID Public Improvements and the Development Project.

A. Maintenance of the Development Project. So long as this Agreement is in effect, Developer, or its successor(s) in interest, as owner or owners of the affected portion(s) of the District, shall maintain or cause to be maintained the buildings and improvements within the Development Area which it owns in a good state of repair and in conformity with Applicable Laws and Requirements.

B. Ownership of the CID Public Improvements. Ownership of the Public Improvements shall be pursuant to one of the following arrangements:

1. Fee title to the CID Public Improvements shall be vested in the name of the District; or

2. The District shall lease the Public Improvements from a private party for the life of the District using a form of lease approved by the City Attorney’s office; or

3. A public access easement shall be granted to the CID and the public for the life of the District pursuant to a form of easement agreement approved by the City Attorney’s office. The parties agree that if granted under a public access easement, such provision may be included in the REA, subject to approval by the City Attorney’s office.

No reimbursement to Developer for the CID Public Improvements shall occur until the District has provide proof to the City and Developer that one of the above-referenced ownership structures has been satisfied. One of the ownership structures recited above shall be in effect while the District is in existence. Upon termination of the District, title to the CID Public Improvements shall be transferred in accordance with **Section 5.5**.

C. Maintenance of the CID Public Improvements. The following provisions shall apply to the ownership, maintenance and upkeep of the CID Public Improvements:

1. Developer, on behalf of the District, shall have the primary obligation to maintain or cause to be maintained the CID Public Improvements in a good state of repair and in conformity with Applicable Laws and Requirements and in accordance with the City's Property Maintenance Code.

2. The District shall have the joint obligation with Developer to maintain or cause to be maintained the CID Public Improvements in a good state of repair and in conformity with Applicable Laws and Requirements. The District shall provide for all liability insurance and payment of taxes (if applicable) associated with the CID Public Improvements.

3. The District's annual budget shall include a line item for the funding of an annual fiscal year reserve fund in the amounts for Phase 1 and Phase 2 as described in the engineering letter which is attached as **Exhibit F** (the "**Maintenance Reserve Fund**"). The annual funding of the Maintenance Fund shall be based on the completion of the Phase 1 and Phase 2 improvements as described in **Exhibit F**. The Maintenance Reserve Fund shall be an account that is established and maintained by the City on behalf of the District pursuant to the City's sales tax administration duties as provided in this Agreement. The City, as the administrator of the District Sales Tax, shall deposit appropriate amounts in the Maintenance Reserve Fund in the order of priority set forth in **Section 5.3** to fund up the Maintenance Reserve Fund on an annual basis. The moneys accumulated in the Maintenance Reserve Fund shall be used exclusively to fund the costs of the maintenance, upkeep, and repair of the CID Public Improvements (the "**Maintenance Costs**"). Interest earned on funds that are accumulated in the Maintenance Reserve Fund shall be deposited in the Maintenance Reserve Fund and expended in accordance with this Section for Maintenance Costs.

4. Developer shall record a certain Reciprocal Easement and Operating Agreement ("**REA**") with the land records of Jackson County which shall provide for the maintenance of the CID Public Improvements in accordance with this subsection. A copy of the REA shall be approved by the City prior to the date of recording with the Jackson County Recorder of Deeds, which right of approval shall be for the purpose of ensuring compliance with the requirements of this subsection. The REA provides for the right, but not the obligation, of the Developer to create a property owner's association. The REA shall include the following requirements:

a. Provide for assessments which will be imposed on all developable lots in the CID area to cover the maintenance costs for the CID Public Improvements, but subject to the District's obligation to maintain such CID Public Improvements pursuant to the reserves established thereunder;

b. Provide that the REA shall be perpetually in effect;

c. Provide that property owners in the Development Area are liable for the costs of maintenance of the CID Public Improvements in the event that Developer and the CID fail to maintain such improvements;

d. Provide that each lot owner and any successive buyer or transferee shall be obligated under the REA, and that each such owner shall be furnished with a copy of the REA; and

e. Provide that the City shall be a third party beneficiary of all provisions pertaining to the REA requirements of this subsection related to the CID Public Improvements and that such provisions shall not be modified or amended without the written consent of the City. City consent shall not be required with respect to modifications or amendments not related to the requirements of this subsection.

5. If the Developer and the District fail to maintain the CID Public Improvements, then the City shall have the right to maintain or provide for the maintenance of the CID Public Improvements, the right to incur Maintenance Costs and the right to request reimbursement from the Maintenance Reserve Fund pursuant to this Agreement. The right of the City to provide for such maintenance and incur Maintenance Costs shall not obligate the City to undertake such maintenance.

6. All requests for payment from the Maintenance Reserve Fund for Maintenance Costs shall be processed in accordance with Section 6.3 pursuant to an Application for Reimbursement. All Applications for Reimbursement that are approved for Maintenance Costs shall be paid solely from the Maintenance Reserve Fund. Any payments for Maintenance Costs that are incurred by any party as allowed by this Agreement shall be paid exclusively from funds that are available in the Maintenance Reserve Account.

Section 3.3. Changes. Developer shall promptly notify the City in writing of any changes in the location of the principal place of business of Developer and of any other material adverse change in fact or circumstance directly affecting the Development Project.

Section 3.4. Use Limitations. Developer covenants that the uses within the District boundaries shall at all times be in accordance with Applicable Laws and Requirements, including the zoning and subdivision approvals granted by the City, and all conditions thereof, for the Development Area.

ARTICLE 4

TRANSFER OF THE DEVELOPMENT AREA

Section 4.1. Sale to Third Party. If Developer proposes to sell, assign, transfer, convey and/or otherwise dispose of any property within the District boundaries, Developer shall insert in any document transferring any interest in real property within the CID, or shall cause any transferee to insert language reasonably similar to the following in such document, and shall have such document signed by the transferee indicating acknowledgment and agreement to the following provision:

Community Improvement District: Grantee acknowledges and consents that the Property is a part of the Summit Orchards Community Improvement District (“District”) created by ordinance of the City of Lee’s Summit, Missouri (“City”), and that the District imposes a sales tax on eligible retail sales conducted within the District that will be applied toward the costs of the Development Project that provide a generalized benefit to all property within the District. Grantee shall, or shall cause any applicable tenant of Grantee,

to forward to the City copies of its State of Missouri sales tax returns for the Property when and as they are filed with the Missouri Department of Revenue. Grantee hereby acknowledges and agrees that the City and the District are third party beneficiaries of the obligations in this paragraph and shall have a separate and independent right to enforce these reporting requirements.

Section 4.2. Lease to Third Party. Developer shall cause all leases of property in the District entered into after the date of this Agreement to contain a provision that is in substantial compliance with the following:

Community Improvement District: Tenant acknowledges and consents that the Leased Premises are a part of the Summit Orchards Community Improvement District (“District”) created by ordinance of the City of Lee’s Summit, Missouri (“City”), that the District imposes a sales tax on Tenant’s eligible retail sales that will be applied toward the costs of the Development Project that will provide a generalized benefit to the Development. Tenant shall forward to the City copies of Tenant’s State of Missouri sales tax returns for its property located in the District when and as they are filed with the Missouri Department of Revenue. Tenant hereby acknowledges and agrees that the City and the District are third party beneficiaries of the obligations in this paragraph and shall have a separate and independent right to enforce these reporting requirements.

Section 4.3. Consent by Developer, Tenants and Transferees.

A. In complying with **Section 4.1** and **Section 4.2** above, the Parties acknowledge and agree that the lease or transfer document may also include an appropriate caveat indicating that language and requirements with respect to the District Sales Tax shall be of no force or effect unless and until the District Sales Tax is actually implemented in accordance with the Petition and **Section 5.1**.

B. The Developer shall ensure that any documents transferring its interest in property located within the District shall make the obligations set forth in this Section a covenant running with the land that shall be enforceable 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, which obligations shall only terminate upon the end of the term of the District.

C. Failure of the Developer to require that such restrictions be placed in any such lease/sales 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, or otherwise form the basis of a default on the part of the Developer hereunder.

ARTICLE 5

DISTRICT SALES TAX

Section 5.1. Imposition, Collection and Administration of the District Sales Tax. The CID Board of Directors shall adopt a resolution that (i) imposes the District Sales Tax within the District boundaries (subject to voter approval), and (ii) authorizes the City to perform all functions incident to the administration, enforcement and operation of the District Sales Tax. The District shall notify the Missouri Department of Revenue of the District Sales Tax and that the District authorizes the City, on behalf of the District, to receive from the Missouri Department of Revenue all of the District Revenues. The District Sales Tax shall be collected by the Missouri Department of Revenue as provided in the CID Act. The

District official charged with formulating a budget for the District shall request that the CID Board of Directors appropriate the District Revenues in accordance with the budget, the CID Petition, and this Agreement.

Section 5.2. Costs of Formation and Operating Costs. The City and Developer have incurred Costs of Formation which are reimbursable pursuant to the CID Act and this Agreement. The City shall submit invoices to Developer for all Costs of Formation that have been incurred by the City, and such invoices will be paid by Developer to the City within thirty (30) days after receipt of such invoices. All payments to the City by Developer for the Costs of Formation incurred by the City, along with Costs of Formation incurred by Developer, may be reimbursed to Developer in the order of priority set forth in **Section 5.3** for reimbursement of the Costs of Formation. The Operating Costs of the District which are advanced by Developer on behalf of the District shall be reimbursed to Developer with District Revenues in the order of priority set forth in **Section 5.3** for payment and reimbursement of Operating Costs.

Section 5.3. Distribution of the District Revenues. Beginning in the first month following the effective date of the District Sales Tax and continuing each month thereafter until the expiration or repeal of the District Sales Tax, the City on behalf of the District shall, not later than the fifteenth (15th) day of each month, distribute the District Revenues received in the preceding month in the following order of priority:

- A. Pay the City an administration fee equal to 1.5% of District Revenues.
- B. Deposit funds in the Maintenance Reserve Account until the Maintenance Reserve Account is fully funded for such fiscal year as required by **Section 3.2**.
- C. Pay the Operating Costs of the District.
- D. Reimburse Developer for funds advanced by Developer for payment of Operating Costs, and interest thereon.
- E. Make reimbursement payments to Developer for payment of the Costs of Formation.
- F. Payment of debt service or the CID Obligations authorized pursuant to **Section 7.1**.
- F. Reimburse Developer for any Reimbursable Project Costs that are set forth in an approved Application for Reimbursement pursuant to **Section 6.3**, at such time as reimbursement is authorized pursuant to **Section 6.1**.

Section 5.4. Records of the District. Any District records pertaining to the District Sales Tax or the administration and operation of the District shall be provided to the City upon written request of the City, as permitted by law.

Section 5.5. Abolishment of District. After Developer has been reimbursed for all Reimbursable Project Costs, the District shall continue to stay in existence as long the shopping center continues to operate in order to continue to provide for maintenance of the Internal Drives and the Public Open Space, for up to the maximum time period authorized in the Petition. The District may be terminated earlier than the maximum time period specified in the Petition if the District area ceases to be operated as a shopping center. Upon termination, the District shall implement the procedures in the CID Act for repeal of the District Sales Tax and abolishment of the District. Upon repeal of the District Sales Tax, the District shall:

A. Pay all outstanding amounts set forth in **Section 5.3**.

B. Retain any remaining District 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.

Upon termination of the District, title to the CID Public Improvements shall be abandoned by the CID and transferred to the Developer or Developer's successors in interest to the Development Project, or to another private party which shall assume ownership and maintenance responsibility of the CID Public Improvements.

Section 5.6. CID Board of Directors and Insurance.

A. The CID Board of Directors shall consist of five members, at least one of which will be a representative of the City.

B. All members of the CID Board of Directors shall meet all qualifications of the CID Act and the Missouri Constitution.

C. Successor members of the CID Board of Directors shall be appointed by the Mayor with the consent of the City Council as provided in the CID Petition and in compliance with Section 67.1451.5, RSMo. In the event of a vacancy on the CID Board of Directors, interim members will be elected by the remaining existing members of the CID Board of Directors in compliance with Section 67.1451.5, RSMo.

D. City representatives may be appointed to a majority of the positions on the Board of Directors in accordance with the CID Act in the event that the District ceases to operate in accordance with the Petition, this Agreement, the CID Act or any Applicable Laws and Requirements.

E. The District will maintain reasonable levels of directors' and officers' liability insurance throughout its existence. The cost of such liability insurance shall be an Operating Cost of the District.

F. The District shall, no later than fifteen (15) days after the start of each fiscal year, submit the names of the current CID Board of Directors to the City Council. All reports shall be made by the Developer to the City in an Annual Board of Directors Report in substantially the same form as **Exhibit E**.

Section 5.7. Pledge of District Revenues and Collateral Assignment of Agreement to Lender. Developer shall have the right, without the consent of the City, to pledge its right to receive any District Revenues for Reimbursable Project Costs under this Agreement to a lender for the Development Project. Upon Developer's request, the City will send any such revenues to such lender directly until Developer directs otherwise. Developer shall also have the right, without the consent of the City, to collaterally assign its rights and obligations under the Agreement to such lender, provided that the lender assumes by contract all obligations and duties of Developer under this Agreement in the event of a transfer to lender.

Section 5.8. Notification of Sales Tax. Upon the District Sales Tax becoming effective, the District shall notify all existing tenants within the Development Area of the requirement to impose the District Sales Tax on the tenant's eligible retail sales.

ARTICLE 6

REIMBURSEMENTS TO DEVELOPER

Section 6.1. Requirements of and Limitations on Reimbursement to Developer.

A. Developer, or its successors and assigns, will develop and construct the Development Project in accordance with the CID Petition. The Developer shall receive reimbursement for Reimbursable Project Costs, any Operating Costs funded by Developer, any Costs of Formation funded by Developer, and the Maximum Reimbursement Interest in accordance with **Section 6.3**.

B. The District shall reimburse the Developer for Reimbursable Project Costs approved by the City pursuant to **Section 6.3**, and subject to the limitations set forth in this Section. Reimbursable Project Costs shall be reimbursed from available District Revenues and from no other source of funds. The City shall review and certify Reimbursable Project Costs in accordance with the procedures for review of reimbursement requests as set forth in **Section 6.3**.

C. The maximum amount of District Revenues used to reimburse Developer for Reimbursable Project Costs shall be \$9,029,995, plus any Operating Costs advanced by Developer and the Maximum Reimbursement Interest (the “**Maximum Amount**”).

Section 6.2. District’s Obligation to Reimburse Developer. The Parties agree that reimbursement of Reimbursable Project Costs will occur on a “pay as you go” basis as District Revenues are collected by the District in accordance with this Agreement. The District will only reimburse the Developer for Reimbursable Project Costs which may lawfully be paid or incurred by the District under the CID Act, which become reimbursable under the conditions and restrictions in **Section 6.1**, and which are approved pursuant to **Section 6.3**.

Section 6.3. Reimbursement Application Process.

A. The District appoints the City as its agent to administer the reimbursement application process. All requests for reimbursement of Reimbursable Project Costs shall be made by the Developer to the City in an Application for Reimbursement in substantially the form as **Exhibit D**. Each Application for Reimbursement shall include itemized invoices, receipts or other information, if any, reasonably requested by the City to confirm that each cost identified in the Application for Reimbursement has been incurred and qualifies for reimbursement pursuant to the CID Act and this Agreement.

B. Applications for reimbursement of Maintenance Costs from the Maintenance Reserve Fund may be made by any party so authorized by this Agreement and shall follow the process set forth in paragraph D of this Section for the City to review and approve such reimbursement.

C. The District will not reimburse the Developer or any other party for any cost that is not eligible for reimbursement under the CID Act, the CID Petition or the terms and conditions of this Agreement. The Parties agree that the individual items which are scheduled to be reimbursed according to the CID Budget (the “**Reimbursable Line Items**”), to the extent actually incurred by Developer for the Development Project and certified by the City, up to the Maximum Amount, constitute Reimbursable Project Costs which are eligible for reimbursement in accordance with the CID Act and this Agreement. Developer may, in the aggregate, shift up to 10% of each Reimbursable Line Item for the Development Project to another Reimbursable Line Item for the Development Project without consent from the City, provided that the total amount of reimbursement for the Development Project shall not exceed the Maximum Amount and upon providing written notice to the City of the amounts shifted between

Reimbursable Line Items through Application for Reimbursement. Shifts between line items in an amount greater than 10% may be approved by the Finance Director following a request for same by Developer through an Application for Reimbursement. The Finance Director may seek the advice and consent of the City Council for such approval. In the event the Finance Director denies said request Developer shall have thirty (30) days to appeal to the City Council for a final determination on the Application for Reimbursement.

D. The Developer may submit an Application for Reimbursement to the Finance Director not more often than once each calendar month. The City shall either accept or reject each Application for Reimbursement within thirty (30) days after the submission thereof. If the City determines that any cost identified as a Reimbursable Project Cost is not eligible for reimbursement under the CID Act, the CID Petition or this Agreement, the City shall so notify the Developer in writing within said 30-day period, identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other costs for reimbursement with a supplemental application for payment, subject to the limitations of this Agreement. The City may also request such additional information from the Developer as may be required to process the requested reimbursement, and the time limits set forth in this paragraph shall be extended by the duration of time necessary for the Developer to respond to such request by the City. The City's identification of any ineligible costs shall not delay the City's approval of the remaining costs on the Application for Reimbursement that the City determines to be eligible.

E. After the City approves an Application for Reimbursement for any cost other than Maintenance Costs which are payable from the Maintenance Reserve Fund, interest shall accrue interest at the prime rate established by Commerce Bank, plus two percent (2%) from the date the City approves an Application for Reimbursement of Reimbursable Project Costs until such costs are actually reimbursed with District Revenues (the "**Maximum Reimbursement Interest**"), which shall fluctuate from time to time, not to exceed the highest interest rate allowed by applicable law. The Maximum Reimbursement Interest shall not apply to the reimbursement of Maintenance Costs. Applications for Reimbursement for Maintenance Costs shall be payable solely from the Maintenance Reserve Account, and any such costs that are not immediately reimbursed from the Maintenance Reserve Account shall not accrue interest.

Section 6.4. Issuance of CID Obligations. The District may authorize the issuance of CID Obligations upon written approval of the City and subject to the following restrictions:

A. The final maturity date of the CID Obligations shall be no more than twenty (20) years from the date of issuance or the expiration of the term of the District, whichever is sooner; provided the term of the District is thirty (30) years pursuant to the Petition.

B. The maximum principal amount of the CID Obligations shall not exceed an amount calculated by a financial advisor to the District which is incorporates a projected amortization schedule based upon the development that is either open for business in the Development Area or for which the Developer has executed binding leases in the Development Area, along with the costs of issuance for such obligations. The City Finance Director and the City's financial advisor shall have the right to review such projections and all terms and conditions of the proposed bond issuance prior to the City providing written approval as required by this Section.

C. Reimbursement of interest on CID Obligations shall be limited to the Maximum Reimbursement Interest, unless otherwise approved by the City in writing.

ARTICLE 7

RELEASE AND INDEMNIFICATION

Section 7.1. Survival of Termination. The indemnification and covenants contained in this Article shall survive expiration or earlier termination of this Agreement.

Section 7.2. Developer Indemnity. The Developer hereby agrees that, anything to the contrary herein notwithstanding, it will defend, indemnify and hold harmless the City, its governing body members, employees and agents (collectively, the “**City Indemnified Parties**”) against any and all claims, demands, actions, causes of action, loss, damage, injury, liability and/or expense (including attorneys’ fees and court costs) to the extent resulting from, arising out of, or in any way connected with (i) the Developer’s failure to comply with any provision of this Agreement, (ii) the gross negligence or intentional misconduct of the Developer, an affiliate of the Developer, or their respective officers, employees and agents in connection with this Agreement and the Development Project (iii) the presence of hazardous wastes, hazardous materials or other environmental contaminants on any property within the District or the Development Area, or (iv) otherwise arising out of the construction of the Development Project or the administration of this Agreement; provided in no event shall the Developer indemnify the City or the City Indemnified Parties from any negligence or willful misconduct caused by the City or the City Indemnified Parties. If the validity or construction of the CID Act and/or any other ordinance of the City adopted in connection with this Agreement or the CID Petition are contested in court, the Developer shall defend, hold harmless and indemnify the City from and against all claims, demands and/or liabilities of any kind whatsoever including, without limitation, any claim for attorney fees and court costs, and the Developer shall pay any monetary judgment and all court costs rendered against the City, if any. Any costs, fees, and expenses paid by Developer under this **Section 8.2** shall be Reimbursable Project Costs; provided that, if the event or circumstances giving rise to the claim against the City is due to the failure of the Developer or its contractors to comply with applicable Legal Requirements related to the construction of the Development Project or otherwise caused by the Developer’s gross negligence or intentional misconduct, no such costs, fees, and expenses paid by Developer under this **Section 8.2** shall be reimbursable. Notwithstanding anything to the contrary contained herein, the Developer indemnity set forth in this **Section 7.2** shall not be applicable to events which occur after Developer no longer owns any portion of the Development Project.

Section 7.3. District Indemnity. The District hereby agrees, to the extent permitted by law, that it will defend, indemnify and hold harmless the City Indemnified Parties and the Developer, its officers, employees and agents against any and all claims, demands, actions, causes of action, loss, damage, injury, liability and/or expense (including attorneys’ fees and court costs) to the extent resulting from, arising out of, or in any way connected with (i) the District’s failure to comply with any provision of this Agreement, or (ii) the negligence or intentional misconduct of the District or its officers, employees and agents.

Section 7.4. Notification. If any suit, action, investigation, claim or proceeding (collectively, an “**Action**”) is threatened, initiated or made as a result of which the Developer or the District may become obligated to one or more of the City Indemnified Parties hereunder, any one of the applicable City Indemnified Parties shall give prompt notice to the Developer and the District of the occurrence of such event. After receipt of such notice, the Developer or the District, as applicable, at their cost, shall defend, contest and otherwise protect the City Indemnified Parties against the Action utilizing counsel of the Developer’s choice. The City Indemnified Parties shall cooperate in good faith with the Developer and its counsel in the defense of an Action. The Developer shall provide to the City regular periodic reports on the status of such Action. If the indemnifying party fails to timely defend, contest or otherwise protect any of the City Indemnified Parties against such Action, the City Indemnified Parties shall have the right to do

so and to hire the counsel of their choice, and, if such defense is undertaken by the City Indemnified Parties after notice to the Developer and the District asserting the failure of the Developer, or the District, as applicable, to timely defend, contest or otherwise protect against such Action, the cost of such defense shall be at the expense of the Developer or the District, as applicable.

Section 7.5. Settlements. All proposed settlements to any Action shall be subject to the mutual approval of the Developer or the District, as applicable, and the applicable City Indemnified Parties. Neither the Developer nor the District, as applicable, nor the City Indemnified Parties, will unreasonably withhold their consent to a proposed settlement.

Section 7.6. Invalidity of Proceedings. Notwithstanding anything herein to the contrary, the City shall not be liable to the Developer or the District for damages or otherwise if all or any part of the CID Act, the ordinance approving the CID Petition, and/or any other ordinance of the City adopted in connection with this Agreement, the Development Project, or the CID Petition is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction. If, as a result of a final judgment, the revenue mechanisms and/or the reimbursements to the Developer contemplated by this Agreement cannot be implemented, the City and the District agree, subject to any necessary future legislative approvals by the City Council or CID Board of Directors, as applicable, to make good faith efforts to take all actions necessary to remedy any deficiencies and effectuate the intent of this Agreement.

ARTICLE 8

DEFAULTS AND REMEDIES

Section 8.1. Default and Remedies. An “Event of Default” shall occur upon the failure by any Party in the performance of any covenant, agreement or obligation imposed or created by this Agreement and the continuance of such failure for thirty (30) days after the other Party has given written notice to such Party specifying such failure.

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 (except that in no event shall the City enjoin the Developer to undergo any construction).

Section 8.2. Rights and Remedies Cumulative. The rights and remedies maintained by any Party 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. Any Party 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 any Party hereby waives the right to raise such defense in any proceeding in equity.

Section 8.3. 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 8.4. Excusable Delays. No Party shall be deemed to be in default of this Agreement because of Excusable Delays. Excusable Delays shall extend the time of performance for the period of such Excusable Delay.

ARTICLE 9

MISCELLANEOUS

Section 9.1. Effective Date and Term. This Agreement shall become effective on the date this Agreement has been fully executed by the Parties (“**Effective Date**”). This Agreement shall remain in effect for as long as the District is legally in existence.

Section 9.2. Modification. The terms, conditions, and provisions of this Agreement can be neither modified nor eliminated except in writing and by mutual agreement among the City, the District and the Developer. Any modification to this Agreement as approved shall be attached hereto and incorporated herein by reference.

Section 9.3. Jointly Drafted. The Parties agree that this Agreement has been jointly drafted and shall not be construed more strongly against another Party.

Section 9.4. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

Section 9.5. Validity and Severability. It is the intention of the Parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of State of Missouri, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

Section 9.6. Execution of Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 9.7. City Approvals. Unless specifically provided to the contrary herein, all approvals of the City hereunder may be given by the City Manager or his or her designee without the necessity of any action by the City Council. The City Manager may seek the advice and consent of the City Council before granting any approval.

Section 9.8. Relationship. In the performance of this Agreement, the Developer shall act solely as an independent contractor. Neither this Agreement nor any agreements, instruments, documents, or transactions contemplated hereby shall in any respect be interpreted, deemed or construed as making the Developer a partner, joint venturer with, or agent of, the City. The City and the Developer agree that neither party will make any contrary assertion, claim or counterclaim in any action, suit, arbitration or other legal proceedings involving the City and the Developer.

Section 9.9. Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the Parties with respect to the matters herein and no other agreements or representations other than those contained in this Agreement have been made by the Parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the Parties.

Section 9.10. Limit on Liability. The Parties agree that:

A. No official, director, officer, agent, employee, representative, attorney or consultant of the City shall be personally or otherwise in any way liable to the Developer or the District in the event of any default, breach or failure of performance by the City under this Agreement or for any amount which may become due to the Developer or the District or with respect to any agreement, indemnity, or other obligation under this Agreement.

B. No member or shareholder of the Developer or the District and no director, officer, agent, employee, shareholder, representative or consultant of the Developer or the District shall be personally or otherwise in any way liable to the City or any third-party in the event of any default, breach or failure of performance by the Developer or the District under this Agreement or for any amount which may become due to the City with respect to any agreement, indemnity or other obligation under this Agreement.

Section 9.11. Headings. Headings of articles and sections are inserted only for convenience and are in no way to be construed as a limitation or expansion on the scope of the particular articles, sections or subsections to which they refer. Words in the singular shall include the plural, and vice versa, where appropriate.

Section 9.12. Notices. Any notice, demand, or other communication required by this Agreement to be given by either party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched by certified United States First Class Mail, postage prepaid, or delivered personally or by a reputable overnight delivery service to all parties listed below. Mailed notices shall be deemed effective on the third day after mailing and all other notices shall be effective when delivered.

To the City: City of Lee's Summit, Missouri
220 SE Green
Lee's Summit, Missouri 64063
Attn: City Manager

With a copy to: City of Lee's Summit, Missouri
220 SE Green
Lee's Summit, Missouri 64063
Attn: City Attorney

To the District: Summit Orchards Community Improvement
District
c/o Conrad Lamb
[INSERT ADDRESS]

To the Developer: Townsend Summit, LLC
11311 McCormick Road, Suite 470

Hunt Valley, MD 21031
Attention: Mr. David Townsend

With a copy to:

John Snyder, Esq.
Dentons US LLP
4520 Main Street, Suite 1100
Kansas City, MO 64111-7700

or to such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this paragraph.

Section 9.13. Waiver. The failure of either Party to insist upon a strict performance of any of the terms or provisions of this Agreement, or to exercise any option, right or remedy contained in this Agreement, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect. No waiver by either Party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such Party.

Section 9.14. Tax Implications. The Developer and the District acknowledge and represent that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents have provided to the Developer or the District any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer and the District are relying solely upon their own tax advisors in this regard.

Section 9.15. Exhibits. All exhibits which are attached or referred to in this Agreement are specifically incorporated herein by reference and form an integral part hereof.

Section 9.16. Agreement to Control. In the event of any conflict between the terms of this Agreement and any other agreements between the City and the Developer or the District, the provisions of this Agreement shall control and supersede the conflict.

Section 9.17. Recordation of Memorandum of Agreement. The Parties agree to execute and deliver a Memorandum of this Agreement in proper form for recording and/or indexing in the appropriate land or governmental records. Such Memorandum shall be recorded by the City.

Section 9.18. Estoppel. Upon Developer's request, the City shall deliver a written instrument to Developer or any other person, firm or corporation specified by Developer, duly executed and acknowledged, certifying that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modifications; whether or not Developer has observed and performed all of the terms, covenants and conditions on the part of Developer to be observed and performed, and if not, specifying the same; and such other matters as reasonably requested by Developer.

[Remainder of this page intentionally left blank]

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

CITY OF LEE’S SUMMIT, MISSOURI

By: _____
William A. Baird
Mayor

[SEAL]

ATTEST:

Trisha Fowler Arcuri
City Clerk

STATE OF MISSOURI)
) **SS.**
COUNTY OF JACKSON)

On this _____ day of _____, 2019, before me appeared William A. Baird, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the **CITY OF LEE’S SUMMIT, MISSOURI**, a constitutional charter city and political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its City Council, and said William A. Baird 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.

Notary Public

[SEAL]

DISTRICT:

**SUMMIT ORCHARDS COMMUNITY
IMPROVEMENT DISTRICT**

By: _____
Executive Director

ATTEST:

Secretary

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

On this ___ day of _____, 2019, before me, a Notary Public in and for said state, personally appeared the Chairman of the Summit Orchards Community Improvement District, known to me to be the person who executed the within Intergovernmental Cooperative Agreement on behalf of the Summit Orchards Community Improvement District and acknowledged to me that he executed the same for the purposes therein stated.

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.

Notary Public

My Commission Expires:

DEVELOPER:

TOWNSEND SUMMIT, LLC
a Missouri limited liability company

By: _____
Steve Rich, Authorized Signatory

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

On this ___ day of _____, 2019, before me, a Notary Public in and for said state, personally appeared ____, the Manager of _____ LLC, a Missouri limited liability company, known to me to be the person who executed the within Intergovernmental Cooperative Agreement on behalf of said limited liability company and acknowledged to me that he executed the same for the purposes therein stated.

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.

Notary Public

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION OF CID AREA

A TRACT OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 48, RANGE 32, AND THE SOUTHWEST 1/4 OF SECTION 31, TOWNSHIP 48, RANGE 31, BOTH BEING IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 36; THENCE N 86°50'12" W, ALONG THE SOUTH LINE OF SAID SECTION 36, 253.79 FEET, THENCE S 03°26'03" W, 35.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF CHIPMAN ROAD, AS NOW ESTABLISHED; THENCE N 86°50'12" W, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 60.00 FEET; THENCE N 03°26'03" E, 35.00 FEET, TO A POINT ON SAID SOUTH LINE OF SAID SECTION 36; THENCE N 86°50'12" W, ALONG SAID SOUTH LINE, 374.08 FEET; THENCE N 03°08'10" E, ALONG A LINE 90.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF LOT 27B, SUMMIT FAIR - LOTS 27A & 27B, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, 1396.53 FEET, TO A POINT ON THE NORTH LINE OF SAID LOT 27B; THENCE S 86°42'36" E, ALONG SAID NORTH LINE, 90.00 FEET, TO THE NORTHEAST CORNER OF SAID LOT 27B; THENCE N 03°08'10" E, ALONG THE EAST LINE OF LOT 27A, OF SAID SUMMIT FAIR, 1110.56 FEET; THENCE N 86°51'33" W, 65.00 FEET; THENCE N 3°08'10" E, 40.00 FEET; THENCE S 86°51'33" E, 12.86 FEET, THENCE ALONG A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF N 8°18'08" E, A RADIUS OF 220.00 FEET, AND AN ARC LENGTH OF 145.11 FEET; THENCE N 46°05'38" E, 14.63 FEET; THENCE N 38°51'13" W, 5.02 FEET; THENCE N 2°38'26" E, 36.36 FEET; THENCE N 48°35'39" E, 120.00 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF WARD ROAD, AS NOW PLATTED; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF S 41°24'21" E, A RADIUS OF 1222.91 FEET, AND AN ARC LENGTH OF 141.41 FEET; THENCE, CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE, S 34°46'46" E, 283.97 FEET; THENCE, CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE, AND ALONG A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED COURSE, WITH A RADIUS OF 1634.91 FEET, AND AN ARC LENGTH OF 1553.48 FEET, TO THE INTERSECTION OF SAID EASTERLY RIGHT-OF-WAY LINE, OF SAID WARD ROAD, AND THE EASTERLY RIGHT-OF-WAY LINE OF DONOVAN ROAD, AS NOW PLATTED; THENCE S 69°10'42" E, 127.53 FEET; THENCE, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, AND ALONG A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 232.50 FEET, AND AN ARC LENGTH OF 17.05 FEET; THENCE,

CONTINUING ALONG SAID RIGHT-OF-WAY LINE, S 64°58'36" E, 373.24 FEET; THENCE, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, AND ALONG A CURVE TO THE RIGHT, BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 332.50 FEET, AND AN ARC LENGTH OF 182.74 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, S 33°29'17" E, 449.51 FEET, THENCE, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, AND ALONG A CURVE TO THE RIGHT, BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 332.50 FEET, AND AN ARC LENGTH OF 211.89 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY OF SAID DONOVAN STREET, S 03°01'26" W, 17.88 FEET TO A POINT OF INTERSECTION OF SAID EASTERLY RIGHT-OF-WAY OF SAID DONOVAN AND THE NORTH RIGHT-OF-WAY LINE OF CHIPMAN ROAD AS NOW ESTABLISHED; THENCE, ALONG SAID RIGHT-OF-WAY LINE, S 86°54'41" E, 42.50 FEET; THENCE S 03°05'34" W, 275.69 FEET; THENCE N 86°57'04" W, 137.54 FEET; THENCE N 03°05'34" E, 135.00 FEET, TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF SAID SECTION 31; THENCE N 86°57'04" W, ALONG SAID SOUTH LINE, 910.88 FEET, TO THE POINT OF BEGINNING, CONTAINING 58.0 ACRES, MORE OR LESS.

NOTE: Legal Description includes the following tax parcels:

Parcel # 52-900-03-58-00-0-00-000

Parcel # 51-700-04-15-00-0-00-000

Parcel # 51-700-04-27-00-0-00-000

EXHIBIT B

DEPICTION OF CID AREA

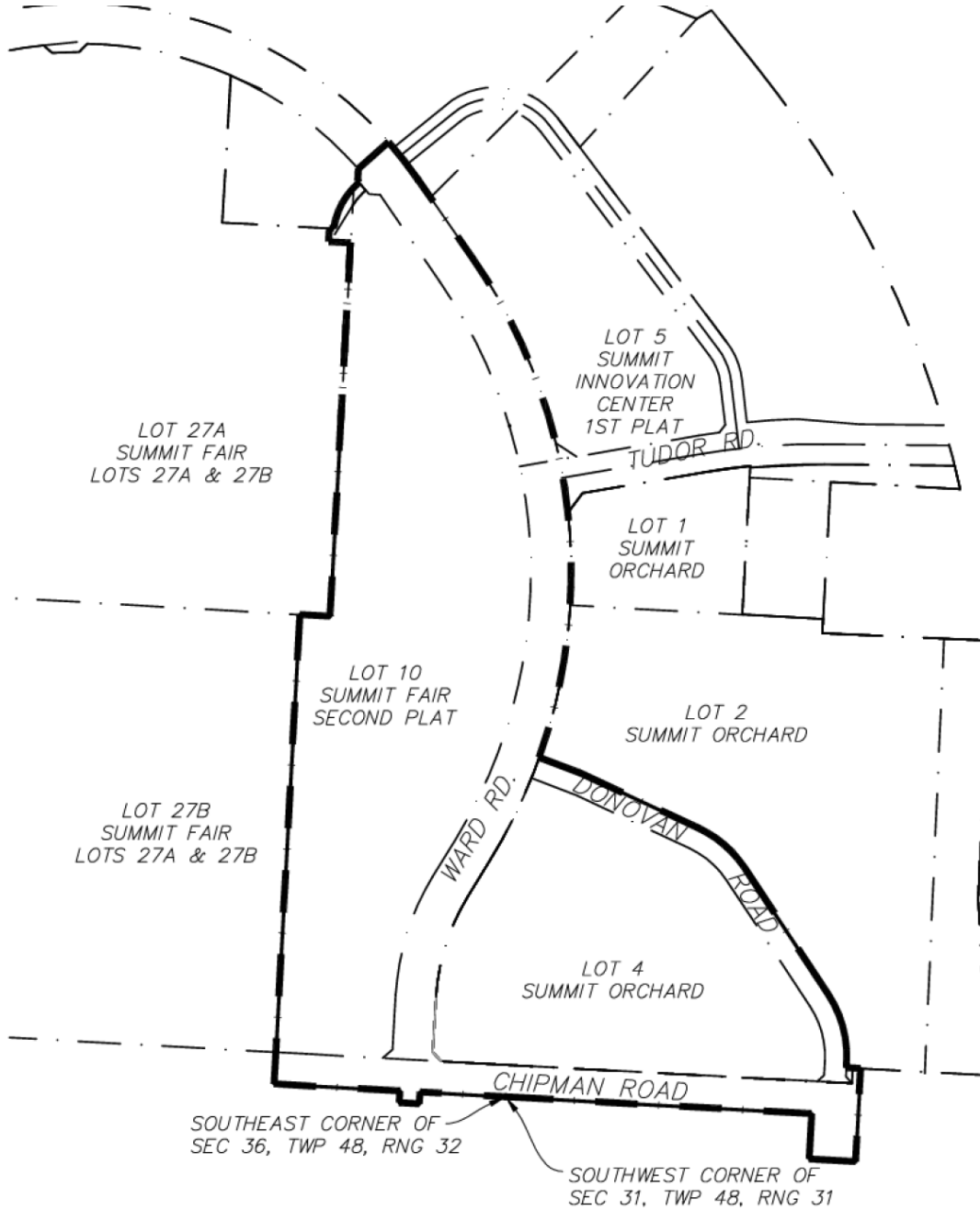


EXHIBIT C
CID BUDGET

	2019	2020	2021	2022	2023
Projected CID Revenues		\$ 100,000.00	\$ 300,000.00	\$ 350,000.00	\$ 500,000.00
Projected CID Expenditure (totals)	\$ 3,125,319.31	\$ 781,329.83	\$ 2,536,653.38	\$ 2,536,653.38	
Formation Costs	\$ 50,000.00				
Improvement Costs - Summit Orchards East					
1. Infrastructure - Roads, utilities, and sidewalks	\$ 2,184,373.00				
2. Landscape common spaces, entrance walls	\$ 468,650.00				
3. Signs in Monuments / Pylons (4)	\$ 103,000.00				
4. Public Art with plazas	\$ 236,900.00				
5. Contingency for Public Improvements (10%)	\$ 299,292.30				
6. Soft Costs for Public Improvements	\$ 239,433.84				
7. Construction interest CM and development fees	\$ 375,000.00				
Subtotal - Summit Orchard East	\$ 3,906,649.14				
Improvement Costs - Summit Orchards West					
1. Infrastructure - Roads, utilities, and sidewalks	\$ 3,462,964.68				
2. Landscape West Side	\$ 175,100.00				
3. Signs in Monuments / Pylons (1)	\$ 90,640.00				
4. Public Art	\$ -				
3. Contingency for Public Improvements (15%)	\$ 559,305.70				
6. Soft Costs for Public Improvements	\$ 298,296.37				
7. Construction interest CM and development fees	None				
Subtotal - Summit Orchard West	\$ 487,000.00				
	\$ 5,073,306.76				
Operating / Administrative Costs		\$ 10,000.00	\$10,200.00	\$10,404.00	\$10,612.08
Reserve		\$9,275.00	\$9,275.00	\$12,350.00	\$12,350.00
Total Costs					
	\$ 9,029,955.90				

EXHIBIT D

FORM OF APPLICATION FOR REIMBURSEMENT

APPLICATION FOR REIMBURSEMENT

TO: City of Lee’s Summit, Missouri
Attention: Mayor

Re: Summit Orchards Community Improvement District

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cooperative Agreement dated as of _____, 2019 (the “Agreement”) among the City of Lee’s Summit, Missouri (the “City”), the Summit Orchards Community Improvement District and Townsend Summit, LLC (the “Developer”). In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on *Schedule 1* hereto is a Reimbursable Project Cost and was incurred in connection with the construction of Development Project.
2. These Reimbursable Project Costs have been paid by the Developer and are reimbursable under the Agreement.
3. Each item listed on *Schedule 1* has not previously been paid or reimbursed from money derived from the District Revenues and no part thereof has been included in any other Application previously filed with the City.
4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
5. All necessary permits and approvals required for the work for which this application relates have been issued and are in full force and effect.
6. All work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.
7. If any cost item to be reimbursed under this application is deemed not to constitute a Reimbursable Project Cost within the meaning of the Agreement, the Developer shall have the right to substitute other eligible costs for payment hereunder.
8. 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 an Event of Default under the Agreement.
9. All of the Developer’s representations set forth in the Agreement remain true and correct as of the date hereof.

Dated this ____ day of _____, 20____.

TOWNSEND SUMMIT, LLC

By: _____

Name: _____

Title: _____

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

CITY OF LEE'S SUMMIT, MISSOURI

By: _____

Name: _____

Title: _____

EXHIBIT E

ANNUAL BOARD OF DIRECTORS REPORT

TO: City of Lee’s Summit, Missouri
Attention: Mayor

Re: Summit Orchards Community Improvement District

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cooperative Agreement dated as of _____, 2019 (the “Agreement”) among the City of Lee’s Summit, Missouri (the “City”), the Summit Orchards Community Improvement District and Summit Orchards Partners, LLC (the “Developer”). In connection with said Agreement, the undersigned hereby states and certifies that:

1. For fiscal year _____, the current Directors for the Summit Orchards Community Improvement District Board of Directors are:

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____ (City Representative)

2. This Annual Board of Directors Report is filed no later than fifteen (15) days following the start of the fiscal year, pursuant to **Section 5.6(E)** of the Summit Orchards Community Improvement District Cooperative Agreement.

Dated this _____ day of _____, 20_____.

**SUMMIT ORCHARDS COMMUNITY
IMPROVEMENT DISTRICT**

By: _____
Executive Director

EXHIBIT F
ENGINEERING LETTER FOR MAINTENANCE FUND

[Attached]

January 23, 2019

Mr. Steve Rich
Townsend Summit, LLC
11311 McCormick Road, Suite 470
Hunt Valley, Maryland 21031

Re: Summit Orchard CID – Pavement Maintenance Funding

Via: E-mail – steve@townsendcapital.com

Dear Steve,

As requested, we reviewed the common paving constructed under, and maintained by the CID for Lot 4 Summit Orchard and Lot 10 Summit Fair Second Plat. The following includes review of anticipated paving quantity and type, estimate of maintenance quantities, cost of anticipated maintenance, and recommended annualized contribution to a sinking fund to cover said maintenance. Please note, the following analysis does not include items such as snow removal.

Paving Design: The drive pavement will be 7" thick portland cement concrete on aggregate base with subbase stabilization or geogrid. Sidewalk will be 5" thick portland cement concrete on aggregate base with subbase stabilization or geogrid. We will design the pavement with 95% AASHTO Reliability. For purposes of this analysis, we will utilize a 90% AASHTO Reliability.

Concrete street pavements continue to gain strength. From experience, we expect concrete street pavements to have a 40+-year life prior to requiring asphaltic concrete overlay due to polishing of surface issues. We exclude future asphaltic concrete overlays from this analysis.

Concrete sidewalks should have a similar life. For this analysis, if we assume complete walk replacement at 40-year intervals, the maintenance budget includes an additional 2.5% replacement per year.

Paving Quantities: Following are the anticipate quantities of roadway and sidewalk paving constructed under and maintained by the CID. The quantities do not include sidewalk within public rights of way (Chipman, Ward, or Donovan).

Phase 1: Lot 4, Summit Orchard (Figure 1):

1. East – West Drive	3,820-SY	
2. North – South Drive	630-SY	Total Drive – 4,450-SY
3. North – South (internal) Walk	5,320-SF	
4. East – West Walk (along Drive)	4,100-SF	Total Sidewalk – 9,420-SF

THE BEST PLACE TO WORK WITH AND THE BEST PLACE TO WORK FOR

Phase 2: Lot 10, Summit Fair Second Plat (Figure 2):

1. Donovan Road Extension	2,610-SY	Total Drive – 2,610-SY
2. Sidewalk along Extension	1,390-SF	Total Sidewalk – 1,390-SF

Anticipated Repairs: A portion of the pavement will fail and require replacement within its design life. In addition, we recognize some panels will fail within the first year or two, but replacement is under warranty.

For this analysis, we use a 90% reliability for the paving. This means we anticipate 10% of the paving will require replacement during design life. In addition to the paving failures, we include cleaning and sealing the drive joints at about 7-year periods. We include four (4) cleaning / sealing of joints for the 30-year CID lifespan. The following uses Unit Pricing at twice current cost to include price escalation.

Phase 1: Lot 4, Summit Place

1. Pavement Patching Quantity: $4,450\text{-SY} \times 0.10 = 445\text{-SY}$
2. Sidewalk Patching Quantity: $9,420\text{-SF} \times 0.10 = 942\text{-SF}$
3. Joint Sealing: 3 longitudinal joints, transverse joints at 15-foot centers – $(962\text{-LF} \times 3) + (962/15 \times 28) = 4,682\text{-LF} \times 4$ times over 30-years = 18,278-LF

Phase 2: Lot 10, Summit Fair – Second Plat

1. Pavement Patching Quantity: $2,610\text{-SY} \times 0.10 = 261\text{-SY}$
2. Sidewalk Patching Quantity: $1,390\text{-SF} \times 0.10 = 139\text{-SF}$
3. Joint Sealing: 3 longitudinal joints, transverse joints at 15-foot centers – $(278\text{-LF} \times 3) + (278/15 \times 28) = 1,353\text{-LF} \times 4$ times over 30-years = 5,412-LF

Total Cost: The following cost is based on a 30-year CID life. At the end of the CID, we assume an association or the Owner(s) will assume maintenance of the pavements.

Phase 1: Lot 4, Summit Place

1. 7" PC Concrete Pavement Patch	445-SY @ \$150.00 / SY = \$66,750.00
2. 5" PC Concrete Sidewalk Patch	942-SF @ \$10.00 / SF = \$ 9,420.00
3. Add Sidewalk Replacement (2.5%/yr x 30 years)	7,065-SF @ \$10.00 / SF = \$70,650.00
4. Joint Sealing (4,682-LF x 4)	18,278-LF @ \$4.00 / LF = \$73,112.00

Phase 2: Lot 10, Summit Fair – Second Plat

1. 7" PC Concrete Pavement Patch	261-SY @ \$150.00 / SY = \$39,150.00
2. 5" PC Concrete Sidewalk Patch	139-SF @ \$10.00 / SF = \$ 1,390.00
3. Add Sidewalk Replacement (2.5%/yr x 30 years)	1,043-SF @ \$10.00 / SF = \$10,430.00
4. Joint Sealing (1,353-LF x 4)	5,412-LF @ \$4.00 / LF = \$21,648.00

Phase 1: Total anticipated construction cost for Phase 1 maintenance repairs over a 30-year period is \$219,932.00. Adding 10% administration cost increases the budget to \$241,925.00. For a 30-year period, the annual cost is \$8,064.16 / year ($\$241,925.00 / 30$).

To be conservative, we recommend escrowing an additional 15% of the estimated cost (\$9,273.79). Therefore, we recommend the escrow amount be \$9,275.00 / year.

Phase 2: Total anticipated construction cost for Phase 2 maintenance repairs over a 30-year period is \$72,618.00. Adding 10% administration cost increases the budget to \$79,880.00. For a 30-year period, the annual cost is \$2,662.67 / year (\$79,880.00 / 30).

To be conservative, we recommend escrowing an additional 15% of the estimated cost (\$3,062.07). Therefore, we recommend the escrow amount be \$3,075.00 / year.

Summary: We recommend using a Phase 1 annual escrow of \$9,275.00 until completion of Phase 2. Upon completion of Phase 2, we recommend increasing the escrow from \$9,275.00 to \$12,350.00

Please contact us if you have any questions, require clarification, or need additional information.

Very Truly Yours,

ANDERSON ENGINEERING, INC.



John V. Huss, P.E., CDT
Vice President



John V. Huss – MO P.E # E-20579
Expiration Date – December 31, 2019

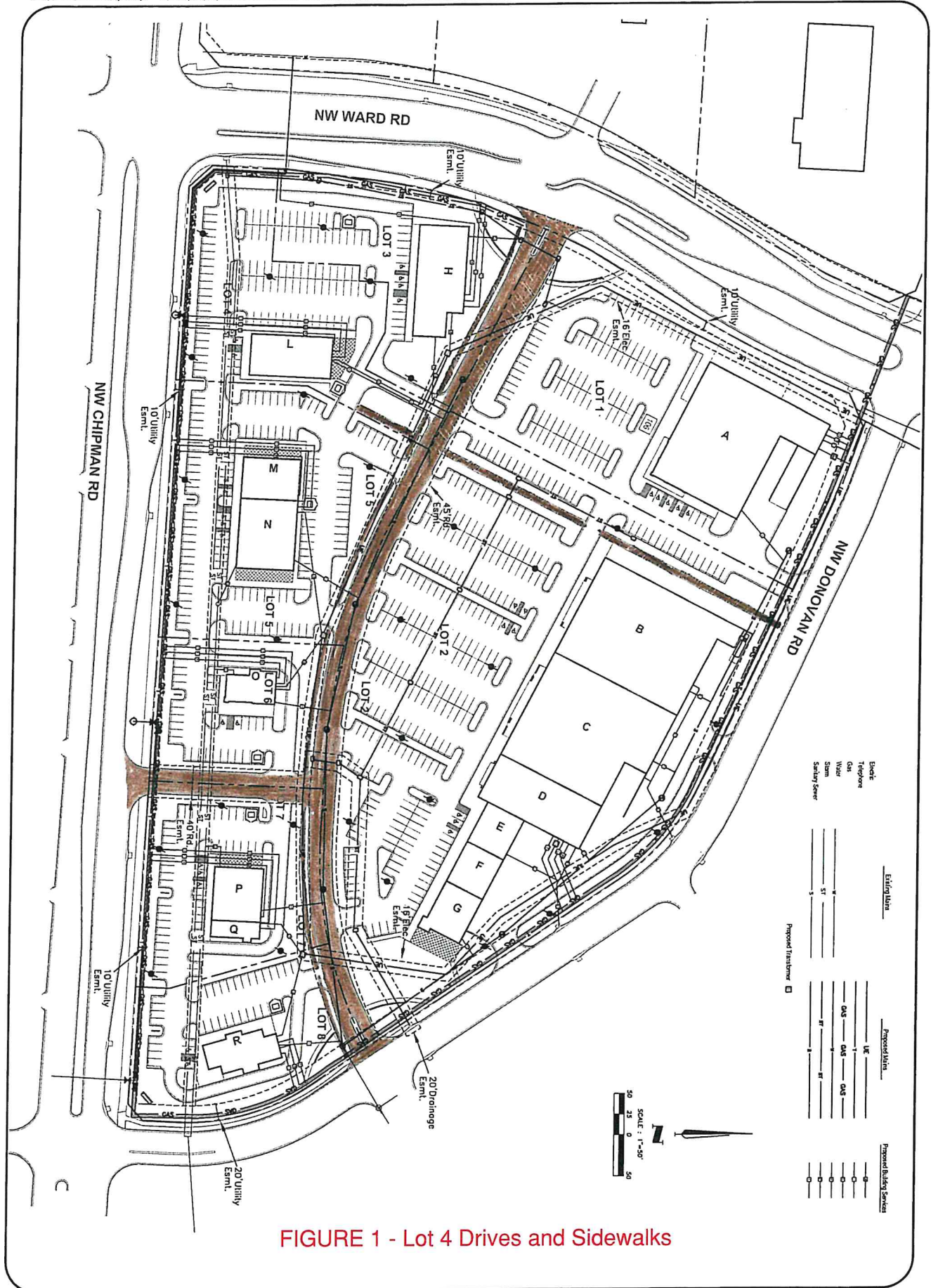



FIGURE 1 - Lot 4 Drives and Sidewalks


PROJECT NUMBER
C101
 1/21/2019

SUMMIT ORCHARD
 LEE'S SUMMIT, MISSOURI
LOT 4 Utility Display

REVISIONS			DRAWING INFO	
NO.	DESCRIPTION	BY	DATE	DRAWN BY:
				TPW
				CHECK BY:
				LICENSE NO.
				DATE:
				FIELD BOOK:
				JOB NUMBER
				18CD10004

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 EMPLOYEE OWNED

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Figure 2
 LOT 10 Improvements

SHEET

2

1/21/19