

CITY OF STORY CITY

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Story City, IA 50248
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1913 Herschell-Spillman Carousel

COUNCIL WORK SESSION AGENDA MONDAY, JANUARY 30, 2023 – 6:00 P.M. CITY HALL – SECOND FLOOR

- I. CALL TO ORDER AND ROLL CALL, 6:00 P.M.
- II. APPROVE/AMEND THE AGENDA
- III. REVIEW PROPOSED MEMORANDUM OF UNDERSTANDING WITH
FAREWAY
- IV. BERTHA BARTLETT PUBLIC LIBRARY EXPANSION PROJECT
- V. ADJOURNMENT

MEMORANDUM OF UNDERSTANDING AND AGREEMENT TO PAY LEGAL FEES

This Memorandum of Understanding is entered into among the City of Story City, Iowa (the "City"); Story County Economic Development Corporation; and Fareway Stores, Inc. (the "Company") as of the ____ day of _____, 2023.

WHEREAS, the City has established the Story City Consolidated Urban Renewal Area (the "Urban Renewal Area"); and

WHEREAS, the Company has proposed to acquire certain real property (the "Property") situated at 1550 Broad Street and 521 Factory Outlet Drive in the City; and

WHEREAS, the Company has proposed to undertake the construction (the "Project") of a new building on the Property for use in the business operations of a Fareway grocery store; and

WHEREAS, the Company has requested that the City provide financial support to its undertaking of the Project, and the City is willing to offer such assistance in the form of (1) an economic development forgivable loan (the "Forgivable Loan"); and (2) tax increment financing payments (the "TIF Payments"), such TIF Payments to be funded with incremental property tax revenues to be derived from the Property; and

WHEREAS, the City intends to support the Company in its undertaking of the Project by (i) undertaking the necessary urban renewal amendment process pursuant to Chapter 403 of the Code of Iowa, (ii) authorizing and executing a development agreement (the "Development Agreement") regarding the Project and (iii) making provision for the authorization and funding the Forgivable Loan and the TIF Payments to be made under the Development Agreement; and

WHEREAS, the Company is willing to assist with the legal costs incurred by the City for the preparation of this Memorandum of Understanding, the Development Agreement and the amending of the plan for the Urban Renewal Area in the event that the Company does not undertake the Project and/or enter into the Development Agreement with the City due to no fault of the City; and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

I. MEMORANDUM OF UNDERSTANDING

The parties hereto agree that this Memorandum of Understanding represents each party's commitment to work cooperatively with the other party and to use each party's best efforts to prepare and approve the Development Agreement;

A. Statutory Processes.

Amend Urban Renewal Area & Authorize Development Agreement. The City hereby agrees to undertake the completion of the statutory requirements of Chapter 403 of the Code of Iowa in order to amend the Urban Renewal Area to ensure the inclusion of the Property

in the Urban Renewal Area and authorize the Project as an urban renewal project. Furthermore, the City agrees undertake the completion of the statutory requirements of Chapter 403 of the Code of Iowa in order to authorize the Development Agreement.

B. Development Agreement. The Company and the City agree that the Development Agreement will minimally include the following terms:

1. **Property Acquisition.** The Company will agree to acquire the Property (the "Acquisition") by no later than _____, 2023. The Company will agree to notify the City when it has acquired the Property.

2. **Project Construction and Operation.** The Company will agree to submit a detailed site plan (the "Site Plan") for the development of the Property to the City. The Company will agree to construct the Project in accordance with such Site Plan and all applicable land use regulations. The Company will agree that the completed Project will occupy not less than 10,800 square feet of space. Finally, the Company will to agree to maintain and use the completed Project in the business operations of a Fareway grocery store during the term of the Development Agreement (the "Business Operations Requirement").

3. **Certificate of Occupancy.** The Company shall take all action necessary to lawfully obtain a Certificate of Occupancy for the completed Project from the City and be operational by February 1, 2025.

4. **Minimum Assessment Agreement.** The Company will agree to enter into an assessment agreement (the "Assessment Agreement"), pursuant to Section 403.6 of the Code of Iowa fixing the minimum assessed valuation of the Property, in contemplation of the improvements to be constructed thereon, at not less than One Million Two Hundred Thousand Dollars (\$1,200,000) (the "Minimum Assessed Valuation") as of January 1, 2025 (the "First Valuation Date"). The Company will agree that the Minimum Assessed Valuation shall be established on the Story County property tax rolls as of the First Valuation Date regardless of the then-current degree of completion or incompleteness of the Project. The Assessment Agreement shall remain in effect throughout the term of the Development Agreement.

5. **Property Taxes.** The Company will agree to ensure timely payment of all property taxes on the Property with the completed Project thereon as they come due throughout the term of the Development Agreement and to submit, upon request by the City, a receipt or cancelled check in evidence of each such payment.

6. **Ownership of Property; Use of Project; Company's Annual Report.** The Company will agree to submit an annual report (the "Annual Report") to the satisfaction of the City by no later than each October 15th during the term of the Development Agreement, commencing October 15, 2026, demonstrating that (i) the Business Operations Requirement is being met; and (ii) the Company owns the Property, including the Project. The Company agrees to provide such supporting documentation as may be requested by the City as an accompaniment to the Annual Report.

7. Forgivable Loan.

Forgivable Loan Disbursement Request. Within sixty (60) days of the commencement of operations of a Fareway grocery store, the Company will agree to submit a Forgivable Loan Disbursement Request (the "Disbursement Request") to the City. The Disbursement Request shall be accompanied by (i) documentation demonstrating, to the reasonable satisfaction of the City, the costs (the "Acquisition Costs") incurred by the Company in the Acquisition; and (ii) a promissory note evidencing the Company's obligation to repay the Forgivable Loan.

Forgivable Loan Proceeds and Repayment. The City will agree to advance the proceeds of the Forgivable Loan to the Company within sixty (60) days of receipt from the Company of a satisfactory Forgivable Loan Disbursement Request. The Forgivable Loan shall be in the maximum amount equal to the lesser of (i) the accepted Acquisition Costs, or (ii) \$800,000. The Company will agree to apply the proceeds of the Forgivable Loan to the payment of the Acquisition Costs.

All principal of and interest on the Forgivable Loan shall be due and owing to the City at City Hall by Noon on November 1, 2035, unless sooner forgiven in accordance with the terms of the Development Agreement or made subject to acceleration in accordance with the terms of the Development Agreement.

In the event that the Company closes the completed Project or sells the completed Project or Property, all outstanding principal of and interest on the Forgivable Loan shall be due and owing to the City at City Hall within sixty (60) days of the date of such closure or sale.

Loan Forgiveness. The City will agree that upon receipt of a satisfactory Annual Report from the Company, the City will agree to forgive ten percent (10%) of the principal amount of the Forgivable Loan. If the Company fails to submit an Annual Report as required in any given fiscal year, then no principal of the Forgivable Loan will be forgiven in such fiscal year.

8. Story City Economic Development Corporation Payments. Provided that the Company is in compliance with the terms of the Development Agreement, Story City Economic Development Corporation will agree to fund annual economic development support payments (the "Support Payments" and, individually each, a "Support Payment") to the Company in the amount of \$5,000 each. Story City Economic Development Corporation will agree that the first Support Payment shall be due and owing within sixty (60) days after the completed Project begins operating as a Fareway grocery store. The remaining Support Payments shall be due and owing on the anniversary of the first Support Payment for a total of ten (10) years, provided that no Support Payments from the Story City Economic Development Corporation will be made after April 30, 2034. The City will have no obligation to fund the Support Payments.

9. TIF Payments. The City will agree to fund the TIF Payments in an aggregate amount not to exceed Three Hundred Seventy Five Thousand Dollars (\$375,000) (the "Maximum Payment Total") over a period of not more than fifteen years (15) years of

incremental property tax collections. Furthermore, the TIF Payments will be funded exclusively with the incremental property tax revenues to be derived from the Property, and all TIF Payments under the Development Agreement will be made subject to annual appropriation by the City Council. The TIF Payments will be in an amount equal to the available incremental property tax revenues from the Property factored by eighty-five percent (85%). It is assumed that the taxable value of the Project will go on the property tax rolls as of January 1, 2025. Accordingly, TIF Payments will be made under the Development Agreement on June 1 and December 1 of each fiscal year, beginning December 1, 2026, and continuing through and including June 1, 2041, or until such earlier date upon which total TIF Payments equal to the Maximum Payment Total have been made.

10. Legal and Administrative Costs. The Company will agree to assist with the legal fees and administrative costs incurred by the City in connection with the drafting, negotiation and authorization of the Development Agreement up to an amount not in excess of fifty percent (50%) of such legal fees and administrative costs; unless the City fails to approve the Development Agreement contemplated herein. Following the City's approval of the Development Agreement, the Company will agree to remit payment to the City within 30-days of the submission of reasonable documentation by the City to the Company evidencing such costs.

C. Liability. The City and the Company hereby acknowledge that the obligations of the parties described in this Section I are merely a present statement of intent. The Company further acknowledges that the City Council must exercise its ordinary political discretion in the completion of the statutory processes referenced above. The City will not be held liable in the event that the City Council, through the exercise of its ordinary political discretion, determines to not approve any of the actions outlined herein. The Company shall not be held liable hereunder should it determine to not proceed with the execution of the Development Agreement or the undertaking of the Project, except for as set forth in this Section II with respect to certain legal fees.

II. AGREEMENT TO PAY LEGAL FEES

In the event that the Company determines not to undertake the Project and/or fails to enter into the Development Agreement with the City, the Company hereby agrees to pay for the legal fees and administrative costs (the "Legal and Admin Costs") incurred by the City in connection with the drafting, negotiation and authorization of the Development Agreement, including the costs incurred by the City for the preparation of this Memorandum of Understanding and Agreement to Pay Legal Fees, undertaking the prerequisite amendment to the urban renewal plan, and the preparation of the Development Agreement up to an amount not in excess of fifty percent (50%) of the actual Legal and Admin Costs. The Company agrees to remit payment to the City within 30-days of the submission of reasonable documentation by the City to the Company evidencing such Legal and Admin Costs.

The City and the Company have caused this Memorandum of Agreement and Agreement to Pay Legal Fees to be signed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

CITY OF STORY CITY, IOWA

By _____
Mayor

Attest:

City Clerk

STORY COUNTY ECONOMIC
DEVELOPMENT CORPORATION

By: _____
Its: _____

FAREWAY STORES, INC.

By: _____
Its: _____

**Library Expansion Project
Mayor & City Council Work Session
January 30, 2023**

- Discussion on Scope of Project and Budget
- Current Status on Revenue Sources for the Project
- Review Approval Process and Signing of Documents
- Who is on the Design and Building Committee that will work with the architect on the detail plans for bidding the project?
- Who will provide direction to the architect?
- Discussion on City Plan Review and Building Inspector Fees
- Who, with the architect, interact with the contractor?
- Who will informally approve change orders?
- What if expenditures exceed revenues?
- Agreement between the Foundation and City.