



# MOLINE CITY COUNCIL AGENDA

Tuesday, February 18, 2014

6:30 p.m.

(immediately following the Committee-of-the-Whole meeting)

**City Hall  
Council Chambers – 2<sup>nd</sup> Floor  
619 16th Street  
Moline, IL**

## CALL TO ORDER

## PLEDGE OF ALLEGIANCE

## ROLL CALL

## CONSENT AGENDA

All items under the consent agenda are considered to be routine in nature and will be enacted by one motion. There will be no separate discussions of these items unless a council member so requests, in which event the item will be removed from the consent agenda and considered as the first item after approval of the consent agenda.

COUNCIL MEMBER	PRESENT	ABSENT
Knaack		
Parker		
Bender		
Brown		
Turner		
Schoonmaker		
Liddell		
Acri		
Mayor Raes		

## APPROVAL OF MINUTES

Committee-of-the-Whole and Council meeting minutes of February 11, 2014, and January Financial Report.

## SECOND READING ORDINANCES

### 1. Council Bill/General Ordinance 3003-2014

An Ordinance amending Chapter 2, "ADMINISTRATION," of the Moline Code of Ordinances, by repealing Section 2-2200(c) in its entirety and consecutively renaming the remaining subsections of Section 2-2200.

**EXPLANATION:** Section 2-2200(c) of the Moline Code of Ordinances sets forth the restricted conduct of business for regular City Council meetings held on the second and fourth Tuesdays of each month. This provision is outdated and not in accordance with the manner in which the City Council wishes to conduct its meetings. This ordinance will repeal Section 2-2200(c) in its entirety and consecutively rename the remaining subsections of Section 2-2200.

**FISCAL IMPACT:** N/A

**PUBLIC NOTICE/RECORDING:** N/A

## RESOLUTIONS

### 2. Council Bill/Resolution 1022-2014

A Resolution authorizing the Mayor and City Clerk to execute a contract with Peterson Parking Lot Striping, Inc. for Project # 1191, 2014 Pavement Marking Program, in the amount of \$152,151.25.

**EXPLANATION:** Bids were solicited with Peterson Parking Lot Striping, Inc. submitting the lowest responsible and responsive bid.

**FISCAL IMPACT:** Funds are budgeted and available as follows:

ACCOUNT	BUDGETED	AS-BID	
CIP	150,000.00	152,151.25	510-9957-438.04-25

**PUBLIC NOTICE/RECORDING:** N/A

**3. Council Bill/Resolution 1023-2014**

A Resolution authorizing the Mayor and City Clerk to execute a contract with Fischer Excavating, Inc. for Project #1184, 48<sup>th</sup> Street Reconstruction, 23<sup>rd</sup> – 26<sup>th</sup> Avenues, in the amount of \$1,125,808.62.

**EXPLANATION:** Bids were solicited with Fischer Excavating, Inc. submitting the lowest responsible and responsive bid.

**FISCAL IMPACT:** Funds are budgeted and available as follows:

ACCOUNT	BUDGETED	AS-BID	
CIP	460,000.00	473,007.45	510-9957-438.08-10
Water	310,000.00	222,714.76	310-1716-434.08-45
WPC	360,000.00	317,803.54	320-1840-433.08-30
Storm	120,000.00	112,282.87	330-1971-433.08-35
	\$1,250,000.00	\$1,125,808.62	

**PUBLIC NOTICE/RECORDING:** N/A

**4. Council Bill/Resolution 1024-2014**

A Resolution authorizing the Chief of Police to execute a Hold Harmless and Indemnification Agreement for the period of March 10-14, 2014, between the City of Moline and the Illinois Law Enforcement Alarm System (ILEAS) to allow police officers who are members of the area Special Response Team (SRT) to attend an upcoming training session sponsored by ILEAS.

**EXPLANATION:** Two Moline police officers are members of the Illinois Law Enforcement Alarm System (ILEAS) regional Special Response Team (SRT). The SRT is a highly trained and skilled tactical team that serves as a resource for area ILEAS member agencies in handling specific incidents. In order for the officers to be eligible to attend training, ILEAS requires that a Hold Harmless and Indemnification Agreement be executed.

**FISCAL IMPACT:** N/A

**PUBLIC NOTICE/RECORDING:** N/A

**5. Council Bill/Resolution 1025-2014**

A Resolution authorizing the Mayor and City Clerk to enter into a Right to Use Agreement with National Cart Advertising, LLC Services to provide garbage cart lid advertising on approximately 1,900 City garbage carts.

**EXPLANATION:** As a part of the Municipal Services Six SIGMA evaluation of sanitation services, an alternative revenue source of cart lid advertising has been identified. Staff recommends entering into a pilot program for one year by utilizing approximately 1900 carts on Route 3 of Monday and Tuesday’s. A pilot program will allow Council and Staff to evaluate the program before implementing it on a City-wide basis. If approved, the Municipal Services General Manager will provide public education by sending a letter out to all residents prior to the installation of the cart lids.

**FISCAL IMPACT:** Anticipated revenues from the pilot program are estimated at \$3,400.00 quarterly and \$12,160.00 annually.

**PUBLIC NOTICE/RECORDING:** N/A

**6. Council Bill/Resolution 1026-2014**

A Resolution authorizing the Mayor and City Clerk to execute an Agreement for Sale of Real Estate Agreement with James R. Miller for property located at 1221 5<sup>th</sup> Avenue, Moline, Illinois, also referred to as 1217-1219-1221 5<sup>th</sup> Avenue, Moline, Illinois.

**EXPLANATION:** The City of Moline wishes to acquire the property located at 1221 5<sup>th</sup> Avenue, Moline, also referred to as 1217-1219-1221 5<sup>th</sup> Avenue, from James R. Miller in an effort to remove

blight from within the community and allow for future development at that location. The building on the property contains numerous building code violations, including structural and support deficiencies, following recent demolition of an adjoining building. The total purchase price will be \$115,000.

**FISCAL IMPACT:** \$115,000.

**PUBLIC NOTICE/RECORDING:** N/A

**OMNIBUS VOTE**

**ITEMS NOT ON CONSENT**

**FIRST READING ORDINANCES**

OMNIBUS VOTE		
Council Member	Aye	Nay
Turner		
Schoonmaker		
Liddell		
Acri		
Knaack		
Parker		
Bender		
Brown		
Mayor Raes		

**7. Council Bill/Special Ordinance 4004-2014**

A Special Ordinance authorizing the Mayor and City Clerk to execute a three-year agreement with Retail Strategies, LLC for the purpose of market analysis, strategic planning and retail recruitment within the City of Moline, Illinois; and authorizing City staff to begin work upon the execution of the agreement and to do all things necessary to implement said retail recruitment program.

**EXPLANATION:** The City is an Illinois municipal corporation possessing home rule powers under Section 6 of Article VII of the Illinois Constitution and has the authority to prevent the spread of blight and encourage private development to enhance the local tax base and to enter into contractual agreements for the purpose of achieving these purposes. Retail recruitment has been an on-going Council goal, and a long-term comprehensive strategic plan for retail recruitment is essential to implement this goal. Retail Strategies, LLC has developed a professional services proposal for the City, and the City Council’s Committee-of-the Whole has reviewed said proposal (Exhibit A) and made a recommendation including staff authorization to negotiate an agreement. The proposal and the agreement (Exhibit B) include the necessary components of research and assessment, strategic plan and recruitment of retailers.

**FISCAL IMPACT:** \$50,000 from Contingency Fund

**PUBLIC NOTICE/RECORDING:** NA

Consideration		
Council Member	Aye	Nay
Turner		
Schoonmaker		
Liddell		
Acri		
Knaack		
Parker		
Bender		
Brown		
Mayor Raes		

**8. Council Bill/Special Ordinance 4005-2014**

A Special Ordinance authorizing the Mayor and City Clerk to execute a Development Agreement between the City of Moline and Macherich South Park Mall LLC for the South Park Mall Redevelopment project and to execute any necessary agreements referenced therein; and authorizing all appropriate City officers and staff to do all things necessary to complete each of the City’s responsibilities pursuant to said agreement.

**EXPLANATION:** Macerich South Park Mall LLC seeks to enter into a Development Agreement with the City to facilitate redevelopment of property located at 4500 16<sup>th</sup> Street Moline, for the South Park Mall Redevelopment project. The Project will consist of the following elements: demolition of the existing portions of South Park Mall, installation of certain public improvements, new signage and lighting, re-surfacing of parking lots, and other improvements to redevelop this site. The City wishes to support the redevelopment within the Project through the granting of certain lawful incentives to Developer, including but not limited to those available through Tax Increment Financing (“TIF”) pursuant to the Tax Increment Allocation Redevelopment Act, found generally at 65 ILCS 5/11-74.4-1 et. seq. (the “Act” or the “TIF Act”).

4005-2014		
Council Member	Aye	Nay
Turner		
Schoonmaker		
Liddell		
Acri		
Knaack		
Parker		
Bender		
Brown		
Mayor Raes		

**FISCAL IMPACT:** N/A

**PUBLIC NOTICE/RECORDING:** Public notice required

**MISCELLANEOUS BUSINESS**

**PUBLIC COMMENT**

Members of the public are permitted to speak after first stating their name and address.

**EXECUTIVE SESSION**

Council Bill/General Ordinance No. 3003-2014

Sponsor: \_\_\_\_\_

AN ORDINANCE

AMENDING Chapter 2, "ADMINISTRATION," of the Moline Code of Ordinances, by repealing Section 2-2200(c) in its entirety and consecutively renaming the remaining subsections of Section 2-2200.

WHEREAS, Section 2-2200(c) of the Moline Code of Ordinances sets forth the restricted conduct of business for regular City Council meetings held on the second and fourth Tuesdays of each month; and

WHEREAS, this provision is outdated and not in accordance with the manner in which the City Council wishes to conduct its meetings; and

WHEREAS, this ordinance will repeal Section 2-2200(c) in its entirety and consecutively rename the remaining subsections of Section 2-2200.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

**Section 1** – That Chapter 2, "ADMINISTRATION," of the Moline Code of Ordinances, is hereby amended by repealing Section 2-2200(c) in its entirety and consecutively renaming the remaining subsections of Section 2-2200.

**Section 2** – That this ordinance shall be in full force and effect from and after passage, approval and, if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Passed: \_\_\_\_\_

Approved: \_\_\_\_\_

Attest: \_\_\_\_\_

City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

Council Bill/Resolution No.: 1022-2014

Sponsor: \_\_\_\_\_

A RESOLUTION

AUTHORIZING the Mayor and City Clerk to execute a contract with Peterson Parking Lot Striping, Inc. for Project # 1191, 2014 Pavement Marking Program, in the amount of \$152,151.25.

\_\_\_\_\_  
WHEREAS, bids were publicly read on February 4, 2014; and

WHEREAS, bids were solicited with Peterson Parking Lot Striping, Inc. submitting the lowest responsible and responsive bid; and

WHEREAS, staff recommends authorization of said contract.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

That the Mayor and City Clerk are hereby authorized to execute a contract with Peterson Parking Lot Striping, Inc. for Project # 1191, 2014 Pavement Marking Program, in the amount of \$152,151.25; provided, however, that said contract is substantially similar in form and content to that attached hereto and incorporated herein by this reference thereto as Exhibit "A" and has been approved as to form by the City Attorney.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
February 18, 2014  
Date

Passed: February 18, 2014

Approved: February 25, 2014

Attest: \_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

# CITY OF MOLINE CONTRACT

THIS AGREEMENT, made and concluded this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2014, between **PETERSON PARKING LOT STRIPING, INC.** of **P.O. BOX 339, CARBON CLIFF, IL 61239**, hereinafter referred to as the “CONTRACTOR,” and the CITY OF MOLINE, ILLINOIS, hereinafter referred to as the “CITY;”

WITNESSETH, that the CONTRACTOR for and in consideration of the payments to be made to it by the CITY in the amount of **ONE HUNDRED FIFTY TWO THOUSAND ONE HUNDRED FIFTY ONE AND 25/100 (\$152,151.25) DOLLARS**, hereby covenants and agrees, to and with the CITY, that it shall and will in good and workmanlike manner, furnish all the labor and material for **PROJECT NO. 1191, 2014 PAVEMENT MARKING PROGRAM** as set out in the plans and specifications.

Such work to be under the direction and to the satisfaction of the City Engineer, and in accordance with the plans and specifications, which are a part of this contract. The work to be commenced not later than 10 days after the execution of this contract; to progress regularly and uninterruptedly after it shall have been begun excepting as shall otherwise be ordered by the City Council of the City of Moline (hereinafter referred to as the “City Council”), or its authorized representative, and shall be finished and fully completed within the timeframe set forth in the specifications; the time of commencement, rate of progress and time of completion being essential conditions of this contract; PROVIDED, however that if the time of the performance of the contract herein be for any reason either expressly or by implication extended, such extension shall not affect the validity of this contract.

The Contractor further agrees that the unit prices submitted are for the purpose of obtaining a gross sum, and for use in computing the value of extras and deductions; that if there is a discrepancy between the gross sum bid and that resulting from the summation of the quantities multiplied by their

respective unit prices, the latter shall apply. When this contract shall be wholly carried out and completed on the part of the Contractor, and when said work has been accepted by the City, a sum of money shall be computed by multiplying the following unit prices by the quantity of items completed, it being understood that the following total sum of money listed is for the purpose of determining the amount of the performance, labor, material and maintenance bond only. Such payment shall be made as provided for in the said specifications.

This Contract calls for the construction of a “public work” within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. (“the Act”). The Act requires contractors, subcontractors, and truckers to pay laborers, workers, and mechanics performing services on public works projects not less than the “prevailing rate of wages” (hourly cash wages plus fringe benefits) in the county where the work is performed. The prevailing wage rates for projects for the City of Moline required by Moline Special Ordinance 4024-2013 are updated monthly by the Illinois Department of Labor and may be found at:

[http://www.state.il.us/agency/idol/rates/ODDMO/ROCK\\_ISL.htm](http://www.state.il.us/agency/idol/rates/ODDMO/ROCK_ISL.htm).

All contractors, subcontractors, and truckers rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage, notice and record keeping duties. All contractors, subcontractors, and truckers shall keep an accurate record showing the names and occupations of all laborers, workers, and mechanics employed by them on this contract, and also showing the actual hourly wages paid to each of such persons and shall preserve their weekly payroll records for a period of three (3) years from the date of completion of the contract. Weekly certified payrolls shall be sent to the City Engineer.

For further information, please refer to the Illinois Department of Labor’s website at:  
<http://www.state.il.us/agency/idol>.

It is further provided that the CONTRACTOR shall upon the sealing of this contract, file with the CITY a good and sufficient bond in the penal sum of **ONE HUNDRED FIFTY TWO**

**THOUSAND ONE HUNDRED FIFTY ONE AND 25/100 (\$152,151.25) DOLLARS** conditioned upon the faithful performance and execution of the work covered by this contract according to the complete and detailed specifications and full and complete drawings, profiles and models therefore, and according to the terms and conditions of this contract, and conditioned also that the CONTRACTOR shall pay all debts incurred by said CONTRACTOR in the prosecution of such work, including those for labor and materials furnished. The CONTRACTOR further agrees to pay liquidated damages as set forth in the specifications for failure to complete the Project by the date specified.

IN WITNESS WHEREOF, the said Parties have executed these presents on the date above mentioned.

CONTRACTOR:

CITY:

\_\_\_\_\_

CITY OF MOLINE, ILLINOIS

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

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

Mayor

\_\_\_\_\_

Attest: \_\_\_\_\_

City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Performance Bond Attached

Certificate of Insurance Attached

Council Bill/Resolution No.: 1023-2014

Sponsor: \_\_\_\_\_

A RESOLUTION

AUTHORIZING the Mayor and City Clerk to execute a contract with Fischer Excavating, Inc. for Project #1184, 48<sup>th</sup> Street Reconstruction, 23<sup>rd</sup> – 26<sup>th</sup> Avenues, in the amount of \$1,125,808.62.

\_\_\_\_\_

WHEREAS, bids were publicly read on February 4, 2014; and

WHEREAS, bids were solicited with Fischer Excavating, Inc. submitting the lowest responsible and responsive bid; and

WHEREAS, sufficient funds are available.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

That the Mayor and City Clerk are hereby authorized to execute a contract with Fischer Excavating, Inc. for Project #1184, 48<sup>th</sup> Street Reconstruction, 23<sup>rd</sup> – 26<sup>th</sup> Avenues, in the amount of \$1,125,808.62; provided, however, that said contract is substantially similar in form and content to that attached hereto and incorporated herein by this reference thereto as Exhibit "A" and has been approved as to form by the City Attorney.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
February 18, 2014  
Date

Passed: February 18, 2014

Approved: February 25, 2014

Attest: \_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

# CITY OF MOLINE CONTRACT

THIS AGREEMENT, made and concluded this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2014, between **FISCHER EXCAVATING, INC.** of **1567 HEINE ROAD, FREEPORT, IL 61032**, hereinafter referred to as the “CONTRACTOR,” and the CITY OF MOLINE, ILLINOIS, hereinafter referred to as the “CITY;”

WITNESSETH, that the CONTRACTOR for and in consideration of the payments to be made to it by the CITY in the amount of **ONE MILLION ONE HUNDRED TWENTY FIVE THOUSAND EIGHT HUNDRED EIGHT AND 62/100 (\$1,125,808.62) DOLLARS**, hereby covenants and agrees, to and with the CITY, that it shall and will in good and workmanlike manner, furnish all the labor and material for **PROJECT NO. 1184, 48TH STREET RECONSTRUCTION, 23<sup>RD</sup> -26<sup>TH</sup> AVENUES** as set out in the plans and specifications.

Such work to be under the direction and to the satisfaction of the City Engineer, and in accordance with the plans and specifications, which are a part of this contract. The work to be commenced not later than 10 days after the execution of this contract; to progress regularly and uninterruptedly after it shall have been begun excepting as shall otherwise be ordered by the City Council of the City of Moline (hereinafter referred to as the “City Council”), or its authorized representative, and shall be finished and fully completed within the timeframe set forth in the specifications; the time of commencement, rate of progress and time of completion being essential conditions of this contract; PROVIDED, however that if the time of the performance of the contract herein be for any reason either expressly or by implication extended, such extension shall not affect the validity of this contract.

The Contractor further agrees that the unit prices submitted are for the purpose of obtaining a gross sum, and for use in computing the value of extras and deductions; that if there is a discrepancy between the gross sum bid and that resulting from the summation of the quantities multiplied by their

respective unit prices, the latter shall apply. When this contract shall be wholly carried out and completed on the part of the Contractor, and when said work has been accepted by the City, a sum of money shall be computed by multiplying the following unit prices by the quantity of items completed, it being understood that the following total sum of money listed is for the purpose of determining the amount of the performance, labor, material and maintenance bond only. Such payment shall be made as provided for in the said specifications.

This Contract calls for the construction of a “public work” within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. (“the Act”). The Act requires contractors, subcontractors, and truckers to pay laborers, workers, and mechanics performing services on public works projects not less than the “prevailing rate of wages” (hourly cash wages plus fringe benefits) in the county where the work is performed. The prevailing wage rates for projects for the City of Moline required by Moline Special Ordinance 4024-2013 are updated monthly by the Illinois Department of Labor and may be found at:

[http://www.state.il.us/agency/idol/rates/ODDMO/ROCK\\_ISL.htm](http://www.state.il.us/agency/idol/rates/ODDMO/ROCK_ISL.htm).

All contractors, subcontractors, and truckers rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage, notice and record keeping duties. All contractors, subcontractors, and truckers shall keep an accurate record showing the names and occupations of all laborers, workers, and mechanics employed by them on this contract, and also showing the actual hourly wages paid to each of such persons and shall preserve their weekly payroll records for a period of three (3) years from the date of completion of the contract. Weekly certified payrolls shall be sent to the City Engineer.

For further information, please refer to the Illinois Department of Labor’s website at:  
<http://www.state.il.us/agency/idol>.

It is further provided that the CONTRACTOR shall upon the sealing of this contract, file with the CITY a good and sufficient bond in the penal sum of **ONE MILLION ONE HUNDRED**

**TWENTY FIVE THOUSAND EIGHT HUNDRED EIGHT AND 62/100 (\$1,125,808.62)**

**DOLLARS** conditioned upon the faithful performance and execution of the work covered by this contract according to the complete and detailed specifications and full and complete drawings, profiles and models therefore, and according to the terms and conditions of this contract, and conditioned also that the CONTRACTOR shall pay all debts incurred by said CONTRACTOR in the prosecution of such work, including those for labor and materials furnished. The CONTRACTOR further agrees to pay liquidated damages as set forth in the specifications for failure to complete the Project by the date specified.

IN WITNESS WHEREOF, the said Parties have executed these presents on the date above mentioned.

CONTRACTOR:

\_\_\_\_\_

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

CITY:

CITY OF MOLINE, ILLINOIS

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

Attest: \_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Performance Bond Attached

Certificate of Insurance Attached

Council Bill/Resolution No.: 1024-2014

Sponsor: \_\_\_\_\_

A RESOLUTION

AUTHORIZING the Chief of Police to execute a Hold Harmless and Indemnification Agreement for the period of March 10-14, 2014, between the City of Moline and the Illinois Law Enforcement Alarm System (ILEAS) to allow police officers who are members of the area Special Response Team (SRT) to attend an upcoming training session sponsored by ILEAS.

WHEREAS, the SRT is a highly trained and skilled tactical team made up of police officers from area ILEAS member agencies; and

WHEREAS, in order for the assigned officers to be eligible to attend a training course, a Hold Harmless and Indemnification Agreement must be executed and submitted to ILEAS.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

That the Chief of Police is hereby authorized to execute a Hold Harmless and Indemnification Agreement for the period of March 10-14, 2014, between the City of Moline and the Illinois Law Enforcement Alarm System (ILEAS) to allow police officers who are members of the area Special Response Team (SRT) to attend an upcoming training course sponsored by ILEAS, provided said agreement is substantially similar in form and content to Exhibit A, attached hereto and by this reference incorporated herein, and has been approved as to form by the City Attorney.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
February 18, 2014

Date

Passed: February 18, 2014

Approved: February 25, 2014

Attest: \_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney



# ILLINOIS LAW ENFORCEMENT ALARM SYSTEM

1701 E. Main Street • Urbana, IL 61802  
(217) 328-3800 • Fax (217) 328-3845

## HOLD HARMLESS & INDEMNIFICATION AGREEMENT

For and in consideration of the enrollment of its employee(s) in a Training Program to be conducted by the Illinois Law Enforcement Alarm System (ILEAS) from March 10<sup>th</sup> 2014 through March 14<sup>th</sup>, 2014, the Village/City/County of Moline agrees as follows.

- 1) To hold harmless and indemnify ILEAS (including its member municipalities), its agents, employees and contract personnel, their heirs, successors, executors, administrators or assignees, and to assume full responsibility for and to defend, pay or otherwise settle, any and all liabilities, claims, demands, actions, or causes of action of every nature and character whatsoever, including but not limited to injuries to said employees, resulting from, arising out of, or connected with the employees' participation in the training program.
- 2) To release and discharge ILEAS (including its member municipalities), its agents, employees and contract personnel, their heirs, successors, executors, administrators or assignees from any and all liabilities, claims, demands, actions or cause of action, of every nature whatsoever, arising out of, connected with, or in any way associated with the employees' participation in the training program.

It is further understood and agreed that ILEAS assumes no responsibility for the condition of the training sites, or any other facilities used for training, or for the security of or damage to any personal property on land controlled or utilized by ILEAS.

IN WITNESS THEREOF, this agreement is executed this \_\_\_\_\_ day of February, 2014.

(Village) (City) (County) of Moline

BY: \_\_\_\_\_  
Chief of Police/Sheriff

Council Bill/Resolution No. 1025-2014  
Sponsor: \_\_\_\_\_

A RESOLUTION

AUTHORIZING the Mayor and City Clerk to enter into a Right to Use Agreement with National Cart Advertising, LLC Services to provide trash cart lid advertising on approximately 1,900 City trash carts.

\_\_\_\_\_  
WHEREAS, as part of the Municipal Services Six SIGMA evaluation of sanitation services an alternative revenue source of “cart lid advertising” was identified; and

WHEREAS, entering into said agreement for a one-year pilot program with approximately 1,900 carts will allow Council and Staff to evaluate the program before implementing it on a Citywide basis; and

WHEREAS, anticipated revenues from the pilot program are estimated at \$3,400.00 quarterly and \$12,160.00 annually.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

That the Mayor and City Clerk are hereby authorized to enter into a Right to Use Agreement with National Cart Advertising, LLC Services to provide trash cart lid advertising on approximately 1,900 City trash carts; provided, however, that said application is substantially similar in form and content to that attached hereto and incorporated herein by this reference thereto as Exhibit “A” and has been approved as to form by the City Attorney.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

February 18, 2014

\_\_\_\_\_  
Date

Passed: February 18, 2014

Approved: February 25, 2014

Attest: \_\_\_\_\_  
City Clerk

Approved as to Form:

By: \_\_\_\_\_  
City Attorney

**RIGHT TO USE AGREEMENT FOR  
NATIONAL CART ADVERTISING, LLC SERVICES**

This RIGHT TO USE AGREEMENT FOR CART ADVERTISING SERVICES (this "Agreement") is entered into as of FEBRUARY 1, 2014, by and between **MOLINE, IL** (the "User") and National Cart Marketing, LLC, a Delaware limited liability company (the "Company").

Recitals:

A. The User currently has in use various curbside trash bins and carts (collectively, "Carts") in areas under the User's control.

B. The Company is in the business of selling and placing advertising materials on trash bins similar to the Carts and desires to provide such services to the User.

C. The User has determined that the Company's Advertising Program (defined in Section 4(a)) is in the best interest of the User as it will increase revenues to the User and help support its operating budget.

D. The User and the Company desire to enter into this Agreement pursuant to which the Company will provide certain advertising materials on the Carts and make certain payments to the User, subject to the terms of this Agreement.

E. This contract is written for the purpose of implementing a pilot program within the User's community and being entered into with the expectation of an expansion throughout Moline.

NOW, THEREFORE, IT IS AGREED by and between the parties as follows:

1. **Company's Exclusive Privilege to Use Cart Lids.**

(a) During the Term (defined in Section 6(a)), and subject to the terms and conditions of this Agreement, (i) the Company shall have the exclusive license and right to market, sell and place advertising on all exterior and interior spaces on the lids of the Carts, (ii) all advertising to be placed on the Carts by the User, or by any Person (defined below) on behalf of the User, shall be contracted through the Company, and (iii) the Company shall have the exclusive license and right to replace all of the lids on the Carts with custom designed and patented Company-owned lids (the "Lids") with the advertising components integral to the Lid and its space, and (iv) the Company will be responsible for replacing damaged Lids. Such licenses and rights shall apply to all Carts in use by or on behalf of the User from time to time during the Term. For purposes of this Agreement, "Person" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

(b) As of March 1, 2014, the User will have at least 1,900 Carts available for the Company to deploy its Advertising Program. The Carts shall be located throughout the User in locations determined at the discretion of the User in cooperation with the Company. The user will supply the Company with an address file in a comma or space delimited machine-readable format e.g., Excel, to be used by the Company to monitor and manage its inventory of lids and advertising materials. The User will send or otherwise deliver, a letter to cart end-users e.g., homeowners, approximately 15 days prior to installation of the Company's lids. The Company has an announcement letter available to the User for this purpose. The purpose of the announcement letter is to assist the User in managing expectations.

(c) The Company shall be solely responsible, at its cost and expense, for the implementation of the Advertising Program, including placing, renewing, changing and maintaining in a neat and proper condition all advertisements on the Cart Lids.

2. **Payment.** Within 30 days of the end of each calendar quarter during the Term, the Company shall pay to the User a fractional amount equal to \$6.40 per 12- month year for each Cart that is deployed containing advertising by the Company through the Advertising Program (a "Quarterly Payment"). The Term for these quarterly payments begins on the date NCM's lids have been installed. NCM will deliver an announcement letter to Moline on the date the lids have been installed. Each Quarterly Payment shall be accompanied by a statement of the number of Carts that have been deployed and contain such advertising during such month.

3. **Company Obligations.** The Company, at its own expense, shall pay all costs and expenses associated with cleaning, displaying and removing all advertising on the Cart Lids. The Company, at its own expense, will remove existing lids on the Carts and replace them with the National Cart Lids. The Lids shall be the sole property of the Company. The Company shall perform all work, and shall furnish all labor, necessary supplies, supervision and organization necessary for the proper placement, display and removal of advertising on the Cart Lids. The costs and responsibility of deployment, removal, maintenance and emptying of the Carts shall exclusively be borne by the User. The original lids will be removed by the Company and retained and owned by the User.

4. **Advertising Program.**

(a) The Company shall have the sole right to implement from time to time its advertising program on Cart Lids (the "Advertising Program"), including determining the type of advertising and content to be placed on the Cart Lids and the information that is produced by the Lid and its components. The Company will be sensitive to community values and will use its commercially reasonable efforts to meet general guidelines of acceptability regarding the placement of advertising on the Cart Lids. The following types of advertising shall not be accepted by the Company for placement on the Cart Lids.

(i) Advertisements prohibited by federal, state or local law.

(ii) Advertisements containing feminine hygiene products or contraceptives of any kind or nature.

(iii) Advertisements of a sexually explicit nature or advertisements which promote shows, movies, pictures, books or other materials, exhibitions or performances of a sexually explicit nature.

(iv) Advertisements that are offensive to moral standards.

(v) Advertisement copy that is contrary to the best interest of the User, as determined by User.

(vi) Advertisements which could reasonably be deemed to be slanderous or libelous.

(b) During the Term, the User shall have the right to promote itself as a program sponsor of the Advertising Program.

#### 5. **Term and Termination.**

(a) The term of this Agreement shall be for a period of one year commencing March 1, 2014 and ending February 28, 2015 (the "Term"), unless sooner terminated as hereafter provided.

(b) If the Company defaults in the performance of any of the obligations of the User contained herein to be performed, and such default shall continue for a period of 30 days after the User has notified the Company in writing of the Company's default hereunder and the Company has failed to correct such default within such 30 days, the User may, at its option, terminate this Agreement.

(c) If the User defaults in the performance of any of the obligations of the Company contained herein to be performed and such default or neglect shall continue for a period of 30 days after the Company has notified the User in writing of the User's default hereunder and the User has failed to correct such default within such 30 days, the Company may, at its option, terminate this Agreement.

(d) User shall deploy the Carts as set forth on Schedule A to this Agreement. If User fails to deploy the specified number of carts within the time frame set forth on Schedule A, the Company may, at its option, terminate this Agreement.

(e) If the User fails to retain [NOT APPLICABLE] as its trash removal hauler, the Company may, at its option, terminate this Agreement.

(f) Following the expiration or earlier termination of this Agreement, (i) the Company shall pay all Monthly Payments to the User which are due and payable as of the date of such termination; (ii) the Company shall have the right to remove all advertisements from the Carts and the right to retrieve all Company owned Lids, all of which shall remain the sole property of the Company; (iii) the Company shall have the right of first refusal for the use of the Carts for any advertisements with such right surviving termination of the Agreement; (iv) the Company shall remove its Lids and re-install the user's lids within 30 days of termination. If Company has not removed its Lids and/or re-installed User's lids within 30 days, User may do so

at the sole cost and expense of the Company; and (v) the parties shall have no further obligations under this Agreement.

6. **Indemnity.** The Company shall indemnify, defend and hold harmless the User from and against claims, damages, losses and expenses including reasonable attorney’s fees, arising out of, resulting from, or related to the Company’s actions in connection with this Agreement, including any bodily injury, sickness, disease, death or injury to or destruction of tangible or intangible property; provided that the Company shall have no such obligation to indemnify or hold harmless the User for any such losses, claims, damages and expenses arising out of or resulting from the gross negligence or willful misconduct of the User.

7. **Insurance.**

(a) The Company shall purchase such insurance as shall protect the Company from claims which may arise out of or result from the Company’s operations under the Agreement for which the Company may be legally liable, whether such operations be by the Company itself or by anyone directly or indirectly employed by the Company or by anyone for whose acts, any of them, may be liable. The insurance required shall be written for not less than the following amounts:

Workers’ Compensation	-	Statutory
Commercial General Liability		
Bodily Injury and Property Damage	-	\$1,000,000 combined single limit each occurrence
	-	\$2,000,000 Aggregate
Property Damage Liability	-	\$500,000 per occurrence
Employer’s Liability	-	\$1,000,000 per occurrence
Hired/non-owned Auto Liability	-	\$1,000,000 [per occurrence]
Umbrella/Excess	-	\$2,000,000 Aggregate

(b) All liability insurance policies shall be written on an occurrence basis only, shall be endorsed to add the City of Moline, its official agents, and employees as an additional insured as related to this Agreement and shall be maintained without interruption from the date of the commencement of the work until the date of termination. All insurance coverages are to be placed with an insurance company authorized to do business in the State of Illinois and shall be placed with an insurer that has an AM best rating of not less than A-:VII, unless specific written approval has been granted by the User to deviate from this requirement. The Company shall not commence work under this contract until the Company has obtained all insurance required under this section and such insurance has been approved by the User. All certificates of insurance evidencing such coverages shall be filed with the Agreement showing the specific limits of insurance coverage required and any deductibles required. Such certificate shall specifically state the insurance policies are to be endorsed to require the insured to provide the User thirty (30) days’ notice of cancellation, non-renewal, or any material reduction of insurance coverage.

8. **Independent Company.** It is agreed that the Company shall perform under this Agreement as an independent company with the sole control of the manner and means of performing the services required under this Agreement. The Company is, for all purposes arising out of this Agreement, an independent company and none of the Company's officers, agents or employees shall be entitled to any benefits which the User's employees are entitled, including overtime, retirement benefits, workers' compensation benefits, and injury leave or other benefits. Further, it is expressly understood that the Company, its officers, agents and employees are acting on their own behalf and are acting without supervision or approval from the User.

9. **Notice.** All notices required or permitted to be given hereunder shall be in writing and may be delivered by hand, by nationally recognized private courier, or by United States mail. Notices delivered by mail shall be deemed given three business days after being deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested. Notices delivered by hand shall be deemed given when received and notices by nationally recognized private carrier shall be deemed given on the first business day following deposit with such carrier. All notices shall be addressed as follows:

If to the Company:

National Cart Marketing, LLC  
139 Whittaker Street  
New Buffalo, MI 49117  
Attention: Phil Bonello

If to the User:

City of Moline Public Works  
3635 4<sup>th</sup> Avenue  
Moline, IL 61265  
Attention: Doug House

With a copy to:

City of Moline  
619 16<sup>th</sup> Street  
Moline, IL 61265  
Attention: Maureen Riggs, City Attorney

10. **Compliance with Law.** In the performance of this Agreement, the Company agrees that it shall comply with all federal, state and local laws, ordinances, rules and regulations as may be applicable to the operations engaged in hereunder.

11. **Assignment and Delegation.** Neither party shall assign any interest in this Agreement, nor delegate any duty arising under this Agreement, to any Person without the prior written consent of the other party.

12. **Binding Effect; Benefit.** This Agreement shall inure to the benefit of and be binding upon the parties and their successors and permitted assigns. Nothing in this Agreement, express or implied, shall confer on any Person other than the parties, and their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

13. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute a single instrument. Execution and delivery of this Agreement and all documents required hereby by electronic exchange bearing the copies of a party's signature shall constitute a valid and binding execution and delivery of this Agreement by such party. Such electronic copies shall constitute enforceable original documents.

14. **Entire Agreement.** The Agreement contains the entire understanding of the parties hereto with respect to the transactions contemplated hereby and supersedes all prior agreements and understandings between the parties with respect to the subject matter.

15. **Representations.** No representations, warranties, undertakings or promises, whether oral, implied, written or otherwise, have been made by either party to the other party unless expressly stated in this Agreement. Neither party has relied on any verbal representations, agreements or understandings not expressly set forth in this Agreement.

16. **Governing Law.** This Agreement shall be governed and controlled as to validity, enforcement, interpretation, construction, effect and in all other respects by the internal laws of the State of Illinois without regard to conflict of law principles. Each party submits to the jurisdiction of the State of Illinois and any court situated in Rock Island County, Illinois.

17. **Non-Waiver.** The failure in any one or more instances of a party to insist upon performance of any of the terms, covenants or conditions of this Agreement, to exercise any right or privilege in this Agreement conferred, or the waiver by such party of any breach of any of the terms, covenants or conditions of this Agreement, shall not be construed as a subsequent waiver of any such terms, covenants, conditions, rights or privileges. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party.

18. **Severable Provisions.** The invalidity of any provision of this Agreement or portion of a provision shall not affect the validity of any other provision of this Agreement or the remaining portion of the applicable provision. The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual interest and no rules of strict construction shall be applied.

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

**COMPANY**

NATIONAL CART MARKETING, LLC

By:   
Name: Philip H. Bonello

Title: President and CEO

Address: 139 North Whittaker Street  
New Buffalo, MI 49117

**USER**

CITY OF MOLINE, ILLINOIS

By: \_\_\_\_\_  
Name: Scott Raes  
Title: Mayor

Attest: \_\_\_\_\_  
Tracy Koranda, City Clerk  
Address: 619 16<sup>th</sup> Street  
Moline, IL 61265

Schedule A

Date	Number of Toter 96 Gallon Carts to be deployed by User
March 1, 2014	1900
No later than July 1, 2014	5000
No later than August 1, 2014	5000

Council Bill/Resolution No. 1026-2014

Sponsor: \_\_\_\_\_

A RESOLUTION

AUTHORIZING the Mayor and City Clerk to execute an Agreement for Sale of Real Estate with James R. Miller for property located at 1221 5<sup>th</sup> Avenue, Moline, Illinois, also referred to as 1217-1219-1221 5<sup>th</sup> Avenue, Moline, Illinois.

WHEREAS, the City wishes to acquire the property located at 1221 5<sup>th</sup> Avenue, Moline, Illinois, which is also referred to as 1217-1219-1221 5<sup>th</sup> Avenue, Moline, Illinois; and

WHEREAS, James R. Miller is the owner of the property and has agreed to sell and convey said property to the City for \$115,000 pursuant to the terms and conditions set forth in the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

That the Mayor and City Clerk are hereby authorized to execute an Agreement for Sale of Real Estate with James R. Miller for property located at 1221 5<sup>th</sup> Avenue, Moline, Illinois, also referred to as 1217-1219-1221 5<sup>th</sup> Avenue, Moline, Illinois (Parcel Number MO-5562), for \$115,000; provided, however, that said Agreement is in substantially similar form and content as that attached hereto as Exhibit "A," and has been approved as to form by the City Attorney.

BE IT FURTHER RESOLVED that the same officials are hereby authorized to execute all necessary documents referenced therein; and all appropriate City officers and staff are further authorized to do all things necessary to complete each of the City's responsibilities and enforce each of the City's expected benefits as referred to in such Agreement.

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect upon its passage.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

February 18, 2014

\_\_\_\_\_  
Date

Passed: February 18, 2014

Approved: February 25, 2014

Attest: \_\_\_\_\_

City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

## AGREEMENT FOR SALE OF REAL ESTATE

**AGREEMENT**, by and between **THE CITY OF MOLINE**, an Illinois municipal corporation, (hereinafter "**Buyer**"), located in Moline, Illinois, and **JAMES R. MILLER**, a married man, (hereinafter "**Seller**"), located at 1221 5<sup>th</sup> Avenue, Moline, Illinois.

WITNESSETH:

WHEREAS, the Buyer has offered to buy and the Seller is willing to sell the real property more particularly described in **Schedule A** attached hereto and incorporated herein (hereinafter "Property"), and commonly known as 1221 5<sup>th</sup> Avenue, Moline, Illinois, which is also referred to as 1217-1219-1221 5<sup>th</sup> Avenue, Moline, Illinois;

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

### **Sec. 1. PURCHASE PRICE**

Subject to all terms, covenants and conditions of the Agreement, the Seller will sell the Property to the Buyer, and the Buyer will purchase the Property from the Seller and pay therefore the amount of **One Hundred Fifteen Thousand and No/100ths Dollars (\$115,000.00)** (hereinafter "Purchase Price") payable by check to Seller at time of closing.

### **Sec. 2. CLOSING AND POSSESSION**

Closing shall be on or before March 18, 2014, or on such other date as the parties hereto may mutually agree to in writing. Closing shall take place at the office of the closing agent mutually acceptable to Buyer and Seller, and Buyer shall accept the conveyance and pay the Purchase Price to the Seller at such time and place. Seller and Buyer shall enter into a Post-Closing Possession Agreement for the Property simultaneously with the closing. Said Post-Closing Possession Agreement shall set forth the Agreement between the parties as to possession.

### **Sec. 3. CONVEYANCE OF PROPERTY**

- (a) Form of Deed. The Seller shall convey title to the Property by standard Warranty Deed ("Deed") provided, however, that Seller hereby represents that Seller knows of no fault or defect, whether environmental or otherwise. Purchaser acknowledges that the building located on the Property, has numerous building code violations, including structural and support deficiencies, caused by the demolition of the adjoining building. The conveyance and title of the Property shall, in addition to other conditions, covenants and restrictions set forth or referred to elsewhere in the Agreement, be subject to:



1. Applicable statutes, orders, rules and regulations of the Federal Government and State of Illinois, and laws and ordinances of the City of Moline, including zoning, building, and land subdivision laws and regulations; and
  2. All easements of record; and
  3. Matters that would be revealed by an ALTA survey of the Property.
- (b) Proration of Taxes and Adjustments.
1. Seller shall pro-rate general real estate taxes to the date of closing, for the current tax year of 2014, at time of closing; and
  2. There are no leases for the subject Property requiring a credit for deposits or proration of rents.
- (c) Expenses of Transfer. Buyer shall pay: (1) Recording fees for deed and mortgages, if any; (2) Cost of Buyer's abstracting or mortgage title insurance policy as required. Seller shall, at his sole cost and expense and prior to closing, deliver to Buyer a title commitment for an Owner's title policy issued by a title company showing good and indefeasible title to the Property vested solely in Seller. On the closing date, Seller shall cause the title company to issue an Owner's Policy of Title Insurance covering the Property in the amount of the Purchase Price, showing fee simple title vested in Buyer. Each party shall be responsible for his or her own attorney fees and customary closing costs. Closing costs do not ordinarily include charges incident to the Buyer's financing, and such charges shall be paid by Buyer.
- (d) Settlement Procedures. To the extent the subject transaction is covered by its provisions, the parties agree to comply with the Real Estate Settlement Procedures Act of 1974 (RESPA).
- (e) Affidavit of Foreign Status. Seller will sign an affidavit that Sellers are not a "foreign person" under the Internal Revenue Act of 1862, as amended.
- (f) Special Assessments. Seller will be responsible for all special assessments levied as of the date the City Council of the City of Moline approves this sale. Buyer is responsible for all special assessments levied after that date.
- (g) Unrecorded Liens, Assessments, Security Interests. Seller represents that there will be no unrecorded liens, assessments, or Uniform Commercial Code Security Interests against any of the Property which will not be satisfied out of the sale price. If any representation above is untrue on the closing date, the Agreement may be terminated by Buyer.

**Sec. 4. PROPERTY CONDITION AND CERTAIN OTHER ACTION BY BUYER**

(a) Property Condition.

1. Buyer acknowledges that the Buyer has visually inspected the real estate and the improvements thereof; the Buyer is acquainted with the condition thereof and the Buyer shall accept the Property in “as is” condition, after conducting its Due Diligence as described below.
2. A. Due Diligence. For a period of Fourteen (14) days after the date of acceptance of this Agreement by the Buyer (“Due Diligence Period”), unless such time is extended by agreement of the parties in writing, Buyer and its agents and representatives shall be entitled to inspect, test and examine the Property, which includes, but shall not be limited to, making investigation with regard to environmental requirements and environmental assessments such as Phase I environmental assessments and Phase II environmental assessments.  
  
B. Neither Buyer nor any of its agents or representatives shall damage the Property or any portion thereof, except for any immaterial damage caused by environmental and other tests, all of which shall promptly be repaired by Buyer at Buyer’s sole cost and expense.  
  
C. Seller shall be permitted to remove any fixtures, equipment, and personal property, of his choice, prior to delivery of possession.

- (b) Utility Payments. Utility payments, including but not limited to, water, sewer, storm sewer, electricity, and gas bills, for service incurred up to the date of closing shall be the responsibility of the Seller. Responsibility for utility payments for services incurred after the closing shall be paid by Seller as stated in the Post-Closing Possession Agreement executed simultaneously with closing.

**Sec. 5. COVENANTS BINDING UPON SUCCESSORS IN INTEREST:  
PERIOD OF DURATION**

It is intended and agreed that any covenants provided in this Agreement shall be covenants running with the land binding to the fullest extent permitted by law and equity for the benefit and in favor of and enforceable by, the Buyer, its successors and assigns, the Buyer, and any successor in interest to the Property, or any part thereof.

**Sec. 6. PROVISIONS NOT MERGED WITH DEED**



No provision of this Agreement is intended to or shall be merged by reason of any deed transferring title to the Property from the Seller to the Buyer or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

**Sec. 7. ENTIRE AGREEMENT**

This Agreement and its Exhibits contain the entire agreement among the parties, and supersedes all prior agreements or other understandings, oral or written, not expressly retained herein. It shall inure to the benefit of, and shall be binding upon the parties hereto and their respective successors or assigns. This Agreement may be modified only by a written amendment signed by all of the parties.

**Sec. 8. APPLICABLE LAW**

This Agreement shall be governed by the laws of the State of Illinois, and the sole and exclusive venue for any disputes arising out of this Agreement shall be any state court located within Rock Island County, Illinois, or federal court located within the appropriate venue. A waiver of any part of this Agreement shall be limited to that specific event and shall not be a waiver of the entire Agreement.

**Sec. 9. SEVERABILITY**

Should any part of this Agreement be determined to be illegal, invalid or otherwise unenforceable, then all such remaining parts not so affected by such illegality, invalidity or unenforceability shall continue in full force and effect, fully binding all parties, their respective heirs and assigns, as to such remaining terms.

**Sec. 10. ASSIGNMENTS AND TRANSFERS PROHIBITED**

The parties covenant not to suffer or permit without the written permission or consent of the other being first had and obtained, a sale, assignment, or transfer of any right, title or interest of any sort in and to said Property, or any portion thereof, or any of the improvements, apparatus, fixtures or equipment that may be found in or on said Property prior to Closing.

**Sec. 11. ASSURANCE OF FURTHER ACTION**

From time to time hereafter and without further consideration, each of the parties to this Agreement shall execute and deliver, or cause to be executed and delivered, such Recordable Memoranda, further instruments, and agreements, and shall take such other actions, as any other party may reasonably request in order to more effectively memorialize, confirm, and effectuate the intentions, undertakings, and obligations contemplated by this Agreement.





IN WITNESS WHEREOF, The City of Moline has caused this Agreement for Sale of Real Estate to be duly executed in its name and on behalf by Scott Raes, its Mayor, this \_\_\_\_\_ day of \_\_\_\_\_, 20~~11~~<sup>14</sup>.

**City of Moline (Buyer)**

**Attest:**

\_\_\_\_\_  
Scott Raes, Mayor

\_\_\_\_\_  
Tracy A. Koranda, City Clerk

Approved as to form:

\_\_\_\_\_  
Maureen E. Riggs, City Attorney

STATE OF ILLINOIS                    )  
  )  
COUNTY OF ROCK ISLAND        )        ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, ~~2011~~<sup>2014</sup>, before me, the undersigned, a Notary Public in and for the State of Illinois, personally appeared SCOTT RAES and TRACY A. KORANDA, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Moline, executing the within and foregoing instrument to which this is attached; that said instrument was signed (and sealed) on behalf of (the seal affixed thereto is the seal of said corporation) as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

(seal)

\_\_\_\_\_  
NOTARY PUBLIC

Prepared by:

Amy L. Keys Deputy City Attorney

City of Moline  
619 16<sup>th</sup> Street  
Moline, IL 61265  
Phone: (309) 524-2021  
Fax: (309) 524-2020

SCHEDULE A  
Miller Sale to City of Moline  
Legal Description

The West 60 Feet of the South Half, and the West 50 Feet of the North Half of Lot 7 in Block 28 in the Old or Original Town, now City of Moline; Together with a right of way over the West 10 Feet of the East 30 Feet of the North Half of said Lot 7, situated in the County of Rock Island, in the State of Illinois.



Sponsor: \_\_\_\_\_

A SPECIAL ORDINANCE

AUTHORIZING the Mayor and City Clerk to execute a three-year agreement with Retail Strategies, LLC for the purpose of market analysis, strategic planning and retail recruitment within the City of Moline, Illinois; and

AUTHORIZING City staff to begin work upon the execution of the agreement and to do all things necessary to implement said retail recruitment program.

\_\_\_\_\_  
WHEREAS, the City is an Illinois municipal corporation possessing home rule powers under Section 6 of Article VII of the Illinois Constitution and has the authority to prevent the spread of blight and encourage private development to enhance the local tax base and to enter into contractual agreements for the purpose of achieving these purposes; and

WHEREAS, retail recruitment has been an on-going Council goal, and a long-term comprehensive strategic plan for retail recruitment is essential to implement this goal; and

WHEREAS, Retail Strategies, LLC developed a professional services proposal for the City, and, after obtaining approval from the Committee-of-the-Whole, staff negotiated an agreement with Retail Strategies, LLC; and

WHEREAS, the agreement includes the necessary components of research and assessment, strategic planning and recruitment of retailers.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

**Section 1** – That the Mayor and City Clerk are hereby authorized to execute a three-year agreement with Retail Strategies, LLC for the purpose of market analysis, strategic planning and retail recruitment within the City of Moline, Illinois; provided, however, that said agreement is in substantially similar form and content to that attached hereto and incorporated herein by this reference thereto as Exhibit “A” and has been approved as to form by the City Attorney.

**Section 2** – That City staff is hereby authorized to begin work upon the execution of the agreement and to do all things necessary to implement said retail recruitment program.

**Section 3** – That this ordinance is an exercise of the City’s home rule powers granted to it by virtue of Article VII, Section 6 of the 1970 Illinois Constitution, and shall therefore take precedence over any conflicting State statutes or rules.

**Section 4** – That this ordinance shall not constitute a repeal of any or all ordinances or resolutions in conflict herewith but shall be construed as a one-time variance to Chapter 27 with regard to such conflicting ordinances or resolutions.

**Section 5** – That this ordinance shall be in full force and effect from and after its passage, approval, and, if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Passed: \_\_\_\_\_

Approved: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney



**AGREEMENT TO PROVIDE  
PROFESSIONAL CONSULTING AND RELATED SERVICES**

**THIS AGREEMENT** is entered into by and between Retail Strategies, LLC, an Alabama limited liability company (hereinafter referred to as “Consultant”) and the City of Moline, Illinois (hereinafter referred to as “Client”) on this the \_\_\_th day of February, 2014, as follows:

**WHEREAS**, the Client desires to have performed those services identified on Exhibit A attached hereto (the “Project”) for the City of Moline, IL, which it believes will promote the efficient operation of the Client; and,

**WHEREAS**, Consultant made a proposal to the Client to provide consulting services related to the Project, and Client accepted the proposal as further set forth below.

**W-I-T-N-E-S-S-E-T-H:**

**NOW, THEREFORE**, this agreement is made and entered into on the date first above written by and between the Client and Consultant, by which Consultant will provide professional consulting and related services to the Client as hereinafter specified, through individuals possessing a high degree of professional skill where the personality of the individual will play a decisive role as follows:

**1. SCOPE OF SERVICES**

Consultant agrees, for the consideration as stated herein, to provide professional consulting and related services to the Client for the Project as set out in Exhibit A, which is attached hereto and incorporated herein by reference.

## **2. TIME OF PERFORMANCE**

Consultant shall provide services pursuant to this agreement and expeditiously and in good faith conduct its work in such a manner as to complete the Project for Client within three (3) calendar years which shall be calculated as **February 25, 2014 to February 24, 2017**.

Consultant shall commence, carry on and complete the Project with all practicable dispatch, in a sound, economical and efficient manner, in accordance with the provisions hereof and applicable laws. In accomplishing the Project, Consultant shall take such steps as are appropriate to insure that the work involved is properly coordinated with related work and policies being carried on by the Client.

## **3. COMPENSATION**

The Client agrees to pay Consultant for the services as set forth herein, the sum of **\$50,000.00** for the first year. Payment of the \$50,000.00 is to be made upon execution of this agreement and receipt of the invoice from Retail Strategies, LLC. Client will remit payment to Consultant upon receipt of invoice but no later than within thirty (30) days from receipt of invoice. The compensation for years two and three shall be **\$25,000.00** per year payable in the same manner as set forth above. The Client shall have the right to renew the contract for additional years, starting in year four, at the rate of **\$25,000.00** per year and thereafter as mutually agreed to in writing between Client and Consultant. Client acknowledges that affiliates of Consultant act in the capacity of a real estate brokerage service business and may earn fees for services including brokerage, development, leasing and management fees in the performance of such affiliates' services as part of the scope of the Project. Such fees of affiliates shall not be paid by Client.

## **4. CLIENT RESPONSIBILITIES**

In addition to paying Consultant for services according to the preceding paragraph, the Client shall also provide for Consultant: access to its relevant personnel, facilities, and materials including, but not necessarily limited to, those items specified in Exhibit A, and such records, reports, and information as reasonably requested by Consultant and in Client's possession.

## **5. LEVEL OF COMPETENCE**

Consultant represents and warrants to the Client that it and all of its employees that will be working on the project for the Client are qualified and competent to perform the services

required. Such personnel shall not be employees of or have any pre-existing contractual relationship with the Client. All of the services required hereunder will be performed by Consultant or under its supervision.

The Project Directors for the performance of services by Consultant pursuant to the terms and conditions of this agreement shall be Joseph Fackel, Chuck Branch and Robert Jolly, or other employees as deemed necessary by Consultant. Consultant may also use additional employees to assist with the performance of this agreement as Consultant deems appropriate in Consultant's discretion.

**6. MATERIALS/CONFIDENTIALITY**

The Client agrees to cooperate with and provide Consultant with access to facilities and information within its reasonable possession and control, requested by Consultant for its review and use in performing the services set forth in Exhibit A. Provided, however, all such documents, information, results, memoranda and all other written information ("information") shall be held confidential by Consultant and any of its sub-contractors and shall not, without the prior written consent of the Client, be used for any purpose other than the performance of this agreement nor be disclosed to any other entity not connected with performance of this agreement. Upon completion of services, Consultant shall return all such information to the Client. The Client shall retain ownership of all such information it provides.

**7. INTELLECTUAL PROPERTY**

The Client and Consultant, jointly and separately, acknowledge and agree that the intellectual property of both parties shall remain owned by the respective party. With the exception of Consultant's periodic and final reports generated for performance of this agreement to or for the Client, all reports, memorandums, electronic mail, facsimile transmissions and other written and prepared documents shall be owned by the party who authored, generated or who originally possessed the same and nothing in this agreement shall contravene said rights.

**8. INFORMATION AND REPORTS**

Consultant shall furnish an electronic version of a final written report and such periodic reports concerning the status of the Project as may be requested by the Client's representative pursuant to the schedule to be provided by Consultant. Consultant shall furnish the Client, upon request, with electronic copies of all documents and other material prepared or developed in

relation with or as part of the Project. Such requests shall be reasonable and within normal business practices for such work.

**9. COPYRIGHT INFORMATION**

The Client acknowledges that all intellectual property developed during the course of this agreement by Consultant shall belong exclusively to Consultant. However, the Client may utilize any of the foregoing for and on behalf of its internal operations, but will take steps reasonably necessary with its employees with respect to the use, copying, protection and security of the foregoing.

**10. APPLICABLE LAWS**

Consultant shall register and comply with all State or Federal laws and/or regulations as they may relate to the services or activities of the Consultant to the Client.

**11. INDEMNIFICATION**

Consultant shall indemnify and hold the Client, its officers, agents and employees free and harmless from and against any and all claims, actions, damages, expenses, fees, liabilities and/or attorney's fees arising out of, by virtue of or associated with the negligence of Consultant or its respective owners, officers and employees in the performance of this agreement. Client shall indemnify and hold the Consultant, its officers, agents and employees harmless from and against any claims, actions, damages, expenses, fees, liabilities arising out of, by virtue of or associated with the negligence of the Client or its respective agents, officers and employees in the performance of this agreement.

**12. INSURANCE**

Consultant shall carry all appropriate and necessary insurance to be in compliance with state and national laws regarding the insurance coverage of its employees.

**13. TERMINATION**

Should Consultant violate any of the terms of this agreement or otherwise fail to fulfill its obligations set forth under Exhibit A of this agreement, Client shall provide to Consultant written notice of any alleged deficiencies in performance and Consultant shall have thirty (30) days from the date notice is received to cure any alleged deficiencies in performance. In no way shall more

than two (2) opportunities to cure be afforded to Consultant within a twelve month period. Should Consultant fail to remedy the alleged defect in performance after being given the opportunity to do so, Client shall have the right to terminate this agreement by mailing a written notice of termination. Client may terminate this agreement by giving Consultant thirty (30) days prior written notice, with or without cause. If the agreement is terminated due to defects in performance by the Consultant, Consultant will retain fees only for the time provided and expenses incurred on the Project, up to the termination date, and the remainder will be refunded to Client. If the agreement is terminated by the Client for its convenience, then all fees paid to date are not subject to refund.

**14. CONFLICT OF INTEREST**

The Consultant represents and warrants to the Client, to the best of its knowledge, that neither it nor its Project Directors are aware of any conflict of interest which exists by means of its provision of services to the Client pursuant to the terms and conditions of this agreement.

**15. NOTICES/PARTIES REPRESENTATIVES**

The representative of the Client for this agreement shall be Ray Forsythe, Director of Economic Development, City of Moline, IL.

All notices, bills, invoices and reports required by this agreement shall be sufficient if sent by the parties hereto in the United States Mail, postage prepaid thereon to the addresses noted below:

Client:	Ray Forsythe City of Moline, IL 619 16 <sup>th</sup> Street Moline, IL 61265	With a copy to: Maureen Riggs City Attorney 619 16 <sup>th</sup> Street Moline, IL 61265
Consultant:	Retail Strategies, LLC 120 18 <sup>th</sup> Street South Suite 201 Birmingham, AL 35233 Attention: Chuck Branch	

**16. REPRESENTATIVE CAPACITY**

While Consultant's role will be that of consultant to the Client, Consultant shall be and remain an independent contractor and not act in the role of an agent or legal representative on behalf of the Client. Consultant shall not have the authority to bind or obligate the Client, its officers, agents or employees.

17. **MISCELLANEOUS**

**Capacity:** Each party to this agreement represents and warrants to the other as follows:

A. That it is an individual of the age of majority or otherwise a legal entity duly organized and in good standing pursuant to all applicable laws, rules and regulations.

B. That each has full power and capacity to enter into this agreement, to perform and to conclude the same including the capacity, to the extent applicable, to grant, convey and/or transfer; areas, assets, facilities, properties, (both real and personal), permits, consents and authorizations and/or the full power and right to acquire and accept the same.

C. That to the extent required, each party has obtained the necessary approval of its governing body, board, council or other appropriate governing body and a resolution or other binding act has been duly and properly enacted by such governing body or board authorizing this agreement and said approval has been reduced to writing and certified or attested by the appropriate official of the party.

D. That each party has duly authorized and empowered a representative to execute this agreement on their respective behalf and the execution of this agreement by such representative fully and completely binds the party to the terms and conditions hereof.

E. That absent fraud, the execution of this agreement by a representative of the party shall constitute a certification that all such authorizations for execution exist and have been performed and the other party shall be entitled to rely upon the same. To the extent a party is a partnership, limited liability company or joint venture, the execution of this agreement by any member thereof shall bind the party and to the extent that the execution of agreement is limited to a manager, managing partner or specific member then the person so executing this agreement is duly authorized to act in such capacity for the party.

F. That each party represents and warrants to the other that, to the best of its knowledge, there is no litigation, claim or administrative action threatened or pending or other proceedings to its knowledge against it which would have an adverse impact upon this transaction or upon either's ability to conclude the transaction or perform pursuant to the terms and conditions of this agreement.

G. That each party has obtained any and all required permits, approvals and/or authorizations from third parties to enable it to fully perform pursuant to this agreement.

**Third Party Beneficiaries:** It is the intent of the parties hereto that there shall be no third party beneficiaries to this agreement.

**Final Integration:** This agreement, together with any exhibits or amendments hereto, constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. In the event of a direct conflict between the provisions hereof and any prior agreement or amendment, the latter shall supersede the former. All written or oral understandings and agreements heretofore had between and among the parties are merged into this agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant made by any party which is not contained in this agreement or expressly referred to herein have been relied on by any party in entering into this agreement.

**Force Majeure:** Neither party to this agreement shall hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.

**Amendment in Writing:** This agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.

**Binding Effect:** This agreement shall bind the parties and their respective personal representatives, heirs, next of kin, legatee, distributees, successors, and assigns. If any provision in this agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Independent Contractor:** Nothing herein shall be deemed to create an employer-employee relationship or principal and agent relationship between Consultant and Client.

**Captions:** The captions of this agreement are for convenience and reference only, are not a part of this agreement, and in no way define, describe, extend, or limit the scope or intent of this agreement.

**Construction:** This agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.

**Mandatory and Permissive:** “Shall”, “will”, and “agrees” are mandatory; “may” is permissive.

**Governing Law:** The laws of the State of Illinois, but without regard to conflict of laws principles, shall govern the validity of this agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this agreement.

**Prohibition on Assignment and Delegation:** No party to this agreement may assign or delegate its interests or obligations hereunder without the written consent of all other parties hereto obtained in advance of any such assignment or delegation. No such assignment or delegation shall in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning or delegating party shall in all respects remain liable hereunder irrespective of such assignment or delegation.

**Waiver:** Non-enforcement of any provision of this agreement by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remaining terms and conditions of the agreement.

**Agreement Date/Counterparts:** The date of this agreement is intended as and for a date for the convenient identification of this agreement and is not intended to indicate that this agreement was necessarily executed and delivered on said date. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed an

original, but all such counterparts shall together constitute but one and the same instrument.

**Dispute Resolution/Remedies:** Any claims or disputes between Client and Consultant arising out of the services to be provided under this agreement shall be submitted to non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. This provision shall not limit the remedies, legal and equitable, available to each party pursuant to law.

CLIENT:

City of Moline, IL

By \_\_\_\_\_  
Mayor

Date \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

CONSULTANT:  
RETAIL STRATEGIES, LLC

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

## EXHIBIT A

### **METHODOLOGY AND APPROACH:**

#### **SUMMARY OF RETAIL ANALYSIS AND SERVICES:**

- Custom Demographic Research – Historical, Current, and Projected Demographics – to include market trade areas by radius/drive-time, and custom trade areas associated with Moline
- Tapestry Lifestyles – Psychographic Profile of Trade Area / Market Segmentation Analysis
- Retail GAP Analysis
- Retail Peer Analysis
- Thematic Mapping and Aerial Imagery by trade area
- Retail Competitor Mapping/Analysis
- Consumer Attitudes and Behaviors
- Market Maximization Summary and Strategic Leasing Plan
- Identification of Retail Prospects
- Retailer Recruitment and execution of the Retail Leasing Strategic Plan
- City Marketing Flyer

#### **RETAIL STRATEGIES RESEARCH:**

Our research solutions are not a “one size fits all” or pre-formatted by an industry standard radius or drive-time area. Each city, community, or retail trade area requires unique analysis based on numerous factors including natural boundary areas, current retail tenant mix, travel times, radius areas and existing sites/buildings. Our research focuses on identifying the data points that are most likely to influence the site location decisions of retailers. Once these data points are determined – we provide thematic maps, aerial photos, asset maps, and customized research reports by retail concept.

Retail Strategies primary data resources include:

#### **CENSUS, AGS AND ESRI DEMOGRAPHICS**

By incorporating demographic data from multiple sources, DDR is able to better understand the population, income and retail spending shifts taking place in the current economic environment.

#### **BUSINESS LOCATION DATA**

This location data is ideal for competitive analysis, understanding market opportunities and evaluating market dynamics.

Sourced to D&B®, the world's most trusted source of sales and marketing solutions, all D&B information is powered by DUNSRight™, D&B's Quality Process which gives you the insight you need to identify and target prospects.

## **CONSUMER EXPENDITURES**

This data includes 18 reports and close to 1,000 variables that collectively cover almost 95% of household spending. Based on extensive modeling of the BLS Consumer Expenditure Survey, CEX provides reliable estimates of market demand and average household expenditures.

## **RETAIL POTENTIAL**

This new tabulation utilizes the Census of Retail Trade tables which cross-tabulates store type by merchandise line. The Consumer Expenditure data was aggregated to the merchandise line classification and then distributed to each of the major store types.

## **TAPESTRY**

Tapestry classifies US neighborhoods into 65 market segments based on socioeconomic and demographic factors, then consolidates them into LifeMode and Urbanization Groups.

## **FINAL DELIVERABLE AND STRATEGIC RETAIL RECRUITMENT PLAN:**

Upon completion of the research component of our engagement, the Retail Strategies team will create an online account through our BASECAMP platform available to the appropriate contacts in Moline to access all research, analysis and the strategic plan.

1. Retailer Overview and Recruitment Plan- Summary of the primary retail gaps inclusive of the key retailers to be pursued with a prototypical overview of each retailer relative to size, economics, etc.
2. Local Property Catalog- Retail Strategies, LLC and its partners will work with the city to catalog all local commercial properties that may be suitable sites to present to prospective new retailers. This will include maps, marked aerials and all pertinent contact and site specific information relative to each site.
3. Call List and Recruitment Update- an ongoing tracking form to keep the identified city contacts updated relative to recruitment efforts and specific interaction with prospective retailers.

Council Bill/Special Ordinance No. 4005-2014

Sponsor: \_\_\_\_\_

A SPECIAL ORDINANCE

AUTHORIZING the Mayor and City Clerk to execute a Development Agreement between the City of Moline and Macherich South Park Mall LLC for the South Park Mall Redevelopment project and to execute any necessary agreements referenced therein; and

AUTHORIZING all appropriate City officers and staff to do all things necessary to complete each of the City's responsibilities pursuant to said agreement.

\_\_\_\_\_  
WHEREAS, Macerich South Park Mall LLC ("Developer") seeks to enter into a Development Agreement with the City to facilitate redevelopment of property located at 4500 16<sup>th</sup> Street Moline, for the South Park Mall Redevelopment ("Project"); and

WHEREAS, the Project will consist of the following elements: demolition of the existing portions of South Park Mall, installation of certain public improvements, new signage and lighting, re-surfacing of the parking lots, and other improvements to redevelop this site; and

WHEREAS, the City wishes to support the redevelopment within the Project through the granting of certain lawful incentives to Developer, including but not limited to those available through Tax Increment Financing ("TIF") pursuant to the Tax Increment Allocation Redevelopment Act, found generally at 65 ILCS 5/11-74.4-1 et. seq. (the "Act" or the "TIF Act"); and

WHEREAS, the City created the new TIF District to provided the reimbursements of eligible expenses from the Redevelopment Project and possibly future phases incurred by the Developer; and

WHEREAS, to secure its contribution, prior to the disbursement of any TIF net incremental, the Developer shall provide commercially reasonable documentation of the actual TIF eligible expenses incurred on the Project by the Developer, which pay request shall be reviewed and approved within thirty (30) days of receipt, and failure to provide documentation of TIF eligible expenses for the purposes of calculating the TIF net incremental annual real estate tax rebate payments shall not relieve the City of its obligation to make payments but shall only defer payment due the Developer until verification; and

WHEREAS, the City believes that the Redevelopment Project to be located on the Property and the fulfillment generally of the terms of this Development Agreement are in the vital and best interests of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

**Section 1** – That the Mayor and City Clerk are hereby authorized to execute a Development Agreement between the City of Moline and Macerich South Park Mall LLC for the South Park Mall Redevelopment project and to execute any necessary agreements referenced therein; and authorizing all appropriate City officers and staff to do all things necessary to complete each of the City’s responsibilities pursuant to said agreement; provided, however, that said agreement is in substantially similar form and content to that attached hereto and incorporated herein by this reference thereto as Exhibit “A,” and has been approved as to form by the City Attorney.

**Section 2** – That this ordinance shall be in full force and effect from and after passage and approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Passed: \_\_\_\_\_

Approved: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

**EXECUTION****DEVELOPMENT AGREEMENT**

Between the

**CITY OF MOLINE**

and

**MACERICH SOUTH PARK MALL LLC**

THIS INDENTURE ("Development Agreement") made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2014 ("Effective Date"), by and between the City of Moline, an Illinois municipal corporation ("City"), and Macerich South Park Mall LLC, a Delaware limited liability company ("Developer") and collectively the "Parties."

WITNESSETH:

WHEREAS, the City wishes to engage in certain lawful activities authorized by applicable law to assist private persons and entities in carrying out certain redevelopment activities, pursuant to the Illinois Tax Increment Allocation Redevelopment Act, found generally at 65 ILCS 5/11-74.4-1 *et seq.* (the "Act"); and

WHEREAS, pursuant to Ordinance Numbers 3034-2012, 3035-2012 and 3036-2012 ("TIF Ordinances"), the City approved a redevelopment plan and project (the "TIF Plan"), designated the redevelopment project area (the "South Park Mall Redevelopment Project Area"), and adopted tax increment allocation financing relative to the South Park Mall Tax Incremental Financing District (the "TIF District"); said South Park Mall Redevelopment Project Area being legally described and depicted as set forth in Exhibit A, attached hereto and made a part hereof; and

WHEREAS, the Developer owns a certain parcel of real property located within the South Park Mall Redevelopment Project Area described as tax parcel number SM-14989 (P.I.N. 17-16-107-006) ("Developer Parcel"), said Developer Parcel being a portion of that overall property commonly known as the South Park Mall, generally located at 4500 16<sup>th</sup> Street, Moline, Illinois, defined to also include tax parcel numbers SM-14988 (P.I.N. 17-16-107-002) and SM-347-4 (P.I.N. 17-16-100-020), all of which are more particularly described in Exhibit B, "Legal Description," attached hereto and incorporated herein by this reference thereto (collectively, the "Property"); and

WHEREAS, the City wishes to enter into this Development Agreement with the Developer in order to facilitate redevelopment of the Property; and

WHEREAS, Developer proposes to redevelop portions of the Property to consist of the following elements:

- i. Demolition of existing portions of South Park Mall and rehabilitation of portions of the remaining mall façade structure to an updated design as substantially depicted on the schematic designs attached hereto and incorporated herein by reference as Exhibit C; and
- ii. Installation of certain public improvements including but not limited to streets and street improvements such as turning lanes, traffic signals and signage, sidewalks, public utilities (sewer, water, storm water) including the new entrance and exit to John Deere Road and any connecting streets on the Property in accordance with the Federal Highway Authority, Illinois Department of Transportation, and City of Moline standards and requirements; and
- iii. New mall signage, lighting, re-surfacing and re-striping of parking lots, landscaping and other improvements to redevelop the site.

The foregoing elements of the Property redevelopment shall hereinafter be collectively referred to as the "Redevelopment Project," as may be partially depicted in Exhibit C, unless individually identified; and

WHEREAS, it is necessary for the successful completion of the Redevelopment Project that the City enter into this Development Agreement with Developer to provide for the redevelopment of the Property, thereby implementing the TIF Plan; and

WHEREAS, but for certain incentives to be provided by the City in accordance with the Act and pursuant to the home rule powers of the City, which the City is willing to provide under the terms and conditions contained herein, the Parties acknowledge and agree that but for the incentives, to be provided by the City as set forth herein, Developer cannot successfully and economically develop the Property substantially in conformance with the Redevelopment Project. The City has determined that it is desirable and in the City's best interests to assist Developer in the manner set forth herein and as this Development Agreement may be supplemented and amended from time to time; and

WHEREAS, the City wishes to assist private developers in carrying out projects that expand employment opportunities and create commercial enterprises in the City; and

WHEREAS, the City believes that the Redevelopment Project to be located on the Property and the fulfillment generally of the terms of this Development Agreement are in the vital and best interests of the City and its residents, and are in accord with its duty, authority, and the public purposes and conditions arising under the Act and all applicable state and local laws and requirements.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants contained herein and for other good and valuable consideration, the receipt

and sufficiency of which are hereby acknowledged, the parties do hereby stipulate, covenant, contract and agree as follows, to-wit:

**I. CITY'S AGREEMENT TO PROVIDE ASSISTANCE.**

The following sets forth the intentions, undertakings and contractual obligations and responsibilities of the City under this Development Agreement in accordance with the following:

- A. Creation of a Tax Increment Financing District. The City created the new TIF District to provide for the reimbursement of eligible expenses from the Redevelopment Project (and possibly future phases) incurred by the Developer.
- B. Maximum TIF Payment. The City's total payment to Developer paid from the net incremental annual real estate tax generated by the Redevelopment Project under this section shall not exceed 100% of the net incremental annual real estate tax generated by the Redevelopment Project ("Maximum TIF Payment") during the life of the TIF District, as may be extended, modified or amended, minus the total actual costs incurred by the Quad Cities Chamber of Commerce to conduct the feasibility study necessary for the creation of the TIF District, in an amount not to exceed Forty Thousand Dollars (\$40,000). The first Forty Thousand Dollars of net incremental annual real estate taxes generated by the Redevelopment Project shall be rebated to the Quad Cities Chamber of Commerce by the City, and Developer consents to said reimbursement and releases any interest in or claim as to the first Forty Thousand Dollars (\$40,000.00) of tax increment generated by the Redevelopment Project.
- C. Property Tax Rebate. Subject to Developer paying the annual real estate taxes for the Developer Parcel when due and payable, the City shall pay through its TIF Fund to Developer 100% of the net incremental annual real estate taxes for any Act eligible redevelopment expenses incurred by Developer as categorized on Exhibit D, attached hereto and made a part hereof ("TIF Eligible Expenses"), until the Maximum TIF Payment is reached. The net incremental annual real estate taxes shall be reimbursed to the Developer up to and only for TIF Eligible Expenses under the Act. Should the real estate taxes not be paid on all of the parcels in the Property, Developer shall only be entitled to a rebate of the net incremental annual real estate taxes actually paid.

The base year for computation purposes of the net incremental annual real estate taxes is agreed to be 2012, and the base Equalized Assessed Valuation (EAV) for the base year 2012 for the Property is Thirteen Million Four Hundred Eight Thousand Seven Hundred Sixty-Nine Dollars (\$13,408,769). The net incremental annual real estate tax rebate period

will start with the first year in which the EAV surpasses the 2012 Base EAV, which is estimated to be full assessment year 2015 and payment year 2016. The payment shall be from the net incremental annual property tax generated solely by the Property and paid to the City's TIF Account. The City shall remit the net incremental annual real estate property tax rebate to the Developer within thirty (30) days after receipt of annual payment into said City's TIF Account from Rock Island County.

- D. Maximum Amount of Property Tax Rebate. Pursuant to the Act, the Maximum TIF Payment shall not exceed the sum of all TIF Eligible Expenses incurred or incidental to the Redevelopment Project.
- E. Final Payment. Upon final payment to reach the Maximum TIF Payment or upon expiration of the TIF district, the City's obligations under this Development Agreement shall be fully paid and satisfied regardless of the total amount of payments actually received by the Developer.
- F. Interest. There shall be no interest charged to the City or due to the Developer pursuant to this Development Agreement at any time, and no interest shall ever be paid to the Developer from the City pursuant to this Development Agreement, irrespective of whether or not the City is delinquent or otherwise tardy in making payments required hereunder.
- G. Grants and Loan Applications. The City agrees to use its best efforts to support the Developer in applying to state and federal grant or loan programs that will enhance the Redevelopment Project.
- H. TIF Amendments. The parties expressly understand and agree that all payments provided for in the paragraphs set forth above shall be at all times subject to the requirements and restrictions of the Act.
- I. No Other Incentives. The City agrees to rebate 100% of the net incremental annual real estate taxes generated from the Redevelopment Project, minus reimbursement to the Quad Cities Chamber of Commerce for the cost of the feasibility study, to the Developer and therefore the City will offer, unless mutually agreed otherwise, no other incentives or contributions to the Developer or other developers of the Property as long as this Development Agreement is in effect.
- J. Enterprise Zone Benefits. City shall take no action to eliminate the Enterprise Zone while still authorized by statute for the benefit and duration of the Redevelopment Project by which means materials can be purchased for the construction of the Redevelopment Project without the imposition of sales tax and other economic benefits may be obtained under the Enterprise Zone guidelines as are available under the law. City will cooperate and assist Developer in its application for all Enterprise

Zone benefits, if any, but City does not warrant or assure or guarantee that any such benefits will be available to Developer.

- K. Prevailing Wage. The City makes no representations or warranties as to whether or not the Illinois Prevailing Wage Act applies to this Redevelopment Project. Payment of Prevailing Wage and compliance with the Prevailing Wage Act, if required, is the sole responsibility of Developer and/or its contractors and subcontractors. Developer agrees to indemnify and hold harmless the City and the agents, officers and employees thereof against all losses, damages, claims, suits, liabilities, judgments, costs and expenses (including any liabilities, judgments, costs and expenses and reasonable attorney's fees) which may arise from any claims pertaining to the Illinois Prevailing Wage Act.

## II. DEVELOPER AGREEMENT TO DEVELOP PROPERTY.

- A. The Developer proposes to develop the Redevelopment Project substantially in accordance with the drawings depicted on Exhibit C, in accordance with all applicable rules, codes, regulations, ordinances and laws.
- B. Redevelopment Project Elements. Developer proposes to commence construction of the following Redevelopment Project elements within 120 days of the Effective Date:
- i. Demolition of existing portions of SouthPark Mall and rehabilitation of the existing mall to an updated design substantially as depicted on the schematic designs attached as Exhibit C.
  - ii. Installation of public improvements including but not limited to streets and street improvements such as turning lanes, traffic signals and signage, sidewalks, public utilities (sewer, water, storm water)
- A. Developer has requested that a new entrance be created to access the Redevelopment Project from John Deere Road. The Illinois Department of Transportation has authorized the construction of a right in/right out signaled intersection from the Redevelopment Project to John Deere Road. Such construction shall be performed and at cost undertaken by Developer, at no cost and expense to the City in accordance with all applicable Federal Highway Authority, Illinois Department of Transportation, and City of Moline standards and requirements. Those requirements include the dedication of public right-of-way in the Redevelopment Project to the City by the Developer as required by state or federal authorities. Developer agrees to

dedicate the public right-of-way necessary to meet requirements and will maintain the public right-of-way located in the Redevelopment Project in accordance with a separate licensing agreement to be executed between the City and Developer.

B. City agrees to the relocation of such public-right-of-way located within the Redevelopment Project should Developer require relocation as part of its redevelopment of the site as long as such relocation complies with all federal, state and City requirements. Such relocation shall be done at Developer's sole cost and expense and the City shall be obligated, within thirty (30) days of written request by Developer, pursuant to and as required under 65 ILCS 5/11-91 *et seq.*, to take any and all actions to vacate such dedicated rights of way back only to Developer and in no event to any other party, without consideration or compensation for the right-of-way.

iii. New mall signage, lighting, re-surfacing and re-striping of parking lots, landscaping and other improvements to redevelop the site.

C. Code Compliance. To the best of the Developer's knowledge, the Redevelopment Project, as designed, shall be in full compliance with all applicable state and local laws and ordinances. Further, Developer warrants that the City Building Official shall have approved all building plans submitted and agrees to follow all requirements of the City Code.

### III. CONDITIONS PRECEDENT TO CITY'S INCENTIVE PAYMENTS HEREUNDER.

Prior to the disbursement of any TIF net incremental annual real estate tax rebate payments, Developer shall provide commercially reasonable documentation of the actual TIF Eligible Expenses incurred for the Project by Developer, which pay request shall be reviewed and approved within thirty (30) days of receipt. In the event the City disapproves payment of pay request item as not being a TIF Eligible Expense, the City shall notify the Developer within such thirty (30) day period. To the extent the City and Developer cannot agree on a TIF Eligible Expense incurred by Developer, then within fifteen (15) days after the City's disapproval, the parties shall mutually submit the disputed item(s) to a mutually agreed upon third party TIF consultant to verify eligibility, or not. Failure to provide documentation of TIF Eligible Expenses for purposes of calculating the TIF net incremental annual real estate tax rebate payments shall not relieve the City of its obligation to make payments hereunder, but, instead, shall only defer payment due the Developer until verification.

### IV. WARRANTIES OF THE CITY.

A. The City represents and warrants to the Developer that it is empowered and authorized to execute and deliver this Development Agreement and to lend and

deliver the assistance described herein upon proof of eligible "redevelopment project costs" pursuant to Section 5/11-74.4-3(q) of the Act as TIF Eligible Expenses under this Development Agreement, and to execute and deliver all other agreements and documents, if any, required hereunder to be executed and delivered by the City. This Development Agreement has been, and each such document at the time it is executed and delivered will be, duly executed and delivered on behalf of the City pursuant to its legal power and authority to do so. When executed and delivered to the Developer, all such agreements shall constitute a legal, valid, and binding obligation of the City, enforceable in accordance with the terms of all such agreements.

B. There is no action, suit or proceeding pending, or to the knowledge of the City threatened, against or affecting the City, at law or in equity, or before any governmental authority which, if adversely determined, would impair the City's ability to perform its obligations under this Development Agreement.

C. Until such time as the Maximum TIF Payments due under this Development Agreement have been made or the termination of its obligations under this Development Agreement, whichever occurs first, the City (1) will not pledge or apply any portion of the net incremental annual real estate taxes to any other purpose or payment of any other obligation of the City; (2) will not take any action or omit to take any action that will affect the continued existence of the net incremental annual real estate taxes; (3) will take all reasonable actions in order to receive and segregate, as required under the Act, all net incremental annual real estate taxes.

D. The City represents that there are currently no special assessments in place or contemplated relative to the Property.

## **V. WARRANTIES OF THE DEVELOPER.**

A. The Developer represents and warrants to the City that the Developer is a Delaware limited liability company authorized to do business in and that all proceedings of the Developer necessary to authorize the negotiation and execution of this Development Agreement and the consummation of the transaction contemplated by this Development Agreement have been taken in accordance with applicable law.

B. The Developer represents and warrants to the City that this Development Agreement has been duly authorized, executed, and delivered by the Developer, and will be enforceable against the Developer by its terms, except to the extent that such enforceability shall be limited by bankruptcy, or solvency, or similar laws of general application affecting the enforcement of creditor rights, and by equitable principles.

C. The Developer represents and warrants to the City that the execution and delivery of this Development Agreement, and the consummation of the transactions contemplated in this Development Agreement will not violate any provision of its operating agreement or any other contract, agreement, court order or decree to which

the Developer may be a party or to which the Developer may be subject, or any applicable federal or state law or municipal ordinance.

## **VI. INDEMNIFICATION.**

A. 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) actually incurred by the City which may arise directly or indirectly from the failure of the Developer or any contractor, subcontractor or agent or employee thereof (so long as such contractor, subcontractor or agent or employee thereof is hired by the Developer) to timely pay any contractor, subcontractor, laborer or materialman, from any default or breach of the terms of this Development Agreement by the Developer, or from any negligence or reckless or willful misconduct of the Developer or any contractor, subcontractor agent or employee thereof (so long as such contractor, subcontractor or agent or employee is hired by the Developer or Developer's contractor). The Developer shall, at the Developer's sole cost and expense, appear, defend and pay all charges, attorneys' fees of attorney(s) mutually agreed upon by the City and Developer, 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 the Developer's sole cost and 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 intentional negligence, reckless or willful misconduct on the part of the City or any of its officers, agents, employees or contractors.

B. In the event that any court or governmental agency having jurisdiction over enforcement of the Act and the subject matter contemplated by this Development Agreement shall determine that this Development Agreement, or payments to be made hereunder, are contrary to law, or in the event that the legitimacy of the TIF Ordinances are otherwise challenged before a court or governmental agency having jurisdiction thereof and such challenge would affect the payments to be made under this Development Agreement, the City shall at its sole cost defend the integrity of the TIF Ordinances and this Development Agreement unless such challenge is as a direct result of the acts or omissions of the Developer. The Developer shall fully cooperate with the City in connection with the foregoing. In the event of an adverse lower court or agency ruling, payments shall be suspended during the pendency of any appeal thereof, but such payments shall be reinstated retroactively if such adverse ruling is reversed by the reviewing court or agency. The City shall not seek to set aside, or otherwise challenge, its obligations under this Development Agreement during the pendency of any appeal.

## **VII. ENTIRE AGREEMENT.**

This Development Agreement and exhibits hereto contain the entire agreement between the Developer and the City. The terms and conditions of this Development Agreement, its burdens and benefits, shall inure to the benefit of, and shall be binding

upon the parties hereto and their respective heirs, executors, successors, and assigns. A memorandum of this Development Agreement shall be recorded against the Developer Parcel as set forth below, and may be modified only by written amendment signed by the Developer and the City, which amendment shall become effective upon recording by either party in the Recorder's Office in Rock Island County, Illinois.

#### **VIII. ASSIGNMENT.**

The Developer hereunder may assign the rights, duties, and obligations of the Developer only with the prior written consent of the City (which consent may not unreasonably be withheld). For the purposes of this paragraph, consent shall be deemed given by the City upon execution of this Agreement for any assignment to any person or entity having a verified net worth of not less than Ten Million and No/100 Dollars (\$10,000,000.00). If a request for consent is not denied in writing on or before thirty (30) days after written request, such consent shall be deemed given. The Developer may, however, for the purpose of obtaining any financing for the Redevelopment Project, provide a collateral assignment of this Development Agreement to any lender or any successor or subsequent lender (the "Lender") as collateral security, without the City's consent.

#### **IX. SURVIVAL OF WARRANTIES AND REPRESENTATIONS.**

Any warranty, representation, or agreement herein contained shall survive the execution of the Development Agreement.

#### **X. NOTICE OF DEFAULT.**

In the event either party is in default hereunder (the "Defaulting Party"), the other party (the "Non-Defaulting Party") shall be entitled to take any action allowed by applicable law by virtue of said default provided that the Non-Defaulting Party first gives the Defaulting Party written notice of default describing the nature of the default, what action, if any, is deemed necessary to cure the same and specifying a time period of not less than thirty (30) days in which the default may be cured by the Defaulting Party.

#### **XI. REMEDIES UPON DEFAULT.**

A. If, in the City's judgment, the Developer is in material default of this Development Agreement, the City shall provide the Developer with a written statement indicating in adequate detail any failure on the Developer's part to fulfill its obligations under this Development Agreement. Except as required to protect against further damages, the City may not exercise any remedies against the Developer in connection with such failure until thirty (30) days after giving such notice. If such default cannot be cured within such thirty (30) day period, such thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of the same, so long as the Developer diligently proceeds with such cure; if such default is cured within such extended period, the default shall not be deemed to constitute a breach of this

Development Agreement. A default not cured as provided above shall constitute a breach of this Development Agreement. Any failure or delay by the City in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach or of any rights or remedies it may have as a result of such default or breach.

B. If the Developer materially fails to fulfill its obligations under this Development Agreement after notice is given by the City and any cure periods described in Paragraph A above have expired or if all or a portion of any such agreement is terminated, the City may elect to terminate this Development Agreement or exercise any right or remedy it may have at law or in equity, including without limitation the right to specifically enforce the terms and conditions of this Development Agreement. If any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy or insolvency act shall be filed by or against the Developer, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare the Developer insolvent or unable to pay the Developer's debts, or the Developer makes an assignment for the benefit of its creditors, or a trustee or receiver is appointed for the Developer or for the major part of the Developer's property, the City may elect, to the extent such election is permitted by law and is not unenforceable under applicable federal bankruptcy laws, but is not required, with or without notice of such election and with or without entry or other action by the City, to forthwith terminate this Development Agreement. To effect the City's termination of this Development Agreement under this Section XI.B., the City's sole obligation shall be to record, in the office of the Rock Island County Recorder, a Certificate of Default executed by the Mayor of the City or such other person as shall be designated by the City, stating that this Development Agreement is terminated pursuant to the provisions of this Section XI.B., in which event this Development Agreement by virtue of the recording of such certificate, shall *ipso facto* automatically become null and void and of no further force and effect.

C. If, in the Developer's judgment, the City is in material default of this Development Agreement, the Developer shall provide the City with a written statement indicating in adequate detail any failure on the City's part to fulfill its obligations under this Development Agreement. The Developer may not exercise any remedies against the City in connection with such failure until thirty (30) days after giving such notice. If such default cannot be cured within such thirty (30) day period, such thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of the same, so long as the City diligently proceeds with such cure; if such default is cured within such extended period, the default shall not be deemed to constitute a breach of this Development Agreement. A default not cured as provided above shall constitute a breach of this Development Agreement. Any failure or delay by the Developer in asserting any right or remedy as to any default or any alleged default or breach shall not operate as a waiver of any such default or breach or of any rights or remedies it may have as a result of such default or breach.

D. In addition to any other rights or remedies, a party may institute legal action against the other party to cure, correct or remedy any default, or to obtain any other remedy consistent with the purpose of this Development Agreement, either at law or in equity, including, but not limited to the equitable remedy of an action for specific performance. Notwithstanding the foregoing, in the event either party shall institute and complete legal action against the other party because of a breach of any agreement or obligation contained in this Development Agreement, the substantially prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

E. The rights and remedies of the parties are cumulative and the exercise by a party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or for any other default by the other party.

## **XII. NON-DISCRIMINATION.**

The Developer agrees that neither the Property nor any portion thereof, shall be sold to, leased, or used by the Developer in a manner to permit discrimination or restriction on the basis of race, creed, ethnic origin or identity, color, gender, sexual orientation, religion, marital status, age, handicap, or national origin, and that the development of and construction and operations on the Property shall be in compliance with all effective laws, ordinances, and regulations relating to discrimination on any of the foregoing grounds.

## **XIII. NOTICES.**

Any notice required or permitted hereunder shall be in writing, signed by the party giving the notice, and shall be deemed given when (a) hand delivered to the party to whom the notice is addressed; (b) mailed by certified mail, return receipt requested, United States mail, postage prepaid; or (c) delivered by overnight courier delivery service (i.e. Federal Express, UPS, etc.) and addressed to the party at the address shown as follows:

TO CITY: City Administrator and City Clerk  
619 16<sup>th</sup> Street  
Moline, IL 61265

WITH A COPY TO: City Attorney  
619 16<sup>th</sup> Street  
Moline, IL 61265

TO DEVELOPER: Macerich South Park Mall LLC  
Attention: Center Manager  
4500 16<sup>th</sup> Street  
Moline, IL 61265-7078

WITH A COPY TO: Nicholas S. Peppers  
Storino, Ramello & Durkin  
9501 West Devon Avenue  
Rosemont, IL 60018

WITH A COPY TO: Steve Spector  
Senior Vice President & General Counsel  
Macerich  
401 Wilshire Boulevard, Suite 700  
Santa Monica, CA 90401

Any party may change the address to which notices shall be sent by notice given in accordance with the terms of this paragraph.

#### **XIV. COUNTERPARTS.**

This Development Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

#### **XV. HEADINGS.**

Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Development Agreement.

#### **XVI. APPLICABLE LAW.**

This Development Agreement, and each of its subparts and incorporated items thereto, shall be interpreted under the laws of the State of Illinois and any action brought to enforce or interpret any of its provisions or otherwise involving this Development Agreement must be filed in a Rock Island County, Illinois, court of competent jurisdiction.

#### **XVII. SEVERABILITY.**

Should any part of this Development Agreement be determined to be illegal, invalid, or otherwise unenforceable, then all such remaining parts not so affected by such illegality, invalidity, or unenforceability shall continue in full force and effect, fully binding both parties, their respective heirs and assigns, as to such remaining terms.

#### **XVIII. NO JOINT VENTURE, AGENCY OR PARTNERSHIP CREATED.**

Neither anything in this Development Agreement nor any acts of the parties to this Development 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.

**XIX. ASSURANCE OF FURTHER ACTION.**

From time to time hereafter and without further consideration, each of the parties to this Development Agreement shall execute and deliver, or cause to be executed and delivered, such recordable memoranda, further instruments, and agreements, and shall take such other actions, as any other party may reasonably request, in order to more effectively memorialize, confirm, and effectuate the intentions, undertakings, and obligations contemplated by this Development Agreement.

**XX. DELAYED EXECUTION.**

After this Development Agreement is approved by the Moline City Council and duly signed by the Mayor and attested by the City Clerk, the Developer shall have up to ten days (10) from that date to execute this Development Agreement, and this Development Agreement shall not be binding on the parties until duly executed by both parties.

**XXI. DISCLAIMER OF THIRD PARTY BENEFITS.**

The intentions, affirmations, authorizations and agreements between the parties hereto as expressed herein are approved solely by and between the parties hereto and no other; and provided further, however, that neither and none of such intentions, affirmations, authorizations or agreements may be relied upon by any person or entity, to such entity or person(s) detriment, or for any reason whatsoever, whether third person or otherwise. Any such reliance or purported reliance as a third party beneficiary to this Development Agreement or predicated upon any other relationship to any of the parties hereto and each of them, whether real or alleged, is specifically disclaimed by the parties herein.

**XXII. TIME IS OF THE ESSENCE.**

Time is of the essence of this Development Agreement.

**XXIII. REPEALER.**

To the extent that any ordinance, resolution, rule, order or provision of the City's code of ordinances, or any part thereof, is in conflict with the provisions of this Development Agreement, the provisions of this Development Agreement shall be controlling, to the extent lawful.

**XXIV. ESTOPPEL CERTIFICATES.**

Each of the Parties hereto agrees to provide the other, upon not less than ten (10) business days prior request, a certificate ("Estoppel Certificate") certifying that this Development Agreement is in full force and effect (unless such is not the case, in which such Parties shall specify the basis for such claim), that the requesting Party is not in

default of any term, provision or condition of this Development Agreement beyond any applicable notice and cure provision (or specifying each such claimed default) and certifying such other matters reasonably requested by the requesting Party. If either Party fails to comply with this provision within the time limit specified, it shall be deemed to have appointed the other as its attorney-in-fact for execution of same on its behalf as to that specific request only.

## **XXV. UNCONTROLLABLE CIRCUMSTANCE.**

Each party's performance hereunder shall be subject to an uncontrollable circumstance (the "Uncontrollable Circumstance"), which means any event which:

1. is beyond the reasonable control of and without the fault of the Party relying thereon; and

2. is one or more of the following events:

a. a change in law, which means the occurrence, after the Effective Date, of an event described below in this definition, provided such event materially changes the costs or ability of the Party relying thereon to carry out its obligations under this Development Agreement and such event is not caused by the Party relying thereon. Change in Law means any of the following: (i) the enactment, adoption, promulgation or modification of any federal, state or local law, ordinance, code, rule or regulation (other than by the City or with respect to those made by the City, only if they violate the terms of this Development Agreement); (ii) the order or judgment of any federal or state court, administrative agency or other governmental body (other than the City); or (3) the adoption, promulgation, modification or interpretation in writing of a written guideline or policy statement by a governmental agency (other than the City, or, with respect to those made by the City, only if they violate the terms of this Development Agreement). Change in Law, for purposes of this Development Agreement, shall also include the imposition of any conditions on, or delays in, the issuance or renewal of any governmental license, approval or permit (or the suspension, termination, interruption, revocation, modification, denial or failure of issuance or renewal thereof) necessary for the undertaking of the actions to be performed under this Development Agreement (except any imposition of any conditions on, or delays in, any such issuance or renewal by the City, except as provided herein);

b. insurrection, riot, civil disturbance, sabotage, act of the public enemy, explosion, fire, nuclear incident, war or naval blockade;

c. epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, extraordinary weather condition or other similar acts of God;

d. governmental condemnation or taking other than by the City;

- e. strikes or labor disputes, or work stoppages not initiated by the Developer;
- f. unreasonable delay in the issuance of building or other permits or approvals by the City or other governmental authorities having jurisdiction other than the City;
- g. shortage or unavailability of essential materials, which materially change the ability of the Party relying thereon to carry out its obligations under this Development Agreement;
- h. unknown or unforeseeable geo-technical or environmental conditions;
- i. major environmental disturbances;
- j. vandalism; or
- k. terrorist acts.

Uncontrollable Circumstance shall not include: economic hardship; unavailability of materials (except as described in subsection 2.g. above); or a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor).

For each day that the City or the Developer is delayed by an Uncontrollable Circumstance, the dates set forth in the Development Agreement shall be extended by one (1) day for each day of the resulting delay.

#### **XXVI. TERM.**

This Agreement shall be in full force and effect from and after execution hereof by the last party to execute same and shall remain in full force and effect to and until the later of (i) December 31, 2037 and (ii) the final net incremental annual real estate property tax payment generated under the TIF Ordinances for TIF Eligible Expenses have been received by Developer.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Development Agreement on the dates set forth above their respective signatures.

THE CITY OF MOLINE, ILLINOIS

MACERICH SOUTH PARK MALL LLC

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
Scott Raes, Mayor

By: [Signature]

Attest: \_\_\_\_\_  
Tracy Koranda, City Clerk

Approved as to form:

[Signature]  
Maureen E. Riggs, City Attorney

STATE OF ILLINOIS                    )  
  )    SS:  
COUNTY OF ROCK ISLAND         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me, the undersigned, a Notary Public in and for the State of Illinois, personally appeared **SCOTT RAES** and **TRACY KORANDA** to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the **CITY OF MOLINE**, executing the within and foregoing instrument to which this is attached; that said instrument was signed (and sealed) on behalf of (the seal affixed thereto is the seal of said corporation) as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

(seal)

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF \_\_\_\_\_ )  
  )    SS:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me, a Notary Public in and for said County and State aforesaid, personally appeared \_\_\_\_\_ to \_\_\_\_\_ personally known, who being by me duly sworn (or affirmed) did say that he is \_\_\_\_\_ of **MACERICH SOUTH PARK MALL LLC**, and that said instrument was signed on behalf of the Corporation; \_\_\_\_\_ acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

**SEE ATTACHED**

(seal)

\_\_\_\_\_  
NOTARY PUBLIC

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

State of California

County of Los Angeles

On 2/3/14 before me, Joanne E. Hill, a Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Stephen L. Spector  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature: Joanne E. Hill  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: Development Agreement between City of Malibu & Macerich South Park Mall, LLC

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

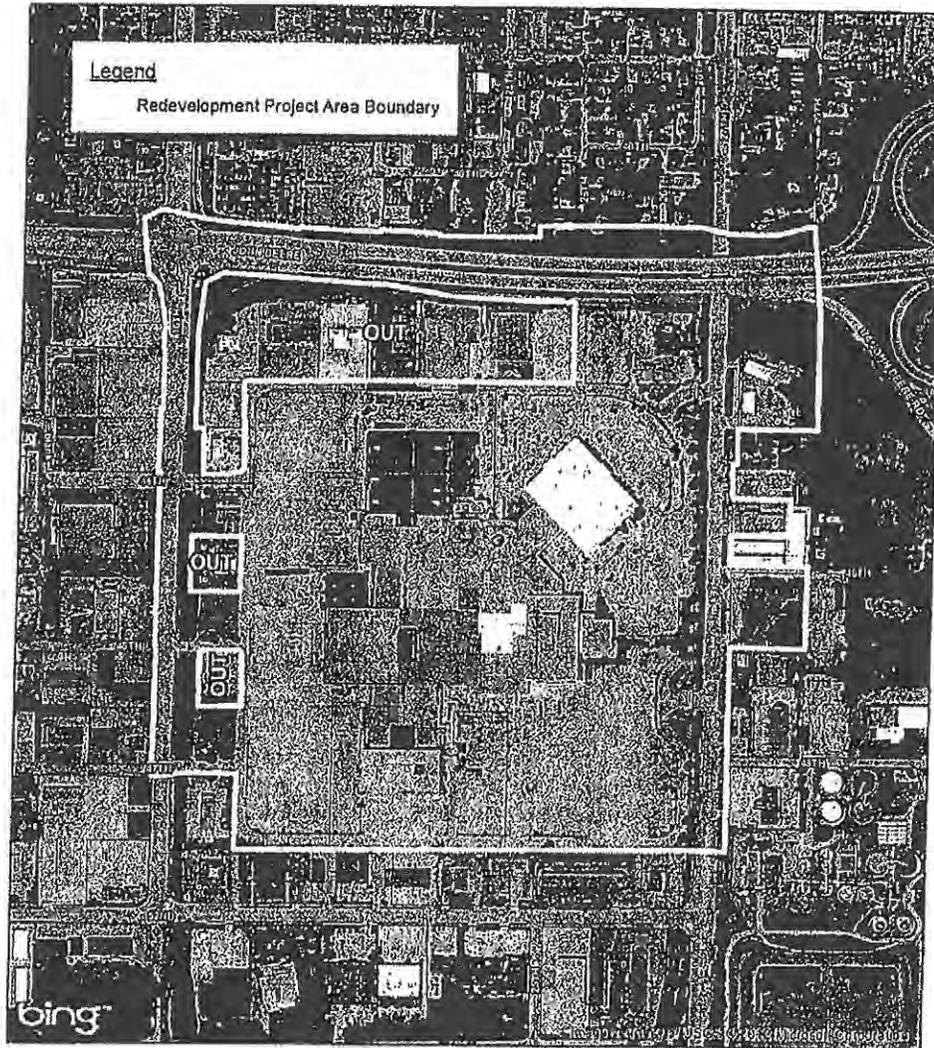
**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_

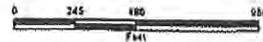
- |   |   |
|---|---|
| <input type="checkbox"/> Corporate Officer -- Title(s): _____   | <input type="checkbox"/> Corporate Officer -- Title(s): _____   |
| <input type="checkbox"/> Individual   | <input type="checkbox"/> Individual   |
| <input type="checkbox"/> Partner -- <input type="checkbox"/> Limited <input type="checkbox"/> General | <input type="checkbox"/> Partner -- <input type="checkbox"/> Limited <input type="checkbox"/> General |
| <input type="checkbox"/> Attorney in Fact   | <input type="checkbox"/> Attorney in Fact   |
| <input type="checkbox"/> Trustee  | <input type="checkbox"/> Trustee  |
| <input type="checkbox"/> Guardian or Conservator  | <input type="checkbox"/> Guardian or Conservator  |
| <input type="checkbox"/> Other: _____   | <input type="checkbox"/> Other: _____   |

Signer Is Representing: \_\_\_\_\_ Signer Is Representing: \_\_\_\_\_

**EXHIBIT A**  
**REDEVELOPMENT PROJECT AREA**



**Exhibit A**  
**Redevelopment Project Area Boundary**  
 SouthPark Redevelopment Project Area  
 City of Moline, Illinois



May 2012



**EXHIBIT B****DEVELOPER PARCEL AND  
PROPERTY LEGAL DESCRIPTION****DEVELOPER PARCEL**

Lot 4 of Southpark Mall Subdivision First Addition; situated in the City of Moline, Rock Island County, Illinois; according to the Plat thereof recorded May 11, 2006 in Plat Book 47. Page 415 as Document No. 2006-11052.

EXCEPTING therefrom the following described parcels

Lots 1, 2, 5, and 6 of Southpark Mall Second Addition; situated in the City of Moline, Rock Island County, Illinois; according to the Plat thereof recorded December 4, 2007 in Plat Book 48. Page 27 as Document No. 2007-29528.

ALSO EXCEPTING:

Lot 1 Nellis First Addition; situated in the City of Moline, Rock Island County, Illinois; according to the Plat thereof recorded December 11, 2008 in Plat Book 48, page 56 as Document No. 2008-26392.

**BALANCE OF PROPERTY**

Part of the Northwest Quarter of Section 16, Township 17 North, Range 1 West of the 4<sup>th</sup> P.M. Moline, Rock Island County, Illinois, more particularly described as follows:

Commencing at a point of reference at the Northwest Corner of said Section 16;

Thence North 89 degrees 19 minutes 30 seconds East 546.65 feet along the North line of said Northwest Quarter of Section 16 (for purposes of this description the said North line of the Northwest Quarter of Section 16 is assumed to bear North 89 degrees 19 minutes 30 seconds East);

Thence South 00 degrees 02 minutes 48 seconds East 1,322.66 feet;

Thence North 89 degrees 12 minutes East 50.00 feet to a point on the East right-of-way line of 16<sup>th</sup> Street;

Thence South 00 degrees 00 minutes 05 seconds West 1,098.78 feet along the said East right-of-way line of 16<sup>th</sup> Street;

Thence North 89 degrees 28 minutes 50 seconds East 586.16 feet to the point of beginning of the parcel herein described;

Thence continuing North 89 degrees 28 minutes 50 seconds East 701.02 feet;

Thence North 00 degrees 39 minutes 20 seconds West 541.02 feet;  
Thence South 89 degrees 20 minutes 40 seconds West 216.00 feet;  
Thence South 00 degrees 39 minutes 20 seconds East 145.00 feet;  
Thence South 89 degrees 20 minutes 40 seconds West 350.00 feet;  
Thence North 00 degrees 39 minutes 20 seconds West 180.68 feet;  
Thence South 89 degrees 20 minutes 40 seconds West 135.00 feet;  
Thence South 00 degrees 39 minutes 20 seconds East 575.03 feet to the said  
point of beginning.

This parcel contains 7.639 acres, more or less.

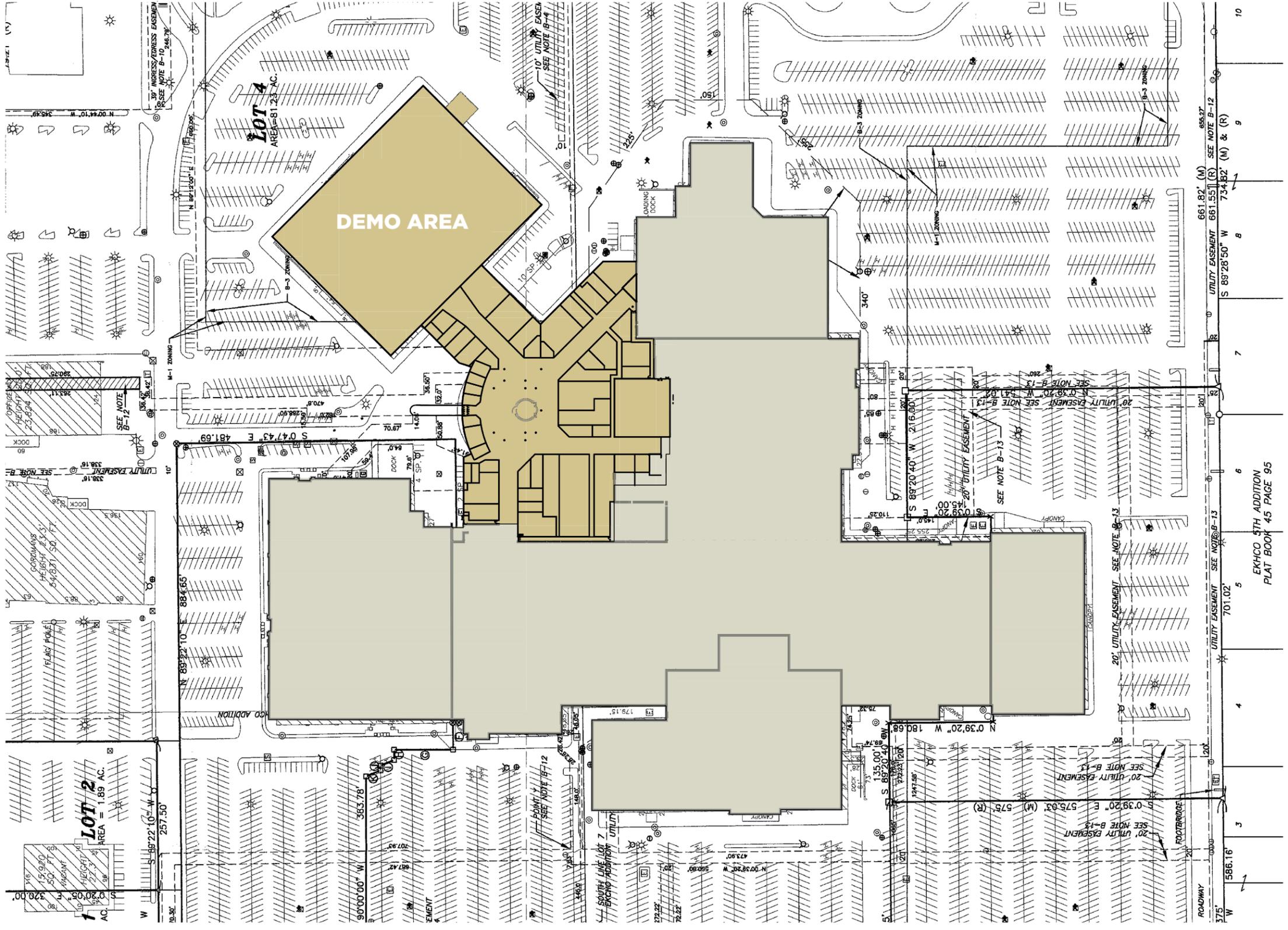
AND

Lot 3 of Southpark Mall First Addition; situated in the City of Moline, Rock Island  
County, Illinois; according to the Plat thereof recorded May 11, 2006 in Plat Book 47,  
Page 415 as Document No. 2006-11052.

**EXHIBIT C**  
**SCHEMATIC DESIGN DRAWINGS OF REDEVELOPMENT PROJECT**

# SOUTHPARK MALL | PRELIMINARY CONCEPT DESIGN

January 28, 2014

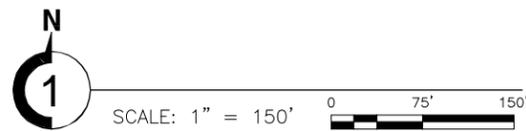


**DEMOLITION PLAN**

EKHCO 5TH ADDITION  
PLAT BOOK 45 PAGE 95

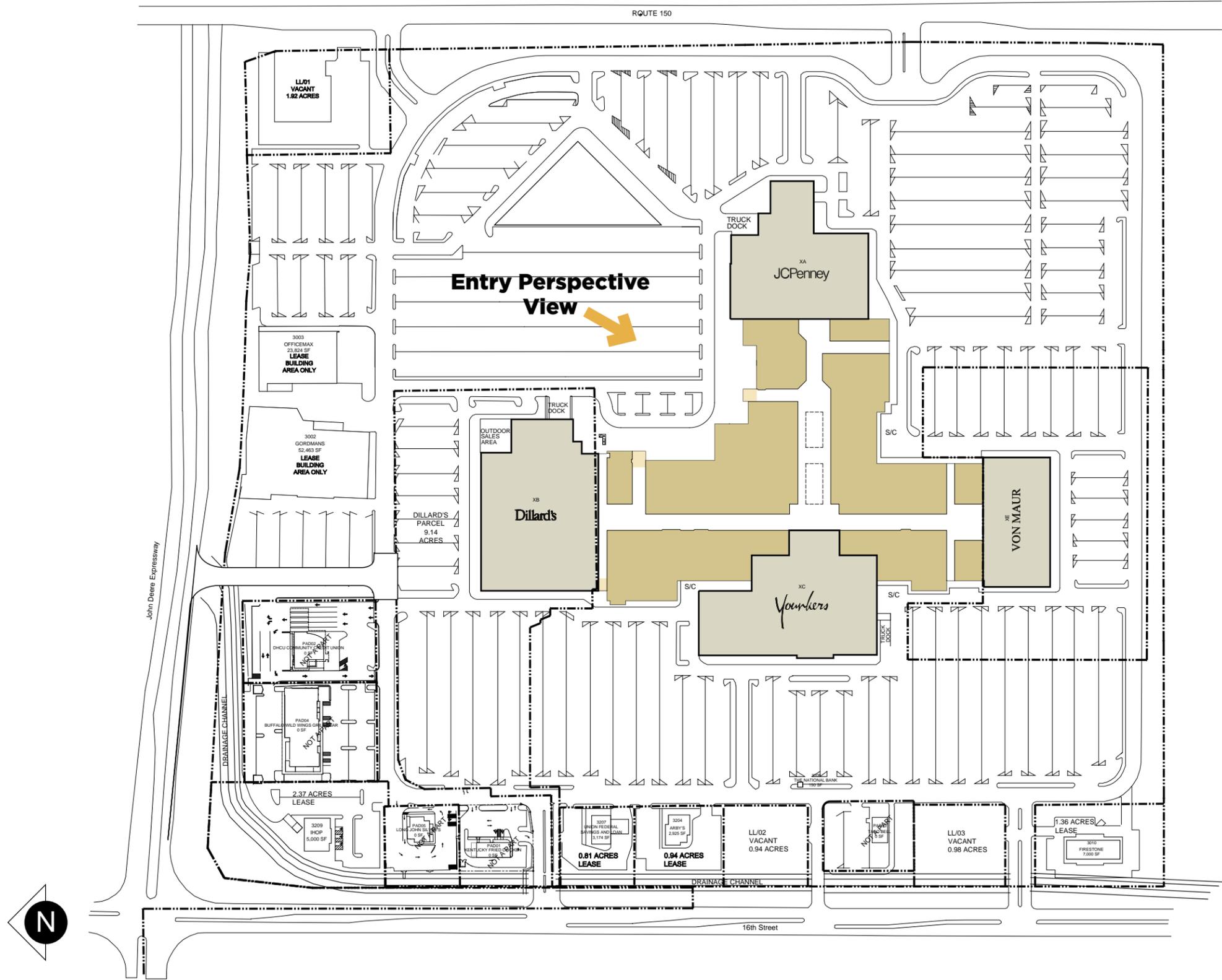


Preliminary For review Only



**PROPOSED NEW MALL ENTRANCE LOCATION**





**SITE PLAN**



**PYLON SIGN  
CONCEPT 1**



**MONUMENT SIGN  
CONCEPT 1**



**ENTRY PERSPECTIVE VIEW  
CONCEPT 1**



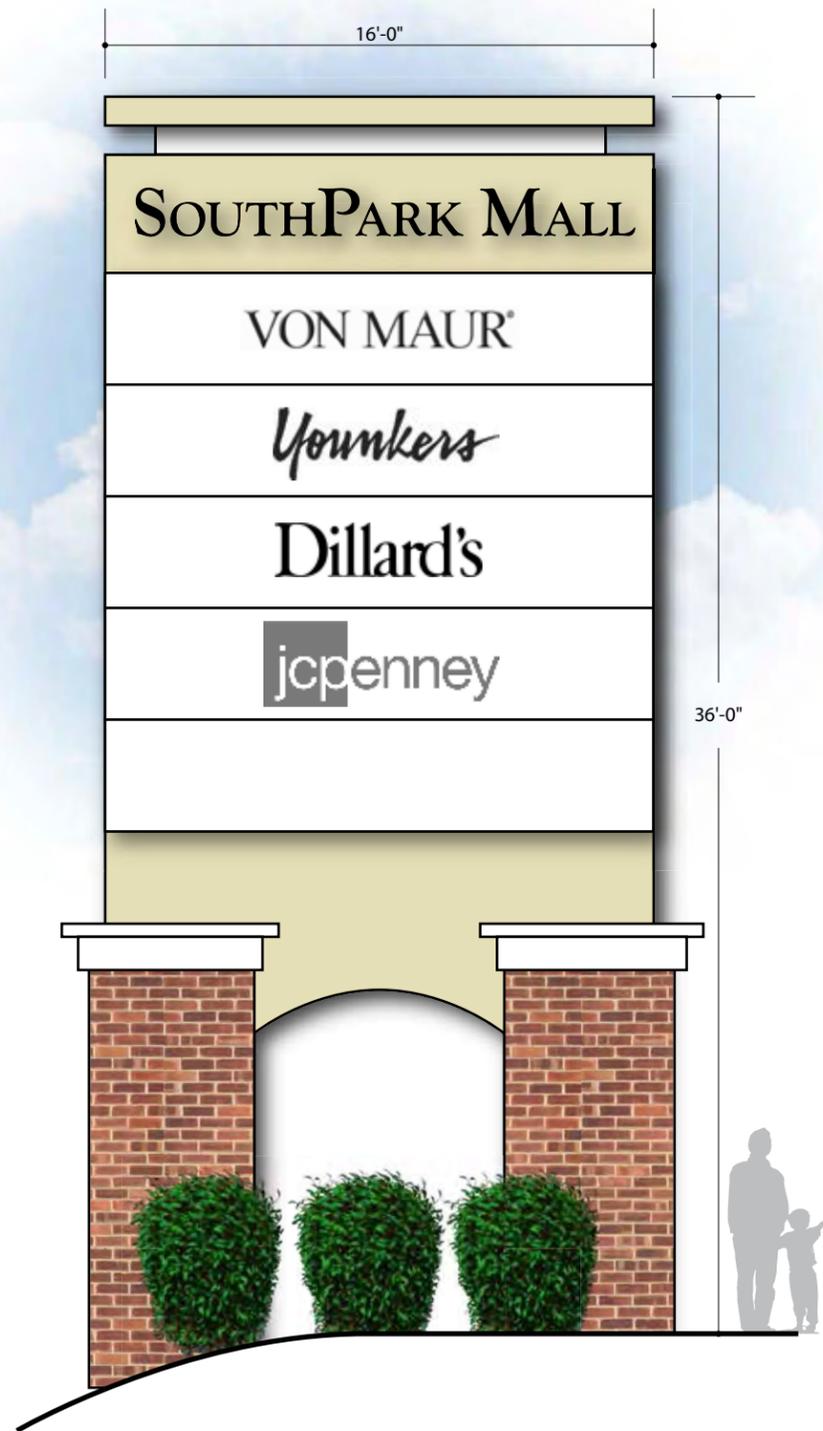
**PYLON SIGN  
CONCEPT 2**



**MONUMENT SIGN  
CONCEPT 2**



**ENTRY PERSPECTIVE VIEW  
CONCEPT 2**



**PYLON SIGN  
CONCEPT 3**



**MONUMENT SIGN  
CONCEPT 3**



**ENTRY PERSPECTIVE VIEW  
CONCEPT 3**



**CONCOURSE VIEW**



**EXHIBIT D  
TIF ELIGIBLE EXPENSES**

**Costs as Permitted Pursuant to the Act, including but not limited to:**

- Acquisition and other Property Assembly Costs
- Development Services Design and Engineering Services
- Legal/Appraisal
- Surveys and Environmental Reports Related to Property Assembly or Reconstruction, Remodeling, Repair, or Rehabilitation
- Reconstruction, rehabilitation, repair or remodeling
- Public improvements
- And other items permitted by the Act

# **City of Moline**

January 2014  
Financial Report

**City of Moline  
Major Revenue Projection  
Summary Sheet  
as of January 31, 2014**

Revenues	Year to Date Receipts	Projections	Current Budget	Budget Variance	Prior Year Actual	% Change Cur Proj/ Prior Yr	Last Month's Projection	% Change Proj This Month/ Last Month
Property Tax	\$0	\$14,784,970	\$14,784,970	\$0	\$14,675,345	0.75%	\$14,784,970	0.00%
State Sales Tax	\$785,330	\$9,857,000	\$9,857,000	\$0	\$9,457,039	4.23%	\$9,857,000	0.00%
Water User Fees	\$699,195	\$8,281,645	\$8,281,645	\$0	\$7,735,554	7.06%	\$8,281,645	0.00%
Sewer User Fees	\$616,509	\$6,858,765	\$6,858,765	\$0	\$6,725,107	1.99%	\$6,858,765	0.00%
Home Rule Sales Tax	\$641,808	\$8,067,000	\$8,067,000	\$0	\$8,106,203	-0.48%	\$8,067,000	0.00%
Income Tax	\$0	\$3,800,000	\$3,800,000	\$0	\$4,142,981	-8.28%	\$3,800,000	0.00%
Replacement Tax	\$414,760	\$2,374,535	\$2,374,535	\$0	\$2,389,920	-0.64%	\$2,374,535	0.00%
Utility Taxes	\$274,763	\$3,009,000	\$3,009,000	\$0	\$3,014,491	-0.18%	\$3,009,000	0.00%
Food/Liquor Tax	\$177,065	\$2,025,000	\$2,025,000	\$0	\$2,016,801	0.00%	\$2,025,000	0.00%
Telecommunication Tax	\$115,953	\$1,881,975	\$1,881,975	\$0	\$1,636,428	15.01%	\$1,881,975	0.00%
<b>Total</b>	<b>\$3,725,383</b>	<b>\$60,939,890</b>	<b>\$60,939,890</b>	<b>\$0</b>	<b>\$59,899,869</b>	<b>1.74%</b>	<b>\$60,939,890</b>	<b>0.00%</b>

NOTE: State of Illinois is two months behind in remitting Income Tax payments.  
Food & Beverage Tax increased from 1% to 1.5% as of 1/1/10  
Home Rule Sales Tax increased from 1% to 1.25% as of 1/1/10  
Utility Tax increased from 3% to 5% as of 1/1/12

**CITY OF MOLINE  
SUMMARY OF REVENUE AND EXPENDITURES  
AS OF 01/31/14**

	BUDGET	YTD ACTUAL	VARIANCE
<b>GENERAL FUND</b>			
Revenues	\$42,059,185	\$2,929,024	\$39,130,161
Expenditures	\$42,059,185	\$2,878,161	\$39,181,024
Difference	\$0	\$50,863	
<b>GENERAL TRUST FUND</b>			
Revenues	\$356,000	\$32,937	\$323,063
Expenditures	\$356,000	\$4,342	\$351,658
Difference	\$0	\$28,595	
<b>SFOOR GRANT</b>			
Revenues	\$83,435	\$0	\$83,435
Expenditures	\$83,435	\$24	\$83,411
Difference	\$0	(\$24)	
<b>TOURISM FUND</b>			
Revenues	\$2,261,625	\$55,756	\$2,205,869
Expenditures	\$2,261,625	\$121	\$2,261,504
Difference	\$0	\$55,635	
<b>LEAD GRANT</b>			
Revenues	\$778,470	\$63,909	\$714,561
Expenditures	\$778,470	\$21,501	\$756,969
Difference	\$0	\$42,408	
<b>HOMEBUYER TRUST GRANT</b>			
Revenues	\$209,255	\$0	\$209,255
Expenditures	\$209,255	\$0	\$209,255
Difference	\$0	\$0	
<b>EMERGENCY REPAIR GRANT</b>			
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Difference	\$0	\$0	
<b>NSP2 GRANT</b>			
Revenues	\$538,825	\$6,475	\$532,350
Expenditures	\$538,825	\$2,480	\$536,345
Difference	\$0	\$3,995	
<b>LIBRARY FUND</b>			
Revenues	\$3,126,475	\$135,081	\$2,991,394
Expenditures	\$3,126,475	\$221,166	\$2,905,309
Difference	\$0	(\$86,085)	
<b>PARK FUND</b>			
Revenues	\$4,667,750	\$309,634	\$4,358,116
Expenditures	\$4,667,750	\$185,629	\$4,482,121
Difference	\$0	\$124,005	

	BUDGET	YTD ACTUAL	VARIANCE
<b>MOTOR FUEL TAX FUND</b>			
Revenues	\$1,050,000	\$108,810	\$941,190
Expenditures	\$1,050,000	\$0	\$1,050,000
Difference	\$0	\$108,810	
<b>COMMUNITY DEVELOPMENT</b>			
Revenues	\$833,455	\$124,169	\$709,286
Expenditures	\$833,455	\$24,778	\$808,677
Difference	\$0	\$99,391	
<b>REVOLVING LOAN FUND</b>			
Revenues	\$280,000	\$1,031	\$278,969
Expenditures	\$280,000	\$0	\$280,000
Difference	\$0	\$1,031	
<b>TAX INCREMENTAL FINANCING #1</b>			
Revenues	\$3,091,045	\$355,714	\$2,735,331
Expenditures	\$3,091,045	\$41,020	\$3,050,025
Difference	\$0	\$314,693	
<b>TAX INCREMENTAL FINANCING #2</b>			
Revenues	\$215,000	\$275	\$214,725
Expenditures	\$215,000	\$0	\$215,000
Difference	\$0	\$275	
<b>TAX INCREMENTAL FINANCING #3</b>			
Revenues	\$54,790	\$423	\$54,367
Expenditures	\$54,790	\$371	\$54,419
Difference	\$0	\$52	
<b>TAX INCREMENTAL FINANCING #4</b>			
Revenues	\$190,630	\$14,775	\$175,855
Expenditures	\$190,630	\$1,539	\$189,091
Difference	\$0	\$13,236	
<b>HOMEBUYER GRANT</b>			
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Difference	\$0	\$0	
<b>TIF #5 KONE CENTRE</b>			
Revenues	\$483,000	\$10	\$482,990
Expenditures	\$483,000	\$0	\$483,000
Difference	\$0	\$10	
<b>TIF #6 MOLINE PL PHASE II</b>			
Revenues	\$53,500	\$0	\$53,500
Expenditures	\$53,500	\$0	\$53,500
Difference	\$0	\$0	
<b>TIF #7 BUSINESS PARK</b>			
Revenues	\$5,000,000	\$0	\$5,000,000
Expenditures	\$5,000,000	\$0	\$5,000,000
Difference	\$0	\$0	

	BUDGET	YTD ACTUAL	VARIANCE
<b>TIF #9 Route 150</b>			
Revenues	\$0	\$0	(\$0)
Expenditures	\$0	\$0	\$0
Difference	\$0	\$0	
<b>TIF #8 MALL AREA</b>			
Revenues	\$0	\$0	\$0
Expenditures		\$0	\$0
Difference	\$0	\$0	
<b>TIF #10 Health Park</b>			
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Difference	\$0	\$0	
<b>SPECIAL SERVICE AREA #5</b>			
Revenues	\$175,435	\$2	\$175,433
Expenditures	\$175,435	\$10,422	\$165,013
Difference	\$0	(\$10,420)	
<b>SPECIAL SERVICE AREA #6</b>			
Revenues	\$257,225	\$14,321	\$242,904
Expenditures	\$257,225	\$43,433	\$213,792
Difference	\$0	(\$29,112)	
<b>TIF #11 MULTI MODAL</b>			
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$4,679	(\$4,679)
Difference	\$0	(\$4,679)	
<b>TIF #12 RIVERBEND COMMONS</b>			
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Difference	\$0	\$0	
<b>WATER FUND</b>			
Revenues	\$10,284,920	\$762,889	\$9,522,031
Expenditures	\$10,284,920	\$1,210,030	\$9,074,890
Difference	\$0	(\$447,141)	
<b>WPC FUND</b>			
Revenues	\$17,131,115	\$719,069	\$16,412,046
Expenditures	\$17,131,115	\$319,434	\$16,811,681
Difference	\$0	\$399,635	
<b>STORMWATER UTILITY</b>			
Revenues	\$1,223,030	\$91,895	\$1,131,135
Expenditures	\$1,223,030	\$37,576	\$1,185,454
Difference	\$0	\$54,319	
<b>FIRE PENSION</b>			
Revenues	\$5,430,800	\$47,436	\$8,811
Expenditures	\$5,430,800	\$392,594	\$5,038,206
Difference	\$0	(\$345,159)	

	BUDGET	YTD ACTUAL	VARIANCE
<b>REHER ART GALLERY</b>			
Revenues	\$38,765	\$0	\$38,765
Expenditures	\$38,765	\$0	\$38,765
Difference	\$0	\$0	
<b>PERPETUAL CARE FUND</b>			
Revenues	\$14,025	\$240	\$83,516
Expenditures	\$14,025	\$0	\$14,025
Difference	\$0	\$240	
<b>PARK/CEMETERY GIFTS</b>			
Revenues	\$66,500	\$55,650	\$10,850
Expenditures	\$66,500	\$0	\$66,500
Difference	\$0	\$55,650	
<b>FOREIGN FIRE INS TAX</b>			
Revenues	\$58,090	\$0	\$58,090
Expenditures	\$58,090	\$0	\$58,090
Difference	\$0	\$0	
<b>POLICE PENSION</b>			
Revenues	\$4,464,980	\$60,876	\$4,404,104
Expenditures	\$4,464,980	\$0	\$4,464,980
Difference	\$0	\$60,876	
<b>LIBRARY TRUST</b>			
Revenues	\$67,150	\$5,500	\$61,650
Expenditures	\$67,150	\$200	\$66,950
Difference	\$0	\$5,300	
<b>HEALTH BENEFIT FUND</b>			
Revenues	\$7,720,250	\$498,045	\$7,222,205
Expenditures	\$7,720,250	\$334,171	\$7,386,079
Difference	\$0	\$163,874	
<b>OPEB RETIREMENT FUND</b>			
Revenues	\$500,000	\$0	\$500,000
Expenditures	\$500,000	\$0	\$500,000
Difference	\$0	\$0	
<b>INFORMATION TECHNOLOGY</b>			
Revenues	\$1,131,640	\$0	\$1,131,640
Expenditures	\$1,131,640	\$60,110	\$1,071,530
Difference	\$0	(\$60,110)	
<b>PUBLIC SAFETY EQUIPMENT</b>			
Revenues	\$158,265	\$0	\$158,265
Expenditures	\$158,265	\$0	\$158,265
Difference	\$0	\$0	
<b>LIABILITY FUND</b>			
Revenues	\$3,765,725	\$809,804	\$2,955,921
Expenditures	\$3,765,725	\$88,202	\$3,677,523
Difference	\$0	\$721,601	

	BUDGET	YTD ACTUAL	VARIANCE
<b>FLEET SERVICES</b>			
Revenues	\$5,081,570	\$6,193	\$5,075,377
Expenditures	\$5,081,570	\$201,043	\$4,880,527
Difference	\$0	(\$194,850)	
<b>SANITATION FUND</b>			
Revenues	\$2,530,365	\$141,589	\$2,388,776
Expenditures	\$2,530,365	\$85,341	\$2,445,024
Difference	\$0	\$56,248	
<b>DEBT. SERVICE FUND</b>			
Revenues	\$3,060,850	\$1,279,325	\$1,781,525
Expenditures	\$3,060,850	\$1,279,325	\$1,781,525
Difference	\$0	\$0	
<b>2007 ESCROW ACCOUNT</b>			
Revenues	\$108,000	\$0	\$108,000
Expenditures	\$108,000	\$0	\$108,000
Difference	\$0	\$0	
<b>CAPITAL IMPROVEMENT FUND</b>			
Revenues	\$7,440,000	\$604,153	\$6,835,848
Expenditures	\$7,440,000	\$1,314,703	\$6,125,297
Difference	\$0	(\$710,551)	
<b>VIDEO GAMING SPEC PROJ</b>			
Revenues	\$35,000	\$0	\$35,000
Expenditures	\$35,000	\$0	\$35,000
Difference	\$0	\$0	
<b>* TOTALS</b>			
Revenues	\$136,076,140	\$9,342,078	\$126,734,062
Expenditures	\$136,076,140	\$8,797,397	\$127,278,743
Difference	\$0	\$544,681	