

BOARD BILL # 71

**INTRODUCED BY ALDERWOMAN PHYLLIS YOUNG
PRESIDENT LEWIS REED, AND ALDERMAN ALFRED
WESSELS, JR.**

1 An ordinance recommended by the Board of Estimate and Apportionment authorizing
2 and approving all of the following agreements and actions relating to the redevelopment and
3 financing of the Kiel Opera House: (1) a Master Lease between The City of St. Louis, Missouri
4 (“City”) and the Land Clearance for Redevelopment Authority of the City of St. Louis
5 (“Authority”) pursuant to which the City is leasing the real property on which the Kiel Opera
6 House is located to the Authority, (2) an Agreement for Payment in Lieu of Taxes between the
7 City and Opera House Redevelopment Company, LLC (“Redeveloper”) pursuant to which the
8 Redeveloper has agreed to make certain payments in lieu of taxes, (3) a Non-Disturbance and
9 Attornment Agreement among the City, the Authority and Redeveloper pursuant to which the
10 City and the Authority agree to take and to forbear from taking certain actions relating to the
11 leasing of said real property; (4) the Cooperation Agreement among the City, the Authority, the
12 Redeveloper, St. Louis Blues Hockey Club, L.P. (“Club”) and 14th and Market Community
13 Improvement District (“District”) pursuant to which the parties agree upon procedures for the
14 collection and allocation of certain funds, and (5) the designation of the Redevelopment Area to
15 be a “recovery zone” and designating up to \$21,000,000 aggregate face amount of bonds to be
16 issued by the Authority as “recovery zone facility bonds”; authorizing certain other actions; and
17 containing a severability clause.

18 WHEREAS, the City is the owner of the real property located at 1400 Market Street and
19 legally described in Exhibit A hereto on which real property is located the Kiel Opera House
20 (“Opera House Property”) and is the owner of the real property located at 1401 Clark Street and
21 legally described in Exhibit B hereto on which real property is located the Scottrade Center (the

1 “Scottrade Property” and, collectively, with the Opera House Property, the “Entire Property”),
2 respectively; and

3 WHEREAS, pursuant to Ordinance _____ [Board Bill No. _____], the Board of Aldermen
4 found that blighting conditions existed on the Opera House Property and approved the Blighting
5 Study and Redevelopment Plan for the 1400 Market St. Redevelopment Area, dated April 21,
6 2009 (the “Redevelopment Plan”) for the elimination of the blighting conditions on, and the
7 redevelopment of, the Redevelopment Area (as more particularly described therein, the “Area”);
8 and

9 WHEREAS, Redeveloper has presented a proposal to the Authority to redevelop the
10 Opera House Property into a special purpose civic building that will provide facilities for
11 entertainment productions, conferences, assemblies, receptions, dining and associated functions,
12 which proposal conforms to the proposed uses and redevelopment of the Opera House Property
13 as set forth in the Redevelopment Plan; and

14 WHEREAS, in order to effectuate the redevelopment of the Opera House Property, it is
15 necessary for the City to lease the Opera House Property to the Authority with the understanding
16 that the Authority will sublease the Opera House Property to the Redeveloper and the
17 Redeveloper will redevelop it; and

18 WHEREAS, in order to effectuate the redevelopment of the Opera House Property,
19 it is necessary for the Authority to enter into the Sublease Agreement with the Redeveloper,
20 pursuant to which the Authority will sublease the Opera House Property to the Redeveloper and
21 the Redeveloper will redevelop the Opera House Property, subject to terms and conditions
22 specified by the Authority; and

1 WHEREAS, the Redeveloper has agreed that it will make payments in lieu of taxes on or
2 before the calendar year that is the earlier of (a) twenty-five (25) years after the year in which the
3 date of the commencement of said Sublease Agreement (described in the preceding recital)
4 occurs or (b) year in which the date of the redemption, maturity or defeasance of certain bonds,
5 which may be issued by the Authority, occurs, as described in the form of the Agreement for
6 Payment in Lieu of Taxes to be approved pursuant to this Ordinance; and

7 WHEREAS, City and the Authority entered into the Amended and Restated Master
8 Lease, dated as of November 2, 1992 (the “Existing Master Lease”), pursuant to which Existing
9 Master Lease the City leased the Entire Property to the Authority and agreed to the sublease of
10 the Entire Property to Kiel Center Redevelopment Corporation, a Missouri urban redevelopment
11 corporation (“KCRC”), and the redevelopment of the property by KCRC and KCRC’s assignee,
12 Kiel Center Partners, L.P., a Missouri limited partnership (“KLP”); and

13 WHEREAS, the Authority and KCRC entered into the Amended and Restated Lease
14 and Development Agreement, dated as of November 24, 1992 (the “Existing Development
15 Agreement”), pursuant to which Existing Development Agreement KCRC leased the Entire
16 Property from the Authority and agreed to redevelop the Entire Property; and

17 WHEREAS, KCRC and KLP entered into the Amended and Restated Sublease
18 Agreement, dated as of November 24, 1992 (the “Existing Sublease”), pursuant to which
19 Existing Sublease KLP subleased the Entire Property from KCRC and agreed to redevelop the
20 Entire Property; and

21 WHEREAS, the Opera House Property is being released and removed from the Existing
22 Master Lease, the Existing Development Agreement and the Existing Sublease; and

1 WHEREAS, it is necessary for the City to enter into a non-disturbance and attornment
2 agreement, pursuant to which the parties to the agreement would agree to take, or to forbear from
3 taking, certain actions upon the termination of the new lease between the City and the Authority
4 or said sublease and development agreement or the occurrence of a default under said sublease
5 and development agreement; and

6 WHEREAS, it is necessary for the City to enter into a cooperation agreement with the
7 Authority, the Redeveloper, the Club and the District, pursuant to which the parties to the
8 agreement would agree to coordinate certain actions relating to the collection and allocation of
9 certain taxes, assessments, and payments; and

10 WHEREAS, it is necessary for the City to designate or have the Authority designate, on
11 behalf of the City, an area, having significant unemployment and general distress (as described in
12 the Redevelopment Plan), to be a “recovery zone” under the Internal Revenue Code of 1986, as
13 amended (the “Code”), and that the City designate up to \$21,000,000 aggregate face amount of
14 bonds to be issued by the Authority as “recovery zone facility bonds” for redevelopment of the
15 Opera House Property as provided in this Ordinance; and

16 WHEREAS, it is in the best interest of the City to execute and deliver the Master Lease,
17 the Agreement for Payment in Lieu of Taxes, the Non-Disturbance and Attornment Agreement
18 and the Cooperation Agreement (all as set forth below), to designate up to \$21,000,000
19 aggregate face amount of bonds to be issued by the Authority as ”recovery zone facility bonds”
20 for redevelopment of the Opera House Property and to take certain other actions.

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

1 **SECTION ONE.** Based upon the foregoing, the Board of Aldermen has determined
2 that it is in the best interest of the City to redevelop and to rehabilitate the Opera House Property
3 and to enter into the agreements identified in this Ordinance.

4 **SECTION TWO.** The Board of Aldermen hereby approves, and the Mayor and the
5 Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the
6 following documents: (a) the Master Lease, between the City and the Authority, the form of
7 which Master Lease is attached as Exhibit C to this Ordinance; (b) the Agreement for Payment in
8 Lieu of Taxes, between the City and the Redeveloper and acknowledged by the Authority, the
9 form of which Agreement is attached as Exhibit D to this Ordinance; (c) the Non-Disturbance
10 and Attornment Agreement, among the City, the Authority and the Redeveloper, the form of
11 which Agreement is attached as Exhibit E to this Ordinance; and (d) the Cooperation Agreement,
12 among the City, the Authority, the Club and the District, the form of which Agreement is
13 attached as Exhibit F to this Ordinance (the foregoing four documents collectively referred to as
14 the “Leasehold Agreements”). The City Register is hereby authorized and directed to attest to
15 the Leasehold Agreements and to affix the seal of the City thereto. Each of the Leasehold
16 Agreements shall be in substantially the form of such Agreement attached to this Ordinance,
17 with such changes therein as shall be approved by the Mayor and the Comptroller executing the
18 same and as may be consistent with the intent of this Ordinance and necessary and appropriate in
19 order to carry out the matters herein authorized.

20 **SECTION THREE.** The City designates (and the Authority on behalf is to designate)
21 the Area as having significant unemployment and general distress (as described in the
22 Redevelopment Plan). Accordingly, the Area constitutes a “recovery zone” pursuant to Section
23 1400U-1(b) of the Code. In addition, the City designates up to \$21,000,000 aggregate face

1 principal amount of bonds to be issued by the Authority with respect to the redevelopment of the
2 Area as “recovery zone facility bonds” for purposes of said Section 1400U-3 of the Code. The
3 Authority, on behalf of the City, is to designate as “recovery zone facility bonds” for purposes of
4 said Section 1400U-3 the exact aggregate face principal amount of such bonds to be issued by
5 the Authority; provided, however, such aggregate face principal amount of bonds shall not
6 exceed the amount of the “national recovery facility zone bond limitation” allocated to the City
7 under Section 1400U-1 of the Code.

8 **SECTION FOUR.** The Mayor and the Comptroller of the City or their designated
9 representatives are hereby authorized and directed to take any and all actions to execute and
10 deliver for and on behalf of the City any and all additional certificates, documents, agreements or
11 other instruments as may be necessary and appropriate in order to carry out the matters herein
12 authorized, with no such further action of the Board of Aldermen necessary to authorize such
13 action by the Mayor and the Comptroller or their designated representatives.

14 **SECTION FIVE.** The Mayor and the Comptroller of the City or their designated
15 representatives, with the advice and concurrence of the City Counselor, are hereby further
16 authorized and directed to make any changes to the documents, agreements and instruments
17 approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance
18 and necessary and appropriate in order to carry out the matters herein authorized, with no such
19 further action of the Board of Aldermen necessary to authorize such changes by the Mayor and
20 the Comptroller or their designated representatives.

21 **SECTION SIX.** It is hereby declared to be the intention of the Board of Aldermen
22 that each and every part, section and subsection of this Ordinance shall be separate and severable
23 from each and every other part, section and subsection hereof and that the Board of Aldermen

1 intends to adopt each said part, section and subsection separately and independently of any other
2 part, section and subsection. In the event that any part, section or subsection of this Ordinance
3 shall be determined to be or to have been unlawful or unconstitutional, the remaining parts,
4 sections and subsections shall be and remain in full force and effect, unless the court making
5 such finding shall determine that the valid portions standing alone are incomplete and are
6 incapable of being executed in accord with the legislative intent.

EXHIBIT A

DESCRIPTION OF OPERA HOUSE PROPERTY

Beginning at the east right-of-way of 15th Street and the south right-of-way of Market Street intersection point being the Point of Beginning of this description of Lease Premises for the Kiel Opera House; thence along the south right-of-way line of Market Street South 75 degrees 26 minutes 22 seconds East a distance of 331.12'; thence along the west right-of-way line of 14th Street South 17 degrees 15 minutes 47 seconds West a distance of 235.12' to a cross; thence leaving said right-of-way North 72 degrees 56 minutes 51 seconds West a distance of 30.81' along first floor building line per Sheet 6T of the City of St. Louis Municipal Auditorium and Community Center Building drawing set, dated 3/15/1932 and prepared by The Plaza Commission, Inc.; thence South 17 degrees 03 minutes 09 seconds West a distance of 49.41'; thence to a point North 72 degrees 56 minutes 51 seconds West a distance of 19.89'; thence to a point South 17 degrees 03 minutes 09 seconds West a distance of 20.77'; thence to a point North 73 degrees 05 minutes 43 seconds West a distance of 39.10'; thence to a point North 17 degrees 37 minutes 48 seconds East a distance of 21.54'; thence North 72 degrees 57 minutes 26 seconds West a distance of 241.19' to a set cross on the east right-of-way of 15th Street; thence along the east right-of-way of 15th Street North 17 degrees 13 minutes 38 seconds East a distance of 269.50' to the Point of Beginning; having an area of 2.09 Acres.

EXHIBIT B

DESCRIPTION OF SCOTTRADE PROPERTY

Beginning at a set cross at the Southeast corner of Lot 1 Kiel Center Subdivision a Resubdivision of City blocks 209 and 210, St. Louis, Missouri, Recorded in Plat Book 62, Pages 46 and 47. Said point being the west right-of-way of 14th Street and the north right-of-way of Clark Street intersection point; thence along the north right-of-way of Clark Street North 74 degrees 56 minutes 29 seconds West a distance of 504.62'; thence leaving said right-of-way line North 17 degrees 16 minutes 04 seconds East a distance of 94.26'; thence North 77 degrees 21 minutes 30 seconds East a distance of 36.66'; thence North 12 degrees 43 minutes 55 seconds West a distance of 14.50'; thence along a curve to the right an arc length of 95.84', having a radius of 183.04', with a chord bearing of North 02 degrees 16 minutes 03 seconds East, 94.75'; thence North 17 degrees 16 minutes 04 seconds East a distance of 150.43' to a set cross on the south right-of-way of Walnut Street; thence along the south right-of-way line of Walnut Street South 75 degrees 09 minutes 46 seconds East a distance of 93.79' to a set cross; thence North 17 degrees 13 minutes 38 seconds East a distance of 30.03' to a point; thence South 75 degrees 09 minutes 46 seconds East a distance of 40.04' to a point; thence North 17 degrees 13 minutes 38 seconds East a distance of 30.03' to a point; thence South 75 degrees 09 minutes 46 seconds East a distance of 40.04' to a point in the south right-of-way of Walnut Street and the east right-of-way of 15th Street intersection point; thence North 17 degrees 13 minutes 38 seconds East a distance of 58.52' to set cross; thence South 72 degrees 57 minutes 26 seconds East a distance of 241.19' along first floor building line per Sheet 6T of the City of St. Louis Municipal Auditorium and Community Center Building drawing set, dated 3/15/1932 and prepared by The Plaza Commission, Inc.; thence to a point South 17 degrees 37 minutes 48 seconds West a distance of 21.54'; thence to a point South 73 degrees 05 minutes 43 seconds East a distance of 39.10'; thence to a point North 17 degrees 03 minutes 09 seconds East a distance of 20.77'; thence to a point South 72 degrees 56 minutes 51 seconds East a distance of 19.89'; thence North 17 degrees 03 minutes 09 seconds East a distance of 49.41'; thence South 72 degrees 56 minutes 51 seconds East a distance of 30.81' to a set cross; thence South 17 degrees 15 minutes 47 seconds West a distance of 523.56' to the Point of Beginning of Lot 1; having an area of 5.18 Acres.

EXHIBIT C
MASTER LEASE

EXHIBIT D

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

EXHIBIT E

NON-DISTURBANCE AND ATTORNMENT AGREEMENT

EXHIBIT F
COOPERATION AGREEMENT