

ORDINANCE #65282
Board Bill No. 118

An ordinance recommended by the board of estimate and apportionment authorizing and directing the issuance and delivery of up to \$390,000.00 principal amount of tax increment revenue notes (3800 park avenue redevelopment area) series 2001 of the city of St. Louis, Missouri, for the purpose of financing certain projects, prescribing the form and details of said notes; and providing for the creation of certain funds and accounts and providing for the payment of the principal of and interest on said notes as they become due.

WHEREAS, the City of St. Louis, Missouri (the "City"), is a body corporate and political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

WHEREAS, a Tax Increment Financing Commission (the "TIF Commission") was created by the City pursuant to an ordinance, said TIF Commission conducted a public hearing on May 30, 2001, and by motion, recommended approval of the 3800 Park Avenue Redevelopment Plan, City of St Louis, dated May 30, 2001 (the "Redevelopment Plan") and the redevelopment project therein (the "Project"), and

WHEREAS, on _____, 2001 the City adopted Board Bill No. 115 (the "Approving Ordinance") approving the Redevelopment Plan and the Project pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, 2000, as amended (the "Act"); and

WHEREAS, pursuant to the Approving Ordinance, the City designated that area legally described in the Redevelopment Plan as a redevelopment project area (the "Redevelopment Project Area"), and

WHEREAS, pursuant to Board Bill No. 116, the City adopted tax increment allocation financing under the Act, and

WHEREAS, Byron Property Management LLC (the "Developer"), is a Missouri limited liability company; and

WHEREAS, the City has responsibility to provide for the general health, safety and welfare for the Redevelopment Area; and

WHEREAS, the City and the Developer desire to cooperate and to take the reasonable steps necessary to facilitate the prompt commencement and completion of certain improvements to the Redevelopment Area; and

WHEREAS, pursuant to Board Bill No.117, the City will enter into a Redevelopment Agreement dated as of _____, 2001, with the Developer (the "Agreement"); and

WHEREAS, the City intends to issue its Tax Increment Financing Note (the "TIF Note"), pursuant to the Act, in the original aggregate principal amount not to exceed \$390,000.00 to finance certain costs associated with the Project; and

WHEREAS, the City has determined that it is in the best interest of the City to sell the TIF Note at a private sale, without advertisement, to Developer, at a price equal to 100% of its face value or to issue the TIF Note to evidence the obligation of the City to Reimburse the Developer for the Redevelopment Project Costs in accordance with the redevelopment Plan and the Agreement; and

WHEREAS, it is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants that the TIF Note be issued and secured in the form and manner as hereinafter provided to provide funds for such purpose;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. LOUIS, MISSOURI, AS FOLLOWS:

ARTICLE 1 - DEFINITIONS

Section 1.01. Definitions of Words and Terms.

In addition to the words and terms defined elsewhere in this ordinance (the "TIF Note Ordinance"), the following

capitalized words and terms, as used in the TIF Note Ordinance, shall have the following meanings:

"Act" means Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, 2000, amended.

"Additional TIF Notes" means any additional parity TIF Notes issued pursuant to Section 2.06 of this TIF Note Ordinance.

"Agreement" means the Redevelopment Agreement between the City and Developer, dated _____, 2001.

"Approving Ordinance" means Board Bill No. 115 adopted by the City on _____, 2001, pertaining to the approval of the Redevelopment Plan and creation of the Redevelopment Project Area for the 3800 Park Avenue Tax Increment Financing District.

"City" means the City of St. Louis, Missouri, and any successors or assigns.

"Deficiency" means the difference between the interest and principal payment scheduled to be paid on a Payment Date and the amount then available in the Special Allocation Fund to satisfy the amount owed by the City.

"Comptroller" means the Comptroller of the City.

"Developer" means Byron Property Management LLC, a Missouri limited liability company.

"Fund Ordinance" means Board Bill No. 116 of the City adopted on adopting tax increment financing.

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Maturity Date" means _____, 2024.

"Net Proceeds" on deposit in the Special Allocation Fund are those payments in lieu of taxes (as that term is defined in section 99.805(7) of Missouri Revised Statutes) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area of the Project over and above the certified total initial equalized assessed value (as that term is used and described in sections 99.845.1 and 99.855 of Missouri Revised Statutes) of each such unit of property in the area of the Project and as paid to the City's Finance Director by the St. Louis City Collector of Revenue during the term of the Redevelopment Plan and the Project; and, subject to annual appropriation, fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in section 99.085(16) of Missouri Revised Statutes) and which are generated by economic activities within the area of the Project in the calendar year 2000 and paid into the Special Allocation Fund, but excluding therefrom any taxes imposed on sales or charges for sleeping rooms paid by transient guest of hotels and motels, licenses, fees or special assessments and personal property taxes, other than payment in lieu of taxes, and less the costs of collection; and fifty percent (50%) of the new revenues from the utility tax imposed by the city and generated by utility use within the area of the Project over the amount of such revenues generated within the area of the Project in the calendar year 2000. Net Proceeds do not include any such amount paid under protest until the protest is withdrawn or resolved against the taxpayer, nor do Net Proceeds include any sum received by the City which is the subject of a suit or other claim communicated to the City, which suit or claim challenges the collection of such sums or their payment to the Original Purchaser or its successors in interest.

"Note" or "TIF Note" means the Tax Increment Financing Note of the City, in the original aggregate principal amount not to exceed \$390,000.00 authorized and issued pursuant to this TIF Note Ordinance.

"Original Purchaser" means the Developer.

"Owner" when used with respect to the TIF Note means the person who presently is the holder of such TIF Note.

"Payment Dates" means each March 1 and September 1, commencing on March 1, 2002.

"Project" means the rehabilitation and redevelopment of the building at 3800 Park Avenue in the Redevelopment Area as more particularly described in the Agreement.

"Redevelopment Plan" means the 3800 Park Avenue Redevelopment Plan, dated May 30, 2001.

"Redevelopment Project Area" means that area legally described as a redevelopment project area in the Redevelopment Plan approved pursuant to the Approving Ordinance.

"Redevelopment Project Costs" means those redevelopment project costs, as defined in the Act, that may be paid through tax increment financing and which the City has provided for in the Agreement.

"Special Allocation Fund" means the fund by that name created by Article 4 of this TIF Note Ordinance.

"State" means the State of Missouri.

"TIF Note Ordinance" means this ordinance as from time to time amended in accordance with the terms hereof.

"Treasurer" means the Treasurer of the City.

ARTICLE 2 - AUTHORIZATION OF TIF NOTE

Section 2.01. Authorization of TIF Note.

There is hereby authorized and directed to be issued a Tax Increment Financing Note of the City (the "TIF Note") in an original principal amount not to exceed Three Hundred Ninety Thousand and No/100 Dollars (\$390,000.00) for the purpose of paying a portion of those Project costs determined to be Redevelopment Project Costs in connection with the Redevelopment Plan, as provided in this TIF Note Ordinance. The TIF Note shall mature on the Maturity Date. If the TIF Note is transferred or assigned and/or some other event occurs which might cause the interest on the TIF Note to be excludable from gross income of the owners thereof for purposes of federal income taxation, the Developer or other subsequent owner of the TIF Note may, at its own cost and expense, obtain an opinion as to the tax-exempt status of such interest from an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia, in which event, notwithstanding anything to the contrary in this TIF Note Ordinance or the TIF Note (i) the TIF Note shall be considered tax-exempt; and (ii) shall bear interest at a rate of nine and a half (7.5%) percent per annum.

Section 2.02. Security for TIF Note.

The TIF Note shall be a special obligation of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Proceeds deposited in the City's Special Allocation Fund, and the taxing power of the City is not pledged to the payment of the TIF Note either as to principal or interest. The TIF Note shall not be or constitute a general obligation of the City, nor shall it constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction. EXCEPTED AS PROVIDED IN SECTION 7.01 HEREOF, THE OBLIGATIONS OF THE CITY WITH RESPECT TO THE TIF NOTE SHALL TERMINATE ON THE FIRST TO OCCUR OF THE FULL PAYMENT AND DISCHARGE OF THE TIF NOTES OR THE MATURITY DATE (WHETHER OR NOT THE PRINCIPAL AMOUNT HAS BEEN PAID IN FULL).

Section 2.03. Description of TIF Note.

The TIF Note shall be issued in an original principal sum not to exceed \$390,000.00 and shall provide for interest compounded annually accruing on the unpaid principal at a rate equal to nine and a half (9.5%) percent per annum (subject to the provisions of Section 2.01). The TIF Note shall be substantially in the form set forth in Section 3.01 hereof, with such variations, omissions and insertions as are permitted or required by this TIF Note Ordinance, together with such changes as the official executing the same shall make, execution of the Notes incorporating such changes to be conclusive evidence of the City's approval of the same. The TIF Note shall be dated the date of original delivery of the TIF Note, and shall become due on the Maturity Date.

Section 2.04. Method and Place of Payment of TIF Note.

The principal of and interest on the TIF Note shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of debts due the United States of America. Payment shall be made by the Comptroller at his/her offices on each Payment Date upon presentation of the TIF Note by a duly authorized representative of Owner. Upon payment of interest and principal and the notation upon the payment ledger of the TIF Note, the City shall enter the amount paid and outstanding balance on its books which shall be rebuttably presumptive evidence of the principal amount outstanding on the TIF Note.

Section 2.05. Transfer and Assignment.

The TIF Note is being issued to the Original Purchaser. The TIF Note is only transferable or assignable to an accredited investor or qualified institutional investor, The TIF Note may be transferred and exchanged only upon the records of the City. Upon surrender of the TIF Note at the principal office of the City, the City shall transfer or exchange the TIF Note for a new TIF Note or TIF Notes, which shall be (i) in denominations or multiples of Five Thousand Dollars (\$5000), and (ii) of the same Maturity and in the same aggregate principal amount outstanding as the TIF Note which was presented for transfer or exchange. The TIF Note presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the City, duly executed by the Original Purchaser thereof or by the Original Purchaser's duly authorized agent.

Section 2.06. Authorization of Additional TIF Notes.

Additional TIF Notes are hereby authorized as follows:

- (a) Additional TIF Notes may be issued under and be equally and ratably secured by this TIF Note Ordinance on a parity with the TIF Note and other Additional TIF Notes, at any time from time to time as determined by the City and on compliance with the conditions hereinafter provided in this

Section, to complete acquisition, construction, furnishing and equipping of the Project.

- (b) Before any Additional TIF Notes shall be issued under the provisions of this Section, the City shall adopt a resolution authorizing the issuance of such Additional TIF Notes, fixing the amount and terms thereof pursuant to the Agreement.
- (c) Such Additional TIF Notes may only be authorized and issued by the City upon the written consent of the Original Purchaser or its successors or assigns.
- (d) Such Additional TIF Notes shall be executed substantially in the form and manner set forth in Section 3.01 hereof.

ARTICLE 3 - FORM OF TIF NOTE

THE RIGHT TO TRANSFER, ASSIGN OR NEGOTIATE THIS NOTE SHALL BE LIMITED TO TRANSFER, ASSIGNMENT OR NEGOTIATION TO ANY ACCREDITED INVESTOR OR QUALIFIED INSTITUTIONAL INVESTOR. AS SUCH TERMS ARE COMMONLY DEFINED FROM TIME TO TIME BY APPLICABLE STATE AND FEDERAL SECURITIES LAWS AND REGULATIONS.

CITY OF ST. LOUIS, MISSOURI,

TAX INCREMENT FINANCING NOTE

SERIES 2001

THE CITY OF ST. LOUIS, MISSOURI ("City"), on this _____ day of _____, 2001, for value received promises to pay to _____, a _____, its successors and assigns (collectively the "Original Purchaser") the principal set forth from time to time by endorsement of the Office of the Comptroller of the City on Schedule 1 attached hereto, together with interest compounded annually at the rate of nine and a half percent (9.5) per annum on the outstanding balance hereof, calculated on the basis of a 365-day year and actual days elapsed from the date hereof to the earlier of: (i) the date of repayment, or (ii) March 1, 2024 (the "Maturity Date"). This Note evidences sums advanced by the Developer on behalf of the City pursuant to that Redevelopment Agreement, dated _____, 2001 ("the Agreement").

All payments of principal and interest by the City shall be from the Net Proceeds (as hereinafter defined) on deposit in the Special Allocation Fund created by Ordinance No. _____ passed and adopted by the Board of Aldermen on _____, 2001 (the "Fund Ordinance").

This Note shall be payable solely from the aforesaid Net Proceeds and from no other revenue or property of the City, it

being understood that this instrument is a special limited obligation of the City and is payable solely from incremental tax revenues which the City is entitled to receive under sections 99.800 through 99.865 of Missouri Revised Statutes deposited from time to time in the Special Allocation Fund of the City as set forth below and is not a general obligation of the City, the State of Missouri, or any political subdivision thereof, nor of any officer or employee thereof, and it being further understood that this Note is issued in connection with a certain redevelopment plan entitled "3800 Park Avenue Redevelopment Plan", dated May 30, 2001, and as from time to time further amended (the "Plan") and redevelopment projects (collectively the "Project") including those specified in the Redevelopment Agreement (the "Agreement"), as approved in Ordinance No. _____, passed and adopted by the Board of Aldermen on _____, 2001 (the "Approving Ordinance").

The "Net Proceeds" on deposit in the Special Allocation Fund are those payments in lieu of taxes (as that term is defined in section 99.805(7) of Missouri Revised Statutes) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area of the Project over and above the certified total initial equalized assessed value (as that term is used and described in sections 99.845.1 and 99.855 of Missouri Revised Statutes) of each such unit of property in the area of the Project and as paid to the Treasurer by the St. Louis City Collector of Revenue during the term of the Redevelopment Plan and the Project; and subject to annual appropriation, fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in section 99.805(12) of Missouri Revised Statutes) and which are generated by economic activities within the area of the Project and the calendar year 2000 and paid into the Special Allocation Fund, but excluding therefrom any taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments and personal property taxes, other than payment in lieu of taxes, and less the costs of collection; and fifty percent (50%) of the net new revenues from the utility tax imposed by the city and generated by utility use within the area of the Project over the amount of such revenues generated within the area of the Project in the calendar year 2000. Net Proceeds do not include any sum amount paid under protest until the protest is withdrawn or resolved against the taxpayer, nor do Net Proceeds include any sum received by the City which is the subject of a suit or other claim communicated to the City, which suit or claim challenges the collection of such sums or their payment to the Original Purchaser or its successors in interest.

Subject to the terms of the immediately following paragraph, the principal and interest hereof shall be payable in annual installments as set forth in Schedule 1, attached hereto and incorporated herein by reference, or if such day is not a business day, the first business day thereafter (the "Payment Dates") to the earlier of repayment or the Maturity Date of this Note, followed by a final payment, to the extent there are funds then available in the Special Allocation Fund, on the Maturity Date in the amount of the then unpaid principal balance hereof and all accrued and unpaid interest hereon.

Payment of principal and interest hereunder shall be subject to the following further terms and conditions:

- (i) If on any Payment Date the Net Proceeds in the Special Allocation Fund are insufficient to pay scheduled principal and accrued interest then due and owing, the amount of the deficiency (the "Deficiency") shall be carried forward as an amount due and owing hereunder. So long as the amount of any Deficiency is carried as a liability on the City's Special Allocation Fund's financial records, the existence of such Deficiency shall not be deemed an event of default hereunder and shall not be cause for acceleration of this Note;
- (ii) All payments shall be allocated first to any accrued, but unpaid interest, then to principal.
- (iii) If on any Payment Date the Net Proceeds in the Special Allocation Fund are in excess of the amount required to pay the scheduled annual installment of principal plus accrued interest then due and owing, all excess Net Proceeds shall be applied by the City to the satisfaction of all outstanding Deficiencies under this Note and all other Notes executed and delivered pursuant to the Redevelopment Agreement, allocated in accordance with the then outstanding principal balances thereof;
- (iv) On the Maturity Date, the City shall pay to the Original Purchaser out of Net Proceeds then on deposit in the Special Allocation Fund all sums due to the Original Purchaser, provided, however, that whether or not paid in full, this Note shall expire on the Maturity Date and the City shall have no further responsibility, liability, or obligation hereunder.

Subject to the foregoing, payments shall be applied first to accrued interest on the TIF Note, and then, if there are additional funds available in the Special Allocation Fund on any Payment Date or on the Maturity Date, to the unpaid principal of this Note. Any unpaid interest carried forward as part of any Deficiency shall not be added to principal.

The City shall pay all amounts due and owing hereunder to the Original Purchaser upon presentation of the TIF Note by a duly authorized representative of the Original Purchaser, at the offices of the City.

Reference is made to Ordinance No. _____ passed and adopted by the Board of Aldermen on _____, 2001 (the "TIF Note Ordinance") for a description of the covenants and agreements made by the City and Original Purchaser with respect to payment of Net Proceeds to pay this Note, the nature and extent of the security for this Note, the rights, duties and obligations of the City and Original Purchaser with respect hereto and, the rights of the holder hereof.

This Note may be prepaid at any time in whole or in part without penalty. The right to transfer, assign, or negotiate this Note shall be limited to transfer, assignment, or negotiation to any accredited investor or qualified institutional investor, as such terms are commonly defined from time to time by applicable state and federal securities laws and regulations.

IN WITNESS WHEREOF, the CITY OF ST. LOUIS, MISSOURI, has caused this Note to be executed by the manual or facsimile signature of the Mayor, the Comptroller and the Treasurer of the City and attested by the manual or facsimile signature of the Register of the City and its official seal to be affixed or imprinted hereon, and this Note to be dated the date shown above.

CITY OF ST. LOUIS, MISSOURI

By: _____
Mayor

By: _____
Comptroller

By: _____
Treasurer

ATTEST:

Register

CERTIFICATE OF AUTHENTICATION

Date of Registration:

This Note is the Note described in the within mentioned Ordinance.

SCHEDULE 1 - Certificate of Authentication

City of St. Louis, Missouri,

Tax Increment Financing Note

Schedule of Outstanding Principal and Payments on Principal

Transaction Date	Principal Amount Added to Note	Principal Payment	Total Outstanding Principal of Note	Finance Director Signature

ARTICLE 4 - ESTABLISHMENT OF FUNDS

Section 4.01. Creation of Funds and Accounts.

There is hereby created and ordered to be established in the treasury of the City the following separate fund and accounts: 3800 Park Avenue Special Allocation Fund of the City of St. Louis (the "Special Allocation Fund"), and within the Special Allocation Fund, a PILOTS Account and an Economic Activity Tax Account.

Section 4.02. Administration of Funds.

The funds established pursuant to the Fund Ordinance and Section 4.01 hereof shall be maintained and administered by the City solely for the purposes and in the manner as provided in the TIF Note Ordinance so long as any portion of the TIF Note remains outstanding hereunder.

ARTICLE 5 - PAYMENT OF TIF NOTE**Section 5.01. Special Allocation Fund.**

Pursuant to the Act and the TIF Note Ordinance, the Treasurer shall deposit all Net Proceeds into the Special Allocation Fund.

Section 5.02. Application of Moneys in the Special Allocation Fund.

So long as any of the TIF Notes remain outstanding, the Comptroller and/or Treasurer shall, on Payment Dates administer and allocate the moneys held in the PILOTS Account as follows:

5.02.01. Payment of TIF Note.

There shall be paid to the Owner an amount equal to the interest and principal then due pursuant to Schedule 1 of the TIF Note.

5.02.02. Payment of Deficiency.

There shall next be paid to the Owner amounts owed on all outstanding Deficiencies.

5.02.03. Prepayment of TIF Note.

At the City's sole discretion, the City may prepay any portion of or the entire principal amount owed on the TIF Note.

5.02.04. Payment on Maturity Date.

If not repaid in full sooner, the entire outstanding balance of the TIF Note together with all interest thereon, shall be paid on March 1, 2024, but only to the extent that Net Proceeds are available in or then due to the Special Allocation Fund as of March 1, 2024. Except as provided in Section 7.01 hereof, the City shall have no further obligations under the TIF Note Ordinance or the TIF Note after March 1, 2024.

Except as provided in Section 7.01 hereof, all moneys remaining in the Special Allocation Fund after March 1, 2024, shall be treated as "Surplus" as defined in the Act, and distributed in the manner provided by law. Any amounts deposited in the Economic Activity Tax Account shall be treated as "Surplus" as defined in the Act, and distributed in the manner provided by the Act.

Section 5.03. Levy and Collection of Net Proceeds.

The City hereby ratifies and confirms its obligation to levy and collect Net Proceeds pursuant to the Act for deposit in the Special Allocation Fund for the purpose of paying the TIF Note.

The Net Proceeds shall be determined, collected and applied in the manner provided by law for the period through March 1, 2024. After March 1, 2024, or the date on which the TIF Note has been paid in full, whichever shall first occur, all Net Proceeds for any period after March 1, 2024, shall cease and all property in the Redevelopment Project Area shall be subject to assessments and payment of all ad valorem taxes based on the full true value of the real property and the standard assessment ratio then in use for similar property by the St. Louis City Assessor.

The Net Proceeds shall be deposited in the Special Allocation Fund, shall be kept separate and apart from all other funds of the City and shall be used solely as provided in the Act and the TIF Note Ordinance.

Section 5.04. Acceleration of Maturity Upon Default.

The City covenants and agrees that if it defaults in the payment of the principal of or interest on the TIF Note as the same become

due on any Payment Date, or if the City or its governing body or any of the officers, agents or employees thereof fail or refuse to comply with any of the provisions of the TIF Note Ordinance or of the Constitution or statutes of the State of Missouri, and such default continues for a period of 60 days after written notice specifying such default has been given to the City by the Owner at any time thereafter and while such default continues, the Owners may, by written notice of the City filed in the Office of the Comptroller or delivered in person to the Comptroller, declare the principal of the TIF Note due and payable immediately. Upon any such declaration given as aforesaid, the TIF Note shall become and be immediately due and payable, anything in this TIF Note Ordinance or in the TIF Note contained to the contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of the TIF Note has been so declared to be due and payable, all arrears of interest upon all of the TIF Note, except interest accrued but not yet due on such TIF Note, and all arrears of principal upon the TIF Note has been paid in full and all other defaults, if any, by the City under the provisions of the TIF Note Ordinance and under the provisions of the statutes of the State of Missouri have been cured, then and in every such case the Owner by written notice to the City given as hereinbefore specified, may rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any rights consequent thereon.

Section 5.05. Remedies.

The provisions of the TIF Note Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owner. The Owner shall have the right:

5.05.01

by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of the Owner against the City and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the TIF Note Ordinance or by the constitution and laws of the State of Missouri;

5.05.02

by suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

5.05.03

by suit, action or other proceedings in equity or at law of enjoin any acts or things which may be unlawful or in violation of the rights of the Owner.

Section 5.06. Limitation on Rights of Owner.

The Owner secured hereby shall not have any right in any manner whatever by its action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided.

Section 5.07. Remedies Cumulative.

No remedy conferred herein upon the Owner is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of the Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owner by the TIF Note Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceedings taken by the Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to the Owner, then, and in every such case, the City and the Owner shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owner shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE 6 - DEPOSIT AND INVESTMENT OF MONEYS**Section 6.01. Deposits of Moneys.**

Cash moneys in each of the funds and accounts created by and referred to in the TIF Note Ordinance shall be deposited in a bank or banks located in the State having combined capital, surplus and undivided profits of at least Five Million Dollars (\$5,000,000.00) and which is a member of the Federal Deposit Insurance Corporation, and all such bank deposits shall be continuously and adequately secured by the banks holding such deposits as provided by the laws of the State.

Section 6.02. Investment of Moneys.

Moneys held in any fund or account referred to in the TIF Note Ordinance shall be invested by the City pursuant to the direction of the City in Government Obligations or in time or demand deposits or in certificates of deposit issued by any bank having combined capital, surplus and undivided profits of at least Five Million Dollars (\$5,000,000.00) but only to the extent such time or demand deposits or certificates of deposit are fully insured by the Federal Deposit Insurance Corporation; provided, however, that no such investment shall be made for a period extending longer than the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any fund shall accrue to and become a part of such fund or account.

ARTICLE 7 - MISCELLANEOUS PROVISIONS**Section 7.01. Payments Due on Saturdays, Sundays and Holidays.**

In any case where the date of maturity of principal or interest on the TIF Note is a Saturday, a Sunday or a legal holiday or other day that is not a Business Day, then payment of principal or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 7.02. Notices, Consents and Other Instruments.

Any notice, consent, request, direction, approval, objection or other instrument required by the TIF Note Ordinance to be signed and executed by the Owner of the TIF Note may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owner in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of the TIF Note, if made in the following manner, shall be sufficient for any of the purposes of the TIF Note Ordinance, and shall be conclusive in favor of the City with regard to any action taken, suffered or omitted under any such instrument, namely:

7.02.01

The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

7.02.02

The fact of ownership of the TIF Note, the amount or amounts and other identification of the TIF Note, and the date of holding the same shall be proved by the registration books of the City.

Section 7.03. Execution of Documents.

The City is hereby authorized to enter into and the Mayor, the Comptroller, the Treasurer, and the Register of the City are hereby authorized and directed to execute and deliver, for and on behalf of and as the act and deed of the City, the TIF Note and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 7.04. Further Authority.

The officers of the City, including the Mayor, the Treasurer, the Comptroller, and the Register, shall be, and they hereby are,

authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the TIF Note Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instrument and other documents herein approved, authorized and confirmed which they may approve and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 7.05. Severability.

If any section or other part of the TIF Note Ordinance, whether large or small, shall for any reason be held invalid, the invalidity thereof shall not affect the validity of the other provisions of the TIF Note Ordinance.

Section 7.06. Governing Law.

The TIF Note Ordinance shall be governed exclusively by and constructed in accordance with the applicable internal laws of the State of Missouri.

Section 7.07. Private Sale.

The Board of Aldermen of the City hereby declares that it is in its best interest to sell the TIF Note at private sale since a public sale of the TIF Note would cause additional expense to the City and since the condition of the current financial markets makes such a public sale not feasible or the best course of action for the City.

Approved: August 1, 2001