

**FIFTH AMENDMENT  
TO THE  
CHOUTEAU I-35  
TAX INCREMENT FINANCING PLAN**

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**KANSAS CITY, MISSOURI**

**TIF COMMISSION APPROVAL:**

<b>6/13/07</b>	<b>6-10-07</b>
<b>DATE</b>	<b>RESOLUTION No.</b>

**CITY COUNCIL APPROVAL:**

<b>10/4/07</b>	<b>070995</b>
<b>DATE</b>	<b>ORDINANCE No.</b>

**FIFTH AMENDMENT  
TO THE  
CHOUTEAU I-35  
TAX INCREMENT FINANCING PLAN**

**I. INTRODUCTION**

The Fifth Amendment to the Chouteau I-35 Tax Increment Financing Plan (the "Fifth Amendment") shall amend the Chouteau I-35 Redevelopment Plan as approved by the Ordinance No. 980426 on April 23, 1998, the First Amendment to Chouteau I-35 Redevelopment Plan by Ordinance No. 020784 on July 18, 2002, the Second Amendment to Chouteau I-35 Redevelopment Plan by Ordinance No. 030022 on January 16, 2003, the Third Amendment to Chouteau I-35 Redevelopment Plan by Ordinance No. 040097 on February 5, 2004 and the Fourth Amendment to Chouteau I-35 Redevelopment Plan by Ordinance 060324 on March 30, 2006 (collectively referred to herein as the "Plan"). The proposed Fifth Amendment provides for certain revisions to the budget of Redevelopment Project Costs. The intent of the Plan remains unchanged other than those changes specifically mentioned herein.

**II. SPECIFIC AMENDMENTS**

In accordance with this Fifth Amendment, the Plan shall be amended as follows:

**Amendment No. 1: Section I. Introduction**

Revise Section I of the Plan by deleting the second sentence of the second paragraph in its entirety and replacing it with the following:

These will include improvements to North Chouteau Trafficway between I-35 and Highway 210, improvements to the Chouteau Greenway Park, and neighborhood housing and infrastructure improvements.

**Amendment No. 2: Section III.A. General Description of Plan and Projects**

Revise subsection A of Section III of the Plan, by deleting the second paragraph in its entirety and replacing it with the following:

Tax Increment Financing is proposed for costs associated with curing blight on the site, to provide for reconstruction of Chouteau Trafficway into a four-lane boulevard as a portion of the City's planned Centennial Parkway and to make improvements to the Chouteau Greenway Park. The street improvements are proposed to be accomplished in two phases. The first phase involves the reconstruction of Chouteau Trafficway adjacent to the Redevelopment Area. Costs to

reconstruct this portion of the Trafficway are estimated at \$1,602,703. This work will be completed in conjunction with the construction of Project Areas 1 and 2. These costs will be repaid through Payments in Lieu of Taxes (PILOTs) and Economic Activity Taxes (EATs) captured in the TIF Special Allocation Fund (SAF). The second phase involves improvements to Chouteau Trafficway between I-35 and Highway 210 to upgrade Chouteau to boulevard status as part of the City's planned Centennial Parkway. Also included are the improvements to the Chouteau Greenway and the establishment of a fund for Neighborhood Housing and Infrastructure Improvements. The allocation and prioritization of these improvements will be recommended by an advisory committee structure, with ultimate approval by the TIF Commission.

**Amendment No. 3: Section III.C.2. Project Improvements**

Revise subsection C. 2) of Section III of the Plan, by deleting it in its entirety and replacing it with the following:

2) Public Improvement No. 2: Chouteau Greenway Park Improvements. Improvement of the Chouteau Greenway on the east side of Chouteau Trafficway will occur in accordance with the requirements of the City's Public Works Department with input from the Chouteau Area Advisory Committee. Funds remaining after the improvements have been made to the Chouteau Greenway shall be used for housing and neighborhood improvements in the Chaumiere and Winnwood/Sunnybrook neighborhoods. The exact amount to be allocated to this improvement and priority for funding will be based on recommendations by the Chouteau Area Advisory Committee with final approval by the TIF Commission as described in Section III.H. of the Plan.

**Amendment No. 4: Section III.E. Estimated Date of Completion**

Delete the last sentence of the first paragraph and replace it with the following:

The funding prioritization and development schedule for the anticipated improvements to Chouteau Trafficway, Chouteau Greenway Park and the implementation of the Neighborhood Housing and Infrastructure Program will be recommended by the Chouteau Area Advisory Committee and the Chouteau Housing and Neighborhood Development Advisory Committee with final approval by the TIF Commission.

**Amendment No. 5: Section III.H. 1), Advisory Committee: Chouteau Area Advisory Committee**

Delete all of Subsection H. 1) of Section III of the Plan and replace it with the following:

1.) Chouteau Area Advisory Committee: An advisory committee consisting of the representatives from the following bodies and entities shall have the overall administrative responsibility for making recommendations to the TIF Commission regarding the use, priority and disbursement of funds placed in an account designated for expenses related to public improvements in the Redevelopment Area (the "Public Improvements Fund"). The Chouteau Area Advisory Committee shall be comprised of seven members as follows: Two (2) City Council representatives from the First District; one (1) representative from the Board of City Parks & Recreation Commissioners; one (1) representative from the Northland Neighborhoods, Inc.; one (1) representative from the Clay County Economic Development Council; one (1) representative from the Winnwood/Sunnybrook Neighborhood; one (1) representative from the Chaumiere Neighborhood. Representatives shall be selected from their respective boards and entities and serve until they are replaced by their respective boards and entities or until otherwise directed by the TIF Commission. This committee shall serve in an advisory capacity to the TIF Commission.

#### **Amendment No. 5: Section IV.A. Estimated Redevelopment Project Costs**

Revise subsection A of Section IV of the Plan by deleting the first paragraph in its entirety and replacing it with the following:

The total project costs are estimated to be approximately \$31.03 million of which approximately \$14.31 million would qualify as reimbursable project costs under TIF. Redevelopment Project Costs associated with Redevelopment Project Costs 1 and 2 are estimated to be approximately \$25.56 million, of which approximately \$9.9 million will qualify as reimbursable Project Costs. These amounts are set out in detail in Exhibit 5. Redevelopment Project Costs associated with Redevelopment Project 3 are estimated to be \$1.5 million, of which approximately \$455,000 would qualify as reimbursable Project Costs. It is estimated that the cost of the Public Improvements No.1, Chouteau Trafficway, will be approximately \$2 million; Public Improvement No. 2, Chouteau Greenway Park, will be approximately \$698,000 and Winn Road engineering costs of approximately \$102,000; Public Improvement No. 3, Neighborhood Housing and Infrastructure Improvements, will be approximately \$1 million, all of which qualify as reimbursable project costs. Any funds remaining from the Chouteau Greenway park improvements shall be used for housing and infrastructure improvements in the Chaumiere and Winnwood/Sunnybrook neighborhoods. These costs are described in detail on Exhibit 5.

### **III. Plan Exhibit Amendments**

**Amendment No. 6:** Delete Exhibit 5 of the Plan, entitled "Estimated Redevelopment Project Costs," and insert Revised Exhibit 5, attached hereto, in its stead.

**SUMMARY OF PROJECT COSTS**  
**Fifth Amendment**

	Project Costs	Reimbursable Costs
<b>Project 1 &amp; 2</b>		
Net Land Costs	1,832,131	1,090,500
Net Site Work Costs	6,555,941	6,402,102
Building Construction Costs	11,768,865	-
Indirect Costs	2,496,000	630,000
Financing Costs	3,104,112	1,449,112
Total Pad Sales	(538,000)	-
Commission/Administration	338,235	338,235
<b>Total</b>	<b>\$ 25,557,284</b>	<b>\$ 9,909,949</b>
<b>Project 3 (McDonald's)</b>		
Developers Costs		
Net Land Costs	(50,000)	-
Net Site Work Costs	205,444	205,444
Indirect Costs	242,177	242,177
Financing Costs <sup>①</sup>	7,456	7,456
Developer's Total Costs	<u>405,077</u>	<u>455,077</u>
McDonald's Costs	1,125,000	-
<b>Total Project Costs</b>	<b>\$ 1,530,077</b>	<b>\$ 455,077</b>
<b>Public Improvement No. 1 - Chouteau Trafficway</b>		
Engineering & Partial Right-of-Way Acquisition	2,000,000	2,000,000
<b>Public Improvement No. 2 - Winn Road &amp; Chouteau Greenway</b>		
Public Works Estimate—Engineering & Construction	102,273	102,273
Chouteau Greenway & Neighborhood Improvements <sup>②</sup>	697,727	697,727
<b>Public Improvement No. 3 - Housing</b>		
Housing & Infrastructure Rehabilitation	1,000,000	1,000,000
<b>Additional Legal</b>		
Public Improvements	60,000	60,000
Bond Issue	55,000	55,000
<b>Total Additional Legal</b>	<b>115,000</b>	<b>115,000</b>
<b>Return on Developer's Equity</b>	<b>29,296</b>	<b>29,296</b>
<b>TOTAL PROJECT COSTS</b>	<b>\$ 31,031,657</b>	<b>\$ 14,309,322</b>

① Financing Costs are an estimate only. All Financing Costs are to be reimbursed per the Commission's Interest Rate Policy.

② Funds remaining from the Chouteau Greenway park improvements shall be used for housing and neighborhood improvements in the Chaumiere and Winnwood/Sunnybrook neighborhoods.

# CHOUTEAU GREENWAY PARK MASTER PLAN

ITEM	QUANTITY UNIT	TOTAL PRICE
Perimeter Trail-6' Wide Concrete	8600 SF	\$ 60,200
Interior Trails- 6' Wide Concrete	3600 SF	25,200
Youth Swings	1	5,000
Tot Swings	1	5,000
Electrical for Shelter	1	15,000
Security Lighting	1	45,000
Accessible Ramp	4	10,000
Shelter 16' x 32'	1	85,000
Picnic Tables	6	9,000
Benches	7	7,000
Parking Lot 39 Spaces	13800 SF	138,000
Concrete Curbing for Parking Area	810 SF	21,870
Athletic Fields Reseeding	80000 SF	-
Trees	16	-
Drinking Fountain	1	15,000
4' Fence Adjacent to Retail Area	630 LF	28,350
Dugout and Concrete for Baseball	500 SF	3,500
Park Sign	1	8,500
Construction Cost		481,620
Design Fees		24,081
Construction Contingency		96,324
<b>Total Project Cost</b>		<b>\$ 602,025</b>
TEFRA bond legal expenses		40,000
Housing & Neighborhood Improvements ①		55,702
<b>TOTAL</b>		<b>\$ 697,727</b>

Date Prepared:5-8-07

- ① Funds remaining from the Chouteau Greenway park improvements shall be used for housing and neighborhood improvements in the Chaumiere and Winnwood/Sunnybrook neighborhoods.

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 070995

Accepting the recommendations of the Tax Increment Financing Commission as to and approving the Fifth Amendment to the Chouteau I-35 Tax Increment Financing Plan; authorizing a supplemental bond indenture in connection with the tax increment financing bonds (Series 2003A and Series 2003B) for the Chouteau I-35 Project.

WHEREAS, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, 1986, as amended (the "Act"), the City Council of Kansas City, Missouri, by Ordinance No. 54556, passed on November 24, 1982, and thereafter repealed and amended in certain respects by Committee Substitute to Ordinance No. 911076, as amended, passed on August 29, 1991, created the Tax Increment Financing Commission of Kansas City, Missouri (the "Commission"); and

WHEREAS, on April 23, 1998, the Council passed Ordinance No. 980426 accepting the recommendations of the Commission as to and approving the Chouteau I-35 Tax Increment Financing Plan (the Plan) and designating a Redevelopment Area; and

WHEREAS, on June 12, 2002, the Commission recommended approval for the first amendment to the Redevelopment Plan (the First Amendment) which provided for the separation of Project 3 into two new project areas, improvements of N. Chouteau Trafficway between I-35 and Highway 210 and Winn Road as well as a neighborhood housing and infrastructure improvement program; and

WHEREAS, on July 18, 2002, the Council passed Ordinance No. 020784, accepting the recommendations for the Commission as to and approving the First Amendment; and

WHEREAS, on December 11, 2002, the Commission recommended approval for the second amendment to the Redevelopment Plan (the Second Amendment) which provided for the expansion of the boundaries of the Redevelopment Area to include the Winnwood-Sunnybrook and Chaumiere Neighborhoods and allow the establishment of a housing program in those neighborhoods; and

WHEREAS, on January 16, 2003, the Council passed Ordinance No. 030022, accepting the recommendations for the Commission as to and approving the Second Amendment to the Redevelopment Plan; and

WHEREAS, on December 10, 2003, the Commission recommended approval for the third amendment to the Redevelopment Plan (the Third Amendment) which incorporated the redevelopment schedule for the improvements to North Chouteau Trafficway between I-35 and Missouri Highway 210; and

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 070995

WHEREAS, on February 5, 2004, the Council passed Ordinance No. 040097, accepting the recommendations for the Commission as to and approving the Third Amendment to the Redevelopment Plan; and

WHEREAS, on March 8, 2006, the Commission recommended approval for the fourth amendment to the Redevelopment Plan (the Fourth Amendment) which provides for revisions to the budget of the redevelopment project costs; and

WHEREAS, on March 30, 2006, the Council passed Ordinance No. 060324, accepting the recommendations for the Commission as to and approving the Fourth Amendment to the Redevelopment Plan; and

WHEREAS, on June 13, 2007, the Commission recommended approval for the fifth amendment to the Redevelopment Plan (the Fifth Amendment) by adoption of Resolution No. 6-10-07 (the Resolution), after proper notice was given and public hearings were held; and

WHEREAS, the Fifth Amendment provides for revisions to the budget of the redevelopment project costs and updates the representatives on the Chouteau Area Advisory Committee; and

WHEREAS, the Commission issued its \$7,355,000 aggregate principal amount of Variable Rate Demand Tax Increment Revenue Bonds, (Chouteau I-35 Project) Series 2003A (the "Series 2003A Bonds") and \$7,425,000 aggregate principal amount of Variable Rate Demand Taxable Tax Increment Revenue Bonds (Chouteau I-35 Project) Series 2003B Bonds (the "Series 2003B Bonds") (the Series 2003A Bonds and the Series 2003B Bonds are collectively referred to as the "Bonds") pursuant to a Bond Trust Indenture dated as of February 1, 2003 (the "Bond Indenture") between the Commission and Commerce Bank, N.A. (the "Trustee"), to provide funds to (a) pay for certain Costs of the Project (as defined in the Bond Indenture), including the current refunding of the Series 2001 Bonds, (b) fund capitalized interest on the Bonds, and (c) pay certain costs related to the issuance of the Bonds; and

WHEREAS, the City entered into a Financing Agreement dated as of February 1, 2003 in connection with the Bonds and the City desires to consent to Supplemental Bond Trust Indenture No. 1 dated as of the date set forth therein ("Supplemental Bond Trust Indenture No. 1") between the Commission and the Trustee, by executing such document, which consent is required under the Bond Indenture; and

WHEREAS, the City finds and determines that it is necessary and desirable in connection with Supplemental Bond Trust Indenture No. 1 that the City consent to such document and that the City execute and deliver its consent thereto and certain documents and that the City take certain other actions as herein provided; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:



COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 070995

Section 1. The recommendations of the Commission concerning the Fifth Amendment to the Redevelopment Plan as set forth in the Resolution attached hereto as Exhibit "A" are hereby accepted and the Amendment to the Redevelopment Plan, a copy of which is attached hereto as Exhibit "B", is hereby approved and adopted as valid and the Redevelopment Projects contained therein are hereby authorized.

Section 2. All terms used in this Ordinance shall be construed as defined in Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended.

Section 3. In accordance with the recommendations of the Commission as set forth in the Resolution, the City Council hereby finds that:

- (a) The Amended Redevelopment Area as a whole is a conservation area;
- (b) The following factors are hereby found to exist in the Amended Redevelopment Area, to-wit:
  - (i) The median age of 50% of the structures in the census tracts within the area is 35 years or older.
  - (ii) There is evidence of dilapidation, obsolescence, illegal use of structures, excessive vacancies and other potentially blighting factors referenced in Section 99.805(3), RSMo.
- (c) The Amended Redevelopment Area as a whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the Redevelopment Plan and such fact is acknowledged in an affidavit included in the Plan as Exhibit 15 thereto;
- (d) The Amended Redevelopment Area includes only those parcels of real property directly and substantially benefited by the proposed Redevelopment Projects;
- (e) The Fifth Amendment to the Redevelopment Plan conforms to the Briarcliff-Antioch-Davidson Area Plan and to FOCUS, the comprehensive plan for the development of the City as a whole;
- (f) The estimated dates of completion of the respective Redevelopment Projects and retirement of obligations incurred to finance Redevelopment Project Costs, have been stated in the Fifth Amendment to the Redevelopment Plan and are not more than 23 years from the adoption of any ordinance approving a Redevelopment Project within the Amended Redevelopment Area;

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 070995

- (g) A plan has been developed for relocation assistance for businesses and residences;
- (h) A cost benefit analysis showing the economic impact of the Fourth Amendment to the Redevelopment Plan on each taxing district at least partially within the boundaries of the Redevelopment Area has been prepared;
- (i) The Fifth Amendment to the Redevelopment Plan does not include the initial development or redevelopment of any gambling establishment.
- (j) A blight study has been completed and the findings of such study satisfy the requirements provided under subdivision (1) of Section 99.805, RSMo.

Section 5. The Commission is authorized to issue obligations in one or more series of bonds secured by the Chouteau I-35 Account of the Special Allocation Fund to finance Redevelopment Project Costs within the Amended Redevelopment Area and, subject to any constitutional limitations, to acquire by purchase, donation, lease or eminent domain, own, convey, lease, mortgage, or dispose of, land or other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the Commission determines, to enter into such contracts and take all such further actions as are reasonably necessary to achieve the objectives of the Fifth Amendment to the Redevelopment Plan pursuant to the power delegated to it in Ordinance No. 54556. Any obligations issued to finance Redevelopment Project Costs shall contain a recital that they are issued pursuant to Sections 99.800 to 99.865, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 6. Pursuant to the provisions of the Fifth Amendment to the Redevelopment Plan, the City Council approves the pledge of all funds that are deposited into the Chouteau I-35 Account of the Special Allocation Fund to the payment of Redevelopment Project Costs within the Amended Redevelopment Area and authorizes the Commission to pledge such funds on its behalf.

Section 7. Authorization and Approval of Supplemental Bond Trust Indenture No. 1. Supplemental Bond Trust Indenture No. 1 is hereby approved in substantially the form presented to the City Council and the City is hereby authorized to consent to the Supplemental Bond Trust Indenture No. 1 by executing and delivering Supplemental Bond Trust Indenture No. 1 with such changes therein as shall be approved by the officials of the City executing Supplemental Bond Trust Indenture No. 1, such officials' signatures thereon being conclusive evidence of their approval and the City's approval thereof.

Section 8. Execution of Supplemental Bond Trust Indenture No. 1. The Director of Finance is hereby authorized and directed to execute and deliver the Supplemental

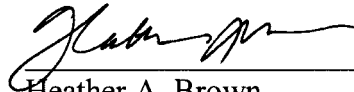
COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 070995

Bond Trust Indenture No. 1 on behalf of the City. The Director of Finance is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this ordinance for and on behalf of and as the act and deed of the City.

Section 9. Further Authority. The City shall, and the officials, 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, and to carry out, comply with and perform the duties of the City with respect to the Financing Agreement and the transactions contemplated thereby.

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Approved as to form and legality:



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Heather A. Brown  
Assistant City Attorney

Authenticated as Passed



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Mark Funkhouser, Mayor



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Millie M. Croesland, City Clerk

**OCT 04 2007**  
Date Passed