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**COOPERATIVE AGREEMENT**

**among**

**CITY OF LEE'S SUMMIT, MISSOURI,**

**the**

**SOUTHWEST I-470  
TRANSPORTATION DEVELOPMENT DISTRICT,**

**the**

**I-470 AND VIEW HIGH  
COMMUNITY IMPROVEMENT DISTRICT,**

**and**

**PARAGON STAR, LLC.**

**dated as of**

**\_\_\_\_\_, 2016**

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**COOPERATIVE AGREEMENT**

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## COOPERATIVE AGREEMENT

**THIS COOPERATIVE AGREEMENT** (“**Agreement**”), entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the **CITY OF LEE’S SUMMIT, MISSOURI**, a charter city and political subdivision of the State of Missouri (the “**City**”), the **SOUTHWEST I-470 TRANSPORTATION DEVELOPMENT DISTRICT**, a Missouri transportation development district (the “**District**” or “**TDD**”), the **I-470 AND VIEW HIGH COMMUNITY IMPROVEMENT DISTRICT** (the “**CID**”), and **PARAGON STAR, LLC**, a Missouri limited liability company (the “**Developer**”) (the City, the District, the CID 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 District, which was formed on September 12, 2016 by order of the Circuit Court of Jackson County, Missouri, subject to approval of the District by the qualified voters of the District is a political subdivision of the State of Missouri and is transacting business and exercising powers granted to it pursuant to the Transportation Development District Act, Sections 238.200 through 238.275, RSMo (the “**TDD Act**”); and

**WHEREAS**, the District is authorized to impose a sales tax within the District at the maximum rate of one percent (1.0%) for a period of thirty-two (32) years within the District for the purpose of funding transportation improvements; and

**WHEREAS**, it is necessary for the efficient operation of the District that it enter into an agreement with the City regarding the operation of the District, the imposition, administration and disbursement of the District Sales Tax and the construction and maintenance of the TDD Projects, and

**WHEREAS**, the Parties desire to contract to establish their relationships regarding operations 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 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:

“**Administration Fee**” means that amount of the District Sales Tax Revenue that the Sales Tax Administrator shall receive as compensation for performing the administrative duties of the District and administering and accounting for the District Sales Tax, as set forth in this Agreement.

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

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

**“Bond Documents”** means any bonds, indentures or other financing agreements, disbursement agreements and all other agreements and certificates executed in connection with the issuance of any Obligations.

**“Budget”** is defined in Section 4.4.

**“Captured District Sales Tax Revenues”** means the portion of the District Sales Tax Revenues that are captured as Economic Activity Taxes pursuant to the Redevelopment Plan and the Redevelopment Agreement.

**“CID”** shall mean the I-470 and View High Community Improvement District.

**“Developer”** means Paragon Star, LLC, a Missouri limited liability company, or its permitted successors or assigns in interest; and Related Entities, for purposes of reimbursement of Reimbursable Project Costs only.

**“District Election”** means the election that occurred on December 13, 2016, which approved the District, the District Sales Tax and the TDD Projects.

**“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 its boundaries pursuant to the TDD Act in the amount not to exceed one percent (1.0%), as established by resolution of the District and approved by the qualified voters of the District and in accordance with this Agreement.

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

**“Economic Activity Taxes”** means those revenues deposited in a separate segregated account within the Special Allocation Fund consisting of fifty percent (50%) of the total additional revenue from taxes, penalties and interest which are imposed by the City or other “taxing districts” (as that term is defined in section 99.805 (16) of the TIF Act) and which are generated by economic activities within the Redevelopment Project Area (as defined in the Redevelopment Agreement) over the amount of such taxes generated by economic activities within the Redevelopment Project Area in the calendar year prior to the year that the Redevelopment Project (as defined in the Redevelopment Agreement) and the collection of TIF Revenues (as defined in the Redevelopment Agreement) were approved by ordinance, as more fully defined in the Redevelopment Plan and the Redevelopment Agreement.

**“Economic Activity Taxes Account”** means the separate segregated account within the Special Allocation Fund into which the Economic Activity Taxes are deposited.

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

**“Excusable Delays”** means delays due to acts of terrorism, acts of war or civil insurrection, strikes, riots, floods, earthquakes, fires, tornadoes, casualties, acts of God, labor disputes, governmental

restrictions or priorities, embargoes, national or regional material shortages, failure to obtain regulatory approval from any Federal or State regulatory body, unforeseen site conditions, material litigation by parties other than 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.

“**Fiscal Year**” means July 1 through June 30 of each year, which Fiscal Year coincides with the City's fiscal year.

“**Locally Owned**” means all improvements not within MoDOT rights-of-way or jurisdiction, which will be owned by the City or the CID.

“**MoDOT**” means the Missouri Department of Transportation and/or the Missouri Highways and Transportation Commission.

“**Non-Captured District Sales Tax Revenues**” means portion of the District Sales Tax Revenues not captured as Economic Activity Taxes pursuant to the Redevelopment Plan and the Redevelopment Agreement.

“**Obligations**” means any bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by or at the direction of the District, or by or at the direction of the City pursuant to the Redevelopment Plan, which pay for the TDD Projects, in whole or in part, or to refund outstanding Obligations.

“**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, and other consultants or services. Costs and expenses incurred by the Sales Tax Administrator on behalf of the District in accordance with an approved District budget and in the performance of the administrative services, for which the Sales Tax Administrator receives the Administration Fee, shall not be included as Operating Costs. Costs incurred by the Sales Tax Administrator regarding enforcement of the District Sales Tax in the performance of any actions authorized in Section 3.5 shall be treated as Operating Costs.

“**Petition**” shall mean the Petition for the Creation of the Southwest I-470 Transportation Development District filed in the Circuit Court of Jackson County, Missouri on May 23, 2016.

“**Project Costs**” means all actual and reasonable costs and expenses which are incurred by or at the direction of the District with respect to construction of the TDD 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 in connection with the TDD Projects that are constructed or undertaken, plus all actual and reasonable costs to plan, finance, develop, design and acquire the TDD Projects, including but not limited to the following:

- A. actual and reasonable costs of issuance and capitalized interest, if any, for any Obligations issued to finance the TDD Projects;
- B. 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 TDD Projects and all actual and reasonable costs for the oversight of the completion of the TDD Projects including overhead expenses for administration, supervision and inspection incurred in connection with the TDD Projects; and

C. 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 TDD Projects and which may lawfully be paid or incurred by the District under the TDD Act.

**“Redevelopment Agreement”** means the Tax Increment Financing Redevelopment Agreement executed by and between the City and Paragon Star, LLC, dated October 20, 2016, which implements the Redevelopment Plan.

**“Redevelopment Plan”** means the I-470 and View High Tax Increment Financing Plan as approved by the City.

**“Report”** is defined in Section 4.4.

**“Sales Tax Administrator”** means the City, which shall perform all duties incident to receiving the District Sales Tax Revenues, accounting for all District Sales Tax Revenues and disbursing the District Sales Tax Revenues in accordance with this Agreement, the TDD Act and all applicable forms and regulations adopted by the District relating to accounting and disbursing the District Sales Tax Revenues.

**“Special Allocation Fund”** means the separate City fund to be known as the I-470 and View High Redevelopment Area Special Allocation Fund, including the separate segregated accounts into which TIF revenues are from time to time deposited, all in accordance with the Redevelopment Plan and the Redevelopment Agreement.

**“TDD Projects”** means those improvements described in Exhibit A, along with any other TDD projects that may be approved at a later date in accordance with the TDD Act and this Agreement.

## **ARTICLE 2: REPRESENTATIONS**

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

A. The District is a transportation development district and political subdivision, duly organized and existing under the laws of the State of Missouri, including particularly the TDD Act.

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

C. The TDD Projects are authorized in the Judgment. The TDD Projects will be financed by collective action of the Parties pursuant to the Redevelopment Agreement.

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. Consideration and public benefit: The District acknowledges that construction of the TDD Projects is of significant value to the District, the property within the District and the general public. The District finds and determines that the TDD 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 TDD Projects; (iii) increasing local and state tax revenues; and (iv) providing necessary improvements for the District and for other surrounding development. Further, the District finds that the TDD Projects conform to the purposes of the TDD 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 Constitution and laws of the State of Missouri as a 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 is duly authorized to execute and deliver this Agreement.

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

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

**Section 2.3. Representations by the Developer.** Developer represents that:

A. The Developer has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required to be executed and delivered by the Developer herein, and such execution and delivery has been duly and validly authorized and approved by Developer 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 by this Agreement, and the performance of or compliance with the terms and conditions of this Agreement by the Developer 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 Developer is a party, or any order, rule or regulation of any court or governmental body applicable to the Developer 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 Developer under the terms of any instrument or agreement to which the Developer is a party.

C. No litigation, proceedings or investigations are pending or, to the knowledge of the Developer, threatened against the Developer or any member of the Developer, which 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.

**Section 2.4. Representations by the CID.** The CID represents that:

A. The CID is a community improvement district and political subdivision, duly organized and existing under the laws of the State of Missouri, including particularly the Missouri Community Improvement District Act, Sections 67.1401, *et seq.*, RSMo, as amended.

B. The CID has authority to enter into this Agreement and to carry out its obligations under this Agreement. By proper action of its Board of Directors, the CID 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 CID 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 CID 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 CID 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 CID under the terms of any instrument or agreements to which the CID is a party.

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

**ARTICLE 3: DISTRICT SALES TAX**

**Section 3.1. Imposition of the District Sales Tax.**

A. The District has approved a resolution that imposes the District Sales Tax, which is authorized pursuant to the District Election. The District shall annually appropriate all District Sales Tax Revenues by resolution in accordance with this Agreement. The District Sales Tax shall be collected by the Missouri Department of Revenue as provided in the TDD Act. The City, as the Sales Tax

Administrator, shall receive the District Sales Tax Revenue from the Department of Revenue, which shall be disbursed in accordance with this Agreement.

B. The District Sales Tax may be imposed at any rate up to the maximum rate approved by the qualified voters. The District may impose the District Sales Tax at the maximum rate for the entire life of the District, or may adjust the District Sales Tax rate on a periodic basis as deemed necessary by the District.

**Section 3.2. District Administration and Sales Tax Duties.**

A. The District Sales Tax will be collected by the Missouri Department of Revenue, as provided in the TDD Act. The District hereby authorizes the Sales Tax Administrator to perform all functions incident to the administration, operation, and disbursement of the District Sales Tax Revenues, to the extent not performed by the Missouri Department of Revenue. The District further authorizes the Sales Tax Administrator to prescribe any required forms and administrative rules and regulations for reporting and collecting the District Sales Tax. The District shall notify the Missouri Department of Revenue, in substantial compliance with the form set forth in **Exhibit B**, that the District authorizes the Sales Tax Administrator, on behalf of the District, to receive from the Missouri Department of Revenue all of the District Sales Tax Revenues.

B. The District Sales Tax Revenues shall be deposited in a separate bank account by the Sales Tax Administrator and in accordance with all applicable resolutions adopted by the District. The District may amend the forms, administrative rules and regulations applicable to the administration, collection, enforcement and operation of the District Sales Tax and the operations of the Sales Tax Administrator, as needed.

**Section 3.3. Administration Fee.**

A. The Sales Tax Administrator shall receive an Administration Fee for administering and accounting for the District Sales Tax in an amount equal to 1.5% of the total District Sales Tax Revenues. The Sales Tax Administrator shall also be reimbursed by the District for any costs and expenses incurred in connection with any collection or enforcement issues associated with the District Sales Tax in which the Sales Tax Administrator may participate with or at the direction of the Missouri Department of Revenue.

B. In the event that the Administration Fee does not fully reimburse the Sales Tax Administrator for actual costs and expenses incurred in fulfilling its obligations under this Agreement, the Sales Tax Administrator may receive reimbursement for those actual additional costs that exceed the Administration Fee after the Sales Tax Administrator provides an accounting of such costs and expenses and the payment of such costs and expenses are approved by District resolution. In the event that there are insufficient funds in any Fiscal Year to cover the actual additional costs and expenses incurred by the Sales Tax Administrator and approved for payment by District resolution, such approved but unpaid costs and expenses shall be paid in subsequent Fiscal Years.

**Section 3.4. Operating Costs.** The Sales Tax Administrator, on behalf of the District, shall pay for the Operating Costs of the District from District Sales Tax Revenue. The Operating Costs shall be included in the District's annual budget, as provided in Section 4.4. In the course of performing the administrative duties set forth in Section 3.2 or enforcement duties set forth in Section 3.5, the Sales Tax Administrator may incur Operating Costs for the District which shall be paid in accordance with the budget approved by the District.

**Section 3.5. Enforcement of the District Sales Tax.** The District may, by resolution, authorize the Sales Tax Administrator, to the extent requested and authorized by the Missouri Department of Revenue, to take all actions necessary for enforcement of the District Sales Tax. The Sales Tax Administrator may, in the name of the District, prosecute or defend an action, lawsuit or proceeding or take any other action involving third persons which the Sales Tax Administrator deems reasonably necessary in order to secure the payment of the District Sales Tax. The District hereby agrees to cooperate fully with the Sales Tax Administrator and to take all action necessary to effect the substitution of the Sales Tax Administrator for the District in any such action, lawsuit or proceeding if requested. All actions taken by the Sales Tax Administrator for enforcement and any legal proceeding filed by the Sales Tax Administrator for enforcement and collection of the District Sales Tax shall be treated as Operating Costs of the District.

**Section 3.6. Distribution of the District Sales Tax Revenue.** Beginning in the first month following the effective date of the District Sales Tax during which District Sales Tax Revenues are first generated and continuing each month thereafter until the expiration or repeal of the District Sales Tax, the Sales Tax Administrator shall, not later than the fifteenth (15th) day of each month, distribute the District Sales Tax Revenues most recently received in the following order of priority (except as may be modified pursuant to **Section 3.7**):

A. While Project Costs remain unreimbursed, and if any Obligations have been issued and while such Obligations remain outstanding:

1. The Captured District Sales Tax Revenues, if any, shall become Economic Activity Taxes by the operation of tax increment financing pursuant to the Redevelopment Plan, which shall be deposited into the Economic Activity Taxes Account of the Special Allocation Fund and shall be expended in accordance with the Redevelopment Plan and the Redevelopment Agreement.

2. The City, on behalf of the District, shall pay the Administration Fee from the Non-Captured District Sales Tax Revenues.

3. The City, on behalf of the District, shall pay the Operating Costs from the Non-Captured District Sales Tax Revenues.

4. The City, on behalf of the District, shall make the remaining Non-Captured District Sales Tax Revenues available to pay the Obligations if any Obligations have been issued.

4. In the event that there are no Obligations outstanding, the City, on behalf of the District, shall make the remaining Non-Captured District Sales Tax Revenues available to reimburse the Developer for expenses incurred by Developer to fund the TDD Projects which have been certified by the City as Project Costs pursuant to the Redevelopment Agreement and which are not funded by Obligations. No payment of the District Sales Tax Revenues shall be made to Developer until such TDD Project costs have been certified by the City as Project Costs pursuant to the Redevelopment Agreement.

B. If all Project Costs have been reimbursed and if all Obligations have been fully retired and if the District Sales Tax continues in effect, or if such tax has been extended by mutual agreement of the Parties and in accordance with the TDD Act:

1. If tax increment financing is still in effect within the District pursuant to the Redevelopment Plan, the Captured District Sales Tax Revenues, if any, shall become Economic

Activity Taxes by the operation of tax increment financing pursuant to the Redevelopment Plan, which shall be deposited into the Economic Activity Taxes Account of the Special Allocation Fund and shall be expended in accordance with the Redevelopment Plan and the Redevelopment Agreement.

2. The City, on behalf of the District, shall pay the Administration Fee. Such payment shall be made from the Non-Captured District Sales Tax Revenues if tax increment financing is still in effect within the District pursuant to the Redevelopment Plan, otherwise such payment shall be made from the District Sales Tax Revenue.

3. The City, on behalf of the District, shall pay the District Operating Costs. Such payment shall be made from the Non-Captured District Sales Tax Revenues if tax increment financing is still in effect within the District pursuant to the Redevelopment Plan, otherwise such payment shall be made from the District Sales Tax Revenue.

4. The remaining District Sales Tax Revenues shall be used to reimburse Developer for expenses incurred by Developer to fund the TDD Projects which have been certified by the City as Project Costs pursuant to the Redevelopment Agreement.

**Section 3.7. Effect of Obligations.**

A. The Parties acknowledge the TDD Act and the Petition authorized the District to issue Obligations and that the priority for distribution of the District Sales Tax Revenues set forth in Section 3.6 may be modified by Bond Documents. In the event of a conflict between the terms of this Agreement and any documents creating Obligations, the documents creating the Obligations will control with respect to priority of disbursement of District Sales Tax Revenues. Nothing in the Bond Documents shall lessen the amount of, or change the timing of Developer's receipt of, Captured District Sales Tax Revenues, without the written consent of the Developer in its sole discretion.

B. The Obligations are expected to refinance and fully refund the currently outstanding bonds issued by the I-470 and 350 Transportation Development District. The Parties agree, subject to the terms, conditions and requirements of this Agreement, to use best efforts to cause the District to issue this debt in coordination with the commencement of the District Sales Tax, on a schedule to be established by the Parties.

**Section 3.8. Records of the District Sales Tax.** The Sales Tax Administrator shall keep accurate records of the District Sales Tax due and collected and copies of such records shall be made available to the District on a monthly basis.

**Section 3.9. Repeal of the District Sales Tax.** Unless extended in accordance with this Section, the District shall implement the procedures in the TDD Act for repeal of the District Sales Tax and abolishment of the District (1) when all Project Costs have been paid, or (2) thirty (30) years following the date the District Sales Tax is first imposed, whichever occurs first. The District shall not implement the procedures for repeal or modification of the District Sales Tax and abolishment of the District if: (1) any District Sales Tax Revenue is due to the Sales Tax Administrator for outstanding Administration Fees; (2) the District, with the prior written consent of the City, has approved another project pursuant to the TDD Act; or (3) the duration of the District has been extended by mutual agreement of the Parties in compliance with the TDD Act. The Sales Tax Administrator's obligation to perform for the District all functions incident to the administration, enforcement and operation of the District Sales Tax shall terminate concurrent with the repeal of the District Sales Tax. Upon repeal of the District Sales Tax, the Sales Tax Administrator shall:

- A. Retain the Administration Fee to which it is entitled in accordance with this Agreement.
- B. Pay all outstanding Operating Costs.
- C. Retain any remaining District Sales Tax Revenue until such time as the District is abolished and the District has provided for the transfer of any funds remaining in a manner permitted by the TDD Act.

#### **ARTICLE 4: DISTRICT PROJECTS**

**Section 4.1. TDD Projects.** The TDD Projects shall be designed, constructed and financed in accordance with the requirements of the Redevelopment Agreement. The District shall impose the District Sales Tax within the boundaries of the District to provide reimbursement of Project Costs incurred for the TDD Projects.

**Section 4.2. Ownership and Maintenance of TDD Projects.**

A. As allowed by the TDD Act, the District's sole role is to fund and assist in the funding of the TDD Projects. The District shall have no ownership of the TDD Projects and title to the TDD Projects shall at all times be vested in the name of MoDOT, the City or the CID. Except as otherwise provided in the Redevelopment Agreement, MoDOT, the City or the CID shall at all times be responsible for maintenance of the TDD Projects.

B. The City and the CID will coordinate regarding the long-term ownership and maintenance of the Locally Owned TDD Projects.

**Section 4.3. Annual Budget.** The Sales Tax Administrator, on behalf of the District, shall annually prepare or cause to be prepared a budget (the "**Budget**") and an annual report (the "**Report**") describing the major activities of the District during the preceding year and upcoming year. The Budget shall be prepared by or reviewed by the City not less than sixty (60) days prior to submission of the Budget to the District Board of Directors for review and approval. Not later than the first day of each Fiscal Year, the Board of Directors shall adopt a Budget for the District for the ensuing budget year, for every fund of the District of any kind, in such a manner as may be provided by law. If the Board of Directors fails to adopt a Budget by the first day of a Fiscal Year, the District shall be deemed to have adopted for such fiscal year a budget which provides for application of the District Sales Tax Revenues collected in such fiscal year in accordance with the budget for the prior Fiscal Year.

#### **ARTICLE 5: SPECIAL COVENANTS**

**Section 5.1. Records of the District.**

A. The Sales Tax Administrator shall be the official record keeper of the District's records relating to District Sales Tax Revenues, and shall keep proper books of record and account on behalf of the District in which full, true and correct entries will be made of all dealings or transactions of or in relation to its business affairs in accordance with generally accepted accounting principles consistently applied, and will furnish to the District, such information as they may reasonably request concerning the District, including such statistical and other operating information requested on a periodic basis, in order

to enable such parties to determine whether the covenants, terms and provisions of this Agreement have been met.

B. The City, in its sole discretion, may provide for District financial audits to be performed in coordination with City audits and in accordance with Section 238.272, RSMo. All pertinent books, documents and vouchers relating to District business and affairs shall at all times during regular business hours be open to the inspection of such accountant or other agent (who may make copies of all or any part thereof provided that the confidentiality of all records shall be maintained pursuant to such confidentiality agreements as reasonably required) as shall from time to time be designated and compensated by the inspecting party.

C. All professional services for the District, including legal and engineering services, shall be performed pursuant to an engagement letter or contract between the District and the service provider, which shall be approved by resolution of the District.

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

**Section 5.3. Consent by Tenants and Transferees.**

A. Developer and the CID shall use good faith efforts to cause all leases and transfers of property owned by the Developer or the CID within the District after the date of this Agreement to contain a provision that is in substantial compliance with the following:

**Transportation Development District:** Tenant acknowledges that the Leased Premises are a part of the Southwest I-470 Transportation Development District (“District”) created by order of the Circuit Court of Jackson County, Missouri, and that the District imposes a sales tax on Tenant’s economic activities that will be applied toward the costs of public improvements that will provide a generalized benefit to the development. Tenant shall forward to the City of Lee’s Summit (“City”) copies of Tenant’s State of Missouri sales tax returns for its property located in the District when and as they are filed with the Missouri Department of Revenue. Tenant hereby acknowledges and agrees that the District, and the City as the agent of the District, are third party beneficiaries of the obligations in this paragraph and shall have a separate and independent right to enforce these reporting requirements.

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

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

C. The Developer and the CID shall enforce the lease/sales contract obligation set forth in paragraph B of this Section and shall require any purchaser, lessee or other transferee or possessor of the property within the District, to provide to the City a copy of their Missouri sales tax returns. This obligation shall be a covenant running with the land and shall be enforceable against 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.

## **ARTICLE 6: DEFAULTS AND REMEDIES**

**Section 6.1. Default and Remedies.** An Event of Default shall occur upon the failure by either Party in the performance of any covenant, agreement or obligation imposed or created by this Agreement and the continuance of such failure for fifteen (15) 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 the 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 proceeding 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 6.2. Rights and Remedies Cumulative.** The rights and remedies of either Party under this Agreement and those provided by law shall be construed as cumulative and continuing. No one of them shall be exhausted by the exercise thereof on one or more occasions. Both 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 both Parties hereby waive the right to raise such defense in any proceeding in equity.

**Section 6.3. 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 6.4. 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 7: MISCELLANEOUS**

**Section 7.1. Effective Date and Term.** This Agreement shall become effective on the date this Agreement has been fully executed by the Parties. This Agreement shall remain in effect for as long as the District is legally in existence.

**Section 7.2. Modification.** The terms, conditions, and provisions of this Agreement can not be modified or 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 7.3. Jointly Drafted.** The Parties agree that this Agreement has been jointly drafted and shall not be construed more strongly against another Party.

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

**Section 7.5. Common Representation.** The City and the District agree that the engagement of common special legal counsel for the City and the District does not materially limit the representation of the District or the City and will not adversely affect the relationship between the District and the City. To the extent that such common legal representation presents a conflict of interest, the City and the District hereby consent to common representation.

**Section 7.6. 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 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.

[Remainder of page intentionally 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: \_\_\_\_\_  
Randy Rhoads, Mayor

**ATTEST:**

\_\_\_\_\_  
Denise Chisum, City Clerk

**SOUTHWEST I-470 TRANSPORTATION  
DEVELOPMENT DISTRICT**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Executive Director

ATTEST:

\_\_\_\_\_

Name: \_\_\_\_\_  
Secretary

**I-470 AND VIEW HIGH COMMUNITY  
IMPROVEMENT DISTRICT**

By: \_\_\_\_\_

William Brown, Executive Director

ATTEST:

\_\_\_\_\_

Name: \_\_\_\_\_

Secretary

**PARAGON STAR, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Name: \_\_\_\_\_

Secretary

## EXHIBIT A

### DESCRIPTION OF TDD PROJECTS

The construction, reconstruction, installation, repair, and maintenance of the following public infrastructure improvements:

- a) The extension of View High Drive from its current terminus of the four lane section at the Northerly Highway 470 Right of Way, north approximately 800 LF to and including a proposed Roundabout.
- b) The connection of View High Drive from the Roundabout in a) west, to existing View High Drive, approximately 400 LF.
- c) The construction of View High Parkway from the Roundabout mentioned in a), north approximately 1500 LF to and including a proposed roundabout.
- d) The construction of River Road approximately 1500 LF from the roundabout mentioned in c), southeast to and including a roundabout due east of the roundabout mentioned in a).
- e) The construction of View High Boulevard approximately 1600 LF from the roundabout mentioned in a) to the roundabout mentioned in d) including the two bridges required to cross the little blue river.
- f) The construction of 98<sup>th</sup> Street for a length of approximately 800 LF from the roundabout mentioned in c) northeast to the City limit.
- g) Mass grading of land adjacent to infrastructure improvements described in items a) through f).
- h) The construction of surface parking lots on the land adjacent to the infrastructure improvements described in items a) through f).
- i) Construction of improvements to I-470 and View High interchange.
- j) Any earthwork, landscape, bridges, utility relocations and extensions, street lighting, wetland identification and mitigation, professional consultant costs associated with the improvements stated items a) through j).
- k) I-470 and 350 Highway Transportation Improvements:
  - Land Acquisition for Rights-of-way
  - Utility Relocation for road improvements (Gas Line and Valve Vault)
  - Pryor Road Improvements
    - Construction as 4-lane divided parkway from I-470 to Chipman Road
    - Extension south of Chipman Road
  - Chipman Road Improvements
    - Extend east-bound left turn lane onto north-bound Highway 50
    - West-bound right turn lanes into three site entrances
    - East-bound left turn lanes into two site entrances
    - Three signal modifications
    - Install new signal at center site entrance
    - Northern west-bound through lane
    - Southern west-bound and two east-bound lanes
    - Construct raised median
  - Highway 50 Ramps

North-bound left turn lane onto Chipman Road  
South-bound left turn lane onto Chipman Road from south-bound Highway 50  
Additional south-bound lanes on south-bound Highway 50 off-ramp  
I-470 & Pryor Road half-diamond interchange, bridge and ramps  
Engineering Costs and other Professional Fees for improvements listed above  
Financing Costs and Interest for improvements listed above  
Contingency or improvements listed above

**EXHIBIT B**

**FORM OF LETTER TO THE DEPARTMENT OF REVENUE**

**SOUTHWEST I-470 TRANSPORTATION DEVELOPMENT DISTRICT  
220 SE Green Street  
Lee's Summit, Missouri 64063**

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\_\_\_\_\_, 2016

Missouri Department of Revenue  
Customer Services Division  
Sales/Use Tax  
P.O. Box 3380  
Jefferson City, Missouri 65105-3380

Re: Remittance of Sales Tax Revenue for the Southwest I-470 Transportation Development District to City of Lee's Summit, Missouri

Dear Sir or Madam:

The Southwest I-470 Transportation Development District (the "**District**") hereby authorizes the Missouri Department of Revenue (the "**Department**") to remit directly to City of Lee's Summit, Missouri (the "**Sales Tax Administrator**") all of the District sales tax revenue collected by the Department. In accordance with a cooperative agreement ("**Cooperative Agreement**") entered into between the Sales Tax Administrator and the District dated \_\_\_\_\_, 2016, a copy of which is enclosed, the Sales Tax Administrator shall deposit all sales tax revenue into a separate bank account that is maintained solely for the administration of the District sales tax revenues and shall disburse such funds in accordance with the Cooperative Agreement. Identifying information for the special account is included on the attached ACH agreement.

Pursuant to the Cooperative Agreement, the Sales Tax Administrator will perform all functions incident to the administration of the District sales tax revenue.

Sincerely,

**SOUTHWEST I-470 TRANSPORTATION  
DEVELOPMENT DISTRICT**

By: \_\_\_\_\_  
Executive Director