BILL NO. 5361 ORDINANCE NO. 5215

AN ORDINANCE OF THE CITY OF RICHMOND HEIGHTS, MISSSOURI, ESTABLISHING THE BRENTWOOD BOULEVARD/CLAYTON ROAD COMMUNITY IMPROVEMENT DISTRICT AND APPROVING THE APPOINTMENT OF THE INITIAL BOARD OF DIRECTORS THERETO, AND APPROVING AN INTERGOVERNMENTAL COOPERATION AGREEMENT BY AND BETWEEN THE MULLENIX RICHMOND HEIGHTS REDEVELOPMENT CORPORATION, THE BRENTWOOD BOULEVARD/ CLAYTON ROAD COMMUNITY IMPROVEMENT DISTRICT, THE BRENTWOOD BOULEVARD/CLAYTON ROAD TRANSPORATION DEVELOPMENT DISTRICT AND THE CITY OF RICHMOND HEIGHTS, MISSOURI.

WHEREAS, on April 21, 2003, the City Council passed Ordinance No. 4972 adopting the Brentwood Boulevard/Clayton Road Redevelopment Plan and Blight Study (the "Original Plan"), declaring the need for the City of Richmond Heights, Missouri (the "City") to approve a redevelopment project, authorizing the Mayor to enter into an agreement with private developers to redevelop the redevelopment area described in the Original Plan, and finding all of the foregoing to be in the best interests of the City to eliminate blighted conditions within the redevelopment area and to benefit the health, safety, morals and welfare of its residents; and

WHEREAS, on November 16, 2009, the City Council passed Ordinance No. 5221 approving a first amendment to the Original Plan (the "Plan Amendment" and together with the Original Plan, the "Plan"); and

WHEREAS, on October 1, 2012, the City Council passed Ordinance No. 5211 approving and authorizing the execution of a Second Amended and Restated Redevelopment Agreement (the "Redevelopment Agreement") by and between the City and Mullenix Richmond Heights Redevelopment Corporation (the "Developer") providing for the redevelopment and financing of the redevelopment area described therein; and

WHEREAS, the Redevelopment Agreement provides that an intergovernmental cooperation agreement shall be entered into between the City, the Brentwood Boulevard/Clayton Road Community Improvement District, Brentwood Boulevard/Clayton Road Transportation Development District and the Developer; and

WHEREAS, the City is authorized and empowered pursuant to the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the "CID Act"), to establish a community improvement district as proposed by a verified petition; and

WHEREAS, on or about October 5, 2011, a Petition for Creation of a Community Improvement District (the "Petition") was filed with the Deputy City Clerk; and

WHEREAS, the Deputy City Clerk has verified that the Petition complies with the requirements of the CID Act; and

WHEREAS, after notice of the public hearing by publication and individually to each property owner within the proposed Brentwood Boulevard/Clayton Road Community Improvement District (the "District") via registered or certified United States mail with a return receipt, the City Council held a public hearing regarding the creation of the District on December 5, 2011 at the Richmond Heights City Hall, 1330 Big Bend Boulevard, Richmond Heights, Missouri (the "Public Hearing"); and

WHEREAS, subject to and in accordance with the CID Act and the Petition, and upon the approval of the qualified voters of the District, the District intends to impose sales tax in an amount at a rate of one percent (1%) ("Sales Tax") on the receipts from the sales at retail of all tangible personal property or taxable services at retail within the District, if such property and services are subject to taxation by the State of Missouri pursuant to the provisions of Sections 144.010 to 144.525 of the Revised Statutes of Missouri, as amended, except such Sales Tax shall not apply to the sale or use of motor vehicles, trailers, boats, or outbound motors, not to public utilities; and

WHEREAS, subject to and in accordance with the CID Act and the Petition, and upon the approval of the qualified voters of the District, the District may levy a special assessment on the real property located in the proposed District (the "Special Assessment") at an anticipated maximum rate of $9.1065 per $100 of equalized assessed valuation; and

WHEREAS, the Petition provides that the proposed members of the initial Board of Directors of the District be appointed by the Mayor with the consent of the City Council pursuant to Section 67.1451.5 of the CID Act; and

WHEREAS, the District proposes to apply the Sales Tax and the Special Assessment revenues to the payment of costs related to the improvements described in the Petition; and

WHEREAS, following closure of the Public Hearing and upon due consideration of the comments received, the City Council has determined that it is necessary and in the interest of the public health, safety, morals and general welfare of the people of the City to create the District.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHMOND HEIGHTS, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council hereby approves the Intergovernmental Cooperation Agreement in substantially the form attached hereto as **Exhibit A**, with such changes therein as shall be approved by the officers of the City executing the same. The Mayor is hereby authorized and directed to execute, on behalf of the City, the Intergovernmental Cooperation Agreement between the City, the District, the Brentwood Boulevard/Clayton Road Transportation Development District and the Developer, and the City Clerk is hereby authorized and directed to attest to the Intergovernmental Cooperation Agreement and to affix the seal of the City thereto.

SECTION 2. Pursuant to Section 67.1411.3 of the CID Act, the Brentwood Boulevard/Clayton Road Community Improvement District is hereby formed as a political subdivision of the State of Missouri pursuant and subject to the terms of the Petition attached hereto as **Exhibit B** and incorporated herein by reference.

SECTION 3. The District shall not terminate sooner than one year from the date of this Ordinance; provided, however, that the District shall be terminated earlier if the Board of Directors of the District has not authorized the execution of the Intergovernmental Cooperation Agreement within sixty (60) days of the effective date described in SECTION 9 below.

SECTION 4. Pursuant to Section 67.1451.5 of the CID Act, the Mayor hereby appoints and the City Council of the City hereby approves the initial appointment of the District's Board of Directors as follows:

Name	Initial Term
Michael Mullenix	4 years from date of appointment
Greg Mullenix	4 years from date of appointment
Doug Mullenix	2 years from date of appointment
John Kudla	2 years from date of appointment
Conor Pandl	2 years from date of appointment

The date of appointment for each of the initial Board of Directors shall be the date of passage of this Ordinance. No further action by the Mayor or City Council of the City for appointment of the Board of Directors is necessary.

SECTION 5. The Board of Directors of the District shall have its initial meeting on such date and at such time when a quorum of Board of Directors is available.

SECTION 6. Pursuant to Section 67.1421.6 of the CID Act, the Deputy City Clerk shall notify in writing the Missouri Department of Economic Development of the District's creation.

SECTION 7. The officers, agents and employees of the City are hereby authorized and directed to take such necessary steps as they deem necessary and advisable in order to carry out and perform the purpose of this Ordinance.

SECTION 8. The sections of this Ordinance shall be severable. If any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections shall remain valid, unless the court finds that (a) the valid sections are so essential to and inseparably connected with and dependent upon the void section that it cannot be presumed that the City Council would have enacted the valid sections without the void ones; and (b) the valid sections, standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

SECTION 9. This Ordinance shall take effect and be in full force on the thirty-first day following its passage and being signed as provided by law.

PASSED and SIGNED this 17th day of December, 2012.

_____
JAMES J. BECK
MAYOR

ATTEST:

_____
PATRICIA S. VILLMER
DEPUTY CITY CLERK

APPROVED AS TO FORM:

_____
KENNETH J. HEINZ
CITY ATTORNEY

First reading: December 3, 2012
Second reading: December 17, 2012

EXHIBIT A

Intergovernmental Cooperation Agreement

EXHIBIT B

CID Petition