

**RESOLUTION NO. 17-002**

**A RESOLUTION OF THE ARBORS OF ROCKWOOD  
COMMUNITY IMPROVEMENT DISTRICT APPROVING AND  
AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR  
ADMINISTRATIVE SERVICES BETWEEN THE DISTRICT AND  
DEVELOPMENT DYNAMICS, LLC; AND AUTHORIZING  
CERTAIN ACTIONS IN CONNECTION THEREWITH**

**WHEREAS**, on October 18, 2016, the City of Eureka, Missouri (the "**City**") approved Ordinance No. 2394 (the "**Ordinance**"), which established The Arbors of Rockwood Community Improvement District (the "**District**") as a political subdivision of the State of Missouri pursuant to the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the "**CID Act**"); and

**WHEREAS**, pursuant to Section 67.1461 of the CID Act, the District may enter into contracts for the management of the District or for such other services as it deems advisable and the Board of Directors of the District has determined that it is necessary and advisable to enter into a contract with a qualified company to ensure the proper administration and operation of the District; and

**WHEREAS**, the Board of Directors of the District has determined that Development Dynamics, LLC (the "**Administrator**") has specialized expertise to provide such services to the District; and

**WHEREAS**, the Board of Directors of the District desires to enter into an Agreement for Administrative Services (the "**Agreement**") in substantially the form of **Exhibit A**, attached hereto and incorporated herein by reference, between the District and the Administrator, pursuant to which the Administrator will provide professional services to the District related to the administration and operation of the District as described in the Agreement; and

**WHEREAS**, the Board of Directors of the District hereby finds and determines that it is necessary and desirable that the District and the Administrator enter into the Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ARBORS OF ROCKWOOD COMMUNITY IMPROVEMENT DISTRICT, AS FOLLOWS:**

**Section 1. Approval and Execution of Agreement.** The Board of Directors of the District hereby approves the Agreement in substantially the form of **Exhibit A**, attached hereto and incorporated herein by reference, and the District is hereby authorized to execute and deliver the Agreement, with such changes therein as shall be approved by the officers of the District executing the Agreement, such officers' signatures thereon being conclusive evidence of their approval and the District's approval thereof.

**Section 2. Further Authority.** All actions heretofore taken by the authorized representatives, agents and employees of the District in connection with the transaction contemplated by this Resolution are hereby ratified and confirmed, and the District shall, and the representatives, agents and employees of the District are hereby authorized and directed to, take such further action, and execute and deliver such other documents and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the District with respect to the Agreement

**Section 3. Severability.** The sections, paragraphs, sentences, clauses and phrases of this Resolution shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Resolution is found by a court of competent jurisdiction to be invalid, the remaining portions of this Resolution are valid, unless the court finds the valid portions of this Resolution are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the TDD has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

**Section 4. Governing Law.** This Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.


**Section 5. Effective Date.** This Resolution shall take effect and be in full force upon its passage by the District.

Passed this 22<sup>nd</sup> day of February, 2017.

I, the undersigned, Chair of The Arbors of Rockwood Community Improvement District, hereby certify that the foregoing Resolution was duly adopted by the Board of Directors of the District at a meeting held, after proper notice, on February 22, 2017.




**THE ARBORS OF ROCKWOOD  
COMMUNITY IMPROVEMENT DISTRICT**

  
Chair, Board of Directors

WITNESS my hand and official seal this 22<sup>nd</sup> day of February, 2017.

ATTEST:

  
Secretary, Board of Directors

**EXHIBIT A**  
**FORM OF AGREEMENT**

(Attached hereto.)

**THE ARBORS OF ROCKWOOD  
COMMUNITY IMPROVEMENT DISTRICT  
AGREEMENT FOR ADMINISTRATIVE SERVICES**

THIS AGREEMENT FOR ADMINISTRATIVE SERVICES (this "*Agreement*") is made as of February 22, 2017, between The Arbors of Rockwood Community Improvement District (the "*District*") and Development Dynamics, LLC (the "*Administrator*").

1. On October 18, 2016, pursuant to the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the "*CID Act*"), the City of Eureka, Missouri (the "*City*") adopted Ordinance No. 2394 (the "*Ordinance*"), which established The Arbors of Rockwood Community Improvement District (the "*District*") as a political subdivision of the State of Missouri.

2. The District and the Administrator desire to enter into this Agreement for the efficient operation and administration of the District.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for good and valuable consideration, the Administrator and the District agree as follows:

**ARTICLE I.  
DEFINITIONS**

**Section 101. Definitions of Words and Terms.** In addition to words and terms elsewhere defined here in, the following words and terms as used in this Agreement shall have the following meanings, unless some other meaning is plainly intended:

*"Authorized District Representative"* means the Chair of the Board of Directors of the District, or such other person at the time designated to act on behalf of said District as evidenced by written certificate furnished to the Administrator containing the specimen signature of such person and signed on behalf of said District by its Chair. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized District Representative.

*"Board"* means the Board of Directors of the District.

*"Bylaws"* means the Bylaws of the District, as adopted by the Board and as may be amended from time to time.

*"CID Obligations"* means any notes, bonds or other obligations issued by or on behalf of the District, including without limitation Tax Increment and Special District Revenue Bonds (The Arbors of Rockwood Redevelopment Project), as may be issued.

*"Collector"* means St. Louis County.

*"Custodian of Records"* means the individual who has been designated the custodian of records of the District pursuant to resolution of the Board.

*"District Revenues"* means the money actually collected, pursuant to the Development Agreement and the CID Act, from the imposition of the District Assessment. District Revenues shall not include (a) the amount, if any, retained by the St. Louis County Collector of Revenue for the cost of collecting the District Assessment, (b) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer, or (c) any sum received by the District that is the subject of a suit or other claim communicated to the District, which suit or claim challenges the collection of such sum, until such suit or other claim is withdrawn or resolved against the taxpayer.

*"Fiscal Year"* means the fiscal year adopted by the District for accounting purposes, which as of the execution of this Agreement commences on July 1 to June 30.

*"Trustee"* means the trustee for any issuance of CID Obligations.

**ARTICLE II.  
GENERAL ADMINISTRATION OF THE DISTRICT**

**Section 201. General Administration.** The Administrator shall be responsible for the functions which are incidental to the smooth operation and proper functioning of the District.

**Section 202. Annual Meeting of Board.** The Administrator shall be responsible for the annual meeting of the Board, including:

(a) *Notice and Agenda.* The Administrator shall prepare and provide (a) for posting and to the Board and advisors thereto the notice and agenda of the annual Board meeting in compliance with the District' Bylaws; and (b) all resolutions, minutes and budgets for inclusion in a meeting packet for each Board member and advisor thereto.

(b) *Fiscal Year Budget.* The Administrator shall prepare the budgets of the District for each Fiscal Year for approval by the Board at the annual meeting. The budget for any given Fiscal Year shall provide a comparison to the past two actual Fiscal Year income and expenses, as well as a statement of the Chair or Executive Director or such other officer or agent responsible for formulation of the proposed budget.

**Section 203. General Meeting Provisions.** For each meeting of the Board, the Administrator shall prepare all minutes, resolutions, notices and agendas with the cooperation of the District's general counsel. The Administrator shall make all necessary inquiries to schedule such meetings only when a quorum will be available and shall make appropriate arrangements for meeting space and teleconference instructions.

**Section 204. Administrative Reports.** The Administrator shall furnish intermediate reports to the District from time to time, when requested, in such form and number as may be required by the District, and shall make such final reports as may be required by the District concerning the work and services performed.

**Section 205. District Filings.** The Administrator shall prepare the filings of the District with various state and federal offices and agencies as required by law, including without limitation the preparation and filing of annual financial statements, financial interest statements of the District's officers, and applications for tax-exempt status, as applicable.

**Section 206. Insurance.** The Administrator shall obtain necessary insurance for the District's directors as directed by the Board or the Authorized District Representative, if applicable.

**Section 207. Coordination with District Officers and Agents.** The Administrator shall coordinate administration of the District with the District's officers and agents, including general counsel.

**Section 208. Access to District Documents.** Except as otherwise necessary to comply with Section 32.057 of the Revised Statutes of Missouri, as amended, as it relates to disclosure of confidential records, the Custodian of Records shall provide access to all documents reasonably necessary to the performance of the Administrator's duties under this Agreement. All such documents shall remain the property of the District.

### ARTICLE III. MONITORING OF FUNDS

**Section 301. Account Reconciliation.** The Administrator shall review and reconcile the account statements monthly for funds and accounts of the District, including those held by the Trustee. The transactions within the funds and accounts shall be checked for accuracy and compliance with all applicable documents governing such funds and accounts.

**Section 302. Monitoring of Revenues.** The Administrator shall monitor the collection of the District's revenues by the Collector. In connection therewith, the Administrator shall:

- (a) Cooperate with the collection of the District's revenues and enforcement thereof;
- (b) Confirm deposits of District's revenues into the appropriate funds or accounts;
- (c) Report to District the results of the monitoring of revenue collections, deposits and disbursements;
- (d) Take such additional efforts as instructed by District to investigate the collection of the District's revenues;
- (e) Respond to inquiries from interested parties regarding the District's revenues.

The transactions within the funds and accounts shall be checked for accuracy and compliance with all applicable documents governing such funds and accounts.

### ARTICLE IV. DISTRICT FINANCES

**Section 401. District Audit.** If directed by the Board, the Administrator shall arrange for an annual audit of the District and provide the audited financial statements to the District's general counsel and the Trustee.

**Section 402. District Expenses.**

(a) *Administrator's Expenses and Fee.* The Administrator's compensation for services provided pursuant to this Agreement for the District shall consist of its actual fees, costs, and expenses, not to exceed \$5,000 for the Fiscal Year ending June 30, 2017; and \$6,500 for each fiscal year thereafter plus a three percent (3%) adjustment beginning with fiscal year 2019 and each fiscal year thereafter. The cost of the Administration Fees for Fiscal Year 2017 will not be paid until Fiscal Year 2018 due to available special assessment revenues and the timing of funds.

(b) *Other District Expenses.* The costs of an annual audit, insurance, revenue collection, and legal services shall be paid separate and apart from the Administrator's expenses and fees provided for in

**subsection (a)** of this Section.

**Section 403. Disbursements.** In the event that any funds of the District are in the custody of the Administrator, the Administrator shall not make any transfer or payment of District funds except at the written direction of the appropriate Authorized District Representative. The Administrator shall prepare a disbursement request and provide it to the appropriate Authorized District Representative for approval prior to payment.

**ARTICLE V.  
STANDARD OF SERVICES**

**Section 501. Correction of Errors.** Should any errors caused by the Administrator be found in any services or work products, the Administrator will correct those errors, and if the errors are in final services or products, make such corrections at no additional charge, by revising the services and work products as necessary to eliminate the errors.

**Section 502. Performance of Work.** The work and services shall be performed personally by the Administrator and no other person or corporation shall be engaged for the work or services by the Administrator, except upon the written approval of the District; provided, however, that this provision shall not apply to certified public accountants who perform the annual audit of the District, and secretarial, clerical and similar incidental services needed by the Administrator. The Administrator shall supply all tools and means necessary to the performance of those services and production of those work products described herein .

**Section 503. Independent Contractor.** In performance of work and services under this Agreement, the Administrator shall act solely as an independent contractor, and nothing contained or implied in this Agreement shall at any time be so construed as to create the relationship of employer and employee, partnership, principal and agent, or joint ventures as among the District and the Administrator.

**ARTICLE VI.  
MISCELLANEOUS**

**Section 601. Termination.** This agreement shall automatically terminate upon dissolution of the District. This Agreement may be canceled upon the completion of the services for any Fiscal Year with or without cause effective on 60 days' notice.

**Section 602. Notices.** Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail and shall be effective upon confirmation of receipt. Mailed notices shall be addressed to the parties at the addresses appearing below, or such other address as given by written notice from one party to the other.

To the Administrator: Development Dynamics, LLC  
1001 Boardwalk Springs Place, Suite 50  
O'Fallon, MO 63368  
Attention: Laura A. Lashley  
Telephone: (636) 561-8602  
Facsimile: (636) 561-8605

To the District: The Arbors of Rockwood Community Improvement  
c/o Jeannie Aumiller  
16091 Swingley Ridge Road,  
Suite 300  
Chesterfield, MO 63017  
Telephone: (636) 537-2000  
Facsimile: (636) 537-2546

Copy to: Armstrong Teasdale LLP  
Attention: Robert Klahr  
7700 Forsyth Boulevard, Suite 1800  
St. Louis, MO 63105  
Telephone: (314) 552-6683  
Facsimile: (314) 612-2330

**Section 603. Waiver.** Failure of any party to enforce any provision of this Agreement shall not constitute a waiver of that or any other provision of this Agreement.

**Section 604. Effective Date.** This Agreement, including all exhibits here to, is effective as of the date first written above and supersedes any and all agreements, either oral or written, between the parties, and contains all of the covenants and agreements between the parties with respect to the rendering of such services.

**Section 605. Amendment.** Any substantive modification of this Agreement will be effective if it is in writing and signed by the parties to this Agreement; provided that upon issuance of CID Obligations, this Agreement may not be modified or amended and the District may not waive any provision hereof without the prior written consent of the Trustee, whose consent shall not be unreasonably withheld or delayed. The Trustee may withhold its consent if the proposed modification, amendment or waiver may adversely affect the security for the CID Obligations or the interests of the owners thereof or may adversely affect the exclusion of interest on the CID Obligations from gross income of the owners thereof for federal income tax purposes or as may impose additional duties on the Trustee that were not contemplated upon the original execution of the Agreement.

**Section 606. Severability.** If any provision of this Agreement is held or deemed to be in valid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or Sections in this Agreement contained shall not affect the remaining portions of this Agreement, or any part thereof.

**Section 607. Entire Agreement.** This Agreement supersedes any and all agreements, either oral or written, among the parties hereto and contains all of the covenants and agreements among the



parties hereto with respect to the rendering of administrative services to each of the District. Each party hereto acknowledges that no representations, inducements, promises, or agreements, either orally or written, have been made by any party or anyone acting on behalf of any party, which are not embodied in this Agreement. No other agreement, statement, or promise other than those contained herein shall be valid or binding upon the parties hereto.

**Section 608. Execution in Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 609. Governing Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, The Arbors of Rockwood Community Improvement District has caused these presents to be signed in its name and behalf and its corporate seal to be hereunto affixed and attested by its duly authorized officers as of the day and year first written above.

**THE ARBORS OF ROCKWOOD  
COMMUNITY IMPROVEMENT DISTRICT,**  
a Missouri political subdivision

\_\_\_\_\_  
Chair, Board of Directors

[SEAL]

WITNESS my hand and official seal this \_\_\_\_ day of February, 2017.

ATTEST:

\_\_\_\_\_  
Secretary, Board of Directors

IN WITNESS WHEREOF, Development Dynamics, LLC has caused these presents to be signed in its name and behalf by its authorized representative as of the day and year first written above.

**DEVELOPMENT DYNAMICS, LLC**, a  
Missouri limited liability company

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Laura A. Lashley, Principal