

BOARD BILL # 367

**INTRODUCED BY ALDERMEN PHYLLIS YOUNG,
KENNETH ORTMANN, STEPHEN GREGALI,
DOROTHY KIRNER AND JOSEPH VOLLMER**

1 AN ORDINANCE RECOMMENDED BY THE BOARD OF ESTIMATE AND
2 APPORTIONMENT AUTHORIZING THE CITY OF ST. LOUIS, MISSOURI TO ASSIGN
3 STATE AND LOCAL MODESA REVENUES, DEDICATED MUNICIPAL REVENUES,
4 CONTRACTUALLY PLEDGED CITY REVENUES, CID REVENUES AND TDD
5 REVENUES, AS DEFINED HEREIN, ATTRIBUTABLE TO THE BALLPARK VILLAGE
6 DEVELOPMENT AREA FOR THE PURPOSE OF PAYING THE PRINCIPAL AND
7 INTEREST ON CERTAIN BONDS TO BE ISSUED BY THE INDUSTRIAL
8 DEVELOPMENT AUTHORITY OF THE CITY OF ST. LOUIS, MISSOURI; AUTHORIZING
9 THE CITY TO EXECUTE CERTAIN DOCUMENTS RELATED THERETO; AUTHORIZING
10 AND DIRECTING THE TAKING OF OTHER ACTIONS AND APPROVAL AND
11 EXECUTION OF OTHER DOCUMENTS AS NECESSARY OR DESIRABLE TO CARRY
12 OUT AND COMPLY WITH THE INTENT HEREOF; AND CONTAINING A
13 SEVERABILITY CLAUSE.

14 WHEREAS, the City of St. Louis, Missouri (the “City”) is authorized and empowered
15 under the Missouri Downtown and Rural Economic Stimulus Act, Sections 99.915 to 99.1060,
16 inclusive, of the Revised Statutes of Missouri (2000), as amended (“MoDESA”), to issue
17 obligations and to enter into agreements with other entities for the issuance of obligations for the
18 purpose of providing funds to finance the costs of development projects; and

1 WHEREAS, pursuant to Ordinance No. [_____] [Board Bill #_____] adopted on
2 _____, 2009 (the “Approving Ordinance”), the City (a) approved a development plan
3 attached thereto (the “Development Plan”) for development of a certain area within the City of
4 St. Louis, Missouri (the “Development Area”), (b) adopted the development project described in
5 the Development Plan (the “Development Project”), (c) adopted development financing within
6 the Development Area, and (d) established the “City of St. Louis, Missouri, Special Allocation
7 Fund for the Ballpark Village Development Area” (the “Special Allocation Fund”); and

8 WHEREAS, pursuant to Ordinance No. [_____] [Board Bill #_____] adopted on
9 _____, 2009 (the “Authorizing Ordinance”), the City designated Ballpark Village
10 Development Corporation as developer of the Development Area (the “Developer”), and
11 approved the execution of a Development Agreement by and between the City and the
12 Developer in substantially the form attached to the Authorizing Ordinance (the “Development
13 Agreement”); and

14 WHEREAS, the Development Agreement provides for the issuance by The Industrial
15 Development Authority of the City of St. Louis, Missouri (the “Authority”) of revenue bonds
16 (the “Bonds”), pursuant to a Trust Indenture between the Authority and the trustee named therein
17 (the “Trustee”) for the purposes of funding Reimbursable Development Project Costs and/or
18 Independent Project Costs (as defined in the Development Agreement), as well as capitalized
19 interest on the Bonds, reserve funds for the Bonds and the costs of issuance of the Bonds; and

20 WHEREAS, the City desires to execute certain financing documents in order to expedite
21 the issuance and retirement of all MoDESA obligations issued under the Development Plan; and

22 WHEREAS, the Board of Aldermen of the City hereby finds it is advisable, necessary
23 and in the best interests of the City to direct the State MoDESA Revenues, Local MoDESA

1 Revenues, Dedicated Municipal Revenues and Contractually Pledged City Revenues (as
2 hereinafter defined) to payment of the principal of and interest on the Bonds.

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

4 **SECTION ONE. Definitions.**

5 “*CID*” shall have the meaning set forth in Article I of the Development Agreement.

6 “*CID Revenues*” shall have the meaning set forth in Article I of the Development
7 Agreement.

8 “*Contractually Pledged City Revenues*” shall have the meaning set forth in Article I of
9 the Development Agreement.

10 “*Dedicated Municipal Revenues*” shall have the meaning set forth in Article I of the
11 Development Agreement.

12 “*Economic Activity Taxes*” shall have the meaning set forth in Article I of the
13 Development Agreement.

14 “*Local MoDESA Revenues*” shall have the meaning set forth in Article I of the
15 Development Agreement.

16 “*Monitor*” means an urban planner, urban consultant, certified public accountant, lawyer
17 or firm of urban planners, urban consultants, certified public accountants or lawyers selected
18 according to the Indenture, if any, who periodically reviews the method of calculating and the
19 calculations regarding State MoDESA Revenues and Local MoDESA Revenues on deposit in
20 the Special Allocation Fund, Dedicated Municipal Revenues, Contractually Pledged City
21 Revenues, CID Revenues and TDD Revenues.

22 “*Payments in Lieu of Taxes*” shall have the meaning set forth in Article I of the
23 Development Agreement.

1 “*Special Allocation Fund*” shall have the meaning set forth in Article I of the
2 Development Agreement.

3 “*TDD*” shall have the meaning set forth in Article I of the Development Agreement.

4 “*TDD Revenues*” shall have the meaning set forth in Article I of the Development
5 Agreement.

6 “*State MoDESA Revenues*” shall have the meaning set forth in Article I of the
7 Development Agreement.

8 **SECTION TWO. Findings and Determinations.** The Board of Aldermen hereby
9 finds and determines that it is necessary and in the best interests of the City to enter into: (a) a
10 Financing Agreement with the Authority for purposes of directing the State MoDESA Revenues,
11 Local MoDESA Revenues, Dedicated Municipal Revenues, Contractually Pledged City
12 Revenues, CID Revenues and TDD Revenues to payment of the Bonds (the “Financing
13 Agreement”), in substantially the form attached hereto as **Exhibit A** and incorporated herein by
14 reference; (b) a Continuing Disclosure Agreement with a party selected as “dissemination
15 agent,” for purposes of providing information for the benefit of the Owners and Beneficial
16 Owners (each as defined therein) of the Bonds and in order to assist the Participating
17 Underwriter (as defined therein) in complying with the requirements of the rules of continuing
18 disclosure (the “Disclosure Agreement”), in substantially the form attached hereto as **Exhibit B**
19 and incorporated herein by reference; (c) a Tax Compliance Agreement among the City, the
20 Authority and the Trustee relating to that portion of the Bonds that may be issued on a tax-
21 exempt basis and pertaining to the use and investment of the proceeds of such portion of the
22 Bonds and the establishment and maintenance of the tax-exempt status thereof (the “Tax
23 Agreement”), in substantially the form attached hereto as **Exhibit C** and incorporated herein by

1 reference; and (d) an Intergovernmental Cooperation Agreement among the City, the CID and
2 the TDD pertaining to the collection and distribution of CID Revenues and TDD Revenues (the
3 “Cooperation Agreement,” and with the Financing Agreement, the Tax Agreement and the
4 Disclosure Agreement, the “City Financing Documents”), in substantially the form attached
5 hereto as **Exhibit D** and incorporated herein by reference.

6 **SECTION THREE. Nature of Obligations.** The Bonds and the interest thereon shall
7 be special, limited obligations of the Authority, and shall not constitute an indebtedness of the
8 City, the Authority, or the State of Missouri within the meaning of any constitutional or statutory
9 debt limitation or restriction. The obligation of the City to make payments of Economic Activity
10 Taxes, Dedicated Municipal Revenues and Contractually Pledged City Revenues is subject to
11 annual appropriation pursuant to **SECTION FOUR** hereof. The taxing power of the City is not
12 pledged to the payment of the Bonds either as to principal or interest or to the payment of State
13 MoDESA Revenues or Local MoDESA Revenues under any financing agreement related
14 thereto.

15 **SECTION FOUR. Appropriating, Pledging and Assigning of Certain Revenues.**
16 The City hereby agrees, so long as the Bonds are outstanding, to apply the Available Revenues
17 and Contractually Pledged City Revenues (as defined in the Development Agreement) and any
18 taxes, fees or assessments subsequently enacted and imposed in substitution therefor and
19 allocable to the Special Allocation Fund to the repayment of Bonds in accordance with the
20 Financing Agreement. The City covenants and agrees that it will comply with the Charter of The
21 City of St. Louis, Article XVI, Section 3 for each fiscal year that the Bonds are outstanding and
22 the City will request an appropriation of all Available Revenues and Contractually Pledged City
23 Revenues for application to the payment of the principal of and interest on the Bonds.

1 **SECTION FIVE. Reporting of Revenue Data.** The City hereby agrees that it shall

2 provide to the Monitor, if one is selected, (a) on a monthly basis, a report of all Economic
3 Activity Taxes that are sales tax revenues received during the previous month; (b) on a monthly
4 basis, a report on all Dedicated Municipal Revenues or Contractually Pledged City Revenues
5 received during the previous month; (c) on a monthly basis, a report of all State MoDESA
6 Revenues received during the previous month; and (d) on a monthly basis, a report of all Local
7 MoDESA Revenues received during the previous month. In addition, the City agrees to
8 cooperate with the Monitor for verification of calculations and deposits of all Available
9 Revenues (as defined in the Development Agreement).

10 **SECTION SIX. Authority and Direction to Execute and Deliver City Financing**

11 **Documents.** The City is hereby authorized to enter into, and the Mayor and the Comptroller and
12 such other officers of the City as are appropriate are hereby authorized and directed to execute,
13 seal, attest and deliver, for and on behalf of and as the act and deed of the City, the City
14 Financing Documents, each with such changes as shall be approved by the appropriate officers
15 of the City executing such documents, such officers' signatures thereon being conclusive
16 evidence of their approval thereof. The Mayor, the Comptroller, and other appropriate officers,
17 agents and employees of the City, with the advice and concurrence of the City Counselor, are
18 hereby further authorized and directed to participate with the Authority and the underwriter of
19 the Bonds in the preparation of the preliminary Official Statement and final Official Statement,
20 and to execute and deliver such agreements as are necessary and desirable in order to assist the
21 underwriter of the Bonds in complying with Rule 15c2-12 of the Securities and Exchange
22 Commission.

1 **SECTION SEVEN. Further Authority.** The Mayor, the Comptroller, the Treasurer
2 (as to permitted investments only) and other appropriate officers, agents and employees of the
3 City are hereby authorized to take such further actions and execute such other documents as may
4 be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry
5 out, comply with and perform the duties of the City with respect to the City Financing
6 Documents.

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

16 **SECTION NINE. Construction.** In the event of any inconsistency between the
17 provisions of this Ordinance and the provisions of any prior ordinances, the provisions of this
18 Ordinance shall prevail.

19 **SECTION TEN. Governing Law.** This Ordinance shall be governed exclusively
20 by and construed in accordance with the applicable laws of the State of Missouri.

EXHIBIT A

FORM OF FINANCING AGREEMENT

(Attached hereto.)

EXHIBIT B

FORM OF CONTINUING DISCLOSURE AGREEMENT

(Attached hereto.)

EXHIBIT C

FORM OF TAX COMPLIANCE AGREEMENT

(Attached hereto.)

EXHIBIT D

FORM OF INTERGOVERNMENTAL COOPERATION AGREEMENT

(Attached hereto.)

