

**AMENDMENT TO FIRST AMENDED AND RESTATED
COOPERATIVE AGREEMENT**

THIS AMENDMENT TO FIRST AMENDMENT AND RESTATED COOPERATIVE AGREEMENT (the “Amendment”) is entered into on the _____ day of _____, 201_, by and among **RPWC HOLDINGS, LLC**, a Missouri limited liability company (“Developer”), **THE CITY OF LEE'S SUMMIT, MISSOURI**, a Missouri constitutional charter city and political subdivision (“City”), **THE STROTHER INTERCHANGE TRANSPORTATION DEVELOPMENT DISTRICT**, a Missouri transportation development district and political subdivision (“TDD”), and the **I-470 COMMUNITY IMPROVEMENT DISTRICT**, a Missouri community improvement district and political subdivision (“CID”).

RECITALS

A. The TDD is a Missouri Transportation Development District and a political subdivision of the State of Missouri created pursuant to the TDD Act and the judgment of the Circuit Court of Jackson County, Missouri at Independence, in Case No. 99-CV-222085 entered on January 21, 2000.

B. The City is a Missouri constitutional charter city and political subdivision of the state of Missouri and is the “local transportation authority” under the TDD Act.

C. The CID is a Missouri Community Improvement District and a political subdivision of the state of Missouri created pursuant to the CID Act and Ordinance No. 6340 adopted by the City Council on February 1, 2007.

D. The TDD, the City, the CID, Atcheson, Haas, L.L.C., and Ralph Powell Road Development, L.L.C. entered into the First Amended and Restated Cooperative Agreement dated March 8, 2007 and recorded as Document No. 2007E0034452 (“Cooperative Agreement”) to establish their respective rights and obligations regarding the financing, design, and construction of the Public Road Improvements.

E. The Developer is the successor entity to (a) Atcheson, Haas, L.L.C., which was terminated by the Articles of Termination filed with the Missouri Secretary of State on December 30, 2014 as Document No. LC0014095, and (b) Ralph Powell Road Development, L.L.C., which was terminated by the Articles of Termination filed with the Missouri Secretary of State on January 22, 2015 as Document No. LC0675085.

F. The TDD imposes a one-half percent (0.5%) sales tax (“TDD Sales Tax”) as approved by the qualified voters within the TDD pursuant to the TDD Act. The TDD Sales Tax became effective on May 1, 2000 and has a term of 35 years from and after its effective date unless earlier terminated as permitted under the TDD Act.

G. The TDD issued bonds (“2001 Bonds”) on November 2, 2001, to fund a portion of the Public Road Improvements. On January 1, 2004, the TDD issued refunding and project

bonds (“2004 Bonds”) to refund the 2001 Bonds and to fund the environmental analysis and engineering design of an interchange of Woods Chapel Road and I-470 (“Interchange”). The 2004 Bonds also funded an operating reserve fund for the TDD. On August 30, 2006, the TD issued bonds (“2006 Bonds”) to fund additional Public Road Improvements and to fund further design of the Interchange.

H. On March 11, 2009, the TDD exercised its option to redeem and pay, without premium, the outstanding 2004 Bonds in full prior to stated maturity. On March 21, 2017, the TDD notified the bond trustee of the TDD’s decision to exercise its option to redeem and pay, without premium, the outstanding 2006 Bonds in full prior to stated maturity. The 2006 Bonds were redeemed in full on May 1, 2017.

I. The Public Road Improvements are complete and the TDD has no outstanding project financing obligations under the Cooperative Agreement or the First Amended and Restated Cooperative Agreement as they presently read.

J. As part of the Public Road Improvements, the TDD caused the installation of approximately 32 streetlights within the public right-of-way of Ralph Powell Road generally between Woods Chapel Road on the north and Strother Road on the south and the TDD has paid for, and continues to pay for, the operation and maintenance of the streetlights.

K. The parties desire to amend the Cooperative Agreement to provide for (a) the expenditure of TDD Sales Tax revenue to fund a streetlight replacement project to be implemented by the City, and (b) the transfer of ownership and maintenance responsibilities for the streetlights and related improvements to be installed in connection with the streetlight replacement project to the City.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Amendment and other good and valuable mutual consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Capitalized Terms. Except as otherwise defined in this Amendment, capitalized terms shall have the meaning given to them in the Cooperative Agreement.
2. Acceptance of Developer Road Improvements. The City confirms and acknowledges that the Developer Road Improvements are complete and that the City has accepted title to, ownership of, and the responsibility for maintenance of the Developer Road Improvements.
3. Amendment of Cooperative Agreement. The Cooperative Agreement is hereby amended to add the following Sections 3.07 and 3.08:

Section 3.07 Streetlight Improvements.

A. Subject to the availability and payment of TDD Sales Tax Revenue by the District as described below, the City shall implement a project for the replacement of the existing streetlights and related improvements within the public right-of-way of Ralph Powell Road generally between Woods Chapel Road on the north and Strother Road on the south (“Streetlight Improvements”), including: (a) preparation of plans and specifications for the removal and disposal of the existing streetlights and the installation of new streetlights and related improvements in accordance with the standards and requirements of the Public Works Department for arterial and commercial collector roads in the City; and (b) solicitation of bids for construction of the Streetlight Improvements.

B. The City, utilizing its standard policies and procedures for public infrastructure improvements, shall self perform and/or contract for such engineering, survey, legal, and other professional service consultants for the design and construction of the Streetlight Improvements as the City deems necessary or desirable in accordance with this Contract and applicable laws (the "Professional Services Contracts") and provide a copy of the Professional Services Contracts or City personnel charges to the Streetlight Improvement project to the DistrictTDD.

C. The City, utilizing its standard policies and procedures for public infrastructure improvements, shall select and contract for such construction contractor services as the City deems necessary or desirable in accordance with this Contract and applicable laws (the "Construction Services Contract") and provide a copy of the Construction Services Contract to the DistrictTDD.

D. The City shall perform inspection and construction management services during construction of the Streetlight Improvements and shall, among other things, monitor prevailing wage reports submitted by contractors and ensure compliance with state prevailing wage laws, review all invoices and change orders received from contractors and submit them to the DistrictTDD for approval, administer payment of all approved invoices and changes orders and obtain lien waivers from contractors, and inspect the construction in progress and verify that the improvements are being constructed in accordance with the approved plans and specifications. Prior to commencing such services, the City shall provide to the DistrictTDD a statement specifying the scope of work to be performed by the City and the cost for such services for prior written approval by the DistrictTDD.

E. At such time as the plans and specifications for the Streetlight Improvements are complete, the City has entered into the Professional Services Contracts and the Construction Services Contract, and delivered its statement of fees for inspection and construction management services, the City shall notify the DistrictTDD of the cost of the Streetlight Improvements (“Streetlight Improvements Expense”). Within thirty (30) days after receipt of the notice from the City, the DistrictTDD shall pay to the City TDD Sales Tax Revenue funds in an amount equal to the Streetlight Improvements Expense. Upon receipt of the TDD Sales Tax Revenue, the City shall use such funds for the Streetlight Improvements.

F. If there are any change orders or modifications to the contracts affecting the cost of any item set forth in Section 3.07 after approval by the DistrictTDD in an amount in excess of the Streetlight Improvement Expense, the City shall present a summary of the change orders to the DistrictTDD for approval before commencement of any work or services related to such change orders and the DistrictTDD shall provide payment to the City TDD Sales Tax Revenue funds in an amount equal to the Streetlight Improvements Expense within thirty (30) days after receipt of the change order from the City. The City may present the DistrictTDD with an estimated cost in advance of any work and if the DistrictTDD should pay such estimate it shall be deemed to have performed its obligations with respect to the First Amended and Restated Cooperative Agreement upon acceptance by the City of such payment.

G. Upon completion of the Streetlight Improvements, title to the Streetlight Improvements shall be vested in the name of the City and the City shall accept ownership of and maintenance responsibility for the Streetlight Improvements.

Section 3.08 Surplus District Funds. After the DistrictTDD has completed its funding obligations for the Streetlight Improvements, the DistrictTDD intends to initiate the process to abolish the DistrictTDD pursuant to Section 238.275 of the TDD Act. To the extent the DistrictTDD has any remaining Sales Tax Revenue funds when the DistrictTDD has satisfied the abolishment requirements, the City is entitled to such funds under the TDD Act for its further use and disposition. The City shall use the DistrictTDD's surplus funds for public infrastructure improvements within the boundaries of the DistrictTDD on such projects as the City may deem reasonable or necessary.

4. **City and District Approvals.** Unless specifically provided to the contrary herein, all approvals of the City hereunder may be given by the City Manager or Public Works Director or their designee without the necessity of any action by the City Council. The City Manager or Public Works Director, at their discretion, may seek the advice or consent of the City Council for any requested approval. Unless specifically provided to the contrary herein, all approvals of the DistrictTDD hereunder may be given by the Chairman or his designee without the necessity of any action by the Board of Directors. The Chairman, at his discretion, may seek the advice or consent of the Board of Directors for any requested approval.

5. **Further Cooperation.** The parties agree to work together and to promptly approve all matters subject to the approval of any individual party under this Contract to achieve completion of the Streetlight Improvements in an efficient and expedited manner.

6. **Other Terms Unchanged.** All of the terms of the Cooperative Agreement and First Amended and Restated Cooperative Agreement shall remain in full force and effect, except as modified and amended by this Amendment.

7. **Execution of Counterparts.** This Amendment may be executed in two (2) or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Amendment.

CITY OF LEE'S SUMMIT, MISSOURI

By: _____
Randall Rhoads, Mayor

ATTESTED:

Trish Fowler Arcuri, City Clerk

APPROVED AS TO FORM:

Nancy Yendes, Assistant City Attorney

THE STROTHER INTERCHANGE
TRANSPORTATION DEVELOPMENT DISTRICT

By: _____
Michael D. Atcheson, Executive Director

RPWC HOLDINGS, LLC

By: _____
Michael D. Atcheson, Member

I-470 COMMUNITY IMPROVEMENT DISTRICT

By: _____
Jay Burchfield, Chairman