

STATE OF ILLINOIS
COMPTROLLER
SUSANA A. MENDOZA

| | | | |
|-----------------------|------------------|------------------------|-------------|
| Name of Municipality: | <u>O'Fallon</u> | Reporting Fiscal Year: | 2017 |
| County: | <u>St. Clair</u> | Fiscal Year End: | 4/30/2017 |
| Unit Code: | 088/110/30 | | |

TIF Administrator Contact Information

| | | | | | |
|---------------------|-----------------------|------------|---------------------|------|-------|
| First Name: | Sandra | Last Name: | Evans | | |
| Address: | 255 S. Lincoln | Title: | Director of Finance | | |
| Telephone: | 618-624-4500 ext 8723 | City: | O'Fallon | Zip: | 62269 |
| E-mail- required | sevans@ofallon.org | | | | |

I attest to the best of my knowledge, that this FY 2017 report of the redevelopment project area(s)

in the City/Village of:

O'Fallon

is complete and accurate pursuant to Tax Increment Allocation Redevelopment Act [65 ILCS 5/11-74.4-3 et. seq.] and Industrial Jobs Recovery Law [65 ILCS 5/11-74.6-10 et. seq.]

Sandra McEvans

12-21-17

Written signature of TIF Administrator

Date _____

Section 1 (65 ILCS 5/11-74.4-5 (d) (1.5) and 65 ILCS 5/11-74.6-22 (d) (1.5)*)

FILL OUT ONE FOR EACH TIF DISTRICT

[illegible]

*All statutory citations refer to one of two sections of the Illinois Municipal Code: The Tax Increment Allocation Redevelopment Act [65 ILCS 5/11-74.4-3 et. seq.] or the Industrial Jobs Recovery Law [65 ILCS 5/11-74.6-10 et. seq.]

SECTION 2 [Sections 2 through 5 must be completed for each redevelopment project area listed in Section 1.]

FY 2017

| | |
|--|----------------------------|
| Name of Redevelopment Project Area (below): | TIF #5 Central City |
| Primary Use of Redevelopment Project Area*: | Central Business |

* Types include: Central Business District, Retail, Other Commercial, Industrial, Residential, and Combination/Mixed.

| |
|---|
| If "Combination/Mixed" List Component Types: |
|---|

Under which section of the Illinois Municipal Code was Redevelopment Project Area designated? (check one):

Tax Increment Allocation Redevelopment Act X

Industrial Jobs Recovery Law

| | No | Yes |
|--|----|-----|
| Were there any amendments to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (1) and 5/11-74.6-22 (d) (1)] If yes, please enclose the amendment labeled Attachment A | X | |
| Certification of the Chief Executive Officer of the municipality that the municipality has complied with all of the requirements of the Act during the preceding fiscal year. [65 ILCS 5/11-74.4-5 (d) (3) and 5/11-74.6-22 (d) (3)] Please enclose the CEO Certification labeled Attachment B | | X |
| Opinion of legal counsel that municipality is in compliance with the Act. [65 ILCS 5/11-74.4-5 (d) (4) and 5/11-74.6-22 (d) (4)] Please enclose the Legal Counsel Opinion labeled Attachment C | | X |
| Statement setting forth all activities undertaken in furtherance of the objectives of the redevelopment plan including any project implemented and a description of the redevelopment activities.? [65 ILCS 5/11-74.4-5 (d) (7) (A and B) and 5/11-74.6-22 (d) (7) (A and B)] If yes, please enclose the Activities Statement labeled Attachment D | | X |
| Were any agreements entered into by the municipality with regard to the disposition or redevelopment of any property within the redevelopment project area or the area within the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (7) (C) and 5/11-74.6-22 (d) (7) (C)] If yes, please enclose the Agreement(s) labeled Attachment E | | X |
| Is there additional information on the use of all funds received under this Division and steps taken by the municipality to achieve the objectives of the redevelopment plan? [65 ILCS 5/11-74.4-5 (d) (7) (D) and 5/11-74.6-22 (d) (7) (D)] If yes, please enclose the Additional Information labeled Attachment F | X | |
| Did the municipality's TIF advisors or consultants enter into contracts with entities or persons that have received or are receiving payments financed by tax increment revenues produced by the same TIF? [65 ILCS 5/11-74.4-5 (d) (7) (E) and 5/11-74.6-22 (d) (7) (E)] If yes, please enclose the contract(s) or description of the contract(s) labeled Attachment G | X | |
| Were there any reports or meeting minutes submitted to the municipality by the joint review board? [65 ILCS 5/11-74.4-5 (d) (7) (F) and 5/11-74.6-22 (d) (7) (F)] If yes, please enclose the Joint Review Board Report labeled Attachment H | X | |
| Were any obligations issued by the municipality? [65 ILCS 5/11-74.4-5 (d) (8) (A) and 5/11-74.6-22 (d) (8) (A)] If yes, please enclose any Official Statement labeled Attachment I and Attachment J MUST be Yes | X | |
| An analysis prepared by a financial advisor or underwriter setting forth the nature and term of obligation and projected debt service including required reserves and debt coverage? [65 ILCS 5/11-74.4-5 (d) (8) (B) and 5/11-74.6-22 (d) (8) (B)] If attachment I is yes, Analysis MUST be attached and labeled Attachment J | X | |
| Has a cumulative of \$100,000 of TIF revenue been deposited into the special tax allocation fund? 65 ILCS 5/11-74.4-5 (d) (2) and 5/11-74.6-22 (d) (2) If yes, please enclose Audited financial statements of the special tax allocation fund labeled Attachment K | X | |
| Cumulatively, have deposits of incremental taxes revenue equal to or greater than \$100,000 been made into the special tax allocation fund? [65 ILCS 5/11-74.4-5 (d) (9) and 5/11-74.6-22 (d) (9)] If yes, The audit report shall contain a letter from the independent certified public accountant indicating compliance or noncompliance with the requirements of subsection (q) of Section 11-74.4-3 labeled Attachment L | X | |
| A list of all intergovernmental agreements in effect to which the municipality is a part, and an accounting of any money transferred or received by the municipality during that fiscal year pursuant to those intergovernmental agreements. [65 ILCS 5/11-74.4-5 (d) (10)] If yes, please enclose list only, not actual agreements labeled Attachment M | X | |

SECTION 3.1 - (65 ILCS 5/11-74.4-5 (d)(5)(a)(b)(d)) and (65 ILCS 5/11-74.6-22 (d) (5)(a)(b)(d))**Provide an analysis of the special tax allocation fund.****FY 2017****TIF NAME:**

TIF #5 Central City

Special Tax Allocation Fund Balance at Beginning of Reporting Period

\$ (92,272)

| SOURCE of Revenue/Cash Receipts: | Revenue/Cash Receipts for Current Reporting Year | Cumulative Totals of Revenue/Cash Receipts for life of TIF | % of Total |
|---|---|---|-------------------|
| Property Tax Increment | \$ 7,202 | \$ 7,202 | 94% |
| State Sales Tax Increment | | | 0% |
| Local Sales Tax Increment | | | 0% |
| State Utility Tax Increment | | | 0% |
| Local Utility Tax Increment | | | 0% |
| Interest | | | 0% |
| Land/Building Sale Proceeds | | | 0% |
| Bond Proceeds | | | 0% |
| Transfers from Municipal Sources | | | 0% |
| Private Sources | \$ 500 | \$ 500 | 6% |
| Other (identify source _____; if multiple other sources, attach schedule) | | | 0% |

All Amount Deposited in Special Tax Allocation by source

\$ 7,702

Cumulative Total Revenues/Cash Receipts

\$ 7,702 100%

Total Expenditures/Cash Disbursements (Carried forward from Section 3.2)

\$ 36,105

Distribution of Surplus

\$ 720

Total Expenditures/Disbursements

\$ 36,825

Net/Income/Cash Receipts Over/(Under) Cash Disbursements

\$ (29,123)

FUND BALANCE, END OF REPORTING PERIOD*

\$ (121,395)

* If there is a positive fund balance at the end of the reporting period, you must complete Section 3.3

SECTION 3.2 A- (65 ILCS 5/11-74.4-5 (d) (5) (c) and 65 ILCS 5/11-74.6-22 (d) (5)(c))

FY 2017

TIF NAME: TIF #5 Central City

ITEMIZED LIST OF ALL EXPENDITURES FROM THE SPECIAL TAX ALLOCATION FUND
(by category of permissible redevelopment project costs)

PAGE 1

| Category of Permissible Redevelopment Cost [65 ILCS 5/11-74.4-3 (q) and 65 ILCS 5/11-74.6-10 (o)] | Amounts | Reporting Fiscal Year |
|--|---------|-----------------------|
| 1. Cost of studies, surveys, development of plans, and specifications. Implementation and administration of the redevelopment plan, staff and professional service cost. | | |
| Legal fees | 4,584 | |
| Consulting fees | 44 | |
| Design fees | 11,478 | |
| | | |
| | | |
| | | |
| | | |
| | | \$ 16,105 |
| 2. Annual administrative cost. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| 3. Cost of marketing sites. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| 4. Property assembly cost and site preparation costs. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| 5. Costs of renovation, rehabilitation, reconstruction, relocation, repair or remodeling of existing public or private building, leasehold improvements, and fixtures within a redevelopment project area. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| 6. Costs of construction. | | |
| City public parking lot paving | 20,000 | |
| | | |
| | | |
| | | |
| | | |
| | | \$ 20,000 |

[illegible]

SECTION 3.2 A

PAGE 3

| | | |
|--|--|-----------|
| 13. Relocation costs. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| 14. Payments in lieu of taxes. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| 15. Costs of job training, retraining, advanced vocational or career education. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| 16. Interest cost incurred by redeveloper or other nongovernmental persons in connection with a redevelopment project. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| 17. Cost of day care services. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| 18. Other. | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | \$ - |
| TOTAL ITEMIZED EXPENDITURES | | \$ 36,105 |

Section 3.2 B

FY 2017

TIF NAME:

TIF #5 Central City

Optional: Information in the following sections is not required by law, but would be helpful in creating fiscal transparency.

List all vendors, including other municipal funds, that were paid in excess of \$10,000 during the current reporting year.

[illegible]

SECTION 3.3 - (65 ILCS 5/11-74.4-5 (d) (5d) 65 ILCS 5/11-74.6-22 (d) (5d)

Breakdown of the Balance in the Special Tax Allocation Fund At the End of the Reporting Period by source

FY 2017

TIF NAME:

TIF #5 Central City

FUND BALANCE BY SOURCE

\$ (121,395)

| | Amount of Original Issuance | Amount Designated |
|---|--------------------------------|-------------------|
| 1. Description of Debt Obligations | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

| | | |
|--|------|------|
| Total Amount Designated for Obligations | \$ - | \$ - |
|--|------|------|

2. Description of Project Costs to be Paid

| | | |
|--|--|------------|
| | | |
| Fezziwig Redevelopment Agreement | | \$ 113,000 |
| Old City Hall Redevelopment Agreement | | \$ 760,900 |
| Bike Surgeon Redevelopment Agreement | | \$ 556,550 |
| 2nd Street Improvements | | \$ 450,000 |
| | | |
| | | |
| Due to General Fund for TIF related expenses | | \$ 123,520 |
| | | |
| | | |
| | | |
| | | |
| | | |

| | |
|--|--------------|
| Total Amount Designated for Project Costs | \$ 2,003,970 |
|--|--------------|

| | |
|--------------------------------|--------------|
| TOTAL AMOUNT DESIGNATED | \$ 2,003,970 |
|--------------------------------|--------------|

| | |
|--------------------------|----------------|
| SURPLUS/(DEFICIT) | \$ (2,125,366) |
|--------------------------|----------------|

SECTION 4 [65 ILCS 5/11-74.4-5 (d) (6) and 65 ILCS 5/11-74.6-22 (d) (6)]

FY 2017

TIF NAME:

TIF #5 Central City

Provide a description of all property purchased by the municipality during the reporting fiscal year within the redevelopment project area.

Check here if no property was acquired by the Municipality within the
 X **Redevelopment Project Area.**

Property Acquired by the Municipality Within the Redevelopment Project Area.

| | |
|--|--|
| Property (1): | |
| Street address: | |
| Approximate size or description of property: | |
| Purchase price: | |
| Seller of property: | |

| | |
|--|--|
| Property (2): | |
| Street address: | |
| Approximate size or description of property: | |
| Purchase price: | |
| Seller of property: | |

| | |
|--|--|
| Property (3): | |
| Street address: | |
| Approximate size or description of property: | |
| Purchase price: | |
| Seller of property: | |

| | |
|--|--|
| Property (4): | |
| Street address: | |
| Approximate size or description of property: | |
| Purchase price: | |
| Seller of property: | |

SECTION 5 - 20 ILCS 620/4.7 (7)(F)

PAGE 1

FY 2017

TIF Name:

TIF #5 Central City

Page 1 is to be included with TIF report. Pages 2 and 3 are to be included **ONLY** if projects are listed.

Select ONE of the following by indicating an 'X':

| | |
|---|---|
| 1. <u>NO</u> projects were undertaken by the Municipality Within the Redevelopment Project Area. | |
| 2. The Municipality <u>DID</u> undertake projects within the Redevelopment Project Area. (If selecting this option, complete 2a.) | X |
| 2a. The number of projects undertaken by the municipality within the Redevelopment Project Area: | 4 |

LIST the projects undertaken by the Municipality Within the Redevelopment Project Area:

| TOTAL: | 11/1/99 to Date | Estimated Investment for Subsequent Fiscal Year | Total Estimated to Complete Project |
|--|------------------------|--|--|
| Private Investment Undertaken (See Instructions) | \$ 1,090,420 | \$ 460,600 | \$ 1,551,020 |
| Public Investment Undertaken | \$ 53,520 | \$ 500,000 | \$ 2,180,620 |
| Ratio of Private/Public Investment | 20 3/8 | | 69/97 |

*PROJECT NAME TO BE LISTED AFTER PROJECT NUMBER

Project 1*: Metro Inflatables (Fezziwig)

| | | | |
|--|------------|------|------------|
| Private Investment Undertaken (See Instructions) | \$ 113,170 | \$ - | \$ 113,170 |
| Public Investment Undertaken | \$ - | \$ - | \$ 113,170 |
| Ratio of Private/Public Investment | 0 | | 1 |

Project 2*: B McMillin (Old City Hall)

| | | | |
|--|------------|------------|------------|
| Private Investment Undertaken (See Instructions) | \$ 300,300 | \$ 460,600 | \$ 760,900 |
| Public Investment Undertaken | | \$ - | \$ 760,900 |
| Ratio of Private/Public Investment | 0 | | 1 |

Project 3*: Bike Surgeon

| | | | |
|--|------------|------|------------|
| Private Investment Undertaken (See Instructions) | \$ 676,950 | \$ - | \$ 676,950 |
| Public Investment Undertaken | \$ - | \$ - | \$ 556,550 |
| Ratio of Private/Public Investment | 0 | | 1 8/37 |

Project 4*: 2nd Street Improvements

| | | | |
|--|-----------|------------|------------|
| Private Investment Undertaken (See Instructions) | \$ - | | |
| Public Investment Undertaken | \$ 53,520 | \$ 500,000 | \$ 750,000 |
| Ratio of Private/Public Investment | 0 | | 0 |

Project 5*:

| | | | |
|--|---|--|---|
| Private Investment Undertaken (See Instructions) | | | |
| Public Investment Undertaken | | | |
| Ratio of Private/Public Investment | 0 | | 0 |

Project 6*:

| | | | |
|--|---|--|---|
| Private Investment Undertaken (See Instructions) | | | |
| Public Investment Undertaken | | | |
| Ratio of Private/Public Investment | 0 | | 0 |

Optional: Information in the following sections is not required by law, but would be helpful in evaluating the performance of TIF in Illinois. ***even though optional MUST be included as part of complete TIF report**

SECTION 6

FY 2017

TIF NAME: TIF #5 Central City

Provide the base EAV (at the time of designation) and the EAV for the year reported for the redevelopment project area

| Year redevelopment project area was designated | Base EAV | Reporting Fiscal Year EAV |
|--|--------------|---------------------------|
| 6/1/2015 | \$ 6,693,068 | \$ 7,069,576 |

List all overlapping tax districts in the redevelopment project area.

If overlapping taxing district received a surplus, list the surplus.

_____ Check if the overlapping taxing districts did not receive a surplus.

| Overlapping Taxing District | Surplus Distributed from redevelopment project area to overlapping districts |
|-----------------------------|--|
| St Clair County | \$ 83 |
| SWIC District #522 | \$ 42 |
| OFallon District #90 | \$ 276 |
| OFallon HS District #203 | \$ 197 |
| OFallon Library | \$ 14 |
| Caseyville Rd | \$ 26 |
| Caseyville Township | \$ 6 |
| City of OFallon | \$ 77 |
| | \$ - |
| | \$ - |
| | \$ - |
| | \$ - |
| | \$ - |
| | \$ - |

SECTION 7

Provide information about job creation and retention:

| Number of Jobs Retained | Number of Jobs Created | Description and Type (Temporary or Permanent) of Jobs | Total Salaries Paid |
|-------------------------|------------------------|---|---------------------|
| | | | \$ - |
| | | | \$ - |
| | | | \$ - |
| | | | \$ - |
| | | | \$ - |
| | | | \$ - |
| | | | \$ - |

SECTION 8

Provide a general description of the redevelopment project area using only major boundaries:

| |
|--|
| |
|--|

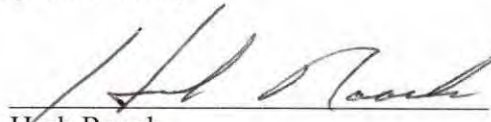
| Optional Documents | Enclosed |
|---|----------|
| Legal description of redevelopment project area | |
| Map of District | |



Certification of the Chief Executive
Officer of the municipality that the municipality
had complied with all of the requirements of this Act
during the preceding fiscal year
[65 ILCS 5/11-74.1-5 (d) (3) and 5/11-74.6-22 (d) (3)]

I, Herb Roach, the duly elected Mayor of the City of O'Fallon, County of St. Clair, Illinois, State of Illinois, and as such, do hereby certify that the City of O'Fallon has complied with all requirements pertaining to the Tax Increment Redevelopment Allocation Act during the fiscal year covered by this report (May 1, 2016 – April 30, 2017).

12/27/17
Date


Herb Roach
Mayor of the City of O'Fallon



“(C) An opinion of legal counsel that the
municipality is in compliance with this Act.”
[65 ILCS 5/11-74.4-5 (d) (4) and 5/11-74.6-22 (d) (4)]

I, Terry Bruckert, am the Tax Increment Financing Attorney for the City of O'Fallon, Illinois and have been such throughout the fiscal year covered by this report (May 1, 2016- April 30, 2017). I have reviewed all information provided to me by the City administration and staff, and I find that the City of O'Fallon, Illinois has conformed to all applicable requirements of the Illinois Tax Increment Redevelopment Allocation Act set forth hereunder to the best of my knowledge and belief.

This opinion relates only to the time period set forth, and is based upon all information available to me as of the end of said fiscal year.

12-22-17
Date

Terry Bruckert
Signature

City of O'Fallon
St. Clair County, Illinois

STATEMENT OF ACTIVITIES TO FURTHER
OBJECTIVES OF THE REDEVELOPMENT PLAN

Year Ended April 30, 2017

2nd Street Road Improvements

The City has retained a traffic engineering firm to undertake traffic surveys, prepare designs and complete staking construction for 2nd Street road improvements. The City installed a pedestrian rapid flash beacon at the cross walk of 1st Street and Lincoln Avenue. The City began improvements on the west side of 2nd Street for drainage and storm water.

Fezziwig's

Fezziwig's is a small marketplace that the City contracted with the developer to renovate the existing building for a retail business. The project was complete as of 5/31/2016.

Old City Hall

Brad McMillin acquired from the City the real estate property located at 200 North Lincoln (Old City Hall and the adjoining vacant land). As part of the purchase agreement, the developer agreed to renovate the building in such a way as to preserve the City's historical landmark. Renovations were on going during the past fiscal year.

Bike Surgeon

The Bike Surgeon is an Illinois corporation that the City contracted with the developer to renovate the existing building for a bicycle shop. Renovations were on going during the past fiscal year.

CITY OF O'FALLON, ILLINOIS

ORDINANCE NO. 3943

**AN ORDINANCE OF THE
CITY OF O'FALLON WHICH
AUTHORIZES THE EXECUTION OF
THE REDEVELOPMENT
AGREEMENT WITH
METRO INFLATABLES, LLC**

WHEREAS, the City of O'Fallon, St. Clair County, Illinois (the "City") has the authority to adopt tax increment allocation financing pursuant to the Tax Increment Allocation Redevelopment ("TIF") Act, constituting Section 65 ILCS 5/11-74.4-1, et. seq., as amended (the "TIF Act"), to share a portion of the incremental tax revenue generated by the redevelopment project with the developer of such project to induce the developer's undertaking and performance of such project; and

WHEREAS, the City authorized preparation of a redevelopment plan entitled "City of O'Fallon, Illinois Tax Increment Financing Redevelopment Plan – Central City Redevelopment Area" ("Redevelopment Plan"), with established geographic boundaries (hereinafter the "Redevelopment Project Area") for the City of O'Fallon, St. Clair County, Illinois; and

WHEREAS, in accordance with the TIF Act, the City (i) convened a joint review board which performed all actions required under the TIF Act, and (ii) held and conducted a public hearing with respect to the Redevelopment Plan and Redevelopment Project Area described in such Redevelopment Plan at a meeting of the Mayor and City Council (the "Council") held on May 4, 2015, notice of such hearing having been given in accordance with the TIF Act; and

WHEREAS, the Council, after giving all notices required by law, and after conducting all public hearings required by law, adopted the following ordinances:

- (1) Ordinance No. 3885, approving the Redevelopment Plan and Project,
- (2) Ordinance No. 3886, designating the Redevelopment Project Area, and
- (3) Ordinance No. 3887, adopting Tax Increment Financing for the Redevelopment Project Area and establishing a special tax allocation fund therefore ("Special Tax Allocation Fund"); and

WHEREAS, **Metro Inflatables, LLC** ("Developer") has submitted a Redevelopment Proposal providing for a redevelopment project to be undertaken by the Developer within a portion of the Redevelopment Project Area (the "Project Area"). The City and Developer reasonably expect that completion of the redevelopment project (as

defined in the Redevelopment Agreement to be approved by this Ordinance) will generate additional tax revenues and economic activity in furtherance of the goals of the Redevelopment Plan; and

WHEREAS, the Council desires to enter into an agreement ("Redevelopment Agreement") with the developer to implement certain portions of the Redevelopment Plan and to enable the developer to carry out the development project; and

WHEREAS, the City is desirous of having the Project Area developed for such uses as identified in the Redevelopment Proposal in order to serve the needs of the community, to create jobs, to further the development of O'Fallon, and to produce increased tax revenues and enhance the tax base of the City and the various taxing districts which are authorized to levy taxes within the Redevelopment Area; and the City, in order to stimulate and induce the development of the Project, has agreed to apply TIF revenues under the TIF Act and the Redevelopment Plan to finance the reimbursable redevelopment project costs (as defined in the Redevelopment Agreement) with the Developer; and

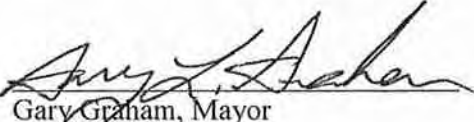
WHEREAS, pursuant to the TIF Act, the City is authorized to enter into a Redevelopment Agreement with the Developer.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of O'Fallon, St. Clair County, Illinois, as follows:


1. That the preceding recitations in the upper part of this Ordinance are realleged, restated and adopted as paragraph one (1) of this Ordinance; and
2. The Council finds and determines that it is necessary and desirable to enter into an agreement with the Developer to implement certain portions of the Redevelopment Plan and to enable the Developer to carry out the Development Project; and
3. The Council hereby approves the Redevelopment Agreement in substantially the form attached hereto as Exhibit "A" ("Redevelopment Agreement").
4. The Mayor is hereby authorized and directed to execute, on behalf of the City, the Redevelopment Agreement between the City and Developer, and the City Clerk is hereby authorized and directed to attest to the Redevelopment Agreement and to affix the seal of the City thereto. The Redevelopment Agreement shall be in substantially the form attached hereto as Exhibit A, with such changes therein as shall be approved by the officers of the City executing the same, such official signatures thereon being conclusive evidence of their approval and the City's approval thereof; and
5. The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance; and

6. The sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid; and
7. This Ordinance shall be governed exclusively by, and construed in accordance with, the applicable laws of the State of Illinois; and
8. The Mayor is hereby authorized and directed to execute and deliver on behalf of the City, and the City Clerk is hereby authorized and directed where appropriate to attest, all certificates, documents, agreements or other instruments, and the Mayor or his designated representative is hereby authorized and directed to take any and all actions, as may be necessary, desirable, convenient or proper to carry out and comply with the provisions of all agreements or contracts, necessary or reasonable incidental to the implementation of this Ordinance; and
9. All Ordinances, motions or orders in conflict herewith shall be, and the same hereby are, repealed to the extent of such conflict, and this Ordinance shall take effect and be in full force from and after the date of its passage by the City Council and approval by the Mayor as provided by law.

PASSED and APPROVED this 5TH day of July 2016.


Gary Graham, Mayor

ATTEST:


Phil Goodwin, City Clerk



| ROLL CALL: | McCoskey | Meile | Kueker | Conner | Hagarty | Gilreath | Smallheer | SUB TOTALS |
|------------|----------|-------|--------|--------|---------|----------|-----------|------------|
| Aye | | X | X | | X | X | X | 5 |
| Nay | | | | | | | | 0 |
| Absent | X | | | X | | | | 2 |

| ROLL CALL: | Roach | Bennett | Marsh | Drolet | Holden | Cozad | Gerrish | SUB TOTALS | SUM OF TOTALS |
|------------|-------|---------|-------|--------|--------|-------|---------|------------|---------------|
| Aye | X | X | X | X | X | | X | 6 | 11 |
| Nay | | | | | | | | 0 | 0 |
| Absent | | | | | | X | | 1 | 3 |

REDEVELOPMENT AGREEMENT

This Redevelopment Agreement (including the Exhibits) ("Agreement") is entered into on the date and by execution shown hereafter, by and between the **City of O'Fallon**, Illinois, an Illinois Municipal Corporation, (hereinafter referred to as "City") and **Metro Inflatables, LLC**, an Illinois corporation doing business under the assumed name Metro Inflatables, LLC (hereinafter collectively referred to as "the Developer").

PREAMBLE

WHEREAS, the municipality has the authority to promote health safety and welfare, including to prevent the spread of blight and deterioration and inadequate public facilities by promoting the development of and private investment in industry, business and housing and enhancing the marketability of real property, thereby increasing the tax base of the municipality and reducing unemployment; and

WHEREAS, the Developer owns the following described real estate located in the City of O'Fallon, St. Clair County (the "Property") on which is situated a certain building:

Parcels consisting of parts of Lot 10 and Lot 11 of O'Fallon Original Town, City of O'Fallon, St. Clair County, Illinois, described as follows:

Permanent Parcel Nos. 04-30.0-403-005 and 04-30.0-403-019

WHEREAS, the City desires to encourage the Developer to renovate the existing building for a retail business in the City of O'Fallon (which renovation is hereinafter referred to as the "Project"); and

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4 et seq., as amended (the "TIF Act"), the City has the authority to provide incentives to owners or prospective owners of real property to redevelop, rehabilitate and/or upgrade such property by reimbursing the owner for certain costs from the resulting increases in real estate tax revenues; and

WHEREAS, on June 1, 2015, recognizing the need to foster the development, expansion and revitalization of certain real properties, which are vacant, underutilized or obsolete or a combination thereof, a City approved a Tax Increment Redevelopment Plan, designated a Redevelopment Area and adopted Tax Increment Financing as provided under the TIF Act ("Central City TIF District"); and

WHEREAS, the Developer's proposed project is consistent with the Central City TIF District Redevelopment Plan for the Redevelopment Project Area (the "Redevelopment Plan") and further conforms to the land uses of the City as adopted; and

WHEREAS, pursuant to Section 5/11-74.4-4(b) of the TIF Act, the City may make and enter into all contracts with property owners, developers, tenants, over lapping taxing bodies, and

others necessary or incidental to the implementation and furtherance of the Redevelopment Plan; and

WHEREAS, pursuant to section 5/11-74.4-4(j) of the TIF Act, the City may incur Project Redevelopment Costs and reimburse developers who incurred redevelopment project costs authorized by a Redevelopment Agreement and further defined in Section 5/11-74.4-3(q) of the TIF Act including those Estimated TIF Eligible Project Cost as herein listed in Attachment "A" of this Redevelopment Agreement; and

WHEREAS, the Developer has informed the City, and the City hereby specifically finds, that without the financial support that may be provided pursuant to the TIF Act to reimburse some of the Project costs, the Project is not financially feasible and the Project will not move forward; and

WHEREAS, financing the construction of the renovated retail building is consistent with the objectives of the City's Comprehensive Plan; and

WHEREAS, the parties acknowledge the City, in extending incentives for this Project, is relying on the representations of the Developer contained herein to substantially complete the Project as set forth herein.

NOW, THEREFORE, in consideration of the premises and agreements set forth below, the parties, for and in consideration of the representations relative to the proposed improvements of said real property owned by the Developer, hereby agree as follows:

Section 1. Incorporation of Recitals. The Parties agree that all of the recitals contained in the Preambles to this Agreement are true and correct, and said recitals are hereby incorporated into the Agreement as though they were fully set forth in this Section 1.

Section 2. Contingency. The performance of the Developer set forth in this agreement is premised on the Developer receiving timely approval by the City Council of all planning approvals required to accommodate the Concept Plan, including uses requested by the Developer for the Developer's Development Project and the timely review and issuance by the City of all Governmental Approvals within its control. Performance hereunder is also premised on the receipt by the Developer, with a copy to the City, of an opinion of the City Attorney as to the validity and enforceability under Illinois law of this Agreement.

Section 3. Obligations/Representations of the Developer.

- a. Upon the approval by the City of the Development Agreement, the Developer shall proceed with the Project as described above. The Project shall be substantially complete within one (1) year of the date of execution of this Development Agreement.
- b. The Developer represents and warrants that it has sufficient funds or financing as necessary to construct the Project.
- c. The Developer shall at all times undertake the Developer's Development Project, including any related activities in connection therewith, in conformance with this

Agreement, all applicable federal and state laws, rules and regulations and all City Codes. To the extent that the construction of the Developer's Development Project under this Agreement is a "public work" within the meaning of the Prevailing Wage Act of the State of Illinois (820 ILCS 130/0.01 et seq., the "PW Act"), the Developer shall assume the risk of compliance with the PW Act. The PW Act requires contractors and subcontractors performing work on behalf of Developer on the public works portion of the Developer's Development Project to pay laborers, workers and mechanics no less than the current "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. IDOL publishes the prevailing wage rates on its website at <http://labor.illinois.gov/>. IDOL revises the prevailing wage rates and any contractor/subcontractor on the Project has an obligation to check the IDOL's website for revisions to the prevailing wage rates. The Developer shall require all contractors and subcontractors performing such work on the Developer's Development Project to comply with all requirements of the PW Act, including, but not limited to, all wage requirements and all notice, record keeping and monthly filing duties. Any agreement of the Developer related to the Developer's Development Project with any contractor or subcontractor shall, to the extent applicable, contain provisions substantially similar to those required of the Developer under this Agreement.

- d. Within fifteen (15) days of receipt of the TIF reimbursement from the City, Developer shall provide proof that Fezziwig's has been reimbursed for its project costs in an amount no less than 89% of what the Developer receives from the City through this Agreement.

Section 4. Obligation of the City. In consideration of the Developer's undertaking of the Project, including the incurring of Reimbursable Redevelopment Project Costs under the Redevelopment Plan, the City hereby pledges and agrees to apply the Incremental Property Taxes generated from Project and deposited into the Special Tax Allocation Fund in accordance with this Agreement to pay Reimbursable Project Costs incurred by the Developer, subject to the following:

- a. The City will reimburse 75% of the incremental EAV generated by the development of this Property until the expiration of this TIF District on June 1, 2038, or until the maximum funding amount is reached, whichever comes first. The developer must supply proof of tax payments, showing the EAV each year.

- b. Eligible Costs City will consider –

Land Acquisition, Renovation of Existing Building, Site Improvements, Legal,
Architectural & Engineering Fees

Total Estimated Eligible Costs \$113,170.12

- c. The Developer shall submit to the City's Director of Finance a request for payment consisting of a sworn written statement setting forth the amount of costs incurred by

the Developer for completion of the Project. Each Request shall be accompanied by such bills, invoices, lien waivers or other evidence as the City may reasonably require for documenting the Developer's costs incurred for the Project. These Requests shall be submitted after January 1st of each year until the total eligible cost tallies to at least \$113,170.12. The Developer may continue to provide Requests until all Project costs have been incurred and the Project is completed.

- d. The City's finance director (or designee as the case may be), shall approve or disapprove a request for payment by written notice to the Developer within 30 days after receipt of the request. Approval of a request will not be unreasonably withheld. If a request is disapproved, the reasons for disapproval will be set forth in writing; and the Developer shall resubmit the request with such additional information as may be required, and the same procedures as set forth herein for the initial submission shall apply for such resubmittals.
- e. Reimbursement of approved Project costs shall be made annually within sixty days upon receipt from the County of the property tax proceeds for the applicable tax year. Approved Project costs shall only be reimbursed to the extent that tax increment is generated by the Property and if there are monies available for such purpose. To the extent money is not available to reimburse the Developer for approved Project costs, such costs shall be reimbursed in subsequent years.
- f. The City and the Developer acknowledge that the determination of the qualification of Eligible Redevelopment Project Costs, the TIF Area and the Redevelopment Plan and Project and, therefore, qualification for payment and/or reimbursement under this Agreement are subject to changes made by amendments to the TIF Act, administrative rules and judicial interpretations during the term of this Agreement. The City has no obligation to the Developer to attempt to modify those decisions but will assist the Developer as to obtaining approval of Eligible Redevelopment Project Cost. The Developer assumes all risk related to qualification of Eligible Redevelopment Project Cost, the Area and the Redevelopment Plan and Project or the Development Project.
- g. Except as otherwise expressly provided herein, the City shall not be obligated to make any payments to any person other than the Developer, nor shall the City obligated to pay any contractor, sub-contractor, mechanic, material man providing services or materials to the Developer for or in respect of the Development Project.
- h. Prior to making an annual payment to the Developer for reimbursement of approved redevelopment project costs, the Developer shall provide evidence that the latest real property tax bill for the Property for the applicable tax year has been paid in full.
- i. The City's Finance Department shall maintain an account of all payment Developer under this Agreement and may set up sub-accounts to track the tax increment, and payments made to the Developer for this Property.

- j. THE CITY'S OBLIGATIONS TO REIMBURSE THE DEVELOPER UNDER THIS AGREEMENT IS A LIMITED OBLIGATION PAYABLE SOLELY FROM INCREMENTAL TAXES GENERATED BY THE PROJECT ON THE PROPERTY AND DEPOSITED IN THE CITY'S FUNDS FROM TIME TO TIME AND SHALL NOT BE A GENERAL OBLIGATION OF THE CITY OR SECURED BY THE FULL FAITH AND CREDIT OF THE CITY.
- k. The City's obligations to reimburse the Developer for eligible TIF Project Costs, pursuant to Section 4 of this agreement, shall terminate upon the occurrence of any of the following:
 - 1. Developer's voluntary or involuntary bankruptcy;
 - 2. Fezziwig's voluntary or involuntary closure of its business;
 - 3. Substantial change in the nature of the Fezziwig's business without the City's prior written approval;
 - 4. Sale of the Developer's building without the City's prior written approval;
 - 5. Sale of Fezziwig's business without the City's prior written approval; or
 - 6. Relocation of Fezziwig's business.
- l. The failure of the Developer to provide any information required in this Agreement shall be considered a material breach of this Agreement and shall be sufficient cause for the City to deny payments under this Agreement to or in respect of the Developer, which payments are expressly conditioned upon the receipt of such information.

Section 5. Indemnification. The Developer shall indemnify and hold harmless the City, its agents, officers and employees against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses (including any liabilities, judgments, costs and expenses and reasonable attorney's fees) which may arise directly or indirectly from acts or omissions in connection with the Development Project, the Development Area and this Agreement, whether or not a lawsuit is filed. The Developer shall, at its own cost and expense, appear, defend and pay all charges of attorneys, costs and other expenses arising therefrom or incurred in connection therewith. If any judgment shall be rendered against the City, its agents, officers, officials or employees in any such action, the Developer shall, at its own expense, satisfy and discharge the same. This paragraph shall not apply, and the Developer shall have no obligation whatsoever, with respect to any acts of negligence or reckless or willful misconduct on the part of the City or any of its officers, agents, employees or contractors.

In no way limiting the foregoing, the Developer shall also indemnify and hold harmless the City, its agents, officers and employees against all damages, claims, suits, liabilities, judgments, fines, penalties, costs and expenses (including reasonable attorney's fees) which may arise directly or indirectly from any violation of the Illinois Prevailing wage Act, 820 ILCS 130/0.01 *et. seq.*, in connection with the Project.

Section 6. Default and Remedies. Except as otherwise provided in this Agreement, in the event of any default in or breach of any term or conditions of this Agreement by either party or any successor or assign, the defaulting or breaching party (or successor or assign) shall, upon

written notice from the other party, proceed immediately to cure or remedy such default or breach as follows: (a) in the event of a nonmonetary default, within thirty (30) days after receipt of notice, commence to cure or remedy such default, and (b) in the event of a monetary default, within ten (10) days after receipt of notice, commence to cure or remedy such default. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party. If either party shall prevail in any court proceeding to enforce any term, covenant or condition hereof, the non-prevailing party shall reimburse the prevailing party its costs and reasonable attorneys' fees on account of such proceeding.

Section 7. Termination. In the event that the Developer does not commence construction of the addition within six (6) months of the execution of this Agreement, the City may terminate this Agreement. If the City terminates this Agreement in accordance with this paragraph, Developer shall not be entitled to any financial assistance from the City.

In the event that the Project is not substantially completed within one (1) year after the execution of this Agreement, the City may terminate this Agreement. If the City terminates this Agreement in accordance with this paragraph, Developer shall not be entitled to any further financial assistance from the City. In addition, if the Developer fails to complete the Project, the Developer shall reimburse the City for any monies it received pursuant to this Agreement

Section 8. Assignment. This Agreement may not be assigned by the Developer without prior written approval of the City, which shall not be unreasonably withheld.

Section 9. Partial Invalidity. If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of the same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

Section 10. Waiver. Any party to this agreement may elect to waive any remedy it may have hereunder, provided that no such waiver shall be deemed to exist unless the party waiving such right or remedy, does so in writing. No such waiver shall obligate such party to wave any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies hereunder, or shall be deemed to constitute a waiver of other rights and remedies pursuant to this Agreement.

Section 11. Severability. If any section, sub-section, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of such section, sub-section, term or provision of this Agreement or the application of same, to parties or circumstance other than those to which it is held invalid or unenforceable, shall not be affected thereby.

Section 12. Conflict of Interest. No member of the Corporate Authorities, the Joint Review Board, or any branch of the City's government who has any power of review or approval of any of Developer's undertakings, or of the City's contracting for goods or services for the Property, shall participate in any decisions relating thereto which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested. As provided in the TIF Act, any person having such interest shall immediately, upon knowledge of such possible conflict, disclose, in writing, to the City Council the nature of such interest and seek a determination by the City Council with respect to such interest and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

Section 13. Force Majeure. The time the Developer is to perform any act under this Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed by strikes, lockouts, acts of God, failure or inability to secure materials or labor in a timely fashion or any other cause beyond the reasonable control of the Developer.

Section 14. Agreement Binding on Successors. This Agreement shall be binding on the Developer's permitted successors and assigns.

Section 15. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

Section 16. Entire Agreement; Amendment. The parties agree that this Agreement constitutes the entire agreement between the parties and that no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the authorized representatives of both parties.

Section 17. Miscellaneous. Developer represents that signee has the authority to enter into this Agreement.

Section 18. Notices. All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

To the Developer:

Attention: Gregory Muren
Metro Inflatables, LLC
114 North Vine Street
O'Fallon, IL 62269

To the City:

Attention: City Clerk
City of O'Fallon
255 South Lincoln Avenue
O'Fallon, IL 62269

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be

executed in their respective names and caused their respective seals, if applicable, to be affixed thereto, and attested as to the date first above written.

(SEAL)

CITY OF O'FALLON, ILLINOIS

Gary L. Graham 7/19/16
Gary L. Graham, Mayor Date

Attest:

Philip A. Goodwin 7-19-2016
Philip A. Goodwin, City Clerk Date



Developer:

METRO INFLATABLES, LLC

Gregory Muren 7/19/16
Gregory Muren, Manager Date

**CITY OF O'FALLON, ILLINOIS
ORDINANCE NO. 3956**

**AN ORDINANCE OF THE CITY OF
O'FALLON WHICH AUTHORIZES
THE EXECUTION OF THE
REDEVELOPMENT AGREEMENT
WITH BRAD MCMILLIN**

WHEREAS, the City of O'Fallon, St. Clair County, Illinois (the "City") has the authority to adopt tax increment allocation financing pursuant to the Tax Increment Allocation Redevelopment ("TIF") Act, constituting Section 65 ILCS 5/11-74.4-1, et. seq., as amended (the "TIF Act"), to share a portion of the incremental tax revenue generated by the redevelopment project with the developer of such project to induce the developer's undertaking and performance of such project; and

WHEREAS, the City authorized preparation of a redevelopment plan entitled "City of O'Fallon, Illinois Tax Increment Financing Redevelopment Plan – Central City Redevelopment Area" ("Redevelopment Plan"), with established geographic boundaries (hereinafter the "Redevelopment Project Area") for the City of O'Fallon, St. Clair County, Illinois; and

WHEREAS, in accordance with the TIF Act, the City (i) convened a joint review board which performed all actions required under the TIF Act, and (ii) held and conducted a public hearing with respect to the Redevelopment Plan and Redevelopment Project Area described in such Redevelopment Plan at a meeting of the Mayor and City Council (the "Council") held on May 4, 2015, notice of such hearing having been given in accordance with the TIF Act; and

WHEREAS, the Council, after giving all notices required by law, and after conducting all public hearings required by law, adopted the following ordinances:

- (1) Ordinance No. 3885, approving the Redevelopment Plan and Project,
- (2) Ordinance No. 3886, designating the Redevelopment Project Area, and
- (3) Ordinance No. 3887, adopting Tax Increment Financing for the Redevelopment Project Area and establishing a special tax allocation fund therefore ("Special Tax Allocation Fund"); and

WHEREAS, Brad McMillin ("Developer") has submitted a Redevelopment Proposal providing for a redevelopment project to be undertaken by the Developer within a portion of the Redevelopment Project Area (the "Project Area"). The City and Developer reasonably expect that completion of the redevelopment project (as defined in the Redevelopment Agreement to be approved by this Ordinance) will generate additional tax revenues and economic activity in furtherance of the goals of the Redevelopment Plan; and

WHEREAS, the Council desires to enter into an agreement ("Redevelopment Agreement") with the developer to implement certain portions of the Redevelopment Plan and to enable the developer to carry out the development project; and


WHEREAS, the City is desirous of having the Project Area developed for such uses as identified in the Redevelopment Proposal in order to serve the needs of the community, to create jobs, to further the development of O'Fallon, and to produce increased tax revenues and enhance the tax base of the City and the various taxing districts which are authorized to levy taxes within the Redevelopment Area; and the City, in order to stimulate and induce the development of the Project, has agreed to apply TIF revenues under the TIF Act and the Redevelopment Plan to finance the reimbursable redevelopment project costs (as defined in the Redevelopment Agreement) with the Developer; and

WHEREAS, pursuant to the TIF Act, the City is authorized to enter into a Redevelopment Agreement with the Developer.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of O'Fallon, St. Clair County, Illinois, as follows:

1. That the preceding recitations in the upper part of this Ordinance are realleged, restated and adopted as paragraph one (1) of this Ordinance; and
2. The Council finds and determines that it is necessary and desirable to enter into an agreement with the Developer to implement certain portions of the Redevelopment Plan and to enable the Developer to carry out the Development Project; and
3. The Council hereby approves the Redevelopment Agreement in substantially the form attached hereto as Exhibit "A" ("Redevelopment Agreement").
4. The Mayor is hereby authorized and directed to execute, on behalf of the City, the Redevelopment Agreement between the City and Developer, and the City Clerk is hereby authorized and directed to attest to the Redevelopment Agreement and to affix the seal of the City thereto. The Redevelopment Agreement shall be in substantially the form attached hereto as Exhibit A, with such changes therein as shall be approved by the officers of the City executing the same, such official signatures thereon being conclusive evidence of their approval and the City's approval thereof; and
5. The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance; and
6. The sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid; and
7. This Ordinance shall be governed exclusively by, and construed in accordance with, the applicable laws of the State of Illinois; and

- Passed by the City Council this 15th day of August 2016.


Gary L. Graham, Mayor

[illegible]

REDEVELOPMENT AGREEMENT

This Agreement is entered into on the date and by execution shown hereafter, by and between the **City of O'Fallon**, Illinois, an Illinois Municipal Corporation, (hereinafter referred to as "City") and **Bradley D. McMillin** (hereinafter referred to as "the Developer").

PREAMBLE

WHEREAS, the Developer is to acquire, from the City, the real estate ("Property") located at 200 North Lincoln, O'Fallon, IL, which consists of the former O'Fallon City Hall and the vacant land adjoining the building to the north, the total dimensions of which are approximately 82 feet by 140 feet (the legal description of which is to be devised at a later date per survey); and

WHEREAS, situated on the property is a building which is the former City Hall of the City of O'Fallon and which is a locally designated historical landmark; and

WHEREAS, the City, in order to preserve the City's historical landmark and encourage the developer to renovate the City Hall building in such a way so as to preserve the building and at the same time renovate the building for office or retail space (which renovation is hereinafter referred to as the "Project"); and

WHEREAS, the City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, *et seq.*, as amended (the "TIF Act"), to finance redevelopment in accordance with the conditions and requirements set forth in the TIF Act; and

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-4(c)), the City has made public disclosure of all bids and proposals made in response to the City's request; and

WHEREAS, it is the desire of the City and the Developer that the City assist in the improvements for the Project under the City's grant of authority pursuant to the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-11, as amended; and

WHEREAS, the Developer has informed the City, and the City hereby specifically finds, that without the financial support that may be provided pursuant to the "TIF Act" to reimburse some of the Project costs, the Project is not financially feasible and the Project will not move forward; and

WHEREAS, financing the construction of the renovated building for office or retail uses is consistent with the objectives of the City's Comprehensive Plan; and

WHEREAS, the Developer has presented a redevelopment project ("Project") to the City, to be undertaken by the Developer and the City, in accordance with the terms and conditions of this Agreement; and

WHEREAS, as a part of the Project, the Developer proposes to renovate the former City Hall located on the Property and has demonstrated to the City's satisfaction that the Developer has the experience and capacity to renovate the building; and



WHEREAS, this Agreement has been submitted to the Corporate Authorities of the City for consideration and review, the Corporate Authorities have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the City according to the terms hereof, and any and all actions of the Corporate Authorities of the City precedent to the execution of this Agreement have been undertaken and performed in the manner required by law.

NOW, THEREFORE, in consideration of the premises and agreements set forth below, the parties, for and in consideration of the representations relative to the proposed improvements of said Property owned by the Developer, hereby agree as follows:

Section 1. Incorporation of Recitals. The Parties agree that all of the recitals contained in the Preambles to this Agreement are true and correct, and said recitals are hereby incorporated into the Agreement as though they were fully set forth in this Section 1.

Section 2. Authorization.

(a) Pursuant to the TIF Act, a plan for redevelopment known as the "City of O'Fallon, Illinois Tax Increment Financing Redevelopment Plan – Central City Redevelopment Area" (the "**Redevelopment Plan**") for an area designated therein (the "**Redevelopment Project Area**"), consisting of approximately 85 acres, as legally described in the Redevelopment Plan has been prepared and reviewed by the City.

(b) In accordance with the TIF Act, the City (i) convened a Joint Review Board which performed all actions required under the TIF Act, and (ii) held and conducted a public hearing with respect to the Redevelopment Plan and the Redevelopment Project at a meeting of the City Council (the "**Corporate Authorities**") held on May 4, 2015, notice of such hearing having been given in accordance with the TIF Act.

(c) The Corporate Authorities, after giving all notices required by law and after conducting all public hearings required by law, adopted the following ordinances: (1) Ordinance No. 3885, approving the Redevelopment Plan, (2) Ordinance No. 3886, designating the Redevelopment Project Area, and (3) Ordinance No. 3887, adopting tax increment financing for the Redevelopment Project Area and establishing a special tax allocation fund therefor (the "**Special Tax Allocation Fund**").

Section 3. Developer's Performance of Work.

(a) **Developer's Improvements.** Developer shall advance funds for and commence and complete each of its obligations (or cause the completion of its obligations by entering into agreements with a third party) under this Agreement with respect to the acquisition, of the Property and renovation of the building situated thereon, the renovation of which shall be in two phases.

(b) **Project.** The Project shall be developed in two Phases. Phase I shall consist of the restoration and renovation of the exterior and white-boxing of the interior of the former City Hall. Phase II shall consist of a tenant finish of the interior when a tenant has been identified.

(c) **Construction Schedule.** Phase I of the Project shall be substantially complete within 6 months from the date of execution of this Development Agreement. Phase II of the Project shall be completed within four (4) years of the effective date of this Agreement. Completion of Phase I



and Phase II is premised on Developer receiving timely approval by the City Council of all planning approvals required to accommodate that building renovation and the timely review and issuance by the City of all governmental approvals within its control. In addition, the Developer shall, at all times herein, maintain the property and the building located thereon so that the condition of same shall not violate the City Code.

(d) **Extension of Time.** Notwithstanding any provision of this Agreement to the contrary, the Developer may, upon reasonable cause shown, request the Mayor or his designee to extend or waive times for performance. The Mayor or his designee may, but is not required to, consent to such extensions or waivers for a period not exceeding six (6) months without further action by the Corporate Authorities. In the event that the Mayor or his designee extends or waives time for Developer's performance under Section 3(c) of this Agreement, the City's time for performance under Section 3(c) shall be extended to conform to Developer's extended time for performance.

(e) **Certificate of Substantial Completion.** To establish the completion date for each Phase of the Project, Developer shall furnish to the City a Certificate of Substantial Completion upon completion of the each Phase of the Project.

The City shall, within thirty (30) days following delivery of the Certificate of Substantial Completion with respect to the particular Phase of the Project, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The certificates shall be deemed verified and the Certificate of Substantial Completion shall be deemed accepted by the City unless, prior to the end of such thirty (30)-day period after delivery to the City of the Certificate of Substantial Completion, the City furnishes the Developer with specific written objections to the status of performance based on failure of the construction to be in accordance with Governmental Approvals issued by the City, describing such objections and the measures required to correct such objections in reasonable detail. Developer shall use reasonable efforts to cure such objections. The City shall have no basis to object to the Certificate of Substantial Completion with respect to any aspect of the construction that was previously inspected and approved.

Section 4. Reimbursement of Development Costs. In consideration of the Developer's undertaking of the Project, including the incurring of reimbursable redevelopment project costs under the Project, the City hereby pledges and agrees to apply the Incremental Property Taxes generated from the Project and deposited into the Special Tax Allocation Fund in accordance with this Agreement to pay reimbursable project costs incurred by the Developer, subject to the following:

(a) The City will reimburse 75% of the incremental EAV generated by the development of this Property until the expiration of this TIF District on July 24, 2038 or until the maximum funding amount is reached, whichever comes first. The developer must supply proof of tax payments, showing the EAV each year.

(b) Eligible Costs City will consider

Land Acquisition, Renovation of Existing Building, Site Improvements, Legal, Architectural & Engineering Fees

Total Estimated Eligible Costs \$760,900.00 (see **Exhibit "A"** attached hereto and made part hereof.

(c) The Developer shall submit to the City's Director of Finance a written statement setting forth the amount of costs incurred by the Developer for completion of the Project. Each request shall be accompanied by such bills, invoices, lien waivers or other evidence as the City may reasonably require for documenting the Developer's costs incurred for the Project. These requests shall be submitted after January 1st of each year until the total eligible costs tallies to at least \$760,900.00. The Developer may continue to provide requests until all Project costs have been incurred and the Project is completed.

(d) Reimbursement of approved Project costs shall be made annually within sixty days upon receipt from the County of the property tax proceeds for the applicable tax year. Approved Project costs shall only be reimbursed to the extent that tax increment is generated by the Property and if there are monies available for such purpose. To the extent money is not available to reimburse the Developer for approved Project costs, such costs shall be reimbursed in subsequent years.

(e) Prior to making an annual payment to the Developer for reimbursement of approved redevelopment project costs, the Developer shall provide evidence that the real property tax bill for the Property for the applicable tax year has been paid in full.

(f) The City's Finance Department shall maintain an account of all payments to the Developer under this Agreement and may set up sub-accounts to track the tax increment, and payments made to the Developer for this Property.

(g) THE CITY'S OBLIGATIONS TO REIMBURSE THE DEVELOPER UNDER THIS AGREEMENT IS A LIMITED OBLIGATION PAYABLE SOLELY FROM INCREMENTAL TAXES GENERATED BY THE PROJECT ON THE PROPERTY AND DEPOSITED IN THE CITY'S FUNDS FROM TIME TO TIME AND SHALL NOT BE A GENERAL OBLIGATION OF THE CITY OR SECURED BY THE FULL FAITH AND CREDIT OF THE CITY.

(h) The City's obligations to reimburse the Developer for eligible TIF Project Costs associated with Phase I, pursuant to Section 3 of this agreement, shall terminate upon the occurrence of the following:

1. Developer's voluntary or involuntary bankruptcy;

(i) The City's obligations to reimburse the Developer for eligible TIF Project Costs associated with Phase II, pursuant to Section 3 of this agreement, shall terminate upon the occurrence of any of the following:

1. Entering into a contract with a tenant that has not been approved by the City.
2. Developer's voluntary or involuntary bankruptcy;

Section 5. Indemnification. Developer hereby releases and shall indemnify and hold harmless the City and its governing body members, officers, agents, and employees and the City Attorney for any and all claims, suits, damages, expenses or liabilities arising out of (1) the operation of all or any part of the Property, or the condition of the Property, including, without limitation, any environmental cost or liability, (2) inspections, acquisitions, preparations,



construction, leasing, operations, and other activities of Developer or its agents in connection with or relating to the Project, and (3) any loss or damage to the Property or any injury to or death of any person occurring at or about or resulting from any defect in the performance of the work by Developer or any contractor, sub-contractor, agent or employee of the Developer, except for matters arising out of the negligence or malfeasance, misfeasance or nonfeasance of the City or any official, agent, employee, consultant, contractor or representative of the City.

In no way limiting the foregoing, the Developer shall also indemnify and hold harmless the City, its agents, officers and employees against all damages, claims, suits, liabilities, judgments, fines, penalties, costs and expenses (including reasonable attorney's fees) which may arise directly or indirectly from any violation of the Illinois Prevailing wage Act, 820 ILCS 130/0.01 *et. seq.*, in connection with the Project.

Section 6. Assignment. Until completion of the Project, the rights, duties and obligations of the Developer under this Agreement may not be assigned in whole or in part without the prior written approval of the City, which shall be given upon a reasonable demonstration by the Developer and the determination by the City of the proposed assignee's experience and financial capability to undertake and complete the Project.

Notwithstanding any provision herein to the contrary, the City hereby approves, and no prior consent shall be required in connection with, (a) the right of the Developer to encumber or collaterally assign its interest in the Property or any portion thereof to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Developer's project costs, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; and (b) the right of the Developer to assign the Developer's rights, duties and obligations under this Agreement to an entity in which Bradley D. McMillin and maintains a majority interest.

Section 7. Default and Remedies.

(a) Except as otherwise provided in this Agreement, in the event of any default in or breach of any term or conditions of this Agreement by either party or any successor or assign, the defaulting or breaching party (or successor or assign) shall, upon written notice from the other party, proceed immediately to cure or remedy such default or breach as follows: (a) in the event of a nonmonetary default, within thirty (30) days after receipt of notice, commence to cure or remedy such default, and (b) in the event of a monetary default, within ten (10) days after receipt of notice, commence to cure or remedy such default. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party. If either party shall prevail in any court proceeding to enforce any term, covenant or condition hereof, the non-prevailing party shall reimburse the prevailing party its costs and reasonable attorneys' fees on account of such proceeding.

(b) In addition to the terms of the previous paragraph, should the Developer fail to remedy or cure any default per the terms of this Agreement, the City shall have the right to re-

purchase the Property from the Developer for the original purchase price of Ten Thousand Dollars (\$10,000.00) plus the Developer's documented costs of improvements to the property and building situated thereon.

Section 8. Termination. In the event that the Developer does not commence construction of Phase I of the Project within two (2) months of the execution of this Agreement, the City may terminate this Agreement. If the City terminates this Agreement in accordance with this paragraph, Developer shall not be entitled to any financial assistance from the City.

In the event that Phase I of the Project is not substantially completed within six (6) months after the date of execution of this Agreement, unless the time is otherwise extended according to Section 3(d), the City may terminate this Agreement. If the City terminates this Agreement in accordance with this paragraph, Developer shall not be entitled to any further financial assistance from the City then that paid to date. In addition, if the Developer fails to complete Phase I of the Project within the aforementioned time lines, the Developer shall reimburse the City for any monies it received pursuant to this Agreement.

Section 9. Notices. All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

To the Developer:

Bradley D. McMillin
PERSONAL/CONFIDENTIAL
1415 West Highway 50
O'Fallon, IL 62269
Phone# 618-624-4471
Email: bmcmillin@midwestbeltone.com

To the City:

City of O'Fallon
Attn: City Clerk
255 S. Lincoln Ave.
O'Fallon, IL 62269
Fax # 618-624-4508
Email: wdenton@ofallon.org

Section 10. Insurance.

(a) **City Improvements.** Prior to the commencement of construction of City improvements, if any, the City shall obtain or shall ensure that any such contractor obtains workers' compensation, comprehensive public liability and builder's risk insurance coverage in amounts customary in the industry for similar type projects. The City shall deliver to Developer evidence of such insurance prior to commencement of such construction. The City shall ensure that the insurance so required is maintained by any such contractor for the duration of the construction of any City improvements. In the event of any casualty affecting the City improvements the City agrees to cause any insurance proceeds to be used, to the extent necessary, to rebuild or restore the damaged improvements.

(b) **Buildings and Other Improvements.** Prior to the commencement of the rehabilitation of the buildings situated on the Property, Developer shall obtain or shall ensure that any contractor participating in the Project shall obtain workers' compensation, comprehensive

public liability and builder's risk insurance coverage in amounts customary in the industry for similar type projects.

Section 11. Conflict of Interest. No member of the Corporate Authorities, the Joint Review Board, or any branch of the City's government who has any power of review or approval of any of Developer's undertakings, or of the City's contracting for goods or services for the Property, shall participate in any decisions relating thereto which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested. As provided in the TIF Act, any person having such interest shall immediately, upon knowledge of such possible conflict, disclose, in writing, to the City Council the nature of such interest and seek a determination by the City Council with respect to such interest and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

Section 12. Force Majeure. The time the Developer is to perform any act under this Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed by strikes, lockouts, acts of God, failure or inability to secure materials or labor in a timely fashion or any other cause beyond the reasonable control of the Developer.

Section 13. Agreement Binding on Successors. This Agreement shall be binding on the Developer's permitted successors and assigns.

Section 14. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

Section 15. Partial Invalidity. If any section, subsection, term or provisions of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of the same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

Section 16. Miscellaneous. Developer represents that signee has the authority to enter into this Agreement.

Section 17. Entire Agreement; Amendment. The parties agree that this Agreement constitutes the entire agreement between the parties and that no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the authorized representatives of both parties.

Section 18. Effective Date. This Agreement shall be effective on the date signed by the last of the parties hereto.

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be executed in their respective names and caused their respective seals, if applicable, to be affixed thereto, and attested as to the date hereafter.



(SEAL)

CITY OF O'FALLON, ILLINOIS

Gary L. Graham 8/25/16
Gary L. Graham, Mayor Date

Attest:

Philip A. Goodwin 8-25-2016
Philip A. Goodwin, City Clerk Date

The seal is circular with a dotted border. Inside the circle, the word "OFFICIAL" is at the top, "O'Fallon" is in the center in a large script font, "ILLINOIS" is below it in a smaller font, and "Established 1854" and "St. Clair County, Illinois" are at the bottom.

DEVELOPER

Bradley D. McMillin 8/24/16
Bradley D. McMillin Date

Handwritten initials "PM" inside a circle.

CITY OF O'FALLON, ILLINOIS
RESOLUTION 2017 - 20

**A RESOLUTION OF THE CITY OF O'FALLON WHICH
AUTHORIZES THE EXECUTION OF THE REDEVELOPMENT
AGREEMENT WITH THE BIKE SURGEON, INC.**

- WHEREAS,** the City of O'Fallon, St. Clair County, Illinois (the "City") has the authority to adopt tax increment allocation financing pursuant to the Tax Increment Allocation Redevelopment ("TIF") Act, constituting Section 65 ILCS 5/11-74.4-1, et. seq., as amended (the "TIF Act"), to share a portion of the incremental tax revenue generated by the redevelopment project with the developer of such project to induce the developer's undertaking and performance of such project; and
- WHEREAS,** the City authorized preparation of a redevelopment plan entitled "City of O'Fallon, Illinois Tax Increment Financing Redevelopment Plan – Central City Redevelopment Area" (the "Redevelopment Plan"), with established geographic boundaries (hereinafter the "Redevelopment Project Area") for the City of O'Fallon, St. Clair County, Illinois; and
- WHEREAS,** in accordance with the TIF Act, the City (i) convened a joint review board which performed all actions required under the TIF Act, and (ii) held and conducted a public hearing with respect to the Redevelopment Plan and Redevelopment Project Area described in such Redevelopment Plan at a meeting of the Mayor and City Council (the "Council") held on May 4, 2015, notice of such hearing having been given in accordance with the TIF Act; and
- WHEREAS,** the Council, after giving all notices required by law, and after conducting all public hearings required by law, adopted the following ordinances:
- (1) Ordinance No. 3885, approving the Redevelopment Plan and Project,
 - (2) Ordinance No. 3886, designating the Redevelopment Project Area, and
 - (3) Ordinance No. 3887, adopting Tax Increment Financing for the Redevelopment Project Area and establishing a special tax allocation fund therefore ("Special Tax Allocation Fund"); and
- WHEREAS,** The Bike Surgeon, Inc. ("Developer") has submitted a Redevelopment Proposal providing for a redevelopment project to be undertaken by the Developer within the Redevelopment Project Area (the "Project Area"). The City and Developer reasonably expect that completion of the redevelopment project (as defined in the Redevelopment Agreement to be approved by this Resolution) will generate additional tax revenues and economic activity in furtherance of the goals of the Redevelopment Plan; and
- WHEREAS,** the Council desires to enter into an agreement ("Redevelopment Agreement") with the developer to implement certain portions of the Redevelopment Plan and to enable the developer to carry out the development project; and

WHEREAS, the City is desirous of having the Project Area developed for such uses as identified in the Redevelopment Proposal in order to serve the needs of the community, to create jobs, to further the development of O'Fallon, and to produce increased tax revenues and enhance the tax base of the City and the various taxing districts which are authorized to levy taxes within the Redevelopment Area; and the City, in order to stimulate and induce the development of the Project, has agreed to apply TIF revenues under the TIF Act and the Redevelopment Plan to finance the reimbursable redevelopment project costs (as defined in the Redevelopment Agreement) with the Developer; and

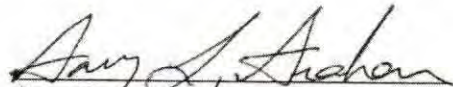
WHEREAS, pursuant to the TIF Act, the City is authorized to enter into a Redevelopment Agreement with the Developer.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of O'Fallon, St. Clair County, Illinois, as follows:


1. That the preceding recitations in the upper part of this Resolution are realleged, restated and adopted as paragraph one (1) of this Resolution; and
2. The Council finds and determines that it is necessary and desirable to enter into an agreement with the Developer to implement certain portions of the Redevelopment Plan and to enable the Developer to carry out the Redevelopment Project; and
3. The Council hereby approves the Redevelopment Agreement in substantially the form attached hereto as Exhibit "A" ("Redevelopment Agreement").
4. The Mayor is hereby authorized and directed to execute, on behalf of the City, the Redevelopment Agreement between the City and Developer, and the City Clerk is hereby authorized and directed to attest to the Redevelopment Agreement and to affix the seal of the City thereto. The Redevelopment Agreement shall be in substantially the form attached hereto as Exhibit A, with such changes therein as shall be approved by the officers of the City executing the same, such official signatures thereon being conclusive evidence of their approval and the City's approval thereof; and
5. The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution; and
6. The sections, paragraphs, sentences, clauses and phrases of this Resolution shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Resolution is found by a court of competent jurisdiction to be invalid, the remaining portions of this Resolution are valid; and

7. This Resolution shall be governed exclusively by, and construed in accordance with, the applicable laws of the State of Illinois; and
8. The Mayor is hereby authorized and directed to execute and deliver on behalf of the City, and the City Clerk is hereby authorized and directed where appropriate to attest, all certificates, documents, agreements or other instruments, and the Mayor or his designated representative is hereby authorized and directed to take any and all actions, as may be necessary, desirable, convenient or proper to carry out and comply with the provisions of all agreements or contracts, necessary or reasonable incidental to the implementation of this Resolution; and
9. All Resolutions, motions or orders in conflict herewith shall be, and the same hereby are, repealed to the extent of such conflict, and this Resolution shall take effect and be in full force from and after the date of its passage by the City Council and approval by the Mayor as provided by law.

PASSED and APPROVED this 20th day of March 2017.


Gary Graham, Mayor

ATTEST:


Phil Goodwin, City Clerk



REDEVELOPMENT AGREEMENT

This Agreement is entered into on the date and by execution shown hereafter, by and between the **City of O'Fallon**, Illinois, an Illinois Municipal Corporation, (hereinafter referred to as "City") and The Bike Surgeon, Inc., an Illinois corporation (hereinafter collectively referred to as "the Developer").

PREAMBLE

WHEREAS, the Developer owns the following described real estate located at 201 East State Street in the City of O'Fallon, St. Clair County (the "Property"):

WHEREAS, the City desires to encourage the Developer to renovate the existing building for a bicycle shop in the City of O'Fallon (which renovation is hereinafter referred to as the "Project");

WHEREAS, it is the desire of the City and the Developer that the City assist in the improvements for the Project under the City's grant of authority pursuant to the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 through 11-74.4-11, as amended [the "TIF Act"]);

WHEREAS, the Developer has informed the City, and the City hereby specifically finds, that without the financial support that may be provided pursuant to the "TIF Act" to reimburse some of the Project costs, the Project is not financially feasible, and the Project will not move forward;

WHEREAS, financing the construction of the renovated retail building is consistent with the objectives of the City's Comprehensive Plan;

NOW, THEREFORE, in consideration of the premises and agreements set forth below, the parties, for and in consideration of the representations relative to the proposed improvements of said real property owned by the Developer, hereby agree as follows:

Section 1. Incorporation of Recitals. The Parties agree that all of the recitals contained in the Preambles to this Agreement are true and correct, and said recitals are hereby incorporated into the Agreement as though they were fully set forth in this Section 1.

Section 2. Obligation of the Developer.

- a. Upon the approval by the City of the Development Agreement, the Developer shall proceed with the Project as described above. The Project shall be substantially complete within one (1) year of the date of execution of this Development Agreement.
- b. The Developer shall at all times undertake the Developer's Development Project, including any related activities in connection therewith, in conformance with this Agreement, all applicable federal and state laws, rules and regulations and all City

Codes.

Section 3. Obligation of the City. In consideration of the Developer's undertaking of the Project, including the incurring of Reimbursable Redevelopment Project Costs under the Redevelopment Plan, the City hereby pledges and agrees to apply the Incremental Property Taxes generated from Project and deposited into the Special Tax Allocation Fund in accordance with this Agreement to pay Reimbursable Project Costs incurred by the Developer, subject to the following:

- a. The City will reimburse 75% of the incremental EAV generated by the development of this Property until the expiration of this TIF District on June 1, 2038, or until the maximum funding amount is reached, whichever comes first. The developer must supply proof of tax payments, showing the EAV each year.

- b. Eligible Costs City will consider –

Land Acquisition, Renovation of Existing Building, Site Improvements, Interest, Architectural & Engineering Fees (A detailed breakdown of the eligible costs is shown in the Concept Plan that is attached as Exhibit A).

Total Estimated Eligible Costs \$556,550.00

- c. The Developer shall submit to the City's Director of Finance a written statement setting forth the amount of cost incurred by the Developer for completion of the Project. Each Request shall be accompanied by such bills, invoices, lien waivers or other evidence as the City may reasonably require for documenting the Developer's costs incurred for the Project. These Requests shall be submitted in a timely manner each year until the total eligible cost tallies to at least \$556,550.00. The Developer may continue to provide Requests until all Project costs have been incurred and the Project is completed.
- d. The City's finance director (or designee as the case may be), shall approve or disapprove a request for payment by written notice to the Developer within 90 days after receipt of the request. Approval of a request will not be unreasonably withheld. If a request is disapproved, the reasons for disapproval will be set forth in writing; and the Developer shall resubmit the request with such additional information as may be required, and the same procedures as set forth herein for the initial submission shall apply for such resubmittals.
- e. Reimbursement of approved Project costs shall be made annually no later than April 30th and upon receipt from the County of the property tax proceeds for the applicable tax year. Approved Project costs shall only be reimbursed to the extent that tax increment is generated by the Property and if there are monies available for such purpose. To the extent money is not available to reimburse the Developer for approved Project costs, such costs shall be reimbursed in subsequent years.

- f. Prior to making an annual payment to the Developer for reimbursement of approved redevelopment project costs, the Developer shall provide evidence that the real property tax bill for the Property for the applicable tax year has been paid in full.
- g. The City's Finance Department shall maintain an account of all payments to the Developer under this Agreement and may set up sub-accounts to track the tax increment, and payments made to the Developer for this Property.
- h. THE CITY'S OBLIGATIONS TO REIMBURSE THE DEVELOPER UNDER THIS AGREEMENT IS A LIMITED OBLIGATION PAYABLE SOLELY FROM INCREMENTAL TAXES GENERATED BY THE PROJECT ON THE PROPERTY AND DEPOSITED IN THE CITY'S FUNDS FROM TIME TO TIME AND SHALL NOT BE A GENERAL OBLIGATION OF THE CITY OR SECURED BY THE FULL FAITH AND CREDIT OF THE CITY.
- i. The City's obligations to reimburse the Developer for eligible TIF Project Costs, pursuant to Section 3 of this agreement, shall terminate upon the occurrence of any of the following:
 - 1. Developer's voluntary or involuntary bankruptcy;
 - 2. Substantial change in the nature of the Developer's business without the City's written approval;
 - 3. Sale of the Developer's building without the City's written approval;
 - 4. Relocation of Developer's business without the City's written approval.

Section 4. Indemnification. The Developer shall indemnify and hold harmless the City, its agents, officers and employees against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses (including any liabilities, judgments, costs and expenses and reasonable attorney's fees) which may arise directly or indirectly from (i) the failure of the Developer or any contractor, subcontractor or agent or employee thereof to timely pay any contractor, subcontractor, laborer or materialman; (ii) from any default or breach of the terms of this Agreement by the Developer; or (iii) from any negligence or reckless or willful misconduct of the Developer or any contractor, subcontractor or agent or employee thereof (so long as such contractor, subcontractor or agent or employee is hired by the Developer). The Developer shall, at its own cost and expense, appear, defend and pay all charges of attorneys, costs and other expenses arising therefrom or incurred in connection therewith. If any judgment shall be rendered against the City, its agents, officers, officials or employees in any such action, the Developer shall, at its own expense, satisfy and discharge the same. This paragraph shall not apply, and the Developer shall have no obligation whatsoever, with respect to any acts of negligence or reckless or willful misconduct on the part of the City or any of its officers, agents, employees or contractors.

Section 5. Default and Remedies. Except as otherwise provided in this Agreement, in the event of any default in or breach of any term or conditions of this Agreement by either party or any successor or assign, the defaulting or breaching party (or successor or assign) shall, upon written notice from the other party, proceed immediately to cure or remedy such default or breach as follows: (a) in the event of a nonmonetary default, within thirty (30) days after receipt

of notice, commence to cure or remedy such default, and (b) in the event of a monetary default, within ten (10) days after receipt of notice, commence to cure or remedy such default. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party. If either party shall prevail in any court proceeding to enforce any term, covenant or condition hereof, the non-prevailing party shall reimburse the prevailing party its costs and reasonable attorneys' fees on account of such proceeding.

Section 6. Termination. In the event that the Project is not substantially completed within one (1) year after the execution of this Agreement, the City may terminate this Agreement. If the City terminates this Agreement in accordance with this paragraph, Developer shall not be entitled to any further financial assistance from the City. In addition, if the Developer fails to complete the Project, the Developer shall reimburse the City for any monies it received pursuant to this Agreement

Section 7. Assignment. This Agreement may not be assigned by the Developer without prior written approval of the City, which shall not be unreasonably withheld.

Section 8. Partial Invalidity. If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of the same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

Section 9. Miscellaneous. Developer represents that signee has the authority to enter into this Agreement.

Section 10. Notices. All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

To the Developer:

Attention: Jon Greenstreet
The Bike Surgeon, Inc.
1210 N. Smiley
O'Fallon, IL 62269

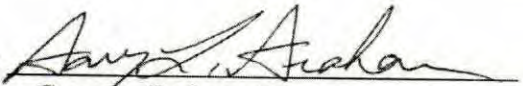
To the City:

Attention: City Clerk
City of O'Fallon
255 South Lincoln Avenue
O'Fallon, IL 62269


IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be executed in their respective names and caused their respective seals, if applicable, to be affixed thereto, and attested as to the date first above written.

(SEAL)

CITY OF O'FALLON, ILLINOIS

By: 
Gary L. Graham, Mayor

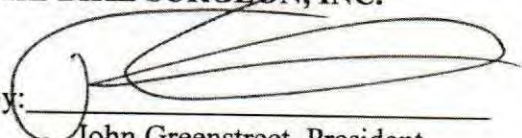
Attest:

By: 
Philip A. Goodwin, City Clerk



Developer:

THE BIKE SURGEON, INC.

By: 
John Greenstreet, President