

ORDINANCE #68438
Board Bill No. 138

An ordinance approving an amendment to The Foundry TIF Redevelopment Plan pursuant to the Real Property Tax Increment Allocation Redevelopment Act; amending the designation of a redevelopment project with respect thereto; affirming the adoption tax increment financing within the redevelopment area; authorizing the execution of an amendment to a redevelopment agreement; authorizing certain actions by City officials; and containing a severability clause.

WHEREAS, the City of St. Louis, Missouri (the “City”), is a body corporate and a 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, on December 20, 1991, pursuant to Ordinance No. 62477, the Board of Aldermen of the City created the Tax Increment Financing Commission of the City of St. Louis, Missouri (the “TIF Commission”); and

WHEREAS, the TIF Commission is duly constituted according to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri (2000), as amended (the “TIF Act”), and is authorized to hold public hearings with respect to proposed redevelopment areas and redevelopment plans and to make recommendations thereon to the City; and

WHEREAS, by Ordinance No. 67488, the City, upon the recommendation of the TIF Commission, approved The Foundry TIF Redevelopment Plan for The Foundry Redevelopment Area (the “Redevelopment Area”) dated November 22, 2006 (the “Original Plan”), which Redevelopment Area was more fully described in such Original Plan;

WHEREAS, staff and consultants of the City and representatives of 1911 Locust, LLC, a Missouri limited liability company (the “New Developer”), prepared that certain Amendment to The Foundry TIF Redevelopment Plan, which was dated April 10, 2009 (the “Amendment”) which amended the Original Plan (the Original Plan as so amended and as may be further amended from time to time being the “Plan” or “Redevelopment Plan”), attached hereto and incorporated herein as **Exhibit A**; and

WHEREAS, the Redevelopment Plan proposes to redevelop the Redevelopment Area through a redevelopment project, as described in the Redevelopment Plan as amended by the Amendment (the “Redevelopment Project”); and

WHEREAS, on June 3, 2009, after all proper notice was given, the TIF Commission held a public hearing in conformance with the TIF Act and received comments from all interested persons and taxing districts relative to the Redevelopment Area, the Redevelopment Plan, and the Redevelopment Project; and

WHEREAS, on June 3, 2009, the TIF Commission voted to recommend that the Board of Aldermen adopt an ordinance approving the Amendment; and

WHEREAS, the Original Developer (as hereinafter defined) has demonstrated that the Redevelopment Project would not reasonably be anticipated to be developed without the adoption of tax increment financing and, therefore, redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan is not feasible and would not otherwise be completed; and

WHEREAS, the Board of Aldermen has received the recommendations of the TIF Commission regarding the Redevelopment Area and the Redevelopment Plan and finds that it is desirable and in the best interests of the City to adopt the Amendment with respect to the Redevelopment Plan and Redevelopment Project in order to encourage and facilitate the redevelopment of the Redevelopment Area; and

WHEREAS, the Redevelopment Area qualifies for the use of tax increment financing to alleviate the conditions that qualify it as a “blighted area” as provided in the TIF Act and as set forth herein; and

WHEREAS, it is necessary and desirable and in the best interest of the City to approve the Redevelopment Project to allow for the rehabilitation of existing buildings and the creation of new jobs; and

WHEREAS, it is necessary and desirable and in the best interest of the City to approve the Amendment with respect to the Redevelopment Plan and Redevelopment Project, which redevelopment includes, but is not limited to, assistance in the physical, economic, and social development of the City of St. Louis, providing for a stabilized population and plan for the optimal growth of

the City of St. Louis, encouragement of a sense of community identity, safety and civic pride, and the elimination of impediments to land disposition and development in the City of St. Louis; and

WHEREAS, Ordinance No. 67849 affirmed adoption of the Original Plan, designated 1911 Locust Partners, LLC (“Original Developer”) as “Developer” of the Redevelopment Area, and authorized the City to enter into a Redevelopment Agreement with 1911 Locust Partners, LLC with respect to the Redevelopment Project (the “Original Agreement”); and

WHEREAS, the City, Original Developer and New Developer desire to amend certain terms of the Original Agreement.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Board of Aldermen hereby makes the following findings:

A. The Redevelopment Area on the whole is a “blighted area”, as defined in Section 99.805 of the TIF Act, and has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing. This finding includes, the Redevelopment Plan sets forth, and the Board of Aldermen hereby finds and adopts by reference: (i) a detailed description of the factors that qualify the Redevelopment Area as a “blighted area” and (ii) an affidavit, signed by the Developer and submitted with the Redevelopment Plan, attesting that the provisions of Section 99.810.1(1) of the TIF Act have been met, which description and affidavit are incorporated herein as if set forth herein.

B. The Redevelopment Plan conforms to the comprehensive plan for the development of the City as a whole.

C. In accordance with the TIF Act, the Redevelopment Plan states the estimated dates of completion of the Redevelopment Project and retirement of the financial obligations issued to pay for certain redevelopment project costs and these dates are twenty three (23) years or less from the date of approval of the Redevelopment Project.

D. A plan has been developed for relocation assistance for businesses and residences in Ordinance No. 62481 adopted December 20, 1991.

E. A cost-benefit analysis showing the economic impact of the Redevelopment Plan on each taxing district which is at least partially within the boundaries of the Redevelopment Area is on file with the St. Louis Development Corporation, which cost-benefit analysis shows the impact on the economy if the Redevelopment Project is not built, and is built pursuant to the Redevelopment Plan.

F. Redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan is not financially feasible without the assistance of tax increment financing and would not otherwise be completed.

G. The Redevelopment Plan does not include the initial development or redevelopment of any “gambling establishment” as that term is defined in Section 99.805(6) of the TIF Act.

H. The Redevelopment Area includes only those parcels of real property and improvements thereon directly and substantially benefitted by the proposed Redevelopment Project.

SECTION TWO. The designation of the Redevelopment Area described in the Redevelopment Plan is hereby affirmed.

SECTION THREE. The Amendment as reviewed and recommended by the TIF Commission on June 3, 2009, including amendments or revisions thereto, if any, and the Redevelopment Project described in the Amendment are hereby adopted and approved. A copy of the Amendment is attached hereto as **Exhibit A** and incorporated herein by reference.

SECTION FOUR. The City is hereby authorized to enter into an amendment to the Original Agreement (the “Agreement Amendment”) by and between the City, the Original Developer and the New Developer, such Agreement Amendment to be in substantially similar form to that attached hereto as **Exhibit B** and incorporated herein by reference.

SECTION FIVE. The Mayor and Comptroller of the City or their designated representatives are hereby authorized and directed to take any and all actions as may be necessary and appropriate in order to carry out the matters herein authorized, with no

such further action of the Board of Aldermen necessary to authorize such action by the Mayor and the Comptroller or their designated representatives.

SECTION SIX. The Mayor and the Comptroller or their designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized and directed to make any changes to the documents, agreements and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such changes by the Mayor and the Comptroller or their designated representatives.

SECTION SEVEN. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

EXHIBIT A

AMENDMENT TO THE FOUNDRY TIF REDEVELOPMENT PLAN

EXHIBIT B

FIRST AMENDMENT TO FOUNDRY TIF REDEVELOPMENT AGREEMENT

Amendment to

The Foundry TIF Redevelopment Plan

**Submitted to
the City of St. Louis
Tax Increment Financing Commission
November 22, 2006
(Amendment - April 10, 2009)**

By Ordinance No. 67488, the City of St. Louis ("City"), upon the recommendation of its TIF Commission ("TIF Commission"), approved The Foundry Tax Increment Financing Redevelopment Plan for The Foundry Redevelopment Area dated November 22, 2006 ("The Foundry Redevelopment Plan" or "Plan"). The TIF Commission is considering amending the Plan as set forth herein. The TIF Commission and the City must make corresponding modifications to The Foundry Redevelopment Plan. The Foundry Redevelopment Plan shall be amended as follows:

1. Section 1.0 The second sentence of the second paragraph of this section shall be amended to read as follows:

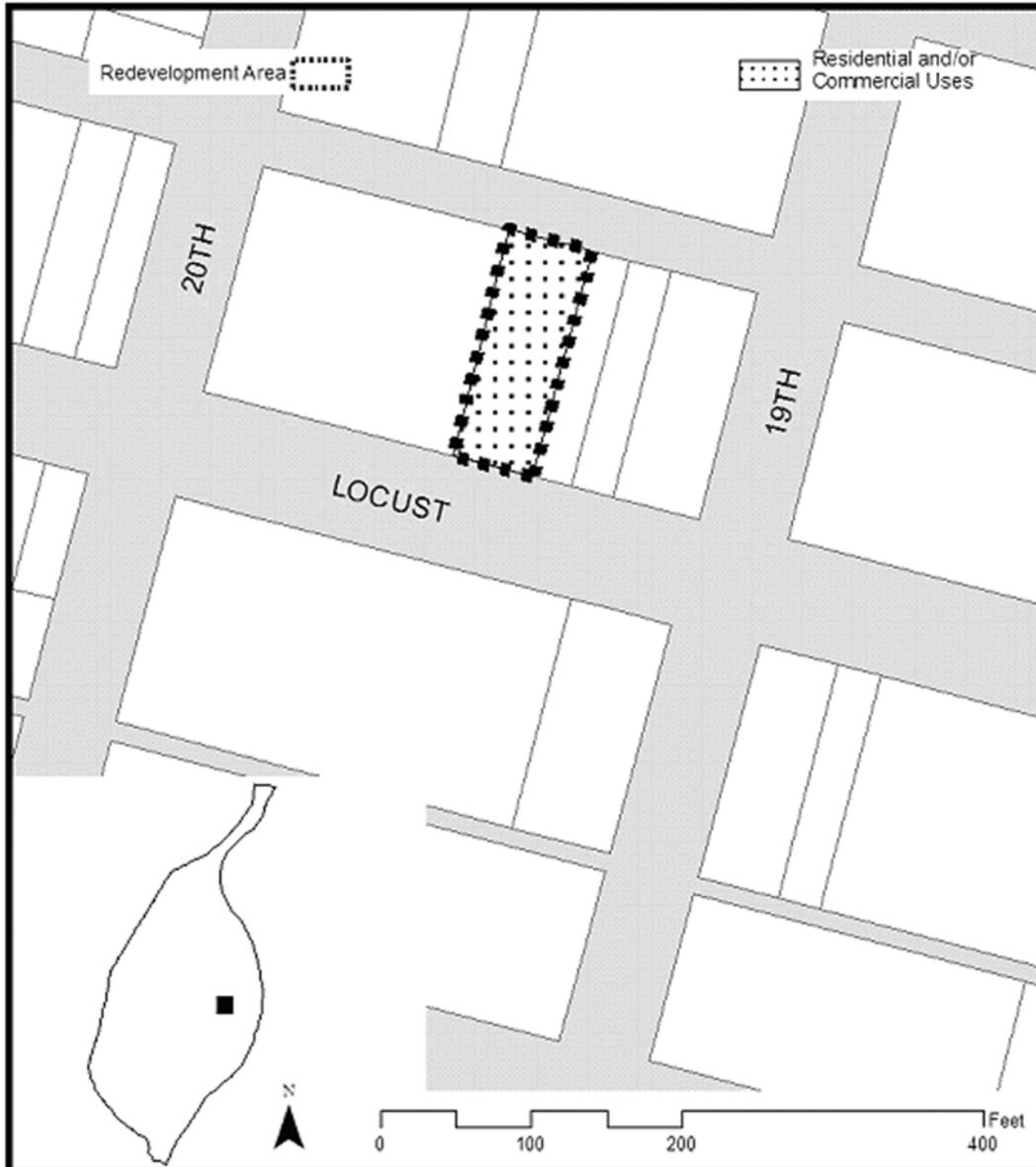
This Redevelopment Plan contemplates the complete redevelopment of the Area into residential and/or commercial uses (the "Redevelopment Project" or "Project").
2. Section 3.3 The bullet point in this section, shall be amended to read as follows:
 - Residential and/or Commercial Uses Rehabilitation of the Building in the Area into residential and/or commercial space.
3. Section 3.4 This section shall be amended to read as follows:

The general land uses proposed for the Area include residential and/or commercial uses. A map profiling the general land uses to apply is attached hereto as **Appendix 8** and incorporated herein by this reference.

1. Appendix 8 shall be amended to include the following map of general land uses to apply:

GENERAL LAND USE

The Foundry Redevelopment Area City of St. Louis, Missouri



**FIRST AMENDMENT TO
REDEVELOPMENT AGREEMENT**

This First Amendment to Redevelopment Agreement is made and entered into as of this ___ day of _____, 20___, by and between the City of St. Louis, Missouri, a municipal corporation and political subdivision of the State of Missouri (“City”), and 1911 Locust Partners, LLC, a Missouri limited liability company (“Original Developer”), and 1911 Locust, LLC, a Missouri limited liability company (“New Developer”).

RECITALS

A. By Ordinance No. 67488, the City, upon the recommendation of the TIF Commission, approved The Foundry TIF Redevelopment Plan for The Foundry Redevelopment Area (the “Redevelopment Area”) dated November 22, 2006 (the “Original Plan”), which Redevelopment Area was more fully described in such Original Plan;

B. Ordinance No. 67849 affirmed adoption of the Original Plan, designated 1911 Locust Partners, LLC (“Original Developer”) as “Developer” of the Redevelopment Area, and authorized the City to enter into a Redevelopment Agreement with 1911 Locust Partners, LLC with respect to the Redevelopment Project (the “Original Agreement”);

C. By Ordinance No. _____ [BB # ____] (the “Amendment Ordinance”), the City (1) approved that certain “Amendment to the Foundry Redevelopment Plan” dated April 10, 2009 (the “Plan Amendment”) to amend the “Redevelopment Project” described in the Redevelopment Plan (for the purposes of this Amendment and the Agreement, references to the “Redevelopment Plan” shall refer to the Redevelopment Plan as amended by the Plan Amendment, references to the “Redevelopment Project” shall refer to the Redevelopment Project as amended by the Plan Amendment and this Amendment, and references to the “Redevelopment Agreement” shall mean the Redevelopment Agreement as amended by this Amendment), and (2) authorized the execution of this Amendment;

D. The City, the Original Developer and the New Developer desire to enter into this Amendment to amend or modify certain terms of the Agreement and to allow New Developer to assume and accept all of the rights, title, interests, duties and obligations of the Original Developer under the Agreement.

AGREEMENT

Now therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Any references in the Agreement to the “Redevelopment Plan” or “Redevelopment Project” shall mean the Original Plan as amended by the Plan Amendment or the Redevelopment Project as described in the Plan Amendment.

2. The definition of the term “Redevelopment Project” in Section 1.1 shall be deleted in its entirety and replaced with the following:

““*Redevelopment Project*” means the Redevelopment Project identified by the Redevelopment Plan, consisting of: the acquisition, rehabilitation and renovation of the existing former industrial building within the Redevelopment Area into commercial and/or residential space, all as further set forth in the Redevelopment Plan, and as approved by the Approving Ordinance.”

3. In subpart (ii) of the last sentence of Section 3.6, the term “Redevelopment Proposal” in the last line shall be deleted.

4. In subpart (3) of the definition of the term “Work” in Section 1.1, the phrase “residential units and commercial space” shall be deleted and replaced with “residential units and/or commercial space”.

5. The parties hereto do acknowledge and agree that the Original Developer does hereby assign, transfer and convey all of its rights, title, interest, duties and obligations under the Redevelopment Agreement to New Developer, and New Developer does hereby accept and assume the same. Accordingly, any references to “Developer” under the Redevelopment Agreement shall be construed to mean New Developer rather than Original Developer.

6. This Agreement may be executed in multiple counterparts, each of which when taken together shall constitute

one and the same instrument.

7. Except as expressly set forth herein, the provisions of the Original Agreement shall remain as set forth therein.

[Remainder of page intentionally left blank. Signature pages to follow.]

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

“CITY”

CITY OF ST. LOUIS, MISSOURI

By: _____
Francis G. Slay, Mayor

By: _____
Darlene Green, Comptroller

(SEAL)

Attest:

Parrie May, City Register

Approved as to Form:

_____, City Counselor

“ORIGINAL DEVELOPER”

1911 LOCUST PARTNERS, LLC, a Missouri limited liability company

By: _____
Name: _____
Title: _____

“NEW DEVELOPER”

1911 LOCUST, LLC, a Missouri limited liability company

By: _____
Name: _____
Title: _____

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this ____ day of _____, 2009, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this _____ day of _____, 2009, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

STATE OF MISSOURI)
) SS.
_____ OF _____)

On this _____ day of _____, 2009, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of 1911 LOCUST PARTNERS, LLC, a Missouri limited liability company, and that he is authorized to sign the instrument on behalf of said limited liability company by authority of its Members, and acknowledged to me that he executed the within instrument as said company's free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

STATE OF MISSOURI)
) SS.
_____ OF _____)

On this _____ day of _____, 2009, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of 1911 LOCUST, LLC, a Missouri limited liability company, and that he is authorized to sign the instrument on behalf of said limited liability company by authority of its Members, and acknowledged to me that he executed the within instrument as said company's free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

Approved: July 27, 2009