

BILL NO. 2879 _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI, ESTABLISHING THE CHESTERFIELD BLUE VALLEY COMMUNITY IMPROVEMENT DISTRICT; APPROVING THE APPOINTMENT OF THE INITIAL BOARD OF DIRECTORS THERETO; AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT; AND FURTHER ACTION RELATED THERETO

WHEREAS, the City of Chesterfield, Missouri (the “City”) is authorized and empowered pursuant to the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the “CID Act”), to establish a community improvement district as proposed by a verified petition; and

WHEREAS, on March 29, 2012, Chesterfield Blue Valley, LLC, a Missouri limited liability company (the “Developer”), and Donald E. Brasher and Barbara J. Maloney, tenants in common (“Brasher”, and collectively, the “Petitioners”) filed a Petition to Establish the Chesterfield Blue Valley Community Improvement District (the “Petition”) with the City Clerk; and

WHEREAS, the City Clerk has verified that the Petition complies with the requirements of the CID Act; and

WHEREAS, after timely notice of the public hearing by publication and individually to each property owner within the proposed Chesterfield Blue Valley Community Improvement District (the “District”) via registered or certified United States mail with a return receipt, the City Council held a public hearing regarding the establishment of the District on May 7, 2012, at the Chesterfield City Hall, 690 Chesterfield Parkway West, Chesterfield, Missouri 63017 (the “Public Hearing”); and

WHEREAS, subject to and in accordance with the CID Act and the Petition, and upon the approval of the qualified voters of the District, the District intends: (a) to impose a sales tax in an amount at a rate of one percent (1%) (“Sales Tax”) on the receipts from the sales at retail of all tangible personal property or taxable services at retail within the District, if such property and services are subject to taxation by the State of Missouri pursuant to the provisions of Sections 144.010 to 144.525 of the Revised Statutes of Missouri, as amended, except such Sales Tax shall not apply to the sale or use of motor vehicles, trailers, boats, or outbound motors, not to public utilities, and (b) and, if necessary to fund debt service shortfalls on any obligations issued by the District, to levy a special assessment against the real property within the boundaries of the District in an aggregate amount not to exceed \$1,600,000.00 per year (the “Special Assessment”); and

WHEREAS, the Petition provides that the proposed members of the initial Board of Directors of the District be appointed by the Mayor with the consent of the City Council pursuant to Section 67.1451.5 of the CID Act; and

WHEREAS, the District proposes to apply the Sales Tax and the Special Assessment revenues to the payment of costs related to the improvements described in the Petition; and

WHEREAS, following closure of the Public Hearing and upon due consideration of the comments received, the City Council has determined that it is necessary and in the interest of the public health, safety, morals and general welfare of the people of the City to create the District; and

WHEREAS, the City, the District and the Developer desire to enter into a development agreement (the “Development Agreement”) governing the construction of the project described in the Petition, and the operation and financing of the District.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI, as follows:

Section 1. Pursuant to Section 67.1411.3 of the CID Act, the Chesterfield Blue Valley Community Improvement District is hereby formed as a political subdivision of the State of Missouri pursuant and subject to the terms of the Petition attached hereto as Exhibit A and incorporated herein by reference.

Section 2. The District shall not terminate sooner than one year from the date of this Ordinance.

Section 3. Pursuant to Section 67.1451.5 of the CID Act, the Mayor hereby appoints and the City Council of the City hereby approves the initial appointment of the District’s Board of Directors as follows:

<u>Name</u>	<u>Initial Term</u>
Dean Wolfe	4 years from date of appointment
Eric Fjeseth	4 years from date of appointment
Marian Nunn	2 years from date of appointment
[to be provided]	2 years from date of appointment
Raymond Wade	2 years from date of appointment

The date of appointment for each of the initial Board of Directors shall be the date of passage of this Ordinance. No further action by the Mayor or City Council is necessary for appointment of the Board of Directors.

Section 4. The Board of Directors of the District shall have its initial meeting on such date and at such time when a quorum of Board of Directors is available.

Section 5. Pursuant to Section 67.1421.6 of the CID Act, the City Clerk shall notify in writing the Missouri Department of Economic Development of the District’s creation.

Section 6. The City Council hereby approves the Development Agreement in substantially the form attached hereto as Exhibit B, with such changes therein as shall be approved by the

officers of the City executing the same. The Mayor is hereby authorized and directed to execute, on behalf of the City, the Development Agreement between the City, the District and the Developer, and the City Clerk is hereby authorized and directed to attest to the Development Agreement and to affix the seal of the City thereto; provided, however, that because the formation of the District and the authorization of the Development Agreement are conditioned on the District's approval thereof, if the Developer fails to (a) execute the Development Agreement, and (b) cause the District to execute the Development Agreement within thirty (30) days of the adoption of this Ordinance, this Ordinance shall be null and void and establishment of the District and the authority to execute the Development Agreement shall be terminated.

Section 7. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 8. The sections of this Ordinance shall be severable. If any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections shall remain valid, unless the court finds that (a) the valid sections are so essential to and inseparably connected with and dependent upon the void section that it cannot be presumed that the City Council would have enacted the valid sections without the void ones; and (b) the valid sections, standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 9. This Ordinance shall be in full force and effect from and after its passage of the City Council and approval by the Mayor.

Passed and approved this _____ day of May, 2012.

MAYOR

(SEAL)

ATTEST:

CITY CLERK

**EXHIBIT A
CID PETITION**

EXHIBIT B
FORM OF DEVELOPMENT AGREEMENT