

A RESOLUTION OF THE CITY OF WEST PLAINS, MISSOURI, AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN INTERGOVERNMENTAL COOPERATION AGREEMENT WITH THE SOUTHERN HILLS COMMUNITY IMPROVEMENT DISTRICT FOR THE PURPOSE OF FUNDING AND CONSTRUCTING ELEGIBLE INFRASTRUCTURE IMPROVEMENTS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI, AS FOLLOWS:

Section 1: The Southern Hills Community Improvement District (the “District”) and the City of West Plains (the “City”) have each determined that the execution of the attached Intergovernmental Cooperation Agreement (the “Agreement”) is for the overall benefit of the community and is necessary to carry out the powers and duties in furtherance of the stated and approved purposes of the District and City and their commitment to carry out such powers, duties and purposes.

Section 2: The District and the City agree that the general public benefits as a result of the maintenance and construction of public infrastructure, and that such maintenance and construction support and promote business activity, economic development, business retention and business recruitment within the City.

Section 3: The City Council of West Plains, Missouri, authorizes the City Administrator to enter into and execute on behalf of the City the Agreement in substantially the same form as attached to and incorporated into this Resolution.

Section 4: This Resolution shall be in full force and effect from and after the date of its passage and approval.

PASSED AND APPROVED THIS 20th DAY OF MARCH 2023, BY THE CITY COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI

Michael Topliff, Mayor

ATTEST:

Allison Skinner, City Clerk

INTERGOVERNMENTAL COOPERATION AGREEMENT

This **INTERGOVERNMENTAL COOPERATION AGREEMENT** (*this "Agreement"*) by and among the **CITY OF WEST PLAINS, MISSOURI** (*the "City"*), a constitutional charter city and political subdivision of the State of Missouri, and the **SOUTHERN HILLS COMMUNITY IMPROVEMENT DISTRICT** (*the "District"*), a political subdivision of the State of Missouri, authorized pursuant to Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the "**CID Act**") for the purpose of funding and constructing eligible infrastructure improvements.

WHEREAS, on November 17, 2008, the City Council of the City, adopted Ordinance No. 4090, which approved a petition for the formation and establishment of the District (the "**District**"); and

WHEREAS, on February 22, 2010, the City Council of the City adopted Ordinance No. 4143, which approved a petition authorizing the alteration of the District's boundaries to add additional real property and authorizing the financing of an additional project within the District's boundaries, and extending the duration of the District; and

WHEREAS, in May 2018, the City Council of the City adopted Ordinance No. 4554, which approved a petition adjusting the boundaries of the District to include additional real property, authorizing the financing of an additional project within the District's boundaries, and extending the duration of the District; and

WHEREAS, on July 13, 2020, the City Council of the City approved Ordinance No. 4664 (the "**Fourth Ordinance**"), and a Third Amended Petition Amending the Second Amended Petition, the Amended Petition and the Establishment Petition for the District (the "**Third Amended Petition**") which approved adjusting the boundaries of the District to include additional real property, authorized the financing of an additional CID project, and extended the duration of the District; and

WHEREAS, pursuant to provisions within Section 67.1461.1(3) of the CID Act and Section 70.220 of the Revised Statutes of Missouri, as amended, the City and the District desire to enter into this Agreement to acknowledge the general economic benefit and value to the community created by the maintenance and construction of infrastructure improvements, to cooperate in the exercise of their respective powers, and to cooperate in the performance of their respective rights and duties pursuant to the CID Act and the Revised Statutes of Missouri, as amended.

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

Section 1. Approval of Agreement. The District and the City each determined that the execution of this Agreement is for the overall benefit of the community and is necessary to carry out such powers and duties in furtherance of their stated and approved purposes, and that the commitment to carry out such powers.

Section 2. Infrastructure Improvements and Support of Business Activity. The District and the City hereby agree that the general public benefits as a result of the maintenance and construction of public infrastructure, and that such maintenance and construction supports and promotes business activity,

economic development, business retention and business recruitment within the City. The District and the City hereby agree as follows:

- A. The public improvements to be constructed is described as a sewer relocation project (*the "Southern Hills Sewer Rehabilitation"*), located within the geographical boundaries of the District.
- B. The District desires to reimburse the City for the actual cost of construction the Project.
- C. The preliminary total Project cost is estimated to be equal to or less than **Two Hundred and Seventy Five Thousand Dollars (\$275,000.00)**.
- D. District sales and use tax revenues are currently pledged to the repayment of the District's outstanding bond obligations (Southern Hills Community Improvement District Taxable Sales and Use Tax Revenue Bonds, Series 2020). The District will prioritize and reimburse the City for the Project costs upon full redemption of the District's outstanding bond obligations, anticipated to occur on or around 2036.

Section 3. Representations by the City. The City represents it is duly organized and existing under the Constitution and laws of the State of Missouri, as a constitutional charter city.

- A. The City has authority to enter into this Agreement and the City Manager of the City has been duly authorized by approval of the City Council to execute and deliver this Agreement, and this Agreement is the legal, valid, and binding obligation of the City enforceable in accordance with its terms.
- B. 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 4. Representations by the District. The District makes the following representations as the basis for the undertakings on its part herein contained:

- A. The District is a political subdivision, duly organized and existing under the laws of the State of Missouri, including particularly the CID Act.
- B. The District has lawful power and authority to enter into this Agreement and to carry out its obligations hereunder and all actions taken by the District under this Agreement are authorized by the CID Act and the District's performance of such actions will conform to all legal requirements related thereto. 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, and this Agreement is the legal, valid and binding obligation of the District enforceable in accordance with its terms
- C. There is no litigation or proceeding pending or, to the District's knowledge, threatened against the District challenging 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.

Section 5. Remedies on Default. Unless performance is waived by the Party for whose benefit a condition or obligation is intended, if any Party to this Agreement fails to satisfy its obligations under this Agreement, and such failure continues for thirty (30) days after written notice thereof to the defaulting Party by the non-defaulting Party, then the non-defaulting Party may, then or at any time thereafter, and while such default continues, take any one or more of the following actions:

- A. by mandamus or other suit, action or proceedings at law or in equity, to enforce its rights against the defaulting Party and their officers, officials, agents and employees, and to require and compel duties and obligations required by the provisions of this Agreement; or
- B. take any other action at law or in equity to enforce this Agreement.
- C. Notwithstanding the foregoing or anything to the contrary contained herein, the sole and exclusive remedy against the City (and its representatives and officials) relative to any default or breach by the City hereunder shall be the remedy of specific performance or other injunctive relief, and in no event shall the City be liable for money damages.

Section 6. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. Accordingly, if any provision of this Agreement is 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. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

Section 8. Effective Date. This Agreement shall be in effect from and after its execution by all of the Parties hereto.

CITY OF WEST PLAINS, MISSOURI

By: _____
Mayor

[SEAL]

ATTEST:

City Clerk

**SOUTHERN HILLS
COMMUNITY IMPROVEMENT DISTRICT**

By: _____
Chair, Board of Directors

[SEAL]

ATTEST:

Secretary, Board of Directors