

**BOA Meeting Agenda  
Peculiar City Board of Aldermen  
Meeting and Public Hearing  
City Hall – 250 S. Main St  
Tuesday February 18, 2014 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 Tuesday, February 18, 2014 at 6:30 pm, in the Council Chambers at 250 S. Main St. Representatives of the news media may obtain copies of this notice by contacting the 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 in the Council Chambers.*

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. City Clerk – Read the Board of Alderman Statement
5. Consent Agenda
  - A. Approval of the Agenda
  - B. Approval of the Draft Minutes of January 21, 2014 BOA Meeting.
  - C. Approval of the Draft Minutes of February 3, 2014 Work Session Meeting.
6. Proclamation – National Engineer’s Week
7. Public Comment – Andrew Boston-Baseball field at Shari Dr. Park
8. Public Comment – John Blessing, Deffenbaugh – Solid Waste Contract for 2014
9. Unfinished Business
  - A. Bill No. 2014-02 - A ORDINANCE OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI APPROVING AND ACCEPTING THE MODOT COST SHARE SUPPLEMENTAL AGREEMENT NO 1 FOR THE I-49 AND 211<sup>TH</sup> STREET INTERCHANGE (CASS COUNTY), MISSOURI  
*2<sup>nd</sup> Reading*
10. New Business
  - A. Resolution No. 2014-06 – A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH COBRA CONTRACTING FOR THE RAISBECK PARK GRADING IMPROVEMENTS LOCATED AT RAISBECK PARK, 23205 SE OUTER ROAD, PECULIAR, MO 64078
  - B. Resolution No. 2014-07 - A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI TO ADOPT A NEW CITY LOGO.
  - C. Bill No. 2014-03 - AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI AMENDING SECTION 110 OF PECULIAR MUNICIPAL CODE TITLED “GENERAL PROVISIONS” WITH THE ADDITION OF SECTION 110.025 TITLED “VIDEO CONFERENCE VOTING POLICY”  
*1<sup>st</sup> Reading*
  - D. Bill No. 2014-04 - AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI AMENDING SECTION 110 OF PECULIAR MUNICIPAL CODE TITLED “GENERAL PROVISIONS” WITH THE ADDITION OF SECTION 110.015 TITLED “CODE OF CONDUCT OF OFFICIALS”  
*1<sup>st</sup> Reading*
  - E. Resolution No. 2014-08 - A RESOLUTION OF THE CITY OF PECULIAR, MISSOURI ADOPTING AN ECONOMIC DEVELOPMENT INCENTIVE POLICY.
  - F. Public Hearing - Bill No. 2014-05 - AN ORDINANCE AMENDING ELEVEN (11) SECTIONS OF CHAPTER 400 OF THE PECULIAR MUNICIPAL CODE; AND ESTABLISHING THREE (3) NEW SECTIONS TO PROVIDE AN APPROVED LAND USE TABLE FOR MULTIPLE ZONING DISTRICTS AND TO FURTHER DEFINE APPROVED LAND USES AND SPECIFIC EXCLUSIONS.  
*1<sup>st</sup> Reading*
11. City Administrator Report
12. Aldermen Concerns
13. Aldermen Directives
14. Adjournment

**Board of Aldermen Regular Meeting Minutes  
Tuesday January 21, 2014**

A regular meeting and public hearing of the Board of Aldermen of the City of Peculiar, Missouri, was held in the Council Chambers in City Hall at 6:30 p.m. on Tuesday January 21, 2014. Mayor Ernest Jungmeyer called the meeting to order and all who were present joined in reciting the Pledge of Allegiance.

The following aldermen responded to roll call: Michael Gallagher, Holly Stark, Bob Fines, Donald Turner, Homer Dunsworth and Veronika Ray.

City Staff present for the meeting were City Administrator Brad Ratliff, City Attorney Reid Holbrook, City Engineer Carl Brooks, Chief of Police Harry Gurin, City Clerk Nick Jacobs and City Planner Cliff McDonald.

**Consent Agenda**

- A. Approval of the Agenda**
- B. Approval of the Draft Minutes of December 16, 2013 BOA Meeting.**
- C. Approval of the Draft Minutes of January 6, 2014 Work Session Meeting.**

On a motion made by Alderman Stark and seconded by Alderman Gallagher the consent agenda was approved by a unanimous voice vote.

**Public Comment – Jennifer Bedford – Twin Oaks HOA update**

Jennifer Bedford addressed the Board regarding to the status of the formation of the Home Owners Association. She stated that the direction from the Aldermen was to have the original rights transferred from the original corporation to the new HOA, form the Board of Directors, and begin rewriting the Covenants Codes and Restrictions (CCR's). She stated that they have written consent from the current corporation, a group of ten citizens got together to begin rewriting the CCR's. There is a meeting scheduled for January 31<sup>st</sup> where there will be a vote held on the CCR's. There will also be a vote for Board of Directors.

City Attorney Reid Holbrook asked if the original corporation will transfer the powers of the original CCR's. Mrs. Bedford replied that they were told it is no problem.

Mrs. Bedford commented that there is discussion amongst members in Twin Oaks regarding the want and need for and against CCR's being in place. They are asking that those casting their vote to list whether they agree with the proposed CCR's or against the proposed CCR's and why.

Reid Holbrook commented if this is not evidence of progress he doesn't know what is.

Alderman Stark asked if the Board needed to give an extension for showing progress. Mrs. Bedford said there is no timeline right now until after the vote on the 31<sup>st</sup>.

Mark Sutton spoke to the Board stating that only 10 people worked on the CCR's which does not represent all of the homes. He said he does not understand why the City is in it.

The Mayor commented that this was discussed at the last few meetings.

**New Business**

- A. Public Hearing – Saferooms – Bill No. 2014-01 - AN ORDINANCE DELETING CHAPTER 400 ARTICLE VIII, DIVISION 5 OF THE PECULIAR MUNICIPAL CODE REGARDING SAFE ROOMS; AND ESTABLISHING A NEW SECTION 400 ARTICLE VIII, DIVISION 5 SAFE ROOMS:  
*1<sup>st</sup> Reading***

City Planner Cliff McDonald addressed the Board regarding Saferooms. He stated that the Board requested the Planning Commission relook at this issue. The Board wanted to look at the option of having the Saferoom requirement waived in an R-1 zoning. He said there are 3 exemptions to the requirement. They are when a residential construction is within 1000 feet of a community saferoom, when a residential home has a basement wall with at least 6 feet below ground level and when someone is having a home built to request a waiver.

The Mayor stated that the waiver can be the purchaser or the developer whereas before it was only the purchaser who could request a waiver.

Cliff McDonald stated that the City is still desirous of having every home having a saferoom but will give the option for the builder or purchaser to waive the requirement and carry the burden of not installing one.

Alderman Gallagher asked if this would still require saferooms for slab houses.

Staff commented that in an R-1 district yes, unless waived.

Citizen Jeff Kelly addressed the Board asking if this would require existing homes to have a saferoom.

Staff commented that this only effects new construction unless the home is altered more than 50% of assessed value of the home.

Alderman Stark made a motion to introduce Bill No. 2014-01 and read one time by title only. The motion was seconded by Alderman Gallagher and was approved by a 6-0 voice vote. Alderman Stark made a motion to accept the first reading of Bill No. 2014-01. The motion was seconded by Alderman Gallagher and was approved by a 5-1 voice vote.

Alderman Gallagher	Aye	Alderman Ray	Aye
Alderman Dunsworth	Aye	Alderman Stark	Aye
Alderman Fines	Aye	Alderman Turner	Nay

**B. Resolution No. 2014-02 - A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI TO AUTHORIZE THE FORMATION OF AN INDUSTRIAL DEVELOPMENT CORPORATION IN THE CITY OF PECULIAR, MISSOURI, AND DETERMINING AND APPROVING CERTAIN MATTERS RELATED THERETO.**

Cliff McDonald addressed the Board in regards to the formation of the Industrial Development Authority. This would provide another means of funding for projects that qualify and will not impact the City's bonding capacity. It is merely another tool the City can offer.

The three initial members of the corporation will be Nora Dodge, Jerry Harper and Sharon Shores.

Oren Bates addressed the Board asking if this new Board would have the authority to issue bonds. Staff commented that yes but not City Bonds.

Alderman Stark asked Mr. Bates why the original corporation was formed and then dissolved since he was a member of the original Board. Mr. Bates stated that it was formed for the same reason as tonight but he was unaware of why it was dissolved.

Alderman Stark made a motion to adopt Resolution No. 2014-02. The motion was seconded by Alderman Gallagher and was accepted by a 6-0 roll call vote.

Alderman Gallagher	Aye	Alderman Ray	Aye
Alderman Dunsworth	Aye	Alderman Stark	Aye
Alderman Fines	Aye	Alderman Turner	Aye

**C. Resolution No. 2014-03 – A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI APPROVING THE CITY OF PECULIAR 2014 LEGISLATIVE POLICIES**

Brad Ratliff addressed the Board regarding the 2014 Legislative Policy. He stated that there were some minor verbiage corrections and several sections were deleted.

The Mayor asked about why they were deleted.

Brad commented that Missouri Municipal League (MML) either feels it is a non-issue or an issue that is not gaining ground.

There was further discussion about some minor tweaks and changes from 2013 to 2014.

No public comment.

Alderman Stark made a motion to adopt Resolution No. 2014-03. The motion was seconded by Alderman Gallagher and was accepted by a 6-0 roll call vote.

Alderman Gallagher	Aye	Alderman Ray	Aye
Alderman Dunsworth	Aye	Alderman Stark	Aye
Alderman Fines	Aye	Alderman Turner	Aye

**Topic for Discussion**

**A. City Logo**

Parks & Recreation Director Nathan Musteen addressed the Board pertaining to the four proposed redrawing's of the City Logo.

There was some discussion amongst the Board and staff about what features they like and do not like.

Nathan was directed to contact the company with minor corrections before bringing it back to be approved.

**City Administrator Report**

Gary Mallory has been meeting with some of the citizens in the northwest quarter for the formation of a Community Improvement District. The Audit will be at the next meeting and Brad feels the Board will be very pleased with the results. There has been a slight increase in the housing permits and staff is very pleased with this. There was a replacement of the pumps at the Sutters Creek lift station and at the East lift station. The water loss ratio was at 11% for December which is still under the national average. All new vehicles have been delivered besides the 2 new F550's which will be delivered tomorrow. The new traffic signals for the J/C Interchange will be bid at the end of February and should be installed within 90 days. MoDOT has bad news stating that they are no longer doing Cost Share agreements and have cut funding for it. MoDOT is projecting that their budget for the next several years will be severely diminished. The groundwater storage tank will begin its rehab this spring.

The Mayor read aloud the candidates for the 2014 April Election and they are as follows:

Mayor  
Holly Stark  
Kimberly Mallinson  
Michael Gallagher  
Deborah Pearson

Ward 1  
Kelsie McCrea

Ward 2  
Don Turner

Ward 3  
Kristina Vassar  
Jerry Ford

### **Alderman Concerns**

Alderman Stark addressed the Board relating to statements that have been going around the community regarding her integrity and votes dealing with the Park Board. She stated that there were two Aldermen that were telling that the vote she cast as to whether to dissolve the Park Board was a conflict of interest. She stated that this was not true since the vote was whether or not to dissolve a volunteer board of the City. She stated that this type of behavior was very disappointing and wanted to reflect that there was no conflict of interest in her vote.

Alderman Stark also wanted to address chain of command. She stated that with the training that was conducted by the Missouri Municipal League says the only employees that report to the Board of Aldermen are the City Administrator and the City Clerk. She says the Board should not interact with staff without first contacting the Mayor or the City Administrator.

Alderman Fines stated that after reviewing attendance records for the Park Board he noticed that there were some people who have reached the allotted number of absences to be removed. After seeing this he believes the bylaws should be revisited. He feels the Board of Aldermen should outline the rules and regulations of the Park Board so they know what they are responsible for.

The Mayor commented that staff is working on the bylaws.

Alderman Gallagher asked about the way the candidate filing was conducted. Staff commented that it was done the same way that it has been done in the past. Staff asked if the Board wanted to pursue another means than they need to give staff that direction.

### **Alderman Directives**

Twin Oaks will have an update in February  
Bring back Saferooms bill for February Worksession  
Send legislative policy to representatives  
City Logo item choice D. with bigger "1868" font  
Mayor confirmed chain of command  
Alderman Fines wants Park Board regulations tightened up  
Consider a lottery system for future election

### **Adjournment**

On a motion from Alderman Stark, second from Alderman Turner, the meeting was adjourned at 8:21pm with a 6-0 voice vote.

Regular session minutes were taken and transcribed by Nick Jacobs, City Clerk.

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Nick Jacobs, City Clerk

Approved by the Board of Aldermen:

**Board of Aldermen Regular Meeting Minutes  
Monday February 3, 2014**

A regular work session meeting and public hearing of the Board of Aldermen of the City of Peculiar, Missouri, was held in the Council Chambers in City Hall at 6:30 p.m. on Monday February 3, 2014. Mayor Ernest Jungmeyer called the meeting to order and all who were present joined in reciting the Pledge of Allegiance.

The following aldermen responded to roll call: Michael Gallagher, Veronika Ray, Donald Turner, Bob Fines, and Homer Dunsworth. Holly Stark arrived shortly after roll call.

City Staff present for the meeting were City Administrator Brad Ratliff, City Attorney Reid Holbrook, City Engineer Carl Brooks, Chief of Police Harry Gurin, City Clerk Nick Jacobs, City Planner Clifford McDonald, Business Office Manager Trudy Prickett, and Parks & Recreation Director Nathan Musteen.

**Public Comment – Oren Bates – Fire hydrant at E. North Street and E. 3<sup>rd</sup> Street**

Oren Bates addressed the Board pertaining to a fire hydrant on E. 3<sup>rd</sup> street that has been covered with a black bag. He stated that he knows about the hydrant because he walks by it 5 days a week. He stated that since there is no working hydrant there, there is no fire protection for the houses at this location. He said he stopped into City Hall to ask about the hydrant and was told there is no money to replace it.

Waterworks Manager David Shroud addressed the Board pertaining to the issue. He stated that there was a break on Thanksgiving evening and when they came in to use the street saw they tried to use the hydrant to get water and noticed that it was inoperable. He stated that at their staff meeting they weighed the options of replacing the hydrant or to replace the whole line as part of the Capital Improvement Projects this year.

Alderman Stark asked if there was any communication between the City and West Peculiar Fire regarding the hydrant. Staff commented that they contacted Police Chief Gurin and the Fire Station to make sure they knew the hydrant was out of commission.

The Mayor asked staff to come up with a solution as soon as possible.

City Administrator Brad Ratliff stated that he tasked staff with looking at the system as a whole to see if something would be better to wait and replace a line than to repair a hydrant and have to redo it later. He stated that in the past the City did not appear to have much foresight when do projects and this is something he hopes to correct.

**Trout Beeman & Co. – 2013 Audit presentation**

**Resolution 2014-04 - A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI TO RECEIVE AND ACCEPT THE AUDIT FOR FISCAL YEAR 2012-2013, WHICH ENDED SEPTEMBER 30, 2013.**

Butch Beeman of Trout Beeman & Co. addressed the Board regarding the annual City Audit for fiscal year 2012-2013. He went through the audit documents with the Board pointing out several details. He stated that the City's financial statements presented fairly which is the highest level of opinion that the auditors can give.

There was further discussion regarding different aspects of the audit.

Alderman Stark asked why there was not a list of corrections to staff procedures that usually accompanies the audit report. Mr. Beeman stated that there were none this year. Alderman Stark commented that this is the first time since she has been an Alderman that the City has not received that notice.

The Mayor thanked Mr. Beeman and his Company for their report.

Alderman Stark moved to adopt Resolution No. 2014-04, seconded by Alderman Turner and was approved by the following 6-0 roll call vote.

Alderman Gallagher	Aye	Alderman Ray	Aye
Alderman Dunsworth	Aye	Alderman Stark	Aye
Alderman Fines	Aye	Alderman Turner	Aye

**Business**

- A. Bill No. 2014-01 - AN ORDINANCE DELETING CHAPTER 400 ARTICLE VIII, DIVISION 5 OF THE PECULIAR MUNICIPAL CODE REGARDING SAFE ROOMS; AND ESTABLISHING A NEW SECTION 400 ARTICLE VIII, DIVISION 5 SAFE ROOMS:**  
*2<sup>nd</sup> Reading*

City Planner Cliff McDonald addressed the Board regarding the proposed bill. He said that this was presented at the last meeting and there have no changes since the first reading which was passed by a vote of 5-1. No comments from the Board.  
No public comment.

Alderman Stark moved to have the second reading of Bill No. 2014-01 by title only, seconded by Alderman Dunsworth and was approved by a 6-0 voice vote. Alderman Stark moved to accept the second reading of the bill and place on final passage as Ordinance number 02032014, seconded by Alderman Gallagher and approved by the following 4-2 roll call vote.

Alderman Gallagher	Aye	Alderman Ray	Aye
Alderman Dunsworth	Aye	Alderman Stark	Aye
Alderman Fines	Nay	Alderman Turner	Nay

**B. Bill No, 2014-02 - AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI APPROVING AND ACCEPTING THE MODOT COST SHARE SUPPLEMENTAL AGREEMENT NO 1 FOR THE I-49 AND 211<sup>TH</sup> STREET INTERCHANGE (CASS COUNTY), MISSOURI**  
*1<sup>st</sup> Reading*

City Engineer Carl Brooks addressed the Board regarding the supplemental agreement with MoDOT. He says that the good news is that construction costs have gone down but utility relocation has risen. The agreement outlines that this project will cover from S. Peculiar Drive on the West side to the newly relocated East Outer Road. From the East Outer Road to School road will be 100% on the City. In the original agreement it was understood that the City would need to issue its Bonds and give the money to MoDOT 90 days prior to the bid opening but with this agreement that timeframe would drop to 5 weeks.

Brad commented to the Board stating that the City will be going after several funding initiatives this year to lighten the burden to the citizens for the interchange.

There was further discussion about what the project would encompass.  
No public comment.

Alderman Stark moved to have the first reading of Bill No. 2014-02 by title only, seconded by Alderman Dunsworth and was approved by a 6-0 voice vote. Alderman Stark moved to accept the first reading of the bill, seconded by Alderman Dunsworth and approved by the following 6-0 roll call vote.

Alderman Gallagher	Aye	Alderman Ray	Aye
Alderman Dunsworth	Aye	Alderman Stark	Aye
Alderman Fines	Aye	Alderman Turner	Aye

**C. Resolution No. 2014-05 - A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH GARY IRVIN CONSTRUCTION LLC FOR THE PURPOSE OF PERFORMING POLICE ANNEX BUILDING IMPROVMENTS AT THE PECULIAR CITY HALL ANNEX BUILDING LOCATED AT 224 AND 226 NORTH MAIN STREET IN PECULAIR, MISSOURI**

City Engineer Carl Brooks addressed the Board regarding the improvements at the Police Annex Building. He outlined the steps he took to prepare the project for Bid, bid the project out, and determine why he chose the selected contractor. He outlined the scope of the project and cost for individual equipment to be supplied for the project. Staff recommended awarding the contract to Gary Irvin Construction in the amount of \$72,737.

Alderman Turner asked where the generator would be located.  
Staff responded that it would be located on the Northwest corner of the building in the alley.

No public comment.

Alderman Stark moved to adopt Resolution No. 2014-05, seconded by Alderman Turner and was approved by the following 6-0 roll call vote.

Alderman Gallagher	Aye	Alderman Ray	Aye
Alderman Dunsworth	Aye	Alderman Stark	Aye
Alderman Fines	Aye	Alderman Turner	Aye

### Topics for Discussion

**A. Video Conference Call Voting Policy**

City Clerk Nick Jacobs addressed the Board regarding whether or not to adopt a policy concerning videoconference voting. Last year state legislature passed a bill to allow government entities to cast roll call votes via videoconferencing. The bill was vetoed by the Governor and then overturned by legislature. Missouri Municipal League sent a sample policy out for any City who would like to adopt a policy on this matter and that is what is before the Aldermen tonight for discussion.

There was some discussion pertaining to the number of uses in a 12 month period. The direction of the Board was to place a limit of 2 (two) uses in a 12 month period. The Board asked for it to come back at the next meeting with 2 (two) being the number of uses in a 12 month period.

**B. Code of Conduct**

The Mayor addressed the Board with a written Code of Conduct he had prepared for the officials of the City both elected and appointed. He looked at neighboring Cities Codes of Conduct and came up with what he feels are the basic ethical principles that officials should be held to.

There was some discussion amongst the Board pertaining to whether this should be adopted as an Ordinance or just as a policy via Resolution.

After discussion it was decided to bring it back to the Board on February 18<sup>th</sup>.

### **C. City Logo**

Parks & Recreation Director Nathan Musteen addressed the Board pertaining to the revisions to the City Logo. He stated that this is the last redraw that is in the contract and further redraws would require another contract or a different firm. The Board liked the adjustments that had been made.

There was some further discussion amongst the Board and it was decided to bring it back February 18<sup>th</sup> for approval.

The Mayor announced a 5 minute Recess at 8:17 pm to be reconvened 8:22 pm.

### **D. Economic Development Incentive Policy**

City Planner Cliff McDonald addressed the Board pertaining to the Economic Development Incentive Policy. This had been brought before the Board before and was drafted by Gilmore & Bell, McLIney & Co., and City Staff. This policy was using Raymore's incentive policy as a basis. This policy is another tool the City can add to its toolbox.

Alderman Stark asked about PILOT Payments (Payment in Lieu of Taxes).

Staff commented that they asked this question and that the Incentive Policy outlines the minimum not what the actual will be. Each situation will be negotiated.

There was further discussion amongst staff and the Board pertaining to individual details of the policy.

It was determined that this policy will be brought back to the Board at the next meeting for adoption.

### **E. Land Use Matrix**

City Planner Cliff McDonald addressed the Board pertaining to the proposed Land Use Matrix. He stated that the Ordinance was recently reviewed by Legal Staff and that nothing significant was changed since it was previously presented. He stated that the Planning Commission had been working on this for the last 10 months. He outlined the basis for the requirement of the Matrix.

Alderman Turner stated that this has not gone before the Planning Commission for final approval as that will happen the next Thursday.

Alderman Stark asked Alderman Ray since she is the liaison to the Downtown Peculiar Arts and Culture District (DPACD) if they were fine with this proposed Matrix. Alderman Ray stated that DPACD has not communicated any further problems with the proposed Matrix.

This will be brought back for a public hearing and the first reading of the Bill on the 18<sup>th</sup> of February.

### **Alderman Concerns or Additional Topics for Discussion by Aldermen**

Alderman Gallagher asked about the new trucks that were purchased.

Brad commented that there were 5 new trucks purchased, 2 for Water, 2 for Street, and 1 for Sewer.

Alderman Ray commented that Raymore had issued a statement saying that vehicles should be parked on even number side of streets for the upcoming snow event.

Brad commented that in Peculiar it is determined that vehicles park on the odd side of the road.

Alderman Fines made a comment about the low-water bridges in town being replaced since the County just replaced the ones on School Road. He also commented on a new method of installing sewer line and asked if staff was familiar with the process. Staff commented that he had heard of the new method but it is more expensive than traditional installation.

Alderman Stark commented that the City did a fairly good job on snow removal recently.

### **Aldermen Directives Reported by City Administrator**

Comprehensive Water CIP will go before the Board in April

Audit was accepted by the Board.

Update Ordinance dealing with Saferooms

Bring back bill for supplemental agreement

Mayor to sign agreement with Gary Irvin Construction for Police Annex Renovations.  
Bring back Videoconferencing policy for February 18<sup>th</sup>  
Bring back Code of Conduct for February 18<sup>th</sup>  
Bring back City Logo for February 18<sup>th</sup>  
Bring back Economic Incentive Policy for February 18<sup>th</sup>  
Bring back Land Use Matrix for February 18<sup>th</sup>

### **Adjournment**

On a motion from Alderman Stark, second from Alderman Gallagher, the meeting was adjourned at 9:00pm with a 6-0 voice vote.

Regular session minutes were taken and transcribed by Nick Jacobs, City Clerk.

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Nick Jacobs, City Clerk

Approved by the Board of Aldermen:

DRAFT



**OFFICE OF THE MAYOR**

**PROCLAMATION**

**WHEREAS,** Engineers have used their scientific and technical knowledge and skills in creative and innovative ways to fulfill society's needs; and

**WHEREAS,** Engineers face major technological challenges of our times – from rebuilding towns devastated by natural disasters to designing an information superhighway that will speed our country into the twenty-first century; and

**WHEREAS,** Engineers are encouraging our young math and science students to realize the practical power of their knowledge; and

**WHEREAS,** We will look more than ever to Engineers and their knowledge and skills to meet the challenges of the future

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF PECULIAR, MISSOURI DOES HEREBY PROCLAIM FEBRUARY 17-21, 2014 AS NATIONAL ENGINEERS WEEK IN PECULIAR, MISSOURI**

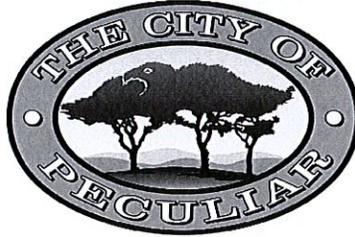
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**Ernest Jungmeyer, Mayor  
City of Peculiar, Missouri  
February 18, 2014.**

City Administrator  
Brad Ratliff

City Clerk  
Nick Jacobs

City Attorney  
Reid F. Holbrook



City Engineer  
Carl Brooks

Business Office  
Trudy Prickett

City Planner  
Cliff McDonald

Municipal Offices – 250 S. Main St., Peculiar, MO 64078  
Phone: 816.779.2221 Facsimile: 816.779.5213

**AGENDA REQUEST FORM**  
(Board of Aldermen)

This form must be completed and submitted to the office of the City Clerk. Complete materials for the agenda shall be submitted no later than Thursday at 5:00 pm, 9 business days prior to the next Board of Aldermen's meeting. If an observed holiday falls on a Thursday, materials will be accepted until 5:00 pm on Wednesday. The Board of Aldermen's Regular Meeting is to be held the Third Monday of each month.

Date of Request: 1-24-14 Scheduled Meeting Date: 2-18-14  
Full Name of Speaker: Andrew Boston Organization: Park board  
Home Address: 731B Meadow Ln City Peculiar State MO Zip 64078  
Home Phone #: \_\_\_\_\_ Work Phone #: \_\_\_\_\_ Cell #: 706-580-8303 Email: aboston13@gmail.com  
Resident of the City of Peculiar?  Yes  No

Specifics of Topic: Volunteer built baseball field at Sheri Dr Park

Desired Outcome: Approval to build field

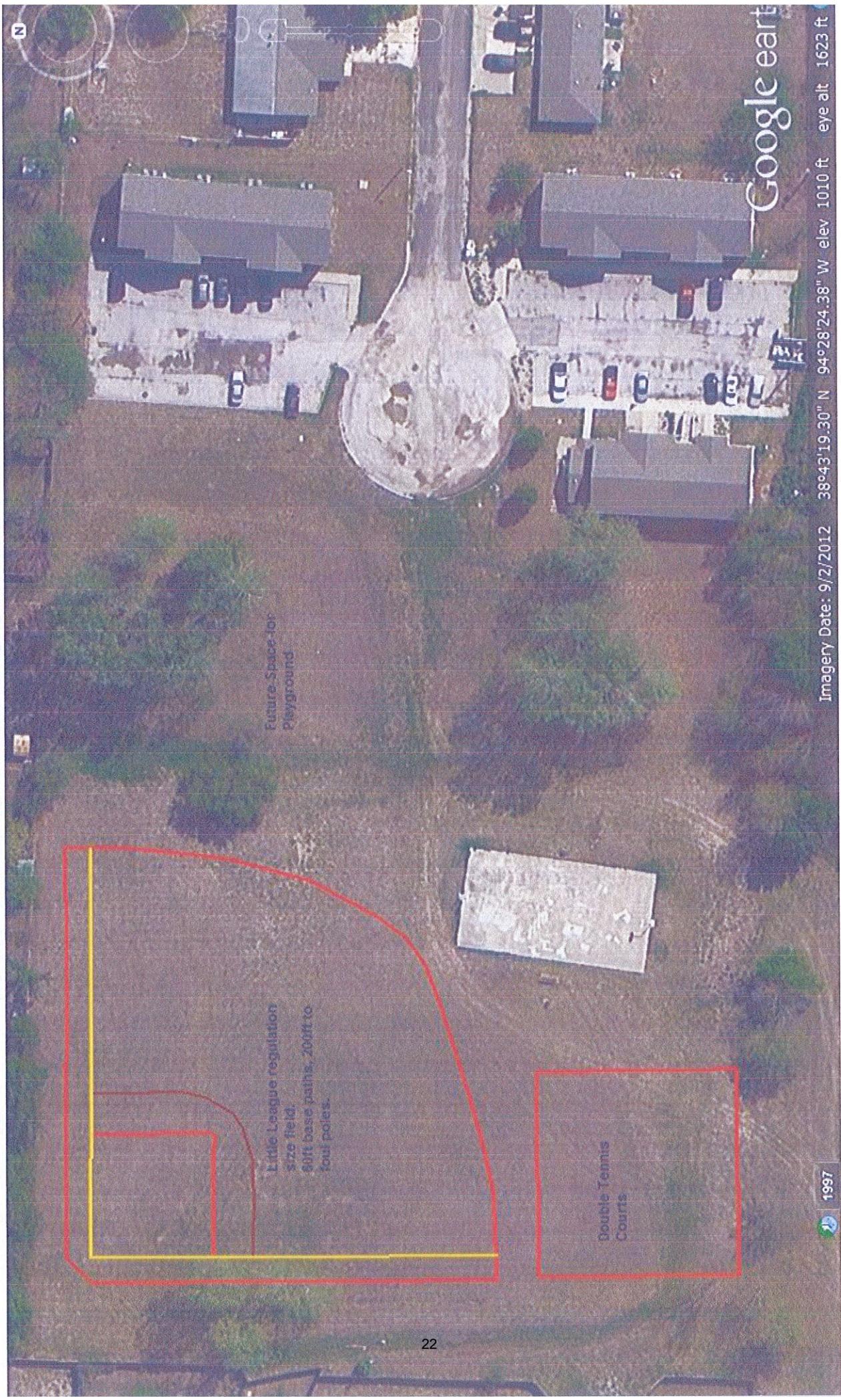
If applicable has this item been previously presented to any of the following Boards for consideration?

<input type="checkbox"/> Board of Aldermen	Date Presented _____	Outcome _____
<input type="checkbox"/> Planning Commission	Date Presented _____	Outcome _____
<input checked="" type="checkbox"/> Park Board	Date Presented <u>1-13-14</u>	Outcome <u>Approved</u>
<input type="checkbox"/> Board of Adjustment	Date Presented _____	Outcome _____

\*\*\*I have been made aware of the date and time of the next scheduled Board of Aldermen meeting.

Office Use Only:  
Date request  
Received: 1/24/14

Signature: Av Cat



N

Google Earth

Imagery Date: 9/2/2012 38°43'19.30" N 94°28'24.38" W elev 1010 ft eye alt 1623 ft

Future Space for  
Playground

Little League regulation  
size field.  
60ft base paths, 20ft to  
foul poles.

Double Tennis  
Courts

1997

City Administrator  
Brad Ratliff

City Clerk  
Nick Jacobs

City Attorney  
Reid F. Holbrook



City Engineer  
Carl Brooks

Business Office  
Trudy Prickett

City Planner  
Cliff McDonald

Municipal Offices - 250 S. Main St., Peculiar, MO 64078  
Phone: 816.779.2221 Facsimile: 816.779.5213

AGENDA REQUEST FORM  
(Board of Aldermen)

This form must be completed and submitted to the office of the City Clerk. Complete materials for the agenda shall be submitted no later than Thursday at 5:00 pm, 9 business days prior to the next Board of Aldermen's meeting. If an observed holiday falls on a Thursday, materials will be accepted until 5:00 pm on Wednesday. The Board of Aldermen's Regular Meeting is to be held the Third Monday of each month.

Date of Request: 1/31/2014

Scheduled Meeting Date: 2/17/2014

Full Name of Speaker: John Blessing Organization: Deffenbaugh Industries

Home Address: 2601 Midwest Dr City Kansas City State KS Zip 66111

Home Phone #: 913-745-1841 Work Phone #: 913-745-1841 Cell #: 913-220-8434 Email: jblessing@deffenbaughinc.com  
Resident of the City of Peculiar?  Yes  No

Specifics of Topic:  
Discuss services and submit proposal for disposal of city services.

Desired Outcome: Consideration of partnership upon expiration of current agreement with current hauler in July 2014

If applicable has this item been previously presented to any of the following Boards for consideration? NO.

<input type="checkbox"/> Board of Aldermen	Date Presented _____	Outcome _____
<input type="checkbox"/> Planning Commission	Date Presented _____	Outcome _____
<input type="checkbox"/> Park Board	Date Presented _____	Outcome _____
<input type="checkbox"/> Board of Adjustment	Date Presented _____	Outcome _____

\*\*\*I have been made aware of the date and time of the next scheduled Board of Aldermen meeting.

Office Use Only:  Date request Received: <u>1/31/13</u>
--

Signature: John Blessing

## Commitment to Quality Service

City of Peculiar Mo.

Dear City of Peculiar Leadership Team,

We are excited to be presenting your city with some excellent options for consideration as a partner city disposal service. Deffenbaugh Industries is the industry leader in this area for many reasons, but I understand that we have not always displayed that level of quality as consistently as we do today. Deffenbaugh Industries had the privilege to service the City of Peculiar in the past. During that time period, Deffenbaugh Industries was going through a transitional period that ultimately propelled the quality and scope of our service beyond any other local hauler. Unfortunately, we recognize that while in that period of change, the service we delivered to the city of Peculiar was not satisfactory as your disposal partner.

We are happy to be able to inform the City of Peculiar that we have come out of our transition an improved, upgraded and rededicated company. Since our previous relationship ended, Deffenbaugh Industries has reinvented quality in both customer service and service delivery. With a fleet of the most state of the art vehicles and technology, coupled with an ensemble of screened and checked drivers that have completed extensive safety and satisfaction training, our expanded portfolio of services is second to none. We are eager to show the residents of your city the highest quality of service at the most competitive price available.

We appreciate the opportunity to start a new partnership with the City of Peculiar and wanted to extend this Commitment to Quality Service. We understand the importance and impact the right partner can make for a City and encourage you to reference the Better Business Bureau scores for Deffenbaugh and our competition at: <http://kansascity.bbb.org/Business-Search/>. We look forward to showing you and the residents in your care the reasons why Deffenbaugh Industries has achieved the highest score possible.

Sincerely,



**Paul Howe**  
Vice President of District Operations  
Deffenbaugh Industries  
913.745.1862

Richard Tolbert  
District Manager  
Deffenbaugh Industries  
913.745.1862

## Proposal for Disposal Partnership

*City Of Peculiar*

Thank you for allowing Deffenbaugh Industries the opportunity to present our portfolio of quality services for your review. Deffenbaugh Industries is the largest service provider of waste, recycling and other related services in the Kansas City metro area. Not only do we offer a menu of services that no other provider can match, our larger number of assets and years of experience allow us to recover from incidents and overcome challenges better than anyone. Plus, our industry leading quality of both equipment and employees has kept us as the highest rated service provider in the region.

### Service Proposal:

Solid waste and Comingled recycling collection, once per week, cart included: **\$11.25 per home**  
Senior rate: **\$10.25 per home**

### Details:

- All terms pertaining to delivery of service, insurance and other conditions of the current agreement in place between the City of Peculiar and the current disposal hauler are acceptable and will be agreed upon in a new agreement. Scope summary of basic service from current agreement is attached.

Pricing contingent on a 3 year service agreement with no price increase for the first twelve months. Years 2 and 3 will be evaluated annually to determine any increases in the cost to provide the service, but no potential increase will exceed 2.5%.

I encourage you to reference the Better Business Bureau scores for Deffenbaugh and our competition at: <http://kansascity.bbb.org/Business-Search/>. We look forward to showing you and the residents in your care the reasons why Deffenbaugh Industries has achieved the highest score possible.

Thank you again for this opportunity. I am available to respond to any further questions or present our service details in person if desired.

*John Blessing*

**John Blessing**  
**Community Relations Manager**  
**Deffenbaugh Industries**  
Office# 913.745.1841  
Cell# 913.220.8434  
[jblessing@deffenbaughinc.com](mailto:jblessing@deffenbaughinc.com)



**Scope of basic services:**

In exchange for the monthly fees set forth above, the Contractor shall provide all of the following services:

- Regular, weekly residential solid waste collection. The Contractor shall provide an appropriate 94-gallon receptacle for such collection to each Peculiar household as well as an additional 25 surplus containers (also of 94 gallons) to be stored by the City;
- Contractor will provide 25 receptacles to City Hall (20, 94 gallons and 5 42 gallons) for distribution to City residents who lose or destroy their receptacle.
- Regular, weekly senior residential solid waste collection. At the election of individual senior citizens of the City of Peculiar (defined as residents at least 60 years of age), the Contractor will provide 42 gallon receptacles for such collection.
- Regular, weekly commingled recycling excluding glass. The Contractor shall provide an appropriate receptacle for such collection.
- Bulky Item collection once a month for each customer. Any customer requiring additional bulky items collected shall be assessed an additional fee above the monthly rate.
- Yard waste, leaf and brush collection at least two times per year on a date selected by the City and within the City's sole discretion. Provided, however, Contractor agrees to collect at least two times between the commencement date of this agreement and November 30, 2010.
- Special Collection Items includes all materials not delineated above. Pick-up for Special Collections must be arranged and will be charged in accordance with a Collection Chart containing itemized rates
- Non-Residential Collection: Contractor will provide refuse collection service to City Hall and other trash-producing installations of the City at a mutually-agreed upon price. A trash receptacle will be provided at each of these locations if deemed necessary by the City. Each of these units will be considered as one (1) additional dwelling unit.
- Clean-up Dates: Within each twelve (12) month period, there will be one city-wide clean-up session of two days. On these dates, two 40 cubic yard containers will be placed at a location determined by the City and dumped as filled. The location will be monitored and will be open from 8:00 A.M. to 4:00 P.M. each day of the session. Refuse allowed in containers will be subject to State and Federal regulations governing solid waste. A total of 4 dumps for each of the two days will be covered by the contract. Additional dumps will be billed to the City at a rate to be determined upon the annual review of the contract. The city-wide clean-up days may include a Saturday.



*P.O. Box 10  
Harrisonville, Missouri 64701*

*Phone: (816) 380-5595*

*Fax: (816) 380-2468*

*www.townandcountrydisposal.net*

February 12, 2014  
City of Peculiar,

RE: City trash collection,

Town and Country Disposal have been providing the City trash, recycling and yard waste collection for the last 3 years. On August 31, 2013 the initial contract expired. The contract did allow for 3 one year extensions. We ask the City to accept Town and Country Disposal offer to accept the 3 one year extensions and continue service as per the contract for the next 3 years. The price for 2014 and 2015 will remain the same as it is presently..

We thank you for allowing us to provide the City years of service and look forward to many more. If you have any questions and or would like for me to present this to the City council please contact me.

Thank You

Jr Pesek

**City Administrator**  
*Brad Ratliff*

**City Clerk**  
*Nick Jacobs*

**City Attorney**  
*Reid F. Holbrook*



**City Engineer**  
*Carl Brooks*

**Chief of Police**  
*Harry Gurin*

**Business Office Manager**  
*Trudy Prickett*

Municipal Offices – 250 S. Main Street, Peculiar, MO 64078  
Phone: 816.779.5212 Facsimile: 816.779.1004

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**To:** Mayor & Board of Aldermen  
**From:** Carl Brooks, City Engineer (cbrooks@cityofpeculiar.com)  
**Date:** February 13, 2014  
**Re:** Ordinance No. 2014-xx, Mayor & Board of Alderman (BOA) Acceptance of the MoDOT Cost Share Supplemental Agreement No. 1 for the I-49 & 211th Street Interchange Project and the 211<sup>th</sup> Street Project (Cass County), Missouri

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### **GENERAL INFORMATION**

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**Applicant:** City Staff  
**Requested Actions:** Approval of ordinance  
**Purpose:** Acceptance of the MoDOT Cost Share Supplemental Agreement No. 1 for the I-49 & 211th Street Interchange Project and the 211<sup>th</sup> Street Project (Cass County), Missouri  
**Property Location:** 211<sup>th</sup> Street and I-49 Interstate Highway

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### **PROPOSAL**

The cost share grant application has been awarded by MoDOT to the City in the amount of \$8.164 Million. However, with the potential and possible overall lower construction cost of the project, MoDOT staff and the Commission request the attached Cost Share Supplemental Agreement No. 1 for the I-49 & 211th Street Interchange Project and the 211<sup>th</sup> Street Project (Cass County), Missouri be approved with the following revisions:

- (1) Revision – the revised paragraph “(1) Location” was changed to “(2) Location” to be consistent with the original agreement paragraph numbering.
- (3) Revision – (9)(2) was revised to reflect that the deposit of right of way funds in the amount of \$247,000 has already been made to the Commission.
- (3) Revision – (9)(3) was revised to reflect that the deposit of construction funds will be made no later than five days prior to the project advertisement which is December 13, 2014.
- Signature page – year adjusted to reflect current year.
- Exhibit A – location map revised to more accurately show the project limits on 211<sup>th</sup> St and I-49 for J4P2247. The eastern limit of J4P2247B revised to the eastern leg of School Rd.

Therefore, City staff proposes that the MoDOT Cost Share Supplemental Agreement No. 1 for the I-49 & 211th Street Interchange Project and the 211<sup>th</sup> Street Project (Cass County), Missouri be accepted by ordinance by the Mayor and the BOA.

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### **PREVIOUS ACTIONS**

The MoDOT Municipal Agreement and Cost Share Agreement were approved as an ordinance with the second reading by the Mayor and the Board of Aldermen at their regular meeting on June 18, 2012. A copy of the Cost Share Agreement is attached.

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### **KEY ISSUES**

For clarification, the cost share project limits include the interchange, 211<sup>th</sup> Street from Peculiar Drive to the East Outer Road as indicated on Exhibit A.

The updates to the cost share supplemental agreement No. 1 are indicated above. Exhibit A has also been updated to match the project limits of both projects to the agreement language as intended.

The Committee will pay fifty percent (50%) of the total interchange project cost, currently estimated at \$6,255,299.63, and none for the 211<sup>th</sup> Street project.

Based on how the funds are to be allocated, MoDOT shall provide their total 50% share by state fiscal year 2015 (as early as July 2014). Therefore, the City shall also be responsible for their total 50% share by December 13, 2014; which will include the cost of the design, right-of-way acquisition, utility relocation and construction. The local office anticipates construction occurring in 2015 and 2016. The construction of the interchange is anticipated to be a 2-year construction project. The City would have to provide 50% funding as follows:

Funding Schedule:	
City Fiscal Year	Amount
Previously funded by the county	\$ 94,950.24
2013	\$745,000.00
2014	\$247,000.00
2015	<u>\$6,947,338.57</u>
Total	\$8,034,288.81

Note: Approved bond amounts: \$7.2 M for the interchange, and \$0.8M for local roads.

Please also note that the above amount of \$8,034,288.81 which represents the total amount provided by the City (December 2014) does include the engineers' estimated City total project cost of \$1,778,989.18 associated with the improvements to 211<sup>th</sup> Street from the relocated East Outer Road to School Road. However, the above amount of \$8,034,288.81 does not include the engineers' estimated City total project cost of \$1,053,700 associated with the improvements to School Road from 203<sup>rd</sup> Street to 211<sup>th</sup> Street in order to make the new interchange functional with the local streets.

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## **STAFF COMMENTS AND SUGGESTIONS**

City staff and the MoDOT local agency staff have meet and discussed the project schedule, funding time line and the MoDOT Cost Share Supplemental Agreement No. 1 for the I-49 & 211th Street Interchange Project. The MoDOT Cost Share Supplemental Agreement No. 1 for the I-49 & 211th Street Interchange Project are attached for your review and consideration.

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## **STAFF RECOMMENDATION**

City staff recommends the approval of the MoDOT Cost Share Supplemental Agreement No. 1 for the I-49 & 211th Street Interchange Project be accepted by ordinance by the Mayor and the BOA.

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## **ATTACHMENTS**

MoDOT Cost Share Supplemental Agreement No. 1 for the I-49 & 211th Street Interchange Project, Exhibit A and Exhibit B

MoDOT Cost Share Agreement 211th Street 71 Hwy Interchange Project, Exhibit A and Exhibit B

Ordinance 2014-xx

CCO Form:  
Approved:  
Revised:  
Modified:

Route 71 (I-49), Cass County  
Project No. J4P2247/J4P2247B  
City of Peculiar

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
COST SHARE SUPPLEMENTAL AGREEMENT #1**

THIS COST SHARE SUPPLEMENTAL AGREEMENT #1 is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Peculiar (hereinafter, "City").

WITNESSETH:

WHEREAS, on July 12, 2012, the Commission and City entered into a Cost Share Agreement (hereinafter, "Original Agreement") as to the public improvement to construct a new interchange on US 71, now designated as I-49, at 211<sup>th</sup> Street located approximately 3.5 miles south of N Cass Parkway and approximately 1.5 miles north of Route C/J.

WHEREAS, the Commission and City now desire to revise the Original Agreement as provided in Cost Share Supplemental Agreement #1.

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

(1) REVISION: Paragraph (2) LOCATION of the Original Agreement is hereby removed in its entirety and replaced with the following:

(2) LOCATION: The transportation improvement that is the subject of this Agreement is contemplated at the following locations:

(A) New interchange on US 71, now designated as I-49, at 211<sup>th</sup> Street located approximately 3.5 miles south of N Cass Parkway and approximately 1.5 miles north of Route C/J, designated as **J4P2247**; and

(B) New connecting local city street on 211<sup>th</sup> Street, from the east outer road to School Road, designated as **J4P2247B**.

(C) The general location of the project is shown on the attachment marked Exhibit A and incorporated herein by reference.

(2) REVISION: Paragraph (8) PROJECT RESPONSIBILITIES of the

Original Agreement is hereby removed in its entirety and replaced with the following:

(8) **PROJECT RESPONSIBILITIES:** Under this Agreement, the parties agree to contribute as follows:

(A) The Commission will be responsible for preliminary engineering for J4P2247 and J4P2247B, which includes design and preparation of detailed preliminary, right-of-way, and construction plans, project specifications, and environmental clearances. The plans shall be prepared in accordance with and conform to Commission requirements.

(B) The City has completed a draft feasibility study as part of project preliminary engineering for J4P2247.

(C) The Commission will be responsible for right of way for J4P2247 and J4P2247B, which includes acquisition and incidentals, and utility relocation coordination as needed for the project in accordance with Commission requirements.

(D) The Commission will be responsible for letting the work for the herein improvement, which includes advertising the project for bids and awarding the construction contract for J4P2247 and J4P2247B. The Commission will solicit bids for the herein improvement in accordance with plans developed by the Commission, or as the plans may from time to time be modified in order to carry out the work as contemplated.

(E) The City may review the bids for the purpose of awarding the Commission's project construction contract for J4P2247 and J4P2247B. If the lowest responsive bid is greater than ten percent above the final project construction cost estimate, the Commission may not award the said construction contract unless the City concurs with such award. The City shall provide concurrence on construction contract award within five days of the project letting. Failure of the City to provide its concurrence within the time frame provided herein shall be construed as non-concurrence,

(F) The Commission will be responsible for project construction and construction inspection of the herein improvements for J4P2247 and J4P2247B, which includes administration of the construction contract. The project shall be constructed in accordance with and conform to Commission requirements.

(3) REVISION: Paragraph (9) **FINANCIAL RESPONSIBILITIES** of the Original Agreement is hereby removed in its entirety and replaced with the following:

(9) FINANCIAL RESPONSIBILITIES: With regard to work under this Agreement, the City agrees as follows:

(A) Costs for J4P2247 are considered eligible for cost share funds reimbursement. Costs for J4P2247B are considered ineligible for cost share funds reimbursement. The currently estimated total project cost is fourteen million, two hundred eighty-nine thousand, five hundred eighty-eight dollars and forty-three cents (\$14,289,588.43), which includes twelve million, five hundred ten thousand, five hundred ninety-nine dollars and twenty-five cents (\$12,510,599.25) for J4P2247 and one million, seven hundred seventy-eight thousand, nine hundred eighty-nine dollars and eighteen cents (\$1,778,989.18) for J4P2247B. The details of the estimated cost breakdown may be seen in Exhibit B, which is incorporated herein and attached hereto. The total project cost includes the feasibility study, preliminary engineering, right of way acquisition, right of way incidentals, utility relocation, construction, construction contingency, construction inspection, construction engineering, and inflation on right of way, utility, and construction costs.

(B) The City will be responsible for fifty percent (50%) of the total project cost for J4P2247 and one hundred percent (100%) of the total project cost for J4P2247B. The currently estimated cost of the City's responsibility is eight million, thirty-four thousand, two hundred eighty-eight dollars and eighty-one cents (\$8,034,288.81), which includes six million, two hundred fifty-five thousand, two hundred ninety-nine dollars and sixty-three cents (\$6,255,299.63) for J4P2247 and one million, seven hundred seventy-eight thousand nine hundred eighty-nine dollars and eighteen cents (\$1,778,989.18) for J4P2247B. The City has completed a draft feasibility study, as part of project preliminary engineering, and has been credited ninety-four thousand, nine hundred fifty dollars and twenty-four cents (\$94,950.24) as shown in Exhibit B.

(1) The City has deposited seven hundred forty-five thousand dollars (\$745,000.00) to the *Missouri Highways and Transportation Commission – Local Fund* for project preliminary engineering for J4P2247 and J4P2247B on December 21, 2012.

(2) The City has deposited two hundred forty-seven thousand, dollars and zero cents (\$247,000.00) to the *Missouri Highways and Transportation Commission – Local Fund* for a portion of project right of way acquisition, right of way incidentals, utility relocation, and inflation for J4P2247 and J4P2247B on November 14, 2013.

(3) The City shall deposit the currently estimated amount of six million, nine hundred, forty-seven thousand, three

hundred thirty-eight dollars and fifty-seven cents (\$6,947,338.57) to the *Missouri Highways and Transportation Commission – Local Fund* for project remaining right of way acquisition, right of way incidentals, and utility relocation costs, and construction, construction contingency, construction inspection, construction engineering, and inflation no later than five days prior to advertisement of the project. If the City fails to make the deposit, the Commission is under no obligation to continue with the project.

(C) The Commission will pay fifty percent (50%) of the total project cost, currently estimated at six million, two hundred fifty-five thousand, two hundred ninety-nine dollars and sixty-three cents (\$6,255,299.63) for J4P2247, and none for J4P2247B. Of this amount, the Commission shall provide up to a maximum of six million, ninety-nine thousand dollars (\$6,099,000.00) from the Commission's Cost Share program. Any remaining Commission funds, currently estimated at one hundred fifty-six thousand, two hundred ninety-nine dollars and sixty-three cents (\$156,299.63), will be provided from the Commission's Kansas City District funds.

(D) The City is one hundred percent (100%) responsible for the balance of the total project cost in excess of the amount of sixteen million, three hundred twenty-eight thousand dollars (\$16,328,000.00) for J4P2247. The City is one hundred percent (100%) responsible for the total project cost of J4P2247B.

(4) REVISION: **EXHIBIT A** and **EXHIBIT B** of the Original Agreement are removed and replaced with the attached EXHIBIT A and EXHIBIT B.

(5) ORIGINAL AGREEMENT: Except as otherwise modified, amended, or supplemented by this Cost Share Supplemental Agreement #1, the Original Agreement between the parties shall remain in full force and effect and shall extend and apply to this Cost Share Supplemental Agreement #1 as if fully written in this Cost Share Supplemental Agreement #1.

*[Remainder of Page Intentionally Left Blank; Signatures and Execution Appear on Following Page]*

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this \_\_\_\_ day of \_\_\_\_\_, 2014.

Executed by the Commission this \_\_\_\_ day of \_\_\_\_\_, 2014.

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF PECULIAR

\_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Title \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Secretary to the Commission

By \_\_\_\_\_  
Title \_\_\_\_\_

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

\_\_\_\_\_  
Title \_\_\_\_\_  
Ordinance No \_\_\_\_\_



NOTE:  
 211TH ST. IS LOCATED APPROX.  
 3.5 MILES SOUTH OF N. CASS PKWY.  
 AND 1.5 MILES NW OF THE  
 MO J AND MO C INTERCHANGE

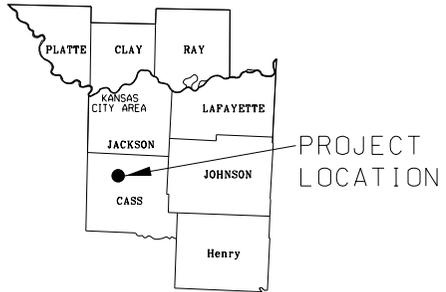


EXHIBIT A  
 CONTRACT BETWEEN  
 MISSOURI HIGHWAYS AND TRANSPORTATION  
 COMMISSION  
 -AND-  
 CITY OF PECULIAR, MISSOURI  
 JOB NO. J4P2247 AND J4P2247B, CASS COUNTY

NOT TO SCALE

**EXHIBIT B**

**Project Name:** 211<sup>th</sup> Street Interchange  
**MoDOT Job Number:** J4P2247 and J4P2247B

**Description:** New interchange on US 71 (I-49) at 211<sup>th</sup> Street in Peculiar, MO

**Definition of "Total Project" for Cost Sharing Includes:**

Feasibility Study	Preliminary Engineering (Consultant)	Preliminary Engineering (Commission)
Right of Way Acquisition	Right of Way Incidentals	Utility Relocation
Construction	Construction Contingency	Construction Inspection (Consultant)
Construction Engineering (Commission)	Inflation	

**Definition of "Total Project" for Cost Sharing Excludes:**

NA		
----	--	--

**Project Cost Estimate**

	<b>Total Project Cost (J4P2247 + J4P2247B)</b>	<b>J4P2247 (Cost Share Eligible)</b>	<b>J4P2247B (Cost Share Ineligible)</b>
Feasibility Study	\$94,950.24	\$94,950.24	\$0
Preliminary Engineering (Consultant)	\$1,569,131.20	\$1,393,439.56	\$175,691.64
Preliminary Engineering (Commission) (1%)	\$97,639.42	\$87,019.59	\$10,619.84
Right of Way Acquisition	\$477,000.00	\$430,500.00	\$46,500.00
Right of Way Incidentals	\$49,000.00	\$41,500.00	\$7,500.00
Utility Relocation	\$675,000.00	\$375,000.00	\$300,000.00
Construction	\$9,763,942.48	\$8,701,958.84	\$1,061,983.64
Construction Contingency (2%)	\$195,278.85	\$ 174,039.18	\$21,239.67
Construction Inspection (Consultant)	\$0.00	\$0.00	\$0.00
Construction Engineering (Commission) (7%)	\$683,475.97	\$609,137.12	\$74,338.85
Inflation (3% / yr - 1 yr R/W & Utilities, 2 yr Construction)	\$684,170.27	\$603,054.73	\$81,115.54
<b>Total</b>	<b>\$14,289,588.43</b>	<b>\$12,510,599.25</b>	<b>\$1,778,989.18</b>

Amt. of PE on MoDOT's ROW that is not cost share eligible \$ 0.00

Amt. of CE on MoDOT's ROW that is not cost share eligible \$ 0.00

Total estimated project cost on MoDOT right-of-way \$ 12,510,599.25

**Project Responsibilities**

Feasibility Study	City
Preliminary Engineering	Commission
Right of Way	Commission
Utility Relocation	Commission and City
Construction	Commission
Construction Inspection	Commission

**Financial Responsibilities**

City	\$8,034,288.81
Commission - Cost Share Funds	\$6,099,000.00
Commission - Kansas City District Funds	\$156,299.63

**How are cost overruns and underruns handled?**

The City will pay for any overall cost overruns in excess of the amount originally estimated and approved of \$16,328,000.00 for J4P2247. Cost underruns for J4P2247 will be reimbursed to the City based on their pro-rata share of the investment. The City will pay for any overall cost overruns for J4P2247B. Any cost underruns for J4P2247B will be reimbursed to the City.

CCO Form: RM08  
Approved: 03/04 (BDG)  
Revised: 05/11 (AR)  
Modified:

Route 71 (I-49), Cass County  
Project No. J4P2247  
City of Peculiar

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
COST SHARE AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Peculiar (hereinafter, "City").

WITNESSETH:

WHEREAS, the City applied to the Commission's Cost Share Committee for participation in the Commission's *Cost Share Program*; and

WHEREAS, on March 21, 2012, the Cost Share Committee approved the City's application to the *Cost Share Program* subject to the terms and conditions of this Agreement; and

WHEREAS, the City and Commission are concurrently entering into a Municipal Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The purpose of this Agreement is to co-ordinate the participation by the City of Peculiar in the cost of the Commission's Project Job No J4P2247.

(2) LOCATION: The transportation improvement that is the subject of this Agreement is contemplated at the following location:

New interchange on US 71, to be designated as I-49 after December 31, 2012, at 211<sup>th</sup> Street located approximately 3.5 miles south of N Cass Parkway and approximately 1.5 miles north of Route C/J. The general location of the project is shown on attachment marked "Exhibit A" and incorporated herein by reference.

(3) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(4) COMMISSION REPRESENTATIVE: The Commission's District Engineer, Kansas City District is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative

may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(5) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(6) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(7) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations or for convenience by providing the City with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the City.

(8) PROJECT RESPONSIBILITIES: Under this Agreement, the parties agree to contribute as follows:

(A) The Commission will be responsible for preliminary engineering, which includes design and preparation of detailed preliminary, right-of-way, and construction plans, project specifications, and environmental clearances. The plans shall be prepared in accordance with and conform to Commission requirements.

(B) The City has completed a draft feasibility study as part project preliminary engineering.

(C) The Commission will be responsible for right of way, which includes acquisition and incidentals, and utility relocation as needed for the project in accordance with Commission requirements.

(D) The Commission will be responsible for letting the work for the herein improvement, which includes advertising the project for bids and awarding the construction contract. The Commission will solicit bids for the herein improvement in accordance with plans developed by the Commission, or as the plans may from time to time be modified in order to carry out the work as contemplated.

(E) The City may review the bids for the purpose of awarding the Commission's project construction contract. If the lowest responsive bid is greater than ten percent above of the final project construction cost estimate, the Commission may not award the said construction contract unless the City concurs with such award. The City shall provide concurrence on construction contract award within five days of the project letting (bid opening).

(F) The Commission will be responsible for project construction and construction inspection of the herein improvements, which includes administration of the

construction contract. The project shall be constructed in accordance with and conform to Commission requirements.

(9) FINANCIAL RESPONSIBILITIES: With regard to work under this Agreement, the City agrees as follows:

(A) The currently estimated total project cost is sixteen million, three hundred twenty-eight thousand dollars (\$16,328,000). The details of the estimated cost breakdown may be seen in Exhibit B, which is incorporated herein and attached hereto. The total project cost includes preliminary engineering, right of way, which includes acquisition and incidentals, utility relocation, project construction, and construction inspection.

(B) The City will be responsible for fifty percent (50%) of the total project cost. The total project cost will include preliminary engineering, right of way, which includes acquisition and incidentals, utility relocation, project construction, and construction inspection. The currently estimated cost of the City's responsibilities is eight million, one hundred sixty-four thousand dollars (\$8,164,000). The City has completed a draft feasibility study, as part project preliminary engineering, and has been credited one hundred thousand dollars (\$100,000.00) as shown in Exhibit B.

(1) The City shall deposit in the amount of seven hundred forty-five thousand dollars (\$745,000) to the *Missouri Highways and Transportation Commission – Local Fund* for preliminary engineering no later than December 1, 2012. If the City fails to make the deposit, the Commission is under no obligation to continue with the project.

(2) The City shall deposit in the amount of two hundred forty-seven thousand dollars (\$247,000) to the *Missouri Highways and Transportation Commission – Local Fund* for right of way, which includes acquisition and incidentals, and utility relocation no later than thirty days prior to the scheduled Acquisition Authority date. If the City fails to make the deposit, the Commission is under no obligation to continue with the project.

(3) The City shall deposit in the amount of seven million, seventy-two thousand dollars (\$7,072,000) to the *Missouri Highways and Transportation Commission – Local Fund* for project construction and construction inspection no later than ninety days prior to the project letting date. If the City fails to make the deposit, the Commission is under no obligation to continue with the project.

(C) The Commission will pay a maximum of fifty percent (50%) of the total project cost, currently estimated at eight million, one hundred sixty-four thousand dollars (\$8,164,000). Of this amount, the Commission shall provide six million, ninety-nine thousand dollars (\$6,099,000) from the Commission's Cost Share program, \$839,400 is available August 1, 2011, \$2,274,625 is available August 1, 2012 and \$2,984,975 is available August 1, 2013. Two million, sixty-five thousand dollars

(\$2,065,000) will be provided from the Commission's Kansas City District funds, \$86,000 is available in State fiscal year 2013, \$149,000 is available in State fiscal year 2014, and \$1,830,000 is available in State fiscal year 2015.

(D) The City is 100% responsible for the balance of the total project cost in excess of sixteen million, three hundred twenty-eight thousand dollars (\$16,328,000).

(10) COMMINGLING OF FUNDS: The City agrees that all funds deposited by the City, pursuant to this Agreement with the Commission, may be commingled by the Commission with other similar monies deposited from other sources. Any deposit may be invested at the discretion of the Commission in such investments allowed by its Investment Policy. All interest monies shall be payable to the fund and credited to the project. If the amount deposited plus any applicable credited interest with the Commission shall be less than the actual obligation of the City for this project, the City, upon written notification by the Commission, shall tender the necessary monies to the Commission to completely satisfy its obligation. Upon completion of the project, any excess funds or interest credited to the City shall be refunded to the City based on its pro rata share of the investment.

(11) COMMISSION RIGHT OF WAY: All improvements made within the state-owned right-of-way shall become the Commission's property, and all future alterations, modifications, or maintenance thereof, will be the responsibility of the Commission.

(12) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(13) SOLE BENEFICIARY: This Agreement is made for the sole benefit of the parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the City.

(14) NO INTEREST: By contributing to the cost of this project or improvement, the City gains no interest in the constructed roadway or improvements whatsoever. The Commission shall not be obligated to keep the constructed improvements or roadway in place if the Commission, in its sole discretion, determines removal or modification of the roadway or improvements, is in the best interests of the state highway system. In the event the Commission decides to remove the landscaping, roadway, or improvements, the City shall not be entitled to a refund of the funds contributed by the City pursuant to this Agreement.

(15) AUTHORITY TO EXECUTE: The signers of this Agreement warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this Agreement.

(16) SECTION HEADINGS: All section headings contained in this Agreement

are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

(17) ADDITIONAL FUNDING: In the event the Commission obtains additional federal, state, local, private or other funds to construct the improvement being constructed pursuant to this Agreement that are not obligated at the time of execution of this Agreement, the Commission, in its sole discretion, may consider any request by the City for an off-set for the deposited funds, a reduction in obligation, or a return of, a refund of, or a release of any funds deposited by the City with the Commission pursuant to this Agreement. In the event the Commission agrees to grant the City's request for a refund, the Commission, in its sole discretion, shall determine the amount and the timing of the refund. Any and all changes in the parties' financial responsibilities resulting from the Commission's determination of the City's request for a refund pursuant to this provision must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the City and the Commission.

(18) NO ADVERSE INFERENCE: This Agreement shall not be construed more strongly against one party or the other. The parties to this Agreement had equal access to, input with respect to, and influence over the provisions of this Agreement. Accordingly, no rule of construction which requires that any allegedly ambiguous provision be interpreted more strongly against one party than the other shall be used in interpreting this Agreement.

(19) ENTIRE AGREEMENT: This Agreement represents the entire understanding between the parties regarding this subject and supersedes all prior written or oral communications between the parties regarding this subject.

(20) VOLUNTARY NATURE OF AGREEMENT: Each party to this Agreement warrants and certifies that it enters into this transaction and executes this Agreement freely and voluntarily and without being in a state of duress or under threats or coercion.

(21) AUDIT OF RECORDS: The City must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission and/or its designees or representatives during the period of this Agreement and any extension thereof, and for three (3) years from the date of final payment made under this Agreement.

*[Remainder of Page Intentionally Left Blank; Signatures and Execution Appear on Following Page]*

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this \_\_\_\_ day of \_\_\_\_\_, 2012.

Executed by the Commission this 12<sup>th</sup> day of JULY, 2012.

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF PECULIAR, MISSOURI



By 

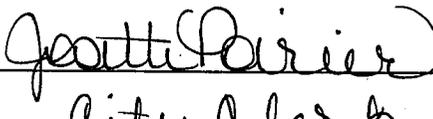
Title Chief Engineer

Title Mayor

ATTEST:

ATTEST:

  
Secretary to the Commission

By   
Title City Clerk

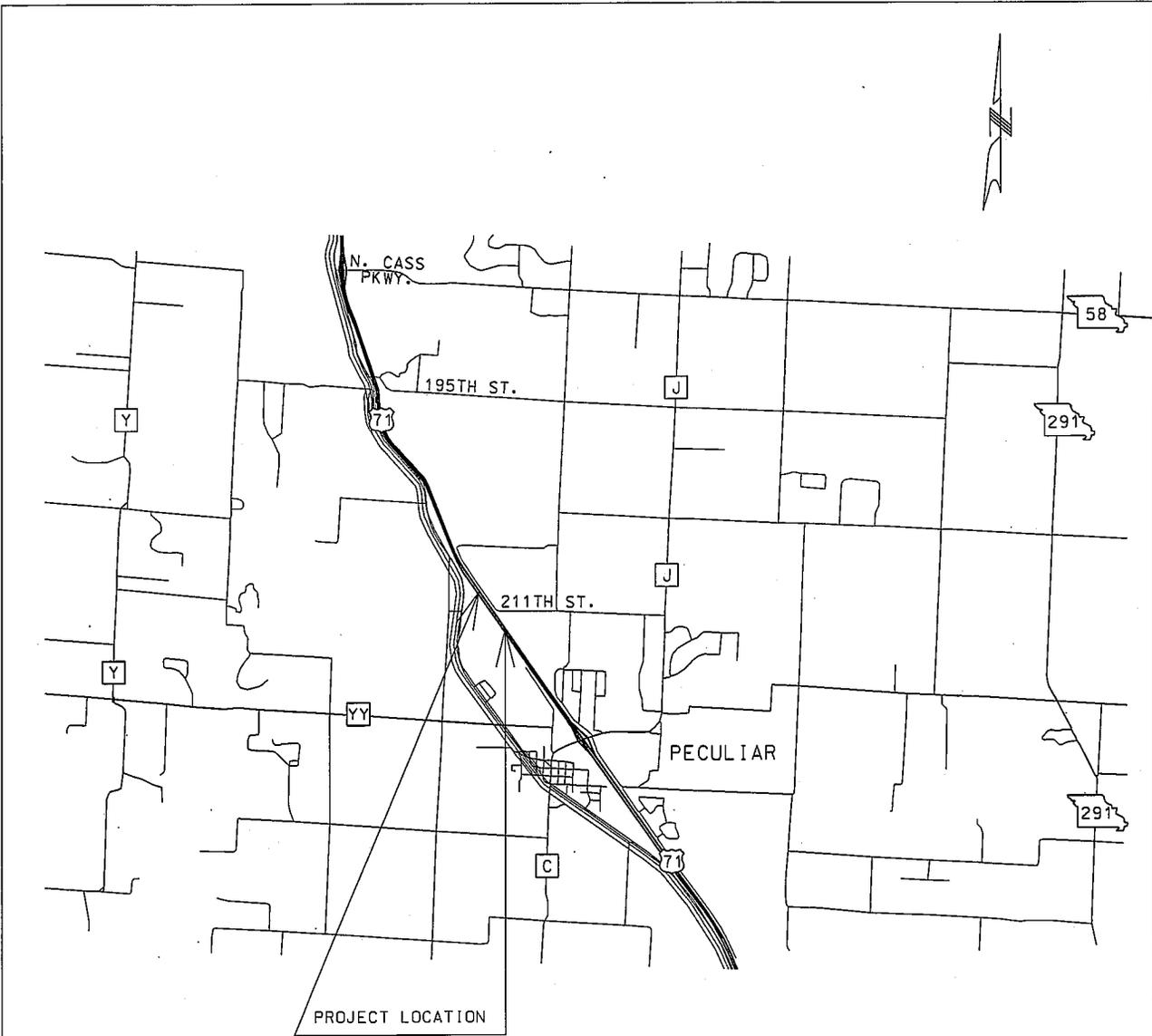
Approved as to Form:

Approved as to Form:

  
Commission Counsel

  
Title City Attorney

Ordinance No 06182012-C



PROJECT LOCATION  
 HWY 71 INTERCHANGE  
 AT 211TH ST.

NOTE:  
 211TH ST. IS LOCATED APPROX.  
 3.5 MILES SOUTH OF N. CASS PKWY  
 AND 1.5 MILES NW OF THE  
 MO J AND MO C INTERCHANGE

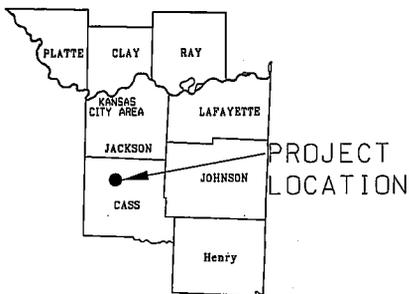


EXHIBIT A  
 CONTRACT BETWEEN  
 MISSOURI HIGHWAYS AND TRANSPORTATION  
 COMMISSION  
 -AND-  
 CITY OF PECULIAR, MISSOURI  
 JOB NO. J4P2247, CASS COUNTY

NOT TO SCALE

**EXHIBIT B**

**Project Name:** 211<sup>th</sup> Street Interchange  
**MoDOT Job Number:** J4P2247

**Description:** New interchange on US 71 (I-49) at 211<sup>th</sup> Street in Peculiar, MO

**Definition of "Total Project" for Cost Sharing Includes:**

Feasibility Study	Preliminary Engineering (Consultant)	Preliminary Engineering (Commission)
Right of Way Acquisition	Right of Way Incidentals	Utility Relocation
Construction	Construction Contingency	Construction Inspection (Consultant)
Construction Engineering (Commission)	Inflation	

**Definition of "Total Project" for Cost Sharing Excludes:**

NA		
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**Project Cost Estimate**

	Current Estimate	Cost Share Eligible
Feasibility Study	\$ 100,000	\$ 100,000
Preliminary Engineering (Consultant) (12%)	\$ 1,468,000	\$ 1,468,000
Preliminary Engineering (Commission) (1%)	\$ 122,000	\$ 122,000
Right of Way Acquisition	\$ 300,000	\$ 300,000
Right of Way Incidentals	\$ 40,000	\$ 40,000
Utility Relocation	\$ 140,000	\$ 140,000
Construction	\$ 12,230,000	\$ 12,230,000
Construction Contingency (2%)	\$ 245,000	\$ 245,000
Construction Inspection (Consultant)	\$ 0	\$ 0
Construction Engineering (Commission) (7%)	\$ 856,000	\$ 856,000
Inflation (3% / yr - 1 yr R/W & Utilities, 2 yr Construction)	\$ 827,000	\$ 827,000
<b>Total</b>	<b>\$ 16,328,000</b>	<b>\$ 16,328,000</b>

Amt. of PE on MoDOT's ROW that is not cost share eligible \$ 0

Amt. of CE on MoDOT's ROW that is not cost share eligible \$ 0

Total estimated project cost on MoDOT right-of-way \$ 16,328,000

**Project Responsibilities**

Feasibility Study	City
Preliminary Engineering	Commission
Right of Way	Commission
Utility Relocation	Commission
Construction	Commission

Construction Inspection	Commission
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**Financial Responsibilities**

City	\$	8,164,000	
Commission - Cost Share Funds	\$	6,099,000	
Commission - Kansas City District Funds	\$	2,065,000	

**How are cost overruns and underruns handled?**

The City will pay for any overall cost overruns. Cost underruns will be reimbursed to the City based on their pro-rata share of the investment.

BILL NO. 06182012-C

ORDINANCE 2012-16

**A ORDINANCE OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI APPROVING AND ACCEPTING THE MODOT MUNICIPAL AGREEMENT AND COST SHARE AGREEMENT FOR THE 211<sup>TH</sup> STREET 71 HWY INTERCHANGE (CASS COUNTY), MISSOURI**

**WHEREAS**, the Board of Aldermen previously approved City staff to apply for the MoDOT Cost Share Program for the 211th Street and 71 Hwy Interchange Project, and

**WHEREAS**, the MoDOT Cost Share Program application for the 211th Street and 71 Hwy Interchange Project has been approved and awarded by the MoDOT Cost Share Review Committee, and

**WHEREAS**, the citizens of Peculiar have previously approved \$8.0M in bonds for improvements of the proposed interchange and local roads,

**NOW THEREFORE**, be it ordained by the Board of Aldermen of the City of Peculiar, Missouri as follows:

**Section 1.** The approval of the MoDOT Municipal Agreement and Cost Share Agreement in the amount of \$8,164,000.00.

**Section 2.** The Mayor is authorized to execute this ordinance acknowledging the MoDOT Municipal Agreement and Cost Share Agreement.

**Section 3. Effective Date.** The effective date of this Ordinance shall be the 18th day of June, 2012.

First Reading: May 21, 2012

Second Reading: June 18, 2012

BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS 18 DAY OF June, 2012, BY THE FOLLOWING VOTE:

Alderman Dunsworth  
Alderman Fines  
Alderman Gallagher

I  
I  
N

Alderman Ray  
Alderman Stark  
Alderman Turner

I  
I  
I

APPROVED:

Ernest Jungmeyer  
Ernest Jungmeyer, Mayor

ATTEST:

Josette Poirier  
Josette Poirier, City Clerk



**BILL NO. 2014-02**

**ORDINANCE \_\_\_\_\_**

**A ORDINANCE OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI APPROVING AND ACCEPTING THE MODOT COST SHARE SUPPLEMENTAL AGREEMENT NO 1 FOR THE I-49 AND 211<sup>TH</sup> STREET INTERCHANGE (CASS COUNTY), MISSOURI**

**WHEREAS**, the Board of Aldermen previously approved the MoDOT Municipal Agreement and Cost Share Agreement for the 211<sup>th</sup> Street 71 Hwy Interchange (Cass County), and

**WHEREAS**, the MoDOT Cost Share Program application for the 211th Street and 71 Hwy Interchange Project has been approved and awarded by the MoDOT Cost Share Review Committee, and

**WHEREAS**, the citizens of Peculiar have previously approved \$8.0M in bonds for improvements of the proposed interchange and local roads,

**NOW THEREFORE**, be it ordained by the Board of Aldermen of the City of Peculiar, Missouri as follows:

**Section 1.** The approval of the MoDOT Cost Share Supplemental Agreement No. 1 in the amount of \$8,034,288.81.

**Section 2.** The Mayor is authorized to execute this ordinance acknowledging the MoDOT Cost Share Supplemental Agreement No. 1.

**Section 3. *Effective Date.*** The effective date of this Ordinance shall be the 18th day of February, 2014.

First Reading: February 3, 2014

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

BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2014, BY THE FOLLOWING VOTE:

Alderman Dunsworth \_\_\_\_\_  
Alderman Fines \_\_\_\_\_  
Alderman Gallagher \_\_\_\_\_

Alderman Ray \_\_\_\_\_  
Alderman Stark \_\_\_\_\_  
Alderman Turner \_\_\_\_\_

APPROVED:

ATTEST:

\_\_\_\_\_  
Ernest Jungmeyer, Mayor

\_\_\_\_\_  
Nick Jacobs, City Clerk

**City Administrator**  
*Brad Ratliff*

**Chief of Police**  
*Harry Gurin*

**City Attorney**  
*Reid F. Holbrook*

**City Clerk**  
*Nick Jacobs*



**City Engineer**  
*Carl Brooks*

**City Planner**  
*Cliff McDonald*

**Business Office**  
*Trudy Prickett*

**Parks Director**  
*Nathan Musteen*

**Municipal Offices – 250 S. Main Street, Peculiar, MO 64078**  
*Phone: 816.779.5212 Facsimile: 816.779.1004*

**To:** Mayor and Board of Aldermen  
**From:** Nathan Musteen, Parks Director  
**Date:** February 18, 2014  
**Re:** Raisbeck Field Grading and Grassing Contract – Cobra Contracting

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#### **GENERAL INFORMATION**

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**Applicant:** City Staff  
**Requested Actions:** Approval of Resolution No. 2014-06  
**Purpose:** Enter into Agreement with Resolution No. 2014-06  
**Property Location:** Raisbeck Park, (23205 SE Outer Road, Peculiar, MO 64078)

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#### **PROPOSAL**

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City staff proposes that the Board of Aldermen approve a resolution authorizing the Mayor to execute an agreement with Cobra Contractors, LLC., Overland Park, Kansas for grading improvements of the Raisbeck Park Grading Improvements Project. The lump sum proposal agreement amount is \$157,000.00.

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#### **PREVIOUS ACTIONS**

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The Board of Alderman entered an agreement with Land3 Studios in July of 2013 to develop a master plan for the future use of Raisbeck Park. Within the plan, the top priority was to grade and develop multi-use athletic fields that drain quickly during high floods and provide quality playing surfaces for leagues and tournaments.

In January, the City of Peculiar issued a Request for Proposal (RFP) for the Raisbeck Park Grading Improvements. The work as advertised generally consisted of clearing, erosion control, grading, grassing and establishment and related improvements to Raisbeck Park.

Bid information was opened on January 28<sup>th</sup>. Members of the Park Board were given electronic copies of the bid results via email on Friday January 31<sup>st</sup>. On Monday, February 10, 2014, the Park Board voted 5-1 in favor of recommending the Mayor and Board of Alderman to enter into a formal agreement with Cobra Contracting to perform services as advertised at Raisbeck Park.

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#### **KEY ISSUES**

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Since the proposed work is more than \$10,000; it was important that the project be advertised. Staff used the city website project/RFP page, the Raymore Journal and the Cass Democrat as the primary local

advertising avenues. In addition, Land3 Studios contacted many of their former clients and contacts for further exposure.

A total of two bids were received and one of the two bids was below the engineer's (Land3) estimate of opinion of probable construction costs. The other bid came in at \$9300 over the estimated cost.

In 2013, the Board approved an FY14 budget of \$118,000 for grading improvements at Raisbeck Park. With the updated Engineer's opinion of probable construction cost and the low bid coming in higher than the FY14 budget, a budget amendment via resolution to utilize Park Fund reserves will be necessary to fund the additional \$38,600.

A reference check was completed on Cobra Construction LLC, with favorable results.

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**ATTACHMENTS FOR YOUR REVIEW**

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- Land3 Studio – Opinion of Probable Construction Costs
- The bid tab
- Resolution 2014-06
- Contractual Agreement with Cobra Contracting

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**STAFF RECOMMENDATION**

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City Staff recommends approval of the Mayor and the Board of Aldermen to enter into the proposed contractual agreement with Cobra Contracting for grading and seeding improvements to Raisbeck Park as recommended by the Park Board in the amount of \$157,000.00.



Landscape Architecture

RAISBECK PARK SOCCER COMPLEX					
Opinion of Construction Costs				01/13/14	
				Cost to Budget	
ITEM		Qty	Unit	Unit Cost	Extension
Clear & grub		7	acre	1,500.00	10,500.00
Grading	On-site	350	c.y.	3.50	1,225.00
	Imported fill	7,500	c.y.	15.00	112,500.00
Grassing	Field	281,500	s.f.	0.08	22,520.00
Silt Fence		2,400	l.f.	2.00	4,800.00
				<b>Subtotal</b>	151,545.00
Mob/Bonding / permitting				5.00%	7577.25
Contingency				5.00%	7577.25
					166,699.50

Originally included in the estimate, but removed at Park Board’s request in the January Park Board Meeting.

Water		30	days	1,500.00	45,000.00
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City of Peculiar Raisbeck Park Grading Improvements									
January 28, 2014 @ 2:00 P.M.									
ITEM	Quantity	Unit	Cost	Engineer Estimate	Cobra Contractors LLC		Nemaha Landscape Construction Inc.		
				TOTAL PR	Bid Bond	TOTAL	Bid Bond	TOTAL	
<b>Base Bid</b>					<b>x</b>	<b>\$157,000.00</b>	<b>x</b>	<b>\$176,000.00</b>	
1	Clear and Grub	7	Acres	\$1,500.00	\$10,500.00				
2	Grading								
	<b>onsite</b>	350	Cubic Yard	\$3.50	\$1,225.00				
	<b>Imported fill</b>	7500	Cubic Yard	\$15.00	\$112,500.00				
3	Grassing	281500	Sq. Feet	\$0.08	\$22,520.00				
4	Silt Fence	2400	Linear Feet	\$2.00	\$4,800.00				
<b>Subtotal</b>					\$151,545.00		\$0.00	\$0.00	
<b>Bonds / Permitting</b>				<b>5.00%</b>	\$7,577.25				
<b>Contingency</b>				<b>5.00%</b>	\$7,577.25				
<b>TOTAL BASE BID</b>					<b>\$166,699.50</b>		<b>\$157,000.00</b>	<b>\$176,000.00</b>	
<b>Project construction total</b>					<b>\$166,699.50</b>		<b>\$157,000.00</b>	<b>\$176,000.00</b>	
<b>Budget allowed</b>					\$ 118,400.00		\$ 118,400.00	\$ 118,400.00	
<b>Project difference</b>					\$ (48,299.50)		\$ (38,600.00)	\$ (57,600.00)	

**RESOLUTION 2014-06**

**A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH COBRA CONTRACTING FOR THE RAISBECK PARK GRADING IMPROVEMENTS LOCATED AT RAISBECK PARK, 23205 SE OUTER ROAD, PECULIAR, MO 64078.**

**WHEREAS**, the City of Peculiar issued a Request for Proposals (RFP) for the RAISBECK PARK GRADING IMPROVEMENTS; *and*

**WHEREAS**, on January 28, 2014, two (2) qualified companies submitted bids for *the RAISBECK PARK GRADING IMPROVEMENTS project*, and

**WHEREAS**, execution of this agreement will require a budget amendment via Resolution; and

**WHEREAS**, the Peculiar Park Board and City Staff recommend COBRA CONTRACTING as the best value, most responsive, responsible firm, and in the best interest of the City; and

**WHEREAS**, City Staff believes that Cobra Contracting will provide quality service and work.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMAN OF THE CITY OF PECULIAR, as follows:

**Section 1:** The Mayor is authorized to execute the referenced agreement with Cobra Contracting for the RAISBECK PARK GRADING IMPROVEMENTS

**Section 2:** *Effective Date.* The effective date of this resolution shall be the 18<sup>th</sup> day of February, 2014

**THIS RESOLUTION WAS ADOPTED BY THE FOLLOWING ROLL CALL VOTE THIS 18<sup>th</sup> DAY OF February, 2014.**

Alderman Dunsworth \_\_\_\_\_  
Alderman Fines \_\_\_\_\_  
Alderman Gallagher \_\_\_\_\_

Alderman Ray \_\_\_\_\_  
Alderman Stark \_\_\_\_\_  
Alderman Turner \_\_\_\_\_

Approved: \_\_\_\_\_  
Ernest Jungmeyer, Mayor

Attest: \_\_\_\_\_  
Nick Jacobs, City Clerk



**CITY OF PECULIAR, MISSOURI**  
Contractual Agreement

***Raisbeck Park Grading Improvements***

**THIS AGREEMENT, made by and between the City of Peculiar, Missouri (hereinafter called CITY) and Cobra Contracting LLC. (hereinafter called Owner).**

THIS AGREEMENT, made the \_\_\_\_\_ day of \_\_\_\_\_ 2014 by and between the City of Peculiar, MISSOURI, and ("Owner"), is to bind the parties hereto to the principles and terms set forth herein, and shall be binding upon the parties hereto.

**ARTICLE No. 1 SCOPE OF WORK:**

The contractor shall furnish all of the materials and perform all the Work described in the Specifications and/or shown on the Drawings entitled:

**RAISBECK PARK GRADING IMPROVEMENTS**

which Specifications and/or Drawings are incorporated in and made a part thereof.

**ARTICLE No. 2 TIME OF COMPLETION:**

The Contractor must begin Work specified by the written Notice to Proceed from the Owner.

The Date of Substantial Completion of all Raisbeck Park Improvements work, as further defined in the Agreement and General Conditions shall be May 15, 2014 at which time the Owner may begin limited use of the facility.

**ARTICLE No. 3 LIQUIDATED DAMAGES:**

It is mutually understood and agreed by and between the parties hereto that time is of the essence in the performance of this contract and that the Owner will sustain substantial monetary and other damages in the event of a failure or delay by the Contractor in the completion of the Work. It is further understood and agreed upon and made part of this Contract that the Work must be begun, performed, and completed without delay by the Contractor and if the Contractor fails to begin, perform without interruption, and complete said Work in due and proper time, the Contractor may be declared in default of this Agreement.

Should the Contractor fail to complete the Work under this Contract on or before the date stipulated for Substantial Completion (or such later date as may result from extensions in the Contract Time granted by the Owner), the Contractor agrees that the owner is entitled to, and shall pay the Owner as liquidated damages the sum of \$\_Five Hundred Dollars (\$500.00) for each consecutive calendar day that Substantial Completion has not been met, in accordance with the provisions of the General Conditions.

**ARTICLE No. 4 THE CONTRACT AMOUNT:**

Subject to additions and deductions for Change Orders made in accordance with the Contract Documents, the Owner shall pay the Contractor as full consideration for the Contractor's satisfactory performance of the Contract obligations the sum of:

**(\$157,000.00)**

**ARTICLE No. 5 PROPOSED PAYMENTS:**

The Owner shall make periodic partial payments in accordance with the General Conditions for Work satisfactorily completed and for materials suitably stored at the site of the Work as estimated by the Consultant, less retainage and the aggregate of previous payments. Certified Pay application must be submitted for approval by the 5th of each month in order for payment to be made that same month. If submitted after the 5th of the month, payment will be made the following month.

**ARTICLE No. 6 ACCEPTANCE AND FINAL PAYMENT:**

Final payment shall be due thirty calendar (30) days after Final Completion of the Work, provided, that all Work has been fully completed in accordance with the Contract Documents as evidenced by a certificate by the Consultant for the project, and acceptance by the Owner.

The Contractor shall submit with the final estimate evidence satisfactory to the Consultant that all payrolls, material bills and other indebtedness connected with the Work have been paid or that provisions for the satisfaction thereof have been made. If, after the Work has been substantially completed, final completion of the Work is delayed through no fault of the Contractor, the Owner may pay to the Contractor from the remaining balance of funds for this Agreement a sum equal to the value of that portion of the Work fully completed and accepted by the Owner as provided in this Agreement.

**ARTICLE No. 7 THE CONTRACT DOCUMENTS:**

The Contract Documents consist of this Agreement, all Addenda, the Contractor's Form of Proposal, the General Conditions, the Special Conditions, the Contractor's Bonds, the Specifications, the Drawings and Change Orders issued after execution of the Contract for the Work described in Article No. 1 of this Agreement, all of which are incorporated in and made a part hereof by reference, and which shall be binding upon the Contractor and the Owner.

**ARTICLE No. 8 CONTRACT ADJUSTMENTS:**

The Owner, without invalidating this Agreement may make adjustments to the Work as provided by the contract documents, and may order extra Work or make changes by altering, adding to or deducting from the Work. All such Work shall be executed and paid for in accordance with the General Conditions of the Contract.

**ARTICLE No. 9 SPECIAL NOTICE:**

The Contractor hereby certifies that it is fully informed of the conditions relating to construction and labor under which the Work under this Agreement is to be performed, and agrees that it shall employ, methods and means in carrying out the Work so as not to interfere with or interrupt the Work of any other Contractor working on/or adjacent to the site for this Work.

**ARTICLE No. 10 OWNER'S RIGHT TO TERMINATE CONTRACT:**

This contract may be terminated for the convenience of the Owner or for default as provided for by the Conditions of the Contract.

IN WITNESS WHEREOF this Agreement is executed in five (5) counterparts, each one of which shall be deemed an original and adequate proof of this Agreement, on the date and year first herein before written.

WITNESS:

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

CONTRACTOR: Cobra Contracting, LLC

BY: \_\_\_\_\_

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

Approved for Legality and Form

APPROVED: \_\_\_\_\_

City of Peculiar,  
Peculiar, Missouri

By: \_\_\_\_\_  
**Ernest Jungmeyer, Mayor**

Attest: \_\_\_\_\_  
**Nick Jacobs, City Clerk**

**City Administrator**  
*Brad Ratliff*

**Chief of Police**  
*Harry Gurin*

**City Attorney**  
*Reid F. Holbrook*

**City Clerk**  
*Nick Jacobs*



**City Engineer**  
*Carl Brooks*

**City Planner**  
*Cliff McDonald*

**Business Office**  
*Trudy Prickett*

**Parks Director**  
*Nathan Musteen*

**Municipal Offices – 250 S. Main Street, Peculiar, MO 64078**  
*Phone: 816.779.5212 Facsimile: 816.779.1004*

**To:** Mayor and Board of Aldermen  
**From:** Nathan Musteen, Parks Director  
**Date:** February 18, 2014  
**Subject:** City of Peculiar Logo

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**GENERAL INFORMATION**

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In October, City Staff was tasked with providing options of a new, updated City of Peculiar Logo to the Board of Alderman. Staff requested quotes from local metro area graphic design companies and received over 6 qualified applicants. The City Administrator and Parks Director met with and selected Lifted Logic located in Overland Park.

Logo options were provided based on discussions between Mr. Adam Finchman of Lifted Logic and the City Administrator.

In December, the Board of Alderman viewed several logo options and gave direction for a final version.

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**PURPOSE**

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The purpose of this project is to present the Board of Alderman some new and fresh ideas for a City Logo based on the history of Peculiar and moving into Peculiar's future. The current logo has been in place since 2001 and recent discussions indicate that the board would be interested in a potential change.

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**ATTACHMENTS**

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The attached logo is the final rendition based on direction given by the Board of Alderman and passed along to Lifted Logic. Per the contract, this is the final version unless the Board chooses to enter a new contract for further adjustments to the logo.

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**ACTION ITEM**

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Staff requests approval of Resolution 2014-07 to adopt the attached logo as the official City Logo

**RESOLUTION 2014-07**

**A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI TO ADOPT A NEW CITY LOGO.**

**WHEREAS**, the City of Peculiar has contracted with Lifted Logic to provide ideas for a new City Logo and;

**WHEREAS**, the Board of Alderman and City Staff have reviewed and revised several options for an updated logo and;

**WHEREAS**, the Board of Alderman agree that the proposed logo more accurately represents Peculiar’s history.

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI**

**Section 1.** The City of Peculiar, Missouri hereby establishes the attached logo as the official logo for the City of Peculiar. (Attachment A)

**Section 2.** The Board of Alderman reserves the right to revise said logo via future resolution.

**Section 3. *Effective Date.*** The effective date of this Resolution shall be the \_\_\_\_ day of February, 2014.

Upon a roll call, said Resolution was adopted by the following vote:

Alderman Gallagher \_\_\_\_\_  
Alderman Dunsworth \_\_\_\_\_  
Alderman Fines \_\_\_\_\_

Alderman Ray \_\_\_\_\_  
Alderman Stark \_\_\_\_\_  
Alderman Turner \_\_\_\_\_

APPROVED:

ATTEST:

\_\_\_\_\_  
Ernest Jungmeyer, Mayor

\_\_\_\_\_  
Nick Jacobs, City Clerk





City Administrator  
*Brad Ratliff*

City Clerk  
*Nick Jacobs*

Business Office Manager  
*Trudy Prickett*

City Attorney  
*Reid F. Holbrook*

City Engineer  
*Carl Brooks*

Chief of Police  
*Harry Gurin*

City Planner  
*Cliff McDonald*

Parks Director  
*Nathan Musteen*

Municipal Offices – 250 S. Main, Peculiar, MO 64078  
Phone: 816.779.5212 Facsimile: 816.779.1004

**To:** Board of Aldermen  
**From:** Nick Jacobs  
**Date:** February 14, 2014  
**Re:** Video Conference Call Voting Ordinance

GENERAL INFORMATION

**Applicant:** Staff

**Requested Actions:** Board of Aldermen to consider adopting proposed Ordinance on Video Conference Call Voting.

Date of Application: February 14, 2014

**Purpose:** To allow Aldermen who are unable to attend a meeting be present via video conferencing and cast roll call votes.

PROPOSAL: See “Requested Actions” above.

PREVIOUS ACTIONS:

None.

KEY ISSUES: See “Purpose” above.

STAFF COMMENTS AND SUGGESTIONS

STAFF RECOMMENDATION

Staff recommends approval

**BILL NO. 2014-03**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI AMENDING SECTION 110 OF PECULIAR MUNICIPAL CODE TITLED “GENERAL PROVISIONS” WITH THE ADDITION OF SECTION 110.025 TITLED “VIDEO CONFERENCE VOTING POLICY”**

**WHEREAS** the City is authorized, under Rev. Stat. Mo. §§ 79.130 and 79.450 to enact ordinances, rules, and regulations not otherwise inconsistent with Missouri laws and "expedient for maintaining the peace, good government and welfare of the city and its trade and commerce;" and;

**WHEREAS**, this proposed ordinance will maintain the good government of the City of Peculiar by permitting elected and appointed officials of the City of Peculiar who would be otherwise incapable of attending a meeting of the governing body to be counted as present and cast roll call votes via video conferencing.

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

**SECTION I.** Pursuant to the authority granted by and subject to the provisions of Rev. Stat. Mo. §§ 79.130, and 79.450, that Peculiar Municipal Code § 110.025 be added to read as follows:

**SECTION 110.025: VIDEO CONFERENCE VOTING POLICY**

**Meetings Using Video Conference Technology.**

**A. Policy Statement.**

While it is legally permissible for members of the City's public governmental bodies to attend meetings and vote via video conference transmission, a member's use of video conference attendance should occur only sparingly. Because it is good public policy for citizens to have the opportunity to meet with their elected officials face-to-face, elected members of a public governmental body should endeavor to be physically present at all meetings unless attendance is unavoidable after exercising due diligence to arrange for physical presence at the meeting. The primary purpose of attendance by video conference connection should be to accommodate the public governmental body as a whole to allow meetings to occur when circumstances would otherwise prevent the physical attendance of a quorum of the body's members. A secondary purpose of attendance by video

conference should be to ensure that all members may participate in business of the public governmental body that is emergency or highly important in nature and arose quickly so as to make attendance at a regular meeting practically impossible. Except in emergency situations, all efforts should be expended to ensure that a quorum of the members of the public governmental body be physical present at the normal meeting place of the body.

### **B. Video Conference Defined.**

For purposes of this section "video conference" or "videoconferencing" shall refer to a means of communication where at least one member of a public government body participates in the public meeting via an electronic connection made up of three components: (1) a live video transmission of the member of the public governmental body not in physical attendance; (2) a live audio transmission allowing the member of the public governmental body not in physical attendance to be heard by those in physical attendance; and (3) a live audio transmission allowing the member of the public governmental body not in physical attendance to hear those in physical attendance at a meeting. If at any time during a meeting one or more of the elements of a video conference becomes compromised (e.g., if any participants are unable to see, hear, or fully communicate), then the video conference participant is deemed immediately absent and this absence should be reflected in the minutes. A video conference participant's absence may compromise a quorum in which case the applicable Missouri laws shall take effect regarding a broken quorum.

### **C. Frequency of Use of Video Conference Attendance.**

A member of a public governmental body shall not attend more than **2 (TWO)** meetings via video conference in a rolling twelve-month period. In keeping with the policy stated in subsection (a) above, attendance via video conference should only occur sparingly and for good cause. Such good cause shall be at the discretion of the member seeking to attend by video conference, but shall be for significant reasons such as serious illness or injury of the member or a member of his or her immediate family, including father or mother, spouse, sibling, child, or grandchild.

### **D. Physical Location.**

Members of the public may not participate in a public meeting of a governmental body via video conference. The public wishing to attend a meeting, and elected officials not participating via videoconferencing of a meeting, shall participate at the physical location where meetings of the public governmental body are typically held, or as provided in a notice provided in accordance with the Sunshine Law. The public governmental body shall cause there to be provided at the physical location communication equipment consisting of an audio and visual display, and a camera and microphone so that the member(s) of the public governmental body participating via videoconferencing, the members of the public governmental body in physical attendance, and the public in physical attendance may actively participate in the meeting in accordance with rules of

meeting decorum. The communication equipment at the physical location of the meeting must allow for all meeting attendees to see, hear, and fully communicate with the videoconferencing participant.

#### **E. Voting.**

Elected members of a public governmental body attending a public meeting of that governmental body via video conference are deemed present for purposes of participating in a roll call vote to the same effect elected members of a public governmental body in physical attendance at a public meeting of that governmental body are deemed present. As indicated in subsection (b) above, if any component of the video conference communication fails during the meeting, the member attending the meeting by video conference whose connection failed shall be deemed absent immediately upon such failure, and if the public governmental body was in the act of voting, the voting shall stop until all of the components of video conference attendance are again restored and the video conference participant's presence is again noted in the minutes.

#### **F. Closed Meetings.**

In a meeting where a member of a public governmental body is participating via videoconferencing and the meeting goes into a closed session, all provisions of Missouri law and City ordinances relating to closed sessions apply. Upon the public governmental body's vote to close the meeting, all members of the general public shall not be present. Likewise, a member of a public governmental body participating via videoconferencing must ensure there are no members of the public present at their location to see, hear, or otherwise communicate during the closed session. The member must also take all reasonable precautions to guard against interception of communication by others. Failure to ensure the requirements of this subsection may result in corrective action by the full public governmental body in accordance with City regulations.

#### **G. Minutes.**

In the meeting, whether in open or in closed session, the minutes taken should reflect the member, if any, participating via video conference; the members in physical attendance; and members, if any, absent.

#### **H. Emergency meetings.**

In the event that emergency circumstances create impossibility for the members of a public governmental body to physically attend the body as a whole may meet, and if necessary vote, by video conference. Examples of such emergency circumstances include, but are not limited to, war, riot, terrorism, widespread fire, or natural disaster such as earthquake, tornado, hurricane, flood, or blizzard. To the extent possible in such circumstances, the public governmental body shall use reasonable efforts to cause a physical location to be provided for public attendance and participation.

**SECTION II:** The effective date of this ordinance shall be \_\_\_\_\_, 2014.

**First Reading:** \_\_\_\_\_

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

**BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2014, BY THE FOLLOWING VOTE:**

**Alderman Gallagher** \_\_\_\_\_

**Alderman Dunsworth** \_\_\_\_\_

**Alderman Fines** \_\_\_\_\_

**Alderman Turner** \_\_\_\_\_

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

**Alderman Stark** \_\_\_\_\_

**Approved:**

**Attest:**

\_\_\_\_\_  
**Ernest Jungmeyer, Mayor**

\_\_\_\_\_  
**Nick Jacobs, City Clerk**



City Administrator  
*Brad Ratliff*

City Clerk  
*Nick Jacobs*

Business Office Manager  
*Trudy Prickett*

City Attorney  
*Reid F. Holbrook*

City Engineer  
*Carl Brooks*

Chief of Police  
*Harry Gurin*

City Planner  
*Cliff McDonald*

Parks Director  
*Nathan Musteen*

Municipal Offices – 250 S. Main, Peculiar, MO 64078  
Phone: 816.779.5212 Facsimile: 816.779.1004

**To:** Board of Aldermen  
**From:** Mayor Jungmeyer  
**Date:** February 14, 2014  
**Re:** Code of Conduct

#### GENERAL INFORMATION

**Applicant:** Mayor

**Requested Actions:** Board of Aldermen to consider adopting proposed Code of Conduct Ordinance for elected officials.

Date of Application: February 14, 2014

**Purpose:** The purpose is for the City of Peculiar to establish a Code of Conduct for elected officials to abide by.

PROPOSAL: See “Requested Actions” above.

#### PREVIOUS ACTIONS:

None.

KEY ISSUES: See “Purpose” above.

#### STAFF COMMENTS AND SUGGESTIONS

#### STAFF RECOMMENDATION

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**BILL NO. 2014-04**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI AMENDING SECTION 110 OF PECULIAR MUNICIPAL CODE TITLED “GENERAL PROVISIONS” WITH THE ADDITION OF SECTION 110.015 TITLED “CODE OF CONDUCT OF OFFICIALS”**

**WHEREAS** the City is authorized, under Rev. Stat. Mo. §§ 79.130 and 79.450 to enact ordinances, rules, and regulations not otherwise inconsistent with Missouri laws and "expedient for maintaining the peace, good government and welfare of the city and its trade and commerce;" and;

**WHEREAS**, this proposed ordinance will maintain the good government of the City of Peculiar by outlining the basic ethical principles that each elected official or member of an appointive board shall follow while exercising their duties.

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

**SECTION I.** Pursuant to the authority granted by and subject to the provisions of Rev. Stat. Mo. §§ 79.130, and 79.450, that Peculiar Municipal Code § 110.015 be added to read as follows:

**SECTION 110.015: CODE OF CONDUCT OF OFFICIALS**

As an elected official of the City of Peculiar or a member of an appointive board, I will be guided by prudent judgment and personal responsibility, whether serving the public or working with colleagues, and my decisions and actions will be made according to the following ethical principles.

- 1) I will uphold the city's policies in a transparent and consistent manner at all times.
- 2) I will make unbiased decisions and use my authority fairly and responsibly.
- 3) I will act with honesty and be an advocate for an environment that promotes public trust.
- 4) I will not use city resources or my position for personal gain.

- 5) I will be mindful of how my actions may be perceived by others and avoid conflicts of interest.
- 6) I will take no action as a City Official that would violate my duty to uphold the Constitution of the State of Missouri and the United States of America.

**SECTION II:** The effective date of this ordinance shall be \_\_\_\_\_, 2014.

**First Reading:** \_\_\_\_\_

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

**BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2014, BY THE FOLLOWING VOTE:**

<b>Alderman Gallagher</b>	_____	<b>Alderman Dunsworth</b>	_____
<b>Alderman Fines</b>	_____	<b>Alderman Turner</b>	_____
<b>Alderman Ray</b>	_____	<b>Alderman Stark</b>	_____

**Approved:**

**Attest:**

\_\_\_\_\_  
**Ernest Jungmeyer, Mayor**

\_\_\_\_\_  
**Nick Jacobs, City Clerk**



City Administrator  
*Brad Ratliff*

City Clerk  
*Nick Jacobs*

Business Office Manager  
*Trudy Prickett*

City Attorney  
*Reid F. Holbrook*

City Engineer  
*Carl Brooks*

Chief of Police  
*Harry Gurin*

City Planner  
*Cliff McDonald*

Parks Director  
*Nathan Musteen*

Municipal Offices – 250 S. Main, Peculiar, MO 64078  
Phone: 816.779.5212 Facsimile: 816.779.1004

**To:** Board of Aldermen  
**From:** Clifford L. McDonald  
**Date:** February 18, 2014  
**Re:** Economic Development Incentive Policy

#### GENERAL INFORMATION

**Applicant:** City Staff

**Requested Actions:** Board of Aldermen to consider adoption of Economic Development Incentive Policy

Date of Application: January 6, 2014

**Purpose:** The purpose is for the City of Peculiar to establish and adopt an Economic Development Incentive Policy to provide guidance and procedures to implement various funding programs to include: TIF, TDD, CID and NID.

**PROPOSAL:** See “Requested Actions” above.

#### PREVIOUS ACTIONS:

The City created a Tax Increment Financing Commission (TIF Commission) by City Ordinance on May 6, 2002, CHAPTER 127. The Ordinance outlines the Composition, Powers, Duties, Organization and Terms of Office of the Commission, and provides for the Commission to adopt such rules and regulations of operations necessary to effectively and efficiently exercise its powers authorized by the TIF Act and Chapter 127. This policy was presented to the Board on January 6, 2014 and February 3, 2014 for informational review.

## KEY ISSUES

The City desires to use economic development tools to attract desired commercial growth. To support this goal the following economic development incentive policy was developed to establish policies and practices which are competitive with other jurisdictions while adequately protecting taxpayers, and adopt a more full-formed policy to guide the use of these incentives.

## STAFF COMMENTS AND SUGGESTIONS

Presented for the Board of Aldermen's consideration is an Economic Development Incentive policy. This policy expands the City's current Ordinance & guidance, adopted May 6, 2002 which only applies to Tax Increment Financing.

The policy is designed to provide specific guidance while not tying the City's hands to any particular threshold or standard. Throughout the policy the phrase "most favorable consideration" is used to lay out a standard and provide for flexibility depending on particular circumstances.

Some highlights of the draft policy include:

- The policy provides general guidelines for all Economic Development incentive applications and considerations. The City's current policy only addresses Tax Increment Financing (TIF).
- The policy provides for a Preliminary Funding Agreement for all full application reviews.
- The policy provides that most favorable consideration will be given to applications that propose the use of public assistance to fund public improvements rather than private improvements.
- The policy provides that most favorable consideration will be given to applications that request "pay as you go" reimbursement of initial development costs, rather than the issuance of public debt.
- The policy provides that most favorable consideration will be given to those projects where all proposed public funding mechanisms are no more than 20% of the total project costs, including all public and private costs, all hard and soft costs, and all developer fees and contingencies. In the case of TIF, a threshold of 15% is used, to which additional incentives might be added to get to 20%. Applicants may propose the use of incentives that deviate from this standard, but should demonstrate that the proposed project provides substantial public benefits, assists the City to pay for deficient public improvements or services, or provides substantial and unique benefits to the City.
- The policy provides that the plan should provide for a mandatory declaration of surplus Payments In Lieu of Taxes (PILOTs) to the applicable taxing districts that impose real property taxes within the redevelopment area in the amount of 50% of all captured PILOTs.

- The policy provides that most favorable consideration will be given to those projects that encourage the operation of new businesses in the City. Applicants are discouraged from requesting economic development assistance that would cause businesses which are already located within the City to relocate to the proposed development. If the proposed Project involves the relocation of an existing business already in the City into the Project area, the applicant should provide evidence that the business would otherwise leave the City without the requested public incentive.
- The policy recommends that other than having a limited number of residential units creatively integrated into commercial or retail projects, TIF residential projects will not receive favorable consideration from the City.

### **STAFF RECOMMENDATION**

Favorably consider adopting the attached Economic Development Incentive Policy by Resolution.

---

STAFF CONTACT:  
Clifford L. McDonald

# **City of Peculiar**

## **Economic Development Incentive Policy**

**A policy governing the use of public funding assistance for  
development and redevelopment in Peculiar.**

Adopted by Resolution 2014-08  
January 20, 2014

# **City of Peculiar Economic Development Policy**

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## **Introduction and General Guidelines**

### **Section 1. Purpose and Scope.**

The purpose of this Economic Development Policy (the “**Policy**”) is to provide guidance to property owners and developers in Peculiar on the use of public economic incentive tools. This Policy is also designed to provide direction and an understanding of the City’s expectations regarding the process, standards and policies that will be applied by the City to the use of economic development tools. A description of the purposes and process governing public funding sources covered by this Policy are set forth in the Missouri Municipal Finance Guide prepared by Gilmore & Bell, attached hereto as **Exhibit A.**

### **Section 2. Objectives.**

The City is committed to the high quality, balanced growth and development of the community, to preserving the City's character & atmosphere and to revitalizing and redeveloping areas of the City. The City recognizes the importance of continued economic development to meet the needs of its residents, and its obligation to balance the demand for economic development with the judicious use of economic incentives, reserving the use of these incentives for projects that demonstrate significant public benefit. Accordingly, the City has established certain goals regarding the use of Funding Districts:

- A. To promote, stimulate and develop the general and economic welfare of the City.
- B. To provide and maintain an attractive community that creates a positive public image and encourages individuals, families and businesses to locate and invest in the community.
- C. To encourage the use of public economic incentives in those locations and situations that provide the maximum public benefit.
- D. To limit the use of public economic incentives for the shortest duration while still providing for the desired level of public financial assistance.

Fulfilling these goals can lead to a substantial public benefit, including the construction of public improvements, the creation of new jobs, the retention of existing quality jobs, the elimination of blight or conditions that could lead to blight, the increase of property values, the increase of tax revenues, and the promotion of economic stability throughout the City.

It is the policy of the City that any decision regarding the use of public economic incentives will be made in accordance with the guidelines, criteria, and procedures set forth in this Policy. Nothing in this Policy shall imply or suggest that the City is under any obligation to approve or support the use of a particular public economic incentive tool for any applicant. The City reserves the right to modify or waive, on a case-by-case basis, any of the procedures set forth in this Policy, provided that all of the applicable state statutory requirements are satisfied.

### **Section 3. Definitions.**

Words and terms not defined elsewhere in this Policy shall have the following meanings:

“**Applicable Law**” means any statute, rule, regulation, ordinance or code applicable within the jurisdictional limits of the City.

“**Applicant**” means an individual or entity, or the authorized representative of such individual or entity, that submits an Application that requests the use of a public funding incentive.

“**Application**” means an initial request for public funding assistance through one or more of the forms of public assistance as discussed in this Policy.

“**Credit Support**” means pledge of the City’s full faith and credit in support of bonds or other forms of debt obligations issued by the City.

“**Funding District**” means a community improvement district, a transportation development district or a neighborhood improvement district.

#### **Section 4. Application Process.**

A. Applications. The Application shall include, at minimum, the following information:

1. All requirements of the applicable Missouri statutes governing the proposed economic incentive.
2. Description of the Project for which economic development assistance is requested.
3. Description of economic need for the public funding assistance including: (i) the facts and circumstances that create the need for public funding assistance; (ii) the amount and type of assistance desired; and (iii) a pro forma establishing that the project is not financially feasible and would not be constructed as proposed without the use of the requested public assistance (the “but for” test).
4. Evidence that the Applicant:(i) has the financial ability to complete and operate the proposed Project; (ii) is capable of providing adequate assurance (e.g. letter of credit, personal guaranty, performance bond, etc.) to the City for project completion, and (iii) has thoroughly explored alternative financing methods.

B. Initial Review of Applications.

1. Initial review of an Application will be conducted by City staff, including input from appropriate City departments. The Application may be forwarded to the City Attorney or Special Legal Counsel for review. The scope of the initial review is intended to determine whether the Application substantially meets the requirements of this Policy and generally is an appropriate request for economic development assistance.
2. If an initial application is deemed to meet the minimum requirements of this Policy and is generally an appropriate request for economic development assistance, then the next step is the entrance of the applicant into a Preliminary Funding Agreement in substantial compliance with the Form attached hereto as **Exhibit B** and provision of the required deposit. Full consideration of an Application will not commence until the Applicant enters into a Preliminary Funding Agreement.
3. In the event an Application does not substantially meet the requirements of this Policy or is not otherwise an appropriate request for economic development assistance as determined by City staff, the Application will be returned to the Applicant together with a written statement of the reasons the Application was deficient. Returned Applications may be

resubmitted upon cure of the reasons for rejection. Resubmitted Applications shall not require an additional application fee.

C. Preliminary Funding Agreement.

1. The City does not have a source of funds for costs incurred for additional legal, financial and other consultants or for direct out-of-pocket expenses and other costs resulting from services rendered by or to the City to review, evaluate process and consider Applications. An Applicant who desires assistance from the City through the use of public incentives shall demonstrate the financial ability to allow for the full and fair evaluation by the City of the proposal. In order for the City to fully consider and evaluate an Application, the City may require that, in lieu of an application fee, the Applicant shall deposit funds with the City pursuant to a Preliminary Funding Agreement between the City and the Applicant, using a form of agreement provided by the City substantially the same in form as shown in **Exhibit B**. The funds deposited with the pursuant to a funding agreement will be used by the City to pay for actual out-of-pocket expenses incurred to perform a full evaluation of the Application and engage consultants as needed for such evaluation.
2. The duties and obligations of the Applicant and the City to process an Application shall be set forth in a Preliminary Funding Agreement.
3. The Preliminary Funding Agreement shall require the Applicant to make an initial deposit of funds in the amount established by the City in such agreement. The Preliminary Funding Agreement shall also provide for additional funding to be deposited as necessary after drawdowns to ensure that the minimum cash balance available for each Project is equal to the initial deposit.

D. Full Review of Applications.

1. Upon receipt of an Application and the appropriate fees, or upon execution of a Preliminary Funding Agreement when required by the City, the City will review the request using the criteria set forth in this Policy and requirements set forth in applicable state statutes.
2. The City may require the Applicant to attend an application review conference. The purpose of an application review conference is to:
  - (a) Acquaint the Applicant with the procedural requirements of this Policy;
  - (b) Provide for an exchange of information regarding the Applicant's request;
  - (c) Advise the Applicant of any public sources of information that may aid the Application and identify issues that create opportunities or pose significant restraints for the Application;
  - (d) Review the Application and provide the Applicant with opportunities to enrich the request in order to mitigate any undesirable consequences of the proposed Project;
  - (e) Review compatibility with current City planning; and
  - (f) Provide general assistance by City staff on the overall plan for the Application and the proposed Project.

3. City staff may prepare a written report to be submitted to the Board of Aldermen for consideration. The report shall contain, at a minimum, comments regarding each of the applicable criteria set forth in Section 5 and the specific statutory requirements applicable to the request.
4. The Application shall proceed as set forth in applicable state statutes.

### **Section 5. General Guidelines for Considering Applications.**

Most favorable consideration will be given to those projects that will: significantly assist the City in the elimination of blight and the conditions that may cause blight; provide financing for desirable public improvements; strengthen the employment and economic base of the City; increase property values; creating economic stability; upgrade older neighborhoods or areas; and facilitate economic self-sufficiency. The City may give consideration to the criteria stated below when considering any Application, to the extent each factor is relevant to the particular Application:

#### **A. Project Costs.**

1. Most favorable consideration will be given to those Applications that demonstrate the applicant is requesting the least amount of assistance from a Funding District in order to make the project financially feasible for the Applicant.
2. Most favorable consideration will be given to those Applications that propose the use of public assistance to fund public improvements rather than private improvements.
  - (a) The City may consider the cost of public improvements that serve the proposed development, and whether the Applicant is providing improvements that are already planned to be constructed by the City to serve existing deficiencies or new development, or whether such public improvements primarily serve the Applicant's proposed development.

#### **B. Method of financing.**

1. Most favorable consideration will be given to those projects for which the developer finances the initial project costs, rather than the City. The developer must provide evidence of the ability to secure private financing for the initial project costs.
2. The City may consider the level and nature of public financing, including the issuance of obligations by the City or another governmental entity at the direction of the City. Most favorable consideration will be given to those projects that do not require a City general obligation pledge or a pledge of revenues that would otherwise be received by the City to enhance the marketability of the debt obligations.
3. Most favorable consideration will be given to those projects that do not propose to use the City's full faith and credit to secure the issuance of public debt, but instead propose that debt is repaid only from project revenues.
4. The City will have the final decision on the method(s) of financing, and the selection of the underwriter, financial advisor and bond or note counsel.

C. Type of project and land uses.

1. The City may consider the level of public and private development for an Application. Most favorable consideration will be given to those Applications that propose to use public funding for the public components of a development project.
2. The City may consider whether the project proposes infill or new development. Most favorable consideration will be given to those Applications that propose infill development in blighted or other distressed areas.
3. When an application proposes the use of a Funding District in place of a Home Owners' Association, Property Owners' Association or Business Owners' Association, most favorable consideration will be given to those projects that propose minimal City implementation, oversight and administration for the Funding District.
4. The City may consider the types of land uses proposed for development (residential, commercial, industrial, governmental and institutional), and the need for such land uses in the proposed development. Most favorable consideration will be given to those projects that propose land uses that are compatible with the City's Future Land Use Plan, without need for amendment of the Future Land Use Plan.

D. Type of incentive requested.

The City may consider whether the proposed incentive tools are appropriate for the proposed type of development. The City may suggest the use of other incentive tools in lieu of those proposed in an Application. Additional information about specific economic incentive tools is set forth in this Policy.

E. Funding method proposed for the project.

1. Most favorable consideration will be given to those projects that do not reduce revenues that would otherwise be collected by the City or other governmental entities that have jurisdiction over the proposed project area.
2. The imposition of an extra sales tax in a proposed project has an incremental adverse effect on the ability to draw customers to the project, and this effect is difficult to measure. The Applicant maintains the burden to demonstrate that an additional sales tax will not have significant adverse effects on the project and on the sales tax revenues of the City.
3. Most favorable consideration will be given to Applications that propose initial financing by the Applicant.
4. Most favorable consideration will be given to Applications that request "pay as you go" reimbursement of initial development costs, rather than the issuance of public debt.

F. Ratio of requested assistance to total project costs.

1. Most favorable consideration will be given to those projects where all proposed public funding mechanisms are no more than 20% of the total project costs, including all public and private costs, all hard and soft costs, and all developer fees and contingencies.

2. Applicants may propose the use of incentives that deviate from this standard if the Applicant demonstrates that the proposed project provides substantial public benefits, assists the City to pay for deficient public improvements or services, or provides substantial and unique benefits to the City

G. Economic need.

1. Most favorable consideration will be given to Applications in which economic development assistance is sought in areas that exhibit great economic need.
2. Economic need may be demonstrated by:
  - (a) the presence of blight or conditions which may lead to blight;
  - (b) property identified by the City in need of special assistance;
  - (c) property which has not been subject to growth and development;
  - (d) property which has remained undeveloped despite the presence of surrounding development and adequate public facilities and services which serve the property;
  - (e) property where businesses are closed and the property has remained vacant for a significant period of time; and
  - (f) economic factors such as average household income, unemployment rates, and crime rates.

H. Administration of Funding Districts. Most favorable consideration will be given to Funding Districts where long-term administration will be undertaken by persons that are not affiliated with the Applicant or developer of the property.

I. Property acquisition and condemnation. Most favorable consideration will be given to those projects where the Applicant either owns the property or has an option to purchase the property, and where condemnation will not be needed for the project. Most favorable consideration will be given to projects where the landowner(s) dedicate land that is required for rights-of-way at no cost to the City or any Funding District created for the project.

J. Relocation of Existing City Businesses.

1. Most favorable consideration will be given to those projects that encourage the operation of new businesses in the City. Applicants are discouraged from requesting economic development assistance that would cause businesses which are already located within the City to relocate to the proposed development.
2. If the proposed Project involves the relocation of an existing business already in the City into the Project area, the Applicant should provide evidence that the business would otherwise leave the City without the requested public incentive.

**K. Use of Tax Increment Financing.**

1. In the event that a Funding District is proposed in connection with a tax increment financing plan, most favorable consideration will be given to those Applications that propose the use of a Funding District to:
  - (a) reduce the need for tax increment financing;
  - (b) shorten the duration of tax increment financing; and
  - (c) reduce the need for the City to issue or incur debt to finance project costs.
2. Other than a limited number of residential units which are creatively integrated into commercial or retail projects, TIF residential projects will not receive favorable consideration from the City.

**Section 6. Eminent Domain.**

The City does not encourage the use of eminent domain in conjunction with the use of public financing incentives. In extraordinary circumstances the City may approve the use of eminent domain in accordance with applicable law and only to the extent deemed necessary to make the approved project viable. In any case where eminent domain is proposed, the Applicant must prove and the Board of Aldermen must find that the Applicant has attempted, in good faith, to acquire the property privately. Although in some cases the expenses associated with the use of eminent domain qualifies as an eligible project cost under state law, the Applicant may be required to pay the costs associated with the condemnation proceedings, including court and litigation costs, attorney's fees and the final condemnation awards. Approval of the use of eminent domain will be at the City's discretion.

## **Tax Increment Financing**

### **Section 7. TIF Process**

- A. The City will use the following process for initial evaluation and consideration of any proposed TIF plan:
1. Pre-application meeting between Applicant and City staff.
  2. Negotiation and execution of a Preliminary Funding Agreement in accordance with the City's Policy governing Requests for Proposals.
  3. Submission of draft TIF Plan.
  4. City conducts initial review of TIF plan to determine compliance with the TIF Act and identify any issues. The City will provide a written response to the draft TIF plan.
  5. Revisions to the draft TIF plan as required by the City's initial written response. Applicant files revised plan.
  6. After initial issues that were identified by City staff have been addressed and after staff determines the TIF plan is complete and contains all of the required elements pursuant to the TIF Act, the City will issue initial notices to the taxing districts. Thereafter, the TIF plan will be processed in accordance with the TIF Act requirements. The City may refuse to issue the initial notices if the TIF plan is incomplete.
  7. The City will issue the notice regarding requests for proposals, in accordance with the City's Policy governing Requests for Proposals. This notice may be issued before, after, or simultaneously with the initial notice to the taxing districts.
  8. Any changes to the TIF plan which are prepared by the Developer shall be delivered to the City with sufficient time to review the proposed change(s) prior to the next scheduled meeting at which the plan will be considered. The City may continue the TIF Commission public hearing or the Board of Aldermen's consideration of the TIF Plan if City staff does not have sufficient time to review the proposed changes and provide a report to the TIF Commission or Board of Aldermen, as appropriate.
- B. TIF Commission consideration of a TIF Plan.
1. The TIF Commission may hold one or more study sessions to discuss the process for considering a TIF plan.
  2. At the public hearing, if the TIF plan has been prepared and proposed by a developer or landowner, the applicant will present the proposed plan, followed by comments and recommendations from City staff. The Commission will take public testimony, and the applicant will be allowed time for a response. All questions from the Commission to an applicant, City staff or the public shall be held during the public hearing.
  3. The TIF Commission recommendation may include any recommended additional changes, conditions or requirements that the Commission believes should be satisfied prior to

approval of the TIF plan or prior to implementation of the TIF plan or a particular project or phase of the TIF plan.

4. If the TIF Commission considers and votes on a resolution to recommend approval of the TIF plan but such resolution fails to receive a vote of approval, such action shall be deemed by the Board of Aldermen to be a recommendation against the TIF plan.

C. Board of Aldermen consideration of TIF Plan.

1. The Board of Aldermen may consider each TIF plan as a regular agenda item, and is not required to hold a public hearing regarding the TIF plan. The Board of Aldermen may, at its discretion, allow public comments regarding the TIF plan.
2. The Board of Aldermen may, at its discretion, hold one or more special meetings to consider the TIF plan.

- D. Independent studies may be obtained by the City through or at the request of City staff, the TIF Commission, or the Board of Aldermen. Such studies may include a blight study, a financial feasibility study, a market analysis, a traffic study, or any other type of professional evaluation of the TIF plan or any element of the TIF plan. The costs of any study shall be paid by the applicant in accordance with the terms of the funding agreement.

**Section 8. Guidelines for Considering TIF Plans.**

Most favorable consideration will be given to those plans that satisfy the general guidelines applicable to all applications as set forth in Section 5 of this Policy, and that satisfy the following additional guidelines:

- A. The total amount of subsidy from TIF revenues should be no more than 15% of the total project costs. The measurement of total project costs shall include all site preparation costs, building construction costs, hard costs, soft costs, developer fees, all professional fees of any type, and all project budget contingencies. Actual land costs incurred by the applicant will be considered as part of the total project costs. If land was purchased prior to preparation of the draft TIF plan, then the current market value as determined by an independent appraiser, approved by the City, may be considered as part of the total project costs.
- B. Any applicant that requests the issuance of bonds, notes or other indebtedness by the City must demonstrate that all annual revenues to repay the debt are at least 1.25 times the projected annual debt-service payments.
- C. The City will not provide a general fund annual appropriation pledge to enhance the sale of debt for the project except in extraordinary circumstances as demonstrated by the applicant.
- D. The TIF plan should provide for a retainage account to hold at least 15% of the TIF revenues until the project, including all private development, is substantially complete.
- E. TIF projects which create jobs with wages that exceed the community average will be favored.
- F. TIF plans that propose retail development should encourage the inflow of customers from outside the City and should not divert sales from or cannibalize existing retail in the City. If the TIF plan will cause or result in the relocation of one or more businesses already within the City, the Applicant must demonstrate that the business would leave or cease operations in the City without

such relocation, and the base year of the business (for the purpose of calculating economic activity taxes and payments in lieu of taxes) shall be the 12-month period prior to closing at its prior location. The TIF contract shall implement these requirements for relocated businesses.

- G. TIF plans that propose the redevelopment of existing residential neighborhoods and commercial and industrial areas will be favored. Projects to stabilize deteriorating or blighted residential neighborhoods and commercial and industrial areas will be favored.
- H. TIF plans that will be in effect for no more than 12 years will be favored.
- I. The developer should contribute not less than 15% of the total project costs from cash equity of the developer. Land costs or land value shall not be included in the calculation of developer's equity contribution unless the land will be purchased after the TIF plan is submitted to the City, or was purchased within one year prior to submitting the TIF plan to the City. Private loans obtained by developer will not be included in the calculation of developer's equity.
- J. The plan should provide for a mandatory declaration of surplus Payments In Lieu of Taxes (PILOTs) to the applicable taxing districts that impose real property taxes within the redevelopment area in the amount of 50% of all captured PILOTs. The declaration of mandatory surplus PILOTs shall be disbursed from the special allocation fund on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area, as set forth in Section 99.820.1(12), RSMo.
- K. A proposed TIF plan which does not meet the guidelines of this Policy may be viewed favorably by the City if the applicant clearly demonstrates that the project is of vital interest to the City and will significantly benefit the City through the elimination of blight, financing desirable public improvements, strengthening the employment and economic base of the City, increasing property values, reducing poverty, creating economic stability, upgrading and stabilizing older neighborhoods or developments, and facilitating economic self-sufficiency.

#### **Section 9. TIF Contract.**

- A. The ordinance that approves a TIF plan will include a requirement that a redevelopment contract must be executed by the selected developer within a designated time period, upon terms and conditions that are acceptable to the City.
- B. The initial draft of a TIF contract will be prepared by the City. An ordinance to approve a TIF contract will not be placed on a Board of Aldermen agenda until all outstanding contractual issues have been resolved to the satisfaction of City staff.
- C. The contract may contain a list of pre-approved or prohibited land uses or tenants.
- D. The TIF contract will provide that prevailing wages must be paid by the developer where required by law, and the developer will indemnify the City for failure to meet applicable prevailing wage laws.
- E. The TIF contract will provide for an order of priority in which reimbursable project costs and other eligible costs shall be paid from the special allocation fund, on an as-collected basis or to repay bonds that have been issued pursuant to the TIF plan.

- F. The TIF contract will provide for a City administrative fund to be funded by a portion of the TIF revenues, which will pay for costs incurred by the City, including financial, legal, traffic and other consultants and advisors to the City, to administer the TIF plan and enforce the contractual obligations of the developer and the developer's authorized successors, assignees and transferees in the redevelopment area. In addition to any other costs that are authorized to be funded from the administrative fund, the contract will authorize the City to withdraw 2% of the funds deposited in the special allocation fund through the first full calendar year, and 1% annually thereafter, to reimburse the City for costs incurred to manage the special allocation fund and provide for the collection and disbursement of TIF revenues. The TIF contract will also provide for reimbursement to the City from the special allocation fund for costs incurred by the City to conduct a 'Component Unit' audit of any special funding district that is established in furtherance of the TIF plan. Funding of the City administrative costs will be a higher priority than reimbursement of developer reimbursable project costs.
  
- G. Interest on certified developer reimbursable project costs shall accrue from the date of City approval and certification for payment. Interest shall not start to accrue when the developer incurs such expense, or when a request for reimbursement is submitted to the City.

## **Funding Districts**

### **Section 10. Transportation Development Districts (TDD).**

- A. The City may file, or join as a co-petitioner, a petition for formation of a TDD where public transportation improvements to be funded by the TDD have been designated for construction on the City's Capital Improvements Plan or where the Board of Aldermen decide that such improvements primarily benefit of the general public rather than a particular development.
- B. In order to obtain favorable support for the formation of any TDD in the City, the petitioners should appear at a Board of Aldermen meeting and make a presentation regarding the TDD prior to filing the petition. The Board of Aldermen may express its support for or opposition to a proposed TDD through the adoption of a resolution or motion.
- C. If the petitioners have not obtained the support of the Board of Aldermen prior to filing a TDD petition, then a copy of the petition shall be delivered to the Board of Aldermen after the City is served with the petition by the court and the Board of Aldermen will express its support for or opposition to the TDD by motion or resolution. A failure by petitioners to make a presentation to the Board of Aldermen as set forth in paragraph B of this section, prior to filing the petition in court, will be taken into account when the Board of Aldermen considers the City's response to the petition.
- D. If a TDD is proposed in coordination with approval of a TIF plan, the execution of a development agreement between the petitioners and the City, or in connection with any other package of public economic incentives, the Board of Aldermen's support for formation of the TDD may be expressed in the TIF plan, the development agreement or other document or approval provided by the Board of Aldermen in connection with the project. In this situation, a separate presentation to the Board of Aldermen regarding the TDD petition is not required, and City staff will file an answer with the court in support of the TDD formation.

### **Section 11. Community Improvement Districts (CID).**

#### **A. Nature of Application.**

- 1. Residential projects. For those projects that are entirely or primarily residential development and that propose to use a CID in place of a Homeowners' Association, most favorable consideration will be given to Applications that meet the following guidelines:
  - (a) The developer will turn over full control of the CID to the residents when at least 80% of the lots in the CID have been sold to residents that will reside within the CID.
  - (b) The CID operates autonomously from the City, and the City is not required to manage or oversee CID operations.
  - (c) The CID provides contractual indemnification to the City for the acts and omissions of the CID.
  - (d) The CID is formed as a political subdivision of the state, rather than as a non-profit corporation.

- (e) The CID provides for the perpetual maintenance and upkeep of all common property within the CID, and assumes obligations by contract to ensure that the City will not be required to undertake ownership or maintenance of common properties and open areas.
  - (f) The CID is used to pay for public improvements and services that serve the entire residential development.
- B. Commercial Project Size and Type. Most favorable consideration will be given to CIDs for commercial projects that are comprised of at least 40,000 square feet of new development or redevelopment.
- C. Timing of City Clerk’s Review. Applicants should submit to the City a draft CID petition before formally filing the CID petition with the City Clerk, to provide the City an opportunity to review and comment on such petition. This allows the City to identify concerns and issues before a CID petition is formally filed with the City Clerk, in order to avoid delay when the CID petition is formally filed with the City Clerk. If a draft CID petition is not submitted to the City for review and comment, the City may take more time to review the petition to determine whether the petition substantially complies with the requirements of the CID Act.
- D. Type of CID. Most favorable consideration will be given to Applications seeking the establishment of a political subdivision CID rather than a nonprofit corporation CID. CIDs that will take the form of a non-profit corporation and which intend to impose special assessments will indemnify the City from all claims, and any resulting costs, damages and legal or other professional fees associated with the legality of the special assessments.
- E. CID Services. Except where the provision of services is the primary purpose of establishing the CID, most favorable consideration will be given to CID proposals where CID services are not funded until after all debt associated with public improvements has been repaid.
- F. District Term. Except in the case of CIDs established as a substitute for a Homeowners Association, Property Owners Association or Business Owners’ Association, most favorable consideration will be given to those CIDs that are limited to a term of twenty (20) years or less.
- G. Financing of CIDs.
1. Where a CID is not proposed in connection with a TIF plan, any debt issuance in connection with a CID shall be issued by the CID unless otherwise requested by the City, and shall contain a disclosure that substantially complies with the following:

The bonds are special limited obligations of the District payable from all, part or any combination of the revenues of the CID District. The Bonds do not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction. The Bonds are not general obligations of the CID District, nor any municipality, county, the City of Peculiar, Missouri (the “City”), the State of Missouri or any other political subdivision thereof, and are not payable out of any funds or properties other than those specifically pledged as security therefor.

The City has not participated in the preparation of this Official Statement nor has it reviewed any of the information contained herein. The CID District is a separate political subdivision. The CID District has indemnified the City against any costs or damages of

the City that may arise from the sale, offering and repayment of the Bonds or in connection with the completion of the CID improvements.

2. The City shall not provide an annual appropriation backing for CID debt unless 90% of the CID improvements are owned or to be owned by the City or the City determines that such improvements have a benefit to the City as a whole, and any benefit to a specific residential or commercial development is incidental to the benefit to the City as a whole.

H. Special Assessments. The City may approve a CID that will impose special assessments if the following requirements have been met:

1. Special Assessments will be imposed in an amount sufficient to pay the principal of and interest on any indebtedness proposed to be incurred by or on behalf of the CID. Assessments must be sized to provide debt service coverage of not less than 120% for debt service payments. The City may request an independent report to demonstrate the satisfaction of this requirement. What if the CID is using both sales tax and special assessments?
2. The value of the real property will be at least five times the value of the annual special assessment, depending on the status of lot sales and vertical construction. For example, if the special assessment for a parcel or lot is \$2,500 per year, the market value of the real property (without building improvements) must be at least \$12,500 to \$25,000. The market value shall be determined based upon the value established by the Cass County Assessor's office or a real estate appraisal acceptable to the City.

## **Section 12. Neighborhood Improvement Districts (NID).**

A. Project Characteristics. Most favorable consideration will be given to NID projects that satisfy the following conditions and requirements:

1. The NID improvements benefit an entire subdivision or other large area in which many properties benefit and are subject to the special assessments.
2. All Applicants are obligated to dedicate all rights-of-way and easements that are necessary to complete the NID project without cost to the City.
3. The Applicants demonstrate the financial capacity to complete the development (if new development is proposed), and the financial capacity to provide interim construction financing either personally or through a lending commitment.
4. The Applicants demonstrate that they have no interest in an existing development that has delinquent special assessments or property taxes.
5. The Applicants will pay for all costs associated with preparation of the plan and specifications for the improvements to be funded with the NID.
6. The Applicants will indemnify the City, or provide another form of security that is acceptable to the City Attorney, for the non-payment of the special assessments which may be used prior to sale of the property through the lien.

7. The NID is being used to pay for improvements that have already been identified for construction by the City.
- B. Timing of City Ordinance. For NIDs formed by petition, Applicants are highly encouraged to submit an application pursuant to this Policy before filing a petition to establish a NID with the City Clerk.
- C. Interim Construction Financing. Most favorable consideration will be provided for a NID that proposes initial construction financing through one of the following methods:
1. The Applicant provides a written commitment from a lending institution acceptable to the City, or other equivalent financing by the Applicant, which demonstrates the ability to provide financing for all construction costs. In this situation, the City may require execution of a Development Agreement between the City and Applicant which obligates the Applicant to fully financing the construction cost with the identified lending or funding source.
  2. The Applicant proposes financing through a conduit issuer. Debt issued by a conduit issuer shall not be a general obligation of the City and the financing agreement with the conduit issuer shall not include any City Credit Support. The City may covenant in a financing agreement to use the City's Credit Support to finance long-term bonds if and when the conditions on the use of such support as set forth below are satisfied.
- D. Permanent Financing.
1. The City may issue bonds and extend the City's Credit Support when the NID improvements are owned or to be owned by the City or the City determines that such improvements have a benefit to the City as a whole, and any benefit to a specific residential or commercial development is incidental to the benefit to the City as a whole. The City may also use the City's Credit Support when the City has determined that all of the following requirements have been met:
    - (a) The NID improvements have been substantially completed and the final costs of the project have been determined as required by the NID Act.
    - (b) Special Assessments have been imposed pursuant to the NID Act in an amount sufficient to pay the principal of and interest on any indebtedness proposed to be incurred by or on behalf of the City. Assessments must be sized to provide debt service coverage of 120% for debt service payments for the first 10 years and 110% thereafter. The City may require a consultant report to demonstrate satisfaction of these requirements.
    - (c) The value of the real property is at least five times (depending on the status of lot sales and vertical construction) the value of the annual special assessment. For example, if the special assessment for a parcel or lot is \$2,500 per year, the market value of the real property (without building improvements) must be at least \$12,500. The market value shall be determined based upon the value established by the Cass County Assessor's office or a real estate appraisal acceptable to the City.
    - (d) Either (a) at least 50% of the parcels in the District have been sold to third parties unrelated to the developer who intend to construct improvements on the parcels and did

not purchase the parcel with an intent to resell it or (b) vertical construction has commenced on at least 50% of the real estate. In lieu of the forgoing, the Developer may provide credit enhancement acceptable to the City to remain in effect until these milestones are achieved.

2. If the conditions are insufficient for the City to issue bonds and provide Credit Support, then the City may require debt to be issued by a conduit issuer. No Credit Support will be offered or committed to support these bonds. Bonds issued by a conduit issuer will be secured solely by the City's legal obligation to impose special assessments in accordance with the NID statute.

### **Section 13. City Oversight of Funding District Operations.**

- A. Cooperation Agreements for CIDs and TDDs. The Applicant and any TDD or CID shall enter into an intergovernmental cooperative agreement with the City, which agreement shall, at a minimum, address the following rights, duties and obligations of the parties:
  1. district administration;
  2. imposition of the district funding mechanism;
  3. the method of collecting and accounting for the district revenues;
  4. the issuance of debt for the projects (if applicable);
  5. the conditions under which the district will be terminated;
  6. City representation on the district board of directors;
  7. Approval of additional projects;
  8. Applicant's obligation to report the existence of the District and any applicable funding mechanism to tenants or grantees;
  9. Applicant's assistance in assuring timely reporting of sales information to the Missouri Department of Revenue, the District or the City, as applicable; and
  10. Any other matters which may be required by the City.
- B. Annual Budget Review. The cooperative agreement between the City and a TDD or CID shall provide for annual review and approval of the Funding District budget.
- C. City Representation on Funding District Board of Directors. Most favorable consideration will be given to a TDD or CID where the majority control of the board of directors rests with persons designated by the City, including City staff and elected or appointed City officials.
- D. Performance Measures.
  1. The City may condition approval and implementation of any project on performance measures such as job creation. In such cases, the Applicant shall agree to the creation of performance measures, which if not satisfied will decrease the amount of economic development assistance provided by the City.

2. Each Project shall be monitored on an annual basis to determine compliance with the agreed-upon performance measures.
- E. Extension of District Terms. With respect to new commercial development or redevelopment, most favorable consideration shall be given to a project in which the public funding sources are scheduled to expire within a defined time period and are not expected to be renewed at the end of the stated life of the public funding source.
  - F. Abandonment of CIDs and TDDs. Most favorable consideration will be given to Applications that provide alternatives for City management or maintenance of TDD or CID projects in the event that control or management of the Funding District is abandoned.

## **Tax Abatement**

### **Section 14. Chapter 353 Tax Abatement.**

- A. Tax Abatement under the Urban Redevelopment Corporations Law is only extended to real property that has been found to be a “blighted area” by the city. For purpose of 353 tax abatement the term “blighted area” is defined as:

*That portion of the city within which the legislative authority of such city determines that by reason of age, obsolescence, inadequate or outmoded design or physical deterioration, have become economic and social liabilities, and such conditions are conducive to ill health, transmission of disease, crime or inability to pay reasonable taxes.*

- B. Maximum Tax Abatement. Most favorable consideration will be given to those projects that request tax abatement at the following maximum rates:

1. During the first ten-year abatement period –
  - (a) real property taxes resulting from 100% of the increased value of the land (exclusive of improvements) above the value of the land as established by the county assessor for the calendar year prior to the year that the redevelopment corporation acquires title to the real property for the proposed project, and
  - (b) real property taxes resulting from 100% of the value of all improvements on the real property that has been acquired by the redevelopment corporation for the project; and
2. During the next fifteen-year abatement period, real property taxes resulting from 50% of the total value of the land and improvements, as established by the county assessor, that has been acquired by the redevelopment corporation for the project.

Additional abatement during the second fifteen-year period may be considered by the City if the Applicant demonstrates significant economic need as described in Section 5 of this Policy.

- C. Redevelopment Contract. Urban Redevelopment Corporations have the power to operate one or more redevelopment projects; however such projects must be pursuant to a development plan which has been authorized by the City after holding a public hearing on the development plan 353.060, RSMo. The Redevelopment Corporation shall enter into a redevelopment contract with the City after approval of the Redevelopment Plan that provides for the implementation of the Redevelopment Plan and the payment of Payments In Lieu of Taxes, if applicable. The contract shall be binding upon successors to the Redevelopment Corporation in the real property for which tax abatement is provided. The City may pre-approve a transfer of property from the Redevelopment Corporation to the primary developer, but transfer to any other person or entity shall be subject to approval by the City.
- D. Payments In Lieu of Taxes. The Redevelopment Contract shall provide for the Payment In Lieu of Taxes as specified in the Redevelopment Plan, or in accordance with the Tax Impact Statement provided to the taxing districts prior to approval of the Redevelopment Plan.

**Section 15. Chapter 100 Tax Abatement.**

- A. General guidelines. The City will consider the following factors when evaluating a proposal to approve a development plan and tax abatement pursuant to Chapter 100:
  - 1. Employment to be generated by the project and the acceptance of performance standards (clawbacks) to enforce employment generation;
  - 2. Financial feasibility of the project, the financial abilities of the applicant and the need for public assistance;
  - 3. The impact of the project on public improvements and services, and the impact on other taxing districts and the improvements and services that they provide;
  - 4. The revenues to be generated by the project for the City and other taxing districts;
  - 5. Conformance with the City's Comprehensive Plan and Future Land Use Plan;
  - 6. Economic impact of the project.
- B. The City will accept no credit risk when issuing bonds for a Chapter 100 project.
- C. Property owned by the City pursuant to a Chapter 100 project will be exempt from all real and personal property taxes. The City may require that a grant or payment in lieu of taxes be provided to all impacted taxing districts.
- D. Most favorable consideration will be given to Chapter 100 projects that propose the location of new businesses and industries in the City, and which retain business that would otherwise leave the City.

**Other Public Funding Incentives**

**Section 16. Infrastructure Agreement.**

- A. An infrastructure agreement, also commonly known as sales tax rebate or reimbursement agreement, provides for the payment of City sales tax revenues generated by a new development to a developer as reimbursement for the construction of public improvements. The City may enter into an infrastructure agreement when the applicant proposes a development that requires the construction of public improvements that are planned to be constructed by the City or that have a significant benefit to the general public, and the developer demonstrates substantial need for the reimbursement to make the project financially feasible.
- B. The City will not pursue reimbursement from other taxing jurisdictions in the consideration and negotiation of an infrastructure agreement, but the developer may pursue all available options with other funding districts.

**Exhibit A**

## SUMMARY OF ECONOMIC DEVELOPMENT TOOLS:

THIS OUTLINE CONTAINS A SUMMARY OF –

TAX INCREMENT FINANCING  
SALES TAX REBATE/DEVELOPMENT AGREEMENTS  
TRANSPORTATION DEVELOPMENT DISTRICTS  
COMMUNITY IMPROVEMENT DISTRICTS  
SPECIAL BUSINESS DISTRICTS  
NEIGHBORHOOD IMPROVEMENT DISTRICTS  
PROPERTY TAX ABATEMENT UNDER CHAPTER 353 RSMO  
PROPERTY TAX ABATEMENT UNDER CHAPTER 100 RSMO  
LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY LAW  
LOCAL OPTION ECONOMIC DEVELOPMENT SALES TAX

*(Updated through June 22, 2012)*

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The following materials were prepared by the public finance law firm of Gilmore & Bell, P.C.

Gilmore & Bell is one of the leading public finance law firms in the United States. The firm specializes in public finance transactions, serving as bond counsel or underwriters' counsel in a wide variety of tax-exempt and taxable financings and providing tax and arbitrage rebate services in connection with tax-exempt financings. The firm also provides advice to cities, counties and states regarding economic development incentives, administers special taxing districts and handles commercial and corporate finance transactions and securities law matters. Gilmore & Bell has 50 attorneys and four offices, located in St. Louis and Kansas City, Missouri, Wichita, Kansas and Lincoln, Nebraska.

For more information, please visit the Gilmore & Bell website at [www.gilmorebell.com](http://www.gilmorebell.com), or contact one of the following attorneys:

***In Kansas City (816-221-1000):***

Gary Anderson  
Tom Becker  
David Bushek  
Jim Caldwell  
Sid Douglas  
Randy Irey  
Marc McCarty

Rick McConnell  
David Queen  
Gina Riekhof  
Lisa Russell  
Tracy Shafton  
Toni Stegeman  
Rich Wood

***In St. Louis (314-436-1000):***

Bob Ballsrud  
Erick Creach  
Shannon Creighton  
Sean Flynn  
Mark Grimm  
Claire Halpern  
Reagan Holliday  
Mark Spykerman  
Jason Terry

**GILMORE & BELL, P.C.**

# **TAX INCREMENT FINANCING IN MISSOURI**

## **I. GENERAL**

Municipalities can only spend public funds for public purposes. If the costs to be funded are public improvements – such as roads, traffic signals or utilities – then the municipality has a variety of options as to how to finance those public improvements. If the costs to be funded are not public improvements – such as land acquisition costs or site development costs – then public funds can be used to finance those costs only if the governing body of the municipality finds that the site is a “blighted area” or a “conservation area,” as defined under Missouri law. Tax increment financing is a method to encourage redevelopment of these areas.

The Missouri TIF law authorizes cities and counties to adopt a redevelopment plan that provides for the redevelopment of a designated area, and to use TIF to fund a portion of the project costs.

The theory of tax increment financing is that, by encouraging redevelopment projects, the value of real property in a redevelopment area should increase. When a TIF plan is adopted, the assessed value of real property in the redevelopment area is frozen for tax purposes at the current base level prior to construction of improvements. The owner of the property continues to pay property taxes at this base level. As the property is improved, the assessed value of real property in the redevelopment area increases above the base level. By applying the tax rate of all taxing districts having taxing power within the redevelopment area to the increase in assessed valuation of the improved property over the base level, a “tax increment” is produced. The tax increments, referred to as “payments in lieu of taxes,” are paid by the owner of the property in the same manner as regular property taxes. The payments in lieu of taxes are transferred by the collecting agency to the treasurer of the municipality and deposited in a special allocation fund. In addition, the county and city transfer 50% of all incremental sales and utility tax revenues to the treasurer of the municipality for deposit into the special allocation fund. All or a portion of the moneys in the fund can then be used to pay directly for redevelopment project costs or to retire bonds or other obligations issued to pay such costs.

The net effect of tax increment financing is to permit a developer to use a portion of property taxes that otherwise would be paid on the completed project to repay all or a portion of the development costs, thereby reducing the net annual debt service on the completed project (and thus increasing the rate of return on the project). In this manner, future tax increases are not abated, but rather are used to fund costs of the project.

## **II. PROCEDURES FOR ADOPTING TIF**

### ***The TIF Act***

The TIF Act permits municipalities to undertake different redevelopment projects within a redevelopment area pursuant to the same redevelopment plan. If a redevelopment plan has multiple redevelopment projects, the municipality may designate different “redevelopment projects” and adopt tax increment financing at different times for each redevelopment project. This structure enables municipalities and developers to phase in projects and to derive additional benefits from the payments in lieu of taxes created by the redevelopment projects.

Before a municipality may implement tax increment financing, (1) the municipality must create a TIF commission as provided in the TIF Act, (2) a redevelopment plan, including a description of the redevelopment area and the redevelopment projects therein, must be prepared, (3) the TIF commission must hold a public hearing and make a recommendation to the municipality pertaining to the redevelopment plan, the redevelopment projects and the designation of the redevelopment area, and (4) the municipality must adopt an ordinance approving the redevelopment plan, the redevelopment projects and the designation of the redevelopment area as discussed below. If a TIF commission makes a recommendation in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or amendments thereto, the governing body of the municipality may only approve such plan, project, designation or amendment upon a two-thirds majority vote. Once the ordinance is adopted, tax increment financing may be implemented for one or more redevelopment projects within a redevelopment area. Because of various notice and hearing requirements, it usually takes 120 days or longer to establish a TIF commission and adopt a TIF plan.

In an amendment to the TIF Act effective January 1, 2008, the General Assembly required municipalities in St. Louis, St. Charles and Jefferson Counties to obtain the permission of a county-wide TIF commission prior to the approval of a redevelopment project by the municipality’s governing body. However, this amendment raised several constitutional concerns and left it unclear whether the county-wide TIF commission replaces the municipal TIF commission – and therefore holds the required public hearing for the project – or whether the county-wide TIF commission is *in addition to* the municipal TIF commission. To address these concerns, the General Assembly made further amendments to the TIF Act during the 2008 General Assembly session and, effective August 28, 2008, municipalities in St. Louis, St. Charles and Jefferson Counties are required to use an alternative TIF commission that is still created by the municipality but whose membership primarily consists of representatives appointed by the county and other taxing districts.

Role of the TIF Commission

Before adopting tax increment financing, a municipality must create a TIF commission by ordinance of its governing body. The composition of the TIF Commission depends on (1) whether a city or a county is undertaking the redevelopment project, and (2) the location of the city or county undertaking the redevelopment project, as described in the following chart:

Number of members appointed by:	Entity Creating TIF Commission				
	City (outside St. Louis, St. Charles and Jefferson Counties)	City (inside St. Louis, St. Charles or Jefferson Counties)	County (other than St. Louis County)	St. Louis County	St. Louis City
City(ies)	6	3*	0	3*	6
School districts	2	2	2	2	2
County	2	6	6	6	0
Other taxing districts	1	1	1	1	1
Total members	11	12	9	12	9

\* These members are appointed by cities that have TIF districts in the county.

The TIF commission conducts the public hearings required under the TIF Act, and makes recommendations to the governing body of the municipality concerning the adoption of redevelopment plans or redevelopment projects and the designation of redevelopment areas. The redevelopment plans, redevelopment projects and the designation of the redevelopment area must receive final approval of the governing body of the municipality.

As discussed above, municipalities in St. Louis, St. Charles and Jefferson Counties no longer submit proposed redevelopment plans and projects to a city TIF commission for review, but instead submit proposed redevelopment plans and projects to a “county-wide” TIF commission. Although the municipality must still pass an ordinance or resolution to create the TIF commission, each new “county-wide” TIF commission will have 12 members consisting of six members appointed by the county executive or presiding commissioner, three members appointed by cities in the county that have tax increment financing districts in a manner agreed upon by the applicable cities, two members selected by the school districts located in the county in a manner agreed upon by the applicable school districts, and one member selected by all other ad valorem taxing districts in a manner in which all such districts agree.

#### Designation of Redevelopment Area

The “redevelopment area” must contain property that may be classified as a “blighted area,” a “conservation area” or an “economic development area” (described below), or any combination thereof. The entire redevelopment area need not meet the criteria of one of these three categories, but must include only “those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements.” Thus, a larger redevelopment area that includes property that is increasing in value can enhance the feasibility of a TIF project, provided the larger area, on the whole, is a blighted, conservation or economic development area and is “substantially benefited” by the redevelopment project.

The TIF Act defines a blighted area, a conservation area and an economic development area as follows:

“*Blighted area*” is defined as

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.

“*Conservation area*” is defined as

any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more. Such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence;

deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning.

*“Economic development area”* is defined as

any area or portion of an area located within the territorial limits of a municipality, which does not meet the requirements of [a blighted area or a conservation area], and in which the governing body of the municipality finds that redevelopment will not be solely used for development of commercial businesses which unfairly compete in the local economy and is in the public interest because it will: (1) discourage commerce, industry or manufacturing from moving their operations to another state; or (2) result in increased employment in the municipality; or (3) result in preservation or enhancement of the tax base of the municipality.

In 2006, the General Assembly amended Missouri’s condemnation laws, which also had an effect on tax increment financing projects. First, farmland that is declared blighted cannot be acquired by eminent domain. Second, blight must be evaluated on a parcel-by-parcel basis, if any property in the redevelopment area will be acquired through (or under the threat of) condemnation.

An amendment to the TIF Act in 2007 prohibits new tax increment financing projects in any “greenfield area” within St. Louis, St. Charles, Jefferson and Franklin Counties. A “greenfield area” is defined as “any vacant, unimproved, or agricultural property that is located wholly outside the incorporated limits of a city, town, or village, or that is substantially surrounded by contiguous properties with agricultural zoning classifications or uses unless said property was annexed into the incorporated limits of a city, town, or village ten years prior to the adoption of the ordinance approving the redevelopment plan for such greenfield area.”

Other legislation in 2007 prohibits new tax increment financing projects in “Hunting Heritage Protection Areas.” Such areas consist of all land within the 100 year flood plain of the Missouri and Mississippi rivers, as designated by FEMA, but excluding (1) areas with a population of at least 50,000 persons and designated as an “urbanized area” by the United States Secretary of Commerce, (2) any land ever used, operated or owned by an entity regulated by the Federal Energy Regulatory Commission, (3) any land used for the operation of a physical port of commerce, (4) any land within Kansas City or St. Louis City, and (5) any land located within one half mile of any interstate highway. There are also several exceptions to the general prohibition against new tax increment financing projects including (1) the ability to expand existing tax increment financing projects located within a Hunting Heritage Protection Area, subject to certain limitations, (2) redevelopment projects for the purposes of flood and drainage protection, and (3) redevelopment projects for the purposes of constructing or operating renewable fuel facilities.

Although the TIF Act provides for redevelopment projects in an “economic development area,” certain questions remain regarding the constitutionality of TIF financing in such an area that may require a court case to resolve. It is unclear whether there are any instances under which a redevelopment project may be undertaken in an economic development area.

### Preparation of Redevelopment Plan

Before proceeding with a redevelopment project, the municipality must approve a redevelopment plan that designates the redevelopment area, describes the redevelopment project and sets forth a comprehensive program for redevelopment. The TIF Act requires the following information to be included in the redevelopment plan:

1. Estimated redevelopment project costs;
2. The anticipated sources of funds to pay the costs;
3. Evidence of commitments to finance the project costs;
4. The anticipated type and term of the sources of funds to pay costs;
5. The most recent equalized assessed valuation of the property within the redevelopment area that is to be subjected to payments in lieu of taxes and economic activity taxes;
6. An estimate of the equalized assessed valuation after redevelopment; and
7. The general use of the land in the redevelopment area.

Additional information not required by statute may be included in the plan, such as the total acreage in the redevelopment area and the total payments in lieu of taxes and economic activity taxes estimated to be generated over the period the plan is in effect.

### Public Hearing Regarding Redevelopment Plan

Before adopting tax increment financing, the TIF commission must hold a public hearing on the redevelopment plan and redevelopment project and the proposed redevelopment area. Notice of the hearing must be published and must be mailed to affected taxing districts and property owners. The TIF commission is required to vote on any proposed redevelopment plan, redevelopment project, or designation of a redevelopment area within 30 days after the public hearing and to make recommendations. If the county-wide TIF commission required for municipalities in St. Louis, St. Charles, and Jefferson Counties fails to make a recommendation within 30 days of the public hearing, the plan, project, or designation at issue will be deemed to have been rejected by the TIF commission. Additionally, public hearings held by the county-wide TIF commission may not be continued for more than 30 days unless a longer period is requested by the chief elected official of the municipality creating the commission and approved by a majority of the members of the county-wide TIF commission.

### Adoption of Ordinances by Municipality

The redevelopment plan will become effective upon adoption of an ordinance by the municipality that approves the redevelopment plan and the redevelopment project and designates the redevelopment area. As discussed above, if the TIF Commission makes a recommendation in opposition to the redevelopment plan, the redevelopment project or the designation of the redevelopment area, the governing body of the municipality may only approve such plan, project or designation upon a two-thirds majority vote. The TIF Act does not specify in detail what information must be included in the ordinance approving the redevelopment plan. The TIF Act does state, however, that no redevelopment plan may be adopted without findings that:

a. The redevelopment area on the whole is a blighted area, a conservation area or an economic development area, including a detailed description of the factors that qualify the redevelopment area.

b. The 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 (this is sometimes referred to as the “but-for” test, as discussed above, and must be supported by an affidavit of the developer submitted with the redevelopment plan).

c. The redevelopment plan conforms to the comprehensive plan for the development of the municipality as a whole.

d. The estimated dates, which shall not be more than 23 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.

e. A plan has been developed for relocation assistance for businesses and residences. The relocation plan must comply with the provisions of Sections 523.200 to 523.215 of the Revised Statutes of Missouri, as amended.

f. A cost-benefit analysis has been prepared showing the economic impact of the plan on each taxing district that is at least partially within the boundaries of the redevelopment area.

g. The redevelopment plan does not include the initial development or redevelopment of any gambling establishment.

### **III. CAPTURE/USE OF TIF REVENUES**

#### *Determination of TIF Revenues*

After the ordinance is passed, the county assessor must determine the total equalized assessed value of all taxable real property within the redevelopment project area. Thereafter, the total equalized assessed valuation of taxable real property in the redevelopment project area in excess of the initial equalized assessed valuation is computed by the county assessor for each year that tax increment financing is in effect. The payments in lieu of taxes are made by property owners in the redevelopment area on the increase in current equalized assessed valuation of each taxable parcel of real property over and above the initial equalized assessed valuation of each such parcel, and such payments are deposited into the special allocation fund.

In addition, 50% of the increase in total revenues of incremental sales and utility taxes (referred to as “economic activity taxes”) are captured and deposited into the special allocation fund. Under the TIF Act, economic activity taxes do not include taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, special assessments and personal property taxes. Any economic development sales tax imposed pursuant to Section 67.1305 of the Revised Statutes

of Missouri is not captured by tax increment financing unless recommended by the economic activity tax board and approved by the governing body imposing the tax. Any city or county which levies a children's service sales tax pursuant to Section 67.1775 of the Revised Statutes of Missouri and approves a redevelopment plan or project after August 28, 2007 must reimburse the amount of the children's services sales tax captured and deposited into the special allocation fund to the community children's service fund established in conjunction with the imposition of the children's services sales tax.

Issuance of Bonds or Other Obligations

Either the municipality or the TIF commission may issue bonds or other obligations under the TIF Act which are payable from moneys in the special allocation fund or other funds specifically pledged. The TIF Act provides that voter approval of TIF bonds is not required. The bonds or other obligations must mature within 23 years, may bear any interest rate and may be sold at public or private sale as determined by the municipality or TIF commission. The bonds or other obligations are not a general obligation of the municipality and, accordingly, do not count toward the municipality's constitutional debt limitation.

Reporting/Hearing Requirements

The governing body of the municipality must submit to the Missouri Department of Economic Development an annual report concerning the status of each redevelopment plan and project. Effective August 28, 2009, if a municipality fails to provide an annual report to the Missouri Department of Economic Development, the municipality will be prohibited from implementing new TIF projects for at least five years.

The municipality must also publish in a newspaper of general circulation in the county a statement showing the payments in lieu of taxes received and expended in that year, the status of the redevelopment plan and projects, the amount of outstanding bonded indebtedness and any additional information the municipality deems necessary.

Every five years, the governing body of the municipality must hold a public hearing to determine if the redevelopment project is making satisfactory progress under the proposed time schedule contained in the redevelopment plan. Notice of the public hearing must be given in a newspaper of general circulation in the redevelopment area once each week for four weeks immediately prior to the hearing.

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## SALES TAX REBATE/DEVELOPMENT AGREEMENTS

### I. INTRODUCTION

Another alternative to TIF financing is for a municipality to enter into an agreement (commonly referred to as a “sales tax rebate agreement” or “development agreement”) with a property owner, whereby the owner of a retail establishment agrees to fund the costs of certain public improvements. The municipality agrees to reimburse the owner for the cost of those improvements, with interest at an agreed-upon taxable interest rate, from the incremental sales taxes generated by the project. The owner generally agrees to be paid solely from those incremental sales taxes, and not from any other funds of the municipality.

### II. STATUTORY AUTHORITY

Section 70.220 of the Revised Statutes of Missouri (the “Cooperation Law”) authorizes any municipality or other political subdivision to contract with any other political subdivision, private person or firm for the “planning, development, construction, acquisition or operation of any public improvement or facility.” The political subdivision may authorize the contract by ordinance or resolution.

### III. TYPICAL STRUCTURE OF TRANSACTION

Many retail developments require the installation of public improvements (such as roads, traffic signals and utilities) to accommodate the development. Under the typical agreement, the developer agrees to advance the costs of the public improvements. The political subdivision agrees to reimburse the developer for such costs, with interest, over a specified period of time. The agreement usually provides that only a portion of the incremental (*i.e.*, new) sales tax revenues generated from the development will be used to reimburse the cost of the public improvements. This results in immediate new revenue to the municipality, while also providing a source of repayment for the public improvements.

The Missouri Constitution generally requires voter approval if a political subdivision pledges tax revenue to the repayment of indebtedness that lasts for more than one year. Therefore, sales tax rebate agreements specifically provide that the political subdivision’s obligation is from year-to-year only, and is subject to annual appropriation by the governing body.

Because the developer usually assumes responsibility for initial construction of the public improvements, it’s important that the agreement provide for payment of prevailing wages, payment and performance bonds, and indemnification of the governing body.

Undertaking a sales tax rebate agreement is a fairly simple process, since the governing body is obligating only its funds – not the funds of any other political subdivision. No public hearing or consultation with other political subdivisions is required.

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# TRANSPORTATION DEVELOPMENT DISTRICTS

## I. INTRODUCTION

### Purpose

A transportation development district may be created pursuant to Sections 238.200 to 238.275 of the Revised Statutes of Missouri, as amended (the “TDD Act”) to fund, promote, plan, design, construct, improve, maintain and operate one or more projects or to assist in such activity. A district is a separate political subdivision of the state. “*Project*” includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit and any similar or related improvement or infrastructure.

### Projects, Submission of Plans

Before construction or funding of any project, the district must submit the proposed project to the Missouri Highways and Transportation Commission (the “commission”) for its prior approval. If the commission finds that the project will improve or is a necessary or desirable extension of the state highways and transportation system, the commission may preliminarily approve the project subject to the district providing plans and specifications for the project and making any revisions in the plans and specifications required by the commission and the district and commission entering into a mutually satisfactory agreement regarding development and future maintenance of the project. After such preliminary approval, the district may impose and collect such taxes and assessments as may be included in the commission’s preliminary approval. After the commission approves the final construction plans and specifications, the district must obtain prior commission approval of any modification of such plans or specifications.

If the proposed project is not intended to be merged into the state highways and transportation system, the district shall also submit the proposed project and proposed plans and specifications to the local transportation authority that will become the owner of the project for its prior approval. “*Local transportation authority*” is a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service.

In those instances where a local transportation authority is required to approve a project and the commission determines that it has no direct interest in that project, the commission may decline to consider the project. Approval of the project then vests exclusively with the local transportation authority subject to the district making any revisions in the plans and specifications required by the local transportation authority and the district and the local transportation authority entering into a mutually satisfactory agreement regarding development and future maintenance of the project. After the local transportation authority approves the final construction plans and specifications, the district must obtain prior approval of the local transportation authority before modifying such plans or specifications.

## II. FUNDING METHODS

### Sales Tax

Any district may impose a sales tax in increments of one-eighth of one percent up to a maximum of one percent on all retail sales made in the transportation development district that are subject to taxation under Missouri law, with certain exceptions (including the sale of motor vehicles, trailers, boats and outboard motors). The sales tax must be approved by approval of a majority of the “qualified voters” within the district. The “qualified voters” are (1) the registered voters within the district, and (2) the property owners within the district (who shall receive one vote per acre). Any registered voter who also owns property must elect whether to vote as a registered voter or a property owner. Notwithstanding the foregoing, the owners of all of the property in the district may implement the sales tax by unanimous petition in lieu of holding an election. The sales tax rate must be uniform throughout the district.

The Missouri Department of Revenue began collecting sales taxes generated from taxable sales occurring on and after January 1, 2010 on behalf of all newly created and existing transportation development districts.

### Special Assessments

The district may also, with majority voter approval, make one or more special assessments for project improvements that specially benefit the properties within the district. A district may establish different classes or subclasses of real property within the district for the purpose of levying different rates of assessments.

### Property Tax

The district may also, with approval by at least four-sevenths of the voters, impose a property tax in an amount not to exceed the annual rate of ten cents on the hundred dollars assessed valuation. The property tax must be uniform throughout the district.

### Tolls

If approved by a majority of the qualified voters voting on the question in the district, the district may charge and collect tolls or fees for the use of a project.

### Bonds

The District may issue bonds, notes and other obligations for not more than 40 years, and may secure any of such obligations by mortgage, pledge, assignment or deed of trust of any or all of the property and income of the district. The district cannot mortgage, pledge or give a deed of trust on any real property or interests that it obtained by eminent domain.

### III. FORMATION

#### Creation of District

A district may be created by (1) petition of at least fifty registered voters within the proposed district, or (2) if there are no registered voters within the district, the owners of all of the real property located within the proposed district. In addition, two or more local transportation authorities may adopt resolutions calling for the joint establishment of a district and then file a petition requesting the creation of a district. With certain limited exceptions, the property in the district must be contiguous.

The petition is filed in the circuit court of the county in which a majority of the district is located. Among other information, the petition must set forth:

- (1) The name and address of each respondent, which must include the commission and each affected local transportation authority within the proposed district;
- (2) A specific description of the proposed district boundaries including a map illustrating the boundaries;
- (3) A general description of each project proposed to be undertaken by the district, including a description of the approximate location of each project;
- (4) The estimated project costs and anticipated revenues to be collected from the project;
- (5) The number of members of the board of directors of the proposed district, which shall be not less than five or more than fifteen;
- (6) A proposal for funding the district; and
- (7) Details of the budgeted expenditures, including estimated expenditures for physical improvements, land acquisition, professional services and interest charges.

#### Hearing

The court hears the case without a jury. If the court determines the petition is not legally defective and the proposed district and method of funding are neither illegal nor unconstitutional, the court shall enter its judgment to that effect.

If the petition was filed by registered voters or by a governing body, the court shall then certify the questions regarding district creation, project development and proposed funding for voter approval. If the petition was filed by the owners of record of all of the real property located within the proposed district, the court shall declare the district organized and certify the funding methods stated in the petition for qualified voter approval. If a petition is filed pursuant to the resolutions of two or more local transportation authorities calling for the joint establishment of a district, the court shall then certify the single question regarding district creation, project development and proposed funding for voter approval.

Effective August 28, 2009, if the petition for the establishment of the district is filed by the owners of all real property in the proposed district, the court is required to hold at least one public hearing regarding the establishment of the district.

### Election

If the court certifies the petition for voter approval, a majority vote is required to approve the formation of the district.

If (1) the petition was filed pursuant to the resolutions of two or more local transportation authorities calling for the joint establishment of a district and was certified for voter approval, (2) the district desires to impose a sales tax as the only proposed funding mechanism and (3) the proposition to create the district and authorize the sales tax has received majority voter approval, the circuit court shall declare the district organized and the sales tax to be in effect.

If the district desires to impose a funding mechanism other than a sales tax, the proposed funding mechanism requires separate voter approval at a subsequent election.

“*Qualified voters*” for TDD elections generally include (1) the registered voters within the district and (2) if no registered voters are present in the district and the district petition was submitted by the property owners or by resolution of two or more local transportation authorities, the property owners within the district (who shall receive one vote per acre). If a registered owner moves into a district that has already been created and which no registered voters previously resided in, the registered voter must elect whether to vote as a registered voter or a property owner.

### Board of Directors

Since the district is a separate political subdivision, it has its own board of directors that serves as the governing body of the district.

Unless the district is formed at the request of two or more local transportation authorities, directors are elected by the qualified voters within the district (i.e., registered voters or property owners, as the case may be).

If two or more local transportation authorities requested formation of the district, the board of directors consists of (1) the presiding officer and one person designated by the governing body of each local transportation authority (if the district is comprised of two or three local transportation authorities), or (2) the presiding officer of each local transportation authority (if the district is comprised of four or more local transportation authorities).

## IV. MISCELLANEOUS

### Condemnation

The District may condemn land for a project in the name of the state of Missouri, upon prior approval by the commission, or the local transportation authority as appropriate, as to the necessity for the taking of the description of the parcel and the interest taken in that parcel.

Project Revisions

At any time during the existence of a district, the board may submit to the voters of the district a proposition to increase or decrease the number of projects that it is authorized to complete.

If the board proposes to discontinue a project, it must first obtain approval from the commission if the proposed project is intended to be merged into the state highways and transportation system or approval from the local transportation authority if the proposed project is intended to be merged into a local transportation system under the local authority's jurisdiction.

The board may modify the project previously approved by the district voters, if the modification is approved by the commission and, where appropriate, a local transportation authority.

Audit Required

The state auditor is required to audit each district at least every three years, and may audit more frequently if the state auditor deems appropriate. The costs of this audit shall be paid by the district. Most districts that have issued bonds are required by the bond underwriter to obtain an annual audit.

Annual Report to State Auditor

Transportation development districts with cash receipts of more than \$10,000 per year are required to submit an annual report of its financial transactions to the state auditor. This report is due to the state auditor (1) within four months of the end of the district's fiscal year if the report will contain unaudited financial statements or (2) within six months of the end of the district's fiscal year if the report will consist of financial statements audited by a certified public accountant. Any district that fails to timely file this report may be fined up to \$500 per day until such report is filed.

Projects, Transfer to Commission or Authority

Within six months after development and initial maintenance costs of its completed project have been paid, the district shall pursuant to contract transfer ownership and control of the project to the commission or a local transportation authority which shall be responsible for all future maintenance costs pursuant to contract. Such transfer may occur sooner with the consent of the recipient.

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# COMMUNITY IMPROVEMENT DISTRICTS

## I. INTRODUCTION

### What is a Community Improvement District?

A community improvement district is either a political subdivision with the power to impose a sales tax, a special assessment or a real property tax, or a nonprofit corporation with the power to impose special assessments. The CID is created by a city or county following submission of a petition by the property owners within the proposed district.

A community improvement district is a separate legal entity distinct and apart from the municipality or county that creates the district. In many respects, a CID is similar to a TDD, except that the CID can finance a much broader array of improvements and can also undertake various public services.

### Authority

Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri (the “Community Improvement District Act”) authorize the creation of community improvement districts.

### Kinds of Infrastructure Improvements

A variety of public improvements can be financed with a community improvement district. Projects may include, but are not limited to,

1. Pedestrian or shopping malls and plazas.
2. Parks, lawns, trees and any other landscape.
3. Convention centers, arenas, aquariums, aviaries and meeting facilities.
4. Sidewalks, streets, alleys, bridges, ramps tunnels, overpasses and underpasses, traffic signs and signals, utilities, drainage, water, storm and sewer systems and other site improvements.
5. Parking lots, garages or other facilities.
6. Music, news and child-care facilities.
7. Any other useful, necessary or desired improvement.

In addition, within a “blighted area,” the district may pay costs of demolishing, renovating and rehabilitating structures.

Public Services

A community improvement district may provide a variety of public services, including but not limited to:

1. With the municipality's consent, prohibiting or restricting vehicular and pedestrian traffic and vendors on streets.
2. Operating or contracting for the provision of music, news, child-care or parking facilities, and buses, mini-buses or other modes of transportation.
3. Leasing space for sidewalk café tables and chairs.
4. Providing or contracting for the provision of security personnel, equipment or facilities for the protection of property and persons.
5. Providing or contracting for cleaning, maintenance and other services to public and private property.
6. Promoting tourism, recreational or cultural activities or special events.
7. Promoting business activity, development and retention.
8. Providing refuse collection and disposal services.
9. Contracting for or conducting economic, planning, marketing or other studies.

**II. FORMATION PROCESS**

Petition Requesting Formation

A community improvement district is formed by petition of the property owners. The petition must be signed by:

1. Property owners collectively owning at least 50 percent of the assessed value of the real property within the proposed district; and
2. More than 50 percent per capita of all owners of real property within the proposed district.

The petition must include a wide variety of information, including:

1. A five-year plan describing the purposes of the proposed district, the services it will provide, the improvements it will make and an estimate of costs of those services and improvements.
2. Organizational and governance information, including:

- a. Whether the district will be a political subdivision or a nonprofit corporation.
  - b. If a political subdivision, the manner in which the board of directors will be elected and the number of directors on the initial board.
3. The maximum rates of real property taxes and special assessments that may be imposed.
  4. The limitations, if any, on the borrowing capacity and revenue generation of the district.

#### Remaining Steps to Form the District

After the petition is submitted, the governing body of the municipality will proceed with the following actions:

1. Hold a public hearing regarding the formation of the district. Notice of the hearing must be published once a week for two consecutive weeks before the public hearing, and must be mailed at least 15 days prior to the public hearing. The notice must include, among other items, the following information: (a) date, time and place of hearing; (b) boundaries of the district, (c) statement that a copy of the petition is available for review at the clerk's office and (d) statement that all interested persons will be given an opportunity to be heard at the hearing.
2. Establish the district by order or ordinance.

### **III. GOVERNANCE**

#### Political Subdivision

The petition specifies whether directors will be elected by the "qualified voters" or appointed by the municipality. A "qualified voter" must either own real property within the district or be a registered voter within the district. Appointments are made by the chief elected officer with the consent of the governing body.

The board shall consist of at least 5 but not more than 30 directors. Each director must (a) own real property or a business within the district (or be the legally authorized representative of the owner) or (b) be a registered voter residing within the district. If there are less than 5 owners of real property located within the district, the board may be comprised of up to 5 legally authorized representatives of any of the owners of real property located within the district.

#### Nonprofit Corporation

The directors are elected in the same manner as directors of other nonprofit corporations, under chapter 355 of the Revised Statutes of Missouri.

#### IV. FUNDING OF IMPROVEMENTS

##### Special Assessments

Any community improvement district, whether a political subdivision or nonprofit corporation, may impose special assessments, if approved by petition signed by:

1. Owners collectively owning real property representing more than 50 percent of the assessed value of real property within the district; and
2. More than 50 percent per capita of the owners of all real property within the district.

##### Real Property Taxes

A community improvement district that is a political subdivision can impose a real property tax if approved by a majority of the “qualified voters.” A “qualified voter” is:

1. Registered voter residing within the district; or
2. If there are no registered voters residing within the district, the owners of real property within the district.

Unlike transportation development districts, there is no limit on the amount of real property taxes that may be imposed by a CID.

##### Sales Tax

A community improvement district that is a political subdivision can impose a sales tax if approved by a majority of the “qualified voters,” as defined above. The tax may be imposed in increments of one-eighth of one percent, up to a maximum of one percent.

##### Other Sources

1. Fees, rents and charges for district property or services.
2. Grants, gifts and donations.

##### Bonds

The District may issue bonds, notes and other obligations for not more than 20 years, and may secure any of such obligations by mortgage, pledge, assignment or deed of trust of any or all of the property of the district.

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## **SPECIAL BUSINESS DISTRICTS**

### **I. INTRODUCTION**

#### **What is a Special Business District?**

A special business district (SBD) is a political subdivision with the power to impose a real property tax, a business license tax and special assessments, depending upon the size of the City in which the SBD is created. The funding sources can be spent on certain public improvements and services listed in the statute. The SBD is created by a city following submission of a petition by property owners that pay real property taxes within the proposed district.

An SBD is a separate legal entity distinct and apart from the city that creates the district. In cities with 350,000 or more people, the SBD board consists of seven members appointed by the City and serves as the governing body of the SBD, but in all other cities the governing body of the city also serves as the governing body of the SBD and the SBD board is only a recommending body. Therefore, in all cities except those with 350,000 or more people, the city governing body needs to operate the SBD as a separate political subdivision of the city and not as another board or commission of the city.

#### **Authority**

Sections 71.790 to 71.808 of the Revised Statutes of Missouri govern special business districts.

#### **Kinds of Infrastructure Improvements**

Specific types of public improvements can be financed with a special business district:

1. Widen or narrow existing streets and alleys.
2. Construct or install pedestrian or shopping malls, plazas, sidewalks or moving sidewalks, parks, meeting and display facilities, convention centers, arenas, bus stop shelters, lighting, benches or other seating furniture, sculptures, telephone booths, traffic signs, fire hydrants, kiosks, trash receptacles, marquees, awnings, canopies, walls and barriers, paintings, murals, alleys, shelters, display cases, fountains, rest rooms, information booths, aquariums, aviaries, tunnels and ramps, pedestrian and vehicular overpasses and underpasses, and each and every other useful or necessary or desired improvement.
3. Landscape and plant trees, bushes and shrubbery, flowers and each and every and other kind of decorative planting.
4. Install and operate or lease public music and news facilities.
5. Construct and operate child-care facilities.
6. Construct lakes, dams, and waterways of whatever size.

7. Construct, reconstruct, extend, maintain, or repair parking lots or parking garages, both above and below ground, or other facilities for the parking of vehicles, including the power to install such facilities in public areas, whether such areas are owned in fee or by easement.

### Public Services

A special business district may provide a variety of public services, including:

1. purchase and operate buses, minibuses, mobile benches, and other modes of transportation;
2. Lease space within the district for sidewalk cafe tables and chairs;
3. Provide special police or cleaning facilities and personnel for the protection and enjoyment of the property owners and the general public using the facilities of such business district;
4. Maintain all city-owned streets, alleys, malls, bridges, ramps, tunnels, lawns, trees and decorative plantings of each and every nature, and every structure or object of any nature whatsoever constructed or operated by the city;
5. Grant permits for newsstands, sidewalk cafes, and each and every other useful or necessary or desired private usage of public or private property;
6. Prohibit or restrict vehicular traffic on such streets within the business district as the governing body may deem necessary and to provide the means for access by emergency vehicles to or in such areas;
7. Promote business activity in the district by, but not limited to, advertising, decoration of any public place in the area, promotion of public events which are to take place on or in public places, furnishing of music in any public place, and the general promotion of trade activities in the district.
8. With the city's consent, prohibiting or restricting vehicular and pedestrian traffic and vendors on streets.

### Additional Powers for Large Cities

In any city with a population of 350,000 or more, an SBD has the following additional powers:

1. Cooperate with other public agencies and with any industry or business located within the district in the implementation of any project within the district.
2. Enter into any agreement with any other public agency, any person, firm, or corporation to effect any of the provisions contained in the SBD statutes.
3. Contract and be contracted with, and to sue and be sued.

4. Accept gifts, grants, loans, or contributions from the city in which the district is located, the United States of America, the state of Missouri, political subdivisions, foundations, other public or private agencies, individuals, partnerships, or corporations.
5. Employ such managerial, engineering, legal, technical, clerical, accounting, and other assistance as it may deem advisable. The district may also contract with independent contractors for any such assistance.

## **II. FORMATION PROCESS**

### *Petition Requesting Formation and Resolution of Intent*

The process to form a special business district starts with a petition. The petition must be signed by one or more owners of real property on which is paid the ad valorem real property taxes within the proposed district. The status does not specify what the petition must contain. Once a petition is filed, the governing body may adopt a “resolution of intent” to form the SBD, which must contain the following:

1. Description of the boundaries of the proposed area;
2. The time and place of a hearing to be held by the governing body considering establishment of the district;
3. The proposed uses to which the additional revenue shall be put and the initial tax rate to be levied.

### *Survey and Investigation*

Prior to adopting an ordinance which approves an SBD, the city must conduct a survey and investigation for the purposes of determining:

1. the nature of and suitable location for business district improvements,
2. the approximate cost of acquiring and improving the land therefor,
3. the area to be included in the business district or districts,
4. the need for and cost of special services, and cooperative promotion activities, and
5. the percentage of the cost of acquisition, special services, and improvements in the business district which are to be assessed against the property within the business district and that part of the cost, if any, to be paid by public funds.

The cost of the survey and investigation must be included as a part of the cost of establishing the business district. A written report of this survey and investigation must be filed in the office of the city clerk and must be available for public inspection.

### Public Hearing

The governing body of the city must hold a public hearing prior to approval of the SBD by ordinance. The hearing must be preceded by two publication notices between 10 and 15 days before the hearing and mailed notice to all property owners and licensed businesses within the proposed district.

### Ordinance to Approve District

If the city adopts an ordinance to approve the SBD, the ordinance must contain:

1. The number, date and time of the resolution of intention pursuant to which it was adopted;
2. The time and place the hearing was held concerning the formation of the area;
3. The description of the boundaries of the district;
4. A statement that the property in the area established by the ordinance shall be subject to the provisions of additional tax as provided in the petition;
5. The initial rate of levy to be imposed upon the property lying within the boundaries of the district;
6. A statement that a special business district has been established;
7. The uses to which the additional revenue shall be put;
8. In any city with a population of less than three hundred fifty thousand, the creation of an advisory board or commission and enumeration of its duties and responsibilities;
9. In any city with a population of three hundred fifty thousand or more, provisions for a 7-member board of commissioners to administer the special business district.

### **III. GOVERNANCE**

The district is a separate political subdivision of the state. In cities with less than 350,000 population, the governing body of the city serves as the governing body of the SBD. Care should be taken to hold separate meetings of the SBD board rather than incorporating SBD legislative actions into legislative actions of the governing body of the city. In cities with less than 350,000 population, the SBD board serves as an advisory capacity to the SBD governing body.

In cities with a population of 350,000 or more, the SBD board appointed by the city serves as the governing body of the SBD. The members must be appointed by the mayor with the advice and consent of the governing body of the city. Five members must be owners of real property within the district or their representatives and two members must be renters of real property within the district or their representatives.

## IV. FUNDING OF IMPROVEMENTS

### Real Property Taxes

An SBD may impose a real property tax that does not exceed 85¢ per \$100 of assessed valuation. In St. Louis only, the real estate tax imposed by an SBD may be imposed and collected even though the property is subject to tax abatement pursuant to a redevelopment plan adopted under Chapter 353 of the Revised Statutes of Missouri.

### Business License Tax

An SBD may impose a tax on businesses and individuals doing business within the SBD. The rate of the SBD business license tax cannot exceed 50% of the other business license taxes imposed within the district.

### Special Assessments

Any SBD in a city with a population of 350,000 or more and located in more than one county may also impose special assessments at the following maximum rates:

1. Not more than 5¢ per square foot on each square foot of land.
2. Not more than ½¢ per square foot on each square foot of improvements on land.
3. Not more than \$12 per abutting foot of the lots, tracts and parcels of land within the district abutting on public streets, roads and highways.

### Elections

The taxes and assessments described above are subject to voter approval. Residents of the SBD and owners of property within the SBD are “qualified voters” for property tax and special assessment elections. Holders of business licenses within the SBD are “qualified voters” for business license tax elections. When an election is held, the qualified voters must apply to the City Clerk for a ballot. The City Clerk will then mail a ballot to each qualified voter that applies for a ballot. Ballots must then be returned to the City Clerk’s office with an affidavit attesting that the voter is a qualified voter. The City Clerk will then arrange for election judges from the county election authority to count the ballots and certify the election.

### Bonds

An SBD is authorized by statute to issue general obligation bonds or notes for a maximum of 20 years and in a maximum amount of 10% of the total assessed value of all land within the district. The SBD is also authorized to issue revenue bonds and refunding revenue bonds to pay the cost of acquiring, constructing, improving, or extending any revenue-producing facilities, and such bonds are payable solely from the operation of such revenue-producing facility. However, there are some concerns regarding the constitutionality of the statutorily prescribed election procedures for SBDs, particularly elections for the approval of general obligation bonds. Accordingly, if bonds are being considered as a funding mechanism, a Community Improvement District is a better economic development tool because

it can achieve many of the same goals as an SBD, but does not have constitutional concerns that might impact the marketability of any bonds.

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# NEIGHBORHOOD IMPROVEMENT DISTRICTS

## I. INTRODUCTION

### What is a Neighborhood Improvement District?

A neighborhood improvement district is an area benefited by a public improvement and assessed to pay for that improvement. It is created by an election held or petition circulated within the proposed district. It is **not** a separate legal entity.

### Authority

Article III, Section 38(c) of the Missouri Constitution and Sections 67.453 to 67.475 of the Revised Statutes of Missouri (the “Neighborhood Improvement District Act”) authorize the creation of neighborhood improvement districts.

### Kinds of Projects

Only **public** facilities, improvements or reimprovements can be financed with a neighborhood improvement district. The improvement must confer a benefit on property within the district, but the improvement is not required to be located in the district. Projects may include, but are not limited to:

1. Acquisition of property.
2. Improvement of streets, gutters, curbs, sidewalks, crosswalks, driveway entrances and structures, drainage works incidental thereto and service connections from sewer, water, gas and other utility mains, conduits or pipes.
3. Improvement of storm and sanitary sewer systems.
4. Improvement of street lights and street lighting systems.
5. Improvement of waterworks systems.
6. Improvement of parks, playgrounds and recreational systems.
7. Landscaping streets or other public facilities.
8. Improvement of flood control works.
9. Improvement of pedestrian and vehicle bridges, overpasses and tunnels.
10. Improvement of retaining walls and area walls on public ways.
11. Improvement of property for off-street parking.
12. Acquisition and improvement of other public facilities or improvements.

13. Improvements for public safety.

## II. FORMATION PROCESS

A neighborhood improvement district may be created either by election or by petition of property owners.

### By Election

A neighborhood improvement district must be approved by the percentage of voter approval of electors within the proposed district voting thereon required for general obligation bonds (four-sevenths or two-thirds). The resolution or ordinance calling the election and notice of election must include the following information:

1. Project name.
2. General nature of proposed improvement.
3. Estimated cost. *The estimated cost should include all costs, including financing costs. It does not include interest on the general obligation bonds.*
4. Boundaries of proposed district. *The boundaries of the area to be assessed may be described by metes and bounds, streets or other sufficiently specific description.*
5. Proposed method of assessment, including any provision for the annual assessment of maintenance costs for the improvement in each year in each year during the term of the bonds issued for the improvement and after the bonds issued for the original improvement are paid in full. *The cost of the improvements must be apportioned against the **property** in the district in accordance with the benefits accruing to the property by reason of the improvement and may be assessed equally per front foot, per square foot or any other reasonable assessment plan.*
6. Statement that final cost won't exceed the estimated cost by more than twenty-five percent (notice of election only).

### By Petition

The petition signed by the owners of record of at least two-thirds by area of all real property located within the proposed district is submitted to the governing body. The State Auditor requires a certification of the acreage or square footage in the district and the acreage or square footage owned by the signers of the petition. The petition must include the following information:

1. Project name.
2. General nature of proposed improvement.

3. Estimated cost.
4. Boundaries of proposed district.
5. Proposed method of assessment, including a provision for the annual assessment of maintenance costs for the improvement in each year during the term of the bonds issued for the improvement and after the bonds issued for the original improvement are paid in full.
6. Number of years over which the assessments for the improvement can be paid.
7. Notice that names of signers may not be withdrawn later than seven days after petition filed.

The petition must be signed by all owners of record of a parcel of property for that parcel to be counted. Each owner of record of real property located in the proposed district is allowed one signature. Any person, corporation, or limited liability partnership owning more than one parcel of land located in such proposed district shall be allowed only one signature on the petition. In the case of property owned by a corporation or partnership, evidence of the authority of the person signing on behalf of such entity should be presented with the petition. An affidavit of the person or persons circulating the petition should also be submitted with the petition.

*Remaining Steps to Form the District*

After the election is held or petition is submitted, the governing body will proceed with the following actions:

1. Order preparation of plans and specifications.
2. Prepare a preliminary assessment roll.
3. Hold a public hearing regarding the proposed project. Notice of the hearing must be published not more than 20 days and not less than 10 days before the hearing, and must include the following information: (a) project name; (b) date, time and place of hearing. (c) general nature of improvements; (d) revised estimated cost (or, if available, final cost); (e) boundaries of district; and (f) statement that written and oral objections will be considered at the hearing. Notice must also be mailed to owners of record or property within district.
4. Governing Body orders improvements to be made.
5. Issuance of temporary notes, if needed.
6. Construction of the project.
7. Computation of final costs and assessments.
8. Assessment of final costs.

9. Mailing of notice of assessments and opportunity to pay up front to property owners.

### **III. FINANCING OF IMPROVEMENTS**

Bonds issued in connection with neighborhood improvement districts are a form of general obligation bonds. The bonds are payable as to both principal and interest from the assessments and, if not so paid, from current income and revenue and revenues and surplus funds of the city or county that formed the district. The city or county is not authorized to impose any new or increased ad valorem property tax to pay principal of or interest on the bonds without voter approval. If the city or county uses funds on hand to pay debt service, the issuer can reimburse itself from assessments at a later date.

The bonds are general obligation bonds, and count against the issuer's legal debt limit at the time that the governing body has found the formation of the district advisable. Until bonds are actually issued, 125% of the project cost is counted against the debt limit. NID bonds can only be issued in an amount of up to 10% of the assessed valuation of the issuer. The maturity of the bonds is limited to 20 years.

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## **PROPERTY TAX ABATEMENT UNDER CHAPTER 353, RSMO.**

### **I. INTRODUCTION**

Under Chapter 353 of the Revised Statutes of Missouri, real property tax abatement is available within “blighted areas.” An Urban Redevelopment Corporation is created under the general corporations laws of Missouri and, once created, it has the power to operate one or more redevelopment projects pursuant to a city-approved or county-approved (if St. Louis County or Jackson County) redevelopment plan.

Under this program, an eligible city or county may approve a redevelopment plan that provides for tax abatement for up to 25 years, thus encouraging the redevelopment of the blighted area. To be eligible for the abatement, the Urban Redevelopment Corporation must take title to the property to be redeveloped. During the first 10 years of tax abatement, (1) 100% of the incremental increase in real property taxes on the land are abated, (2) 100% of the real property taxes on all improvements are abated, and (3) the property owner continues to pay real property taxes on the land in the amount of such taxes in the year before the redevelopment corporation takes title.

During the next 15 years, between 50% and 100% of the incremental real property taxes on all land and all improvements are abated. Payments in lieu of taxes (“PILOTS”) may be imposed on the Urban Redevelopment Corporation by contract with the city or county, as applicable, to achieve an effective tax abatement that is less than the abatement established by statute. PILOTS are paid on an annual basis to replace all or part of the real estate taxes that are abated. PILOTS will be allocated to each taxing district according to their proportionate share of ad valorem property taxes. The Urban Redevelopment Corporation may take title to lots, tracts or parcels of property within the redevelopment area in phases, in order to maximize the tax abatement during a phased redevelopment project.

### **II. PROCEDURES FOR APPROVING TAX ABATEMENT**

The following is a summary of the basic steps for the approval of a development plan:

#### **Preparation of Tax Impact Statement**

The statute requires the governing body to hold a public hearing regarding any proposed development plan. Before the public hearing, the governing body must furnish to the political subdivisions whose boundaries include any portion of the property to be affected by tax abatement (1) notice of the scheduled public hearing and (2) a written statement of the impact on ad valorem taxes such tax abatement will have on the political subdivisions.

The tax impact statement must include, at a minimum, an estimate of the amount of ad valorem tax revenues of each political subdivision that will be affected by the proposed tax abatement.

Preparation of Development Plan

The proposed developer usually will assume responsibility for preparation of the development plan. This document identifies the proposed redevelopment area, the redevelopment projects to be undertaken, the program to be carried out to remove the blighting influences within the area, and the estimated project costs. The plan will include or incorporate by reference the characteristics that qualify the area as “blighted” under Missouri law.

The law defines a blighted area as “that portion of the city within which the legislative authority of such city determines that by reason of age, obsolescence, inadequate or outmoded design or physical deterioration have become economic and social liabilities, and that such conditions are conducive to ill health, transmission of disease, crime or inability to pay reasonable taxes.”

Public Hearing

Before approving a development plan, the governing body of the city or county must hold a public hearing. The governing body must adopt an ordinance establishing the procedures for giving notice of the public hearing. Notice of the hearing must be given to each affected taxing district affected by the development plan.

Preparation of Redevelopment Agreement

The Redevelopment Agreement describes the Urban Redevelopment Corporation’s obligations to carry out the development plan. Among the provisions that typically are included in the Redevelopment Agreement are (1) procedures for acquiring property, including prerequisites to the use of condemnation; (2) the period for which tax abatement will be provided; (3) the time period within which the redevelopment corporation can carry out the project; and (4) procedures for the corporation to transfer title to property in the area.

In 2006, the General Assembly amended Missouri’s condemnation laws, which affected condemnation under Chapter 353. First, an Urban Redevelopment Corporation cannot acquire property through condemnation, unless the corporation entered into a redevelopment agreement before December 31, 2006. Second, farmland that is declared blighted cannot be acquired by eminent domain. Third, blight must be evaluated on a parcel-by-parcel basis, if any property in the redevelopment area will be acquired through (or under the threat of) condemnation.

Adoption of Ordinance by Governing Body

Following the public hearing, the governing body can approve a development plan and Redevelopment Agreement by adoption of an ordinance. Among other matters, the ordinance must make findings that the area described in the development plan is “blighted” under Missouri law, that a relocation plan has been developed for displaced persons, and that the Redevelopment Agreement establishes the time within which property in the area must be acquired.

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# **PROPERTY TAX ABATEMENT UNDER CHAPTER 100, RSMO.**

## **I. INTRODUCTION**

### General

Cities, counties, towns and villages in Missouri are authorized, pursuant to Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 to 100.200 of the Revised Statutes of Missouri (the “Act”) to issue industrial development bonds (“IDBs”) to finance projects for private corporations, partnerships and individuals. There are two primary reasons to issue IDBs under the Act. First, if the bonds are tax-exempt, it may be possible to issue the bonds at lower interest rates than those obtained through conventional financing. Second, even if the bonds are not tax-exempt, ad valorem taxes on bond-financed property may be abated so long as the bonds are outstanding. Such tax abatement may result in a significant financial benefit to a company. *This memo focuses primarily on the issuance of taxable industrial development bonds issued for the purposes of the abatement of ad valorem taxes.*

### Types of Projects

The Act permits any city, county, town or village (referred to herein as a “Municipality”) to issue bonds to finance the costs of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, services facilities which provide interstate commerce and industrial plants. Article VI, Section 27(b) of the Missouri Constitution also authorizes such bonds to be issued for other types of commercial facilities. In connection with such projects, the bond proceeds may be used to finance land, buildings, fixtures and machinery.

### Revenue Bonds

Revenue bonds issued pursuant to the Act do not require voter approval and are payable solely from revenues received from the project. The Municipality applies the proceeds from the sale of the bonds to purchase, construct, improve or equip a warehouse, distribution, commercial or industrial facility. In exchange, the company promises to make payments that are sufficient to pay the principal and interest on the bonds as they become due. Thus, the Municipality merely acts as a conduit for the financing.

## **II. TAXATION OF BOND-FINANCED PROPERTY**

### Property Tax Exemption

Under Article X, Section 6 of the Missouri Constitution and Section 137.100 of the Missouri Revised Statutes, all property of any political subdivision is exempt from taxation. In a typical IDB transaction, the Municipality holds fee title to the project and leases the project to the company. Although the Missouri Supreme Court has held that the leasehold interest is taxable, it is taxable only to the extent that the economic value of the lease is less than the actual market value of the lease. See *Iron County v. State Tax Commission*, 437 S.W.2d 665 (Mo. 1968)(*en banc*) and *St. Louis County v. State Tax Commission*, 406 S.W.2d 644 (Mo. 1966)(*en banc*). If the rental payments under the lease agreement equal the actual debt service payments on the bonds, the leasehold interest should have no “bonus value”

and the bond-financed property should be exempt from ad valorem taxation and personal property taxation so long as the bonds are outstanding.

The Municipality and the company may determine that partial tax abatement -- but not full tax abatement -- is desirable. For instance, if bonds are issued to finance both real and personal property, but the Municipality determines that tax abatement on the personal property is not appropriate, the company may agree to make "payments in lieu of taxes" to the city or county. The amount of payments in lieu of taxes is negotiable to any amount. The payments in lieu of taxes are payable by December 31 of each year, and are distributed to the Municipality and to each political subdivision in the same manner and in the same proportion as property taxes would otherwise be distributed under Missouri law.

#### Sales Tax Exemption

Under Section 144.054.3 of the Missouri Revised Statutes, a company may apply to the Missouri Department of Economic Development to receive a sales tax exemption on all personal property purchased through an IDB transaction. The municipality may also furnish the company with a sales tax exemption certificate, so that materials used in constructing any real property improvements can be exempt from sales taxes.

### **III. STRUCTURE OF THE TRANSACTION**

#### Issuance and Sale of Bonds

The Municipality issues its bonds pursuant to a trust indenture entered into between the Municipality and a bank or trust company acting as trustee. IDBs, like issues of conventional corporate securities, are sold by two basic methods -- public offerings or private placements. If the company has access to the regional or national securities markets, it may retain an investment banker as underwriter and sell the bonds publicly. The size and financial condition of the company are the primary factors that determine the company's ability to utilize a public offering. As an alternative to a public offering, the company may wish to place the bonds with a sophisticated purchaser. A private placement is very similar to a long-term bank loan. If bonds are being issued at a taxable interest rate for the sole purpose of receiving tax abatement, it is common for the company or the company's commercial lender to purchase the bonds. The bond proceeds are deposited with the trustee bank in a separate trust account to be used to purchase and construct the project.

#### Conveyance of Property to Municipality and Lease-Back to Company

Concurrently with the closing of the bonds, the company will convey to the Municipality title to the site on which the industrial development project will be located. (The Municipality must be the legal owner of the property while the bonds are outstanding in order for the property to be eligible for tax abatement.) At the same time, the Municipality will lease the project site, together with all improvements thereon (including the project), back to the Company pursuant to a lease agreement. The lease agreement will require the company acting on behalf of the Municipality, to use the proceeds of the bonds to purchase and construct the project. The company will be unconditionally obligated to make payments to the trustee in amounts that will be sufficient to pay principal and interest on the bonds as they become due.

Under the lease agreement, the company typically: (a) unconditionally agrees to make payments sufficient to pay the principal of and interest on the bonds as they become due; (b) agrees, at its own expense, to maintain the project, pay all taxes and assessments with respect to the project and maintain adequate insurance; (c) has the right, at its own expense, to make certain additions, modifications or improvements to the project; (d) may assign its interests under the agreement or sublease the project while remaining responsible for payments under the agreement; (e) covenants to maintain its corporate existence during the term of the bond issue; and (f) agrees to indemnify the Municipality for any liability the Municipality might incur as a result of its participation in the transaction.

Payments in Lieu of Taxes

If the Municipality and the company determine that partial tax abatement is desirable, the Municipality and the company will enter into an agreement providing for the company to make “payments in lieu of taxes” to the Municipality and other taxing entities. The amount of payments in lieu of taxes is negotiable.

**IV. PROCEDURE FOR ISSUING BONDS**

The following is a summary of the basic steps required for the issuance of taxable bonds under the Act:

Approval of the Project

Upon a determination by the Municipality to proceed with the financing, the Municipality normally adopts a resolution (referred to as a “resolution of intent” or “inducement resolution”) stating the Municipality’s willingness and intent to issue IDBs for the project. Thereafter, the Municipality must provide notice to each taxing district of the Municipality’s intent to approve a “plan for industrial development” for the project. The plan must identify the primary terms of the proposed transaction, and must include a cost-benefit analysis that shows the impact of the proposed tax abatement on each taxing district.

Preparation of Legal Documents

Gilmore & Bell prepares the basic legal documents necessary for the bond issue, as described in “Structure of the Transaction” above. These documents will be reviewed by and supplemented with information and comments received from the parties to the financing, including the Municipality, the company, the trustee bank, any investment banker and their respective counsel.

Approval of Documents and Issuance of Bonds

After an investment banker or other purchaser (which may be the company) has agreed to purchase the bonds, the final details of the bond issue are determined and the basic documents will be finalized. The Municipality and the company will each adopt resolutions approving the legal documents and authorizing the issuance of the bonds at the specified interest rates and terms.

Preparation of Closing Documents

In addition to the basic legal documents discussed above, numerous other “closing documents” are necessary for the closing of a bond issue. Such documents include certificates relating to the existence of authority to execute and deliver documents and the absence of material litigation, corporate resolutions, opinions of counsel and evidence of payment for and receipt of the bonds. Gilmore & Bell will assist in the preparation and collection of the necessary closing documents.

Closing

The last step in the transaction is the closing itself, at which the Municipality delivers the bonds to the purchaser in exchange for payment of the purchase price of the bonds. The bond proceeds are paid over to the trustee bank, to be disbursed in accordance with the provisions of the trust indenture to pay the costs of the project. At the closing, Gilmore & Bell will deliver to the bond purchasers its opinion to the effect that the bonds have been validly issued under applicable state law and, if applicable, that the interest on the bonds is exempt from state and federal income taxation.

**V. ADVANTAGES OF IDB FINANCING**

From the Municipality’s standpoint, IDB financing is a useful tool to induce responsible new industries to locate in the area, as well as encouraging companies already in the area to remain, by assisting them in improving their present facilities or in building new ones. The end result is often a combination of increased job opportunities, existing job retention and large-scale capital investment.

From the company’s standpoint, the principal advantage of IDB financing depends on the purpose for which the bonds are being issued. If the bonds are tax-exempt, the cost of funds provided by IDBs generally is significantly below that of other alternatives because the interest paid to holders of such bonds is exempt from federal and state income taxation. If the bonds are taxable, the company can receive significant financial incentives in the form of tax abatement on the bond-financed property.

\* \* \* \* \*

# **LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY**

## **I. PURPOSE**

A Land Clearance for Redevelopment Authority (an “Authority”) may be created to assist counties and municipalities to redevelop blighted or insanitary areas for residential, recreational, commercial, industrial or for public uses. The LCRA Law (§§ 99.300 to 99.715, RSMo.) is premised upon the concept that the menace of blight is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids provided in the LCRA Law. The LCRA Act is intended to be a broad grant of authority by which a municipality, to the greatest extent it determines to be feasible in carrying out the provisions of the LCRA Act, is afforded maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment or renewal of areas by private enterprise.

## **II. CREATION**

Before an Authority may operate in a city or county, the governing body of the city or county must (1) find that one or more “blighted” or “insanitary” areas (each defined in the statute) exist in such community and that the redevelopment of such area or areas is necessary in the interest of the public health, safety, morals or welfare of the residents of such community and (2) approve the conduct of business by the Authority by ordinance or resolution. Although any municipality or county can authorize the operation of an LCRA, any municipality that contains less than 75,000 inhabitants is required to obtain majority voter approval to allow the Authority to operate. Regional authorities may also be created where two or more cities or counties cooperate to do so.

## **III. GOVERNANCE**

An Authority is governed by a board of five commissioners appointed by the mayor for a municipal authority or county commission for a county authority. Commissioners must be taxpayers who have resided in the city or county forming the Authority for at least 5 years. In a regional Authority, each city or county appoints one commissioner. If there are an even number of communities represented in a regional Authority, those commissioners appoint one additional commissioner.

## **IV. POWERS**

The LCRA Law provides for the financing of any land clearance or urban renewal project. The powers of an LCRA are exercised by its 5-member Board of Commissioners who must each be a taxpayer that has lived in the community for at least five years. The city must appoint Commission members to create staggered four-year terms.

An LCRA possesses a powers that related to blight clearance and redevelopment, including:

- Prepare or cause to be prepared and recommend redevelopment plans and urban renewal plans to the governing body of the community within its area of operation and undertake and carry out land clearance projects and urban renewal projects within its area of operation;

- Arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with a land clearance project or urban renewal project;
- Purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein;
- To make plans to carry out a program of voluntary repair and rehabilitation of buildings and improvements, plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements;
- To make plans to carry out a program of compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;
- Issue bonds for any of its corporate purposes including the payment of principal and interest upon any advances for surveys and plans for land clearance projects;
- Make or have made all surveys, studies and plans, but not including the preparation of a general plan for the community, necessary to the carrying out of the purposes of this law.

An LCRA may delegate to a municipality or other public body any of the powers or functions of the authority with respect to the planning or undertaking of a land clearance project or urban renewal project in the area in which the municipality or public body is authorized to act, and the municipality or public body is authorized to carry out or perform such powers or functions for the LCRA.

A “land clearance project” includes any work or undertaking to acquire blighted or insanitary areas or portions thereof; clearing any such areas by demolition or removal of structures and improvements thereon and to install, construct or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; retain, sell or lease the land; and develop, construct, repair or improve residences, houses, buildings, structures and other facilities.

An “urban renewal project” includes any surveys, plans, undertakings and activities for the elimination and for the prevention of the spread or development of insanitary, blighted, deteriorated or deteriorating areas and may involve any work or undertaking for such purpose constituting a land clearance project or any rehabilitation or conservation work, or any combination of such undertaking or work in accordance with an urban renewal project.

“Rehabilitation or conservation work” is also defined in the statute and may include such things as carrying out plans for rehabilitation of buildings and other improvements, acquiring real property and demolition and clearing of such property to accomplish certain enumerated purposes; developing buildings and other structures; installing improvements necessary for carrying out the urban renewal project; and the disposition of the urban renewal project and related land.

## V. FUNDING MECHANISMS

### Generally

An Authority may issue bonds and may secure any of such obligations by mortgage, pledge, assignment or deed of trust of any or all of the property and income of the Authority, respectively. Bond issues of the Authority in excess of \$10,000,000 must be sold at public sale. The Authority may pledge all or any part of its gross or net rents, fees or revenues from land clearance projects to secure the repayment of bonds.

Any property held by the Authority in fee simple is subject to property tax abatement. A developer could enter into a financing arrangement similar to Chapter 100 where the developer receives the benefit of the abatement during the period any bonds remain outstanding. An Authority may acquire real property and lease the property to a redeveloper, who would then use the property and not pay *ad valorem* property taxes.

### Property Tax Abatement in Constitutional Charter Cities

Sections 99.700 through 99.715, RSMo, provides a 10-year tax abatement process that is available in constitutional charter cities. The abatement covers 100% of the increased value of the property after abatement, as compared to the certified value before the abatement commenced. The property owner continues to annually pay taxes during this ten-year period based on the value of the property before redevelopment started.

A property owner submits plans to the LCRA which show that the applicant is engaged in new construction or rehabilitation pursuant to an approved redevelopment plan or urban renewal plan. § 99.700. The LCRA reviews the plans for construction/rehabilitation and issues a "certificate of qualification for tax abatement" to the applicant. § 99.700. The applicant notifies the county assessor of the qualification for tax abatement. § 99.705. The LCRA must issue a copy of the plans to the assessor. § 99.705. Then, the County assessor shall "issue a statement as to the current assessed valuation of the then existing real property covered by the plans."

The phrase "current assessed valuation" means the valuation of the property before new construction or rehabilitation begins, regardless of whether the new construction or rehabilitation is partially or totally complete at the time that the assessor receives the notice of qualification for abatement from the property owner. *20th & Main Redev. Partnership v. Kelley*, 774 S.W.2d 139 (Mo. 1989). This is the proper interpretation of the phrase "current assessed valuation" because the statute is to be construed liberally to effectuate the purpose of tax abatement. *Id.* The property is not to be assessed based on partially complete or completed rehabilitation at the time the assessor receives notice. *Id.*

The *Kelley* opinion notes that it would be a good practice to file a certificate for tax abatement prior to the start of new construction or rehabilitation, but failure to do so should not ruin the intended effect of the statute. The county must look back to the last valuation before new construction or rehabilitation started. In the *Kelley* case, the developer applied for tax abatement after an assessment date on which the rehabilitation was 90% complete, but still received abatement based on the pre-rehabilitation assessed value of the property.

The county assessor's statement of the value serves as the maximum assessed valuation of all real property included in the plans for a period of ten years from the date on which the statement is issued by the county. § 99.710.

Calculation of the 10-Year Abatement Period (Charter Cities)

Based on the *Kelley* case, the county should look to the January 1 assessment before the rehabilitation or new construction commenced. The facts of the *Kelley* case illustrate how this should work:

Jan. 1, 1985 – Assessed value of the subject property was \$46,080 (taxes due were \$2,186).

Aug. 1985 – Respondent purchased property, rehabilitation started.

Jan. 1, 1986 – Assessed value of the property was \$251,940 (taxes due were \$12,551), rehabilitation was 90% complete.

July 1986 – Owner received certificate of abatement from LCRA, owner delivered certificate to county assessor.

The county argued that taxes should be paid in 1986 based on the higher assessed value as of Jan. 1, 1986, because the county received the certificate in July 1986. The owner argued that the assessed value should be the lower Jan. 1, 1985 value because that was the value before the rehabilitation started.

The court agreed with the property owner, and the \$46,080 assessed value from 1985 was used for the purpose of calculating abatement. “The current assessed valuation of the then existing real property’ [in Section 99.705] does not refer to the valuation of the property when the certificate is presented to the assessor, as appellants would have us believe. An interpretation along these lines would render the remaining wording of the statute void of meaning, and would counter the intent of the legislature. \* \* \* We hold that 99.705 provides that the valuation of the property *before* rehabilitation begins is the applicable number which is to be used for determining tax relief.” *Kelley*, 774 S.W.2d at 141 (emphasis in original).

The *Kelley* case is not specific on how the 10-year period is calculated, but a rule can be drawn from the case. Section 99.715 provides that abatement is effective “each year for a period of ten years from the date on which the statement [of abatement] was issued.” The court held in *Kelley* that the taxes due for the year 1986 were \$2,186 (based on the 1985 value), so presumably the first year of the 10-year period was 1986, starting on January 1, 1986. The general rule from this case would be that the first year of the 10-year period is the calendar year during which the certificate of qualification is issued, not a partial year, and the abatement continues for nine more calendar years after the year that the certificate is issued.

Property tax exemption for periods longer than 10 years may also be available through the issuance of industrial revenue bonds to finance certain property, similar to the tax exemption allowed under Chapter 100, RSMo. LCRAs in St. Louis City and Kansas City have issued industrial revenues bonds to finance the acquisition of certain real and personal property. This property is then titled in the

name of the LCRA (and is therefore tax-exempt) and leased to a private company. The lease payments made by the private company are then used to pay debt service on the bonds.

## **VI. OTHER CONSIDERATIONS**

No real property can be acquired by the Authority until a plan is adopted by the governing body. An Authority may use the power of eminent domain to acquire any interest in any real property that is necessary to the redevelopment plan. All property including funds of an Authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process can be against the Authority's property. An authority is immune from any judgment which would be a charge or lien upon its property.

An Authority is a separate political entity required to comply with all Missouri laws applicable to political subdivisions (e.g., public meetings, Sunshine Law requirements, annual budgets, etc.). At least once a year the Authority must file a report of its activities with the city or county clerk where the Authority is located. Also, every five years the governing body of the city or county is to have a hearing to determine whether the Authority is making satisfactory progress under the time schedules in plans that have been approved.

A city which approves a land clearance project is granted certain additional powers by the LCRA Act which aid in the purposes of the plan, including causing parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished in compliance with a redevelopment plan. A city is also expressly authorized to plan or replan, zone or rezone any part of the city or make exceptions from building regulations and ordinances to carry out the plan.

Many provisions of the LCRA Act are similar to the Planned Industrial Expansion Authority ("PIEA") Act. However, the PIEA Act is available only to cities with a population of at least 400,000 or to cities that have adopted a charter under Article VI, Section 19 of the Missouri Constitution. Additionally, the PIEA Act is focused on industrial development.

\* \* \* \* \*

# LOCAL OPTION ECONOMIC DEVELOPMENT SALES TAX

## I. INTRODUCTION

A Local Option Economic Development Sales Tax may be levied, subject to voter approval, at a rate of up to one-half of one percent (0.5%) by any city, town, village or county (collectively, a “municipality”) pursuant to Section 67.1305, RSMo. If approved by the voters, the sales tax will become effective on the first day of the second calendar quarter following the election. If not approved by the voters, a proposal for a Local Option Economic Development Sales Tax may not be resubmitted to the voters for twelve (12) months.

Certain municipalities, including Springfield, Joplin, St. Joseph, Buchanan County, Jasper County, all cities within Jasper County, Butler County and all cities within Butler County, may levy a Local Option Economic Development Sales tax, subject to voter approval, at a rate of up to one-half of one percent (0.5%) pursuant to Section 67.1303, RSMo., in lieu of the sales tax levied pursuant to Section 67.1305, RSMo. The provisions in Section 67.1303, RSMo., differ slightly from the provisions of Section 67.1305, RSMo., presented in this memorandum. If your municipality is able to levy a Local Option Economic Development Sales Tax pursuant to either Section 67.1303, RSMo., or Section 67.1305, RSMo., please consult with a Gilmore & Bell attorney to determine which sales tax will best serve your municipality’s needs.

## II. PROCEDURES FOR IMPLEMENTATION

After the Local Option Economic Development Sales Tax is approved by the voters, the municipality levying the tax must create an Economic Development Tax Board. The membership of this Board is dependent upon whether the sales tax was levied by a city, town, village or county, as shown in the following table:

	<b>Levied by City/Town/Village</b>	<b>Levied by County</b>
School Districts	1	1
City/Town/Village	3	0
County	1	4
All Cities/Towns/Villages within County	0	2
<b>TOTAL MEMBERS:</b>	<b>5</b>	<b>7</b>

The purposes of this Board are to (1) develop and consider economic development plans, economic development projects and designations of economic development areas, (2) hold public hearings, and (3) make recommendations to the governing body of the municipality concerning economic development plans, economic development projects and designations of economic development areas. However, the governing body of the municipality levying the Local Option Economic Development Sales Tax will make all final funding determinations.

Before making any recommendations to the governing body of the municipality, the Economic Development Tax Board must hold a public hearing concerning the proposed economic development plan, economic development project or designation of an economic development area. Section 67.1305,

RSMo., does not provide any direction concerning the content of economic development plans or projects, the factors for considering the designation of an economic development area, or even procedures for giving notice of the public hearing. Accordingly, we suggest that the governing body of the municipality levying the sales tax pass a resolution, ordinance or order addressing these items concurrently with the establishment of the Economic Development Tax Board.

### **III. USE OF SALES TAX REVENUES**

The use of Local Option Economic Development Sales Tax revenue is subject to several restrictions:

- Sales tax revenue may not be used for any retail development project, except for the redevelopment of downtown areas or historic districts.
- At least twenty percent (20%) of the revenue must be used for projects directly related to long-term economic development preparation, including but not limited to the following:
  - Acquisition of land;
  - Installation of infrastructure for industrial or business parks;
  - Improvement of water and wastewater treatment capacity;
  - Extension of streets; and
  - Providing matching dollars for state or federal grants.
- Remaining revenue may be used for, but is not limited to, the following:
  - Marketing;
  - Providing grants and low-interest loans to companies for job training, equipment acquisition, site development and infrastructure;
  - Training programs to prepare workers for advanced technologies and high skill jobs;
  - Legal and accounting expenses directly associated with the economic development planning and preparation process; and
  - Developing value-added and export opportunities for Missouri agricultural products.
- Not more than twenty-five percent (25%) of revenue may be used annually for administrative purposes, including staff and facility costs.
- Sales tax revenue may be used outside of the boundaries of the municipality imposing the tax if:
  - The municipality imposing the tax or the state receives significant economic benefit from the economic development plan, economic development project or the designation of the economic development area; and

- An agreement is entered between all municipalities participating in the economic development plan, economic development project or the designation of the economic development area detailing the authority and responsibilities of each municipality.
- When imposed in a tax increment financing (TIF) district, Local Option Economic Development Sales Tax revenue is not captured by TIF.
- When imposed in any special taxing district, including but not limited to TIF, Neighborhood Improvement Districts or Community Improvement Districts, Local Option Economic Development Sales Tax revenue may not be used for the purposes of the special taxing district unless recommended by the Economic Development Tax Board and approved by the governing body of the municipality levying the tax.

#### **IV. REPORTING REQUIREMENTS**

The Economic Development Tax Board and the governing body of the municipality levying the Local Option Economic Development Sales Tax must make a public report at least annually on the use of the sales tax revenue and the progress of any economic development plan, economic development project or the designation of the economic development area.

Additionally, no later than March 1 of each year, the Economic Development Tax Board must submit to the Joint Committee on Economic Development (a joint committee of the Missouri General Assembly) a report that includes the following information for each economic development project funded:

- A statement of the project’s primary economic goals;
- A statement of the total Local Option Economic Development Sales Taxes received during the immediately preceding calendar year; and
- A statement of the total expenditures during the preceding calendar year in each of the following categories:
  - Infrastructure improvements;
  - Land and/or buildings;
  - Machinery and equipment;
  - Job training investments;
  - Direct business incentives;
  - Marketing;
  - Administration and legal expenses; and
  - Other expenditures.

**V. REPEAL OF SALES TAX**

The governing body of the municipality levying the Local Option Economic Development Sales Tax may choose to submit the question of repeal of the sales tax to the voters on any election date. Additionally, whenever the governing body of the municipality receives a petition signed by ten percent (10%) of registered voters of the municipality voting in the last gubernatorial election calling for an election to repeal the sales tax, the governing body must submit the question of the repeal to the voters at the next available election date.

If a majority of the voters approve the repeal, the repeal of the sales tax will become effective on December 31 of the calendar year in which the voters approved the repeal.

\* \* \* \* \*

**Exhibit B**

**PRELIMINARY FUNDING AGREEMENT**

This **PRELIMINARY FUNDING AGREEMENT** (“**Agreement**”) is entered into this \_\_\_\_ day of, 20\_\_\_\_, among the **CITY OF PECULIAR, MISSOURI** (the “**City**”), and \_\_\_\_\_, a Missouri \_\_\_\_\_ (the “**Developer**”) (collectively the “**Parties**”).

**RECITALS**

**WHEREAS**, the City is a fourth class city incorporated and exercising governmental functions and powers pursuant to the Constitution and the Revised Statutes of the State of Missouri, with its legislative power residing in the Board of Aldermen; and

**WHEREAS**, the Developer is the owner or has the right to purchase approximately \_\_\_\_ acres of real property generally located \_\_\_\_\_, and proposes to develop this property for \_\_\_\_\_ (the “**Development**”); and

**WHEREAS**, the Developer is a Missouri \_\_\_\_\_ and is authorized to conduct business in the State of Missouri; and

**WHEREAS**, the Developer is working with the City to develop a plan to provide for the funding of [**describe improvements**] to serve the Development, in accordance with Missouri law and applicable City Code requirements; and

**WHEREAS**, the Developer proposes to use [**describe funding mechanism**] to pay for improvements that will serve the Development (the Developer’s request(s) are collectively referenced herein as the “**Application**”); and

**WHEREAS**, in order for the City to fully consider and evaluate the Application and the proposed Development, the City will need to engage consultants to review, evaluate, process and consider the sources of public funding for the proposed Development; and

**WHEREAS**, the City does not have a source of funds to pay for costs incurred for additional legal, financial and other consultants or for direct out-of-pocket expenses and other costs resulting from services to review, evaluate, process and consider the Application; and

**WHEREAS**, it is the City’s policy that landowners and developers who desire assistance from the City in a public-private partnership or through the use of economic incentive tools shall demonstrate the financial ability to allow for the full and fair evaluation by the City of all development proposals and requests for economic incentives from the City

**WHEREAS**, in order for the City to fully consider and evaluate the Application, the Developer seeks to deposit funds with the City to be used by the City to pay for actual and reasonable out-of-pocket expenses necessary to perform a full evaluation of the Application.

**NOW THEREFORE**, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Services to be Performed by the City.** The City shall:

A. Prepare or consult with the Developer on the preparation and consideration of an application in accordance with applicable State law for the requested public funding methods, give all notices, make all publications and hold hearings as required by State law and other applicable laws;

B. Provide necessary staff, legal, financial, and planning assistance to evaluate, process and consider the public funding sources for the Development;

C. Provide the necessary staff and legal, financial and planning assistance to prepare and negotiate an agreement between the Developer and the City for implementation of the proposed public funding sources;

D. If a development Agreement is entered into, provide the necessary staff, legal, financial and planning assistance to implement and administer such agreement; and

E. Engage appropriate outside consultants and attorneys to carry out the tasks described above.

2. **Initial Deposit.** The City acknowledges receipt of Fifteen Thousand Dollars (\$15,000.00) (the “**Deposit**”) from the Developer upon the execution of this Agreement. The City shall disburse the Deposit as set forth in **Section 4** and shall bill the Developer pursuant to **Section 3** to re-establish the Deposit so that there is always a minimum cash balance of Fifteen Thousand Dollars (\$15,000.00) available, from which additional disbursements may be made as required.

3. **Additional Funding.**

A. The City shall submit an itemized statement for actual expenses incurred to perform its obligations hereunder or for any additional obligations or expenditures incurred by the City in accordance with this Agreement. Such statements shall be submitted on a regular periodic basis, but no more often than monthly. Developer shall pay the City the amounts set forth on such statements (the “**Additional Funds**”) within thirty (30) days of receipt thereof. If such funds are not so received, the unpaid balance shall be subject to a penalty of two percent (2%) per month until paid, but in no event shall such penalty exceed twenty-four percent (24%) per annum, and City shall be relieved of any and all obligations hereunder until paid or may terminate this Agreement pursuant to **Section 5**. Developer shall supply the Additional Funds in a timely manner so that City activities may continue without interruption.

B. Developer shall reimburse the City for its administrative expenses and actual out-of-pocket expenses necessary to perform the City’s obligations hereunder, using Gilmore & Bell, P.C., for special legal counsel, and other consultants as approved according to this paragraph. The City shall advise Developer in writing if it intends to utilize the services of any other consultant to perform its obligations under the terms of this Agreement. Such written notice shall include the name of the consultant, the service to be performed and an estimate of the cost expected. If Developer, in writing, within five (5) business days from receipt of the City’s notice, objects to either the consultant named or the service to be performed, the City and Developer shall negotiate in good faith to resolve Developer’s objections. If the Parties cannot agree on the consultant to be used or the service to be performed, the City shall have no obligation to perform that service under the terms of this Agreement and Developer shall have no obligation to pay for such service under the terms of this Agreement.

C. The parties agree that the funds advanced to the City under this Agreement shall be reimbursed to Developer, to the extent allowed by law, through any public funding sources that may result for the Development.

D. Before a vote by the Board of Aldermen for approval or disapproval of the Application or any other measure associated the Application, the Developer shall deposit with the City, upon notice from the City, sufficient Additional Funds to pay all outstanding expenses incurred hereunder and replenish the amount on deposit with the City as provided in **Section 2**.

4. **Disbursement of Funds.** The City shall disburse the Deposit and Additional Funds for reimbursement of costs to the City on or before the thirtieth (30th) day of each month, and for consulting fees and the payment of all out-of-pocket expenses incurred by the City in connection with the performance of its obligations under this Agreement as payment for such expenses become due. Upon reasonable notice, the City shall make its records available for inspection by Developer for such disbursements.

5. **Project Administration.** In addition to the services set forth in **Section 1**, the City may be required to provide services from time to time for the continuing administration of the funding mechanisms that are approved as part of the Application, and any contracts entered into in furtherance of the Application. Upon appropriate itemization, the City shall be reimbursed by the Developer for actual meeting expenses and other expenses that are reasonable or incidental to the general operations of the City and its consultants with respect to administration of such funding mechanisms, and any contracts entered into in furtherance of the Application. The provisions of this section shall apply until such time as the City and the Developer execute an agreement which provides for the termination of this Funding Agreement and the terms and conditions under which the City's ongoing services shall be funded. It is anticipated that, if approved, any such Agreement will include provisions necessary for reimbursement of such funds to the Developer.

6. **Termination of this Funding Agreement.**

A. **Termination by the City.** In the event the Developer fails to perform any of its obligations herein, the City may terminate this Funding Agreement, and any other agreement between the parties, at its sole discretion if the Developer fails to cure the default within ten (10) days after written notice to the Developer of the default. Termination by the City shall also terminate any duties and obligations of the City with respect to this Funding Agreement, including, but not limited to, the City's processing of the Application. Upon such termination, the Deposit and any Additional Funds shall be disbursed as set forth in paragraph C of this Section.

B. **Termination by the Developer.** The parties hereto acknowledge that the Developer may determine to abandon the Application. Upon written notice of abandonment by the Developer, this Funding Agreement shall terminate and the City may terminate any other agreement between the parties. Upon such termination, the Deposit and any Additional Funds shall be disbursed as set forth in paragraph C of this Section.

C. **Wrap-Up After Early Termination.** Upon termination pursuant to paragraphs A or B of this Section, the City shall retain the Deposit and Additional Funds, if any, necessary to reimburse the City for all actual and reasonable expenses incurred under this Funding Agreement to the date of termination and any monies due and owing to the City pursuant to any other agreement with the Developer. Upon such termination, in the event the Deposit and Additional Funds are insufficient to reimburse the City for the outstanding expenses of the City payable hereunder, the Developer shall reimburse the City as set forth in **Section 3**. After termination of this Funding Agreement pursuant to paragraphs A or B of this Section, any amounts remaining from the Deposit and the Additional Funds after all amounts have either been paid as directed by the City, or reimbursed to the City, shall be returned to the Developer.

D. Termination by Consolidation into TIF Agreement. Unless otherwise terminated as provided in paragraphs A or B of this **Section 6**, this Funding Agreement shall stay in full force and effect until it is specifically terminated as set forth in an agreement between the City and Developer, and thereafter the terms and conditions of the agreement shall provide for the continued funding arrangements by Developer with respect to the Application.

7. **Notice.** Any notice, approval, request or consent required by or asked to be given under this Agreement shall be deemed to be given if in writing and mailed by United States mail, postage prepaid, or delivered by hand, and addressed as follows:

To the City:

City of Peculiar, Missouri  
Attn: City Administrator  
250 S. Main Street  
Peculiar, Missouri 64078

With a copy to:

David Bushek  
Gilmore & Bell, P.C., Suite 1100  
2405 Grand Blvd.  
Kansas City, Missouri 64108

To Developer:

**[ADD]**

With a copy to:

**[ADD attorney]**

Each party may specify that notice be addressed to any other person or address by giving to the other party ten (10) days prior written notice thereof.

8. **City Requirements and Prior Approval.** Developer agrees to comply with all applicable laws and City ordinances, including, but not limited to, the City's zoning ordinances, subdivision regulations and all planning or infrastructure requirements related to the development of any property. Developer agrees that execution of this Agreement in no way constitutes a waiver of any requirements of applicable City ordinances or policies with which Developer must comply and does not in any way constitute prior approval of any future proposal for development. Developer acknowledges that the City may not lawfully contract away its police powers and that approval of any zoning, subdivision and similar development applications cannot be contractually guaranteed. This Agreement does not alter or diminish the City's ability to exercise its legislative discretion to consider any application in accordance with all applicable laws with respect to the development of any property.

9. **Legal Representation.** The Developer understands and acknowledges that this arrangement is an accommodation to the Developer in which the City's special legal counsel is not providing legal representation to the Developer and that no attorney-client relationship between the Developer and the City's special legal counsel shall exist by any reason including, but not limited to, the Developer's payment of the City's expenses under this Funding Agreement. Developer further understands that legal counsel paid pursuant to this Funding Agreement is legal counsel for the City and acknowledges the duties of confidentiality and loyalty to the City.

10. **Subsequent Developers.** In the event the City selects another developer of record pursuant to a request for proposals to carry out the Application, the City shall require the subsequent developer to assume all obligations of the Developer under this Funding Agreement as of the date that the subsequent developer is designated as the developer of record and to reimburse the Developer for its expenditures under this Funding Agreement.

11. **Assignment.** This Funding Agreement may not be assigned by any party without the prior written consent of the other party. No assignment, unless specifically provided for in such consent, shall relieve the assigning party of any liability pursuant to this Funding Agreement. This Funding Agreement shall be binding upon the parties and their successors and permitted assigns.

*[Remainder of this Page Intentionally Left Blank]*

The parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

**CITY OF PECULIAR, MISSOURI**

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

(SEAL)

ATTEST:

\_\_\_\_\_  
City Clerk

**[DEVELOPER]**

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

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

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

**RESOLUTION 2014-08**

**A RESOLUTION OF THE CITY OF PECULIAR, MISSOURI ADOPTING AN ECONOMIC DEVELOPMENT INCENTIVE POLICY.**

**WHEREAS**, in 2004 the Board of Aldermen adopted a policy for the consideration of Tax Increment Financing (“TIF”) applications and the implementation of TIF Projects; and

**WHEREAS**, the City of Peculiar wishes to adopt a comprehensive policy regarding consideration and implementation of all economic development incentives available to the City, including but not limited to tax increment financing;

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

Section 1. The City of Peculiar Economic Development Incentive Policy hereby attached as Exhibit A is hereby adopted.

Section 2. Resolution 04-48, adopted September 20, 2004, is hereby repealed.

Section 3. Any Resolution or part thereof which conflicts with this Resolution shall be null and void.

**DULY READ AND PASSED THIS \_\_\_\_\_ DAY OF FEBRUARY, 2014 BY THE FOLLOWING VOTE:**

Alderman Gallagher	_____	Alderman Dunsworth	_____
Alderman Fines	_____	Alderman Ray	_____
Alderman Stark	_____	Alderman Turner	_____

APPROVED:

ATTEST:

\_\_\_\_\_  
Ernest Jungmeyer, Mayor

\_\_\_\_\_  
Nick Jacobs, City Clerk

**City Administrator**  
*Brad Ratliff*

**City Planner**  
*Cliff McDonald*

**City Attorney**  
*Reid F. Holbrook*

**Business Office Manager**  
*Trudy Prickett*



**City Engineer**  
*Carl Brooks*

**Chief of Police**  
*Harry Gurin*

**City Clerk**  
*Nick Jacobs*

**Parks Director**  
*Nathan Musteen*

Municipal Offices – 250 S Main, Peculiar, MO 64078  
Phone: 816.779.5212 Facsimile: 816.779.5213

**To:** Board of Aldermen  
**From:** Cliff McDonald, City Planner  
**Date:** February 18, 2014

### **GENERAL INFORMATION**

**Applicant:** Planning Commission & City Staff

**Requested Actions:** Amend Chapter 400, Zoning Regulations, to Incorporate an Approved Land-use Table (Land-use Matrix) to Identify Permitted and Special Permit Uses in Districts: AG, Agriculture; O-C, Office Commercial; C-1, General Business; C-2, Central Business; C-P, Planned Business; I-1, Light Industrial; I-2, Heavy Industrial; and A-C, Arts and Culture Overlay.

**Date of Application:** January 6, 2014

**Purpose:** To Amend Chapter 400, Zoning Regulations, to Identify Permitted and Special Permit Uses in Multiple Zoning Districts by Incorporating an Approved Land-use Table (see Requested Actions above).

**Property Location (if applicable):** City Wide

### **PROPOSAL**

Recommend the Board of Aldermen review the proposed Amendments to Chapter 400, Zoning Regulations, and consider approving & adopting these changes to incorporate an Approved Land-use Table into the City's Zoning Regulations by Ordinance. The Public Hearing before the Board of Aldermen is scheduled for February 18, 2014.

### **PREVIOUS ACTIONS**

The Planning Commission identified the need to provide for "Permitted" Uses in Commercial Zoning Districts to provide for, and promote, Economic Development and Commercial growth within the City. As discussion and review of Permitted Uses ensued, Special Permits were added to the review process as well as other Zoning Districts so that "Similar" uses were being addressed. Eventually all the City's Zoning Districts except for "Residential" were included in the discussion, review and development of the Approved Land-use Table (Land-use Matrix).

The Planning Commission has worked diligently on the Approved Land-use Table being presented for the Board's review. The Commission has devoted Ten (10) months creating this document, based initially upon the Shawnee, Kansas Land-use Matrix, and has worked closely with DPACD throughout its development to ensure the uses identified for District A-C were approved by DPACD's Board of Directors.

The Planning Commission held its Public Hearing for the Amendments to Chapter 400 to incorporate the Approved Land-use Table on February 13<sup>th</sup>, 2014; there were no public comments in opposition to the proposed amendments and the Planning Commission approved the changes by a vote of 6:0 in favor.

## KEY ISSUES

1. Documents Presented for Your Review: There are Two (2) “Sets” of documents being presented for your Information & Consideration, they are:
  - a. Ordinance, Chapter 400 Land-use Table Amendments. This document is the Ordinance to incorporate all the changes to existing Districts, and adds three (3) “New” Sections (400.500, 400.501 and 400.502) to Chapter 400 to implement the Approved Land-use Table.
  - b. Approved Land-use Table. This Thirteen (13) page document lists the “Permitted” and “Special Permit” Uses for all Zoning Districts except for the City’s Residential and Historic Zoning Districts. This Final Table has “Footnotes” incorporated in it to identify special requirements outlined in the Zoning Regulations for specific Land Uses. This should be reviewed closely as the approval/disapproval of all future Land-use applications shall be determined from this document.
  
2. Changes to Zoning Regulations (Aside from Land-use): There are no “Significant” changes to the District Zoning Regulations being presented in this proposed Amendment. There are several minor changes to the Regulations which are outlined below:
  - a. SECTION 400.450: DISTRICT “A-C” ARTS AND CULTURE OVERLAY. Paragraph 1.a is proposed to require “All” permitted uses in a building with a footprint larger than two thousand (2,000) square feet shall require a Special Use Permit. This was requested by DPACD to leave the requirement as is, discussed and agreed upon by the Planning Commission and is presented to the Board of Aldermen for consideration.
  - b. SECTION 400.450: DISTRICT “A-C” ARTS AND CULTURE OVERLAY. Paragraph A.2.e is proposed to establish the Maximum Size of 10,000 square feet for a principal building in the District.
  - c. SECTION 400.460: DISTRICT C-P PLANNED BUSINESS DISTRICT. Paragraph 1.b is proposed to reduce the required minimum acreage from 20 acres to 10 acres.
  - d. SECTION 400.600 APPROVAL CRITERIA. Paragraph 7 is proposed to ensure the Applicant for a Special Permit in District A-C makes a presentation to the DPACD Board of Directors so their Board may subsequently provide a recommendation for, or against, the Special Permit to both the Planning Commission and Board of Aldermen.
  - e. SECTION 400.640 SPECIAL PERMITTED USES. Paragraph B.1.a is proposed to align the Zoning Regulations for an Adult Entertainment Establishment to the Approved Land Use Table as presented.

## STAFF RECOMMENDATIONS

Recommend the Board of Aldermen review the proposed changes and Approved Land-use Table in preparation for a Public Hearing before the Board scheduled for February 18<sup>th</sup>, 2014 and consider the proposed Zoning Regulation Amendments for adoption.

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**STAFF CONTACT: Clifford L. McDonald**

**BILL NO. 2014-05**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ELEVEN (11) SECTIONS OF CHAPTER 400 OF THE PECULIAR MUNICIPAL CODE; AND ESTABLISHING THREE (3) NEW SECTIONS TO PROVIDE AN APPROVED LAND USE TABLE FOR MULTIPLE ZONING DISTRICTS AND TO FURTHER DEFINE APPROVED LAND USES AND SPECIFIC EXCLUSIONS.**

**WHEREAS**, the City Planner has recommended amendments to SECTIONS 400.110, 400.360, 400.420, 400.430, 400.440, 400.450, 400.460, 400.470, 400.480, 400.600, 400.640 and establishing SECTIONS 400.500, 400.501 and 400.502 of the City of Peculiar Municipal Code, and

**WHEREAS**, the Planning Commission (“Commission”) recommended approval of the changes to the above listed Sections of Chapter 400 of the City Municipal Code following a Public Hearing held February 13, 2014.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI THAT SECTIONS 400.110, 400.360, 400.420, 400.430, 400.440, 400.450, 400.460, 400.470, 400.480, 400.600 AND 400.640 OF THE CITY MUNICIPAL CODE BE AMENDED AND NEW SECTIONS 400.500, 400.501 AND 400.502 BE ADOPTED AS FOLLOWS:**

**SECTION I:** That Section 400.110, Paragraph 8. be removed in its entirety and replaced with the following:

8. Unless the context clearly indicates a different meaning was intended, all words, terms and phrases not otherwise defined herein shall first be defined in accordance with the definitions set forth in “A Planners Dictionary” (APA, American Planning Association, PAS, Planning Advisory Service Report Number 521/522). If no such definition is available, any words, terms, and phrases shall be given their usual and customary meaning as defined in any recognized standard English dictionary.

**SECTION II:** That Section 400.360 be removed in its entirety and replaced with the following:

**SECTION 400.360: DISTRICT "AG" AGRICULTURE**

The "AG" Agriculture District is intended to conserve farm land for agricultural purposes and to serve as a "holding" zone to prevent the premature development of large land acreages and of recently annexed land for which the most appropriate future use has not yet been determined.

1. *Permitted uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses:

- a. Permitted uses identified and approved in Section 400.500 Approved Land Uses and Specific Exclusions and Table 400.502, Approved Land Use Table.
- b. Agriculture, horticulture, orchards and general farming, excluding the raising, breeding or processing of livestock or farm animals (except the keeping of up to ten (10) chickens is permitted in accordance with Peculiar Municipal Code [Chapter 205](#)).
- c. Single-family dwelling, detached.
- d. Stable, private or public or riding.
- e. Keeping of one (1) horse in accordance with the following conditions:
  - (1) A minimum area of two and one-half (2½) or more acres is required for each horse.
  - (2) The animal must have access to adequate food and water.
  - (3) The animal must have access to shade and, at a minimum, a permanent type lean to that protects from wind.
  - (4) The owner shall provide adequate care and control of the animal to ensure its health and safety, including a properly fenced outdoor area large enough for exercising.
  - (5) All other provisions of the Peculiar Municipal Code regarding the keeping of animals shall be complied with.
- f. Keeping of one (1) head of cattle, 2 sheep, or 2 goats in accordance with the following conditions:
  - (1). A minimum area of 2 and one-half (2-½) acres is required for each head of cattle, or 2 sheep or goats, with a minimum total of ten (10) acres of grazing land per owner.
  - (2). The animal must have access to adequate food and water.
  - (3). The owner shall provide adequate care and control of the animal to ensure its health and safety, including a properly fenced outdoor area large enough for exercising.
  - (4). All other provisions of the Peculiar Municipal Code regarding the keeping of animals shall be complied with.

2. *Special uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered for one (1) or more of the special uses identified and approved in Section 400.500 Approved Land Uses and Specific Exclusions and Table 400.502, Approved Land Use Table without prior approval of a special use permit in accordance with Article V:

3. *Height and area regulations.* The height of buildings hereafter erected, constructed, reconstructed, moved or altered and the minimum dimensions of lots and yards shall be as follows, unless otherwise permitted in this code:

a. *Height.* Buildings or structures shall not exceed thirty-five (35) feet or two and one-half (2½) stories in height, except accessory agricultural equipment structures designed to be fireproof.

b. *Front yards.* There shall be a front yard of at least thirty (30) feet.

c. *Side yards.* There shall be a side yard on each side of a building of at least fifteen (15) feet.

d. *Rear yards.* There shall be a rear yard of at least thirty (30) feet.

e. *Lot area.*

(1) Single-family dwellings shall provide a lot area of at least ten (10) acres, provided that where a lot has less area than herein provided and has been held in separate ownership since on or before December 3, 1979, this regulation shall not prohibit the erection of a single-family dwelling.

(2) All other uses shall provide a lot area of at least twenty (20) acres.

**SECTION III:** That Section 400.420 be removed in its entirety and replaced with the following:

**SECTION 400.420: DISTRICT "O-C" OFFICE COMMERCIAL**

The "O-C" District is intended to encourage and permit the establishment of commercial office uses in areas which have developed, or are appropriate to develop, as limited retail districts. This district should also be located in areas adjacent to established commercial districts, in historic and/or architecturally significant areas where the adaptive reuse of existing buildings is encouraged, in areas of particular tourist interest and along arterial and/or collector streets which are suitable for more intensive commercial development.

1. *Permitted uses and Special Uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses identified and approved in Section 400.500 Approved Land Uses and Specific Exclusions and Table 400.502, Approved Land Use Table:

2. *Height and area regulations.* The height of buildings hereafter erected, constructed, reconstructed, moved or altered and the minimum dimensions of lots and yards shall be as follows, unless otherwise permitted in this code:

a. *Height.* Buildings or structures may be erected to any height provided area regulations can be met.

b. *Front yards.* There shall be a front yard of at least twenty-five (25) feet, plus three (3) feet for each story in excess of four (4).

c. *Side yards.* There shall be a side yard on each side of a building equal to twenty percent (20%) of the lot width, provided the side yard shall not be less than fifteen (15) feet and need not be more than fifty (50) feet.

d. *Rear yards.* There shall be a rear yard of at least twenty-five (25) feet for buildings not exceeding two (2) stories and at least the height of the building for buildings in excess of two (2) stories.

**SECTION IV:** That Section 400.430 be removed in its entirety and replaced with the following:

**SECTION 400.430: DISTRICT "C-1" GENERAL BUSINESS**

The "C-1" District is intended to provide locations for a variety of commercial uses throughout the community while ensuring the size and nature of uses permitted and the location characteristics are such that they will not adversely affect surrounding residences.

1. *Permitted uses and Special Uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses identified and approved in Section 400.500 Approved Land Uses and Specific Exclusions and Table 400.502, Approved Land Use Table:

2. *Height and area regulations.* The height of buildings hereafter erected, constructed, reconstructed, moved or altered and the minimum dimensions of lots and yards shall be as follows, unless otherwise permitted in this code:

- a. *Height.* Buildings or structures may be erected to any height.
- b. *Front yards.* There shall be a front yard of at least twenty (20) feet.
- c. *Side yards.* There shall be a side yard on each side of a building of at least ten (10) feet.
- d. *Rear yards.* There shall be a rear yard of at least twenty (20) feet.

**SECTION V:** That Section 400.440 be removed in its entirety and replaced with the following:

**SECTION 400.440: DISTRICT "C-2" CENTRAL BUSINESS**

The "C-2" District is intended to provide locations for a wide variety of uses. The district is intended to be applied to a very limited downtown business core.

1. *Permitted uses and Special Uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses identified and approved in Section 400.500 Approved Land Uses and Specific Exclusions and Table 400.502, Approved Land Use Table:

2. *Height and area regulations.* The height of buildings hereafter erected, constructed, reconstructed, moved or altered and the minimum dimensions of lots and yards shall be as follows, unless otherwise permitted in this code:

- a. *Height.* Buildings or structures may be erected to any height.
- b. *Front yards.* The required front yard setback shall be zero (0) feet.
- c. *Side yards.* The required side yard setback shall be zero (0) feet.
- d. *Rear yards.* There shall be a rear yard of at least twenty (20) feet.

**SECTION VI:** That Section 400.450 be removed in its entirety and replaced with the following:

**SECTION 400.450: DISTRICT "A-C" ARTS AND CULTURE OVERLAY**

A. The "A-C" District is intended to provide opportunities that encourage the development of an arts and culture district within a very limited area of the downtown business core.

1. *Permitted uses and Special uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses identified and approved in Section 400.500 Approved Land Uses and Specific Exclusions and Table 400.502, Approved Land Use Table:
  - a. All Permitted Uses in a building with a footprint larger than two thousand (2,000) square feet shall require a Special Use Permit.
2. *Height and area regulations.* The height of buildings hereafter erected, constructed, reconstructed, moved or altered and the minimum dimensions of lots and yards shall be as follows, unless otherwise permitted in this Code:
  - a. *Height.* The maximum height for principal buildings and structures shall be forty-five (45) feet and the maximum number of stories shall be three (3).
  - b. *Front yards.* The required front yard setback shall be zero (0) feet or no closer than existing building(s) on block, whichever is more stringent.
  - c. *Side yards.* The required side yard setback shall be zero (0) feet.
  - d. *Rear yards.* There shall be a rear yard of at least five (5) feet.
  - e. Area. The maximum area for principal buildings and structures shall be ten thousand (10,000) square feet.

B. *Additional Regulations Specific To The District.*

1. *Parking regulations.* On-street parking is allowed within the district. Furthermore, the district is exempt from the required off-street parking stall requirement. Nonetheless, if a property owner constructs off-street parking spaces, the parking lot shall be paved with an approved hard surface meeting the requirements of the City Engineer.\
2. *Signs.* Signs permitted in [Article IX](#) and additional signs described below:
  - a. Projecting signs.
  - b. Menu boards.
  - c. Flashing, blinking, moving or otherwise animated signs allowed as a special use permit approved by the Board of Aldermen.
  - d. Signs in rights-of-way approved by the City Engineer and MoDOT, if applicable.

e. Off-site promotional signs for events, festivals and other activities approved by the City Planner.

f. Temporary signs and banner signs no longer than thirty (30) days consecutively and no more than one hundred eighty (180) days a calendar year.

g. Additional signs not described above or in [Article IX](#) allowed as a special use permit approved by the Board of Aldermen.

3. *Lighting.* Lighting permitted in [Chapter 400](#) "Zoning Regulations" and additional lighting described below:

a. Neon.

b. Additional lighting allowed as a special use permit approved by the Board of Aldermen.

4. *Noise.* No business shall exceed fifty-five (55) decibels as described in [Section 400.1160](#) "Performance Standards for Noise" after 10:00 P.M. seven (7) days a week except allowed as a special use permit approved by the Board of Aldermen.

**SECTION VII:** That paragraphs 1, 2 and 3 of Section 400.460 be removed in their entirety and replaced with the following:

1. *Permit required.*

a. Any development, including building and open land uses, shall be prohibited in the "C-P" Planned Business District prior to the approval of a development plan in conformance with the requirements of this Section.

b. "C-P" Planned Business District zoning shall not be permitted or granted upon any property having a total area of less than ten (10) acres.

c. The review and approval of a development plan shall be in accordance with [Article XI](#).

2. *Permitted uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the permitted uses identified and approved in [Section 400.500 Approved Land Uses and Specific Exclusions](#) and [Table 400.502, Approved Land Use Table.](#)

3. *Special uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered for one (1) or more of the special uses identified and approved in Section 400.500 Approved Land Uses and Specific Exclusions and Table 400.502, Approved Land Use Table without prior approval of a special use permit in accordance with Article V.

**SECTION VIII:** That Section 400.470 be removed in its entirety and replaced with the following:

**SECTION 400.470: DISTRICT "I-1" LIGHT INDUSTRIAL**

The "I-1" District provides locations for a variety of uses associated primarily in the conduct of light manufacturing, assembling and fabrication, warehousing, wholesaling and commercial service operations that require adequate accessibility to transportation facilities. The district is also intended to provide locations for a limited amount of commercial development that will serve employees of surrounding industrial uses.

1. *Permitted uses and Special Uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses identified and approved in Section 400.500 Approved Land Uses and Specific Exclusions and Table 400.502, Approved Land Use Table:
2. *Height and area regulations.* The height of buildings hereafter erected, constructed, reconstructed, moved or altered and the minimum dimensions of lots and yards shall be as follows, unless otherwise permitted in this code:
  - a. *Height.* Buildings or structures shall not exceed seventy-five (75) feet or six (6) stories in height.
  - b. *Front yards.* The required front yard setback shall be fifteen (15) feet, unless adjacent to a residential district, then the front yard requirement of such adjoining residential district shall be provided.
  - c. *Side yards.* The required side yard setback shall be ten (10) feet.
  - d. *Rear yards.* There shall be a rear yard of at least twenty (20) feet.

**SECTION IX:** That Section 400.480 be removed in its entirety and replaced with the following:

**SECTION 400.480: DISTRICT "I-2" HEAVY INDUSTRIAL**

The "I-2" District is intended to provide locations for industrial uses which by their nature generate levels of smoke, dust, noise, odors and visual impacts that render them incompatible with virtually all other land uses. The district is also intended to provide locations for a limited amount of commercial development that will serve employees of surrounding industrial uses.

1. *Permitted uses and Special Uses.* No building, structure, land or premises shall be used and no other building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses identified and approved in Section 400.500 Approved Land Uses and Specific Exclusions and Table 400.502, Approved Land Use Table:
2. *Height and area regulations.* The height of buildings hereafter erected, constructed, reconstructed, moved or altered and the minimum dimensions of lots and yards shall be as follows, unless otherwise permitted in this code:
  - a. *Height.* Buildings or structures shall not exceed seventy-five (75) feet or six (6) stories in height.
  - b. *Front yards.* The required front yard setback shall be fifteen (15) feet, unless adjacent to a residential district, then the front yard requirement of such adjoining residential district shall be provided.
  - c. *Side yards.* The required side yard setback shall be ten (10) feet.
  - d. *Rear yards.* There shall be a rear yard of at least twenty (20) feet.

**SECTION X:** That Section 400.600 be removed in its entirety and replaced with the following:

**SECTION 400.600: APPROVAL CRITERIA**

In order for the Commission to recommend approval or disapproval of an application for a special permit or for the Board to approve or deny an application for a special permit, they shall make findings of fact to determine that the following criteria are met:

1. The proposed use is consistent with the intent of the Comprehensive Plan;
2. The proposed use is one specifically permitted by this code;
3. The proposed use does not adversely impact the public health, safety or general welfare;
4. The proposed use does not adversely impact the public infrastructure system;
5. The proposed use is compatible with the use, scale, orientation and setback of properties in the general vicinity;
6. The proposed use conforms to all conditions and performance standards as set forth in this Article, when applicable; and
7. An application for a special permit in District A-C requires the applicant to present the application information to the Downtown Peculiar Arts and Culture District (“DPACD”) Board of Directors. A recommendation from DPACD, either for or against the special use permit, is required for the Public Hearings before both the Planning Commission and Board of Alderman; the Commission and Board shall take DPACD’s recommendation under advisement.

**SECTION XI:** That Section 400.640, Paragraph B.1.a be removed in its entirety and replaced with the following:

- a. All such businesses must be located in an area zoned “I-1” or I-2”.

**SECTION XII:** That new Section 400.500 of the Peculiar Municipal Code be established to read as follows:

**SECTION 400.500: APPROVED LAND USES AND SPECIFIC EXCLUSIONS.**

(a) The presumption established by this chapter is that all legitimate uses of land are approved within at least one zoning district in the city limits. Therefore, because the list of approved uses set for in [section 400.502](#) (Approved Land use Table) cannot be all inclusive; those uses that are listed shall be interpreted by the City Planner to include Similar Uses that have similar impacts to the uses listed.

(b) Notwithstanding subsection (a) of this section, all uses that are not listed in [section 400.502](#) (Approved Land use Table), even given the interpretation mandated by subsection (a) of this section, are prohibited. Nor shall [section 400-502](#) (Approved Land use Table) be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is approved in other zoning districts.

(c) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

- (1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the city's fire prevention code.
- (2) Stockyards, slaughterhouses, and rendering plants.
- (3) Use of a travel trailer as a temporary or permanent residence.

**SECTION XIII:** That new Section 400.501 of the Peculiar Municipal Code be established to read as follows:

**SECTION 400.501: USE OF THE DESIGNATIONS “P,” “SP,” AND/OR “-” IN APPROVED LAND USE TABLE.**

(a) Permitted uses. Uses identified with a “P” in the Approved Land Use Table, Sec. 400.502, are permitted in each respective district, provided that uses comply with all other applicable standards of this ordinance. No building or premises improved or unimproved shall be used, and no building shall be hereafter erected, converted, enlarged, reconstructed, or structurally altered, except for a purpose permitted in the district in which the building or land use is located as shown in the Approved Land Use Table, Sec. 400.502, except for:

- a. Uses lawfully established prior to the effective date of this Zoning Ordinance or in accordance with Chapter 400, ARTICLE X. Non-conformities, of this ordinance.
  - b. Special uses allowed in accordance with Chapter 400, ARTICLE V, Special Permits.
- (b) Special uses. Uses identified with an “SP” in the Approved Land Use Table, Sec. 400.502, are considered special uses and may be permitted in the subject district only after review and approval by the Board of Aldermen in accordance with Chapter 400, ARTICLE V, Special Permits of this ordinance.
- (c) Prohibited uses. Uses identified with a “-“ in the Approved Land Use Table, Sec. 400.502, are expressly prohibited in the subject district. Uses that are not listed may also be prohibited; determination of whether an unlisted use may be permitted shall be made by the City Planner in accordance with Chapter 400, ARTICLE XII, Administration and Enforcement of this ordinance.

**SECTION XIV:** That new Section 400.502 of the Peculiar Municipal Code be established to read as follows:

**SECTION 400.502: APPROVED LAND USE TABLE.**

<b>TABLE KEY: Approved Land Use Table</b>	
<b>Column Heading</b>	<b>Zoning District</b>
AG	Agriculture District
O-C	Office Commercial District
C-1	General Business District
C-2	Central Business District
C-P	Planned Business District
I-1	Light Industrial District
I-2	Heavy Industrial District
A-C	Arts and Culture Overlay District

**Table 400.502, Approved Land Use Table**

**Effective Date.** The effective date of this ordinance shall be the \_\_\_\_ day of \_\_\_\_\_, 2014.

First Reading: \_\_\_\_\_

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

**BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2014, BY THE FOLLOWING VOTE:**

Alderman Gallagher \_\_\_\_\_  
Alderman Dunsworth \_\_\_\_\_  
Alderman Fines \_\_\_\_\_

Alderman Ray \_\_\_\_\_  
Alderman Stark \_\_\_\_\_  
Alderman Turner \_\_\_\_\_

APPROVED:

ATTEST:

\_\_\_\_\_  
Ernest Jungmeyer, Mayor

\_\_\_\_\_  
Nick Jacobs, City Clerk

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Abstracting services	-	-	P	P	P	P	-	-
Accounting & Bookkeeping services	-	-	P	P	P	P	-	-
Adult entertainment establishment <sup>2</sup>	-	-	-	-	-	-	SP	SP
Advertising-direct or general mail	-	-	-	P	P	-	-	-
Air conditioning/plumbing/heating- Contractors	-	-	-	P	P	-	P	-
Air conditioning/plumbing/heating- Wholesale	-	-	-	-	-	-	P	-
Aircraft parts-Mfg	-	-	-	-	-	-	P	-
Aircraft storage/equipment maintenance	-	-	-	-	-	-	P	-
Alcoholic beverages,beer,wine-wholesale	-	-	-	-	-	-	P	-
Alcoholic beverages,beer,wine-retail	-	P	-	P	P	P	-	-
Alterations-clothing	-	P	-	P	P	P	-	-
Amusement parks	SP	-	-	-	-	-	-	-
Animal day care	P	-	-	SP	SP	-	P	-
Animal Hospital-outdoor kennel	P	-	-	SP	SP	-	P	-
Animal Hospital-No outdoor kennel	P	-	-	SP	SP	-	P	P
Antiques-retail	-	P	-	P	P	P	-	-
Apparel & accessories-Mfg	-	-	-	-	-	-	P	-
Apparel & accessories-retail	-	P	-	P	P	P	-	-
Appliance and large electrical repair	-	-	-	-	-	-	P	P
Appliances-Mfg	-	-	-	-	-	-	P	P
Appliances-retail	-	-	-	P	P	P		
Apiary or aviary	-	-	-	-	-	-	P	P
Aquariums	SP	-	-	-	-	-	-	-
Arcades, billiard halls, amusement centers	-	-	-	P	P	P	-	-
Architectural services	-	-	P	P	P	-	-	-
Arenas, field houses	SP	-	-	-	-	-	-	-
Armature rewinding	-	-	-	-	-	-	P	-
Art galleries	-	P	-	P	P	P	-	-
Artisian production shop	-	P	-	-	-	-	-	-
Artist Studio	-	P	-	-	-	-	-	-
Asphalt felts and coatings-Mfg	-	-	-	-	-	-	SP	-
Auction establishments	-	-	-	SP	SP	SP	-	-

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Automatic temperature controls-Mfg	-	-	-	-	-	-	P	-
Automobile Brokers	-	-	-	-	-	-	P	-
Automobile/motor vehicle repair	-	-	-	P	P	SP	P	-
Automobile/motor vehicle sales	-	-	-	-	-	SP	P	-
Automobile/truck rental services	-	-	-	SP	-	SP	P	-
Automobile/truck wash	-	-	-	SP	SP	SP	SP	-
Automobile leasing establishments	-	-	-	P	-	SP	P	-
Automobile parts & supplies-retail	-	-	-	P	P	P	-	-
Automobile salvage dealer	-	-	-	-	-	-	-	SP
Automobile service center/maintenance	-	-	-	P	P	SP	-	-
Bakeries - Retail	-	P	-	P	P	P	-	-
Bakeries - Wholesale	-	-	-	-	-	-	P	P
Banking services	-	P	-	P	P	P	-	-
Banking services-off premise ATM machines	-	P	-	P	P	P	-	-
Barber or Beautician services	-	P	-	P	P	P	-	-
Bar or Tavern, without live entertainment	-	P	-	P	P	P	P	P
Bar or Tavern, with live entertainment	-	P	-	SP	SP	SP	-	-
Batch plant	-	-	-	-	-	-	-	SP
Bed & Breakfast Inn	-	P	-	-	-	-	-	-
Bicycles-Mfg	-	-	-	-	-	-	P	-
Bicycles-retail & repair	-	P	-	P	P	P	-	-
Billboard signs <sup>2</sup>	-	-	-	-	-	-	SP	SP
Blank books, loose leaf binders-Mfg	-	-	-	-	-	-	P	-
Boarding or Lodging House	-	P	-	-	-	-	-	-
Boat and boat trailers-Mfg	-	-	-	-	-	-	P	-
Boat building, repair & storage	-	-	-	-	-	-	P	-
Boat rentals	-	-	-	SP	SP	SP	-	-
Body Art or Tattoo Parlor	-	P	-	P	P	-	-	-
Bookbinding and misc. work	-	P	-	P	P	P	-	-
Book, magazines, newspaper distributors-Wholesale	-	-	-	-	-	-	P	-
Book, magazines, newspaper - Retail	-	P	-	P	P	P	-	-
Bottled gas- retail	-	-	-	-	-	-	SP	-

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Bottling, canning or preserving-factory	-	-	-	-	-	-	SP	P
Bowling alleys	-	-	-	P	-	P	-	-
Brewery	-	-	-	-	-	-	SP	P
Brewery, micro	-	P	-	P	P	P	P	-
Brew Pub	-	P	-	P	P	P	P	-
Brick and clay tile- Mfg	-	-	-	-	-	-	P	-
Broadcast station - Radio or Television	P	P	-	P	-	-	P	P
Brooms and brushes- Mfg	-	-	-	-	-	-	P	-
Building contractor's office	-	-	P	P	P	P	-	-
Bulk Petroleum stations/terminals	-	-	-	-	-	-	SP	SP
Business Management Consulting services	-	-	P	P	P	P	P	P
Business Associations	-	-	P	P	P	P	-	-
Business forms-Mfg	-	-	-	-	-	-	P	-
Cable TV maintenance yard	-	-	-	-	-	-	P	-
Camera/photographic material-retail	-	P	-	P	P	P	-	-
Carpentry, cabinet or pattern shop	-	-	-	-	-	-	P	P
Car wash/detail cleaning facilities	-	-	-	P	P	P	P	-
Carwash, industrial	-	-	-	-	-	-	P	P
Caterers	-	P	-	P	P	-	SP	-
Cemeteries	P	-	-	-	-	-	-	-
Check-cashing establishment	-	-	-	-	-	-	SP	-
Child & Adult Daycare centers	-	P	-	P	P	-	-	-
Chiropractors & health related services	-	P	P	P	P	-	-	-
Chocolate-Mfg	-	-	-	-	-	-	P	-
Civic, social, & fraternal organizations	-	-	-	P	P	-	-	-
Clay, ceramic, refractory mineral-Mfg	-	-	-	-	-	-	P	-
Clean & polishing materials-Mfg	-	-	-	-	-	-	P	-
Clothing-Mfg	-	-	-	-	-	-	P	-
Club, health	-	P	-	P	P	P	P	-
Club, private <sup>2</sup>	-	P	-	-	-	-	-	-
Coin operated Laundry	-	P	-	P	P	-	-	-
Cold storage facility	-	-	-	-	-	-	P	P

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Computer hardware & software-retail	-	-	P	P	P	P	-	-
Computer hardware & software-Mfg	-	-	-	-	-	-	P	-
Concrete products-Mfg	-	-	-	-	-	-	P	-
Concrete ready-mix plants	-	-	-	-	-	-	P	-
Confectioneries	-	P	-	P	P	P	-	-
Construction equipment-retail	-	-	-	SP	-	-	P	-
Costume jewelry, notions-Mfg	-	-	-	-	-	-	P	-
Cotton, fibers, silk, wool weaving-Mfg	-	-	-	-	-	-	P	-
Convenience stores without fuel	-	-	-	P	P	P	-	-
Convenience stores with fuel	-	-	-	SP	SP	SP	P	-
Credit unions & personal credit services	-	P	P	P	P	P	-	-
Crematorium	-	-	-	-	-	-	-	SP
Curtains and drapes-Mfg	-	-	-	-	-	-	P	-
Curtains, drapes, upholstery-retail	-	-	-	P	P	P	P	-
Dairy products-retail	-	P	-	P	P	P	-	-
Dairy products-wholesale and/or Mfg	-	-	-	-	-	-	P	-
Dance studio	-	P	-	P	P	P	-	-
Day spa	-	P	-	P	P	P	-	-
Dental services	-	P	P	P	P	P	-	-
Department stores-retail	-	-	-	P	P	P	-	-
Detective & protection services	-	-	P	P	-	-	-	-
Diaper services	-	-	-	-	-	-	P	-
Discount & variety stores	-	-	-	P	P	P	-	-
Distilling and blending liquors-Mfg	-	P	-	-	-	-	P	P
Drug & alcohol treatment center	-	-	P	P	SP	-	-	-
Drug (prescription) & sundries-wholesale	-	-	-	-	-	-	P	-
Drug (prescription) & sundries-retail	-	P	-	P	P	P	-	-
Dry cleaners	-	P	-	P	P	-	P	P
Dry cleaning plant	-	-	-	-	-	-	-	SP
Dry goods & notions-wholesale	-	-	-	-	-	-	P	-
Dry goods & notions-retail	-	-	-	P	P	P	-	-
Duplicating & stenographer services	-	-	P	P	-	-	-	-

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Dwelling, in conjunction with business	-	P	-	-	-	-	-	-
Earthenware/kitchen articles-Mfg	-	-	-	-	-	-	P	-
Electrical & construction material-Wholesale or Mfg	-	-	-	-	-	-	P	-
Electical contractors services	-	-	-	P	P	-	P	-
Electric vehicle recharging station	-	-	-	P	P	P	-	-
Electrical supplies-retail	-	-	-	P	P	-	P	-
Electrical distribution equip.-Mfg	-	-	-	-	-	-	P	-
Electrical generating plants	SP	-	-	-	-	-	SP	-
Electrical utility maintenance yard	-	-	-	-	-	-	P	-
Electrical regulating substations	SP	-	-	-	-	-	SP	-
Electric Lighting & wiring-Mfg	-	-	-	-	-	-	P	-
Electric components & accessory-Mfg	-	-	-	-	-	-	P	-
Electro-plating or galvanizing facility	-	-	-	-	-	-	-	SP
Employment services	-	P	P	P	P	P	-	-
Engineering services	-	P	P	P	P	P	-	-
Engineering/laboratory/scientific equipment-Mfg	-	-	-	-	-	-	P	-
Envelope-Mfg	-	-	-	-	-	-	P	-
Equipment rental & leasing services	-	-	-	SP	-	-	P	-
Executive, legislative and judicial buildings	-	-	P	P	P	P	-	-
Exhibition halls	SP	P	-	-	-	-	SP	-
Exterminating & disinfecting services	-	-	-	P	P	-	P	-
Fabricated wire products-Mfg	-	-	-	-	-	-	P	-
Farm equipment & Machinery-retail	P	-	-	-	-	-	P	-
Farm equipment & Machinery-Mfg	-	-	-	-	-	-	P	-
Farmers' markets	P	P	-	P	P	-	-	-
Fire protection services	-	-	-	P	P	-	P	-
Fish and seafood-retail	-	-	-	P	P	P	-	-
Fish and seafood-wholesale	P	-	-	-	-	-	P	-
Floor coverings-retail	-	-	-	P	P	P	-	-
Floor coverings-wholesale	-	-	-	-	-	-	P	-
Florists-retail	P	P	-	P	P	P	-	-
Florists-wholesale	P	-	-	-	-	-	P	-

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Flour and other mill products-Mfg	-	-	-	-	-	-	P	-
Forge or Foundry	-	-	-	-	-	-	-	SP
Freight forwarding services	-	-	-	P	P	P	P	-
Freight terminal	-	-	-	-	-	-	SP	SP
Frozen food locker for individual use	-	P	-	-	-	-	P	-
Fruits and vegetables-retail	P	P	-	P	P	-	-	-
Fruits and vegetables-wholesale	P	-	-	-	-	-	P	-
Funeral, mortuary and crematory services	-	-	-	SP	-	-	SP	-
Furniture & home furnishings-wholesale or Mfg	-	-	-	-	-	-	P	-
Furniture handmade and/or repurposed	-	P	-	P	P	-	-	-
Furniture-retail	-	-	-	P	P	P	-	-
Furniture repair & uphoistery	-	P	-	P	P	-	P	-
Garden supplies/ Nursery-retail	P	P	-	P	-	P	P	-
Garment repair	-	P	-	P	P	-	-	-
Gas pressure control stations	P	-	-	-	-	-	P	-
Gas utility maintenance yard	-	-	-	-	-	-	P	-
Gasoline service stations	-	-	-	SP	SP	SP	-	-
Glass and glassware-Mfg	-	-	-	-	-	-	P	-
Go-cart tracks	P	-	-	-	-	-	-	-
Golf driving ranges	P	-	-	P	-	-	SP	-
Graphic art studio	-	P	P	P	P	P	-	-
Grease/lubricating oils-Mfg	-	-	-	-	-	-	P	P
Greenhouses	P	-	-	P	-	-	P	P
Greeting cards-Mfg	-	-	-	-	-	-	P	-
Greeting cards-retail	-	P	-	P	P	P	-	-
Groceries-retail	-	-	-	P	P	P	P	-
Groceries-wholesale	-	-	-	SP	-	-	P	-
Gun or archery shooting club	-	-	-	-	-	-	-	SP
Gymnasiums and athletic clubs	-	-	-	P	P	-	P	-
Gymnastic studio	-	P	P	P	P	-	P	-
Gypsum products-Mfg	-	-	-	-	-	-	P	-
Handmade arts and crafts	-	P	-	P	P	P	-	-

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Hardware-retail	-		-	P	P	P	-	-
Historic and monument sites	-	P	-	-	-	-	-	-
Hobby supplies	-	P	-	P	P	P	-	-
Hospital <sup>2</sup>	P	-	-	-	-	P	SP	-
Hotels	-	-	-	P	-	P	-	-
House & business cleaning services	-	-	P	P	P	-	-	-
Household appliances-Mfg	-	-	-	-	-	-	P	-
Household appliances-retail	-	-	-	P	P	P	-	-
Ice-Mfg	-	-	-	-	-	-	P	-
Ice-retail	-	-	-	P	-	P	-	-
Indoor recreational facility	-	P	-	P	-	-	P	P
Industrial machinery and equipment-Mfg	-	-	-	-	-	-	P	-
Interior design studio	-	P	-	P	P	-	-	-
Internet café	-	P	-	P	P	P	-	-
Insurance agents and broker services	-	P	P	P	P	-	-	-
Investment and holding services	-	P	P	P	P	-	-	-
Jewelry and precious metal-Mfg	-	-	-	P	P	P	-	-
Jewelry-retail	-	P	-	P	P	P	-	-
Jewelry, watch, clock repair services	-	P	-	P	P	P	-	-
Junk or salvage yard <sup>2</sup>	-	-	-	-	-	-	-	SP
Karate studio	-	-	-	-	-	-	P	-
Kennels-boarding	P	-	-	SP	SP	-	P	P
Kennels-breeding	P	-	-	SP	SP	-	P	P
Lace Goods-Mfg	-	-	-	-	-	-	P	-
Lamp shades-Mfg	-	-	-	-	-	-	P	-
Laboratory, research or support	-	-	-	-	-	-	SP	-
Landscaping services-landscaping, tree trimming,	P	-	-	-	-	-	P	-
Lawn mowing and similar services	P	-	-	-	-	-	P	-
Laundry and dry cleaning services	-	P	-	P	P	-	P	P
Legal services	-	P	P	P	P	P	-	-
Libraries	-	P	P	P	P	-	-	-
Linen and supply services	-	-	-	P	-	-	P	-

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Linoleum and floor coverings-Mfg	-	-	-	-	-	-	P	-
Liquor-retail	-	P	-	P	P	P	-	-
Locksmith services	-	-	-	P	P	-	P	-
Luggage-Mfg	-	-	-	-	-	-	P	-
Lumber and building materials-wholesale	P	-	-	-	-	-	P	-
Lumber yards-retail	-	-	-	P	-	P	P	-
Machine shop	-	-	-	-	-	-	-	SP
Mail and Postal services-private	-	P	-	P	P	P	-	-
Mail order houses-retail	-	-	-	-	-	-	P	-
Mail order services with storage	-	-	-	-	-	-	P	-
Manufactured home development <sup>2</sup>	SP	-	-	-	-	-	-	-
Manufactured or modular home sales	-	-	-	-	-	-	P	P
Massage Parlor-therapeutic/massage establishment	-	P	-	P	P	-	-	-
Mausoleums	P	-	-	-	-	-	-	-
Meats-retail	-	P	-	P	P	P	-	-
Medical/surgical instruments-Mfg	-	-	-	-	-	-	P	-
Medical clinics/out patient services	-	P	P	P	P	-	-	-
Medical laboratory services	-	-	-	P	P	P	P	-
Medical chemicals-Mfg	-	-	-	-	-	-	P	-
Mental health treatment-nonresidential	-	-	SP	SP	SP	-	-	-
Mental health treatment-residential	-	-	-	SP	SP	SP	-	-
Metal coating/engraving services-Mfg	-	-	-	-	-	-	P	-
Metal products/fabricated steel-Mfg	-	-	-	-	-	-	P	-
Metal stamping	-	-	-	-	-	-	P	-
Metalworking machinery equipment-Mfg	-	-	-	-	-	-	P	-
Millwork-Mfg	-	-	-	-	-	-	P	-
Milk processing	P	-	-	-	-	-	P	-
Miniature golf	P	P	-	P	P	P	-	-
Mobile home-Mfg	-	-	-	-	-	-	P	-
Monasteries	P	-	-	-	-	-	-	-
Monuments-retail	-	-	-	P	P	-	P	-
Motels	-	-	-	P	-	P	-	-

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Motion picture distribution services	-	-	-	-	-	-	P	-
Motion picture processing services	-	-	-	-	-	-	P	-
Motorcycles and parts-Mfg	-	-	-	-	-	-	P	-
Motor freight terminals	-	-	-	-	-	-	SP	-
Moving, transfer, distribution or storage facility	-	-	-	-	-	-	P	P
Museums	-	P	-	P	P	-	-	-
Musical instruments and supplies-Mfg	-	-	-	-	-	-	P	-
Musical instruments and supplies-retail	-	P	-	P	P	P	-	-
Newspapers and Magazines-retail	-	P	-	P	P	P	-	-
News syndicate services	-	-	-	P	P	P	-	-
Noodles and pasta-Mfg	-	-	-	-	-	-	P	-
Novelties, gifts and souvenirs-retail	-	P	-	P	P	P	-	-
Nursing home/intermediate care	-	-	-	P	P	-	-	-
Nursery stock farms	P	-	-	-	-	-	P	-
Office and store fixtures-Mfg	-	-	-	-	-	-	P	-
Office, general	-	P	P	P	P	P	-	-
Office park	-	-	P	-	-	P	P	-
Optical instruments/lenses-Mfg	-	-	-	-	-	-	P	-
Optometrists	-	-	P	P	P	P	-	-
Ornamental iron-Mfg	-	-	-	SP	-	-	P	-
Orthopedic, prosthetic, surgical appliances-Mfg	-	-	-	-	-	-	P	-
Outdoor recreation or amusement	-	P	-	-	-	-	SP	SP
Outdoor sales, storage or display	-	-	-	-	-	-	SP	SP
Packing & Crating services	-	P	-	SP	SP	-	P	-
Paint, glass and wallpaper services	-	-	-	P	P	-	P	-
Paper and paper products-wholesale	-	-	-	-	-	-	P	-
Paperboard containers and boxes-Mfg	-	-	-	-	-	-	P	-
Paper-Mfg	-	-	-	-	-	-	-	SP
Parcel containers Mfg	-	-	-	-	-	-	SP	P
Parks-private	P	-	-	-	-	P	-	-
Parking lot	P	P	-	-	P	-	-	-
Paving mixtures-Mfg	-	-	-	-	-	-	-	SP

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Pawn shops	-	-	-	SP	SP	-	SP	-
Pencils, pens, office/artist materials-Mfg	-	P	-	-	-	-	P	P
Performing arts theater	-	P	-	P	P	P	-	-
Pet daycare in completely enclosed building	P	-	-	-	-	-	P	-
Petroleum bulk stations	-	-	-	-	-	-	-	SP
Pet grooming	P	-	-	P	-	-	P	-
Pet supply store	-	P	-	P	P	P	-	-
Pharmaceutical preparation-Mfg	-	-	-	-	-	-	P	-
Photocopying and blue print services	-	-	SP	P	P	-	-	-
Photo engraving or finishing services	-	P	-	P	P	-	-	-
Photographic studios and supplies	-	P	-	P	P	-	-	-
Physician services	-	P	P	P	P	P	-	-
Place of religious exercise or religious assembly	P	P		P	P	-	P	-
Planning and development services	-	P	P	P	P	-	-	-
Planetarium	-	P	-	-	-	-	-	-
Plastic fabric, vinyl products-Mfg	-	-	-	-	-	-	-	P
Plumbing fixtures and heating apparatus-Mfg	-	-	-	-	-	-	P	-
Porcelain electrical supplies-Mfg	-	-	-	-	-	-	P	-
Postal services	-	P	-	P	P	P	-	-
Pottery-Mfg	-	-	-	-	-	-	P	-
Prefabricated wooden building & structural members	P	-	-	-	-	-	P	P
Printing-commercial	-	P	-	P	P	-	P	P
Printing & publishing books, newspapers & periodicals	-	P	-	P	P	-	P	-
Private clubs	-	P	-	-	-	-	-	-
Produce market, wholesale	-	-	-	-	-	-	P	-
Professional membership organizations	-	-	P	P	P	P	-	-
Public facility, use or utility <sup>2</sup>	SP	-	-	-	-	-	SP	SP
Quarrying stone and sand	-	-	-	-	-	-	-	SP
Radios,TV,Phonographs, recorders, tape players-Mfg	-	-	-	-	-	-	P	P
Radios,TV,Phonographs, recorders, tape players-repair	-	-	-	P	P	-	-	-
Radios,TV,Phonographs, recorders, tape players-retail	-	-	-	P	P	P	-	-
Radio transmitting stations and towers	SP	-	-	-	-	-	SP	SP

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Real estate agents/brokers	-	-	P	P	P	-	-	-
Real estate/credit card/mortgage processing centers	-	-	P	P	P	P	-	-
Recreational vehicles and equipment-retail	-	-	-	-	-	SP	P	-
Recreation centers	P	P	-	-	-	SP	-	-
Recreational Vehicle Park	SP	-	-	-	-	-	SP	-
Recycling of paper, glass and Liquids	-	-	-	-	-	-	SP	SP
Refrigerated warehouses	-	-	-	-	-	-	P	P
Refuse incinerators	-	-	-	-	-	-	-	SP
Research, development & testing services	-	-	-	SP	SP	-	P	-
Residential treatment facility	-	-	-	SP	SP	SP		-
Restaurants-drive thru and drive ins	-	P	-	SP	SP	SP	SP	-
Restaurants, indoor or carry out	-	P	-	P	P	P	P	-
Road maintenance yards	-	-	-	-	-	-	SP	P
Roofing and sheet metal contracting services	-	-	-	-	-	-	P	-
Rubber footwear-Mfg	-	-	-	-	-	-	-	P
Salvage yard	-	-	-	-	-	-	-	SP
Sausage and other prepared meat products-Mfg	-	-	-	-	-	-	-	SP
Savings and loan associations	-	-	-	P	P	P	-	-
Schools - Art, Business and Community College	-	P	-	P	P	P	P	-
Schools-vocational/technical	P	-	-	-	-	-	P	-
Scientific and educational research services	-	-	-	SP	SP	-	P	-
Screws machine products-nuts, bolts, etc.-Mfg	-	-	-	-	-	-	P	-
Seamstress service	-	P	-	P	P	P	-	-
Second hand merchandise-retail	-	P	-	P	P	-	-	-
Security and commodity brokers	-	P	P	P	P	P	-	-
Security protection services	-	-	P	P	P	-	-	-
Self storage centers	-	-	-	-	-	-	P	-
Sewage pressure control stations	-	-	-	-	-	-	SP	SP
Shoe repair/shoe shine services	-	-	-	P	P	P	-	-
Shoes-retail	-	-	-	P	P	P	-	-
Shoes-wholesale and Mfg	-	-	-	-	-	-	P	-
Short-term loan establishment	-	-	-	-	-	-	SP	-

Land Use Category	Zoning Districts							
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2
Signs and advertising displays-Mfg	-	-	-	-	-	-	P	-
Silk screening services	-	P	-	P	P	P	P	-
Silverware and plated ware-Mfg	-	P	-	-	-	-	P	-
Skating rinks, Ice and Roller -indoor	-	-	-	P	-	-	P	-
Small electrical repair	-	-	-	P	P	-	P	P
Small engine repair	-	-	-	SP	-	-	P	-
Soaps and detergents-Mfg	-	-	-	-	-	-	-	SP
Social, correctional, treatment & counseling services	-	-	SP	SP	-	-	-	-
Softball, Baseball fields-private	P	-	-	-	-	-	-	-
Solid Waste transfer stations	-	-	-	-	-	-	-	SP
Sporting goods-retail	-	-	-	P	P	P	-	-
Stadiums	P	-	-	-	-	-	-	-
Stationary-retail	-	P	-	P	P	P	-	-
Stone products and cut stone	P	-	-	SP	-	-	P	-
Stonework, masonry, tile, setting & plastering services	-	-	-	-	-	-	P	-
Swimming clubs-indoor facility	P	-	-	-	-	P	-	-
Tailoring services	-	P	-	P	P	P	-	-
Taxicab dispatch and garaging	-	-	-	-	-	-	P	-
Telephone maintenance yards	-	-	-	-	-	-	P	-
Telephone microwave towers (cell towers)	SP	-	-	-	-	-	SP	-
Telephone response mail order services	-	-	-	SP	-	-	P	-
Telephone soliciting services	-	-	-	P	P	-	-	-
Tennis club	P	-	-	-	-	-	P	-
Theaters - (live)	-	P	-	P	P	P	-	-
Theaters-motion picture-indoor	-	P	-	P	P	P	-	-
Tires and inner tubes-Mfg	-	-	-	-	-	-	-	SP
Tires and inner tubes-retail	-	-	-	P	-	P	P	-
Tires and inner tubes-wholesale	-	-	-	-	-	-	P	-
Title loan establishment	-	-	-	-	-	-	SP	-
Tobacco and tobacco products	-	-	-	P	P	P	-	-
Transportation terminals	-	-	-	P	-	-	P	-
Travel agencies	-	-	P	P	P	P	-	-

Land Use Category	Zoning Districts								
	AG	A-C <sup>1</sup>	O-C	C-1	C-2	CP	I-1	I-2	
Umbrellas, parasols, canes-Mfg	-	-	-	-	-	-	P	-	
Upholstery filling and padding-Mfg	-	-	-	-	-	-	P	-	
Vehicle body shop in an enclosed building	-	-	-	-	-	-	P	P	
Vending machine operations	-	-	-	P	P	P	P	-	
Venetian blinds and shades-Mfg	-	-	-	-	-	-	P	-	
Veterinary services - large animal	P	-	-	SP	-	-	-	-	
Veterinary services - small animal	-	P	-	P	P	-	-	-	
Video amusement center	-	-	-	P	P	P	-	-	
Video rental-retail	-	-	-	P	P	P	-	-	
Visitor center	-	P	-	P	P	-	-	-	
Vitreous china, table and kitchen articles-Mfg	-	-	-	-	-	-	P	-	
Wallpaper-Mfg	-	-	-	-	-	-	P	-	
Warehousing and storage-general	-	-	-	-	-	-	P	-	
Water pressure control operations	P	-	-	-	-	-	-	-	
Water Storage facilities	P	-	-	-	-	-	-	-	
Water treatment plants	P	-	-	-	-	-	-	-	
Welding services	-	-	-	-	-	-	SP	P	
Welfare and charitable services-offices	-	P	P	P	P	-	-	-	
Welfare and charitable services-distribution & collection	-	-	-	P	P	-	P	-	
Wind energy conversion system	P	-	-	-	-	-	-	-	
Wholesale sales office or show room	-	-	-	-	-	-	P	P	
Window cleaning services	-	-	SP	P	P	-	-	-	
Winery	P	-	-	-	-	-	SP	P	
Wire products (fabricated)-Mfg	-	-	-	-	-	-	P	-	
Wooden containers-Mfg	-	-	-	-	-	-	P	-	
Wool pressure-Mfg	-	-	-	-	-	-	P	-	
Wool, Yarns and Thread-Mfg	-	-	-	-	-	-	P	-	
<sup>1</sup> District A-C: A Special Use Permit is required for all uses (including Permitted) if the building has a footprint larger than two thousand (2,000) square feet.									
<sup>2</sup> See SECTION 400.640: SPECIAL PERMITTED USES									