

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF A \$2,600,000 ORIGINAL PRINCIPAL AMOUNT TAX INCREMENT FINANCING NOTE (CHESTERFIELD VALLEY REDEVELOPMENT PROJECT) OF THE CITY OF CHESTERFIELD, MISSOURI, FOR THE PURPOSE OF PAYING A PORTION OF THE REDEVELOPMENT PROJECT COSTS IN CONNECTION WITH THE CHESTERFIELD VALLEY REDEVELOPMENT PLAN; PRESCRIBING THE FORM AND DETAILS OF SAID NOTE AND THE COVENANTS AND AGREEMENTS MADE BY THE CITY TO FACILITATE AND PROTECT THE PAYMENT THEREOF; AND PRESCRIBING OTHER MATTERS RELATING THERETO.**

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WHEREAS, the City of Chesterfield, Missouri (the "City"), is a third class city duly created, organized, and existing under the 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 August 17, 1994, and by motion, recommended approval of the Redevelopment Plan for the Chesterfield Valley Tax Increment Financing District, City of Chesterfield, dated August 17, 1994, as amended (the "Redevelopment Plan") and redevelopment project therein (the "Redevelopment Project"); and

WHEREAS, on October 17, 1994, the City adopted Ordinance No. 953 (the "Approving Ordinance") approving the Redevelopment Plan and Redevelopment Project pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the "Act"); and

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

WHEREAS, pursuant to Ordinance No. 954, the City adopted tax increment allocation financing under the Act; and

WHEREAS, Monarch-Chesterfield Levee District (the "Levee District") is a public corporation duly organized and existing under the laws of the State of Missouri, including Sections 245.010 to 245.280 and Sections 246.005 to 246.305 of the Revised Statutes of Missouri, as amended; and

WHEREAS, the Missouri River flood plain includes an area along a five-mile length of I-64/U.S.40 between Bonhomme Creek on the east and south, the Missouri River on the north and west, Eatherton Road and the Missouri River on the west and St. Louis Southwestern Railroad tracks on the south (as described, the "Chesterfield Valley Area") and the Chesterfield Valley Area includes the Redevelopment Project Area; and

WHEREAS, the Levee District has jurisdiction over the construction, maintenance, oversight and improvement of the levee and drainage system which protects the Chesterfield Valley Area; and

WHEREAS, the City has responsibility to provide for the general health, safety and welfare of that portion of Chesterfield Valley Area within the City. Further, the City has been designated by the Federal Emergency Management Agency ("FEMA") as flood plain manager and, to that end, has certain responsibilities to the entire flood plain within the Chesterfield Valley Area. Recognizing that a breach of a portion of the Monarch-Chesterfield Levee (as occurred in 1993) imperils the property and persons of the City, the City desires to protect existing property and persons and enhance the economic viability of the Chesterfield Valley Area and the Redevelopment Project Area for the overall betterment of the City by undertaking certain obligations with the Levee District consistent with its obligations as defined under state and federal law; and

WHEREAS, the City and the Levee District desire to cooperate and to take the reasonable steps necessary to facilitate the prompt design, commencement and completion of certain Chesterfield Valley improvements including the installation of internal pumps and structural improvements for the Monarch-Chesterfield Levee; and

WHEREAS, the City and the Levee District desire to share certain of the costs and other obligations in connection with the Chesterfield Valley Area improvements on the terms and conditions in an Intergovernmental Cooperation Agreement, dated September 12, 1996 (the "Agreement"), in accordance with and pursuant to the provisions of Article VI, § 16 of the Missouri Constitution and Sections 70.210 through 70.325 of the Revised Statutes of Missouri, as amended; 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 of \$2,600,000 to finance certain costs associated with said Chesterfield Valley Area improvements, specifically acquisition, construction and installation of Phase I Drainage Improvements as this term is defined in the Agreement (the "Project"); 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 CITY COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI, AS FOLLOWS:

## ARTICLE I

### DEFINITIONS

**Section 101. 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, as amended.

"Additional TIF Notes" means any additional parity TIF Notes issued pursuant to Section 207 of this TIF Note Ordinance.

"Agreement" means the Intergovernmental Cooperation Agreement between the City and Levee District, dated September 12, 1996.

"Approving Ordinance" means Ordinance numbered 953 of the City dated October 17, 1994, pertaining to the approval of the Redevelopment Plan and creation of the Redevelopment Project Area for Chesterfield Valley Tax Increment Financing District.

"Bond Resolution" means a Resolution of the Levee District dated October 10, 1996, pertaining to issuance by the Levee District of \$9,850,000 Principal Amount of Levee District Improvement Bonds, Series 1996.

"City" means the City of Chesterfield, 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.

"Finance Director" means the officer of the City authorized, from time to time, to act as the chief financial officer and treasurer by the City.

"Fund Ordinance" means Ordinance numbered 954 of the City dated October 17, 1994, 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.

"Levee District" means Monarch-Chesterfield Levee District, a public corporation duly authorized and existing under the laws of the State of Missouri.

"Maturity Date" means December 31, 2017.

"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 County Collector of Revenue during the term of the 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 over the amount of such taxes generated by economic activities within the area of the Project in the calendar year 1993 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 payments 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 1993. 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 Levee District or its successors in interest.

"Note" or "TIF Note" means the Tax Increment Financing Note of the City, in the original aggregate principal amount of \$2,600,000 authorized and issued pursuant to this TIF Note Ordinance.

"Original Purchaser" means the Levee District .

"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 February 15 and September 15, commencing on February 15, 1997.

"Project" means the acquisition, construction and installation of three pump stations referenced as Phase I Drainage Improvements and described in Exhibit B of the Agreement.

"Redevelopment Plan" means the Redevelopment Plan for Chesterfield Valley Tax Increment Financing District, City of Chesterfield, Missouri, dated August 17, 1994, as amended.

"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 under the Redevelopment Plan.

"Special Allocation Fund" means the fund by that name created by Section 4 of the Fund 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.

## **ARTICLE II**

### **AUTHORIZATION OF TIF NOTE**

**Section 201. 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 the original principal amount of Two Million Six Hundred Thousand and No/100 Dollars (\$2,600,000.00) 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.

**Section 202. 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 701 HEREOF, THE OBLIGATIONS OF THE City WITH RESPECT TO THE TIF NOTE SHALL TERMINATE ON December 31, 2017, WHETHER OR NOT THE PRINCIPAL AMOUNT HAS BEEN PAID IN FULL.

**Section 203. Description of TIF Note.** The TIF Note shall be issued in the original principal sum of \$2,600,000 and shall provide for simple interest accruing on the unpaid principal at a rate equal to the average annual interest rates on the obligations issued pursuant to the Bond Resolution or 7.0%, whichever is less. The TIF Note shall be substantially in the form set forth in Section 301 hereof. The TIF Note shall be dated the date of original delivery of the TIF Note, and shall become due on December 31, 2017.

**Section 205. 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 Finance Director at the offices of the City 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 Finance Director 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 206. Transfer and Assignment.** The TIF Note is being issued to the Original Purchaser pursuant to the Agreement. The TIF Note is not transferable or assignable except upon the express written permission of the City and only upon such terms and conditions the City, it is sole discretion, places upon any such transfer or assignment.

**Section 207. 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 shall be executed substantially in the form and manner set forth in Article III hereof.

### **ARTICLE III**

#### **FORM OF TIF NOTE**

**Section 301. Form of TIF Note.** The TIF Note, as originally issued upon transfer, exchange or substitution, shall be in substantially the following form:

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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 AND ONLY UPON WRITTEN CONSENT OF THE CITY.

**CITY OF CHESTERFIELD, MISSOURI  
TAX INCREMENT FINANCING NOTE  
SERIES 1996**

THE CITY OF CHESTERFIELD, MISSOURI ("City"), on this \_\_\_\_ day of \_\_\_\_\_, 1996, for value received promises to pay to the **Monarch-Chesterfield Levee District**, its successors and assigns (the "Levee District") the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), together with simple interest at the rate of \_\_\_\_\_ percent (\_\_\_\_%) 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) December 31, 2017 (the "Maturity Date"). This Note evidences sums advanced by the Levee District on behalf of the City pursuant to the Intergovernmental Cooperation Agreement between them dated September 12, 1996 (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. 954 passed and adopted by the City Council on October 17, 1994 (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, St. Louis County, 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 "Chesterfield Valley Tax Increment Financing Redevelopment Plan", dated June 28, 1994 and as from time to time further amended (the "Plan") and redevelopment projects including those specified in the Agreement (the "Project"), as approved in Ordinance No. 953, passed and adopted by the City Council on October 17, 1994 (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 City's Finance Director by the St. Louis County Collector of Revenue during the term of the 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 over

the amount of such taxes generated by economic activities within the area of the Project in the calendar year 1993 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 payments 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 1993. 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 Levee District or its successors in interest.

Subject to the terms of the immediately following paragraph, the principal and interest hereof shall be payable in semi-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) Subject to annual appropriation, Net Proceeds of the Special Allocation Fund shall first be disbursed to pay administrative, planning, legal and other related operational costs of the City associated with implementation of the Plan and Agreement but not to exceed \$100,000 in any calendar year;

(ii) 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;

(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 Agreement, allocated in accordance with the then outstanding principal balances thereof;

(iv) On the Maturity Date, the City shall pay to the Levee District out of Net Proceeds then on deposit in the Special Allocation Fund all sums due to the Levee District; 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 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 Levee District upon receipt by the City from the Levee District of an appropriate receipt, at such place within the City as may be specified by the Levee District from time to time.

Reference is made to the Agreement and Ordinance No. \_\_\_\_ passed and adopted by the City Council on \_\_\_\_\_, 1996 (the "TIF Note Ordinance") for a description of the covenants and agreements made by the City and Levee District 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 Levee District 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. This Note shall be assignable by the Levee District only upon expressed written consent of the City. 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.

The interest on this Note is includable in gross income for federal income tax purposes.

Outstanding principal owed on this Note may be canceled or reduced by the City pursuant to Sections 2(F), 2(G) and/or 2(H) of the Agreement by the City in accordance with the terms thereof.

CITY OF CHESTERFIELD, MISSOURI

By: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

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SCHEDULE 1

City of Chesterfield, Missouri  
 Tax Increment Financing Note  
 Series 1996 - 1

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Debt Service Schedule

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PAYMENT DATES	PRINCIPAL	COUPON	INTEREST	PERIOD TOTAL	FISCAL TOTAL
2/15/97	65,000.00	5.930000	48,154.85	113,154.85	
8/15/97			75,162.75	75,162.75	188,317.60
2/15/98	70,000.00	5.930000	75,162.75	145,162.75	
8/15/98			73,087.25	73,087.25	218,250.00
2/15/99	70,000.00	5.930000	73,087.25	143,087.25	
8/15/99			71,011.75	71,011.75	214,099.00
2/15/ 0	75,000.00	5.930000	71,011.75	146,011.75	
8/15/ 0			68,788.00	68,788.00	214,799.75
2/15/ 1	85,000.00	5.930000	68,788.00	153,788.00	
8/15/ 1			66,267.75	66,267.75	220,055.75
2/15/ 2	90,000.00	5.930000	66,267.75	156,267.75	
8/15/ 2			63,599.25	63,599.25	219,867.00
2/15/ 3	95,000.00	5.930000	63,599.25	158,599.25	
8/15/ 3			60,782.50	60,782.50	219,381.75
2/15/ 4	100,000.00	5.930000	60,782.50	160,782.50	
8/15/ 4			57,817.50	57,817.50	218,600.00
2/15/ 5	110,000.00	5.930000	57,817.50	167,817.50	
8/15/ 5			54,556.00	54,556.00	222,373.50
2/15/ 6	115,000.00	5.930000	54,556.00	169,556.00	
8/15/ 6			51,146.25	51,146.25	220,702.25
2/15/ 7	125,000.00	5.930000	51,146.25	176,146.25	
8/15/ 7			47,440.00	47,440.00	223,586.25
2/15/ 8	135,000.00	5.930000	47,440.00	182,440.00	
8/15/ 8			43,437.25	43,437.25	225,877.25
2/15/ 9	145,000.00	5.930000	43,437.25	188,437.25	
8/15/ 9			39,138.00	39,138.00	227,575.25
2/15/10	150,000.00	5.930000	39,138.00	189,138.00	
8/15/10			34,690.50	34,690.50	223,828.50
2/15/11	165,000.00	5.930000	34,690.50	199,690.50	
8/15/11			29,798.25	29,798.25	229,488.75
2/15/12	175,000.00	5.930000	29,798.25	204,798.25	
8/15/12			24,609.50	24,609.50	229,407.75
2/15/13	185,000.00	5.930000	24,609.50	209,609.50	
8/15/13			19,124.25	19,124.25	228,733.75
2/15/14	200,000.00	5.930000	19,124.25	219,124.25	
8/15/14			13,194.25	13,194.25	232,318.50
2/15/15	215,000.00	5.930000	13,194.25	228,194.25	
8/15/15			6,819.50	6,819.50	235,013.75
2/15/16	230,000.00	5.930000	6,819.50	236,819.50	
8/15/16					236,819.50
ACCRUED	2,600,000.00		1,849,095.85	4,449,095.85	
	<u>2,600,000.00</u>		<u>1,849,095.85</u>	<u>4,449,095.85</u>	

## ARTICLE IV

### ESTABLISHMENT OF FUNDS

Section 401. Creation of Funds and Accounts. There is hereby created and ordered to be established in the treasury of the City the following separate funds and accounts:

- (a) Chesterfield Valley Special Allocation Fund of the City of Chesterfield (the "Special Allocation Fund"), and within the Special Allocation Fund, a PILOTs Account and an Economic Activity Tax Account.
- (b) Project Fund for Phase I Drainage Improvements (the "Project Fund") and within the Project Fund, a Project Account and a Cost of Issuance Account.

Section 402. Administration of Funds. The funds established pursuant to Section 4 of the Fund Ordinance and Section 401 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 V

### PAYMENT OF TIF NOTE

Section 501. Special Allocation Fund. Pursuant to the Act and the TIF Note Ordinance, the Finance Director shall deposit all Net Proceeds into the Special Allocation Fund.

Section 502. Application of Moneys in the Special Allocation Fund. So long as any of the TIF Notes remain outstanding, the Finance Director shall, on Payment Dates administer and allocate the moneys held in the PILOTs Account and, subject to annual appropriation by the City, the Economic Activity Tax Account as follows:

- (a) Fees and Expenses. There shall first be paid to the City or its payees any fees and expenses incurred by the City incidental to the Redevelopment Plan or the TIF Notes; provided, that such amount shall not exceed the sum of \$100,000 during any calendar year.
- (b) Payment of TIF Notes. There shall next be paid to the Owner an amount equal to the interest and principal then due pursuant to Schedule 1 of the TIF Note.
- (c) Payment of Deficiency. There shall next be paid to the Owner amounts owed on all outstanding Deficiencies.
- (d) 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.
- (e) 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 December 31, 2017, but only to the extent that Net Proceeds are available in or then due to the Special Allocation Fund as of December 31, 2017. Except as provided in Section 701

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 506. Remedies. The provision 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:

- (a) 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;
- (b) 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
- (c) 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 507. 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 508. 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 VI

### **DEPOSIT AND INVESTMENT OF MONEYS**

Section 601. 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 \$5,000,000, 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 602. 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 \$5,000,000, 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 VII

### MISCELLANEOUS PROVISIONS

Section 701. 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 702. 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:

- (a) 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.
- (b) 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 703. Execution of Documents. The City is hereby authorized to enter into and the Mayor is 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 704. Further Authority. The officers of the City, including the Mayor, City Administrator, the City Clerk and the Finance Director, 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 705. TIF Note Taxable. The interest on the TIF Note is includable in gross income for federal income tax purposes.

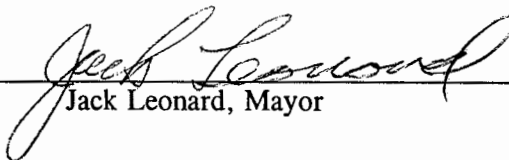
Section 706. Severability. If any section or other part of the TIF Note Ordinance, whether large or small, shall for any reason be held invalid, the invalidity thereof shall not affect the validity of the other provisions of the TIF Note Ordinance.

Section 707. Governing Law. The TIF Note Ordinance shall be governed exclusively by and constructed in accordance with the applicable laws of the State of Missouri.

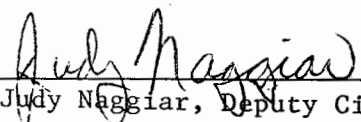
Section 708. Effective Date. The TIF Note Ordinance shall take effect and be in full force from and after its passage by the City's City Council.

PASSED AND APPROVED THIS 11<sup>ST</sup> DAY OF OCTOBER, 1996.

(Seal)

  
\_\_\_\_\_  
Jack Leonard, Mayor

ATTEST:

  
\_\_\_\_\_  
Judy Naggia, Deputy City Clerk