

## City of Peculiar Regular Meeting Board of Aldermen Statement

We would like to welcome all present to the meeting of the Board of Aldermen. Tonight the actions of the Board of Aldermen will be final. The format for this evening's meeting is as follows.

1. As each agenda item is called, City Staff will explain the proposal.
2. The Mayor will then open the floor for Aldermen comments and question.
3. Then, the Mayor will open the floor for public comments and questions
4. Public participants who wish to ask a question- **please type your name, address, and question into the "Chat" area of the ZOOM conference meeting.**
5. Questions will be addressed in the order received.
6. After all questions have been addressed, the public comment portion of the meeting will be closed by the Mayor and the public will only be allowed to address the Board if a question is directed to them.
7. Then, the Mayor will ask the Board to make a motion and a roll call vote will be taken.
8. We appreciate the attendance of those here this evening and recognize the seriousness of each case and each person's opinions, but would like to request that each person keep their comments as concise as possible. We ask that anyone with an electronic devise please turn them off or switch them to non-audio so you do not disturb the meeting.

**BOA Meeting Agenda  
Peculiar City Board of Aldermen  
Regular Meeting  
Monday, May 18, 2020  
@ 6:30 p.m.**

*Notice is hereby given that the Board of Aldermen of the City of Peculiar will hold a regularly scheduled meeting on Monday, May 18, 2020 at 6:30 p.m. Representatives of the news media may obtain copies of this notice by contacting the Deputy City Clerk at City Hall, 250 S. Main St, Peculiar, MO 64078 or by calling 816-779-2221. All proposed Ordinances and Resolutions will be available for viewing prior to the meeting via the City of Peculiar Website which can be accessed at: <https://peculiar.municipalcms.com/agendalist.aspx?categoryid=11071>*

Please note that due to COVID-19 restrictions in Cass County, the Board of Aldermen meeting will be held as a video conference using Zoom meeting software, which can be accessed at: <https://zoom.us/j/7669979194>

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Consent Agenda: Board of Alderman Draft Meeting Minutes for April 20, 2020
5. Mayoral Proclamation: FIRST RESPONDERS DAY June 1, 2020
6. Unfinished Business:
  - A. Bill 2020-07 - AN ORDINANCE MAKING SPECIFIC FINDINGS REGARDING THE PECULIAR MAIN STREET TAX INCREMENT FINANCING PLAN, APPROVING PECULIAR MAIN STREET TAX INCREMENT FINANCING PLAN, DESIGNATING A REDEVELOPMENT AREA AND THE REDEVELOPMENT PROJECT INCLUDED THEREIN, DECLARING THE PROPOSED REDEVELOPMENT AREA AS BLIGHTED AREA, AND DESIGNATING SUPER MARKET DEVELOPERS, INC., AS THE DEVELOPER OF THE REDEVELOPMENT PROJECT.  
\*2<sup>nd</sup> Reading
  - B. Bill 2020-08 - AN ORDINANCE APPROVING THE REDEVELOPMENT PROJECT OF THE PECULIAR MAIN STREET TAX INCREMENT FINANCING DEVELOPMENT PLAN AS A REDEVELOPMENT PROJECT AND ADOPTING TAX INCREMENT FINANCING THEREIN.  
\*2<sup>nd</sup> Reading
  - C. Bill 2020-09 - AN ORDINANCE APPROVING A TAX INCREMENT FINANCING CONTRACT BETWEEN THE CITY OF PECULIAR AND SUPER MARKET DEVELOPERS, INC., FOR THE PECULIAR MAIN STREET TAX INCREMENT FINANCING PLAN AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT  
\*2<sup>nd</sup> Reading
  - D. Bill 2020-10 - AN ORDINANCE APPROVING A PETITION TO ESTABLISH THE PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT.  
\*2<sup>nd</sup> Reading
  - E. Bill 2020-11- AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT AND SUPER MARKET DEVELOPERS, INC. ON BEHALF OF THE CITY, FOR FUNDING AND FINANCING OF COMMUNITY IMPROVEMENT DISTRICT IMPROVEMENTS.  
\*2<sup>nd</sup> Reading
7. Topics for Discussion:
  - A. Utility Bill Relief Extension
8. Public Comment/Questions- Missouri American Water Utility Purchase
9. Interim City Administrator Report
10. Aldermen Directives
11. Adjournment

**Board of Aldermen Regular Meeting Minutes  
Monday, April 20, 2020 @ 6:30 p.m.**

***A public hearing of the Board of Alderman of the City of Peculiar was held via a ZOOM Video Conference due to the COVID-19 Countywide Stay at Home Order issued by the Cass County Health Department that went into effect on March 24, 2020 and Governor Parson's Statewide Stay at Home Order effective April 6, 2020  
The public were invited to join the meeting by going to: <https://zoom.us/j/7669979194>.***

- 1. Call to Order- Mayor Stark called the meeting to order**
- 2. Pledge of Allegiance- Mayor Stark recited the Pledge of Allegiance**
- 3. Roll Call**

**The following Aldermen responded to roll call: Tom Broadhurst, Kyle Gillespie, Jeff Harlan, and Danny Smith. Ty Erickson was Absent**

**City Staff present for the meeting: Chief of Police, Harry Gurin; Interim City Administrator, Carl Brooks; City Planner, Cliff McDonald; Project and Compliance Manager, Nick Jacobs; City Attorney, Joe Lauber; and Deputy City Clerk, Cyndora Gauthreaux.**

- 4. Consent Agenda:**
  - A. Board of Aldermen Draft Meeting Minutes for March 6, 2020**
  - B. Board of Aldermen Draft Meeting Minutes for April 6, 2020**

Alderman Gillespie made a motion to accept the Consent Agenda as presented and was Seconded by Alderman Harlan. The motion passed with a 5-0 roll call vote.

Alderman Gillespie	Aye	Alderman Ray	Aye
Alderman Broadhurst	Aye	Alderman Harlan	Aye
Alderman Erickson	Absent	Alderman Smith	Aye

**5. Unfinished Business:**

**A. PUBLIC HEARING**

**Bill 2020-05 AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI, ANNEXING CERTAIN ADJACENT, UNINCORPORATED TRACTS OF PROPERTY, BEING 11112 E. 227th STREET, JENKINS ESTATES LOT 3, INTO THE CORPORATE BOUNDARIES OF THE CITY OF PECULIAR, MISSOURI.  
\*2nd Reading**

City Planner, Cliff McDonald introduced the second reading of Bill No. 2020-05. No changes had been made since the first reading.

No Board Comment

No Public Comment

Alderman Broadhurst made a motion to have the second reading of Bill No 2020-05 by title only and was seconded by Alderman Harlan. The motion passed with a 5-0 roll call vote.

Alderman Gillespie	Aye	Alderman Ray	Aye
Alderman Broadhurst	Aye	Alderman Harlan	Aye
Alderman Erickson	Absent	Alderman Smith	Aye

Alderman Broadhurst made a motion to accept the second reading of Bill No. 2020-05 and place on final passage as Ordinance 04202020 was seconded by Alderman Harlan. The motion passed with a 5-0 roll call vote.

Alderman Gillespie	Aye	Alderman Ray	Aye
Alderman Broadhurst	Aye	Alderman Harlan	Aye
Alderman Erickson	Absent	Alderman Smith	Aye

## 6. Public Comment/Questions- Missouri American Water Utility Purchase

No Board Comments

No Public Comments

## 7. Interim City Administrator Report

Car # 397 which was struck by another vehicle has been repaired and is back on duty

April 2020 Finances

Covid-19 expense reimbursement from Federal Government- City has not met threshold for reimbursement

Parks and Recreation sports and activities cancelled until further notice due to Covid-19 precautions.

Planning and Codes- 22 new housing permits issued for the 2019-2020 fiscal year

Economic Development- TIF Commission Approved the TIF Plan

MARC- STP Meeting- Build Grant- Peculiar submitting the Peculiar West Project

Waste Water Treatment Plant running a 58% capacity

Utilities- Shutoff's for nonpayment have been suspended due to Covid-19. Previous month there were 120 nonpaying customers with over 300 this current month for a value of roughly \$45,000.00

Water Loss- 6%

APWA Award for City of Peculiar Public Works Building

Rout C Interchange- 3 Video Conferences were set up to provide information and get input from stakeholders. No stakeholders participated.

UV Disinfection Project- City Staff participated in a walkthrough. One Change Order has been issued. No testing can be performed until the Covid-19 Stay at Home Order is lifted.

872 & 878 Kendal- SEMA Buyout- Homes have been demolished

Copper Creek Subdivision- CCTV of sewer lines.

## 8. Aldermen Directives

Resolution 2020-05 was approved

## 9. Executive Session has requested by City Attorney, per RSMo, 610.021 (1) and (12)

Alderman Broadhurst made a motion to enter into Executive session at 6:52 P.M. and was seconded by Alderman Harlan. The motion passed with a 5-0 roll call vote.

Alderman Gillespie	Aye	Alderman Ray	Aye
Alderman Broadhurst	Aye	Alderman Harlan	Aye
Alderman Erickson	Absent	Alderman Smith	Aye

Alderman Gillespie made a motion to leave Executive Session at 8:07 P.m. and was seconded by Alderman Harlan. The motion passed with a 5-0 roll call vote.

Alderman Gillespie	Aye	Alderman Ray	Aye
Alderman Broadhurst	Aye	Alderman Harlan	Aye
Alderman Erickson	Absent	Alderman Smith	Aye

## 10. Adjournment

Alderman Ray made a motion to adjourn at 8:09 P.m. and was seconded by Alderman Harlan. The motion passed with a 5-0 roll call vote.

Alderman Gillespie	Aye	Alderman Ray	Aye
Alderman Broadhurst	Aye	Alderman Harlan	Aye
Alderman Erickson	Absent	Alderman Smith	Aye

Board of Aldermen Meeting minutes were transcribed by Cyndora Gauthreaux, Deputy City Clerk.

Cyndora Gauthreaux Deputy City Clerk



## *Mayoral Proclamation*

**WHEREAS**, individuals, both career and volunteer, from 911 dispatchers, law enforcement, fire, emergency medical services and other organizations in the public safety sector, come together as first responders to protect and aid the public in the event of an emergency; and

**WHEREAS**, every day first responders risk their own safety and personal property in the performance of their duties to protect our citizens; and

**WHEREAS**, First Responders are ready to aid the people 24 hours a day, seven days a week; and

**WHEREAS**, First Responders are our first and best defense against all emergencies that may threaten our community, whatever their nature; and

**WHEREAS**, First Responders are a vital part of every community who maintain safety and order in times of crisis, and volunteer in our cities and schools; and

**WHEREAS**, First Responders are highly trained, specialized workers who contribute their excellent skills for the public good; and

**WHEREAS**, the members of the First Responders organizations undergo significant education, training and personal sacrifice in order to achieve the expertise required to respond to every type of emergency situation.

**NOW, THEREFORE**, I, Holly J. Stark, Mayor of Peculiar, Missouri, do hereby proclaim  
June 1, 2020 as

### **FIRST RESPONDERS APPRECIATION DAY**

#### **IN WITNESS**

**WHEREOF**, I have hereunto set my  
hand and cause the affixed Seal of the City of Peculiar  
on this 1st day of June, 2020

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Mayor, Holly J. Stark



LAUBER MUNICIPAL LAW, LLC  
*Serving those who serve the public*



## STAFF AND CONSULTANT'S REPORT TO THE BOARD OF ALDERMEN

DATE: MAY 18, 2020

TO: BOARD OF ALDERMEN FOR THE CITY OF PECULIAR  
FROM: CITY STAFF AND CONSULTANTS (LAUBER MUNICIPAL LAW, LLC)  
RE: PECULIAR MAIN STREET TAX INCREMENT FINANCING REDEVELOPMENT PLAN

Project Name: Peculiar Main Street Tax Increment Financing Redevelopment Plan  
("TIF Plan")  
Redevelopment Area: Consists of approximately 2.97 acres of land located in the City of Peculiar, Missouri in an area generally located East of Main Street, West of Schug Avenue, and South of 219<sup>th</sup> Street.

### BRIEF OVERVIEW

The City of Peculiar, Missouri ("City"), requested proposals from developers for blight removal within and near the Redevelopment Plan Area to expand and upgrade the current Country Mart grocery store to a 30,000 s.f. Cosentino's Price Chopper supermarket store. The area selected for redevelopment suffers from blighted conditions (as evidenced by the Existing Conditions Study ("Blight Study") that was submitted with the TIF Plan), primarily for reasons of deteriorated site conditions and the economic liability/under-utilization that exists due to declining value of the property in its current conditions. These conditions could indicate that the community is in danger of losing its grocery store, which can be a devastating blow to any community. To put itself in a position to identify the best redevelopment plan in today's market to remediate blight existing in the Redevelopment Area, the City sought competitive proposals from developers interested in developing the Redevelopment Area. At the close of the filing deadline, only one developer submitted an application to undertake the requested redevelopment. This summary provides an analysis of the statutory sufficiency of the proposal submitted by Super Market Developers, Inc.

### Applicant Information.

On March 18, 2020, Super Market Developers, Inc. ("Applicant") submitted an application for tax increment financing ("TIF") in the form of the Peculiar Main Street Tax Increment Financing Plan, City of Peculiar, Missouri (the "**Peculiar Main Street Tax Increment Financing Development Plan**" or "**TIF Plan**"). Super Market Developers, Inc. was founded in 1961, has its base of operations in Kansas City, Kansas, and is a corporation formed for the purpose of developing and leasing real and personal property that is ultimately used for grocery stores.

### **Project Summary.**

To remediate the blighted conditions indicated in the Blight Study found at Exhibit 8, the TIF Plan proposes the redevelopment of approximately 2.97 acres of real property as described in the City's request for proposals. Applicant is proposing to expend approximately \$4,495,744 to redevelop and expand the existing grocery store ("**Developer Project Improvements**"). In addition, the City will spend approximately \$1,800,000 on additional public improvements (sidewalk and transportation improvements in the vicinity of the intersection of Schug Avenue and Highway C – "**City Project Improvements**") that will benefit the development. The total redevelopment project costs are estimated to be approximately \$5,895,744, plus interest and financing costs. Applicant proposes to implement this development plan over a period of two (2) years (estimated completion in Spring of 2022). As will be discussed in greater detail below, the Applicant intends to pay for this development through a combination of equity and/or debt financing expended by Applicant, and assistance from 76% of captured TIF revenues and non-captured CID revenues. Additionally, funds from 24% of the captured TIF Revenue, the City's non-captured TIF Revenues, and the City's statutorily available funds will be used to reimburse a portion of the City Project Improvements. The Applicant is seeking reimbursement of approximately 33.4% of the estimated total cost incurred only by the Applicant for the Developer Project Improvements portion of the Reimbursable Project Costs. The proposed Redevelopment Area is depicted on the map at Exhibit 1(b) of the TIF Plan. Applicant's proposed redevelopment project will consist of the addition, expansion and renovation to the existing Country Mart grocery store, together with landscaping, parking, lighting, detention, signage, and public infrastructure as described.

### **Financing Summary.**

Applicant anticipates that \$5,895,744 will be expended in and near the Redevelopment Area through implementation of the TIF Plan. The Applicant will contribute approximately \$4,495,744 million through private financing and equity. The City's project costs for the City Project Improvements are approximately \$1,800,000 million. Funds for the City Project Improvement are anticipated to result from a City-MoDOT cost share agreement, legally available City funds, and reimbursement from 24% of captured TIF revenues. To overcome extraordinary costs of redevelopment, many of which are described in the Blight Study (Exhibit 8 of the TIF Plan), the Applicant is seeking assistance through tax increment financing and community improvement district in the cumulative amount not to exceed \$1,500,000 million plus interest and financing costs.

The Applicant's proposal requests an approximate 33.4% incentive to investment ratio overall. According to Exhibit 7, the Applicant expects that with project incentives, to make a 20% down payment (\$599,149 or 13%) of the \$4,495,744 of Developer Project Costs. \$2,396,595 would be financed at a rate of 6.5% for 20 years. The Applicant's \$1,500,000 reimbursement from public incentives is requested from the following sources:

1. Reimbursement from TIF revenue through the customary capture of PILOTs and EATs. 76% of captured TIF will be applied to Developer Project Improvements and 24% will be applied to City Project Improvements. According to Section V.F and Exhibit 4 of the TIF Plan, the total gross TIF Revenues available to fund Reimbursable Project Costs or to retire Obligations issued to fund Reimbursable Project Costs are estimated at \$3,969,282.
2. Reimbursement from a .5% CID sales tax to be imposed within the TIF redevelopment area. According to Section V.F and Exhibit 4 of the TIF Plan, gross revenues from the CID are estimated at \$682,977.

While it appears that the project will generate TIF and CID Revenues in excess of \$1,500,000, the Applicant's incentive is capped at \$1,500,000, plus interest and Financing Costs. It should be noted that the total reimbursable project cost of \$5,895,744 does not include debt service and financing costs. By state statute, those improvements funded from CID tax revenues will be required to be generally open for public use and to have some incidence of public ownership.

The requested assistance will be on a "pay-as-you-go" basis which is characterized by the developer paying all up-front costs and only being reimbursed from TIF and CID revenues if the redevelopment is successful.

As indicated in the second spreadsheet of Exhibit 4, if project revenues are realized as forecasted, the Applicant estimates that it will take just over 16 years for the development to cover repayment of the requested reimbursable project costs (including the City Project Improvement portion). Once these costs have been reimbursed, the TIF can be terminated allowing the full tax revenues to flow to the taxing jurisdictions. In addition to the TIF reimbursement, the Applicant is requesting that a CID be established which helps to pay down the TIF project sooner because it adds a previously nonexistent revenue source that contributes to the reimbursement of eligible costs. The duration of the CID will coincide with the term of the TIF.

#### Summary of Benefit to the Taxing Jurisdictions.

Tax increment financing is generally based on the concept that redevelopment of a disadvantaged area will result in an incremental increase in tax revenues. All or a portion of these incremental increases in revenue are captured for the period of time necessary to pay for the incentives required for the redevelopment to occur, which time cannot exceed 23 years from when capture of the incremental increase commenced. The incremental increases in property tax revenues are distributed as "payments in lieu of taxes" which are commonly referred to as "PILOTs." The incremental increases in economic activity taxes (the most common type is sales tax), which are commonly referred as "EATs." The annual PILOTs and EATs captured by the TIF District are the amount above tax collections within the redevelopment area in the year before tax increment financing is activated. This prior year tax level is considered the "base" year.

Base year ad valorem property tax revenues and sales tax revenues will continue to pass through to the taxing jurisdictions affected by this proposed TIF plan if it were to be approved. The affected taxing jurisdictions include Raymore Peculiar School District, West Peculiar Fire Protection District, Missouri Blind Pension, Cass County Road and Bridge Department, Cass County Public Library District, Hospital Maintenance, Sheltered Workshop, Commercial Surtax, City of Peculiar. A full list of affected taxing jurisdictions is presented in the Cost Benefit Analysis provided at Exhibit 5 of the TIF Plan.

Notably, the Applicant has agreed to structuring the requested incentives so that each of the property taxing jurisdictions will be eligible to receive refund of the captured PILOTs revenues in the amount of 30% of such revenues each year. Under normal circumstances, 100% of the PILOTs revenue is captured and used to reimburse the project costs. The City anticipates that it will use its 30% PILOTs surplus to reimburse the City Project Improvements. Also, Section 99.848, RSMo., provides that an ambulance district, fire protection district, or county providing emergency 911 services funded by a property tax is to receive a reimbursement of no less than 50%, but up to 100% of its PILOTs capture. To allow for a more certain revenue stream for the duration of the anticipated TIF capture period, the West Peculiar Fire Protection District has entered into an agreement to specify that it would set its PILOTs reimbursement amount at 50% for this TIF Plan.

According to the TIF Plan, the initial total equalized assessed value of the real estate within the redevelopment project area is \$311,523 for the 2019 tax year. It is estimated that upon



completion of the Redevelopment Project, the total equalized assessed value of the real estate within the Redevelopment Area will be approximately \$631,523. The sales tax revenues in the redevelopment area in 2019, the year prior to the year in which this plan would be adopted, was \$6,240,000. It is estimated that upon completion of the Redevelopment Project the sales tax revenues will be approximately \$10,868,000. The total Payments in Lieu of Taxes and Economic Activity Taxes generated by the Redevelopment Project during the anticipated duration of the TIF Plan are estimated to be \$483,166 and \$3,486,116 respectively, for a total of \$3,969,282. Receipts from the CID sales tax add another \$682,977 for total project revenues of \$4,652,259. Upon completion of the TIF Plan, and the payment of all Reimbursable Project Costs, tax revenue from the proposed Redevelopment Area will be paid to all taxing jurisdictions within such area.

At Exhibit 5 the Applicant provides the statutorily required Cost-Benefit Analysis which shows the impact on the affected taxing jurisdictions if the proposed redevelopment project is not built and if it is built. The first page of Exhibit 5 compares the total revenues expected by all taxing jurisdictions, cumulatively, if the proposed project is built. This table summarizes estimates from the tables that follow it that, in aggregate, the local taxing jurisdictions would see an increase of approximately \$18.8 million in revenues over a 30-year period after activation of the first redevelopment project if the project is built.

### **REVIEW PROCESS OF THE TIF APPLICATION**

To initiate the process for receipt and review of proposals for the remediation of blight in the requested redevelopment area, the City, on behalf of the TIF Commission, solicited proposals from developers for plans to redevelop the area and to implement those plans as submitted. As is common with applications of this type, the City received one proposal, which is analyzed for this report. In accordance with the City's adopted TIF procedures, the Applicant has submitted an executed funding agreement to the City to provide a funding source for costs incurred by the City in reviewing and considering its TIF Plan proposal.

The City, on behalf of the TIF Commission, mailed the statutorily required 45-day notice of the TIF Commission public hearing to the affected taxing jurisdictions. Statutorily required notices were published in the *North Cass Herald* and were sent via certified U.S. mail to the affected property owner.

The City's staff and consultants have reviewed the proposed plan and determined it to be consistent with the TIF Act and applicable City policies and requirements.

As part of City staff's due diligence in reviewing the application for TIF assistance, the City engaged Lauber Municipal Law, LLC, the City's municipal attorney and special economic development counsel, to advise the City regarding the substantive and procedure issues related to the TIF application and approval process and also to negotiate the City's redevelopment agreement.

The City also hired McLincy and Company Municipal Advisors, a division of SAMCO Capital Markets ("McLincy"), as the City's financial and economic development advisor. As part of its services related to review of the proposed TIF, McLincy performed an independent "but for" test in the form of competitive lease rate analysis of the TIF Plan by reviewing and analyzing the Applicant's estimated costs and operating revenues. McLincy has prepared a separate report regarding this issue that is included with your materials.

On March 23, 2020, Cass County issued a stay at home order in response to the COVID-19 pandemic. The order encourages social distancing and individuals to stay at home except for essential purposes from March 24 through April 24, 2020. While the operation of local

government is exempt from such order, the City of Peculiar took action (e.g., closing City Hall to the public) to assist in slowing the spread of the contagion. Consequently, the City put in place an opportunity for each of the TIF Commissioners, City staff and consultants, the Applicant, and the public to visually and audibly participate in the TIF Commission hearing on April 8, 2020. This was accomplished via the Zoom meeting software platform. Separate instructions to access the Zoom meeting for TIF Commissioners and the public were published and distributed prior to the public hearing.

The TIF Commission public hearing was held on April 8, 2020. After all those wishing to testify were given the opportunity, the TIF Commission voted unanimously to adopt Resolution 2020-01, a Resolution recommending approval of the Peculiar Main Street Tax Increment Financing Development Plan, designating a redevelopment area, recommending a designation of blight within the redevelopment area, recommending designation of the redevelopment project area and approval of the redevelopment project within the redevelopment area, and recommending approval of a developer to the Board of Aldermen of the City of Peculiar, Missouri.

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**In order for the TIF Plan to be adopted, state statutes require that the Board of Aldermen make the following six findings:**

1. The redevelopment area on the whole is a blighted area, a conservation area, or an economic development area, and has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing. Such a finding shall include, but not be limited to, a detailed description of the factors that qualify the redevelopment area or project pursuant to this subdivision and an affidavit, signed by the developer or developers and submitted with the redevelopment plan, attesting that the provisions of this subdivision have been met;
2. The redevelopment plan conforms to the comprehensive plan for the development of the municipality as a whole;
3. The estimated dates, which shall not be more than twenty-three years from the adoption of the ordinance approving a redevelopment project within a redevelopment area, of completion of any redevelopment project and retirement of obligations incurred to finance redevelopment project costs have been stated, provided that no ordinance approving a redevelopment project shall be adopted later than ten years from the adoption of the ordinance approving the redevelopment plan under which such project is authorized and provided that no property for a redevelopment project shall be acquired by eminent domain later than five years from the adoption of the ordinance approving such redevelopment project;
4. A plan has been developed for relocation assistance for businesses and residences;
5. A cost-benefit analysis showing the economic impact of the plan on each taxing district which is at least partially within the boundaries of the redevelopment area. The analysis shall show the impact on the economy if the project is not built, and is built pursuant to the redevelopment plan under consideration. The cost-benefit analysis shall include a fiscal impact study on every affected political subdivision, and sufficient information from the developer for the commission established in section 99.820 to evaluate whether the project as proposed is financially feasible;
6. A finding that the TIF Plan does not include the initial development or redevelopment of any gambling establishment.

## **ANALYSIS OF REQUIRED STATUTORY FINDINGS**

***FINDING # 1 - A finding must be made that the development area on the whole is a blighted area, a conservation area, or an economic development area, and has not been subject to growth and development through investment by private enterprise, and would not reasonably be anticipated to be developed without the adoption of tax increment financing.***

### **Blight Designation**

Exhibit 8 of the TIF Plan contains a blight study, dated March 13, 2020, prepared by Development Initiatives. This study concludes that the proposed redevelopment area on the whole meets the TIF statutory requirements for a “blighted area” due to the predominance of blighting factor deterioration of site improvements that is existing in the proposed redevelopment area. The study further concludes that the predominance of this blighting factor has resulted in an economic liability.

The blight study provides an analysis of the Redevelopment Area, made up of a total of one (1) parcel, providing evidence of the blighting conditions for the Redevelopment Area. The study concludes that overall the Redevelopment Area constitutes an economic liability. The primary factor evident in the Redevelopment Area is deterioration of site improvements. (See pages 36-39 of the Blight Study – Exhibit 8).

Specifically, Development Initiatives’ blight study finds the following to support its conclusion that the Redevelopment Area meets the deterioration of site improvements factor: (1) damaged or missing wall materials; (2) damaged, deteriorated or stained ceiling materials; (3) damaged or deteriorated flooring materials; (4) damaged façade elements; (5) extremely dirty HVAC components; (6) unscreened exterior storage areas; (7) deteriorated surface drive lanes and parking lanes. (See pages 24-34, of the Blight Study – Exhibit 8). Further, structures or geographic areas that are not producing the maximum economic benefit to the community can become economic liabilities.

### **“But For” Test**

The “but for” test requires that a finding be made that the proposed redevelopment area has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing; i.e., “but for” the use of TIF, the area is not anticipated to be developed.

As required by the TIF statute, Exhibit 7 of the TIF Plan includes a But-For Analysis showing the operating income to the Developer if the Project is completed with incentives and if the Project is completed without incentives. If the project is completed without assistance, the Applicant projects a net operating loss of \$97,299. If the project is completed with assistance, the Applicant a net operating income of \$10,063.

Lastly, as required by the TIF statute, Exhibit 11 of the TIF Plan includes the affidavit of David E. Smith, President and CEO of Super Market Developers, Inc. (the Applicant), attesting that the statutory requirements for blight for the area on the whole and the “but for” test have been met; i.e., that the area has not been subject to growth and redevelopment through investment by private enterprise, and without TIF assistance, the projects contemplated by the TIF Plan would not be reasonably expected to occur, and that the project would not be economically viable for the Applicant without such assistance.

In addition, McLiney's independent analysis concludes that the project would not likely be completed through private enterprise alone. A copy of McLiney's But-For Report is provided with this Report.

**TIF Commission Recommendation: The Board of Aldermen should: 1) declare the proposed Redevelopment Area a "Blighted Area" as described by state statutes; and 2) find that the proposed redevelopment area has not been subject to growth and development through investment by private enterprise, and would not reasonably be anticipated to be developed without the adoption of tax increment financing and that the Applicant has submitted the required affidavit to that effect.**

***FINDING # 2 - A finding must be made that the proposed TIF Plan conforms to the comprehensive plan for the development of the City as a whole.***

The City's comprehensive plan, "Comprehensive Plan Update - 2015" was adopted by the City's Planning and Zoning Commission in 2015.

The Comprehensive Plan proposes that the Redevelopment Area would be used as a "Commercial" area:

Commercial land uses are currently located around Peculiar along major transportation corridors. The commercial land use designation provides the opportunity for the development of general retail, office and service uses that serve neighborhoods, the community and the region. (page 29 of the Comprehensive Plan).

The Applicant proposes to redevelop and expand the existing grocery store together with infrastructure, parking, landscaping, lighting, signage and other amenities. Based upon what the applicant has submitted in its conceptual nature, without respect to the separate development review and approval process for the site and building plans set forth in the City's Zoning and Subdivision Regulations, staff believes the TIF Plan is in conformance with the City's Comprehensive Plan.

**TIF Commission Recommendation: The Board of Aldermen should find that the proposed TIF Plan is in conformance with the City's Comprehensive Plan.**

***FINDING # 3 - A finding must be made that the estimated dates for the completion of projects and retirement of obligations incurred to finance the development do not exceed twenty-three years from the time a redevelopment project is authorized, that no redevelopment project is scheduled to be authorized within ten years after of the adoption of the TIF Plan, and that no property will be secured by eminent domain later than five years from the adoption of the ordinance approving the development project.***

The Applicant proposes to undertake the remediation of blighted conditions through redevelopment of the proposed Redevelopment Area as one redevelopment project. Specific details as to the redevelopment schedule, work to be completed, and location of the Redevelopment Area can be seen in the TIF Plan at page 6, and also on the maps found at Exhibits 1(b) and 2. The Applicant estimates that the Developer Project Improvements will be completed by June 2021. The City Project Improvements are estimated to be completed by Spring of 2022. The entire redevelopment project will be completed well within the 23 years after the date the project is estimated to be authorized, which is in the Spring of 2020. Note that the Applicant's schedule may change based on the timing of the City approvals.

Under the TIF Plan, the Applicant will initially fund the redevelopment project costs for the Developer Project Improvements and receive reimbursement for eligible redevelopment project costs as the TIF and CID revenues are captured and re-directed. The total reimbursement amount will not exceed \$1,500,000 plus interest and financing costs, which shall also be reimbursable as reimbursable project costs but shall not be included in the foregoing maximum amount.

As stated above, the Applicant anticipates the Developer Project Improvements will be completed by June 2021 (and the City Project Improvements are scheduled to be completed by Spring 2022), so the adoption of an ordinance approving the last redevelopment project will not be later than 10 years after the adoption of an ordinance approving the TIF Plan. It is anticipated that the ordinance approving the TIF Plan will occur by the end of 2020. The Applicant anticipates activation of the Project in 2020 so as not to lose the first year of TIF. The anticipated date for activation of the redevelopment project is not later than 10 years after the adoption of the ordinance approving the TIF Plan.

Turnage Properties, LLC owns the one parcel that comprises the Redevelopment Area. The Applicant intends to lease the Redevelopment Area from Turnage Properties, LLC and does not anticipate owning the property. The proposed plan states that no property for the Redevelopment Area will be acquired by eminent domain later than five (5) years after the adoption of the Ordinance approving the Redevelopment Project. The proposed plan complies with State statutes.

**TIF Commission Recommendation: The Board of Aldermen should find that the TIF Plan contains information that dates for completion of projects and retirement of obligations incurred to finance the development are not more than twenty-three years from the adoption of the ordinance approving a development project within the development area, that no project is scheduled or permitted to begin more than ten years after the adoption of the ordinance authorizing the TIF Plan, and that the proposed plan meets the statutory requirement regarding the acquisition of property by eminent domain.**

***FINDING # 4 - A finding must be made that a plan has been developed for relocation assistance for businesses and residences.***

Exhibit 9 of the TIF Plan includes a relocation plan for businesses and residences within the TIF Plan redevelopment area, which satisfies the requirement for this finding. Currently, the Country Mart grocery store operates within the proposed Redevelopment Area. The Applicant intends to take over operations of the grocery store. The relocation plan complies with State statutes for relocation assistance.

**TIF Commission Recommendation: Recommend that the Board of Aldermen should find that the Applicant has developed a plan to provide relocation assistance for businesses and residences affected by the TIF Plan.**

***FINDING # 5 - A finding must be made that a cost-benefit analysis has been prepared showing the economic impact of the TIF Plan on each taxing district which is at least partially within the boundaries of the development area, that the analysis shows the impact on the economy if the project is not built, as well as if it is built pursuant to the development plan under consideration, that the cost-benefit analysis includes a fiscal impact study on every affected political subdivision, and that there is sufficient***

*information from the developer for the commission to evaluate whether the project as proposed is financially feasible.*

The Applicant has submitted a cost-benefit analysis as Exhibit 5 to the TIF Plan, which shows the economic impact of the TIF Plan on taxing jurisdictions and political subdivisions that are at least partially within the boundaries of the proposed development area. The analysis provided shows the impact on the economy if the redevelopment project is not built, or is built in accordance with the proposed TIF Plan being considered for approval on the taxing jurisdictions included. The analysis also includes a fiscal impact study on all of the affected political subdivisions and provides sufficient information to evaluate whether the proposed redevelopment project is financially feasible.

The tables in Exhibit 5 show projected revenues to the taxing entities for the twenty-two year period. These projections assume two scenarios: (1) with redevelopment, and (2) without redevelopment. For the “with redevelopment” scenario, the revenues are essentially those projected for the redevelopment area if the project is built as proposed by the Applicant. A bi-annual increase of 2.00% is assumed for assessed valuation and an annual increase of 1.5% is assumed for sales tax receipts.

For the “without redevelopment” scenario, ad valorem tax receipts and sales tax revenues stay at current rates with no increase assumption.

The total projected revenues to the taxing entities for the twenty-two year period under the “with redevelopment” scenario is \$36,252,099. For the “without redevelopment,” the total projected revenues to the taxing entities for this same period is \$17,420,502. This represents an increase in taxing entity receipts attributable to the project of \$18,831,597.

Financing for the TIF Plan and related redevelopment project will be by combination of equity, third party funds, City funds, and/or debt financing. Super Market Developers, Inc. will also establish a community improvement district (“CID”) to impose a .5% sales tax, which will produce revenues sufficient to cover an additional \$1,365,954 (half of this amount will be collected by the EATs). The remaining half will reimburse the Applicant for CID reimbursable project costs.

This is a pay-as-you-go TIF project which means that the Applicant will pay for all the improvements up front and receive reimbursement for certain reimbursable project costs set forth in the TIF Plan. At Exhibit 10, the Applicant has provided a letter from David Smith, President and Chief Executive Officer, at Super Market Developers, Inc. The letter states that the Developer Project Improvements will be financed from multiple sources and that “we provide our full support to finance and carry out the Project, subject to final approval by applicable governing authorities for Tax Increment Financing and Community Improvement District financing, and other financing sources as contemplated in the Tax Increment Financing Plan for the Project.” Section 99.810.1 of the TIF Act requires “evidence of the commitments to finance the project costs.” Understanding there are caveats to financing the project, this letter does appear to provide sufficient evidence of the Applicant’s commitment to finance the project as required under the TIF Act.

The City staff and McLiney have reviewed in detail the overall financial aspects of the proposed TIF Plan and its component redevelopment project. This analysis includes assumptions regarding projected TIF revenues from the proposed uses. Based on the information provided in the TIF Plan and our analysis and review, the City’s staff believe that Super Market Developers, Inc. has provided sufficient information in the proposed TIF Plan for the Board of Aldermen to evaluate the financial feasibility of this plan and its redevelopment project.

**TIF Commission Recommendation:** The Board of Aldermen should find that the Applicant has prepared a cost-benefit analysis showing the economic impact of the TIF Plan on each taxing district which is at least partially within the boundaries of the development area, that the analysis shows the impact on the economy if the project is not built, as well as if it is built pursuant to the development plan under consideration, that the cost-benefit analysis includes a fiscal impact study on every affected political subdivision, and that there is sufficient information for the Board of Aldermen to determine if the project is financially feasible.

**FINDING # 6** - *A finding must be made that the TIF Plan does not include the initial development or redevelopment of any gambling establishment.*

A review of the TIF Plan indicates that the initial development or redevelopment of any gambling establishment is **not** included.

**TIF Commission Recommendation:** The Board of Aldermen should find that the TIF Plan does not include the initial development or redevelopment of any gambling establishment.

**CONCLUSION**

The TIF Commission's approach in reviewing requests for TIF assistance overall has been to determine the amount of public benefit the TIF Plan will generate. Adoption and implementation of the TIF Plan and its proposed redevelopment project will benefit the public by remediating blighted conditions in the proposed redevelopment area, which if not remediated could possibly lead to the community losing its only grocery store, by replacing deteriorating site improvements that have resulted in an economic liability in this area. The rehabilitation and expansion of the existing grocery store building together with other site improvements (parking lot improvements, lighting, signage, landscaping, etc.) along with sidewalk and transportation improvements in the vicinity of the intersection of Schug Avenue and Highway C will promote a higher level of economic activity, resulting in increased employment and an enhanced tax base for the City, as well as increased living opportunities for existing and new citizens of the City.

The TIF Commission along with the assistance of City staff, legal consultants, concludes that the TIF Plan generally provides sufficient information to demonstrate that the statutorily required six findings have been met and that the Board of Aldermen has information to approve and adopt the TIF Plan and associated redevelopment project and finance information may be approved.

**AN ORDINANCE MAKING SPECIFIC FINDINGS REGARDING THE PECULIAR MAIN STREET TAX INCREMENT FINANCING PLAN, APPROVING PECULIAR MAIN STREET TAX INCREMENT FINANCING PLAN, DESIGNATING A REDEVELOPMENT AREA AND THE REDEVELOPMENT PROJECT INCLUDED THEREIN, DECLARING THE PROPOSED REDEVELOPMENT AREA A BLIGHTED AREA, AND DESIGNATING SUPER MARKET DEVELOPERS, INC., AS THE DEVELOPER OF THE REDEVELOPMENT PROJECT.**

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**WHEREAS**, the Peculiar Tax Increment Financing Commission (“TIF Commission”) has been duly formed by the Board of Aldermen of the City of Peculiar, Missouri (“Board of Aldermen”) pursuant to Section 99.820.2 of the Revised Statutes of Missouri (“RSMo”); and

**WHEREAS**, on or about February 21, 2020, the City of Peculiar (“the City”) mailed written notices of the scheduled TIF Commission public hearing to all taxing districts from which taxable property is included in the proposed Redevelopment Area (“Taxing Districts”), in compliance with Sections 99.825 and 99.830, RSMo; and

**WHEREAS**, on March 13, 2020 the City published notice in the *North Cass Herald* of the scheduled TIF Commission public hearing to consider the merits of the proposed TIF Plan, in compliance with Section 99.830, RSMo; and

**WHEREAS**, on or about March 25, 2020, the City mailed written notice of the scheduled TIF Commission public hearing to all persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the Redevelopment Area, in compliance with Section 99.830, RSMo; and

**WHEREAS**, on April 3, 2020, the City again published notice in the *North Cass Herald* of the scheduled TIF Commission public hearing to consider the merits of the proposed TIF Plan, in compliance with Section 99.830, RSMo; and

**WHEREAS**, copies of the notices of the public hearing were submitted to the Director of the Department of Economic Development, in compliance with Section 99.825 and 99.830, RSMo; and

**WHEREAS**, a copy of the Peculiar Main Street Tax Increment Financing Plan (“TIF Plan”) was filed in the Office of the City Clerk on March 18, 2020; and

**WHEREAS**, on April 8, 2020 the TIF Commission voted unanimously to adopt a resolution making specific findings regarding the TIF Plan, recommending to the Board of Aldermen to make the specific findings regarding the TIF Plan, recommending to the Board of Aldermen approval and adoption of the TIF Plan, recommending the designation of the Redevelopment Area and the Redevelopment Project included therein, recommending the designation of the Super Market Developers, Inc. as the developer for the Peculiar Main Street Tax



Increment Financing Plan, and recommending the designation of blight within the Redevelopment Area; and

**WHEREAS**, the Board of Aldermen having heard and considered the TIF Plan, and all comments, testimony, and other evidence adduced at public meetings, the evidence and testimony submitted at the Commission public hearing, and the recommendations of the Commission to make the specific findings regarding the Peculiar Main Street Tax Increment Financing Plan, to approve the TIF Plan, the designation of the Redevelopment Area and the Redevelopment Project included therein, designation of the Redevelopment Area as a blighted area, and the designation of the Super Market Developers, Inc., as the developer for the Redevelopment Project in the TIF Plan, now desires to make the specific findings regarding the Peculiar Main Street Tax Increment Financing Plan, approve the TIF Plan, designate the Redevelopment Area and the Redevelopment Project included therein, designate the Redevelopment Area a blighted area, and designate Super Market Developers, Inc. as the developer for the Redevelopment Project.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI, AS FOLLOWS:**

**Section 1:** That the TIF Plan, a copy of which is attached hereto and incorporated herein as **Exhibit A**, is hereby approved and adopted.

**Section 2:** That the tracts of land legally described and shown on the map in **Exhibit B**, which is attached hereto and incorporated herein are hereby designated as the Redevelopment Area.

**Section 3:** That the redevelopment project as described in the Peculiar Main Street Tax Increment Financing Plan is hereby designated as the Redevelopment Project.

**Section 4:** That the Board of Aldermen hereby finds that:

1. As described in detail in the Blight Study included as Exhibit 8 of the TIF Plan, the Redevelopment Area on the whole is a blighted area and has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing pursuant to the TIF Plan. The area selected for the Redevelopment Project includes only the parcel of real property and improvements thereon which will be directly and substantially benefited by the Redevelopment Project improvements. The Board of Aldermen specifically states that the following factors are found to exist within the Redevelopment Area:

- a. Deterioration of site improvements.

The Board further finds that the existence of the forgoing factors in the Redevelopment Area have resulted in an economic liability.

2. The TIF Plan conforms to the City's Comprehensive Plan Update - 2015 for the development of the City as a whole.

3. The completion of the project and retirement of obligations incurred to finance redevelopment project costs associated with these projects will occur no later than

twenty-three (23) years from the adoption of an ordinance approving the project. No other redeveloped project is scheduled to be authorized within ten (10) years after the adoption of the TIF Plan. No property for a project will be acquired by eminent domain later than five (5) years from the adoption of the ordinance approving the project.

4. A Relocation Assistance Plan has been developed for relocation assistance for businesses and residences, and the relocation of any business or residents in the Redevelopment Area, if necessary, will take place in accordance with the Relocation Policy attached to the TIF Plan as Exhibit 9.

5. A cost-benefit (Exhibit 5) analysis showing the impact of the TIF Plan on each taxing district which is at least partially within the boundaries of the Redevelopment Area has been prepared in accordance with the Act. The analysis shows the impact on the economy if the Redevelopment Project is not built and is built pursuant to the TIF Plan. The cost-benefit analysis includes a fiscal impact study on every affected political subdivision, and sufficient information for the Board of Aldermen to evaluate whether the TIF Plan as proposed is financially feasible.

6. The TIF Plan does not include the initial development or redevelopment of any gambling establishment.

**Section 6:** That the Super Market Developers, Inc. (“Developer”) is hereby designated as the developer of the Redevelopment Project.

**Section 7:** That the designation of the Developer as the developer of the Redevelopment Project and any reimbursement to the Developer of TIF revenues for reimbursable project expenses from the special allocation fund is conditioned upon the execution of a Tax Increment Financing Contract between the City and the Developer approved by the Board of Aldermen by ordinance, upon terms and conditions as agreed upon by the parties to carry out the goals and objectives of the TIF Plan.

**Section 8:** It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

**Section 9:** The Deputy City Clerk is hereby authorized to correct any scriveners’ errors contained in the language of this ordinance.

**Section 10:** This Ordinance shall be in full force and effect from and after its passage and approval by the Board of Aldermen.

**First Reading: May 4, 2020**

**Second Reading: \_\_\_\_\_**

**BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS  
SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY THE FOLLOWING  
VOTE:**

Alderman Broadhurst \_\_\_\_\_

Alderman Harlan \_\_\_\_\_

Alderman Gillespie \_\_\_\_\_

Alderman Ray \_\_\_\_\_

Alderman Smith \_\_\_\_\_

Alderman Erickson \_\_\_\_\_

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Holly Stark, Mayor

\_\_\_\_\_  
Cyndora Gauthreaux, Deputy City Clerk

**EXHIBIT A**

PECULIAR MAIN STREET TAX INCREMENT FINANCING PLAN

(SEE ATTACHED)

## **EXHIBIT B**

### **LEGAL DESCRIPTION PECULIAR MAIN STREET TAX INCREMENT FINANCING PLAN**

Part of that certain tract of land described in Book 1549, Page 131 in the Office of the Recorder of Deeds, CASS COUNTY, MISSOURI, being part of the Northwest Quarter of the Northwest Quarter of Section 15, Township 45, Range 32, Peculiar, CASS COUNTY, MISSOURI, described as follows: From the Northwest corner of the Northwest Quarter of the Northwest Quarter of Section 15, aforesaid, run thence South 89 degrees 38 minutes 00 seconds East, along the North line of said Quarter Quarter Section, 44.43 feet; thence South, 30.00 feet to a point of intersection with the East right-of-way line of Main Street, as now located, and the South right-of-way line of Summerskill Road, as now located, and being the True Point of Beginning of the tract to be described; thence South 89 degrees 38 minutes 00 seconds East, along said South right-of-way line of Summerskill Road, 300.01 feet to a point of intersection with the West right-of-way line of Schug Avenue as now located thence South along said West right-of-way line, 334.74 feet; thence continuing Southeasterly along said West right-of-way line on a curve to the left having a radius of 756.01 feet an arc length of 146.68 feet and a chord bearing of South 5 degrees 33 minutes 29 seconds East to the Northeast corner of that certain tract of land described in Book 1750, at Page 64, in the office of the Recorder of Deeds; thence West along the North line of said certain tract of land, 314.19 feet to a point on said East right-of-way line of Main Street; thence North along said East right-of-way line, 482.43 feet to the True Point of Beginning.

### Map Depicting the Redevelopment Area



**AN ORDINANCE APPROVING THE REDEVELOPMENT PROJECT OF THE PECULIAR MAIN STREET TAX INCREMENT FINANCING DEVELOPMENT PLAN AS A REDEVELOPMENT PROJECT AND ADOPTING TAX INCREMENT FINANCING THEREIN.**

---

**WHEREAS**, on March 18, 2020, the Peculiar Main Street Tax Increment Financing Plan (the "Redevelopment Plan") was submitted by Super Market Developers, Inc. (the "Developer") requesting the Board of Aldermen of the City of Peculiar, Missouri (hereinafter referred to as the "Board of Aldermen" or "City") to establish a tax increment financing district on approximately 2.97 acres pursuant to the provisions of the Real Property Tax Increment Allocation Act, Sections 99.800 to 99.865, RSMo (the "Act").

**WHEREAS**, the area referred to above is generally located East of Main Street, West of Schug Avenue and South of 219<sup>th</sup> Street, located within the City (the "Redevelopment Area"); and

**WHEREAS**, the Redevelopment Plan provides for the redevelopment of the Redevelopment Area as one Redevelopment Project; and

**WHEREAS**, on April 8, 2020, the Commission opened the public hearing, and received testimony and other evidence from all interested parties who came forward to speak regarding the proposed Redevelopment Plan and Redevelopment Project and, on said date, the Commission having heard and considered the comments, testimony, and other evidence adduced at the public hearing, closed the public hearing and made a motion to recommend approval of the Redevelopment Plan; and

**WHEREAS**, on May 4, 2020 the Board of Aldermen considered the Redevelopment Plan and subsequently on May 18, 2020, approved the Redevelopment Plan;

**WHEREAS**, the Board of Aldermen desires to activate tax increment allocation financing for the Redevelopment Project of the Redevelopment Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI, AS FOLLOWS:**

**Section 1:** All terms used in this ordinance not otherwise defined herein shall be construed as defined in the Act or Redevelopment Plan.

**Section 2:** The area selected for the Redevelopment Project legally described in **Exhibit A** attached hereto is approved and designated as the Redevelopment Project (hereinafter referred to as "Redevelopment Project Area"). Redevelopment Project Area includes only those parcels of real property and improvements thereon which will be directly and substantially benefited by the Redevelopment Project improvements therein.

**Section 3:** Tax increment allocation financing is hereby adopted for taxable real property in the above-described area selected for the Redevelopment Project Area. Pursuant to the Act, after the total equalized assessed valuation of the taxable real property in the Redevelopment

Project Area exceeds the certified total initial equalized assessed valuation of the taxable real property in the Redevelopment Project Area, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon the taxable real property in such project by taxing districts and tax rates determined in the manner provided in subsection 2 of Section 99.855, RSMo, each year after the effective date of the ordinance until the sooner of the expiration of 23 years, or when redevelopment costs have been paid and all reimbursable project costs have been reimbursed pursuant to the Redevelopment Plan shall be divided as follows:

- a. That portion of taxes, penalties and interest levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized value of each such taxable lot, block, tract or parcel of property in the area selected for the Redevelopment Project Area shall be allocated to and, when collected, shall be paid by the Cass County Collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing.
- b. Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract or parcel of real property in the area selected for the Redevelopment Project Area, and any applicable penalty and interest over and above the initial equalized assessed value of each such unit of property shall be allocated to and, when collected, shall be paid to the Director of Finance or other designated financial officer of the City who shall deposit such payment in lieu of taxes into a special fund called the "Special Allocation Fund" of the City for the purpose of paying Redevelopment Project Costs and obligations incurred in the payment thereof and for the collection of payments in lieu of taxes, as applicable. Any payments in lieu of taxes which are not paid within 60 days of the due date will be deemed delinquent and assessed a penalty of one percent (1%) per month.

**Section 4:** That in addition to the payments in lieu of taxes described in subsection b of Section 3 above, fifty percent (50%) of the total additional revenue from taxes, penalties and interest which are imposed by the City or taxing districts, and which are generated by economic activities within the area selected for the Redevelopment Project over the amount of such taxes generated by economic activities within such area in the calendar year prior to the adoption of this ordinance, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales of charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 RSMo, taxes levied for the purpose of public transportation pursuant to Section 94.660, RSMo, licenses, fees or special assessments, other than payments in lieu of taxes, and penalties and interest thereon, or any sales tax imposed by a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, for the purpose of sports stadium improvement, shall be allocated to, and paid by the local political subdivision collecting officer to the Director of Finance or other designated financial officer of the City, who shall deposit such funds in a separate segregated account within the Special Allocation Fund.

**Section 5:** That if any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction,



such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 6:** That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**Section 7:** This ordinance shall be in full force and effect from and after its passage and approval by the Mayor and Board of Aldermen.

**Section 8:** The effective date of this ordinance shall be \_\_\_\_\_, 2020.

**First Reading: May 4, 2020**

**Second Reading: \_\_\_\_\_**

**BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY THE FOLLOWING VOTE:**

Alderman Broadhurst \_\_\_\_\_  
Alderman Harlan \_\_\_\_\_  
Alderman Gillespie \_\_\_\_\_

Alderman Ray \_\_\_\_\_  
Alderman Smith \_\_\_\_\_  
Alderman Erickson \_\_\_\_\_

APPROVED:

ATTEST:

\_\_\_\_\_  
Holly Stark, Mayor

\_\_\_\_\_  
Cyndora Gauthreaux, Deputy City Clerk

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF REDEVELOPMENT AREA**

Part of that certain tract of land described in Book 1549, Page 131 in the Office of the Recorder of Deeds, CASS COUNTY, MISSOURI, being part of the Northwest Quarter of the Northwest Quarter of Section 15, Township 45, Range 32, Peculiar, CASS COUNTY, MISSOURI, described as follows: From the Northwest corner of the Northwest Quarter of the Northwest Quarter of Section 15, aforesaid, run thence South 89 degrees 38 minutes 00 seconds East, along the North line of said Quarter Quarter Section, 44.43 feet; thence South, 30.00 feet to a point of intersection with the East right-of-way line of Main Street, as now located, and the South right-of-way line of Summerskill Road, as now located, and being the True Point of Beginning of the tract to be described; thence South 89 degrees 38 minutes 00 seconds East, along said South right-of-way line of Summerskill Road, 300.01 feet to a point of intersection with the West right-of-way line of Schug Avenue as now located thence South along said West right-of-way line, 334.74 feet; thence continuing Southeasterly along said West right-of-way line on a curve to the left having a radius of 756.01 feet an arc length of 146.68 feet and a chord bearing of South 5 degrees 33 minutes 29 seconds East to the Northeast corner of that certain tract of land described in Book 1750, at Page 64, in the office of the Recorder of Deeds; thence West along the North line of said certain tract of land, 314.19 feet to a point on said East right-of-way line of Main Street; thence North along said East right-of-way line, 482.43 feet to the True Point of Beginning.



LAUBER MUNICIPAL LAW, LLC  
*Serving those who serve the public*

## Memo

**To:** Mayor and Board of Aldermen  
Carl Brooks, Interim City Administrator

**From:** Joe Lauber, City General and Special Legal Counsel

**Date:** May 18, 2020

**Re:** Outline of Key Points of Peculiar Main Street TIF Contract

---

The purpose of this memorandum is to provide a summary of the key terms and conditions included in the proposed TIF Contract between the City and the Developer of the Peculiar Main Street TIF Plan. This summary is provided in outline form and highlights the key provisions of the Contract that will provide for the implementation of the TIF Plan by the Developer.

### **Definitions**

- Sections 1-5 of the TIF Contract set forth the rules of interpretation and the major definitions that will apply throughout the TIF Contract; and also identifies the TIF Redevelopment Area as a whole which is the same boundary as the Redevelopment Project Area.

### **Project Improvements**

- Section 6 addresses the Project Improvements. The Project Improvements identified in the TIF Contract include everything necessary to expand and upgrade the current Country Mart grocery store into a 30,000 s.f. Cosentino's Price Chopper grocery store as proposed in the TIF Plan. The Project Improvements are divided into two categories:
  - Private Project Improvements
  - Public Project Improvements
- The Public Project Improvements will be constructed by the City and include sidewalk and transportation improvements in the vicinity of the intersection of Schug Avenue and Highway C (shown on the map in Exhibit B and identified in the Project Budget on Exhibit G)

- The Private Project Improvements are construction of approximately 5,000 ft<sup>2</sup> of additional space to the existing commercial facility, improvements to the existing commercial facility, and site improvements (not including those described as part of the Public Project Improvements).
- The Redevelopment Project Cost Budget (Exhibit G) is copied and pasted below:

**Grocery Store Redevelopment - Total Project Costs**

<b>DEVELOPER PROJECT COSTS</b>					
<b>Cost Category</b>	<b>Unit/SF</b>	<b>Cost Per Unit/SF</b>	<b>Total</b>	<b>TIF Eligible</b>	<b>CID Eligible</b>
Land Acquisition			\$ -	\$ -	\$ -
<b>Sitework</b>					
Site Landscaping	129,373	\$0.15	\$ 20,000	\$ 20,000	\$ 20,000
Parking Lot		\$3.03	\$ 392,040	\$ 392,040	\$ 392,040
Lights		\$0.35	\$ 45,000	\$ 45,000	\$ 45,000
Detention		\$0.23	\$ 30,000	\$ 30,000	\$ 30,000
Signage		\$0.43	\$ 55,000	\$ 55,000	\$ 55,000
Total Sitework:			\$ 542,040	\$ 542,040	\$ 542,040
<b>Design - Permits &amp; Fees</b>					
Engineering	129,373	\$0.19	\$ 25,000	\$ 25,000	\$ 25,000
Architect		\$1.00	\$ 130,000	\$ 130,000	\$ 130,000
Survey		\$0.08	\$ 10,000	\$ 10,000	\$ 10,000
Soils		\$0.12	\$ 15,000	\$ 15,000	\$ 15,000
Environment		\$0.12	\$ 15,000	\$ 15,000	\$ 15,000
Miscellaneous Design Fees		\$1.55	\$ 200,000	\$ 200,000	\$ 200,000
Total Design:			\$ 395,000	\$ 395,000	\$ 395,000
<b>Hard Construction Costs</b>					
Building Addition	5,000	\$190.00	\$ 950,000	\$ -	\$ -
Exterior Existing Building Improvements	25,000	\$85.00	\$ 425,000	\$ 425,000	\$ 425,000
Interior & Décor ML Lights		\$30.00	\$ 150,000	\$ 150,000	\$ 150,000
Building TI		\$55.00	\$ 275,000	\$ 275,000	\$ 275,000
Building Equipment		\$200.00	\$ 1,000,000	\$ -	\$ -
Total Hard Construction:			\$ 2,800,000	\$ 850,000	\$ 850,000
<b>Legal</b>					
Attorney			\$ 50,000	\$ 50,000	\$ 50,000
Total Legal:			\$ 50,000	\$ 50,000	\$ 50,000
<b>Finance</b>					
Interest			\$ 250,000	\$ 250,000	\$ 250,000
Total Finance:			\$ 250,000	\$ 250,000	\$ 250,000
<b>Miscellaneous Soft Costs</b>					
Development Fees			\$ 50,000	\$ 50,000	\$ 50,000
Total Miscellaneous Soft Costs:			\$ 50,000	\$ 50,000	\$ 50,000
<b>Hard Costs</b>					
Land Acquisition			\$ -	\$ -	\$ -
Sitework			\$ 542,040	\$ 542,040	\$ 542,040
Design - Permits & Fees			\$ 395,000	\$ 395,000	\$ 395,000
Hard Construction			\$ 2,800,000	\$ 850,000	\$ 850,000
Subtotal			\$ 3,737,040	\$ 1,787,040	\$ 1,787,040
Contingency		10.00%	\$ 373,704	\$ 178,704	\$ 178,704
Hard Costs Total			\$ 4,110,744	\$ 1,965,744	\$ 1,965,744
<b>Soft Costs</b>					
Legal			\$ 50,000	\$ 50,000	\$ 50,000
Financing			\$ 250,000	\$ 250,000	\$ 250,000
Miscellaneous Soft Costs			\$ 50,000	\$ 50,000	\$ 50,000
Subtotal			\$ 350,000	\$ 350,000	\$ 350,000
Contingency		10.00%	\$ 35,000	\$ 35,000	\$ 35,000
Soft Costs Total			\$ 385,000	\$ 385,000	\$ 385,000
<b>TOTAL DEVELOPER HARD COSTS</b>			\$ 4,110,744	\$ 1,965,744	\$ 1,965,744
<b>TOTAL DEVELOPER SOFT COSTS</b>			\$ 385,000	\$ 385,000	\$ 385,000
<b>TOTAL DEVELOPER PROJECT COSTS*</b>			\$ 4,495,744	\$ 2,350,744	\$ 2,350,744

\*NOTE: Developer eligible expenses are subject to a \$1.5 million cap plus interest and financing costs

<u>CITY PROJECT COSTS</u>						
TOTAL CITY PROJECT COSTS*	\$	1,400,000	\$	1,400,000	\$	-
<u>TOTAL PROJECT COSTS</u>						
TOTAL DEVELOPER PROJECT COSTS	\$	4,495,744	\$	2,350,744	\$	2,350,744
TOTAL CITY PROJECT COSTS	\$	1,400,000	\$	1,400,000	\$	-
TOTAL PROJECT COSTS	\$	5,895,744	\$	3,750,744	\$	2,350,744

### **Redevelopment Schedule**

- Section 7 of the TIF Contract establishes the expected schedule for the Project. This schedule is included as Exhibit E to the TIF Contract, but is reproduced here for your convenience.

<b>REDEVELOPMENT PROJECT</b>	<b>ANTICIPATED COMMENCEMENT</b>	<b>ANTICIPATED COMPLETION</b>
Private Project Improvements	June 1, 2020	June 1, 2021
Public Project Improvements	May 1, 2021	March 31, 2022

- If the Developer does not complete the Private Project Improvements on time, the City may require the Developer to appear before the Board of Aldermen at a hearing to show cause why the TIF Contract and TIF Plan should not be terminated.
- Note that the requirement to appear before the Board of Aldermen does not apply if the Private Project Improvements are substantially complete and the Price Chopper store is open for business in accordance with the Redevelopment Schedule; however the Developer reserves the right to make improvements as set out in the Project Budget after the store is opened and the Developer may certify those Private Project Improvements made after the store is open without the necessity of amending the Project Schedule.

### **Design and Construction of Project Improvements**

- Sections 8-9 address design and construction of the Project improvements.
- Project Improvements
  - Public
    - City shall cause the Public Project Improvements to be designed and constructed in accordance with all applicable legal requirements.

- Prior to the design, engineering and construction of the Public Project Improvements, the City shall develop a schedule that generally consists of the same schedule above. Once the Public Project Improvement Schedule is developed, the City and Developer shall mutually approve and adopt such changes to the Redevelopment Schedule as required.
- City is responsible for acquiring, or negotiating for the donation of, all right-of-way or easements needed to construct the Public Project Improvements.
- City is responsible for the cost of relocating existing utilities that are not paid for by the utility company as a result of relocating utilities in order to construct the Public Project Improvements.
- Private
  - Developer must seek City approval on Land Use Approvals (i.e. Preliminary Plats, Site Plans, etc.).
  - Developer must construct, or cause to be constructed, the estimated square footage proposed in the TIF Plan; however, the Developer reserves the right to deviate from the Site Plan, as long as such deviations are in accordance with Land Use Approvals.

### **Control and Completion of Project Improvements**

- Section 10 addresses control of the redevelopment project and provides a process for determining when the Developer has completed its obligations under the TIF Contract.
- Control
  - Subject to all legal requirements, the Developer will have complete control over the Private Project Improvements.
  - Developer needs to dedicate all necessary utility easements or right of way not otherwise dedicated to MoDOT or the City at no charge.
  - Developer must use best faith efforts to cause to be dedicated all necessary right of way needed for the Public Project Improvement.
  - Developer will maintain and operate all Developer Controlled Improvements (Private Project Improvements that Developer owns, whether solely or jointly, in whole or in part, or controls, or which are made on real property within the Redevelopment Area), timely make all necessary repairs to and replacements and restorations of all parts of the Developer Controlled Improvements and maintain casualty insurance on the Developer Controlled Improvements.

- The Developer will use its best efforts to contractually obligate any owner or tenant to maintain their respective portions of the Private Project Improvements in the same manner as similar commercial developments and must keep the development in good condition.
- Certificate of Completion and Compliance
  - Section 12 provides that once the Developer completes all of the Private Project Improvements, he may request the City to issue a Certificate of Completion and Compliance. This certificate indicates that the Developer has satisfied his obligation for construction of the Private Project Improvements in accordance with the TIF Contract and has otherwise materially complied with all other provisions of the TIF Contract. These “final” certificates will be recorded with the Cass County Recorder of Deeds for each parcel affected.
- Lease of Property and Relocation of Businesses
  - Section 13 provides that the Cosentino Group, Inc. has the right to lease the Property as of the Effective Date of the Agreement. Further, the Developer will use best faith efforts to include in Lessee’s lease with the owner (Turnage Properties, LLC) a provision whereby the property owner waives any rights to receive relocation benefits.

### **Project Financing**

- The Developer will use private funds to pay for the Private Project Improvements. The private funds will be derived from a combination of Developer’s equity, equity investment provided by third parties, and debt incurred by Developer or third parties.
- CID Financing (Section 16)
  - The Petition for establishment of the Peculiar Main Street Community Improvement District was filed with the Deputy City Clerk on or about March 31, 2020. The Board of Aldermen is scheduled to hold a public hearing on the establishment of the CID on May 4, 2020.
  - The CID will impose a 0.50% sales tax, to be collected by the Missouri Department of Revenue.
  - Developer will use its best faith efforts to include in Lessee’s lease with the property owner (Turnage Properties, LLC) a provision which obligates the property owner not to (1) contest the imposition of the CID Sales Tax; or (2) advocate or support for the early termination of the CID Sales Tax.
  - The City, the Developer and the CID must enter into a CID Cooperative Agreement that allows the City to approve budgets, receive CID sales tax revenues, and administer the CID. Further, the CID Cooperative Agreement shall provide that the portion of the CID Sales Tax revenue not captured as TIF Revenue is pledged to pay Reimbursable Project

Costs, subject to the limitations of the CID Act, and less operating and administrative expenses of the CID and any costs reasonably incurred by the Developer or City in forming the CID. The CID Cooperative Agreement has been negotiated and also will be on the agenda for the Board's consideration at the May 4<sup>th</sup> meeting.

### **Conditions Precedent to Developer's and City's Duties**

- Sections 17 and 18 address conditions that must be satisfied prior to the Developer or the City having to do the things that are required of either of them under the TIF Contract.
  - Conditions Precedent to Developer's Duties (Section 17)
    - Acquisition by Lessee of a leasehold interest in all real property within the boundaries of the Redevelopment Area.
    - Approval of the TIF Plan.
    - Execution of the TIF Contract by the City and the Developer.
    - Imposition of the CID Sales Tax.
    - Execution of the CID Cooperative Agreement.
    - City approval of the Land Use Approvals.
  - Conditions Precedent to City's Duties (Section 18)
    - Same as above.

### **PILOTs, EATs, and the Special Allocation Fund**

- Sections 19-22 address statutorily required provisions related to the measurement, collection, and disbursement of PILOTs and EATs.
- These sections also include provisions regarding the City's establishment and maintenance of the special allocation fund and how money collected into that fund will be disbursed to pay for Reimbursable Project Costs.

### **Certification of Reimbursable Project Costs**

- Section 23 addresses the procedure by which the Developer will submit requests for certification that project costs incurred are eligible for reimbursement in accordance with the TIF Plan and the TIF Contract.
- Developer can apply cost savings in one cost category to pay for cost overruns in another cost category so long as the Developer does not: (a) exceed the reimbursement cap (thirty-three percent (33%) of the total actual costs paid by the Developer for Private Project Improvements;



provided that the total aggregate amount of Developer Reimbursable Project Costs shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000) except as provided in Section 26 (Reimbursement Adjustments); or (b) transfer to line items that are not approved as Reimbursable Project Costs.

- Payment of interest expenses is covered in subsection D of this section.

### **Reimbursement Adjustments**

- Section 26 addresses what happens if the project is significantly more successful than projected. This is designed to allow the City and other taxing jurisdictions to share in some of the Developer's success.
- Reimbursement Cap is set at 33% of the Developer's total actual costs paid for Private Project Improvements. If the Developer spends more money on Private Project Improvements, then the reimbursement amount will increase so that the total reimbursement is 33% of the total actual costs spent. Likewise, if the total actual costs paid for Private Project Improvements is less than projected, then the Developer will receive a reimbursement cap of 33% of the lesser amount spent.
- Certain changes to the Plan may require an amendment to the TIF Plan pursuant to the TIF Statute.

### **Tenant Approvals and Prohibitions**

- Section 27 addresses the types of businesses that may be located within the development. While the Developer has complete control over the leasing and sales within the development, the City prohibits certain types of business and is retaining the right to review and approve certain tenants for the development.
  - The City must first approve any relocation of businesses that already exist within the City, unless the business intends to operate its existing business for more than eighteen (18) months after opening a new location within the new development.
  - The City must first approve any surplus or discount stores, second hand stores, thrift shops, or flea markets.
  - The City must first approve any auto repair businesses, oil change businesses, or other businesses that include a garage door as a primary feature of its facility.
  - Unless approved by the City, non-sales tax generating businesses (including those generating less than \$50 per square foot of retail sales) utilizing more than a cumulative total of twenty percent (20%) of finished first floor space in the Redevelopment Area are prohibited.
  - The City must first approve any adult entertainment establishments, pawn shops, payday/title loan businesses, e-cigarette or "vaping" shops, tattoo or piercing parlors, and rental stores.

### **Disposition of Project Property**

- Section 29 addresses the transfer of all or any portion of any property interest within the boundaries of the Redevelopment Area.
- The Developer is not allowed to sell the project and assign its obligations to another entity without City approval.
- If the Developer desires to transfer any or all of the real property, such notice shall be provided to the City not less than 30 days prior to the proposed effective date of the transfer.

### **Standard TIF Contract Obligations**

- The remaining sections of the Contract primarily deal with generally standard contract obligations of a developer on TIF projects (e.g., progress reports, compliance with applicable laws, recording of the document, notices, indemnification, insurance, etc.) and the mechanics of capturing and accounting for TIF revenues.

**TAX INCREMENT FINANCING  
REDEVELOPMENT AGREEMENT**

between

**CITY OF PECULIAR, MISSOURI**

**and**

**SUPER MARKET DEVELOPERS, INC.**

for implementation of the

**PECULIAR MAIN STREET  
TAX INCREMENT FINANCING  
REDEVELOPMENT PLAN**

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## **Exhibits**

- A     Legal Description of Redevelopment Area and Redevelopment Project Area
- B     Map of the Redevelopment Project Area and Preliminary Site Plans
- C     Private Project Improvements
- D     Public Project Improvements
- E     Redevelopment Schedule
- F     Non-Permitted Uses
- G     Redevelopment Project Cost Budget
- H     Intentionally Omitted
- I     Form of Assignment and Assumption Agreement
- J     Intentionally Omitted
- K     Form of Affidavit of Work Authorization

## **TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT**

THIS **TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT** (this “**Agreement**”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 (the “**Effective Date**”), by and between THE CITY OF PECULIAR, MISSOURI, a municipal corporation (the “**City**”), and SUPER MARKET DEVELOPERS, INC., a Missouri corporation (the “**Developer**”).

### **RECITALS**

A. The Tax Increment Financing Commission of Peculiar, Missouri (the “**Commission**”) on April 8, 2020, recommended to the Board of Aldermen approval of the Peculiar Main Street Tax Increment Financing Redevelopment Plan (the “**Plan**”) for the area described in the Plan as set forth in **Exhibit A** attached hereto (the “**Redevelopment Area**” or the “**Property**”).

B. The Board of Aldermen of the City of Peculiar (the “**Board of Aldermen**”) adopted Ordinance No. \_\_\_\_\_ on May 18, 2020 (“**Plan Ordinance**”), approving the Plan, determining that the Redevelopment Area is a Blighted Area and that it meets the other applicable requirements under Missouri’s Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, RSMo 2010, as amended (the “**TIF Act**”), selecting the Developer to implement the Plan, and conditioning such approval on execution of an agreement between the City and Developer for the implementation of the Plan.

C. The Plan provides for the expansion and upgrade of the current Country Mart grocery store, located at 501 Schug Avenue, Peculiar, Missouri 64078, into a 30,000 s.f Cosentino’s Price Chopper grocery store that contains a pharmacy and a Cosentino’s Price Chopper gas filling station, or a different, but similarly branded product acceptable to the Board of Aldermen, together with infrastructure, parking, landscaping and other amenities as conceptually depicted on the Site Plans attached hereto as **Exhibit B**.

D. Cosentino Group, Inc., a Missouri corporation (or an Affiliate or Related Entity thereof) (the “**Lessee**”) has the right to lease the Property as of the Effective Date of this Agreement, and Developer has the authority to construct the Redevelopment Project on the Property in accordance with the Plan on behalf of the Lessee.

**NOW, THEREFORE**, for and in consideration of the premises, and the mutual covenants herein contained, City and Developer agree as follows:

1. **Recitals and Exhibits.** The representations, covenants, and recitations set forth in the foregoing recitals 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. The provisions of the Plan, the Plan Ordinance, and the provisions of the TIF Act as amended as of and including the date of this Agreement, form the basis of this Agreement and may be used to resolve ambiguity. In the event of any conflict between the provisions of this Agreement and any other documents related to the Plan previously prepared or executed, the provisions of this Agreement shall control.

2. **Rules of Interpretation.** Unless the context clearly indicates to the contrary or unless otherwise provided herein, the following rules of interpretation shall apply to this Agreement:

A. The terms defined in this Agreement which refer to a particular agreement, instrument or document also refer to and include all renewals, extensions, modifications, amendments and restatements of such agreement, instrument or document; provided, that nothing contained in this sentence shall be construed to authorize any such renewal, extension, modification, amendment or restatement other than in accordance with **Section 41** of this Agreement.

B. The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection and exhibit references are to this Agreement unless otherwise specified. Whenever an item or items are listed after the word “including”, such listing is not intended to be a listing that excludes items not listed.

C. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neutral genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing person shall include individuals, corporations, partnerships, limited liability companies, joint ventures, associations, joint stock companies, trusts, unincorporated organizations and governments and any agency or political subdivision thereof.

D. The table of contents, captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

E. All exhibits attached hereto and identified herein are incorporated herein by reference.

F. The provisions of the Plan, a copy of which is on file with the office of the City Clerk of the City, the Plan Ordinance, such ordinances adopted by the Board of Aldermen which designate the Redevelopment Project Area, and the provisions of the TIF Act as amended as of and including the date of this Agreement, are all hereby incorporated herein by reference and made a part of this Agreement.

3. **Definitions.** Unless otherwise noted, all capitalized words or terms used in this Agreement and defined in the Plan shall have the meaning ascribed to them in the Plan. In the event of a conflict between meanings under the Plan and under this Agreement, the terms of this Agreement shall govern. In addition, thereto and in addition to words and terms defined elsewhere in this Agreement, the following words and terms shall have the meanings ascribed to them in this Section unless the context in which such words and terms are used clearly requires otherwise.

A. “**Affiliate,**” any person, entity or group of persons or entities which controls a party, which a party controls or which is under common control with a party. As used herein, the term “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise, and shall be a related entity to the Cosentino family businesses.



B. “Blighted Area,” an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations, or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use.

C. “Board of Aldermen,” the governing body of Peculiar, Missouri.

D. “CID,” the Peculiar Main Street Community Improvement District to be formed pursuant to **Section 16**.

E. “CID Act,” the Missouri Community Improvement District Act, Sections 67.1401, RSMo, *et seq.*

F. “CID Costs,” those Redevelopment Project Costs as identified on **Exhibit G**, along with the other costs specified in **Section 16.B** hereof, which may be reimbursed or funded from CID Revenue under the CID Act.

G. “CID Improvements,” the improvements within the Redevelopment Project Area which are eligible to be paid for or reimbursed with CID Revenue.

H. “CID Revenue,” that portion of the revenue generated by the CID Sales Tax that is not captured as Economic Activity Taxes.

I. “CID Revenue Account,” the separate segregated ledger account within the Special Allocation Fund into which the CID Revenue is to be recorded as deposited.

J. “CID Sales Tax” a one-half of one percent (0.5%) sales and use tax imposed by the CID on all taxable sales within the boundaries of the CID in accordance with the CID Act.

K. “City,” the City of Peculiar, Missouri.

L. “City Administrator,” the City Administrator of Peculiar, Missouri.

M. “City Treasurer,” the Deputy City Clerk of Peculiar, Missouri.

N. “Commission” or “TIF Commission,” the Tax Increment Financing Commission of Peculiar, Missouri.

O. “County,” Cass County, Missouri.

P. “County Assessor,” the assessor of Cass County, Missouri.

Q. “County Collector,” the collector of Cass County, Missouri.

R. “Developer,” Super Market Developers, Inc., a Missouri corporation, its successors and assigns.

S. “Developer Controlled Improvements,” the Private Project Improvements that Developer owns, whether solely or jointly, in whole or in part, or controls, or which are made on real property within the Redevelopment Area.

T. “Economic Activity Account,” the separate segregated ledger account within the Special Allocation Fund into which fifty percent (50%) of Economic Activity Taxes are to be recorded as deposited.

U. “Economic Activity Taxes,” or “EATs,” the total additional revenue from taxes which are imposed by the City, and other Taxing Districts and which are generated by economic activities within the Redevelopment Project Area over the amount of such taxes generated by economic activities within the respective Redevelopment Project Area in the calendar year prior to the adoption of the Ordinance designating the respective Redevelopment Project Area, while Tax Increment Financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500, RSMo, taxes levied for the purpose of public transportation pursuant to Section 94.660, RSMo, licenses, fees or special assessments. If a retail establishment relocates within one (1) year from one facility to another facility within the County and the Board of Aldermen finds that the relocation is a direct beneficiary of Tax Increment Financing, then for purposes of this definition the Economic Activity Taxes generated by the relocated retail establishment shall equal the total additional revenues from Economic Activity Taxes which are imposed by the City or other Taxing Districts over the amount of Economic Activity Taxes generated by the retail establishment in the calendar year prior to its relocation to the applicable Redevelopment Project Area.

V. “Financing Costs,” shall mean any interest under **Section 23.D** hereof, and all costs reasonably incurred by the Developer, the City or other issuer authorized by the City, or the CID in furtherance of the issuance of Private Loans or Obligations, including but not limited to interest, loan fees and points not exceeding one percent (1%) of the principal amount of the loan, loan origination fees not to exceed two percent (2%) of the principal amount of the loan, and interest payable to banks or similar financing institutions that are in the business of loaning money, plus reasonable fees and expenses of the Developer’s or City’s attorneys (including special TIF legal counsel), the Developer’s or City’s administrative fees and expenses (including planning and/or financial consultants), underwriters’ discounts and fees, the costs of printing any Obligations and any official statements relating thereto, the costs of credit enhancement, if any, capitalized interest, debt service reserves and the fees of any rating agency rating any Obligations. Any costs related to the financing of non-Reimbursable Project Costs shall not be a Financing Cost or a Reimbursable Project Cost.

W. “Land Use Approvals,” those approvals required pursuant to the City’s zoning ordinance and subdivision regulations, including but not limited to site plan approvals, which are required for the construction of the Redevelopment Project.

X. “Legal Requirements,” any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence and specifically including but not limited to all ordinances, rules and regulations of the City, such as zoning ordinances, subdivision ordinances, building codes, and property maintenance codes.

Y. “Lessee,” Cosentino Group, Inc., a Missouri corporation, or an Affiliate or Related Entity thereof.

Z. “MoDOT,” the Missouri Department of Transportation.

AA. “Ordinance,” an ordinance enacted by the Board of Aldermen.

BB. “Payment in Lieu of Taxes,” or “PILOTs,” those estimated revenues from real property in the Redevelopment Project Area, which revenues according to the Redevelopment Project or Plan are to be used for a private use, which Taxing Districts would have received had the City not adopted Tax Increment Financing, and which would result from levies made after the time of the adoption of Tax Increment Financing during the time the current equalized value of real property in a Redevelopment Project Area exceeds the total initial equalized value of real property in the same Redevelopment Project Area until the designation is terminated pursuant to subsection 2 of Section 99.850, of the TIF Act, which shall not be later than twenty three (23) years after a Redevelopment Project and Redevelopment Project Area are approved by an Ordinance of the City Council, but excluding the blind pension fund tax levied under the authority of Article III, Section 38(b) of the Missouri Constitution, and the merchant’s and manufacturer’s inventory replacement tax levied under the authority of Article X, Section 6(2) of the Missouri Constitution. Payments in Lieu of Taxes which are due and owing shall constitute a lien against the real estate of the redevelopment project from which they are derived, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in Section 88.861, RSMo.

CC. “Payment in Lieu of Taxes Account,” the separate segregated ledger account within the Special Allocation Fund into which Payments in Lieu of Taxes are to be recorded as deposited.

DD. “Plan,” the Peculiar Main Street Tax Increment Financing Redevelopment Plan, approved by the Board of Aldermen pursuant to the Plan Ordinance, and any amendments thereto.

EE. “Plan Ordinance,” Ordinance No. \_\_\_\_\_, passed by the Board of Aldermen on May 18, 2020, approving the Plan.

FF. “Prime Rate,” the prime rate reported in the “Money Rates” column or any successor column of *The Wall Street Journal*, currently defined therein as the base rate on

corporate loans posted by at least **75%** of the nation's 30 largest banks. If *The Wall Street Journal* ceases publication of the Prime Rate, then "Prime Rate" shall mean the "prime rate" or "base rate" announced by an equivalent publication that evaluates the same criteria as *The Wall Street Journal* to report such rate.

GG. "Private Loans," private loans obtained by the Developer, or its successors, assigns or transferees, from third party private lending institutions to fund Reimbursable Project Costs.

HH. "Private Project Improvements," the private improvements generally described in Exhibit C attached hereto.

II. "Project Improvements," those improvements described in Section 6 and shown on the Site Plans in Exhibit B and further described in Exhibits C and D.

JJ. "Public Project Improvements," the public improvements generally described in Exhibit D attached hereto.

KK. "Redevelopment Area," see Redevelopment Project Area.

LL. "Redevelopment Project," the redevelopment project located within the Redevelopment Area, and approved by the Board of Aldermen in furtherance of the objectives of the Plan and as more fully described in Section 5 and shown on the Site Plans in Exhibit B and further described in Exhibits C and D.

MM. "Redevelopment Project Area," the area selected for the Redevelopment Project, which is, subject to approval pursuant to the TIF Act, legally described in Exhibit A and depicted on Exhibit B. In this case, the Redevelopment Project Area and the Redevelopment Area are the same.

NN. "Redevelopment Project Cost Budget," the budget setting forth the estimated Redevelopment Project Costs, and identifying those Redevelopment Project Costs to be funded or reimbursed by TIF Revenue and CID Revenue, attached hereto as Exhibit G.

OO. "Redevelopment Project Costs," include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to the Plan or the Redevelopment Project, as applicable. Such costs include, but are not limited to, the following:

(1) Costs of studies, surveys, plans, and specifications;

(2) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services. Except for the reasonable costs incurred by the City for the administration of Sections 99.800 to 99.865, RSMo, such costs shall be allowed only as an initial expense which, to be recoverable, shall be included in the costs of the Plan or Redevelopment Project;

(3) Costs of preparing land for construction of buildings, including, but not limited to, cost of clearing, grading, filling land, constructing adequate stormwater facilities, mitigating environmental impacts, and the costs of design, engineering and construction of such buildings;

(4) Costs of landscaping, parking lot and access drive construction;

(5) Costs of utility relocation and service provision;

(6) Costs of construction of buildings and other structures and improvements;

(7) Financing Costs, including all necessary and incidental expenses related to Private Loans to finance all or any portion of Reimbursable Project Costs incurred or estimated to be incurred, including, but not limited to interest, loan fees, capitalized interest, financial advisor fees, legal fees, broker fees or discounts, original purchaser's discount, printing and other costs related to such financing. Financing Costs also includes interest payable to the Developer or an Affiliate or Related Entity of the Developer, at the rate set forth in this Agreement;

(8) All or a portion of a Taxing District's capital costs resulting from the Redevelopment Project necessarily incurred or to be incurred in furtherance of the objectives of the Plan and Redevelopment Project, to the extent the City by written agreement accepts and approves such costs;

(9) Relocation costs to the extent that the City determines that relocation costs shall be paid or are required to be paid by federal or state law; and

(10) Payments in Lieu of Taxes.

PP. "Redevelopment Project Ordinance," means the Ordinance which is approved by the Board of Aldermen and activates Tax Increment Financing with respect to the Redevelopment Project Area.

QQ. "Reimbursable Project Costs," the portion of Redevelopment Project Costs which, pursuant to the Plan and this Agreement are eligible for payment or reimbursement from either: (1) TIF Revenue, or (ii) CID Revenue, as shown on **Exhibit G** and further described in **Section 23**.

RR. "Related Entity," an entity that controls, is controlled by, or is under common control with, another entity related to the Cosentino family businesses.

SS. "Site Plans," the conceptual site plans generally depicting the Private Project Improvements and Public Project Improvements attached hereto as **Exhibit B**.

TT. "Special Allocation Fund," the fund established by City into which, as required by the TIF Act, all Payments in Lieu of Taxes and fifty percent (50%) of Economic Activity Taxes are deposited for the purpose of paying Reimbursable Project Costs and

Debt Service on Obligations incurred in the payment thereof. The Special Allocation Fund shall be divided into at least three (3) separate segregated ledger accounts: The Payments in Lieu of Taxes Account, the Economic Activity Taxes Account and the CID Revenue Account.

UU. “Tax Increment Financing,” (“TIF”) tax increment allocation financing as provided pursuant to the TIF Act.

VV. “Taxing Districts,” any political subdivision of the State of Missouri having the power to levy taxes on sales or real property or utilities within the Redevelopment Project Area.

WW. “TIF Act,” the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800, RSMo, *et seq.*, as amended.

XX. “TIF Revenue,” Payments in Lieu of Taxes, fifty percent (50%) of Economic Activity Taxes and all interest earned on funds in the Special Allocation Fund.

YY. “Total Initial Equalized Assessed Value,” that amount certified by the County Assessor as the total equalized assessed value of all taxable real property within a Redevelopment Project Area, determined by adding together the most recently ascertained equalized assessed value of each taxable lot, block, tract or parcel of real property within such Redevelopment Project Area immediately after a Redevelopment Project Ordinance approving the such Redevelopment Project Area has been approved by the Board of Aldermen.

4. Redevelopment Area. The Redevelopment Area consists of the area legally described on **Exhibit A** attached hereto.

5. Redevelopment Project Area.

A. The expansion and upgrade of the current Country Mart grocery store, located at 501 Schug Avenue, Peculiar, Missouri 64078 into a 30,000 s.f. Cosentino’s Price Chopper grocery store, or a different, but similarly branded product acceptable to the Board of Aldermen and is shown on the map attached hereto in **Exhibit B**. The Redevelopment Project Area may not be changed, modified or amended except in accordance with the TIF Act and this Agreement.

B. The parties agree that the development plans for the Cosentino’s Price Chopper grocery store will contain a pharmacy and a Cosentino’s Price chopper gas filling station, provided, however, that if at any time the Developer or Lessee determines, in their sole and absolute discretion, that the pharmacy or gas filling station is not economically feasible, then the Developer and/or Lessee may discontinue the grocery store or gas filling station.

C. Designation of Redevelopment Project Area. Tax Increment Financing with respect to the Redevelopment Project Area shall become effective only upon the approval thereof of the Redevelopment Project Ordinance.

6. Project Improvements. In accordance with the TIF Act and the terms and conditions of the Plan and this Agreement, to ameliorate or satisfy those conditions which are the basis for eligibility and designation of the Redevelopment Area as a Blighted Area and otherwise eligible as a redevelopment area under the TIF Act, Developer and City shall cause the Redevelopment Project Area and supporting areas to be redeveloped through the construction of the Project Improvements, as generally shown on the Site Plans attached hereto as **Exhibit B**, and consisting of:

A. The private improvements generally described in **Exhibit C** attached hereto (the “**Private Project Improvements**”); and

B. The public improvements generally described in **Exhibit D** attached hereto (the “**Public Project Improvements**”).

Except as otherwise provided in this Agreement, Developer shall construct or cause the construction of the Private Project Improvements and the City shall construct or cause the construction of the Public Project Improvements (the Private Project Improvements and Public Project Improvements are sometimes collectively referred to hereinafter as the “**Project Improvements**”).

7. Redevelopment Schedule.

A. It is the intention of the parties that development activities for the Redevelopment Project Area be substantially commenced and completed on or before the dates set forth in **Exhibit E**, as may be reasonably amended from time to time, attached hereto and incorporated herein by reference (the “**Redevelopment Schedule**”). Developer shall cause to be constructed all Private Project Improvements, and shall cause to be completed all other development-related activities including, but not necessarily limited to design, land preparation, environmental evaluation and remediation, construction, management, maintenance and procurement of private financing in sufficient time to comply with the Redevelopment Schedule. Changes in the development program contemplated by the Plan that require a Plan amendment under the TIF Act (as determined by City) shall be processed in accordance with the TIF Act, and changes in the development program contemplated by the Plan that do not require a statutorily mandated Plan amendment shall be made by agreement of the parties hereto. The parties hereto recognize and agree that market and other conditions may affect the Redevelopment Schedule. Therefore, the Redevelopment Schedule is subject to change and/or modification, with the written approval of City, which shall not be unreasonably conditioned, delayed, or withheld. The parties further acknowledge and agree that the Private Project Improvements will be substantially complete in accordance with the Redevelopment Schedule such that the portion of the Redevelopment Project associated with the Private Project Improvements will be open for business in accordance with the Redevelopment Schedule; provided however that the Developer reserves the right to make improvements within the Redevelopment Area as set out in the Project Budget after the portion of the Redevelopment Project associated with the Private Project Improvements is open for business and may certify such costs as Reimbursable Project Costs in accordance with **Section 23** without the necessity of amending the Project Schedule.

B. Any amendment to the Plan that is approved by City as provided herein, which amendment contains changes to the Redevelopment Schedule in the Plan, shall immediately operate and be deemed to be an amendment to the approved Redevelopment Schedule and the provisions of this Agreement. In order to implement the Redevelopment Schedule, City will endeavor to facilitate the timely passage of the Redevelopment Project Ordinance referred to in Section 5.C hereof. Developer shall render such reasonable aid and assistance as requested by City to insure favorable consideration of any such Redevelopment Project Ordinance by the Board of Aldermen. City shall endeavor to expedite the approval of the Plan and the Land Use Approvals; provided, however, that nothing herein shall constitute or be deemed to be a waiver by City or the Board of Aldermen of its legislative authority. If as a result of solely the Developer's failure to timely complete its obligations under this Contract and provided that the City has fulfilled all of the terms of this Contract and provided that the delay has not been caused by event not otherwise in control of the Developer, City may require Developer to appear before the Board of Aldermen to show cause why this Contract and the Plan shall not be terminated in accordance with Section 38.

8. Design and Construction of Public Project Improvements. City shall cause the Public Project Improvements to be designed and constructed as follows:

A. Legal Requirements. The Public Project Improvements shall be constructed in accordance with the Plan, the Site Plans, the Land Use Approvals, such Public Project Plans, as defined below, and specifications as are approved by City and MoDOT, as applicable, in writing, and in accordance with all Legal Requirements.

B. Timing. Prior to the design, engineering and construction of the Public Project Improvements, City shall develop a schedule for the design, engineering and construction of the Public Project Improvements (the "Public Improvement Schedule") that is generally consistent with the timing schedule set forth on Exhibit E. Once the Public Improvement Schedule is developed, City and Developer shall mutually approve and adopt such changes to the Redevelopment Schedule as required to take into account the Public Improvement Schedule. Such changes to the Redevelopment Schedule may, at the option of the City Administrator or his designee, be approved administratively. If the City Administrator or his designee elects to approve such changes administratively, no action of the Board of Aldermen shall be required to approve such changes to the Redevelopment Schedule.

C. Design Phase. City shall be responsible for the design of the Public Project Improvements.

D. Right of Way Acquisition.

(1) City shall be responsible for acquiring, or negotiating for the donation of, all right of way or easements that are needed to construct the Public Project Improvements, including all necessary temporary construction easements. City shall prepare the documents necessary for acquisition of right of way or easements.



(2) If the City is unable to, after good faith negotiations, to acquire some or all of the right of way or easements necessary for the Public Project Improvements (the “**Necessary Right of Way**”), City may take whatever action is reasonable ) for City to acquire any of the Necessary Right of Way. City will enter into good faith negotiations and, at its option, to elect to exercise its power of eminent domain to acquire any or all of such Necessary Right of Way. In the event that the City must acquire any of the Necessary Right of Way, such acquisition will be undertaken pursuant to the requirements of **Section 13**.

E. Utility Relocation. The City shall, in good faith, use reasonable efforts to cause the applicable utility companies to relocate, at the utility company’s expense, any existing utilities that are required to be relocated as part of the construction of the Project Improvements. If, after using reasonable efforts, the City is unable to cause the utility companies to relocate existing utilities at the utility company’s expense, then City agrees that the costs associated with relocating any existing utilities as a result of construction of the Project Improvements, which are not paid by a utility company, will be paid by the City; such costs shall be a Reimbursable Project Cost to the extent such costs are identified in the Redevelopment Project Cost Budget as eligible for reimbursement from TIF Revenue or City Funds.

9. Design Criteria and Review Procedures for Private Project Improvements.

A. Developer shall comply with and follow, or cause to be complied with and followed, all controls and design criteria relating to exterior improvements as shall be, from time to time, established as a part of the Plan, this Agreement, and the Land Use Approvals in order to create an integrated, unified design. The Site Plans attached hereto do not relieve Developer of its obligation to comply with the City’s Land Use Approvals, including the creation of development site plans subject to the review, revisions and approval by the City, in accordance with its normal site plan approval process, including meeting the requirements outlined in the City’s zoning ordinances.

B. Construction plans for the Private Project Improvements shall generally conform to the Site Plans. However, the Developer reserves the right to deviate from the Site Plan, as long as such deviations are in accordance with subsection A above.

10. Control of Project.

A. Construction. Except as otherwise provided in this Agreement, Developer shall have complete and exclusive control over construction of the Developer Controlled Improvements, subject, however, to all Legal Requirements. As to all parts of the Private Project Improvements, during the period they are being constructed by Developer, or its assigns, Developer, or its assigns, hereby grants to City, its agents and employees the right to enter at reasonable times for the purpose of inspecting the Private Project Improvements, but the City shall use best efforts to avoid disrupting the operations of tenants during business hours.

B. Dedication of Right of Way. Developer shall, at no cost to the City, use its best faith efforts to cause to be dedicated all necessary right of way to the City and convey to the City all the real property necessary for construction of the Public Project Improvements.

C. Maintenance and Repair. Developer, at no cost to the City, at all times shall (1) maintain and operate, or caused to be maintained and operated, all Developer Controlled Improvements in a manner similar to other similarly aged and similarly situated development projects in the boundary of the City of Peculiar and (2) timely make all necessary repairs to and replacements and restorations of all parts of the Developer Controlled Improvements, (3) keep the Developer Controlled Improvements in good condition, repair and appearance, and (4) maintain casualty insurance on the Developer Controlled Improvements in accordance with the insurance coverage that has been required and approved by the Developer's lender for Private Loans. Developer may form a property association to fulfill these obligations. Subject to, and in accordance with, the requirements of Sections 28, 29, and 33, unless Developer has agreed to fulfill such obligations, Developer shall use its best efforts to contractually obligate any owner or tenant ("User") of the Private Project Improvements to comply with the provisions of this Section 10.C for each of their respective portions of the Private Project Improvements. As provided herein, Developer shall enforce the provisions of this Section 10.C in a commercially reasonable manner, including, where commercially reasonable, using best efforts to ensure that every lease, sales contract or other contract regarding the Property and entered into following the effective date of this Agreement indicates the responsibility of the Lessee or User to fulfill Section 10.

11. Non-Permitted Uses. Developer shall take such action as is from time to time necessary to permit only such uses within the Redevelopment Area which conform to and are permitted by the Plan, the Site Plans and this Agreement. In accordance with Section 27, property within the Redevelopment Area may not be used for the purposes set forth in Exhibit F attached hereto, except by approval of the Mayor, who, from time to time may, at his or her discretion, seek the advice or consent of the Board of Aldermen for such approval. Developer may appeal an adverse determination by the Mayor to the Board of Aldermen.

12. Certificate of Completion and Compliance.

A. Upon the completion of construction of the Redevelopment Project, Developer shall submit a report certifying that the Private Project Improvements contained therein have been completed in substantial accordance with the Plan, this Agreement, and the Site Plans and that it is in substantial compliance with all other provisions of this Agreement. Developer shall, as part of the report, submit a certificate, certified by Developer, certifying that to the best of Developer's actual knowledge, the information contained therein is accurate, setting forth on an aggregate basis: (1) the total cost of completing the applicable Private Project Improvements; (2) Redevelopment Project Costs incurred which are eligible for reimbursement from TIF Revenue and from non-captured CID Revenue pursuant to this Agreement or which have been paid for or are to be funded or reimbursed; and (3) to the extent it is relevant to the reimbursement of interest, the actual private equity and debt used to complete the applicable Private Project Improvements.

B. City may conduct an investigation, and if City determines that the Private Project Improvements have been completed in substantial accordance with the Plan, this Agreement, and the Site Plans as evidenced by a certificate of occupancy where appropriate and other applicable Legal Requirements, and that as of the date of Developer's certification request, all of Developer's duties pursuant to this Agreement have been performed, then the City shall issue a Certificate of Completion and Compliance for the Private Project Improvements. If City determines that the Private Project Improvements which are the subject of an investigation or review under this **Section 12.B** have not been completed in substantial accordance with the Plan, this Agreement or the Site Plans, or that Redevelopment Project Costs have not been incurred as certified, or that Developer is not in substantial compliance with the terms of this Agreement, then the City shall not issue a Certificate of Completion and Compliance and shall specify in writing to Developer the reason(s) for withholding such certification. Upon request of Developer, City shall hold a hearing at which Developer may present new and/or additional evidence.

(1) The issuance of a Certificate of Completion and Compliance for the Private Project Improvements by City shall be a conclusive determination of the satisfaction of the covenants in this Agreement with respect to the obligations of Developer to timely complete the Private Project Improvements within the Redevelopment Project, but shall not prevent City from future action in the event of any subsequent default by Developer in the performance of any of its other obligations under this Agreement.

(2) The certificate issued by the City shall contain a description of the real property affected thereby and shall be in such form as will enable it to be accepted for recording in the Office of the Recorder of Deeds for Cass County, Missouri.

13. **Lease of Property and Relocation of Businesses.**

A. **Lease.** Lessee has the right to lease the Property as of the Effective Date of this Agreement.

B. **Relocation.** The Developer shall relocate or cause to be relocated those occupants or businesses displaced from any portion of the Property acquired by the Developer in accordance with the Relocation Plan, except insofar as otherwise agreed in writing by such displaced occupant or business and approved in writing by the Developer; it being understood and agreed that any displaced occupant or business may waive his/her/their rights to statutory and other relocation benefits under the Relocation Plan or otherwise. Developer will use best faith efforts to include in Lessee's lease with the owner of the property within the Redevelopment Area a provision whereby property owner waives any rights to receive relocation benefits.

C. **Non-delegation of Eminent Domain Authority.** Nothing in this **Section 13** shall be construed to be a delegation of condemnation authority to the Developer or any other entity except for the City as provided by ordinance of the Board of Aldermen. The

decision whether to exercise the authority of eminent domain for all or any portion of the Redevelopment Area shall remain the sole legislative decision of Board of Aldermen.

14. Actions Contesting the Plan. At any time during the effective period of this Agreement, if a third party brings an action (or raises a defense to an action filed by the City in accordance with **Section 13**) against the City or the City's officials, agents, employees or representatives contesting the validity or legality of the Redevelopment Area, the Redevelopment Project, the Plan, the Plan Ordinance and the findings therein, any Ordinance approving the Redevelopment Project, the Obligations, or the Ordinance approving this Agreement, the Developer shall assume the defense of such claim or action with counsel jointly determined by the Developer and the City, which shall include, but not necessarily be limited to, the City's special counsel for economic development matters, and pay the costs and attorney's fees of such counsel. The Developer may not settle or compromise any claim or action for which the Developer has assumed the defense without the prior approval of the City. However, if the City does not approve a settlement or compromise which the Developer would agree to, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action. The Parties expressly agree that so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City and the Developer in any such proceeding; provided, the Developer and the agreed-to counsel shall consult with the City throughout the course of any such action and the Developer shall pay all reasonable and necessary costs incurred by the City in connection with such action. All cost of any such defense, whether incurred by the City or the Developer, shall be deemed to be Reimbursable Project Costs and reimbursable from any amounts in the Special Allocation Fund or from the proceeds of Obligations, and such reimbursable litigation costs shall be in addition to the Reimbursable Project Costs set forth in the Redevelopment Project Cost Budget established in **Exhibit G**.

15. Funding Sources and Uses of Funds.

A. Subject to Developer rights of reimbursement pursuant to this Agreement, Developer shall construct or cause to be constructed the Private Project Improvements with private funds (the "**Private Funds**"). Private Funds will be derived from a combination of Developer's equity, equity investment provided by third parties, and debt incurred by Developer or third parties.

B. Subject to City rights of reimbursement pursuant to this Agreement, City shall acquire the necessary right of way and permanent and temporary easements and shall construct or cause to be constructed the Public Project Improvements with City funds (the "**City Funds**"). City Funds will be derived from a combination of the City's portion of the TIF Revenues, legally authorized non-captured TIF Revenues generated within the Redevelopment Area, other legally authorized revenue sources and may be set off in whole or in part by a MoDOT cost share agreement, grant, or other legally permissible sources.

16. Community Improvement District.

A. Petition; CID Sales Tax. The Petition for Establishment of the Peculiar Main Street Community Improvement District was filed with the City on March 31, 2020

(the “**CID Petition**”). The CID Petition requested the creation of a CID with boundaries coterminous with the Redevelopment Area and contemplated the imposition of a CID sales tax of up to one half percent (.5%).

B. CID Contract with City. After the CID has been formed Developer shall use good faith efforts to cause the CID board of directors to immediately enter into a contract with City in a form reasonably acceptable to City and the CID with regard to funding of the CID Costs (“**CID Contract**”).

(1) The CID Contract shall include, without limitation, provisions granting City (1) the right to review and reasonably approve the CID’s annual budget prior to adoption thereof by the CID; (2) the right to collect, on behalf of the CID, the CID Revenue, and to collect a fee therefore, not to exceed one half of one percent (0.5%) of the collected CID Revenue; and (3) the right to certify CID Costs incurred by Developer as eligible for funding from CID Revenue in a manner similar to the certification of Reimbursable Project Costs set forth in Section 23; and (4) such other provisions as City shall reasonably determine to be necessary for the CID’s role in the implementation and funding of the Redevelopment Plan.

(2) The CID Contract shall further provide that the CID shall pledge that portion of the CID Sales Tax revenue not captured as TIF Revenue to the payment of Reimbursable Project Costs, subject to the limitations of the CID Act, and less operating and administrative expenses of the CID and any costs reasonably incurred by Developer or City in forming the CID. The parties acknowledge that only a portion of the Reimbursable Project Costs will qualify as CID-eligible expenses. The CID Revenue shall be used to pay for or reimburse the CID Costs.

(3) It is the intent of all parties that the provisions of the CID Petition, use of CID Revenue, and provisions of the CID Contract be designed and implemented with the purpose that CID Revenue will be used to the maximum extent possible to fund CID Costs so as to allow for the termination of the Plan and this Agreement at the earliest possible date.

(4) The CID Contract shall obligate the CID to levy and maintain the CID Sales Tax until all CID-eligible Reimbursable Project Costs are repaid with CID Revenue and/or TIF Revenue.

C. Imposition of CID Sales Tax. Developer shall use good faith efforts to cause the CID board of directors, prior to the start of construction of those Project Improvements identified on the Redevelopment Project Budget whose costs are eligible for reimbursement from CID Revenue, to impose the CID Sales Tax to fund CID Costs.

D. Developer shall not (1) contest the imposition of the CID Sales Tax or (2) advocate or support for the early termination of the CID Sales Tax. In accordance with Sections 29 and 33, Developer shall either (i) make good faith efforts to cause Lessee to include in any instrument in which Lessee leases the property within the Redevelopment Area or Lessee subleases all or any portion of any parcel in the Redevelopment Area

language whereby the transferee-accepts and agrees to comply with the above covenants or (ii) make good faith efforts to cause Lessee to record a document of record against the property Lessee leases in the Redevelopment Area binding Lessee's landlord or successors to comply with the above covenants, which document shall be recorded prior to transferring ownership of any parcel in the Redevelopment Area. Developer shall also use its best faith efforts to include in Lessee's lease with the owner of the property in the Redevelopment Area a provision which obligates the property owner not to (1) contest the imposition of the CID Sales Tax or (2) advocate or support for the early termination of the CID Sales Tax.

E. City shall take all reasonable efforts to cooperate with Developer in Developer's obligation to establish the CID, including considering in good faith and due course any necessary City approvals related to the CID formation, provided that any approval by City of a petition for the establishment of the CID shall be predicated and conditioned upon the petition's conformance to and compliance with the terms of this Agreement, the Plan and Legal Requirements.

F. The term of the CID's existence shall not exceed the time necessary to reimburse the CID-eligible portion of Developer's Reimbursable Project Costs. The CID Petition requests that the CID terminate upon the earlier of reimbursement of the portion of Developer's Reimbursable Project Costs that are CID-eligible, or thirty (30) years from the date of the ordinance approving the creation of the CID.

17. Conditions Precedent to Developer's Duties. Developer's obligations hereunder are expressly conditioned upon the occurrence of each of the following events:

- A. Acquisition by Lessee of a leasehold interest in all real property within the boundaries of the Redevelopment Area as provided herein.
- B. Approval of the Plan.
- C. Execution of this Agreement by the City and the Developer.
- D. The imposition of the CID Sales Tax.
- E. Execution of the CID Contract by the CID and City.
- F. City approval of the Land Use Approvals.

18. Conditions Precedent to City's Duties. City's obligations hereunder are expressly conditioned upon the occurrence of each of the following events:

- A. Lease by Lessee of all real property within the boundaries of the Redevelopment Area as provided herein.
- B. Approval of the Plan.
- C. Execution of this Agreement by the City and the Developer.

- D. The imposition of the CID Sales Tax.
- E. The execution of the CID Contract by the CID and City.
- F. City approval of the Land Use Approvals.

19. Payments in Lieu of Taxes.

A. Pursuant to the provisions of the Plan and the TIF Act, when Tax Increment Financing is established by one or more Redevelopment Project Ordinances within the Redevelopment Project Area, the real property located therein is subject to assessment for annual Payments in Lieu of Taxes. Payments in Lieu of Taxes shall be due November 30 of each year in which said amount is required to be paid and will be considered delinquent if not paid by December 31 of each such year or as otherwise determined by applicable law. The obligation to make said Payments in Lieu of Taxes shall be a covenant running with the land and shall create a lien in favor of City on each such tax parcel as constituted from time to time and shall be enforceable against the owner(s) of real property in the Redevelopment Project Area during the period each owns such real property.

B. Failure to pay Payments in Lieu of Taxes as to any property in any of the Redevelopment Project Area shall constitute a default by the owner of such property subject to the provisions of **Section 38**, and shall entitle City, the County Collector or any other government official or body charged with the collection of any such sums (any one or more of such persons hereinafter individually or collectively referred to as the “**Collection Commission**”) to proceed against such property and/or the owner thereof as in other delinquent property tax cases or otherwise as permitted at law or in equity, and, if applicable, such failure shall entitle the Collection Commission to seek all other legal and equitable remedies it may have to ensure the timely payment of all such sums or of the principal of and interest on any outstanding Obligations secured by such payments; provided, however, that the failure of any property in any of the Redevelopment Project Area to yield sufficient Payments in Lieu of Taxes because the increase in the current equalized assessed value of such property is or was not as great as expected, shall not constitute a breach or default. In the event the Collection Commission seeks the remedies authorized in this Section, the costs incurred shall be deemed Administrative Costs of the City reimbursable pursuant to **Section 46.B**. Promptly upon the designation and approval of the Redevelopment Project Ordinance, City shall use all reasonable and diligent efforts to promptly notify the County Assessor, County Collector, the City Treasurer and all other appropriate officials and persons and seek to assess the property therein as described in the TIF Act and fully collect the Payments in Lieu of Taxes and implement reimbursement of Reimbursable Project Costs as provided in this Agreement and in the Plan.

C. Notwithstanding anything to the contrary, herein, the lien on property within any of the Redevelopment Project Area shall be deemed (1) released as to any public street or other public way included within any plat proposed by Developer, effective upon the passage of an Ordinance by City approving the same, and (2) subordinated to the lot lines, utility easements and other similar matters established by any such plat, effective

upon the passage of Ordinance by City as aforesaid, and to any easement or like interests granted to City or any public utility for public facilities or utilities or connection(s) thereto.

D. Section 99.848, RSMo., provides that an ambulance district, fire protection district, or county providing emergency 911 services funded by a property tax is to receive a reimbursement of no less than 50%, but up to 100% of its PILOTs capture. The City and the West Peculiar Fire Protection District entered into an agreement on March 10, 2020 to specify that Fire Protection District would set its PILOTs reimbursement amount at 50% for the duration of the Plan.

E. In accordance with the Plan, each of the property taxing jurisdictions shall receive refund of the captured PILOTs revenues in the amount of 30% of such PILOTs revenues each year. The City's administrative staff shall annually submit a request to the Board of Aldermen a request to dedicate the City's 30% PILOTs surplus to reimburse the Public Project Improvements.

20. Economic Activity Taxes. In addition to the Payments in Lieu of Taxes described herein, (i) pursuant to Section 99.845 of the TIF Act, fifty percent (50%) of Economic Activity Taxes shall be allocated to, and paid by the local political subdivision collecting officer to the City Treasurer or other designated financial officer of City, who shall deposit such funds in the Economic Activity Account within the Special Allocation Fund. Following the approval of the Redevelopment Project Ordinance, for as long as the Redevelopment Project Area is subject to Tax Increment Financing, Economic Activity Taxes shall be determined in accordance with the following procedures (subject to the provisions of Section 99.845 of the TIF Act):

A. Documentation of Economic Activity Taxes. Developer, its successors and assigns, shall use good faith efforts to negotiate to contractually obligate any tenant or business to provide City with documentation of sales tax receipts for each business in any of the Redevelopment Project Area, indicating the type and amount of the Economic Activity Taxes paid by each such tenant or business located within the Redevelopment Project Area. Developer shall use good faith efforts to ensure Lessee includes the provisions as specified in **Section 28** in all lease documents with tenants located within the Redevelopment Project Area requiring said sales tax information to be provided to City. Unless such requirement is waived by City, a similar provision shall be included in all sales contracts with purchasers of property located in the Redevelopment Project Area requiring said sales tax information to be provided to City. Developer agrees to cooperate with the City, at no cost or expense to Developer, in the City's enforcement of said provisions to the maximum extent permitted by law, and Developer hereby agrees that it will use commercially reasonable efforts to ensure that each such lease or sales contract shall provide that City is an intended third party beneficiary of such provisions and has a separate and independent right to enforce such provisions directly against any such tenant or purchaser.

B. Certification by City. City, following reasonable research and investigation, using independent consultants, accountants and counsel when appropriate at City's expense, but subject to reimbursement as a Reimbursable Project Cost as an administrative cost in accordance with **Section 46**, shall certify the nature and amount of Economic



Activity Taxes payable by each Taxing District from which Economic Activity Taxes are due, or as otherwise required by the procedures and requirements of the Taxing District from time to time established.

C. Presentation to Taxing Districts. The City shall take responsibility for collecting Economic Activity Taxes payable by each taxing district using its normal procedures.

D. Net New Sales Calculation For Relocations. If an existing retail establishment within Cass County relocates within one year from such County facility to a facility within the Redevelopment Project Area and the Board of Aldermen determines by Ordinance that the retail establishment is a direct beneficiary of Tax Increment Financing, then in accordance with the provisions of the TIF Act, the Economic Activity Taxes generated by the relocated retail establishment shall equal the amount by which the total additional revenues from Economic Activity Taxes which are imposed by the City and other Taxing Districts exceeds the amount of Economic Activity Taxes generated by the retail establishment in the calendar year prior to its relocation to any of the Redevelopment Project Area.

21. Special Allocation Fund. The City Treasurer shall establish and maintain the Special Allocation Fund which shall contain at least three (3) separate segregated ledger accounts. Payments in Lieu of Taxes shall be deposited into the Special Allocation Fund and recorded into the Payment in Lieu of Taxes Account within the Special Allocation Fund. Fifty percent (50%) of Economic Activity Taxes shall be deposited into the Special Allocation Fund and recorded into the Economic Activity Account. CID Revenue shall be deposited into the Special Allocation Fund and recorded into the CID Account. TIF Revenue and CID Revenue so deposited and any interest earned on such deposits will be used for the payment of Reimbursable Project Costs in accordance with Legal Requirements.

22. Disbursements from Special Allocation Fund. Disbursements from the Special Allocation Fund, to the extent available, will be made in the following manner and order of preference:

A. Payment of Administrative Costs incurred by the City as described in **Section 46.**

B. Reimburse West Peculiar Fire Protection District for 50% of PILOTs revenues generated by the district's ad valorem tax within the Redevelopment Area.

C. Reimburse property taxing jurisdictions except for the West Peculiar Fire Protection District, for 30% of PILOTs revenues generated by such taxing jurisdiction's ad valorem tax within the Redevelopment Area.

D. Payment of Reimbursable Project Costs which have been certified by the City in accordance with the conditions and restrictions set forth in this Agreement, with 76% of such reimbursement for Private Project Improvement costs and 24% for Public Project Improvement costs, plus applicable Financing Costs.

23. Reimbursable Project Cost Certification.

A. Request for Certification. Attached to this Agreement as **Exhibit G** is a list of Developer Reimbursable Project Costs that are reimbursable from TIF Revenue and/or CID Revenue. The City, the Developer, and those successors and assigns of Developer that have been specifically assigned rights to TIF Revenue and/or CID Revenue under this Agreement pursuant to an Assignment Agreement in accordance with **Section 33** shall have the right to submit requests for certification for Reimbursable Project Costs under the line items and within the budget amounts identified on **Exhibit G** (the “**Reimbursable Cost Categories**”). Reimbursable Project Costs incurred within the Reimbursable Cost Categories are herein sometimes referred to as “**Reimbursable Project Costs**”.

B. Developer Reimbursable Project Costs. Upon Developer’s presentation to City of an application for certification of Reimbursable Project Costs which details Reimbursable Project Costs paid in accordance with this Agreement and the Plan, together with such supporting documentation (including copies of invoices, canceled checks, receipts, lien waivers, and such other supporting documentation as City shall reasonably require) as City shall reasonably determine to be necessary in a form provided by the City (the “**Certification Application**”), City shall review, verify and confirm the information included in the Certification Application.

(1) The Plan estimates that Developer Reimbursable Project Costs will be thirty-three percent (33%) of the total actual costs paid by the Developer for Private Project Improvements (\$1.5M of \$4.5M); thus the total aggregate amount of Reimbursable Project Costs shall not exceed One Million Five Hundred-Thousand Dollars (\$1,500,000) (the “**Reimbursement Cap**”), except as provided in **Section 26**. Financing Costs shall also be reimbursable as Reimbursable Project Costs but shall not be included in the Reimbursement Cap. In no event shall Third Parties be entitled to reimbursement unless such reimbursement is assigned pursuant to this Agreement.

(2) The Certification Application shall: (1) separately identify each item of Reimbursable Project Cost by a specific line item category detailed in the Redevelopment Project Cost Budget; (2) aggregate all costs in the Certification Application by reimbursable line item category as set forth in the Redevelopment Project Cost Budget; (3) include a report setting forth the total amount, by reimbursable line item category from the Redevelopment Project Cost Budget of all Reimbursable Project Costs set forth in the then-current Certification Application and all prior Certification Applications approved by City or for which approval is pending; and (4) include a report setting forth the Developer’s estimate of the approximate percentage of work, by reimbursable line item category from the Redevelopment Project Cost Budget completed as of the date of the current Certification Application.

(3) If City determines that: (i) the Certification Application accurately reflects Reimbursable Project Costs paid in accordance with this Agreement and the Plan; and (ii) the Reimbursable Project Costs for which certification is requested

is in accordance with the Redevelopment Project Cost Budget, the City shall approve the Certification Application and issue a draw certificate (the “Draw Certificate”).

(4) If City, pursuant to its review of such Certification Application and supporting documentation, determines that any portion of the request for reimbursement should not be approved, it shall promptly state in writing the reasons for such disapproval to Developer.

(5) The City shall issue the Draw Certificate, or the written notice to Developer of the reasons for disapproval of Developer’s Certification Application, within sixty (60) days after Developer submits the Certification Application. Any such disapproval of Developer’s request may be appealed by Developer to the Board of Aldermen, which shall upon Developer’s request hold a hearing at which Developer may present new and/or additional evidence.

C. Administrative Approval. At the option of the City Administrator or his designee, each Certification Application for Developer Reimbursable Project Costs may be approved administratively, and if the City Administrator or his designee elects to approve such Certification Application administratively, no action of the Board of Aldermen shall be required to approve such Certification Application.

D. Payment of Interest Expenses. The Developer is eligible to be reimbursed for interest incurred on the principal amount of certified Reimbursable Project Costs until reimbursed, which will not compound, at the Prime Rate plus 1%, unless the actual Financing Costs (including interest) incurred are less than the Prime Rate plus 1%, in which case the Applicant will be reimbursed the actual Financing Costs incurred and certified.

E. Reallocation of Cost Savings. Developer shall, in each Certification Application, identify the specific line item assigned within the Redevelopment Project Cost Budget as to each Reimbursable Project Cost for which certification is requested. If, after the issuance of a Certificate of Completion and Compliance for the Redevelopment Project, or portion thereof, there have been cost savings in the amount expended with respect to any specific Developer Reimbursable Cost Category, then any such excess reimbursable amounts shall be allocated to a separate category (the “**Cost Savings Category**”). The amounts allocated to the Cost Savings Category may then be utilized to reimburse the Developer for or fund cost overruns for any Developer Reimbursable Cost Category that have not been funded or reimbursed from funds within the Special Allocation Fund. Developer shall be entitled to transfer amounts between Developer Reimbursable Cost Categories, including in and between both the CID Reimbursable and TIF Reimbursable columns of the Redevelopment Project Cost Budget so long as Developer does not (a) exceed the reimbursement caps set forth in **Section 23.B(1)** hereof; (b) transfer to line items that are not approved as Reimbursable Project Costs; or (c) transfer to line items designated as contingency or for developer’s fee.

F. Amendments Due to Cost Overruns. The parties acknowledge that the Redevelopment Project Costs set forth in **Exhibit G** are estimates. In the event that actual

costs exceed these estimates, Developer may request approval of the Board of Aldermen to increase the aggregate amount of Reimbursable Project Costs to mitigate the cost increase. Any such request to the Board of Aldermen by the Developer shall explain with supporting documentation such increase in the aggregate amount of the Developer's Redevelopment Project Costs and identify the amount of additional cost reimbursement the Developer would require to keep the respective shares of Redevelopment Project Costs of the Developer and City the same as at the time of the City's adoption of the Plan Ordinance. Any request to increase the TIF Reimbursable Expenses column by an amount that results in a change in the nature of the Redevelopment Projects shall require amendment of the Plan according to the procedures established in the TIF Act, including a hearing by the TIF Commission. At the time the Board of Aldermen considers a request for an increase in the TIF Reimbursable Expenses column, the Board of Aldermen may separately consider reimbursement of Financing Costs associated with such request.

24. Payment of Project Costs - "As Collected" Basis; Bonds.

A. The Parties anticipate that the Developer be reimbursed on an "as collected" basis and have Reimbursable Project Costs reimbursed from the Special Allocation Fund on such an "as collected" basis. Developer shall present to City a Draw Certificate for payment by City, which Draw Certificate shall seek repayment of Developer Reimbursable Project Costs that have been previously certified by City pursuant to a Certification Application. Disbursement to Developer of sufficient proceeds from the Special Allocation Fund, to the extent such funds are available in the Special Allocation Fund, to pay on the Draw Certificate shall be made within ten (10) business days after the Draw Certificate is submitted; provided, however, that the Developer shall allow five (5) business days grace period prior to pursuing any action to enforce a disbursement. Any payments made on an "as collected" basis shall be payable in accordance with the payment priority set forth in **Section 22**. The City shall not distribute proceeds from the Special Allocation Fund beyond the limits set forth in **Section 23.B(1)** hereof.

B. The Developer may, from time to time, request that the City issue bonds, and the decision to issue bonds shall be in the sole discretion of the City. The Developer will cooperate with the professionals engaged by the City to facilitate the issuance of the bonds, including entering into continuing disclosure undertakings with respect to the bonds. If bonds are issued pursuant to this Section, the net proceeds from the sale of the bonds shall be used to reimburse the Developer for Reimbursable Project Costs for which a Draw Certificate has been issued.

25. Full Assessment of Redevelopment Area. After all Reimbursable Project Costs have been paid, and the Developer has been reimbursed for all funds expended upon Reimbursable Project Costs, but not later than twenty-three (23) years from the last adoption of a Redevelopment Project Ordinance, City shall adopt an Ordinance dissolving the Special Allocation Fund and terminating the designation of the Redevelopment Area as a redevelopment area under the TIF Act (the "**Termination Ordinance**"). From that date forward, all property in the Redevelopment Area shall be subject to assessments and payment of all ad valorem taxes, including, but not limited to, City, State, and County taxes, based on the full true value of the real property and the standard assessment ratio then in use for similar property by the County Assessor. After the adoption of

the Termination Ordinance, the Redevelopment Area shall be owned and operated by the owner(s) thereof free from the conditions, restrictions and provisions of the TIF Act, of any rules or regulations adopted pursuant thereto, of the Plan Ordinance, of the Plan, and of this Agreement, except as otherwise set forth herein or therein.

26. Reimbursement Adjustment. The purpose of affording public assistance to the implementation of the Plan is to accomplish the stated public purposes and not to subsidize an otherwise economically viable development project. While it has been determined that the Plan would not be undertaken but for the public assistance being provided, the parties recognize that the incentives provided through the Plan were based in part on the Developer's proposed investment in the community. Therefore, in order to ensure that the public assistance being provided does not result in an unwarranted subsidy, but also recognizing that the figures were derived from early project cost estimations, the Reimbursement Cap shall be adjusted to equal thirty-three percent (33%) of the Developer's total actual costs paid for Private Project Improvements. For example, if Developer's total actual costs paid decrease to \$4,275,000, then the Reimbursement Cap would decrease to \$1,425,000. Likewise, if Developer's total actual costs paid increase to \$4,725,000, then the Reimbursement Cap would increase to \$1,575,000. The Parties acknowledge that certain changes to the Plan will require an amendment to the Plan in accordance with Missouri law.

27. Business Occupant Approvals. Lessee shall have complete and exclusive control over the sub-leasing of property within the Redevelopment Area including, without limitation, the fixing of rentals and the selection or rejection of tenants; provided:

A. Lessee shall not lease property within the Redevelopment Area to businesses who propose to use such property for any of the non-permitted purposes set forth in **Section 11** and **Exhibit F** attached hereto, except by approval of the Board of Aldermen.

B. Without the approval of the City, the Lessee shall not cause or allow the relocation of a business to any Pad Site located within the Redevelopment Project Area, which business is then open and operating in the City and then ceases to operate the existing facility within eighteen (18) months after the opening of the new facility on a Pad Site within the Redevelopment Project Area.

28. Lease of Project Property. Lessee, or any third party, may sublease real property within the Redevelopment Area. Unless the Board of Aldermen waives this requirement as to a particular tenant, Developer shall make a good faith effort to ensure Lessee inserts in any such sublease, or include a provision in the "Declaration of Restrictive Covenants" (as defined in **Section 29** of this Agreement) requiring any third party to insert, the following language (or similar language) and, if not included in the Declaration of Restrictive Covenants, shall have such Lessee sublease signed by the sublessee indicating acknowledgment and agreement to the following provision:

**Economic Activity Taxes and Sales Taxes:** Tenant acknowledges that the Leased Premises are a part of a TIF redevelopment area in Peculiar, Missouri (the "City") and that certain taxes generated by

Tenant's economic activities, including sales taxes and utility taxes will be applied in payment of certain costs related to the development. In addition, Tenant acknowledges that the Leased Premises is located within the boundaries of a Community Improvement District ("CID") which will have the power to impose a sales tax on any retail sales generated within Tenant's Premises. Tenant shall forward to the City Finance Department copies of Tenant's State of Missouri sales tax returns for its sales within the Leased Premises when and as they are filed with the Missouri Department of Revenue, quarterly copies of all utility bills paid in relation to the Leased Premises identifying the amount of taxes paid on such utilities, and, upon request, shall provide such other reports and returns regarding other state or local taxes generated by Tenant's economic activities upon the Leased Premises as the City shall require, all in the format prescribed by the City.

Tenant represents and warrants that its business is not currently located in the City, or if it is located within the City, for eighteen months after locating within the Redevelopment Area, such other business location within the City shall not close. Tenant acknowledges that if Tenant's current business within the City closes within eighteen months after locating within the Redevelopment Area, this Lease shall become ineffective unless the Board of Aldermen approves this Lease. Tenant acknowledges that the City is a third-party beneficiary of the obligations in this Section, and that the City may enforce these obligations in any manner provided by law.

If such language is not included in the Declaration of Restrictive Covenants, failure of Lessee to require that such restrictions be placed in any such sublease shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Redevelopment Area. The City shall comply with all applicable state laws limiting disclosure of sales tax information related to individual businesses provided to the City as documentation of Economic Activity Taxes. The City's access and use of such information shall be limited to only that which is necessary to administer the TIF Revenue and CID Revenue. If the Developer purchases the property during the term of this Agreement, the terms of this Section shall apply to any lease of the subject property by the Developer to the Developer's tenant.

29. Disposition of Project Property.

A. Restriction on Transfer to Tax-Exempt Entities. During the term of this Agreement (the "**Restricted Period**"), no transfer or other conveyance of any real property within the Redevelopment Area may be made to an entity that claims exemption, or is exempt, from real property taxes for all or part of the real property in the Redevelopment Area (a "**Restricted Entity**") without the prior written approval of the City. In the event that the Lessee seeks to transfer any property in the Redevelopment Area to a Restricted Entity during the Restricted Period, such transfer may only occur upon the prior written approval of the City, which approval shall not be unreasonably withheld, and upon the prior execution of a separate agreement between the purchasing Restricted Entity and the

City. This requirement shall be a covenant running with the land and shall be enforceable, as applicable, during the Restricted Period as if the transferee or possessor of the real property were originally a party to and bound by this Agreement.

B. Continuation of Payments in Lieu of Taxes. In the event of the transfer or other voluntary or involuntary disposition of any or all of the real property of Developer or any third party in the Redevelopment Area, Payments in Lieu of Taxes with respect to the real property so sold or otherwise disposed of shall continue and shall constitute a lien against the property from which they are derived, and such obligations shall inure to and be binding upon the owner(s) of said property as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable as if such purchaser, transferee or possessor thereof were originally a party to and bound by this Agreement.

C. Obligation to Ameliorate Existing Conditions. Developer's obligations pursuant to **Section 6** hereof, unless earlier satisfied and certified pursuant to this Agreement, shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named.

D. Incorporation. The restrictions set forth in **Sections 11, 16.D, 19.A, 28, and 29.B** shall be incorporated into any deed or other instrument from Developer and its assigns conveying an interest in real property within the Redevelopment Area and shall provide that said obligations or restrictions shall constitute a benefit held by both Developer and City and that City is an intended third party beneficiary of said obligations and restrictions. Failure of Developer to require that such restrictions be placed in any such deed or other instrument shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Redevelopment Area. Notwithstanding the foregoing provisions of this **Section 29.D**, in lieu of the requirement that such restrictions be incorporated into any deed or other instrument conveying an interest in real property and in lieu of any other provisions of this Agreement that require Developer to contractually obligate a successor in interest to comply with certain restrictions in this Agreement, Developer may instead record a declaration of restrictive covenants (the "**Declaration of Restrictive Covenants**") against all property in the Redevelopment Area now owned or in the future leased by Lessee, binding upon its successors in ownership and requiring such successors to:

(1) comply with the restrictions set forth in **Sections 19.A and 28** and **29.B** of this Agreement;

(2) comply with the provisions of **Section 11** of this Agreement which provides for certain use restrictions and prohibits the use of the property within the Redevelopment Area for those uses identified on **Exhibit F** of this Agreement; and

(3) comply with the provisions of **Section 16.D** of this Agreement, which prohibit contesting the imposition of the CID Sales Tax and advocating or supporting the early termination of CID Sales Tax.

Any such Declaration of Restrictive Covenants shall further provide that (i) the obligations and restrictions contained in the Declaration of Restrictive Covenants shall inure to and be binding upon the owner and its successors and assigns in ownership of said property and shall be construed as a covenant running with the land, (ii) the obligations and restrictions shall constitute a benefit held by both Developer and the City and that the City is an intended third party beneficiary of said obligations and restrictions and has a separate and independent right to enforce such provisions, and (iii) the Declaration of Restrictive Covenants shall remain in effect for the duration of the Plan and shall be binding upon the Developer and its successors in interest only during their respective period of ownership of the property within the Redevelopment Area. Developer shall record the Declaration of Restrictive Covenants in the office of the Recorder of Deeds for Cass County at its cost and expense prior to the sale or transfer by Developer of any property within the Redevelopment Area. Prior to recording the Declaration of Restrictive Covenants, Developer shall provide a copy of the same to the City.

E. Notification to City of Transfer. Developer shall notify City in writing of any proposed transfer of any or all of the real property in the Redevelopment Area or any interest therein. Such notice shall be provided not less than thirty (30) days prior to the proposed effective date of the sale or other transfer and, if a Declaration of Restrictive Covenants has not yet been recorded in satisfaction of all of the requirements of **Section 29.D**, then such notice shall include a copy of the disposition document to enable City to confirm that the requirements set forth above in this **Section 29** have been fulfilled.

30. Continuing Disclosure and Progress Reports.

A. Continuing Disclosure. In the event that the Developer becomes insolvent, is notified of default or foreclosure of loans related to the Redevelopment Project, begins voluntary or involuntary bankruptcy proceedings, or otherwise suffers a reduction in capacity to complete the Redevelopment Project, the Developer shall notify the City of such issue in accordance with this Agreement.

B. Progress Reports. At the first regularly-scheduled meeting of the Board of Aldermen following the first anniversary of the Plan Ordinance and each anniversary thereafter until all Project Improvements are completed, Developer shall report to the Board of Aldermen the progress of its implementation of the Redevelopment Projects. At the first regularly-scheduled meeting of the Board of Aldermen following the fifth anniversary of the Plan Ordinance and on each five-year anniversary thereafter so long as the Plan shall remain in effect, Developer shall prepare and present to the Board of Aldermen a detailed report on the progress of implementation of the Redevelopment Projects, and, in accordance with Section 99.865.3 of the TIF Act, a public hearing shall be held to determine if the Redevelopment Area, Plan and the included Redevelopment Projects are making satisfactory progress under the Redevelopment Schedule. The Developer's reports shall include such information as is required under the reporting requirements of the TIF Act, such additional information as City may reasonably require, and such additional information as Developer wishes to present, including, without limitation:



- (1) Private Project Improvements completed;
- (2) Status of Private Project Improvements in progress but not yet completed;
- (3) Actual Redevelopment Project Costs in the Redevelopment Project Area compared to Redevelopment Plan estimates;
- (4) Actual start and completion dates of Private Project Improvements in the Redevelopment Project Area compared to Redevelopment Plan estimates; and
- (5) Estimated start date of Private Project Improvements not yet commenced at date of report.

31. Compliance with Laws. Subject to Developer's rights to contest the same in any manner permitted by law, Developer, its officers, directors and principals, at its sole cost and expense, shall comply in every respect with all Legal Requirements, ordinances, rules and regulations of all federal, state, county and municipal governments, agencies, bureaus or instrumentalities thereof now in force or which may be enacted hereafter which pertain to the construction of the Project Improvements, and the ownership, occupancy, use and operation of the Redevelopment Projects and the Redevelopment Area.

32. Authorized Employees. Developer acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. Developer therefore covenants, and will provide an affidavit from any general contractor directly employed by Developer to construct Private Project Improvements in substantially the same form as is attached as **Exhibit K**, attesting that it is not knowingly in violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work related to this Agreement, and that its employees are lawfully eligible to work in the United States.

33. Assignment of Developer's Obligations.

A. Without limiting the rights of Developer or any third party under **Section 29**, Developer agrees that this Agreement and the rights, duties and obligations hereunder may not and shall not be assigned by Developer without the prior written consent of the City, which consent will not be unreasonably withheld. Any proposed assignee shall have all of the qualifications and financial responsibility, as reasonably determined by the City, necessary and adequate to fulfill the obligations of Developer, and, if the proposed assignment relates to a portion of the Redevelopment Area, such obligations to the extent that they relate to such portion of the Redevelopment Area.

B. Any proposed assignee shall, utilizing a form substantively and substantially similar to the form attached hereto as **Exhibit I** (the "**Assignment Agreement**"), expressly for the benefit of City, assume all of the obligations of Developer under this Agreement and agree to be subject to all the conditions and restrictions to which

Developer is subject (or, in the event the assignment is of or relates to a portion of the Redevelopment Area, such obligations, conditions and restrictions to the extent that they specifically relate to such portion). For purposes of this section, any sale, transfer, assignment, pledge or hypothecation of an interest in Developer (other than to an Affiliate or Related Entity of Developer) that results in a change in management control of Developer will constitute an assignment of this Agreement. Upon approval of the Assignment Agreement by City as set forth herein, Developer shall be released from such obligations accruing after the date of such assignment, and any default by any such assignee shall not affect Developer's rights under this Agreement, including the right to reimbursement from TIF Revenue and CID Revenue generated within the Redevelopment Area.

C. Notwithstanding the provisions of this **Section 33**, for purposes of securing financing, Developer may, without the City's consent, assign or pledge to the party providing financing Developer's right to receive reimbursement for Reimbursable Project Costs incurred, but Developer shall provide City with notice of any such assignment or pledge. Such assignment or pledge shall remain subject to the terms, provisions and conditions of this Agreement.

D. Notwithstanding the provisions of this **Section 33**, the Developer may, without the City's consent, assign the rights, duties and obligations hereunder to an Affiliate or a Related Entity. Additionally, notwithstanding anything in this Agreement to the contrary, the City acknowledges and agrees that the Developer intends to assign the rights, duties and obligations hereunder to Lessee upon completion of the Private Project Improvements and that such transfer will not require the City's consent.

#### 34. **Representations and Warranties**

A. **Representations of the City.** The City makes the following representations and warranties, which are true and correct on the date hereof:

(1) **Due Authority.** The City has full constitutional and lawful right, power and authority, under current applicable law, to execute, deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal valid and binding obligation of the City, enforceable in accordance with its terms.

(2) **No Defaults or Violation of Law.** The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

(3) **Litigation.** To the best of the City's knowledge, there is no litigation or proceeding pending against the City with respect to the Redevelopment Plan or

this Agreement. In addition, to the best of the City's knowledge, there is no other litigation or proceeding that is pending against the City seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the City to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the City of the terms and provisions of this Agreement.

(4) Governmental or Corporate Consents. Except for approval of this Agreement by Ordinance of the Board of Aldermen, no consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution and delivery by the City of this Agreement.

(5) No Default. No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the City under this Agreement.

(6) Construction Permits. The City reasonably believes that all permits and licenses necessary to construct the Public Project Improvements and the Private Project Improvements can be obtained.

B. The Developer makes the following representations and warranties, which are true and correct on the date hereof:

(1) Due Authority. The Developer has all necessary power and authority to execute, deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

(2) No Defaults or Violation of Law. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

(3) Litigation. To the best of the Developer's actual knowledge, there is no litigation, proceeding or investigation pending or threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which 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, of the terms and provisions of this Agreement.

(4) No Material Change. (1) The Developer has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement and (2) there has been no material adverse change in the business, financial position, prospects or results of operations of the Developer, which could affect the Developer's ability to perform its obligations pursuant to this Agreement from that shown in the financial information provided by the Developer to the City prior to the execution of this Agreement.

(5) Governmental or Corporate Consents. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by the Developer of this Agreement other than the subsequent approvals addressed in this Agreement.

(6) No Default. No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the Developer under this Agreement, or any other material agreement or material instrument to which the Developer is a party or by which the Developer is or may be bound.

(7) Approvals. Except for subsequent approvals addressed in this Agreement, the Developer has obtained all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to acquire, construct, equip, operate and maintain the Private Project Improvements. The Developer reasonably believes that all such certificates, licenses, consents, permits, authorizations or approvals which have not yet been obtained will be obtained in due course.

(8) Construction Permits. Except for subsequent approvals addressed in this Agreement, all governmental permits and licenses required by applicable law to construct, occupy and operate the Private Project Improvements have been issued and are in full force and effect or, if the present stage of development does not allow such issuance, the Developer reasonably believes, after due inquiry of the appropriate governmental officials, that such permits and licenses will be issued in a timely manner in order to permit the Private Project Improvements to be constructed.

(9) Compliance with Laws. The Developer is in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

(10) Other Disclosures. The information furnished to the City by the Developer in connection with the matters covered in this Agreement are true and correct to the actual knowledge of the Developer and do not contain any untrue statement of any material fact and do not omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

(11) Project. The Developer represents and warrants that the Redevelopment Area is of sufficient size to construct the Project as contemplated in the Plan and this Agreement.

35. Indemnification.

A. Developer shall indemnify, protect, defend and hold City and its officers, directors, members, commissioners, employees and agents (collectively, the “**Indemnified Parties**” or, individually, an “**Indemnified Party**”) harmless from and against any and all claims, demands, liabilities and costs, including reasonable attorneys’ fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character (including consequential and punitive damages), to persons or property occurring or allegedly occurring as a result of any acts or omissions of Developer, its constituent members or partners, their employees, agents, independent contractors, licensees, invitees or others acting by, through or under such indemnifying parties, in connection with its or their activities conducted pursuant to this Agreement and/or in connection with the use or occupancy and development or redevelopment of the Redevelopment Area or a portion thereof and the Private Project Improvements, including but not limited to, any damages or penalties incurred by the City as a result of the failure of the Developer or its contractors to comply with applicable Legal Requirements related to the construction of the Private Project Improvements.

B. In the event any suit, action, investigation, claim or proceeding (collectively, an “**Action**”) is begun or made as a result of which Developer may become obligated to one or more of the Indemnified Parties hereunder, the Indemnified Party shall give prompt notice to Developer of the occurrence of such event. After receipt of such notice, Developer may elect to defend, contest or otherwise protect the Indemnified Party against any such Action, at the cost and expense of Developer, utilizing counsel of Developer’s choice. The Indemnified Party shall have the right, but not the obligation, to participate, at the Indemnified Party’s own cost and expense, in the defense thereof by counsel of the Indemnified Party’s choice. In the event that Developer shall fail timely to defend, contest or otherwise protect an Indemnified Party against such Action, the Indemnified Party shall have the right to do so, and (if such defense is undertaken by the Indemnified Party after notice to Developer asserting Developer’s failure to timely defend, contest or otherwise protect against such Action), the Indemnified Party may submit any bills for fees and costs received from its counsel to Developer for payment and, within thirty (30) business days after such submission, Developer shall transfer to the Indemnified Party sufficient funds to pay such bills. Developer acknowledges that such bills may be redacted to delete any information which would constitute attorney-client communication or attorney work product.

C. An Indemnified Party shall submit to Developer any settlement proposal that the Indemnified Party shall receive. Developer shall be liable for the payment of any amounts paid in settlement of any Action to the extent that Developer consents to such settlement. Neither Developer nor the Indemnified Party will unreasonably withhold its consent to a proposed settlement.

D. Developer expressly confirms and agrees that it has provided this indemnification and assumes the obligations under this Agreement imposed upon Developer in order to induce City to enter into this Agreement. To the fullest extent permitted by law, an Indemnified Party shall have the right to maintain an action in any court of competent jurisdiction to enforce and/or to recover damages for breach of the rights to indemnification created by, or provided pursuant to, this Agreement. If such court action is successful, the Indemnified Party shall be reimbursed by Developer for all fees and expenses (including attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, defense, settlement or appeal of such action).

E. With respect to liability that arises during the term of this Agreement, the right to indemnification set forth in this Agreement shall survive the termination of this Agreement.

F. Any costs, fees, and expenses paid by Developer under this **Section 35** shall be Reimbursable Project Costs and shall not count against the caps on Developer Reimbursable Project Costs set forth in **Section 23.B(1)**.

### 36. **Insurance.**

A. As used in this **Section 36**, "Replacement Value" means an amount sufficient to prevent the application of any co-insurance contribution on any loss but in no event less than one hundred percent (100%) of the actual replacement cost of the Private Project Improvements, including additional administrative or managerial costs that may be incurred to effect the repairs or reconstruction, but excluding costs of excavation, foundation, and footings.

B. The Developer, or its successors and assigns in accordance with **Sections 29** and **33**, as applicable, shall keep their respective portions of the Private Project Improvements continuously insured with property insurance for full Replacement Value, which such deductible provisions as are customary in connection with the operation of facilities of the type and size comparable to the Private Project Improvements. Notwithstanding the foregoing, the City may accept and approve a policy for insurance coverage that has been required and approved by the Developer's lender for Private Loans.

C. The City does not represent in any way that the insurance specified in this Section, whether in scope, overall coverage or limits of coverage, is sufficient to protect the business or interests of the Developer.

D. All such policies, or a certificate or certificates of the insurers that the insurance required in this **Section 36** is in full force and effect, shall be provided to the

City. Prior to the expiration of any such policy, the Developer shall furnish to the City with satisfactory evidence that such policy has been renewed or replaced or is no longer required by this Agreement; provided, however, the insurance so required may be provided by blanket policies now or hereafter maintained by the Developer if the Developer provides the City with a certificate from an Insurance Consultant to the effect that such coverage is substantially the same as that provided by individual policies. All policies evidencing the insurance to be required by this Agreement shall provide for thirty (30) days' written notice (other than for nonpayment of premium, which shall provide for at least ten (10) days' notice) to the Developer and the City of any cancellation, reduction in amount or material change in coverage.

37. Option to Restore.

Utilizing casualty insurance proceeds, the Developer, or its successors and assigns in accordance with **Sections 29** and **33**, as applicable, shall have the option to promptly restore, replace, or rebuild the Private Project Improvements, or shall have the option to promptly cause the same to be restored, replaced, or rebuilt, to as nearly as possible the value, quality, and condition it was in immediately prior to fire or other casualty, with such alterations or changes as may be approved in writing by the City (which approval shall not be unreasonably withheld) if any portion of the Private Project Improvements becomes damaged or destroyed, in whole or in part, by fire or other casualty (whether or not covered by insurance).

38. Breach-Compliance.

A. If Developer or City does not comply with provisions of this Agreement, including provisions of the Plan, within the time limits and in the manner for the completion of the Redevelopment Projects as therein stated, except for any extensions or waivers described herein and Excusable Delays, in that Developer or City shall do, permit to be done, or fail or omit to do, anything contrary to or required of it by this Agreement or the Plan, and if, within sixty (60) days after notice of such default by the non-defaulting party to the defaulting party, the defaulting party shall not have cured such default or commenced such cure and be diligently pursuing the same if such cure would reasonably take longer than said sixty (60) day period, then the non-defaulting party may institute such proceedings as may be necessary in its opinion to cure the default including, but not limited to, proceedings to compel specific performance by the party in default of its obligations (except that no party shall be enjoined to engage in any construction) and, in the case of default by Developer, City is granted the right to terminate this Agreement, the right to apply any deposit or other funds submitted by Developer to City in payment of the damages suffered by it, the right to withhold or apply funds from the Special Allocation Fund to such extent as is necessary to protect City from loss or to ensure that the Plan and the Redevelopment Projects are fully and successfully implemented in a timely fashion, and the right to withhold issuance of a Certificate of Completion and Compliance. Notwithstanding anything to the contrary herein, the City shall, in good faith, certify any Reimbursable Project Costs, approve any Certification Application or Draw Certificate and reimburse Developer for any Reimbursable Project Costs incurred or paid by Developer up to and including the date of receipt of any notice of default or termination. If any action is

instituted by either party hereunder, the non-prevailing party in such action shall pay any and all costs, fees and expenses, including attorneys' fees incurred by the prevailing party in enforcing this Agreement.

B. The rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by either party shall apply to obligations beyond those expressly waived.

C. Developer (for itself and its successors and assigns, and for all other persons who are or who shall become liable, by express or implied assumption or otherwise, upon or subject to any obligation or burden under this Agreement), waives to the fullest extent permitted by law and equity all claims or defenses otherwise available on the ground of being or having become a surety or guarantor, whether by agreement or operation of law. This waiver includes, but is not limited to, all claims and defenses based upon extensions of time, indulgence or modification of terms of contract.

D. Any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this **Section 38** shall not operate as a waiver of such rights or limit them in any way. No waiver in fact made by either party of any specific default by the other party shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default, except to the extent specifically waived.

E. In no event shall City be obligated to certify any Reimbursable Project Costs, approve any Reimbursement Request or reimburse Developer for any Reimbursable Project Costs incurred or paid by Developer at any time while any default by Developer has occurred and remained uncured beyond Developer's cure period as provided in **Section 38.A**, herein, and City has provided notice of such default as required under **Section 38**. Notwithstanding the above, if the City validly terminates this Agreement, the City shall be required to, in due course according to the standards set forth herein, certify any Reimbursable Project Costs, approve any Reimbursement Request and reimburse Developer for any Reimbursable Project Costs incurred or paid by Developer prior to any such notice of default. If City shall at any time elect to rely upon the provisions of this **Section 38.E** as the basis for an action by City, City shall, at the time of such election, notify Developer in writing of such decision and the specific facts or events relied upon by City as the basis for such action by City.

F. Notwithstanding anything to the contrary contained in this Agreement, a breach of any obligation under this Agreement by a party other than Developer will not constitute a breach of this Agreement with respect to Developer and Developer's reimbursement rights hereunder.



39. Excusable Delays.

A. The parties understand and agree that neither party shall be deemed to be in default of this Agreement because of delays or temporary inability to commence, complete or proceed in accordance with the Redevelopment Schedule, due in whole or in part to causes beyond the reasonable control or without the material fault of such party which are caused by the action or failure to act of any governmental body, including but not limited to the issuance of permits and approvals by the City, acts of war or civil insurrection, breach of this Agreement by the other party or any natural occurrence, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, pandemics, acts of God, labor disputes, governmental restrictions or priorities, embargoes, litigation, tornadoes, or unusually severe weather (collectively “**Excusable Delays**”).

B. The time of performance hereunder shall be extended for the period of any delay or delays caused or resulting from any of the foregoing causes, with, in the case of any extension sought by Developer, the approval of City, which approval shall not be arbitrarily or unreasonably withheld. Developer may be granted such extensions upon presentation of reasonable evidence and/or documentation of the periods of such Excusable Delays.

40. Notice. Any notice required by this Agreement shall be deemed to be given if it is mailed by United States certified mail, postage prepaid, and addressed as hereinafter specified.

To the City:

City Administrator  
Peculiar, Missouri  
250 S. Main St.  
Peculiar, Missouri 64078

With a copy to:

Joseph G. Lauber, Esq.  
Lauber Municipal Law, LLC  
250 NE Tudor Rd.  
Lees Summit, Missouri 64086

To the Developer:

Scott Welman  
Super Market Developers, Inc.  
5000 Kansas Ave.  
Kansas City, Kansas 66106

With a copy to:

Richard W. Wood  
Polsinelli, P.C.  
900 W. 48<sup>th</sup> Place Ste, 900  
Kansas City, Missouri 64112

Each party shall have the right to specify that notice be addressed to any other address by giving to the other party ten (10) days’ written notice thereof.

41. Modification. The terms, conditions, and provisions of this Agreement and of the Plan can be neither modified nor eliminated except in writing and by mutual agreement between City and Developer.

42. Effective Date and Term. This Agreement shall become effective on the date first set forth above, and shall remain in full force and effect, until the earlier of a) completion of all

Project Improvements and reimbursement of all Reimbursable Project Costs, or b) the City's proper adoption of the Termination Ordinance pursuant to the terms of this Agreement.

43. Recording. The City shall prepare and record a memorandum of this Agreement in the Office of the Recorder of Deeds for Cass County.

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

45. Covenant Running with the Land. The provisions of this Agreement shall remain in effect for the duration of this Agreement. They shall be covenants running with the land and shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and be enforceable by, City, its successors and assigns, against Developer, its successors and assigns, (provided, subject to the provisions of **Section 33** hereof, that any such covenants shall be binding on Developer itself, and its successors and assigns, only during their period of ownership).

46. Administrative Costs and Expenses.

A. In order to reimburse City for its reasonable administrative costs and expenses (including staff time and contracted services) in connection with the preparation, development and implementation of the Plan, Redevelopment Project, and this Agreement, the City and Super Market Developer, Inc. entered into a Funding Agreement dated January 20, 2020 (the "**Funding Agreement**"). Any of City's actual and reasonable administrative costs and expenses that are provided for in this **Section 46** and which are not covered by the Funding Agreement shall be paid by Developer within sixty (60) days of having been billed for same and may be claimed by Developer as Reimbursable Project Costs. The Funding Agreement shall remain in full force and effect until the first TIF Revenue is deposited into the Special Allocation Fund. Immediately thereafter, the Funding Agreement shall terminate and any remaining balance of Developer funds held by the City thereunder shall be returned to the Developer.

B. The City shall receive an administrative fee to cover costs of additional resources necessary to implement the TIF Plan and administer this Agreement and deposits to and payments from the Special Allocation Fund. The administrative fee shall be in the amount of one and one-half percent (1.5%) of funds deposited into the Special Allocation Fund. Actual additional documented third party professional service costs and other out-of-pocket expenses reasonably incurred by City that are found by City to be necessary for it in connection with the Plan, this Agreement or otherwise relating to the Redevelopment Projects, including fees imposed by the State or County relating to the collection and disbursement of PILOTs, shall be reimbursed from the Special Allocation Fund. However, in no event shall such reimbursements exceed five percent (5%) of the TIF Revenue paid into the Special Allocation Fund in any year.

C. Upon the request of Developer, City shall furnish appropriate documentation of the administrative costs and expenses as referred to in this **Section 46**, and shall allow Developer or its representatives an opportunity to review the accounts and records of City with regard to such administrative costs and expenses. In the event

Developer disputes the reasonableness of any portion of the City's administrative costs and expenses as referred to in this **Section 46**, then, Developer may request, and the Board of Aldermen will hold, a hearing at which Developer may present evidence as to why the City's request to utilize TIF Revenue for such expenses should be denied.

47. **Validity and Severability.** It is the intention of the parties hereto 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. All exhibits attached hereto are hereby incorporated into this Agreement by reference.

48. **Time and Performance are of the Essence.** Time and exact performance are of the essence of this Agreement.

49. **City's Legislative Powers.** Notwithstanding any other provisions in this Agreement, nothing herein shall be deemed to usurp the governmental authority or police powers of City or to limit the legislative discretion of the Board of Aldermen, and no action by the Board of Aldermen in exercising its legislative authority shall be a default under this Agreement.

50. **Relationship of Parties.** Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venture or any association between the City and Developer.

51. **Good Faith; Consent or Approval.** In performance of this Agreement or in considering any requested extension of time, the parties agree that each will act in good faith, cooperate in expeditious and timely approvals, and will not act unreasonably, arbitrarily, or capriciously or unreasonably withhold or delay any approval required by this Agreement; provided, however, that the City need not act reasonably in considering a requested extension of time that would extend a time period set forth in this Agreement for the performance of an obligation by the Developer by more than three (3) years from the original end of such period as set forth in this Agreement. Except as otherwise provided in this Agreement, whenever consent or approval of the City is required, such consent or approval may be granted by the City Administrator or his designee administratively and no action of the Board of Aldermen shall be required. Except as otherwise provided in this Agreement, whenever consent or approval of either party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed. The City agrees to reasonably cooperate with the Developer with respect to (i) applications for building permits from the City and the issuance thereof, and any permits or approvals required from any governmental agency, whenever reasonably requested to do so; provided, however, that all applications for such permits and approvals are in compliance with the applicable ordinances and regulations, approved plans and specifications, and all applicable codes, (ii) securing any construction and permanent financing that the Developer may reasonably require in connection with the performance of its obligations under this Agreement, (iii) reviewing and

approving Developer's plans, including but not limited to site plans and building elevations, construction plans, design criteria and any amendments thereto as part of the Land Use Approvals. The Developer agrees and acknowledges that in each instance in this Agreement or elsewhere where the City is required or has the right to review or give its approval or consent, no such review, approval or consent will imply or be deemed to constitute an opinion by the City, nor impose upon the City any responsibility for the design or construction of building elements, including but not limited to the structural integrity or life/safety requirements or adequacy of budgets or financing or compliance with any applicable federal or state law, or local ordinance or regulation, including the Environmental Laws. All reviews, approval and consents by the City under the terms of this Agreement are for the sole and exclusive benefit of the Developer and no other person or party will have the right to rely thereon.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

**CITY:**

THE CITY OF PECULIAR, MISSOURI, a  
municipal corporation

By: \_\_\_\_\_  
[Mayor Name]  
Mayor

**ATTEST:**

\_\_\_\_\_  
Cyndora Gauthreaux, City Clerk,

STATE OF MISSOURI                    )  
  ) ss.  
COUNTY OF CASS                    )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared [Mayor Name], to me known, who being by me duly sworn, did say that he is the Mayor of the City of Peculiar, Missouri, a Missouri municipal corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Aldermen, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:

\_\_\_\_\_

DEVELOPER:  
SUPER MARKET DEVELOPERS , INC., a  
Missouri corporation

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

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

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say he is the \_\_\_\_\_ of Super Market Developers, Inc., a Missouri corporation, and acknowledged said instrument to be his free act and deed and the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:

\_\_\_\_\_

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF REDEVELOPMENT AREA AND REDEVELOPMENT PROJECT AREA**

Part of that certain tract of land described in Book 1549, Page 131 in the Office of the Recorder of Deeds, CASS COUNTY, MISSOURI, being part of the Northwest Quarter of the Northwest Quarter of Section 15, Township 45, Range 32, Peculiar, CASS COUNTY, MISSOURI, described as follows: From the Northwest corner of the Northwest Quarter of the Northwest Quarter of Section 15, aforesaid, run thence South 89 degrees 38 minutes 00 seconds East, along the North line of said Quarter Quarter Section, 44.43 feet; thence South, 30.00 feet to a point of intersection with the East right-of-way line of Main Street, as now located, and the South right-of-way line of Summerskill Road, as now located, and being the True Point of Beginning of the tract to be described; thence South 89 degrees 38 minutes 00 seconds East, along said South right-of-way line of Summerskill Road, 300.01 feet to a point of intersection with the West right-of-way line of Schug Avenue as now located thence South along said West right-of-way line, 334.74 feet; thence continuing Southeasterly along said West right-of-way line on a curve to the left having a radius of 756.01 feet an arc length of 146.68 feet and a chord bearing of South 5 degrees 33 minutes 29 seconds East to the Northeast corner of that certain tract of land described in Book 1750, at Page 64, in the office of the Recorder of Deeds; thence West along the North line of said certain tract of land, 314.19 feet to a point on said East right-of-way line of Main Street; thence North along said East right-of-way line, 482.43 feet to the True Point of Beginning.

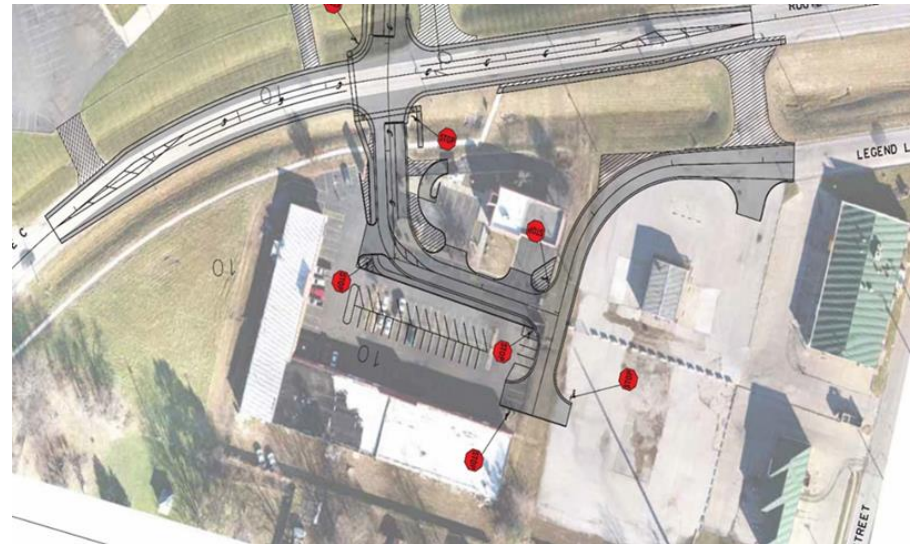
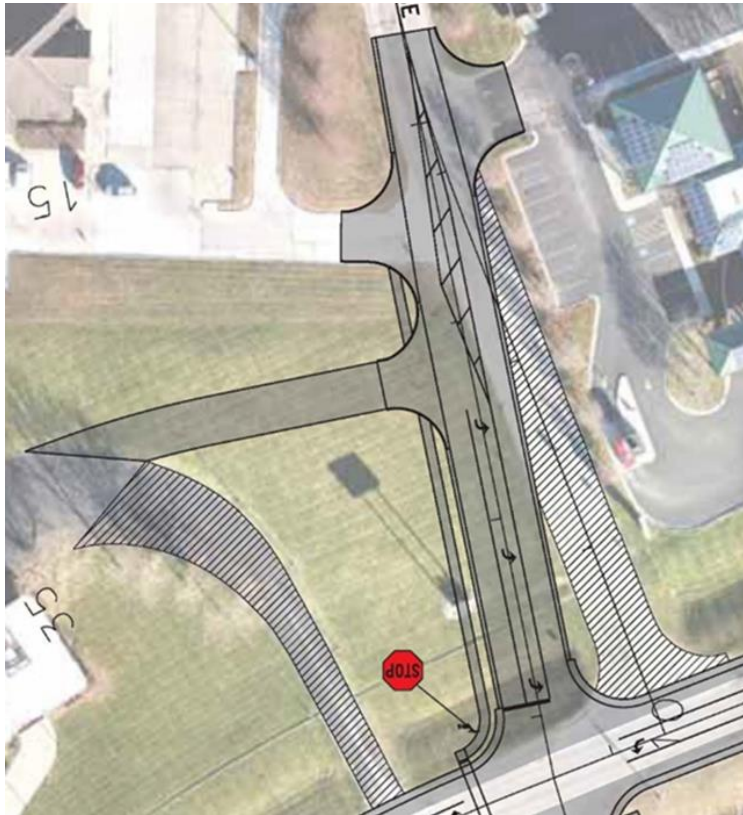
## EXHIBIT B

### Map of Redevelopment Project Area and Site Plans









## **EXHIBIT C**

### **Private Project Improvements**

The Private Project Improvements include construction of approximately 5,000 square feet of additional space to the existing commercial facility, improvements to the existing commercial facility, and site improvements (not including those described as a part of the Public Project Improvements).

## **EXHIBIT D**

### **Public Project Improvement**

The Public Project Improvement refers to the portion of the project that is within either City or other public right of way, existing or proposed, as well as the portion of the project on private property that is intended to be direct extensions of the public improvement. Plans for this project may be reviewed by City and/or other public jurisdictions where applicable, and as such, variations of the plan may occur at the direction or based upon input from City and/or other public jurisdictions. It is however the stated goal of the parties that any such modifications be budget neutral as it relates to the cost to be incurred by the Developer in connection with the Public Project Improvement.

The Public Project Improvement consists of the following, as depicted more fully on **Exhibit B** to this Agreement and as identified on the Redevelopment Project Budget on **Exhibit G** to this Agreement: sidewalk and transportation improvements in the vicinity of the intersection of Schug Avenue and Highway C.

**EXHIBIT E**  
**Redevelopment Schedule**

REDEVELOPMENT PROJECT	ANTICIPATED COMMENCEMENT	ANTICIPATED COMPLETION
Private Project Improvements	June 1, 2020	June 1, 2021
Public Project Improvements	May 1, 2021	March 31, 2022

## EXHIBIT F

### Non-Permitted Uses

In no event shall Developer sell, lease or permit occupancy of any portion of the Redevelopment Project Area for any of the following uses except by approval of the Board of Aldermen:

- A. Existing Users in the City. Without the approval of the City as provided in **Section 11**, the Developer shall not cause the relocation of a tenant into the Redevelopment Project Area, which is then open and operating in the City and then ceases to operate the existing facility within eighteen (18) months after the opening of the new facility within the Redevelopment Project Area.
- B. Surplus and Dollar Discount Stores. Without City approval, which approval shall not be unreasonably withheld, the Developer shall not lease or sell any of the Redevelopment Area to a surplus or discount store. For the purpose of this section, a surplus store shall be defined as a store whose primary business is the sale of used or second hand merchandise, a thrift shop, or a flea market. For the purpose of this section, a dollar discount store shall be defined as a store with a majority of merchandise for sale for one dollar (\$1.00) or less per item. However, the above exclusions shall not apply to permitted uses such as Half Price Books, Tuesday Mornings, Plato's Closet, Ditto, Vintage Stock and similar type users.
- C. Auto Repair Businesses or Lube Shops. The Developer shall not, without City approval, sell or lease any of the Redevelopment Project Area to a store whose primary business is as an automobile repair or similar business that includes garage doors as a primary feature of its facility; provided, however, such exclusion shall not apply to national tire, oil change or battery retailers such as Tires Plus, National Tire and Battery ("NTB"), etc.
- D. Non-Sales Tax Generating Businesses. The Developer shall not, without City approval, sell or lease for development more than one pad site and more than twenty percent (20%) of the finished first (1st) floor retail strip space in the Redevelopment Area to non-sales tax generating businesses such as office uses or fitness centers. For purposes of this section, a non-sales tax generating business shall be any business projected to generate less than \$50 per square foot of annual retail sales upon stabilization; and shall also be any business for which the majority of the sales tax is not collected within the Redevelopment Area, for example the sale of motor vehicles and trailers.
- E. Adult Entertainment Establishments as defined in Chapter 400 of the City's Code of Ordinances.
- F. Pawn Shops
- ~~G.~~ Payday/Title Loan Businesses
- H. Flea Market or Thrift Shops

- I. E-Cigarette or “Vaping” Shops. The Developer shall not, without City approval, sell or lease any of the Redevelopment Project Area to a store whose primary business is the sale of e-cigarettes or “vaping” materials and equipment; provided, however, such exclusion shall not apply to other businesses who may sell such products as an ancillary portion of their business, subject to the City’s Code of Ordinances.
- J. Tattoo or Piercing Parlors
- K. Rental Stores. The Developer shall not, without City approval, sell or lease any of the Redevelopment Project Area to a store whose primary business is rent-to-own transactions for furniture, appliances, or electronics such as Rent-A-Center, Aaron’s Rentals, or similar business; provided, however, such exclusion shall not apply to other rental businesses such as HD video, tuxedo rentals, or similar businesses.

# EXHIBIT G

## Redevelopment Project Cost Budget

### Grocery Store Redevelopment - Total Project Costs

DEVELOPER PROJECT COSTS					
Cost Category	Units	Cost Per Unit	Total	TIE Eligible	CID Eligible
Land Acquisition			\$ -	\$ -	\$ -
<u>Sitework</u>					
Site Landscaping	129,373	\$0.15	\$ 20,000	\$ 20,000	\$ 20,000
Parking Lot		\$3.03	\$ 392,040	\$ 392,040	\$ 392,040
Lights		\$0.35	\$ 45,000	\$ 45,000	\$ 45,000
Detention		\$0.23	\$ 30,000	\$ 30,000	\$ 30,000
Signage		\$0.43	\$ 55,000	\$ 55,000	\$ 55,000
Total Sitework:			\$ 542,040	\$ 542,040	\$ 542,040
<u>Design - Permits &amp; Fees</u>					
Engineering	129,373	\$0.19	\$ 25,000	\$ 25,000	\$ 25,000
Architect		\$1.00	\$ 130,000	\$ 130,000	\$ 130,000
Survey		\$0.08	\$ 10,000	\$ 10,000	\$ 10,000
Soils		\$0.12	\$ 15,000	\$ 15,000	\$ 15,000
Environment		\$0.12	\$ 15,000	\$ 15,000	\$ 15,000
Miscellaneous Design Fees		\$1.55	\$ 200,000	\$ 200,000	\$ 200,000
Total Design:			\$ 385,000	\$ 385,000	\$ 385,000
<u>Hard Construction Costs</u>					
Building Addition	5,000	\$190.00	\$ 950,000	\$ -	\$ -
Exterior Existing Building Improvements	25,000	\$85.00	\$ 425,000	\$ 425,000	\$ 425,000
Interior & Décor Mt. Lights		\$30.00	\$ 150,000	\$ 150,000	\$ 150,000
Building TI		\$25.00	\$ 275,000	\$ 275,000	\$ 275,000
Building Equipment		\$200.00	\$ 1,000,000	\$ -	\$ -
Total Hard Construction:			\$ 2,800,000	\$ 850,000	\$ 850,000
<u>Legal</u>					
Attorney			\$ 50,000	\$ 50,000	\$ 50,000
Total Legal:			\$ 50,000	\$ 50,000	\$ 50,000
<u>Finance</u>					
Interest			\$ 250,000	\$ 250,000	\$ 250,000
Total Finance:			\$ 250,000	\$ 250,000	\$ 250,000
<u>Miscellaneous Soft Costs</u>					
Development Fees			\$ 50,000	\$ 50,000	\$ 50,000
Total Miscellaneous Soft Costs:			\$ 50,000	\$ 50,000	\$ 50,000
<u>Hard Costs</u>					
Land Acquisition			\$ -	\$ -	\$ -
Sitework			\$ 542,040	\$ 542,040	\$ 542,040
Design - Permits & Fees			\$ 385,000	\$ 385,000	\$ 385,000
Hard Construction			\$ 2,800,000	\$ 850,000	\$ 850,000
Subtotal			\$ 3,727,040	\$ 1,787,040	\$ 1,787,040
Contingency		10.00%	\$ 372,704	\$ 178,704	\$ 178,704
Hard Costs Total			\$ 4,110,744	\$ 1,965,744	\$ 1,965,744
<u>Soft Costs</u>					
Legal			\$ 50,000	\$ 50,000	\$ 50,000
Financing			\$ 250,000	\$ 250,000	\$ 250,000
Miscellaneous Soft Costs			\$ 50,000	\$ 50,000	\$ 50,000
Subtotal			\$ 350,000	\$ 350,000	\$ 350,000
Contingency		10.00%	\$ 35,000	\$ 35,000	\$ 35,000
Soft Costs Total			\$ 385,000	\$ 385,000	\$ 385,000
<b>TOTAL DEVELOPER HARD COSTS</b>			<b>\$ 4,110,744</b>	<b>\$ 1,965,744</b>	<b>\$ 1,965,744</b>
<b>TOTAL DEVELOPER SOFT COSTS</b>			<b>\$ 385,000</b>	<b>\$ 385,000</b>	<b>\$ 385,000</b>
<b>TOTAL DEVELOPER PROJECT COSTS*</b>			<b>\$ 4,495,744</b>	<b>\$ 2,350,744</b>	<b>\$ 2,350,744</b>

\*NOTE: Developer eligible expenses are subject to a \$1.5 million cap plus interest and financing costs



<u>CITY PROJECT COSTS</u>						
TOTAL CITY PROJECT COSTS*	\$	1,400,000	\$	1,400,000	\$	-
<u>TOTAL PROJECT COSTS</u>						
TOTAL DEVELOPER PROJECT COSTS	\$	4,495,744	\$	2,350,744	\$	2,350,744
TOTAL CITY PROJECT COSTS	\$	1,400,000	\$	1,400,000	\$	-
TOTAL PROJECT COSTS	\$	5,895,744	\$	3,750,744	\$	2,350,744

## PUBLIC PROJECT IMPROVEMENTS

<b>Expense Type</b>	<b><u>Expense Amount</u></b>
<b>Construction</b>	\$1,184,428 .00
<b>ROW Acquisitions</b>	\$300,000.00
<b>Total</b>	<b>\$ 1,484,428.00</b>

**EXHIBIT H**  
**Intentionally Omitted**

**EXHIBIT I**  
**FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT**

**See attached**

## ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “**Assignment**”) is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and is made by and between SUPER MARKET DEVELOPERS, INC., a Missouri corporation (“**Assignor**”), \_\_\_\_\_, a \_\_\_\_\_ (“**Assignee**”), and the CITY OF PECULIAR, MISSOURI, a municipal corporation (the “**City**”).

### RECITALS

A. On May 18, 2020, the Board of Aldermen of Peculiar, Missouri (the “**City Council**”) adopted Ordinance No. \_\_\_\_\_ approving the Peculiar Main Street Tax Increment Financing Redevelopment Plan (the “**Plan**”).

B. On \_\_\_\_\_, 2020, the City and Assignor entered into a Tax Increment Financing Redevelopment Agreement that set forth the respective obligations and duties of the City and Assignor with respect to the implementation of the Plan (the “**Redevelopment Agreement**”).

C. Pursuant to **Section 33** of the Redevelopment Agreement, Assignor now desires to enter into this Assignment to convey to Assignee certain duties and obligations under the Redevelopment Agreement and Plan (as more fully described herein) with respect to the property described in **Exhibit A** to this Assignment (the “**Property**”), and Assignee has agreed to assume and perform all such duties and obligations under the Redevelopment Agreement with respect to the Property [or if the boundaries of the Property are not coterminous with the boundaries of the Redevelopment Area and the proposed assignment relates only to a portion of the Redevelopment Area “**Subject Property**”, then only those rights and obligations of Assignor that relate to such portion of the Redevelopment Area described on Exhibit A].

D. The parties desire to enter into this Assignment in order to satisfy the condition precedent set forth in **Section 33** of the Redevelopment Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants and obligations contained in this Assignment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by and among Assignor, Assignee, and the City as follows:

1. Recitals Incorporated. The above Recitals are hereby incorporated into this Assignment in full and form an integral part hereof.

2. Definitions. All capitalized terms not otherwise defined herein shall have the meaning assigned to them in the Plan and the Redevelopment Agreement.

3. Understanding of Assignee.

a. Assignee acknowledges that it has been provided with and/or has reviewed true and accurate copies of the Plan, the Plan Ordinance, the Redevelopment Agreement and all other documents associated with the Plan that may be necessary

for Assignee to make an informed decision regarding the assignment of rights it is about to accept under this Assignment Agreement.

b. Assignee acknowledges and agrees that its acceptance of the assignment from the Assignee is subject in all respects to the Redevelopment Agreement, the requirements of the Plan, the Plan Ordinance, and the rights of the City pursuant to the Redevelopment Agreement, the TIF Act, and the Plan Ordinance.

c. Assignee acknowledges and agrees that the Property is included in the Redevelopment Project Area designated by the City pursuant to the Plan and that certain taxes generated by Assignee's economic activities, including sales taxes, will be applied toward Reimbursable Project Costs.

d. Assignee acknowledges that the Property is or may be subject to assessment for annual Payments in Lieu of Taxes (hereinafter referred to as "PILOTS") while tax increment financing is activated for the Redevelopment Project Area by the City.

e. Assignee acknowledges that, pursuant to **Section 16** of the Redevelopment Agreement, the Property is or may be subject to certain sales and use taxes which may be imposed as a result of the establishment of a community improvement district ("CID") pursuant to a contract between the CID and the City, and other covenants, conditions and approval rights which are more fully set forth in the Redevelopment Agreement.

f. Assignee acknowledges that in the event of the sale, lease, sublease, assignment, or other voluntary or involuntary disposition of any or all of the Property, PILOTS with respect to the Property shall continue and shall constitute a lien against the Property from which they are derived, and such obligations shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable as if such purchaser, tenant, transferee or other possessor thereof were originally a party to and bound by the Redevelopment Agreement.

4. Assignment by Assignor. The Assignor hereby assigns to the Assignee only those Assignor's rights, duties, interests and obligations under the Plan and the Redevelopment Agreement specifically described in **Exhibit B** to this Assignment [or if the boundaries of the Property are not coterminous with the boundaries of the Redevelopment Area and the proposed assignment relates only to a portion of the Redevelopment Area, then only those rights and obligations of Assignor as specifically described herein that relate to such portion of the Redevelopment Area described on Exhibit A].

5. Assumption by Assignee. Assignee hereby accepts such assignment from Assignor and expressly covenants to the City and Assignor that it assumes and agrees to perform those rights, duties, interests and obligations of the Assignor assigned to it pursuant to Section 3 above.

6. City's Consent and Release. Upon the execution of this Assignment by City, the assignment and assumption provided for in Section 3 and 4 above shall be deemed to have been approved and consented to by the City, and Assignor shall be deemed to have been released from those Assignor's rights, duties, interest and obligations under the Redevelopment Agreement and Plan as specifically described herein.

7. Representations and Warranties of Assignee. Assignee is a \_\_\_\_\_ qualified to conduct its business in the State of Missouri and has all requisite power and authority to enter into, execute this Assignment and to perform its obligations hereunder. This Assignment, assuming the due execution and delivery hereof by Assignor and City, constitutes legally valid and binding obligations of Assignee, enforceable against Assignee in accordance with the terms and conditions herein.

8. Notices. All notices, requests and other communications hereunder shall be deemed to be duly given if delivered by hand or if mailed by certified or registered mail with postage prepaid as follows:

If to Assignee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to Assignor:

Scott Welman  
Super Market Developers, Inc.  
5000 Kansas Ave.  
Kansas City, Kansas 66106

With a copy to:

Richard W. Wood Polsenili, P.C.  
900 W. 48<sup>th</sup> Place Ste, 900  
Kansas City, Missouri 64112

If to City:

City Administrator  
City of Peculiar, Missouri  
250 S. Main St.  
Peculiar, Missouri 64078

With a copy to:

Joseph G. Lauber, Esq.  
Lauber Municipal Law, LLC  
250 NE Tudor Rd.  
Lee's Summit, Missouri 64086

9. Successors and Assigns. All rights, benefits and obligations of Assignor and Assignee hereunder shall inure to and bind Assignor and Assignee, respectively, and this Assignment shall be binding upon and inure to the benefit of the parties' respective successors and assigns.

10. Governing Law. This Assignment shall be governed by the laws of the State of Missouri.

11. Counterparts. This Assignment may be executed in one or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

12. Expenses. Except as otherwise provided herein, each of the parties hereto will pay its own costs and expenses, including attorney's fees, incurred by such party or on its behalf in connection with this Assignment and the transactions contemplated herein. Costs and expenses incurred by the City in connection with this Assignment may be reimbursed as Administrative Costs pursuant to the Redevelopment Agreement.

13. Recording. This Assignment, or a memorandum of this Assignment, shall be recorded in the office of the Recorder of Deeds for Cass County, Missouri by Assignee at its sole cost and expense.

IN WITNESS WHEREOF, the parties have executed this Assignment as of the day and year first above written.

**ASSIGNOR:**

**SUPER MARKET DEVELOPERS, INC.**

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

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

Title:\_\_\_\_\_

STATE OF MISSOURI       )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, a Notary Public in and for said state, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of Super Market Developers, Inc., a Missouri corporation, personally known by me to be the person who executed the within instrument on behalf of said Supermarket Developers, Inc. and acknowledged to me that he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year above written.

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

Notary Public in and for said County and State

My Commission Expires:

\_\_\_\_\_



**ASSIGNEE:**

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_)  
\_\_\_\_\_) ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, a Notary Public in and for said state, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, personally known by me to be the person who executed the within instrument on behalf of said \_\_\_\_\_ and acknowledged to me that he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year above written.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:

\_\_\_\_\_

CITY:

THE CITY OF PECULIAR, MISSOURI

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

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

Title: \_\_\_\_\_

STATE OF MISSOURI     )  
                                      ) ss  
COUNTY OF CASS        )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known, who being by me duly sworn, did say that he/she is the Mayor of the City of Sedalia, Missouri, a Missouri municipal corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Aldermen, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:

\_\_\_\_\_

**EXHIBIT A TO ASSIGNMENT AGREEMENT**  
**LEGAL DESCRIPTION OF PROPERTY [OR SUBJECT PROPERTY]**

**EXHIBIT B TO ASSIGNMENT AGREEMENT**  
**RIGHTS, DUTIES, INTERESTS AND OBLIGATIONS UNDER THE PLAN AND**  
**REDEVELOPMENT AGREEMENT THAT ARE ASSIGNED**

**EXHIBIT J**

**Intentionally Omitted**

**EXHIBIT K**

**Form of Affidavit of Work Authorization**

**CITY OF PECULIAR, MISSOURI  
WORK AUTHORIZATION AFFIDAVIT  
PURSUANT TO 285.530, RSMO  
(FOR ALL CONTRACTS IN EXCESS OF \$5,000.00)**

STATE OF MISSOURI       )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

As used in this Affidavit, the following terms shall have the following meanings:

**EMPLOYEE:** Any person performing work or service of any kind or character for hire within the State of Missouri.

**FEDERAL WORK AUTHORIZATION PROGRAM:** Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

**KNOWINGLY:** A person acts knowingly or with knowledge, (a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or (b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

**UNAUTHORIZED ALIEN:** An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

**BEFORE ME,** the undersigned authority, personally appeared \_\_\_\_\_, who, being duly sworn, states on his oath or affirmation as follows:

1. My name is \_\_\_\_\_ and I am currently the \_\_\_\_\_ of \_\_\_\_\_ (hereinafter "Contractor"), whose business address is \_\_\_\_\_, and I am authorized to make this Affidavit.

2. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.

3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and the City of Peculiar, Missouri:

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant saith not.

\_\_\_\_\_  
AFFIANT SIGNATURE

\_\_\_\_\_  
AFFIANT PRINTED NAME

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
My Commission Expires:

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Name)

*PLEASE NOTE:*

Acceptable enrollment and participation documentation consists of the following 2 pages of the E-Verify Memorandum of Understanding:

1. A valid, completed copy of the first page identifying the Contractor; and
2. A valid copy of the signature page completed and signed by the Contractor, and the Department of Homeland Security - Verification Division.

**AN ORDINANCE APPROVING A TAX INCREMENT FINANCING CONTRACT BETWEEN THE CITY OF PECULIAR AND SUPER MARKET DEVELOPERS, INC., FOR THE PECULIAR MAIN STREET TAX INCREMENT FINANCING PLAN AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.**

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**WHEREAS**, by Ordinance No. \_\_\_\_\_, adopted by the Board of Aldermen of the City of Peculiar, Missouri ("City"), on May 18, 2020, the City approved the Peculiar Main Street Tax Increment Financing Plan (the "Redevelopment Plan"), declared the Redevelopment Area as a blighted area, and selected Super Market Developers, Inc. ("Developer") as the developer to implement the Redevelopment Plan; and

**WHEREAS**, Section 7 of Ordinance No. \_\_\_\_\_ provides that the designation of the Developer as the developer of the Redevelopment Project and any reimbursement to the Developer of TIF revenues for reimbursable project expenses is conditioned upon the execution of a Tax Increment Financing Contract between the City and the Developer approved by the Board of Aldermen by ordinance, upon terms and conditions as agreed upon by the parties to carry out the goals and objectives of the Redevelopment Plan; and

**WHEREAS**, the City and the Developer have agreed upon the terms and conditions necessary to carry out the goals and objectives of the Redevelopment Plan and desire to enter into the Tax Increment Financing Contract between the City of Peculiar, Missouri and Super Market Developers, Inc. attached hereto as **Exhibit A**.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI, AS FOLLOWS:**

**Section 1:** That the Tax Increment Financing Contract between the City of Peculiar, Missouri and Super Market Developers, Inc., a copy of which is attached hereto as **Exhibit A**, is hereby approved and adopted.

**Section 2:** That the Mayor is authorized to execute the Tax Increment Financing Contract on behalf of the City.

**Section 3:** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 4:** The Deputy City Clerk is hereby authorized to correct any scriveners' errors contained in the language of this ordinance.

**Section 5:** This ordinance shall be in full force and effect from and after its passage and approval by the Mayor and the Board of Aldermen.

**First Reading: May 4, 2020**

**Second Reading: \_\_\_\_\_**

**BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY THE FOLLOWING VOTE:**



Alderman Broadhurst \_\_\_\_\_  
Alderman Harlan \_\_\_\_\_  
Alderman Gillespie \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Holly Stark, Mayor

Alderman Ray \_\_\_\_\_  
Alderman Smith \_\_\_\_\_  
Alderman Erickson \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Cyndora Gauthreaux, Deputy City Clerk

**Exhibit A**

TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT BETWEEN THE  
CITY OF PECULIAR, MISSOURI AND SUPER MARKET DEVELOPERS, INC. FOR  
IMPLEMENTATION OF THE PECULIAR MAIN STREET TAX INCREMENT FINANCING  
REDEVELOPMENT PLAN



LAUBER MUNICIPAL LAW, LLC

*Serving those who serve the public*

## Memo

**To:** Mayor and Board of Aldermen  
Carl Brooks, Interim City Administrator

**From:** Lauber Municipal Law, City Attorney and Special Economic Development Legal Counsel

**Date:** May 18, 2020

**Re:** Outline of Key Points of Petition to Establish the Peculiar Main Street Community Improvement District

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**ISSUE/REQUEST:** The owner of 100% of real property within the proposed Peculiar Main Street Community Improvement District (“CID” or “District”) has requested the Board of Aldermen consider the adoption of an ordinance establishing the CID. This CID is intended to be a component of the financing for the Peculiar Main Street Tax Increment Financing Development Plan (“TIF Plan”). More specifically, the CID will provide funding for CID eligible improvements and operation and administration of the District.

**BACKGROUND/EXPLANATION:** On March 31, 2020, Super Market Developers, Inc. (“Developer”), on behalf of the property owner within the proposed District (“Petitioner”), filed with the Deputy City Clerk a Petition to Establish the Peculiar Main Street Community Improvement District (the “Petition”) pursuant to Sections 67.1401 through 67.1571, RSMo, (the “CID Act”).

Upon receipt of the Petition, the Deputy City Clerk with the assistance of the City’s legal counsel, reviewed the Petition and determined on or about April 10, 2020, that the Petition substantially complies with the requirements of Section 67.1421.2, RSMo.

The CID Act requires the Board of Aldermen to hold a public hearing and further provides that after the close of the public hearing, the Board of Aldermen may adopt an ordinance approving the petition and establishing the district as set forth in the petition. The Deputy City Clerk provided the statutorily required notice of a public hearing on the establishment of the proposed district. On May 4, 2020, the Board of Aldermen will hold a public hearing to consider the Petition.

## **Summary of Contents of CID Petition**

- Required to be signed by more than 50% of the owners of property located within the proposed district measured on a “per-capita” and an assessed value basis. In this case the Property within the CID area is owned by a single owner, Turnage Properties, LLC. The managing partner of Turnage Properties, LLC, Mr. John E. Turnage, signed the Petition and therefore the Petition was signed by 100% per-capita and 100% of the property owners by assessed value.
- Name of District: Peculiar Main Street Community Improvement District.
- A legal description and map of the District were attached to the Petition as required by statute.
- If approved, the District will be established as a political subdivision of the State of Missouri.
- District Governance:
  - The District will be governed by a Board of Directors having 5 members
    - The Petitioners complied with the City’s request to have at least two members of this Board be elected or appointed officials of the City of Peculiar
  - The members of the Board of Directors are named in the Petition and will have initial terms of either 4 or 2 years as required by the CID Act.
  - Successor Directors will be appointed in accordance with Section 5 of the Petition, which allows the Board of Directors to submit a slate of successor directors to the City. Successor Directors shall be appointed by the Mayor with the consent of the Board of Aldermen.
- Funding Mechanisms:
  - Pursuant to the Petition, the Petitioners are requesting the authority to impose a CID Sales Tax of up to one-half percent (0.50%) upon all eligible retail sales within the District as provided in the CID Act.
- Term of Existence:

- The Petition requests the maximum length of time for the existence of the District of twenty-two (22) years from the date upon which any sales tax is levied within the District pursuant to the Petition.
- The CID Act permits Districts to be established for a definite period, or for a maximum or minimum (perpetual) period of existence.
- Blight Determination:
  - The Petitioners are seeking a blight finding and that the District revenues are reasonably anticipated to assist with remediation of the blighted conditions within the District and will serve a public purpose.
- Five Year Plan (Exhibit C to the CID petition):
  - The CID Act requires a CID petition to include a five-year plan describing the purposes of the district, the services it will provide, the improvements it will make and the estimated costs of the services and improvements to be incurred
  - District Purposes:
    - The District purposes are set out in full in Exhibit C of the CID Petition – Five Year District Management Plan.
    - In summary, in the first five years, the District’s purpose is to provide funding for: the operation and administration costs of the District; cost of project improvements and services; and formation. All of these costs are CID-eligible costs under the CID Act.
    - These costs are provided in Exhibit A of Exhibit C of the CID Petition (Five Year District Management Plan)
  - Revenue Estimates (Exhibit A of Exhibit C and Exhibit 4 of the TIF Plan)
    - Approximately \$30,000 per year after stabilization in fifth year
  - Cost Estimates (Exhibit 2 of Exhibit B)
    - Project improvement costs: \$2,350,744
    - Amount captured by the TIF: Approximately \$682,977 (over the 22-year life of the District) (approximately \$30,000 per year after the 5<sup>th</sup> year)
    - Estimated Service Costs: \$25,000 per year (\$550,000 over the life of the District)

**STAFF RECOMMENDATION:** After conducting a thorough review of the Petition to establish the CID, along with the assistance of Lauber Municipal Law, LLC, the City's legal counsel, it is City staff's and consultant's conclusion that the Board of Aldermen has the information necessary to approve the Petition to Establish the Peculiar Main Street CID.

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**PETITION FOR ESTABLISHMENT OF THE  
PECULIAR MAIN STREET  
COMMUNITY IMPROVEMENT DISTRICT  
CITY OF PECULIAR, MISSOURI**

**MARCH 31, 2020**

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**PETITION FOR THE CREATION OF THE  
PECULIAR MAIN STREET  
COMMUNITY IMPROVEMENT DISTRICT**

To the Mayor and Board of Aldermen of the City of Peculiar, Missouri:

The undersigned real property owners (the “Petitioners”), being the owner collectively owning

- (1) more than fifty percent (50%) by assessed value of the real property and
- (2) more than fifty percent (50%) per capita of all owners of real property

within the boundaries of the hereinafter described community improvement district, does hereby petition and request that the Board of Aldermen of the City of Peculiar, Missouri create a community improvement district as described herein under the authority of Sections 67.1401 to 67.1571, RSMo (the “CID Act”). In support of this petition, the Petitioner sets forth the following information in compliance with the CID Act:

1. District Name. The name for the proposed community improvement district (“CID” or “District”) is:  
  
Peculiar Main Street Community Improvement District.
2. Legal Description and Map. A legal description and map generally depicting the boundaries of the proposed District are attached hereto as **Exhibit A** and **Exhibit B**, respectively. The proposed district is located entirely within the City of Peculiar, Missouri.
3. Five-Year Plan. A five-year plan containing a description of the purposes of the proposed District, the services and public improvements that will be funded by the District, an estimate of costs of these services and improvements to be incurred, and other details and requirements as set forth in the CID Act is attached hereto as **Exhibit C** (the “Five Year Plan”).
4. Form of District. The proposed district will be established as a political subdivision of the State of Missouri under the CID Act.
5. Board of Directors.
  - a. Number. The Board of Directors (the “Board”) will consist of five (5) members. At least two members must be either an (1) employee; and/or (2) elected official of the City. The initial Board of Directors shall be appointed by the Mayor with the consent of the Board of Aldermen. The proposed names of the initial directors and their terms are as follows:

<u>Name</u>	<u>Term</u>
David Consentino	4 Years
Denise Armentrout	4 Years
Michael Clemons	2 Years



Carl Brooks

2 Years

Jim Clarke

2 Years

Successor members of the Board (each a “Director”) shall be appointed by the Mayor, with consent of the Board of Aldermen, and in accordance with a CID cooperative agreement to be executed in connection with this Petition (the “CID CA”).

- b. Qualifications. Each Member of the Board (“Director”) shall meet the following requirements:
- (1) be at least 18 years of age;
  - (2) be either an owner of real property within the District (“Owner”) or an authorized representative of an Owner, an owner of a business operating within the District (“Operator”), or a registered voter (“Resident”) residing within the District, as provided in the CID Act;
  - (3) be and have been a resident of the State of Missouri for at least one year immediately preceding the date upon which he or she takes office in accordance with Article VII, Section 8 of the Missouri Constitution; and
  - (4) be appointed according to the terms and provisions set forth in the CID CA.
- c. Terms. Initial Directors shall serve for the term set forth above. Each Successor Director shall serve a four (4) year term or until his/her successor is appointed in accordance with this Petition. If, for any reason, a Director is not able to serve his/her term, the remaining Directors shall elect an interim Director to fill the vacancy of the unexpired term.
6. Assessed Value. The total assessed value of all real property in the District is \$311,523.
7. Duration of District. The proposed maximum length of time for the existence of the district is twenty-two (22) years from the date upon which any sales tax is levied within the District pursuant to this Petition.
8. Real Property and Business License Taxes. The District will not have the power to impose a real property tax levy or business license taxes.
9. Special Assessments. The District will not have the power to impose special assessments.
10. Sales Tax. Qualified voters of the District may be asked to approve a sales tax of up to one-half percent (0.50%) (“District Sales Tax”), in accordance with the CID Act, to fund certain improvements within the District and/or to pay the costs of services provided by the District. Additional details about the District Sales Tax are set forth in the Five Year Plan attached hereto as Exhibit D.
11. Borrowing Limits. Petitioners do not seek limitations on the borrowing capacity of the District.
12. Revenue Limits. Petitioners do not seek limitations on the revenue generation of the District.
13. Budget. The District shall be required to submit its budget to the City on an annual basis pursuant to the District’s Bylaws. The Board of Aldermen shall have the authority to both review and approve the

District's budget prior to the start of the District's fiscal year.

14. Blight. Petitioners seek a finding of blight under this Petition. It is acknowledged that contemporaneously with the proposed approval of this Petition by the Board of Aldermen, the District has been found to be a "blighted area" pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Section 99.800, *et. seq.*, Revised Statutes of Missouri, as amended, and is therefore eligible to be deemed a "blighted area" under the CID Act.
15. **Revocation of Signatures. THE PETITIONERS ACKNOWLEDGE THAT THE SIGNATURES OF THE SIGNERS OF THIS PETITION MAY NOT BE WITHDRAWN FROM THIS PETITION LATER THAN SEVEN (7) DAYS AFTER THE FILING HEREOF WITH THE CITY CLERK.**

WHEREFORE, Petitioners respectfully request that the Board of Aldermen establish the requested Peculiar Main Street Community Improvement District in accordance with the information set forth in this Petition and that the Mayor appoint and Board of Aldermen consent to the proposed members for the Board of Directors as set forth in this Petition, and take all other appropriate and necessary action that is consistent with the CID Act to establish the requested district.

**EXECUTION PAGES FOR PETITION FOR THE CREATION OF THE  
PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT**

Name of owner: Turnage Properties, LLC, a Missouri limited liability company

Owner's address: 501 Schug Avenue, Peculiar, Missouri 64078

or P.O. Box 358, Peculiar, Missouri 64078-0358

Owner's telephone number: 816-405-4562

**IF SIGNER IS DIFFERENT FROM OWNER:**

Name of signer:

John E. Turnage

Title:

Member/manager

Signer's telephone number:

816-405-4562

Signer's mailing address:

501 Schug Ave. Peculiar, Mo 64078

If owner is an individual: \_\_\_\_\_ Single \_\_\_\_\_ Married

If owner is not an individual, state what type of entity (Mark Applicable Box):

<input type="checkbox"/>	Corporation	<input type="checkbox"/>	General Partnership
<input type="checkbox"/>	Limited Partnership	<input checked="" type="checkbox"/>	Limited Liability Company
<input type="checkbox"/>	Partnership	<input type="checkbox"/>	Urban Redevelopment Corporation
<input type="checkbox"/>	Not-for-Profit Corporation	<input type="checkbox"/>	Other Municipal corporation

Parcel number (map attached hereto as **Exhibit B**): 070515000000004000

Total Assessed Value:

\$311,523

[Signatures follow on separate pages.]

By executing this petition, the undersigned represents and warrants that he/she is authorized to execute this petition on behalf of the property owner named immediately below.

TURNAGE PROPERTIES, LLC,  
a Missouri limited liability company

By: Turnage Properties LLC  
Name: John E. Turnage  
Title: Managing Partner  
Date: 3/30/2020

STATE OF Missouri )  
COUNTY OF Cass ) ss:

On this 30 day of March, 2020, before me appeared John E. Turnage, to me personally known, who, being by me duly sworn did say that he is the owner of TURNAGE PROPERTIES, LLC, a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company, and said limited liability company acknowledged said instrument to be the free act and deed of said entity.

WITNESS my hand and official seal this 30 day of March, 2020.

My Commission Expires: 9-25-2022

Eliza Gail Daly  
Notary Public



## **EXHIBIT A**

### **Legal Description of Peculiar Main Street Community Improvement District**

Part of that certain tract of land described in Book 1549, Page 131 in the Office of the Recorder of Deeds, CASS COUNTY, MISSOURI, being part of the Northwest Quarter of the Northwest Quarter of Section 15, Township 45, Range 32, Peculiar, CASS COUNTY, MISSOURI, described as follows: From the Northwest corner of the Northwest Quarter of the Northwest Quarter of Section 15, aforesaid, run thence South 89 degrees 38 minutes 00 seconds East, along the North line of said Quarter Quarter Section, 44.43 feet; thence South, 30.00 feet to a point of intersection with the East right-of-way line of Main Street, as now located, and the South right-of-way line of Summerskill Road, as now located, and being the True Point of Beginning of the tract to be described; thence South 89 degrees 38 minutes 00 seconds East, along said South right-of-way line of Summerskill Road, 300.01 feet to a point of intersection with the West right-of-way line of Schug Avenue as now located thence South along said West right-of-way line, 334.74 feet; thence continuing Southeasterly along said West right-of-way line on a curve to the left having a radius of 756.01 feet an arc length of 146.68 feet and a chord bearing of South 5 degrees 33 minutes 29 seconds East to the Northeast corner of that certain tract of land described in Book 1750, at Page 64, in the office of the Recorder of Deeds; thence West along the North line of said certain tract of land, 314.19 feet to a point on said East right-of-way line of Main Street; thence North along said East right-of-way line, 482.43 feet to the True Point of Beginning.

## EXHIBIT B

### Boundary Map of the Peculiar Main Street Community Improvement District



**EXHIBIT C**

**Five Year Plan**

**(Attached)**

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**FIVE YEAR DISTRICT MANAGEMENT PLAN**

**OF THE**

**PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT**

**CITY OF PECULIAR, MISSOURI**

**The information and details outlined in the following pages represent the strategies and activities that it is anticipated will be undertaken during the initial five-year duration of the Peculiar Main Street Community Improvement District in Peculiar, Missouri. It is an integral and composite part of the petition to establish the Peculiar Main Street Community Improvement District.**

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## **Introduction**

The Peculiar Main Street Community Improvement District (the “District”) is created pursuant to Sections 67.1401 through 67.1571 of the Revised Statutes of Missouri (the “CID Act”). Section 67.1421, RSMo, requires that the petition for the creation of the District be accompanied by a five-year plan which includes a description of the purposes of the proposed district, the services it will provide, the improvements it will make and an estimate of the costs of these services and improvements to be incurred. This Five-Year District Management Plan (the “Plan”) is intended to satisfy this statutory requirement, and is appended to the Petition for Formation of the District as an integral part thereof.

### **Section 1 - Why Create a Community Improvement District?**

The District will encompass a commercial/retail development generally located East of Main Street, West of Schug Avenue, and South of 219<sup>th</sup> Street in Peculiar, Missouri (the “Development”). The Development will be comprised of commercial/retail development. The purpose of the District is to undertake certain improvements and services within the District, as discussed below, and to use or make available its revenue to pay the costs thereof, including without limitation debt service on any notes, bonds or other obligations issued and outstanding from time to time to finance all or any of such costs.

### **Section 2 - What is a Community Improvement District?**

A community improvement district is an entity that is separate from the City of Peculiar, Missouri (the “City”) and is formed by the adoption of an ordinance by the Board of ALdermen following a public hearing before the City Council regarding formation of the District. A CID may take the form of a political subdivision of the State of Missouri, or a nonprofit corporation that is formed and operated under Missouri corporation laws. CIDs are empowered to provide a variety of services and to construct and/or finance a number of different public improvements (and in a blighted area, certain private improvements), as set forth more particularly in the CID Act. CIDs derive their revenue from taxes and assessments levied within the boundaries of the CID. Such revenues are then used to pay the costs of the services or improvements. A CID is operated and managed by a board of directors, whose members may be appointed or elected. Board members serve for a designated period of time, and the Board positions are again elected or appointed at the expiration of each term as provided in the petition creating such CID.

### **Section 3 - Management Plan Summary**

The District in this case will take the form of a separate political subdivision of the State of Missouri, which will be governed by a Board of Directors that will consist of five (5) members appointed by the Mayor of the City with the consent of the Board of Aldermen pursuant to a slate submitted in accordance with the Petition and a CID cooperative agreement to be executed in connection with the Petition (the “CID CA”).

*District Formation:*

CID formation requires submission of signed petitions from a group of property owners:

- collectively owning more than fifty percent (50%) by assessed value of the real property within the District, and
- representing more than fifty percent (50%) per capita of all owners of real property within the District.

In this case, the Petition to which this Plan is attached has been signed by the owners of 100% of the assessed value and 100% of the per capita property owners within the District.

*Location:*

The Development is generally located East of Main Street, West of Schug Avenue, and South of 219<sup>th</sup> Street in Peculiar, Missouri and consists of approximately 2.97+/- acres. The District will include commercial/retail development.

*Assessed Value of District:*

The total assessed value of the properties within the District on the date of the Petition is \$311,523.

*Improvements and Services:*

The purpose of the District is to provide funding for the construction of certain improvements and the provision of certain services within the District's boundaries. The improvements initially contemplated include site work, grading, infrastructure improvements, utility improvements, parking improvements, right-of-way improvements, landscaping, lawns, trees, and any other landscape, utility improvements, construction of infrastructure improvements, demolition and removal, renovation, reconstruction, and rehabilitation of buildings or structures, as well as any other improvements permitted by the CID Act (the "Improvements"). The particular items included within the Improvements may be modified from those listed herein from time to time, and the costs of the Improvements to be financed by the District shall include all associated design, architecture, engineering, financing costs incurred to finance such Improvements, legal and administrative costs of same. The District may also provide funding for the District's formation and its ongoing operation and administration costs on an annual basis.

The District may also fund the provision of services within its boundaries for the benefit of the owners and tenants of the District (the "Services"), which may include: operating, maintaining, installing, equipping, repairing and protecting the common areas within the District, including, without limitation (a) operating, installing, maintaining and repairing the common driveways and access roads, sidewalks, curbs, signs, streetlights, landscaping and parking areas; (b) causing the necessary engineering and planning performed in connection with the Services; (c) streetscaping, gardening and landscaping (including but not limited to purchasing, installing and maintaining trees, shrubs, flowers and other vegetation, maintaining pots and planters, planting and replacing trees located along or adjacent to public rights-of-way and private drives, installing and maintaining lighting, public art, mowing, seeding and fertilizing grass and other vegetation); (d) maintaining and repairing irrigation systems and fire protection systems; (e) maintaining and repairing sanitary and storm sewers; (f) repairing, lighting, restriping, resurfacing and replacing parking lots; (g) providing or contracting for the provision of cleaning and maintenance services for exterior common areas in order to improve the appearance and image of the District, including but not necessarily limited to litter removal, purchase

and maintenance of trash receptacles, cleaning and sweeping of sidewalks, streets, parking areas, private drives, and gutters; (h) snow and ice removal; (i) trash, garbage, and other refuse removal; (j) repair and maintenance of directional and pylon signs; (k) repainting and repairing exterior areas; (l) repair and maintenance of exterior building and canopy lighting systems and components; (m) repair and maintenance of roofs, gutters, downspouts, fascia and columns; (n) the cost of non-administrative personnel (including, without limitation, workers compensation insurance) to implement such services; (o) employing or contracting for the provision of personnel to assist landowners, occupants, and users to improve security and safety conditions within the District, including but not limited to addressing public safety concerns, identifying and reporting public nuisances, and (if deemed advisable by the District) conducting security patrols; (p) hiring or contracting for personnel to staff and provide services to the District; and (q) and any other services permitted by the CID Act.

It is also anticipated that all costs, including attorneys' fees, associated with formation of the District, including, but not limited to, the preparation of the CID Petition, the negotiation and drafting of any agreements entered into upon formation of the District in furtherance of the District's purposes, and the initial implementation of the District ("Formation Costs") will be reimbursed to the advancing party, or paid directly, from funds generated by the District.

#### *Method of Financing:*

It is proposed that the District will impose a sales and use tax of up to one-half percent (0.50%) (the "District Sales Tax"), which is in addition to any other state, county or city sales and use tax. The District Sales Tax is payable on the same retail sales that are subject to taxation pursuant to Sections 144.010 to 144.525, RSMo, except sales of motor vehicles, trailers, boats or outboard motors, and sales to or by public utilities and providers of communications, cable, or video services. All costs of the District shall be financed in the manner and amount determined by the Board of Directors from the amounts on deposit with the CID. Amounts advanced to the District by the Petitioner, or its successors or assigns, to cover the costs contemplated hereunder will be reimbursed by the District upon the availability of funds. All financing costs, including interest costs, associated with any loan obtained by the District, or notes, bonds, or other obligations issued by District to finance Improvements and/or Services may be paid from CID Sales Tax revenues.

#### *Estimated Costs:*

Attached as **Exhibit A** to this Plan is a table setting forth the estimated cost of the Improvements and the Services, and a table setting forth the projected cash flow for the first five years of the District's existence.

#### *City Services:*

The CID Act mandates that existing City services will continue to be provided within a CID at the same level as before the District was created (unless services are decreased throughout the City) and that District services shall be in addition to existing City services. The District anticipates that City services will continue to be provided within the District at the same level as before the District was created, and the District will not cause the level of City services within the District to diminish.

#### *Duration:*

The District will operate for a maximum term of twenty-two (22) years from the date that the District Sales Tax commences to be collected within the District. Notwithstanding that the District is at the time providing Services, but subject to the contractual rights of any third parties, the District may be terminated prior to the end of such maximum term if the Improvements have been completed and the

costs thereof paid for or reimbursed in full with CID Sales Tax revenue. The petition process must be repeated for the District to continue beyond such maximum term.

#### **Section 4 District Boundaries**

The legal description of the District is attached as Exhibit A to the Petition.

#### **Section 5 Facilities and Services to Be Provided**

As explained above, during the first five years, the purpose of the District is to provide revenue sources to fund construction and installation of the Improvements, and provide or contract for the Services.

#### **Section 6 Governing the Community Improvement District**

##### *Board of Aldermen:*

Following the submission of the Petition, the Board of Aldermen will conduct a public hearing and then consider an ordinance to create the District.

##### *Board of Directors for District:*

The District will be governed by a Board of Directors that will consist of five members appointed by the Mayor of Peculiar with the consent of the Board of Aldermen pursuant to the terms of the Petition and the CID Development Agreement. The Mayor shall appoint such directors in accordance with the CID Development Agreement as successor directors, with the consent of the Board of Directors, unless the Mayor provides the District with a reasonable written explanation that such suggested successor directors do not meet applicable legal requirements or lack the competency to serve as directors.

##### *Annual Budget:*

The District's budgets will be proposed and approved annually, within the limitations set forth in this Plan, by the District's Board of Directors. Budgets will be submitted annually to the Board of Aldermen for review accordance with the CID Act and approval. The District shall not approve the Budget without the prior written consent of the City. The District will operate at all times in accordance with the District Rules and Regulations (Section 7) and the Bylaws of the District.

#### **Section 7 District Rules and Regulations**

1. The District shall operate at all times in accordance with Bylaws that may be adopted by the Board of Directors. The District shall at all times conduct its proceedings in accordance with Robert's Rules of Order, except as otherwise provided in any Bylaws.
2. The Board of Directors of the District will meet at least on an annual basis.

**EXHIBIT A TO FIVE YEAR PLAN OF THE  
PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT**

**ESTIMATED COSTS OF IMPROVEMENTS AND SERVICES<sup>1</sup>**

**Hard Costs**

<i>Sitework</i>	\$	542,040
<i>Design – Permits &amp; Fees</i>	\$	395,000
<i>Hard Construction</i>	\$	850,000

<i>Subtotal</i>	\$	1,787,040
<i>Contingency</i>	\$	178,704
<b><i>Hard Costs Total</i></b>	<b>\$</b>	<b>1,965,744</b>

**Soft Costs**

<i>Third Party Professional Costs</i>	\$	50,000
<i>Miscellaneous Soft Costs</i>	\$	300,000

<i>Subtotal</i>	\$	350,000
<i>Contingency</i>	\$	35,000
<b><i>Soft Costs Total</i></b>	<b>\$</b>	<b>385,000</b>

<b>TOTAL HARD COSTS</b>	<b>\$</b>	<b>1,965,744</b>
<b>TOTAL SOFT COSTS</b>	<b>\$</b>	<b>385,000</b>

<b>TOTAL IMPROVEMENT COSTS</b>	<b>\$</b>	<b>2,350,744</b>
--------------------------------	-----------	------------------

<b>SERVICES COSTS (\$25,000/yr x 22 Years)</b>	<b>\$</b>	<b>\$550,000</b>
<b>TOTAL</b>	<b>\$</b>	<b>2,900,744</b>

**CASH FLOW PROJECTION<sup>2</sup>**

YEAR 1 (2021)	YEAR 2 (2022)	YEAR 3 (2023)	YEAR 4 (2024)	YEAR 5 (2025)
\$18,113	\$27,170	\$27,578	\$27,991	\$28,411

<sup>1</sup> These costs are estimates and may fluctuate based on actual costs incurred for purposes permitted under the CID Act.

<sup>2</sup> Any annual revenue generated will be utilized to pay any costs of the District in the discretion of the Board of Directors.

**AN ORDINANCE APPROVING A PETITION TO ESTABLISH THE PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT.**

**WHEREAS**, by Ordinance No. \_\_\_\_\_, adopted by the Board of Aldermen of the City of Peculiar, Missouri (“City”), on May 18, 2020, the City approved the Peculiar Main Street Tax Increment Financing Plan (the "Redevelopment Plan"), declared the Redevelopment Area as a blighted area, and selected Super Market Developers, Inc. (the “Developer”) as the developer to implement the Redevelopment Plan; and

**WHEREAS**, the Redevelopment Plan contemplates the formation of a community improvement district in order to assist in the financing of the project; and

**WHEREAS**, Sections 67.1401 to 67.1571, RSMo as amended (the “CID Act”) authorizes the governing body of any municipal corporation, upon receipt of a proper petition and after a public hearing, to adopt an ordinance establishing a community improvement district; and

**WHEREAS**, on or about March 31, 2020, pursuant to the CID Act, a Petition to Establish the Peculiar Main Street Community Improvement District (“Petition”), signed by (1) property owner(s) collectively owning more than fifty percent of the assessed property value of real property; and (2) more than fifty percent of the per capita owners of all real estate within the boundaries of the proposed Peculiar Main Street Community Improvement District (the “District”) was filed with the Deputy City Clerk of the City; and

**WHEREAS**, as required by the CID Act, the Deputy City Clerk, as assisted by the City Attorney and special economic development counsel, verified that the Petition substantially complies with the CID Act; and

**WHEREAS**, the Board of Aldermen, following notification by the Deputy City Clerk, conducted a public hearing on May 4, 2020, after publishing the notice specified in Section 67.1431.3 of the CID Act and Section 67.2725, RSMo, copies of which publication and mailed notices are on file with the City Clerk; and

**WHEREAS**, all persons interested in the establishment of the Peculiar Main Street Community Improvement District were allowed an opportunity to speak at the public hearing before the Board of Aldermen.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI, AS FOLLOWS:**

**Section 1:** That the Petition to Establish the Peculiar Main Street Community Improvement District, which is attached to this Ordinance as **Exhibit A** and incorporated herein, is hereby approved.

**Section 2:** That the Peculiar Main Street Community Improvement District (“District”) is hereby established for the purposes set forth in the Petition, shall have all the powers and authority authorized by the Petition and by the CID Act.

**Section 3:** That the area within the District boundaries is a Blighted Area pursuant to the determination of blight made by the Board of Aldermen in Ordinance No. \_\_\_\_\_, adopted May 18, 2020, in conjunction with the approval of the Redevelopment Plan.

**Section 4:** That the Deputy City Clerk is hereby directed to correct any and all scrivener’s errors in the Petition and report the creation of the District to the Missouri Department of Economic Development in writing pursuant to Section 67.1421.6, RSMo, and send a copy of this ordinance to said agency.

**Section 5:** This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor according to law.

**First Reading: May 4, 2020**

**Second Reading: \_\_\_\_\_**

**BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY THE FOLLOWING VOTE:**

Alderman Broadhurst \_\_\_\_\_  
Alderman Harlan \_\_\_\_\_  
Alderman Gillespie \_\_\_\_\_

Alderman Ray \_\_\_\_\_  
Alderman Smith \_\_\_\_\_  
Alderman Erickson \_\_\_\_\_

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Holly Stark, Mayor

\_\_\_\_\_  
Cyndora Gauthreaux, Deputy City Clerk

# **EXHIBIT A**

Petition

(see attached)





LAUBER MUNICIPAL LAW, LLC

*Serving those who serve the public*

## Memo

**To:** Mayor and Board of Aldermen  
Carl Brooks, Interim City Administrator

**From:** Lauber Municipal Law, City Attorney and Special Economic Development Legal Counsel

**Date:** May 18, 2020

**Re:** Outline of Key Points of the Cooperative Agreement Among the City of Peculiar, Missouri; Peculiar Main Street Community Improvement District; and Super Market Developers, Inc.

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### **Background:**

As required by the CID Petition and the TIF Contract (both to be considered by the Board of Aldermen at its May 4, 2020 and May 18, 2020 meetings) the City Staff and Consultant team has negotiated a Cooperative Agreement among the City, the Peculiar Main Street Community Improvement District (the “CID”), and Super Market Developers, Inc. (the “Developer”).

### **Summary of Contents of Cooperative Agreement**

- **Parties (3):**
  - City of Peculiar
  - Peculiar Main Street Community Improvement District
  - Super Market Developers, Inc.
- **Purpose:** to establish each Party’s responsibilities with regard to the imposition, collection, administration and disbursement of CID sales tax revenues and operation of the District. The District’s primary role is to fund or assist in the funding the TIF Project (CID Captured Sales Tax Revenue) and the CID Reimbursable Project Costs (Non-Captured CID Sales Tax Revenue).
- **General Information**
  - **Term:** Sections 3.8 and 7.1
    - The District and the Cooperative Agreement will be in place for a maximum of twenty-two (22) years from the date upon which any sales tax is levied within the District.

- **Accounting and Budgeting:**
  - The City will administer the sales tax on behalf of the CID (i.e., make sure the Districts funds are used in accordance with the TIF Contract and the Cooperative Agreement). Section 3.2
  - The City will receive an administrative fee in the amount of 1% of the annual total CID Sales Tax Revenue for City services performed in connection with the CID (this is a yearly fee). Section 3.3
  - City will keep the books and accounts for the CID revenues and maintain records regarding these activities on behalf of the Districts. Section 5.1
- **CID Sales Tax**
  - The CID Board will adopt a resolution, which, subject to qualified voter approval, imposes a CID sales tax of up to 0.50%. Section 3.1
  - The CID sales tax will be collected by DOR, as required in the CID Act. The DOR will be directed to deposit these revenues with the City as the agent of the Districts. Section 3.1
  - DOR is responsible for enforcing payment of the sales tax, but the District authorizes the City to carry out enforcement activities to the extent permitted by law if that becomes necessary. Section 3.5
  - The City will distribute the CID sales tax revenues in accordance with the “waterfall” provided in Section 3.6
    - First to cover the TIF-captured portion of the CID sales tax revenue (if the City has such revenue in such month);
    - Next to pay the City’s Administrative Fee
    - Next to cover CID operating costs and any associated Financing Costs;
    - Next, to pay the approved CID Reimbursable Project Costs and related Financing Costs; and
    - Finally, to pay for CID services.
- **Projects:** (Defined at pages 2-3)
  - The CID Project consists of construction of:
    - Site work;
    - Grading;
    - Infrastructure improvements;
    - Utility improvements;
    - Parking improvements;

- Right-of-way improvements;
  - Landscaping, lawn, trees, and any other landscape;
  - Demolition and removal;
  - Renovation of buildings and structures;
  - Reconstruction of buildings and structures; and
  - Rehabilitation of buildings and structures.
- CID Services (defined on page 4)
  - Maintaining common driveways and access roads, sidewalks, curbs, signs, streetlights, landscaping and parking areas;
  - Streetscaping, gardening and landscaping along public rights-of-way and private drives;
  - Maintaining irrigation systems and fire protection systems;
  - Maintaining and repairing sanitary and storm sewers;
  - Repairing, restriping, resurfacing parking lot;
  - Providing for cleaning of exterior common areas (removal of litter, etc.);
  - Snow and ice removal;
  - Repair and maintenance of directional and pylon signs;
  - Repair and maintenance of exterior building and canopy lighting systems and components;
  - Etc.
- **General Terms**
  - The remaining sections of the Cooperative Agreement primarily deal with generally standard contract obligations of the parties (e.g., annual budget, default, remedies on default, recording of the document, indemnification, insurance, approvals, etc.).

COOPERATIVE AGREEMENT

among the

CITY OF PECULIAR, MISSOURI,

PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT,

and

SUPER MARKET DEVELOPERS, INC.

dated as of

\_\_\_\_\_, 2020

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## COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT ("Agreement"), entered into as of this \_\_ day of \_\_\_\_\_, 2020, among the CITY OF PECULIAR, MISSOURI, a fourth class city and political subdivision of the State of Missouri (the "City"), the PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT, a Missouri political subdivision (the "District") and SUPER MARKET DEVELOPERS, INC., a Missouri corporation (the "Developer") (the City, District, and Developer are collectively referred to herein as the "Parties" and individually as "Party," as the context so requires).

### WITNESSETH:

WHEREAS, on March 31, 2020, a Petition to Establish the Peculiar Main Street Community Improvement District (the "Petition") was filed with the office of the City Clerk by more than fifty percent (50%) per capita of all owners of real property within the boundaries of the District and property owners collectively owning parcels representing more than fifty percent (50%) of the total assessed value of the real property within the boundaries of the District (the "Petitioners"); and

WHEREAS, the Petitioners requested that the Board of Aldermen establish the District; and

WHEREAS, the Petitioners requested authority in the Petition for the District to impose a CID Sales Tax at a rate of one-half percent (0.50%) to fund the CID Improvements, Operating Costs, CID Services, and any Financing Costs; and

WHEREAS, on May 4, 2020, the Board of Aldermen held a public hearing to hear and consider information regarding the proposed District; and

WHEREAS, on May 18, 2020 the Board of Aldermen adopted Ordinance No. \_\_\_\_\_, pursuant to which the City approved the Petition, which includes the property described on **Exhibit A** and depicted on the map on **Exhibit B**, both exhibits are attached hereto and incorporated herein by reference (the "District Area") and established the District for the purposes set forth in the Petition; and

WHEREAS, on May 18, 2020 the Board of Aldermen adopted Ordinance No. \_\_\_\_\_, pursuant to which the City authorized the execution of this Agreement; and

WHEREAS, on \_\_\_\_\_, 2020, the District passed Resolution No. \_\_\_\_\_, pursuant to which the District authorized the execution of this Agreement; and

WHEREAS, the Parties desire to set forth through this Agreement their respective duties and obligations with respect to the administration, enforcement, and operation of the CID Sales Tax and the funding of the CID Improvements, Operating Costs, CID Services, and Financing Costs therefrom.

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.

In addition to words and terms defined by the CID Act and elsewhere in this Agreement, the following words and terms shall have the meanings ascribed to them in this Section unless the context in which such words and terms are used clearly requires otherwise:

“Administrative Fee” means that amount of the CID Sales Tax Revenue that the City shall receive as compensation for performing the administrative and accounting duties associated with the CID Sales Tax Revenue, pursuant to **Section 3.3** of this Agreement.

“Agreement” or “Contract” means this Cooperative Agreement among the City, the Developer and the District.

“Applicable Laws and Requirements” means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence and specifically including but not limited to all ordinances, rules and regulations of the City, such as zoning ordinances, subdivision ordinances, building codes, and property maintenance codes.

“Board of Aldermen” means the governing body of the City.

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

“CID Act” means the Missouri Community Improvement District Act, §§ 67.1401, *et seq*, RSMo.

“CID Improvements” means the construction of certain on-site improvements within the District Area as described in **Exhibit A** and shown on the map in **Exhibit B** to the Petition, specifically (and any other Reimbursable Project Costs permitted by Section 16 of the TIF Contract), subject to the CID Act:

1. Site work;
2. Grading;



3. Infrastructure improvements;
4. Utility improvements;
5. Parking improvements;
6. Right-of-way improvements;
7. Landscaping, lawn, trees, and any other landscape;
8. Demolition and removal;
9. Renovation of buildings and structures;
10. Reconstruction of buildings and structures; and
11. Rehabilitation of buildings and structures.

“CID Reimbursable Project Costs” means, all actual and reasonable costs and expenses which are incurred by or at the direction of the District or the Developer with respect to construction of the CID Improvements, including the actual and reasonable cost of labor and materials payable to contractors, builders, suppliers, vendors, and materialmen for the CID Improvements that is constructed or undertaken by the District or Developer, plus all actual and reasonable costs to plan, finance, develop, design, and acquire the CID Improvements, including but not limited to the following:

- (1) 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 Costs, 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 CID Improvements and all actual and reasonable costs for the oversight of the completion of the CID Improvements; and
- (2) 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 CID Improvements and which may lawfully be paid or incurred under the CID Act.

“CID Revenue Fund” means the trust fund established by the City on behalf of the District pursuant to the CID Act to be known as the “Peculiar Main Street Community Improvement District Sales Tax Fund” into which Non-Captured CID Sales Tax Revenues shall be deposited in accordance with this Agreement.

“CID Sales Tax” means a sales tax levied by the District on the receipts from the sale at retail of all eligible tangible personal property or taxable services at retail within its boundaries pursuant and subject to the CID Act in the amount not to exceed one-half percent (0.50%).

“CID Sales Tax Revenue” means the monies actually collected, pursuant to this Agreement and the CID Act, from the imposition of a CID Sales Tax.

“CID Services” means services provided within the District for the benefit of the owners and tenants of the District, which may include: operating, maintaining, installing, equipping, repairing and protecting the common areas within the District, including, without limitation (a) operating, installing, maintain and repairing the common driveways and access roads, sidewalks, curbs, signs, streetlights, landscaping and parking areas; (b) causing the necessary engineering and planning performed in connection with the Services; (c) streetscaping, gardening and landscaping (including but not limited to purchasing, installing and maintaining trees, shrubs, flowers and other vegetation, maintaining pots and planters, planting and replacing trees located along or adjacent to public rights-of-way and private drives, installing and maintaining lighting, public art, mowing, seeding and fertilizing grass and other vegetation); (d) maintaining and repairing irrigation systems and fire protections systems; (e) maintaining and repairing sanitary and storm sewers; (f) repairing, lighting, restriping, resurfacing and replacing parking lots; (g) providing or contracting for the provision of cleaning and maintenance services for exterior common areas in order to improve the appearance and image of the District, including but not necessarily limited to litter removal, purchase and maintenance of trash receptacles, cleaning and sweeping of sidewalks, streets, parking areas, private drives, and gutters; (h) snow and ice removal; (i) trash, garbage, and other refuse removal; (j) repair and maintenance of directional and pylon signs; (k) repainting and repairing exterior areas; (l) repair and maintenance of exterior building and canopy lighting systems and components; (m) repair and maintenance of roofs, gutters, downspouts, fascia and columns; (n) the cost of non-administrative personnel (including without limitations, workers compensation insurance) to implement such services; (o) employing or contracting for the provisions of personnel to assist landowners, occupants, and users to improve security and safety conditions within the District, including but not limited to addressing public safety concerns identifying and reporting public nuisances, and (if deemed advisable by the District) conducting security patrols; (p) hiring or contracting for personnel to staff and provide services to the District; and (q) and any other services permitted by the CID Act.

“DOR” or “Department of Revenue” means the Missouri Department of Revenue.

“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, pandemics, 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 a Party and not caused by any Party’s 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.

“Financing Costs” means those costs incurred as a result of loans, notes, or other forms of indebtedness (excluding bonds) issued by the District pursuant to the CID Act subject to the restrictions in this Agreement to pay any portion attributable to CID Reimbursable Project Costs, CID Services, or Operating Costs incurred or estimated to be incurred, including but not limited

to loan fees, capitalized interest, legal fees, financial advisor fees, broker fees or discounts, printing, and interest (which such interest shall have been actually incurred by the Developer at a rate not to exceed the Prime Rate plus 1%); provided that, Financing Costs shall also include interest on equity used to pay for CID Reimbursable Project Costs, CID Services, or Operating Costs shall be reimbursable at the same rate as Developer's aforementioned actual borrowing cost, but shall not exceed the Prime Rate plus 1%.

"Non-captured CID Sales Tax Revenue" means the remaining portion of the CID Sales Tax revenue that is not required to be deposited in the TIF Special Allocation Fund to pay Reimbursable Project Costs pursuant to the TIF Plan and TIF Contract, and which will be deposited into the CID Revenue Fund.

"Operating Costs" means the actual, reasonable expenses that are necessary or desirable for the creation (including the preparation of the CID Petition, the negotiation and drafting of any agreements entered into upon formation of the District in furtherance of the District's purposes, and the initial implementation of the District) and operation of the District that shall include, but is not limited to, costs associated with notices, publications, meetings, supplies, equipment, photocopying, the engagement of legal counsel, accounting, financial auditing services, insurance, administration of the CID Sales Tax, enforcement and collection of the CID Sales Tax, and other consultants or services, a general budget estimate for which is set forth in **Exhibit A** to the Five Year Management Plan of the CID Petition.

"Ordinance" means an ordinance enacted by the Board of Aldermen.

"Prime Rate" the prime rate reported in the "Money Rates" column or any successor column of *The Wall Street Journal*, currently defined therein as the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks. If *The Wall Street Journal* ceases publication of the Prime Rate, then "Prime Rate" shall mean the "prime rate" or "base rate" announced by an equivalent publication that evaluates the same criteria as the *Wall Street Journal* to report such rate.

"Tax Increment Financing Contract" or "TIF Contract" means the Tax Increment Financing Redevelopment Agreement between the City of Peculiar, Missouri and Super Market Developers, Inc. for the Peculiar Main Street Tax Increment Financing Redevelopment Plan, approved by the Board of Aldermen by Ordinance No. \_\_\_\_ on May 18, 2020, and any amendments thereto.

"Tax Increment Financing Plan" or "TIF Plan" means the Tax Increment Financing Development Plan approved by the Board of Aldermen by Ordinance No. \_\_\_\_\_ on May 18, 2020, and any amendments thereto.

## **ARTICLE 2: REPRESENTATIONS**

### **Section 2.1. Representations by the District.**

The District represents that:

A. The District is a community improvement district and political subdivision, duly organized and existing under the laws of the State of Missouri, including particularly the CID 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 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.

D. 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.

E. The District acknowledges that the funding and construction of the CID Improvements is of significant value to the District, the property within the District and the general public.

## **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 fourth-class city.

B. The City has authority to enter into this Agreement and to carry out its obligations under this Agreement, and the Mayor has been 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, 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 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 of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings.

B. The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party which would affect or otherwise impede Developer's ability to perform its obligations under this Agreement, and do not and will not constitute a default under any of the foregoing.

C. No litigation, proceedings or investigations are pending or threatened against the Developer which would affect or otherwise impede Developer's ability to perform its obligations under this Agreement. In addition, no litigation, proceedings, or investigations are pending or threatened against the Developer seeking to restrain, enjoin, or in any way limit the approval or issuance and delivery of this Agreement or which 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.

D. The Developer is in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations, and requirements of every duly constituted governmental authority, commission, and court having jurisdiction over the CID Improvements.

## **ARTICLE 3: COLLECTION OF FUNDS**

### **Section 3.1. Imposition of the CID Sales Tax.**

The Board of Directors shall adopt a resolution, which, subject to qualified voter approval, imposes the CID Sales Tax. The CID Sales Tax shall be collected by the DOR as provided in the CID Act. The District shall notify the DOR of the CID Sales Tax and direct the DOR to forward the CID Sales Tax Revenue to the City. The City shall receive from the DOR the CID Sales Tax Revenue. Pursuant to the TIF Act, half of the CID Sales Tax Revenue will be deposited in the TIF Special Allocation Fund ("Captured CID Sales Tax Revenue"). The Non-Captured CID Sales Tax Revenue shall be deposited in the CID Revenue Fund by the City in accordance with **Section 3.2**, and shall be used to make those payments set forth in **Section 3.6**, in the order of priority set forth in **Section 3.6**. All CID Sales Tax Revenue disbursements shall be subject to annual appropriation of the District.

### **Section 3.2. Administration and Collection of the CID Sales Tax.**

The Parties anticipate that the CID Sales Tax will be collected and enforced by the DOR, as provided in the CID Act. The City agrees to perform for the District all functions incident to the administration and, if necessary, enforcement of the CID Sales Tax, pursuant to the CID Act and this Agreement. The District has enacted, or will enact, resolutions that: (i) impose the CID Sales Tax (subject to qualified voter approval); (ii) authorize the City to perform all functions incident to the administration, enforcement, and operation of the CID Sales Tax; and (iii) prescribe any required forms and administrative rules and regulations for reporting the CID Sales Tax. The Non-Captured CID Sales Tax Revenue shall be deposited by the City in the CID Revenue Fund in accordance with the resolution adopted by the District. The District may amend the forms, administrative rules, and regulations applicable to the administration, enforcement and operation of the CID Sales Tax, as needed.

All amounts in the CID Revenue Fund shall be expended solely in accordance with this Agreement. All amounts of Captured CID Sales Tax Revenue deposited in the TIF Special Allocation Fund shall be treated as Economic Activity Taxes (as defined in the TIF Contract) and shall be expended in accordance with the TIF Act, the TIF Plan and the TIF Contract. Upon the expiration of the CID Sales Tax, all funds remaining in the CID Revenue Fund shall continue to be used solely in accord with this Agreement. Any funds in the CID Revenue Fund that are not needed for current expenditures may be invested by the City pursuant to applicable laws relating to the investment of other City funds.

### **Section 3.3. Administrative Fee.**

The City shall receive an Administrative Fee for administering the CID Sales Tax in the amount of one percent (1%) of the annual total CID Sales Tax Revenue. The annual total CID Sales Tax Revenue shall include that portion of the CID Sales Tax Revenue that is collected and deposited in the TIF Special Allocation Fund pursuant to the TIF Act.

### **Section 3.4. District Operating Costs.**

A. The City, on behalf of the District, shall pay for the Operating Costs of the District from CID Sales Tax Revenue in accordance with **Section 3.6** of this Agreement. In the course of performing the administrative duties set forth in **Section 3.2**, the City may incur reasonable Operating Costs for the District, which are reimbursable Operating Costs subject to reasonable approval by the District. The Operating Costs shall be included in the District's annual budget, as provided in **Section 5.4**.

B. In the event that there are insufficient funds generated by CID Sales Tax Revenue in any fiscal year to cover the Operating Costs incurred with respect to such fiscal year, such costs shall be paid by the Developer, who may seek reimbursement of same and associated Financing Costs as a CID Reimbursable Project Cost in accordance with this Agreement.

### **Section 3.5. Enforcement of the CID Sales Tax.**

The District authorizes the City, to the extent permitted by law, to take all actions necessary for collection and enforcement of the CID Sales Tax. The City may, in its own name or in the name

of the District, prosecute or defend an action, lawsuit or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure the payment of the CID Sales Tax. The District agrees to cooperate fully with the City and to take all actions necessary to affect the substitution of the City for the District in any such action, lawsuit or proceeding if the City shall so request.

Any costs incurred by any Party in an attempt to enforce and/or collect the CID Sales Tax pursuant to this Section shall be considered as an Operating Cost and distributed to such Party in accordance with **Section 3.6** of this Agreement.

### **Section 3.6. Distribution of the CID Sales Tax Revenue.**

No disbursements of the CID Sales Tax Revenue from the CID Revenue Fund will be made for CID Reimbursable Project Costs until the City has approved a Certificate of Completion and Compliance, as defined in **Section 4.3**. The City, on behalf of the District, shall disburse on a monthly basis the CID Sales Tax Revenue in the following order of priority:

A. Pursuant to the TIF Act and the TIF Plan, for so long as tax increment financing is in effect within the Redevelopment Project Area, one-half (1/2) of the CID Sales Tax Revenue received by the City from the DOR as provided in this Agreement will be captured as Economic Activity Taxes and deposited by the City into the TIF Special Allocation Fund, which amounts shall then be subject to distribution pursuant to the TIF Contract.

B. The City shall distribute to itself the Administrative Fee, as described in **Section 3.3**.

C. The City shall pay the approved Operating Costs of the District incurred by the City, the District or the Developer and any associated Financing Costs.

D. The City shall pay the approved CID Reimbursable Project Costs and related Financing Costs.

E. CID Services.

### **Section 3.7. Records of the CID Sales Tax.**

The City shall keep accurate records of the CID Sales Tax Revenue collected and all deposits and expenditures from the CID Revenue Fund. Such records and any other records pertaining to the CID Sales Tax shall be available to the District upon reasonable request by the District.

### **Section 3.8. Repeal of the CID Sales Tax.**

The District shall remain in existence for a maximum of twenty-two (22) years from the date upon which any sales tax is levied within the District. Upon reaching the maximum number of years, the CID Sales Tax shall be repealed and the City shall:

A. Retain the City's Administrative Fee, if applicable, to which it is entitled in accordance with this Agreement.

- B. Pay all outstanding Operating Costs and associated Financing Costs.
- C. Retain any remaining CID Sales Tax until such time as the CID is abolished and the CID has provided for the transfer of any funds remaining in a manner permitted by the CID Act.

## **ARTICLE 4: FINANCING CID IMPROVEMENTS**

### **Section 4.1. Design and Construction of CID Improvements.**

The District and the City both hereby acknowledge that the CID Improvements are a part of the TIF Plan being undertaken pursuant to the TIF Contract. The District and City hereby further acknowledge that the Developer plans to construct the CID Improvements in accordance with the TIF Plan, the TIF Contract, and this Agreement. The District's primary role is to fund and/or assist in the funding of the CID Improvements. The CID Improvements shall be carried out by or at the direction of Developer, subject to Applicable Laws and Requirements; the District shall have no obligation to design and construct the CID Improvements. The Developer shall comply with all Applicable Laws and Requirements in its design and construction of the CID Improvements. Developer shall indemnify and hold harmless the City and the District for any damage resulting to it from the failure of either Developer or its contractor or subcontractors to pay prevailing wages if legally required.

### **Section 4.2. Financing the CID Improvements and CID Services.**

The financing for the CID Improvements and CID Services shall be done in accordance with **Section 15**, Funding Sources and Uses of Funds, of the TIF Contract.

### **Section 4.3. Certificate of Completion and Compliance.**

Upon substantial completion of the CID Improvements, Developer shall submit a report to the City certifying that the CID Improvements have been completed in accordance with the TIF Plan. Obtaining a certificate of completion and compliance ("Certificate of Completion and Compliance") for the CID Improvements shall be done in accordance with **Section 23** of the TIF Contract.

### **Section 4.4. Ownership and Maintenance of CID Improvements.**

Except for any CID Improvements dedicated to the City or MoDOT, the District shall control the CID Improvements for the duration of the District's existence. The District shall own and maintain the CID Improvements until such time as the District is terminated. Any costs incurred by the District to maintain the CID Improvements shall be considered Operating Costs.

### **Section 4.5. New CID Improvements.**

The District shall not undertake new improvement projects in addition to the CID Improvements without the prior approval of the Board of Aldermen.



## **ARTICLE 5: SPECIAL COVENANTS**

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

The City, on behalf of the District, shall keep proper books of record and account 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 the District upon written request (within a reasonable time not to exceed three business days) such information as it may request concerning the District, including such statistical and other operating information requested by the District on a periodic basis, in order to determine whether the covenants, terms, and provisions of this Agreement have been met.

In addition, the City shall provide for the preparation of annual audited financial statements of the District for each fiscal year no later than September 1<sup>st</sup> following the end of such fiscal year, if legally required. For that purpose, all pertinent books, documents, and vouchers relating to the District's business, affairs, and properties shall at all times during regular business hours be open to the inspection of such accountant, other agent, or City official or employee (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. To the extent permitted, the City may include the CID's audit as a component of the City's annual audit.

### **Section 5.2. Notice to and Consent by Tenants and Transferees.**

A. Developer shall comply with **Section 28** of the TIF Contract regarding the leasing of project property.

B. Prior to the transfer of any project property, Developer shall comply with **Section 29** of the TIF Contract.

### **Section 5.3. Developer's Obligations to the City under Bond or Surety.**

A. The Parties agree that the CID Improvements, or any portion thereof, which the Developer is or becomes obligated to the City to construct pursuant to any City Code provision or Ordinance, does not diminish the consideration to the District as recited in **Section 2.1** and shall be a CID Reimbursable Project Cost that may be reimbursed in accordance with this Agreement.

B. The Parties agree that in the event that the City constructs or causes to be constructed any portion of the CID Improvements pursuant to any action on a bond or other form of surety that is provided to the City by the Developer pursuant to the City Code or a City ordinance, then the City shall be entitled to reimbursement from the District for such CID Reimbursable Project Costs that are not paid or reimbursed to the City under such bond or surety.

### **Section 5.4. Annual Budget.**

The CID Board shall prepare, or cause to be prepared, a budget for capital and operating expenses for the District's first fiscal year and submit that budget to the Board of Aldermen for review and approval within sixty (60) days after the date the ordinance to establish the District is adopted by

the Board of Aldermen. For each subsequent fiscal year of the District, the CID Board shall prepare, or cause to be prepared, a budget for capital and operating expenses for the District's upcoming fiscal year and, no earlier than one hundred eighty (180) days and no later than ninety (90) days prior to the first day of each fiscal year, shall submit a proposed budget to the Board of Aldermen, for review and approval (the "Annual Budget"). Within a reasonable time after obtaining the Board of Aldermen's approval, of the Annual Budget, the CID Board shall approve the same. Each Annual Budget for the District shall be prepared in accordance with all applicable state statutes including Section 67.010 RSMo, as amended.

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

### **Section 6.1. Events of Default.**

If the following event shall occur and be continuing following the expiration of any cure provisions herein, then such event shall constitute an Event of Default under this Agreement: failure by any Party in the performance of any covenant, agreement or obligation imposed or created by this Agreement (except as otherwise provided in **Section 5.3**), and the continuance of such default for sixty (60) days after a non-defaulting Party has given written notice to the defaulting Party specifying such default.

### **Section 6.2. Remedies on Default.**

If any Event of Default has occurred and is continuing, then any 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 proceedings at law or in equity, enforce its rights against the defaulting Party and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Agreement.

### **Section 6.3. Rights and Remedies Cumulative.**

The rights and remedies reserved by the Parties under this Agreement and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The 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 each party hereby waives the right to raise such defense in any proceeding in equity.

### **Section 6.4. 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 6.5. 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. Upon the expiration of the CID Sales Tax as provided in **Section 3.8**, and the abolishment of the District in accordance with Section 67.1481, RSMo, and the terms of this Agreement, this Agreement shall terminate.

### **Section 7.2. Immunities.**

No recourse shall be had for any claim based upon any representation, obligation, covenant or agreement in this Agreement maintained against any past, present or future officer, member, employee, director or agent of the City, Developer or the District, or of any successor thereto, as such, either directly or through the City; Developer or the District, or any successor thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, members, employees, directors or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement. The District, as a separate political subdivision of the state, is responsible for compliance with all applicable state laws and agrees, to the extent permitted by law, to hold harmless and indemnify the City from and against all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorneys fees, resulting from, arising out of, or in any way connected with the District's failure to comply with any applicable state law; except that, the District shall have no responsibility under this **Section 7.2** for any such non-compliance arising from areas of CID administration that are the responsibility of the City under this Agreement.

### **Section 7.3. Indemnification.**

Developer shall indemnify, protect, defend and hold harmless the City and the District, its officers, directors, members, commissioners, employees and agents from and against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character (including consequential and punitive damages), to persons or property occurring as a result of any acts or omissions of Developer, its constituent members or partners, their employees, agents, independent contractors, or licensees acting by, through or under such indemnifying parties, in connection with its or their activities conducted pursuant to this Agreement and/or in connection with the ownership, use or occupancy and development or redevelopment of the Redevelopment Area or a portion thereof and the CID Improvements, except for any claims, demands, liabilities and costs incurred due to the negligence or willful misconduct of City or District, or their respective employees, agents or assigns.

#### **Section 7.4. Modification.**

The terms, conditions, and provisions of this Agreement can be neither modified nor 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 7.5. Applicable Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri and all actions shall be heard in Cass County Circuit Court.

#### **Section 7.6. Validity and Severability.**

It is the intention of the parties hereto 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.

#### **Section 7.8. Recording.**

Upon full execution by City, Developer, and the District, this Contract or a memorandum thereof shall be recorded by City, at Developer's expense, in the Office of the Recorder of Deeds for Cass County, Missouri. Such expense shall be an Operating Cost.

#### **Section 7.9. City Approvals.**

Unless specifically provided to the contrary herein, all approvals of City hereunder may be given by the City Administrator or his designee without the necessity of any action by the Board of Aldermen. The City Administrator, at his discretion, may seek the advice or consent of the Board of Aldermen for any requested approval.

#### **Section 7.10. District Approvals.**

The Board of Directors, by resolution, may authorize the Chairman or his/her designee to approve certain transactions on behalf of the District without the necessity of any action by the Board of Directors.

### **Section 7.11. Developer Approvals.**

Unless specifically provided to the contrary herein, all approvals of Developer hereunder may be given by the agent of Developer.

### **Section 7.12. Authorized Employees.**

A. Developer acknowledges to the City and District that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. Developer therefore covenants to the City and District that it is not knowingly in violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work related to this Contract, and that its employees are lawfully eligible to work in the United States.

B. District acknowledges to the City that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. District therefore covenants to the City that it is not knowingly in violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work related to this Contract, and that its employees are lawfully eligible to work in the United States.

C. City acknowledges to the District that Section 285.530, RSMo prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. City therefore covenants to the District that it is not knowingly in violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work related to this Contract, and that its employees are lawfully eligible to work in the United States.

[no further text; signature pages follow]

IN WITNESS WHEREOF, Developer, the District, and the City have caused this Agreement to be executed in their respective names and attested as to the date as set forth below.

CITY:

CITY OF PECULIAR, MISSOURI

By: \_\_\_\_\_  
Holly Stark, Mayor

ATTEST:

\_\_\_\_\_  
Cyndora Gauthreaux, Deputy City Clerk

**CERTIFICATE OF ACKNOWLEDGEMENT**

STATE OF MISSOURI     )  
                                      ) ss  
COUNTY OF CASS        )

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2020, before me, a Notary Public in and for said state, personally appeared Holly Stark, the Mayor known to me to be the person who executed this Cooperative Agreement on behalf of the City of Peculiar, Missouri and acknowledged to me that he executed the same for the purposes therein stated.

Subscribed and affirmed before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires:

DEVELOPER:

SUPER MARKET DEVELOPERS, INC.

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

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

Title: \_\_\_\_\_

**CERTIFICATE OF ACKNOWLEDGEMENT**

STATE OF MISSOURI     )  
  ) ss  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_ in the year 2020 before me, a Notary Public in and for said state, personally appeared [NAME], [TITLE] of Super Market Developers, Inc. known to me to be the person who executed the within Cooperative Agreement on behalf of said corporation and acknowledged to me that he executed the same for the purposes therein stated.

Subscribed and affirmed before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires:

CID:

PECULIAR MAIN STREET COMMUNITY  
IMPROVEMENT DISTRICT

By: \_\_\_\_\_  
\_\_\_\_\_, Chairman

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Secretary

**CERTIFICATE OF ACKNOWLEDGEMENT**

STATE OF MISSOURI     )  
                                      ) ss  
COUNTY OF CASS        )

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2020, before me, a Notary Public in and for said state, personally appeared \_\_\_\_\_, the Chairman of the Peculiar Main Street Community Improvement District, known to me to be the person who executed the within Cooperative Agreement on behalf of the Peculiar Main Street Community Improvement District and acknowledged to me that he/she executed the same for the purposes therein stated.

Subscribed and affirmed before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires:



**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**DISTRICT AREA**

**Legal Description of Peculiar Main Street Community Improvement District**

Part of that certain tract of land described in Book 1549, Page 131 in the Office of the Recorder of Deeds, CASS COUNTY, MISSOURI, being part of the Northwest Quarter of the Northwest Quarter of Section 15, Township 45, Range 32, Peculiar, CASS COUNTY, MISSOURI, described as follows: From the Northwest corner of the Northwest Quarter of the Northwest Quarter of Section 15, aforesaid, run thence South 89 degrees 38 minutes 00 seconds East, along the North line of said Quarter Quarter Section, 44.43 feet; thence South, 30.00 feet to a point of intersection with the East right-of-way line of Main Street, as now located, and the South right-of-way line of Summerskill Road, as now located, and being the True Point of Beginning of the tract to be described; thence South 89 degrees 38 minutes 00 seconds East, along said South right-of-way line of Summerskill Road, 300.01 feet to a point of intersection with the West right-of-way line of Schug Avenue as now located thence South along said West right-of-way line, 334.74 feet; thence continuing Southeasterly along said West right-of-way line on a curve to the left having a radius of 756.01 feet an arc length of 146.68 feet and a chord bearing of South 5 degrees 33 minutes 29 seconds East to the Northeast corner of that certain tract of land described in Book 1750, at Page 64, in the office of the Recorder of Deeds; thence West along the North line of said certain tract of land, 314.19 feet to a point on said East right-of-way line of Main Street; thence North along said East right-of-way line, 482.43 feet to the True Point of Beginning.

**EXHIBIT B**  
**MAP OF THE DISTRICT AREA**

Boundary Map of the Peculiar Main Street Community Improvement District



**AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT AND SUPER MARKET DEVELOPERS, INC. ON BEHALF OF THE CITY, FOR FUNDING AND FINANCING OF COMMUNITY IMPROVEMENT DISTRICT IMPROVEMENTS.**

---

**WHEREAS**, the Peculiar Main Street Tax Increment Financing Redevelopment Plan (“TIF Plan”) and the Tax Increment Financing Contract between the City and Super Market Developers, Inc. (“Developer”), for the implementation of the TIF Plan (“TIF Contract”) contemplate the establishment of a community improvement district to impose a CID sales tax to provide a source of funds to repay certain costs of redevelopment; and

**WHEREAS**, on or about March 31, 2020, pursuant to the CID Act, a Petition to Establish the Peculiar Main Street Community Improvement District (“Petition”), signed by (1) property owner(s) collectively owning more than fifty percent of the assessed property value of real property; and (2) more than fifty percent of the per capita owners of all real estate within the boundaries of the proposed Peculiar Main Street Community Improvement District (the “District”) was filed with the Deputy City Clerk of the City; and

**WHEREAS**, as required by the CID Act, the Deputy City Clerk, with assistance by the city attorney and special economic development counsel, verified that the Petition substantially complies with the CID Act; and

**WHEREAS**, the Board of Aldermen, following notification by the Deputy City Clerk, conducted a public hearing on May 4, 2020, after publishing the notice specified in Section 67.1431.3 of the CID Act and Section 67.2725, RSMo, copies of which publication and mailed notices are on file with the Deputy City Clerk; and

**WHEREAS**, all persons interested in the establishment of the Peculiar Main Street Community Improvement District were allowed an opportunity to speak at the public hearing before the Board of Aldermen; and

**WHEREAS**, the TIF Contract requires the Developer to cause the Peculiar Main Street Community Improvement District’s Board of Directors to enter into a contract with the City with regard to the administration of the CID Sales Tax; and

**WHEREAS**, the City, the District, and the Developer desire to enter into the Cooperative Agreement attached hereto to satisfy the aforementioned requirements of the TIF Contract.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI, AS FOLLOWS:**

**Section 1:** The Cooperative Agreement among the City of Peculiar, Missouri, the Peculiar Main Street Community Improvement District, and Super Market Developers, Inc.,

("Cooperative Agreement") a copy of which is attached hereto as **Exhibit A**, is hereby approved and adopted.

**Section 2:** The Mayor is authorized to execute the Cooperative Agreement for and on behalf of the City of Peculiar.

**Section 3:** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 4:** The Deputy City Clerk is hereby authorized to correct any scriveners' errors contained within the language of this ordinance.

**Section 5:** This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor according to law.

**First Reading: May 4, 2020**

**Second Reading: \_\_\_\_\_**

**BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY THE FOLLOWING VOTE:**

Alderman Broadhurst \_\_\_\_\_  
Alderman Harlan \_\_\_\_\_  
Alderman Gillespie \_\_\_\_\_

Alderman Ray \_\_\_\_\_  
Alderman Smith \_\_\_\_\_  
Alderman Erickson \_\_\_\_\_

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Holly Stark, Mayor

\_\_\_\_\_  
Cyndora Gauthreaux, Deputy City Clerk

## **EXHIBIT A**

Cooperative Agreement

(See Attached)

**AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE PECULIAR MAIN STREET COMMUNITY IMPROVEMENT DISTRICT AND SUPER MARKET DEVELOPERS, INC. ON BEHALF OF THE CITY, FOR FUNDING AND FINANCING OF COMMUNITY IMPROVEMENT DISTRICT IMPROVEMENTS.**

---

**WHEREAS**, the Peculiar Main Street Tax Increment Financing Redevelopment Plan (“TIF Plan”) and the Tax Increment Financing Contract between the City and Super Market Developers, Inc. (“Developer”), for the implementation of the TIF Plan (“TIF Contract”) contemplate the establishment of a community improvement district to impose a CID sales tax to provide a source of funds to repay certain costs of redevelopment; and

**WHEREAS**, on or about March 31, 2020, pursuant to the CID Act, a Petition to Establish the Peculiar Main Street Community Improvement District (“Petition”), signed by (1) property owner(s) collectively owning more than fifty percent of the assessed property value of real property; and (2) more than fifty percent of the per capita owners of all real estate within the boundaries of the proposed Peculiar Main Street Community Improvement District (the “District”) was filed with the Deputy City Clerk of the City; and

**WHEREAS**, as required by the CID Act, the Deputy City Clerk, with assistance by the city attorney and special economic development counsel, verified that the Petition substantially complies with the CID Act; and

**WHEREAS**, the Board of Aldermen, following notification by the Deputy City Clerk, conducted a public hearing on May 4, 2020, after publishing the notice specified in Section 67.1431.3 of the CID Act and Section 67.2725, RSMo, copies of which publication and mailed notices are on file with the Deputy City Clerk; and

**WHEREAS**, all persons interested in the establishment of the Peculiar Main Street Community Improvement District were allowed an opportunity to speak at the public hearing before the Board of Aldermen; and

**WHEREAS**, the TIF Contract requires the Developer to cause the Peculiar Main Street Community Improvement District’s Board of Directors to enter into a contract with the City with regard to the administration of the CID Sales Tax; and

**WHEREAS**, the City, the District, and the Developer desire to enter into the Cooperative Agreement attached hereto to satisfy the aforementioned requirements of the TIF Contract.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI, AS FOLLOWS:**

**Section 1:** The Cooperative Agreement among the City of Peculiar, Missouri, the Peculiar Main Street Community Improvement District, and Super Market Developers, Inc.,

("Cooperative Agreement") a copy of which is attached hereto as **Exhibit A**, is hereby approved and adopted.

**Section 2:** The Mayor is authorized to execute the Cooperative Agreement for and on behalf of the City of Peculiar.

**Section 3:** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 4:** The Deputy City Clerk is hereby authorized to correct any scriveners' errors contained within the language of this ordinance.

**Section 5:** This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor according to law.

**First Reading: May 4, 2020**

**Second Reading: \_\_\_\_\_**

**BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY THE FOLLOWING VOTE:**

Alderman Broadhurst \_\_\_\_\_  
Alderman Harlan \_\_\_\_\_  
Alderman Gillespie \_\_\_\_\_

Alderman Ray \_\_\_\_\_  
Alderman Smith \_\_\_\_\_  
Alderman Erickson \_\_\_\_\_

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Holly Stark, Mayor

\_\_\_\_\_  
Cyndora Gauthreaux, Deputy City Clerk

## **EXHIBIT A**

Cooperative Agreement

(See Attached)





## MAYORAL PROCLAMATION

**WHEREAS**, on March 11, 2020, the World Health Organization officially declared a pandemic due to the novel coronavirus (COVID-19); and

**WHEREAS**, on March 13, 2020, Missouri Governor Mike Parson signed Executive Order 20-02 declaring a state of emergency in Missouri in response to COVID-19; and

**WHEREAS**, COVID-19 can result in mild or severe symptoms, is highly contagious, and is spread through close contact between persons and respiratory transmission; and

**WHEREAS**, COVID-19 poses a serious health risk for residents of the City of Peculiar, Missouri (City), and

**WHEREAS**, COVID-19 has, and will continue to have, a significant financial impact on the on the City of Peculiar, Missouri and its residents, and

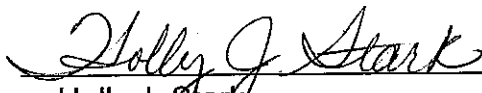
**NOW, THEREFOR**, I Holly J. Stark, Mayor of the City of Peculiar, Missouri, in accordance with Chapter 700.032 of the Peculiar Municipal Code authorize the city staff to suspend the disconnection of utilities to any location for failure to pay on a case-by-case basis and to and, to reconnection of any utilities previously disconnected on a case-by-case basis and, to waive any late fees or penalties accrued during the time period outlined in this proclamation and, further direct staff to provide deferred payment plans with no penalties so long as terms of the plan are complied with on a case-by-case basis.

**THIS PROCLAMATION SHALL BE IN EFFECT FOR A TIME PERIOD OF**  
55 **DAYS BEGINNING ON APRIL** 7, **2020 THROUGH** May 31,  
**2020.**

Signed the 7<sup>th</sup> Day of April, In the Year Two Hundred and  
Twenty.

Authenticated as Adopted

This 7<sup>th</sup> Day of April, 2020

  
Holly J. Stark  
Mayor, City of Peculiar, Missouri