

*St. Louis City Ordinance 62383*

FLOOR SUBSTITUTE

BOARD BILL NO. [91] 150

INTRODUCED BY ALDERMAN Thomas A. Villa , Geraldine Osborn

AN ORDINANCE TO PROVIDE FOR THE BORROWING OF FUNDS IN ANTICIPATION OF THE COLLECTION OF SUMS TO BE DERIVED FROM TAXES AND OTHER REVENUES FOR THE YEAR 1991 FOR THE GENERAL REVENUE FUND IN THE TREASURY OF THE CITY OF ST. LOUIS, MISSOURI, AND THE ACQUIRING OF A LETTER OF CREDIT IN ORDER TO LOWER THE COST OF SAID BORROWING AND CONTAINING AN EMERGENCY CLAUSE.

WHEREAS, it now appears and the Board of Aldermen of The City of St. Louis, in the State of Missouri, so finds that the estimate of the total receipts of taxes and other revenues for the General Revenue Fund within the Treasury of said City and of the various taxes to be levied therefor in the year 1991 is Two Hundred Eighty-Eight Million Six Hundred Thousand Dollars (\$288,600,000); and

WHEREAS, there have become and will become due and payable on and prior to the 31st day of December, 1991, expenses and obligations of said City, payable from the aforesaid General Revenue Fund, aggregating not less than the sum of Two Hundred Eighty-Eight Million Six Hundred Thousand Dollars (\$288,600,000); and

WHEREAS, it is the opinion of this Board of Aldermen, and the said Board so finds, that sufficient taxes will be collected from the delinquent taxes for the year 1990 and years prior thereto, together with the taxes and other revenues provided for the year 1991, to provide for the aforesaid expenditures; and

WHEREAS, this Board of Aldermen finds that funds are not and will not be available in the General Revenue Fund in the Treasury of said City on or prior to the 31st day of December, 1991, to pay all of the aforesaid legal obligations chargeable to the said Fund as they will become due and payable on and prior to said date; and

WHEREAS, the Comptroller of said City has informed this Board of Aldermen that a cash flow deficiency (amounting to a sum in excess of Thirty-Five Million Dollars [\$35,000,000]) can be anticipated in the aforesaid General

Revenue Fund at a time or times during the remainder of the aforesaid calendar year 1991; and

WHEREAS, this Board of Aldermen is authorized, under and by the Charter of The City of St. Louis and the law of the State of Missouri, to borrow Funds in anticipation of the collection of the sums to be derived from City taxes and other revenues for the current calendar year, provided the amount of such loans at no time shall exceed this Board's estimate of the receipts of taxes and other revenues for the General Revenue Fund of said City in the year 1991; and

WHEREAS, this Board of Aldermen is authorized, under and by the aforesaid Charter and law to determine the amount of such loans and the terms thereof and to execute and issue notes of the City for all funds so borrowed to the lenders thereof as evidence of such loans and of the terms of the City's obligation to repay the same; and

WHEREAS, this Board of Aldermen does now find and determine that it is necessary and advisable that The City of St. Louis, in the State of Missouri, proceed to borrow a sum not to exceed Thirty-Five Million Dollars (\$35,000,000) in anticipation of the collection of the aforesaid taxes and revenues for the General Revenue Fund of said City for the year 1991, in order to provide funds with which to pay and discharge the expenses and obligations properly payable from the said General Revenue Fund of said City in the calendar year 1991, which expenses and obligations will become due and payable on and prior to the 31st day of December, 1991, but for the payment and discharge of which it is hereby estimated that funds will not be available otherwise in said General Revenue Fund; and

WHEREAS, no funds heretofore have been borrowed in anticipation of the collection of said taxes and revenues; and

WHEREAS, this Board of Aldermen does now find and determine that the said sum of Thirty-Five Million Dollars (\$35,000,000) will not exceed the aforesaid estimate of the receipts of taxes and other revenues for the aforesaid Fund for the year 1991; and

WHEREAS, to the end that said sum may be borrowed for said purpose, it is necessary that this Board of Aldermen shall determine the terms and other incidents of said borrowing; and

WHEREAS, this Board of Aldermen hereby finds and determines that a letter of credit guaranteeing the payment when due of the principal of and interest on

the notes issued to evidence the loan hereinafter authorized would improve the marketability of such notes and may decrease the net interest cost of such loan to The City of St. Louis, and

WHEREAS, any notice, advertisement, and binding requirement related to the procurement of the letter of credit have been satisfied as required by law:

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

SECTION 1. In order to provide funds with which to pay and discharge the expenses and obligations properly payable from the General Revenue Fund in the Treasury of The City of St. Louis, in the State of Missouri, for the calendar year 1991, which expenses and obligations will become due and payable on and prior to the 31st day of December, 1991, but for the payment and discharge of which it is estimated that funds will not be available otherwise in said Fund, a principal sum not to exceed Thirty-Five Million Dollars (\$35,000,000), such principal sum to be determined by the Mayor and Comptroller and evidenced by the execution of the Report of Note Sales or the Purchase Contract, as the case may be, shall be borrowed by the said City for the said General Revenue Fund within the Treasury of said City in anticipation of the revenues derived from taxes and other sources for the said Fund for the year 1991.

SECTION 2. The said borrowing shall be evidenced by Tax and Revenue Anticipation Notes of the said City to be designated "Tax and Revenue Anticipation Notes Payable from the General Revenue Fund Series 1991", numbered from one upward, of the denomination of Twenty-five Thousand Dollars (\$25,000) and any integral multiple thereof. The said Notes shall bear interest at a rate not exceeding ten per centum (10%) per annum, computed on a 360 day year comprised of twelve 30 day months as may be determined by the Mayor and Comptroller, payable on the date of maturity of said Notes, and the said Notes shall bear date as of the date of original issue, and shall mature less than 364 days from the date of original issue. The said Notes shall be payable, both as to principal and interest, in lawful money of the United States of America at the Mark Twain Bank, in the City of St. Louis, State of Missouri (the "Paying Agent").

SECTION 3. The Notes shall be issuable as book entry notes in the form of fully registered Notes, without coupons, and the Paying Agent may treat the person in whose name any Note is registered as the absolute owner thereof for all purposes and payment of or on account of the principal of or interest on any Note shall be made only to or upon the order of the registered owner thereof or

his legal representative; and the City of St. Louis and the Registrar and Paying Agent shall not be affected by any notice to the contrary.

Mark Twain Bank, in the City of St. Louis, State of Missouri, is hereby appointed Registrar for the Notes. With respect to all Notes registered in the name of Depository Trust Company or its nominee, The City of St. Louis and the Registrar and Paying Agent will recognize Depository Trust Company or its nominee as the owner of the Notes for all purposes under this Ordinance.

SECTION 4. The covenants and agreements of The City of St. Louis contained herein and in the Notes and any related document (including the pledge contained in Section 9 hereof) shall be for the equal benefit, protection, and security of: (a) the holders of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of one Note over any other Note in the application of the funds hereinafter pledged to the payment of the principal of and the interest on the Notes, or otherwise; and (b) the bank or banking institution selected by the Mayor and Comptroller of The City of St. Louis pursuant to Section 11 hereof (the "Bank") after payment in full by the Bank of the principal of and interest on the Notes pursuant to the Letter of Credit contemplated by Section 11 of this Ordinance (the "Letter of Credit").

SECTION 5. All Notes issued hereunder shall be executed on behalf of The City of St. Louis by the manual or facsimile signatures of the Mayor, the Comptroller, and the Treasurer and attested by the manual signature of the Register of said City, under the manual or facsimile corporate seal of said City.

SECTION 6. The said Notes and certificate to be endorsed thereon shall be in substantially the form and executed in the manner as hereinafter set forth:

UNITED STATES OF AMERICA

STATE OF MISSOURI

THE CITY OF ST. LOUIS

\_\_\_\_\_ %

TAX AND REVENUE ANTICIPATION NOTE

No. \_\_\_\_\_ PAYABLE FROM THE GENERAL REVENUE FUND

SERIES 1991

\$ \_\_\_\_\_

Registered Owner: \_\_\_\_\_

The City of St. Louis, in the State of Missouri, hereby acknowledges itself indebted to and, for value received, hereby promises to pay to the Registered Owner specified above or registered assigns, on the 26th day of June, 1992, the sum of \_\_\_\_\_ (\$ \_\_\_\_\_), in lawful money of the United States of America, but only out of money in the Treasury of said City standing to the credit of the General Revenue Fund, together with interest thereon from the date hereof until the principal hereof shall have been paid, at the rate of \_\_\_\_\_ per centum (\_\_\_\_\_ %) per annum, computed on a 360 day year comprised of twelve 30 day months. Both principal of and interest on this Note are payable at the Mark Twain Bank, in the City of St. Louis, State of Missouri (the "Paying Agent").

This Note and the series of which it is one are authorized to be issued by the Board of Aldermen of said City in anticipation of the collection of the revenues to be received for the current year for the General Revenue Fund in the Treasury of said City (the "Fund") and are issued under and pursuant to the Charter of said City and the laws of the State of Missouri and pursuant to Ordinance No. \_\_\_\_\_ of the said City (the "Ordinance").

The indebtedness evidenced by this Note and the series, numbered from one upward, of which it is one (the "Notes"), constitute an indebtedness for a like amount of money borrowed by said City for the Fund in anticipation of the collection of the revenues to be derived from taxes and other sources for said Fund for the current year and constitute a first charge upon the said incoming taxes and revenues for said Fund.

This Note may be transferred only upon the Bond Register upon surrender hereof to the Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Registrar.

Said City has caused to be delivered to the Paying Agent an irrevocable letter of credit (the "Letter of Credit") issued by \_\_\_\_\_, acting through its \_\_\_\_\_ Branch, in the City of \_\_\_\_\_, State of \_\_\_\_\_ (the "Bank"), which Letter of Credit will expire at the close of the Bank's business on \_\_\_\_\_. The Paying Agent shall

be entitled under the Letter of Credit to draw an amount sufficient to pay the principal of the Notes and the interest due thereon.

Upon the occurrence of the events set forth hereinafter and in that certain agreement (the "Reimbursement Agreement") between said City and the Bank, payment of the principal of and interest on the Notes may be accelerated by declaration made by the Bank to the Mark Twain Bank, St. Louis City, Missouri. Notice of such a declaration of acceleration shall be given by the Paying Agent in an issue of The Bond Buyer published in the City of New York, State of New York, at least ten (10) days prior to the date set in such declaration for the payment of the principal of and interest on the Notes.

The event or events which shall permit the Bank to make such a declaration shall be one or more of the following: (a) the Comptroller of said City shall fail to set aside any funds at the time or times provided in the Ordinance and the Reimbursement Agreement, (b) any representation or warranty made by said City in the Reimbursement Agreement or any statement or representation made by or on behalf of said City in any document delivered under the Reimbursement Agreement shall prove to have been incorrect in any material respect when made; (c) said City shall not duly and punctually perform the undertakings contained in the Ordinance, including the obligation to set aside certain taxes and revenues in accordance with Section 14 of the Ordinance and the Reimbursement Agreement; (d) said City shall fail to pay when due any principal of or interest on any of its general obligations for borrowed money or, without duplication of the foregoing, on any general obligations evidenced by bonds, debentures, notes, or other similar instruments; (e) said City shall fail to pay when due any amount payable under the Reimbursement Agreement and any such failure shall remain unremedied for three business days after the Bank gives written notice thereof to said City; (f) said City shall not duly and punctually perform any of the other covenants, agreements, and provisions contained in the Reimbursement Agreement to be performed by said City and shall continue such nonperformance for fifteen (15) days after written notice by the Bank specifying such nonperformance and requiring that failure to be remedied shall have been given to said City; (g) said City shall become insolvent or admit in writing its inability to pay its debts as they mature, shall declare a moratorium on the payment of its debts or apply for, consent to, or acquiesce in the appointment of a trustee or a receiver for itself or any of its property or take any steps to authorize or effect any such action; (h) in the absence of any such application, consent, or acquiescence, a trustee or receiver shall be appointed for said City or for a substantial part of its property or revenues and shall not be discharged within a period of thirty (30) days; (i) all, or any substantial part, of the property of said City shall be condemned, seized,

or otherwise appropriated or any bankruptcy, reorganization, debt arrangement, or other proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding shall be instituted by or against said City (or any action shall be taken to authorize or effect the institution by it of any such proceeding) and, if instituted against said City, shall be consented to or acquiesced in by it or shall not be dismissed within a period of thirty (30) days or (j) any material provision of the Reimbursement Agreement shall at any time for any reason not be or cease to be valid and binding on said City, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by said City or any governmental agency or authority (other than said City), or said City shall deny that it has any further liability or obligation under the Reimbursement Agreement.

Reference is made hereby to the Ordinance, to the Paying Agency Agreement between the Paying Agent and said City, to the Reimbursement Agreement between the City and the Bank, and to the Letter of Credit issued by the Bank, conformed copies of which are being held by the Mark Twain Bank, St. Louis City, Missouri, for a description of the provisions, among others, with respect to the nature and extent of the rights, duties, and obligations of said City, the Paying Agent, the Bank, and the holders of the Notes. The holder of this Note, by acceptance hereof, is deemed to have agreed and consented to the terms and provisions of the Ordinance, the Paying Agency Agreement, the Reimbursement Agreement, and the Letter of Credit. The holder of this Note, by acceptance hereof, shall have no right to enforce the provisions of the Ordinance, the Paying Agency Agreement, the Reimbursement Agreement, or the Letter of Credit, to institute action to enforce the covenants contained in those documents, to take any action with respect to any failure to perform any act hereinabove set forth, or to institute, appear in, or defend any suit or other proceeding with respect thereto.

It is hereby certified, warranted, and represented that all acts, conditions, and things required to be done, to happen, and to exist, precedent to and in the issuance of this Note and the series of which it is one, in order to make the same legal, valid, and binding obligations of said City, have been done, have happened, and do exist in proper form, time, and manner, as required by law; that the aggregate principal amount of the borrowing evidenced by this Note and the series of which it is one does not exceed the estimate of the receipts of taxes and other revenues for the Fund of said City for the year 1991 or an amount which would alter the tax-exempt status of the interest on this Note; and that the proceeds of the taxes levied and collected in said year and other revenues for the Fund, or so much thereof as may be necessary, and the full

faith of said City are hereby irrevocably pledged to the payment of this Note and the other Notes of which it is one and the interest to accrue thereon.

IN TESTIMONY WHEREOF, The City of St. Louis, in the State of Missouri, has caused this Note to be executed on its behalf by the manual or facsimile signatures of the Mayor, the Comptroller, and the Treasurer, attested by the manual signature of the Register of said City, under the manual or facsimile corporate seal of said City, this 14th day of August, 1991.

THE CITY OF ST. LOUIS

IN THE STATE OF MISSOURI

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Comptroller

\_\_\_\_\_  
Treasurer

Attest:

\_\_\_\_\_  
Register

(SEAL)

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto:

(Please Print or Typewrite Name, Address and Social Security Number or Taxpayer Identification Number of Transferee)

the within mentioned Note and all rights thereunder, and hereby constitutes and appoints \_\_\_\_\_ to transfer the within mentioned Note on the books kept for registration thereof, with full power of substitution in the premises.



regarded hereby as a first charge upon the incoming taxes and revenues of the said City for the General Revenue Fund in the Treasury of said City for the year 1991, in anticipation of which the said Notes are issued, and the said incoming taxes and revenues, or so much thereof as may be necessary, shall be and the same are irrevocably pledged hereby for and to the payment of the Notes herein authorized to be issued and to the repayment of any amounts owed under the Reimbursement Agreement.

SECTION 10. The Mayor and the Comptroller of The City of St. Louis shall sell said Notes for the best price obtainable, either at private or public sale, as they may deem most expedient, the Comptroller shall cause the Notes so sold to be delivered to the purchaser or purchasers thereof upon receipt of the purchase price therefor, and the proceeds of the sale of said Notes shall be paid into the Treasury of said City; but none of said Notes shall be sold for less than par and accrued interest to the date of delivery. The purchasers of the said Notes shall not be bound to see to the application of the purchase price thereof.

SECTION 11. The Mayor and Comptroller of The City of St. Louis are hereby authorized to enter into such an agreement with a bank or banking institution deemed by them to be appropriate for the purpose and for such a fee, deemed by said Mayor and Comptroller to be reasonable (but not in excess of fifty hundredths of one per centum [.50%] of the principal amount of and accrued interest, from original issue date to maturity date, on the Notes issued hereunder), as may be required to induce such bank or banking institution to issue its irrevocable Letter of Credit in which it agrees to pay the principal of and interest on the Notes issued hereunder when due. Said Mayor and Comptroller also are authorized hereby to enter into such additional concurrent agreement or agreements with any bank or banking institution issuing such a Letter of Credit as may be required by that bank or banking institution in order to provide for the payment of additional interest (but at an aggregate rate not in excess of fourteen per centum (14%) per annum for each day the obligations under the Reimbursement Agreement remain unpaid) should that bank or banking institution not be reimbursed promptly or fully for the payment of such principal and interest when due.

SECTION 12. The Notes herein authorized to be issued shall be prepared and executed to provide funds with which to meet and discharge the obligations of the General Revenue Fund in the Treasury of the aforesaid City as such obligations accrue from time to time. The Treasurer of the aforesaid City shall be and he is hereby authorized and directed to sell and deliver the same to the purchaser or purchasers of said Notes, upon receipt of payment by him, from said purchaser or purchasers, of the aggregate face value of said Notes.

SECTION 13. The proceeds received from the sale and delivery of said Notes shall be deposited immediately in the Treasury of said City to the credit of the General Revenue Fund, and the amount so credited, or so much thereof as may be necessary, shall be used and expended only in payment of the expenses and obligations properly payable from said General Revenue Fund for the year 1991, which have and will become due and payable on or prior to the 31st day of December, 1991.

SECTION 14. In order to assure the availability of adequate funds on \_\_\_\_\_, with which to reimburse the Bank as contemplated in the Reimbursement Agreement, the Comptroller of said City is hereby directed to set aside (into a separate and distinct account called the "Tax and Revenue Anticipation Notes of 1991 Sinking Fund") on his books, out of the incoming taxes and revenues of said City for the General Revenue Fund of said City for the year 1991, the sum of Two Million Dollars (\$2,000,000) on or before January 31, 1992, the additional sum of Five Million Dollars (\$5,000,000) on or before February 28, 1992, the additional sum of Four Million Dollars (\$4,000,000) on or before March 29, 1992, the additional sum of Three Million Dollars (\$3,000,000) on or before April 30, 1992, the additional sum of Eleven Million Dollars (\$11,000,000) on or before May 31, 1992, and the additional sum of Ten Million Dollars (\$10,000,000) on or before \_\_\_\_\_, plus the interest which then will be due on all of said Notes \_\_\_\_\_, Sums on deposit in said Sinking Fund may be invested and reinvested by the Treasurer of said City.

SECTION 15. The Paying Agent herein designated shall be paid the usual and customary fees for its services in connection herewith, which said fees shall be paid from the General Revenue Fund in the Treasury of said City, the amount of which fees shall be subject to approval by the Comptroller of The City of St. Louis.

SECTION 16. The Internal Revenue Code of 1986, as amended, imposes various requirements to maintain the exclusion from gross income for federal income tax purposes of interest on the Notes. Some of these requirements may be complied with only after the issuance of the Notes, and failure so to comply could cause interest on the Notes to be included in gross income retroactive to the date of issuance. Said City hereby covenants to comply with all such requirements.

SECTION 17. If any term or provision of this Ordinance or the Notes or the application thereof for any reason or circumstances shall to any extent be held invalid or unenforceable, the remaining provisions or the application of such

term or provision to persons in situations other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision hereof and thereof shall be valid and enforced to the fullest extent permitted.

SECTION 18. This Ordinance has been adopted to provide for and induce the sale of the Notes, and may not be repealed, amended or modified while any Notes are outstanding, except for such amendments which, in the opinion of counsel to the City and nationally recognized bond counsel, (i) shall not materially adversely affect the interests of the holders of the Notes, (ii) are required by existing or future laws, or (iii) are necessary to clarify any ambiguity, inconsistency or defective provision contained herein; provided, however, the City shall obtain the prior consent of Bank, which will not be unreasonably withheld.

SECTION 19. Immediately upon the passage of this Ordinance, a certified copy hereof shall be filed with the aforesaid Treasurer of The City of St. Louis for his information and guidance.

SECTION 20. The passage of this Ordinance and the payment of the obligations to be provided for hereunder are necessary for the immediate preservation of the public peace, health, and safety; an emergency is hereby declared to exist under the terms and provisions of Article IV of the Charter of The City of St. Louis; and this Ordinance shall take effect immediately upon its approval by the Mayor.

<b>Legislative History</b>				
<b>1ST READING</b>	<b>REF TO COMM</b>	<b>COMMITTEE</b>	<b>COMM SUB</b>	<b>COMM AMEND</b>
<b>06/27/91</b>	<b>06/27/91</b>	<b>W&amp;M</b>	<b>07/10/91</b>	
<b>2ND READING</b>	<b>FLOOR AMEND</b>	<b>FLOOR SUB</b>	<b>PERFECTN</b>	<b>PASSAGE</b>
<b>07/21/91</b>			<b>07/19/91</b>	<b>07/19/91</b>
<b>ORDINANCE</b>	<b>VETOED</b>		<b>VETO OVR</b>	
<b>62383</b>				