

**CITY OF STREATOR
NORTHPOINT
TAX INCREMENT FINANCING (TIF) DISTRICT**

**FIRST AMENDMENT
TIF REDEVELOPMENT AGREEMENT**

by and between

THE CITY OF STREATOR, LASALLE COUNTY, ILLINOIS

and

BEAUTIFUL CITY, LLC

December 22, 2016

**CITY OF STREATOR
NORTHPOINT TAX INCREMENT FINANCING (TIF) DISTRICT**

**FIRST AMENDMENT
REDEVELOPMENT AGREEMENT**

**by and between
CITY OF STREATOR
and
BEAUTIFUL CITY, LLC**

THIS AGREEMENT (including *Exhibit 1*) is entered into this 22nd day of December, 2016, by the City of Streator (“City”), an Illinois Municipal Corporation, LaSalle County, Illinois; and Beautiful City, LLC., an Illinois Limited Liability Company (the “Developer”).

PREAMBLE

WHEREAS, the City has the authority to promote the health, safety, and welfare of the City and its citizens, and to prevent the spread of blight and deterioration and inadequate public facilities, by promoting the development of private investment property thereby increasing the tax base of the City and providing employment for its citizens; and

WHEREAS, pursuant to 65 ILCS 5/8-1-2.5 a municipality may expend funds for economic development purposes to commercial enterprises that are necessary or desirable for the promotion of economic development within the municipality; and

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4 *et seq.*, as amended (the “Act”), the City has the authority to provide incentives to owners or prospective owners of real property to develop, redevelop, and rehabilitate such property by reimbursing the owner for certain costs from resulting increases in real estate tax revenues and enter into contracts with developers necessary or incidental to the implementation of its redevelopment plan pursuant to 65 ILCS 5/11-74.4-4(b) and (j); and

WHEREAS, the City, recognizing the need to foster the development, expansion and revitalization of certain properties which are vacant, underutilized or obsolete or a combination thereof, adopted Tax Increment Financing and established a Tax Increment Allocation Redevelopment Area under the Act known as the Streator Northpoint TIF District (the “TIF District”) on April 28, 2016; and

WHEREAS, included in the Redevelopment Area is property (former theater building) to be acquired by the Developer which is located at 301 W. Danny’s Drive, Streator, Illinois (PIN *See Attached Exhibit 1*) (collectively the “Property”); and

WHEREAS, the Developer will acquire said Property and proceed with plans to renovate and rehabilitate the Property located thereon for the purpose of operating a six screen movie theater “Project”); and

WHEREAS, it is the intent of the City is to encourage economic development which will increase the real estate tax base of the City and the tax base of other taxing bodies, which increased incremental taxes will be used, in part, to finance incentives to assist development within the Tax Increment Financing District; and

WHEREAS, the Developer's Project is consistent with the TIF Plan and with the land uses of the City as adopted; and

WHEREAS, the City has the authority under the Act to incur Redevelopment Project Costs ("Eligible Project Costs") and to reimburse Developer for such costs pursuant to 65 ILCS 11-74.4-4(j); and

WHEREAS, the City has determined that this Developer's Project requires the incentives requested herein and that said Developer's Project would, as part of the Plan, promote the health, safety and welfare of the City and its citizens by attracting private investment to prevent blight and deterioration and to provide employment for its citizens and generally to enhance the economy of the City; and

WHEREAS, the City and the Developer ("Parties") have agreed that the City shall provide a one-time, lump-sum payment to the Developer as a reimbursement of Developer's TIF eligible project costs as herein described in *Exhibit 2* in an amount not to exceed Three Hundred and Forty Thousand and 00/100 Dollars (\$340,000.00). This amount will be recouped by the City, thru TIF funds generated by the Project, the City shall share with the Developer 50% of the net tax increment generated by Developer's project until the termination of the TIF District, (December 31, 2039, with final increment received in 2040), or payment of all Developer's TIF eligible costs, whichever occurs first. Such reimbursement for TIF eligible project costs is to be paid from the Streator Northpoint TIF District Special Tax Allocation Fund as specified below in *Section C, Incentives*; and

WHEREAS, this Agreement is contingent, in its entirety, upon the Developer acquiring title to the Property and securing the financing necessary to complete the Project as specified in Section A(7) herein, and

WHEREAS, in consideration of the execution of this Agreement, the Developer shall proceed with the Project as set forth herein; and

WHEREAS, the City is entering into this Agreement having encouraged and induced the Developer to renovate the building on the Property.

WHEREAS, the City has previously approved an Agreement dated July 12, 2016 and this Agreement shall amend and supercede where inconsistent that Agreement.

AGREEMENTS

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt of which is acknowledged, agree as follows:

A. PRELIMINARY STATEMENTS

1. The Parties agree that the matters set forth in the recitals above are true and correct and form a part of this Agreement.
2. Any terms which are not defined in this Agreement shall have the same meaning as they do in the Act, unless indicated to the contrary.
3. The City is extending incentives for Developer's Project in anticipation of the expected completion of the Developer's Project as set forth herein.
4. The Developer agrees to complete the Project within Twelve (12) months from the date of execution of this Agreement subject to the exception of Force Majeure (defined below). For the purpose of this Agreement, the Developer's Project will be deemed complete when the movie theater opens for business and all of the conditions and improvements set forth in *Exhibit 2* have been completed.
5. Each of the Parties represents that it has taken all actions necessary to authorize its representatives to execute this Agreement.
6. This Agreement is subject to and contingent in its entirety on the Developer securing the following sources of financing for its Project:
 - a) Revolving loan fund proceeds in the amount of \$150,000.00.
 - b) Debt financing through a bank or other financial institution of an amount not less than \$960,000.00.
7. As a condition of the Agreement, upon request of the City, the Developer shall provide for inspection by the City Manager evidence satisfactory to the City of the bank deposits that document the commitment of equity investor funding and bank financing in amounts not less than such provided herein.
8. The Developer shall carry adequate insurance on the Property to cover the replacement cost of the completed Project and shall name the City as loss payee of any such policy. The City agrees that it shall have a subordinate loss payee to the bank lender referenced above.

B. DEFINITIONS

1. **“Pledged Project Revenues”.** Shall mean the sum of: (1) One Hundred Percent (100%) of the “net” annual real estate tax increment generated by the Developer’s Project. “Net” real estate tax increment is defined as increases in annual real estate tax increment derived from the Developer’s Project after payment of the proportionate amount of administrative fees and costs incurred by the City and payments pursuant to any TIF District Intergovernmental Agreements approved by City. The Developer’s proportionate amount is calculated by dividing the increment generated by the Developer’s Project by the total TIF District real estate tax increment.
2. **“TIF Eligible Project Costs”.** TIF Eligible Project Costs shall mean those costs which are eligible for reimbursement under the TIF Act and are further described in Exhibit 2 attached hereto.

C. ADOPTION OF TAX INCREMENT FINANCING

The City has created a Tax Increment Financing District, currently known as **“Streator Northpoint TIF District”** which includes the Developer’s Property.

D. INCENTIVES

In consideration for the Developer purchasing the Property and substantially completing the Project as set forth herein, the City agrees to extend to the Developer the following incentives to assist the Developer’s Project:

1. The City will pay the same \$340,000.00 amount from its various TIF funds to satisfy the obligations of this Agreement. The distribution of funds shall be: \$300,000 in July 2016; \$30,000 in January 2017; and \$10,000 in August 2017. The initial \$300,000 payment has been fully made by City and received by Developer.
2. **Pay-As-You-Go Reimbursement.** The City shall receive all tax increment generated by the Project After accounting for the annualized repayment of the \$340,000.00, based on a 20 year repayment (\$17,000.00 per year) then the remaining incremental revenue, after it is allocated to and paid to the City Treasurer deposit in a separate account within the Special Tax Allocation Fund for this TIF District, shall be allocated as provided herein: fifty percent (50%) shall be paid annually to the Developer, and the remaining fifty percent (50%) of the net incremental increases in real estate taxes generated over the base year amount will be used for TIF Eligible Costs on or adjoining the Project property at the discretion of the City, or for any other TIF Eligible expenditure allowed under the law.

“Net Increment” is defined as increases in annual real estate tax increment derived from the Developer’s Project as previously described after payment for a proportionate amount of administrative fees and costs and payments pursuant to Intergovernmental Agreements, if any.

3. **Limitation of Incentives to Developer.** If, during the Term of this Agreement, the Developer is in default of this Agreement and remains in default after the applicable notice and cure periods set forth in *Section G* below, the Developer shall receive no further reimbursements hereunder, and any reimbursements previously received by the Developer shall be returned by it to the City within thirty (30) days.

E. TERMS OF REPAYMENT

The Parties agree that the Pledged Project Revenues shall be pledged to the annual payment of principal and interest of the Bond Issue. Annual principal and interest payments of the Bond Issue shall be made, first, from the annual real estate tax increment portion of the Pledged Project Revenues. If the City pays the \$340,000.00 obligation without issuing Bonds for the project, then one-twentieth (1/20th) or \$17,000.00 per year, shall be the annual amount of tax increment credited back to the City's TIF accounts, as stipulated in Section D.2. above.

F. PAYMENT OF ELIGIBLE PROJECT COSTS

1. A request for payment to the Developer for Eligible Project Costs as set forth by the Act, shall be made by a Requisition for Payment of Private Development Redevelopment Costs (*Exhibit 3. Request for Verification of TIF Eligible Project Costs*) as submitted by the Developer to the City's TIF Administrator, Jacob & Klein, Ltd. and The Economic Development Group (collectively the "Administrator"). Payment is subject to the Administrator's approval of the costs and to the availability of funds in the Special Account.
2. The Requisition must be accompanied by verified bills and invoices, cancelled checks or statements of suppliers, contractors, or professionals together with Mechanic's Lien Waivers as required by the City's Manager or City Clerk, or TIF Administrator.
3. The Requisition and documentation of TIF Eligible Project Costs as described in *Paragraph 2* above must be submitted by the Developer to be eligible for reimbursement.
4. The City Manager or TIF Administrator shall approve or disapprove the Requisition by written receipt to the Developer within thirty (30) business days after receipt of the Requisition. Approval of the Requisition will not be unreasonably withheld. If the Requisition is disapproved by the Administrator (or subsequently by the Illinois Department of Revenue), the reasons for disallowance will be set forth in writing and the Developer may resubmit the Requisition with such additional information as may be required and the same procedures set forth herein shall apply to such re-submittals.
5. The Parties acknowledge that the determination of Eligible Project Costs, and, therefore, qualification for reimbursement hereunder are subject to changes or interpretation made by amendments to the Act, administrative rules or judicial interpretation during the term of this Agreement.

G. DEFAULT BY THE DEVELOPER

1. Each of the following shall constitute an event of default by the Developer under this Agreement:
 - a. The Developer fails to cure the violation of any municipal ordinance relating to property development, property condition, zoning, subdivision or building codes within thirty (30) days upon being provided written notice of such violation by the City, except where such failure is not reasonably susceptible to cure within such 30-day period, in which case the Developer shall have such additional time to cure as is reasonably necessary, provided that the Developer has commenced such cure within such 30-day period and continues to diligently prosecute the same to completion.
 - b. The Developer files for bankruptcy or otherwise becomes insolvent during the Term of this Agreement.
 - c. Dissolution of the Developer's corporation during the Term of this Agreement.
 - d. The Property becomes the subject of foreclosure proceedings during the Term of this Agreement which proceedings are not vacated within thirty (30) days following the notice of filing of such foreclosure action.
 - e. The Developer fails to complete the Project within twelve (12) months following the date of execution of this Agreement, subject to extension due to Force majeure (defined below).
 - f. Commercial operations operating on the Property at the completion of the Project cease for a period of greater than ninety (90) days during the Term of this Agreement.
 - g. Beginning with the year of the first full assessment of the fully-completed Project (tax year 2017 payable in 2018) and in any year thereafter during the Term of this Agreement, the Equalized Assessed Valuation of the Property is less than \$250,000.00.
2. Effect of Default: If, during the Term of this Agreement, the Developer is in default of this Agreement and remains in default after the applicable notice and cure periods set forth herein, and remaining reimbursements owed the Developer hereunder shall cease and the Developer shall return any reimbursements already received by it to the City within thirty (30) days.

H. LIMITED OBLIGATION

The City's obligation hereunder to pay Developer for Eligible Project Costs is limited to a one-time, lump-sum payment to the Developer as a reimbursement of the Developer's TIF Eligible Project Costs and to TIF funds generated by the Project as specified in *Section D*. Except as specifically authorized by a Bond issue of City pursuant to this Agreement, said obligation does not now and shall never constitute an indebtedness of the City within the meaning of any State of Illinois Constitutional or Statutory provision, and shall not constitute or give rise to a pecuniary liability of the City or a charge or lien against any City fund or require the City to utilize its taxing authority to fulfill the terms of this Agreement.

I. DEFAULT; CURE; REMEDIES

In the event of a default under this Redevelopment Agreement by any party hereto (the "Defaulting Party"), which default is not cured within the cure period provided for below, then the other party (the "Non-defaulting Party") shall have an action for damages, or in the event damages would not fairly compensate the Non-defaulting Party's for the Defaulting Party's breach of this Redevelopment Agreement, the Non-defaulting Party shall have such other equity rights and remedies as are available to them at law or in equity. Any damages payable by the City hereunder shall be limited to the real estate tax increment payable to the Developer under the terms of this Agreement.

In the event a Defaulting Party shall fail to perform a monetary covenant which it is required to perform under this Redevelopment Agreement, it shall not be deemed to be in default under this Redevelopment Agreement unless it shall have failed to perform such monetary covenant within thirty (30) days of its receipt of a notice from a Non-defaulting Party specifying that it has failed to perform such monetary covenant. In the event a Defaulting Party fails to perform any nonmonetary covenant as and when it is required to under this Redevelopment Agreement, it shall not be deemed to be in default if it shall have cured such default within thirty (30) days of its receipt of a notice from a Non-defaulting Party specifying the nature of the default, provided, however, with respect to those nonmonetary defaults which are not capable of being cured within such thirty (30) day period, it shall not be deemed to be in default if it commences curing within such thirty (30) days period, and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

J. TIME; FORCE MAJEURE

For this Agreement, time is of the essence. The Developer agrees to complete construction of the Project within twelve months (12) following the execution of this Agreement, subject to extension due to Force Majeure (defined below). Failure to do so shall be cause for the City to unilaterally terminate the Agreement after notice and the opportunity to cure as provided in *Section G*. However, the Developer and the City shall not be deemed in default with respect to any obligations of this Agreement on its part to be performed if the Developer or the City fails to timely perform the same and such failure is due in whole, or in part, to any strike, lock-out, civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruptions of power, condemnation, riots, insurrections, war, fuel shortages, Acts of God, acts caused directly or indirectly by the City (or the City's agents, employees or invitees) when applicable to the Developer or third parties, or any other cause beyond the reasonable control of the Developer or the City (collectively, "Force Majeure").

K. WAIVER

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

L. SEVERABILITY

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 same to Parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

M. VERIFICATION OF REAL ESTATE TAX INCREMENT

1. It shall be the sole responsibility of the Developer or its successors in interest to provide to the City, as requested in writing, copies of all annual PAID real estate tax bills for the Property.
2. The failure of Developer to provide any additional information required herein after written notice from the City, including verification of TIF eligible project costs, and the continued failure to provide such information within thirty (30) days after such notice shall be considered a material breach of this Agreement and shall be cause for the City to deny payments hereunder to the Developer, which payments are conditioned upon receipt of the foregoing information.

N. REIMBURSEMENT OF THE DEVELOPER'S SHARE OF TAX OBJECTION REFUNDS

1. If a refund of tax increment (including any statutory interest thereon) is potentially due from the City's TIF Fund as the result of any tax objection, assessment challenge or appeal to the Illinois Property Tax Appeal Board (PTAB), issuance of a certificate of error or other such action, including any appeals therefrom, that concerns the potential reduction of assessed value of the Property, the City may at its sole discretion withhold the amount of any such possible refund to repay the Developer's obligation under Sections D and E above.
2. The Developer is hereby obligated to provide written notice to the City within five (5) days of its filing any such objection, assessment challenge or appeal to the PTAB or other such action, including any appeals therefrom, that seek to reduce the assessed value of the Property. Failure to provide such notice shall be considered a material breach of this Agreement and shall be cause for the City to deny any further reimbursement hereunder to the Developer and the Developer shall be required to refund to the City any funds already received by it hereunder.
3. Any funds withheld by the City under this section shall be deposited by it into a separate interest bearing bank account, until the matter of the distribution of funds is resolved.

O. 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 CITY:

City Clerk
City of Streator
Northpoint Plaza, Suites 15-16
Streator, IL 61364
Telephone: (815) 672-2517
Fax: (815) 672-7566

TO DEVELOPER:

Beautiful City, LLC
c/o Kurt Eric Gubelman
7844 E. Westlake Drive
Robinson, IL 62454
Telephone: (618) 553-9524

With copy to:

Jacob & Klein, Ltd. and
Economic Development Group, Ltd.
1701 Clearwater Avenue
Bloomington, Illinois 61704
Telephone: (309)664-7777

P. NO JOINT VENTURE, AGENCY, OR PARTNERSHIP CREATED

Neither anything in this Agreement nor any acts of the Parties to this Agreement shall be construed by the Parties or any third person to create the relationship of a partnership, agency, or joint venture between or among such Parties.

Q. INDEMNIFICATION OF CITY

It is the understanding of the Parties that the position of the Illinois Department of Labor is that the Illinois Prevailing Wage Act does not apply to TIF increment received by private developers as reimbursement for private TIF Eligible Project Costs.. The Developer shall indemnify and hold harmless the City, and all City elected or appointed officials, officers, employees, agents, representatives, engineers, consultants and attorneys (collectively, the Indemnified Parties), from any and all claims that may be asserted against the Indemnified Parties or one or more of them, in connection with the applicability, determination, and/or payments made under the Illinois Prevailing Wage Act (820 ILCS 130/0.01 et. seq.), the Illinois Procurement Code, and/or any similar State or Federal law or regulation. In addition, the Developer agrees to indemnify and hold harmless the City for any claim asserted against the City arising from the Developer's Project and/or this Agreement or any challenge to the eligibility of project costs reimbursed to the Developer hereunder.

R. ASSIGNMENT

The rights and obligations (or either of them) of the Developer under this Agreement, including but not limited to, the right to payments contemplated by *Section C* of this Agreement, shall not be assignable or transferrable by the Developer to another party unless the City's consent is obtained in writing prior to such assignment.

S. SUCCESSORS IN INTEREST /TIF SUCCESSION

Subject to the provisions of *Section R*, above, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, if any.

T. WARRANTY OF SIGNATORIES

The signatories of Developer warrant full authority to both execute this Agreement and to bind the entity in which they are signing on behalf of.

U. ENTIRE AGREEMENT

The terms and conditions set forth in this Agreement and exhibits attached hereto supersede all prior oral and written understandings and constitute the entire agreement between the City and the Developer with respect to the subject matter hereof. Upon approval of this Agreement, the parties agree that the prior Agreement between the parties regarding this Property is hereby revoked.

V. TERM OF THE AGREEMENT

This Agreement shall expire upon the first to occur of: (1) the currently scheduled expiration date of the TIF District, tax year 2039 payable in 2040; (2) full reimbursement of all of Developer's TIF eligible costs, or (3) upon default by Developer under this Agreement after the applicable notice and cure periods provided herein.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date at Streator, Illinois.

CITY

City of Streator, Illinois, an Illinois Municipal Corporation

By: *James D. Casoff*
Mayor, City of Streator

Attest:
By: *Linda J. Underwood*
City Clerk, City of Streator

DEVELOPER

Beautiful City, LLC, an Illinois Limited Liability Company

By: *K. Eric Kubelma*

Name: *K. ERIC Kubelma*

Title: *Managing Member*

EXHIBIT 1

PERMANENT INDEX NUMBERS

Beautiful City, LLC. Project
Streator Northpoint TIF District
City of Streator, LaSalle County, Illinois

Beautiful City, LLC Parcels:

Parcel No. _____

Map No.

EXHIBIT 2

SUMMARY OF ESTIMATED TIF ELIGIBLE PROJECT COSTS

Beautiful City, LLC Project
Streator Northpoint TIF District III
City of Streator, LaSalle County, Illinois

Project Description: the Developer will acquire the Property and proceed with plans to renovate and rehabilitate the building located thereon for the purpose of making the Property an operating six (6) screen movie theater (the "Project"). The Project will be considered complete for terms of this Agreement upon its opening for business as a movie theater.

Property Description: (PIN *See Attached Exhibit 1*) located at 301 W. Danny's Drive, Streator, Illinois.

Estimated TIF Eligible Project Costs:

Land Acquisition/Property Assembly.....	\$ 7,000.00
Marketing/Feasibility/Analysis	\$ 28,400.00
Professional Fees (Architectural, Engineering, Legal)	\$ 5,000.00
Rehab, renovation/Reconstruction, Repair, Remodel of Existing Structure.....	\$132,600.00
Financing Costs/Interest (Limited to 30%)	\$158,923.00
Job Training	\$ 27,000.00
Planning & Administrative Management.....	\$100,000.00

Total Estimated TIF Eligible Project Costs..... \$458,923.00**

** Of this amount, only \$300,000.00 will be paid in 2016 as provided herein. **An additional \$40,000 shall be paid in 2017 as provided herein.** The balance shall be paid from the reimbursement of 50% of the additional tax increment paid to the Developer as provided in Section D, Incentives, of this Agreement in years 2017 to 2039.

ORDINANCE 2017-05

APPROVING A TIF REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF STREATOR AND NORTHPOINT DEVELOPMENT HOLDINGS

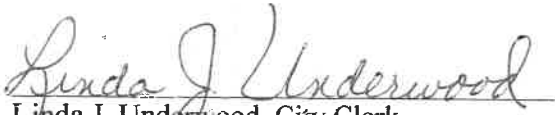
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STREATOR, LA SALLE AND LIVINGSTON COUNTIES ILLINOIS, that Jimmie D. Lansford, Mayor, is hereby authorized and directed to execute a TIF Northpoint Redevelopment Agreement; a copy of which is attached hereto and made a part hereof by reference.

Passed by the City Council of the City of Streator, LaSalle and Livingston Counties, Illinois at a regular meeting thereof held on the 15th day of February 2017, and approved by me as Mayor on the same day.

APPROVED:


Jimmie D. Lansford, Mayor

ATTEST:


Linda J. Underwood, City Clerk

RECORD OF THE VOTE	Ayes	Nays	Abstain	Absent
Mayor Jimmie D. Lansford	√			
Councilwoman Tara Bedei	√			
Councilman Ed Brozak	√			
Councilman Brian Crouch	√			
Councilman William Phelan			√	