

## **BILL NO. 19-264**

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AN ORDINANCE APPROVING AN AMENDED AND RESTATED PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR RESIDENCES AT ECHELON, APPROVING THE ISSUANCE OF AN ADDITIONAL \$9,000,000 OF INDUSTRIAL DEVELOPMENT REVENUE BONDS FOR THE PROJECT, AND APPROVING THE AMENDMENT OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the City of Lee's Summit, Missouri (the "City") is a constitutional charter city and municipal corporation of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and,

WHEREAS, the City is authorized under the provisions of Article VI, Section 27 of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend and improve certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and,

WHEREAS, pursuant to the Act, the City Council passed Ordinance No. 8069 on January 12, 2017, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Residences at Echelon Project), Series 2017, in the maximum principal amount of \$27,000,000 (the "Bonds"), for the purpose of acquiring and improving certain real property located generally at the Northwest corner of 291 and 150 Highways in the City (the "Project Site"), including the construction and improvement of a luxury apartment complex on the Project Site (the "Project Improvements," together with the Project Site, the "Project"); and,

WHEREAS, the City leased the Project to M150 Echelon Land Development, LLC, a Missouri limited liability company (the "Company") pursuant to a Lease Agreement dated as of March 1, 2017 (the "Lease") between the City and the Company; and,

WHEREAS, the completion of the Project Improvements has been delayed, causing the economic effect of the current schedule of payments in lieu of taxes to have an unanticipated negative consequence on the Company, in that a full payment in lieu of tax computed based on full project completion is due for 2019, but the Project Improvements are not yet complete; and,

WHEREAS, unanticipated cost increases have caused the estimated cost of completing the Project Improvements to exceed the existing capacity of the Bonds, and

WHEREAS, the Company and the City desire to extend the maturity of the Bonds by one year to December 1, 2029, to extend the term of the Lease by one year to December 1, 2029, and to extend the abatement period by one year through 2029; and

WHEREAS, the Company and the City desire to authorize additional bond capacity in the amount of \$9,000,000 for a total maximum principal amount not to exceed \$36,000,000; and,

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WHEREAS, the City, in accordance with Section 100.050 of the Act, has prepared a Second Amended and Restated Plan for an Industrial Development Project for Residences at Echelon (the "Amended Plan"); and,

WHEREAS, notice of the Amended Plan was provided to the taxing jurisdictions by mail, in accordance with Section 100.059.1 of the Act and the City now desires to approve the Amended Plan and the amendment of certain documents in connection therewith; and,

WHEREAS, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City approve the Amended Plan and the amendment of certain documents in connection therewith.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, AS FOLLOWS:

SECTION 1. Promotion of Economic Development. The Council hereby finds and determines that the Project under the Amended Plan will promote the economic welfare and the development of the City and will be in furtherance of the public purposes set forth in the Act. The Project constitutes a "commercial" facility for purposes of the Act.

SECTION 2. Approval of Amended Plan. The Council hereby approves the Amended Plan attached hereto as Exhibit A in accordance with Section 100.050 of the Act.

SECTION 3. Approval and Authorization of Documents. In order to carry out the purposes of the Amended Plan and this Ordinance, the Omnibus Amendment of Documents (the "Amendment") is hereby approved in substantially the form presented to the Council at this meeting (copies of which document shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the Amendment with such changes therein as shall be approved by the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof.

SECTION 4. Approval of Additional Bond Capacity. The City hereby authorizes the reissuance of the Bonds with an increase in maximum aggregate principal amount not to exceed an additional \$9,000,000, for a total maximum aggregate principal amount not to exceed \$36,000,000.

SECTION 5. Execution of Documents. The Mayor of the City is hereby authorized and directed to execute a replacement Bond and to deliver such replacement Bond to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor, City Manager or Director of Finance of the City is hereby authorized and directed to execute the Amendment and 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. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds and the Amendment and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

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SECTION 6. Further Authority. The Mayor, City Manager, Director of Finance, City Clerk and other officials, agents and employees of the City as required are hereby authorized and directed to take such further action and execute such documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 7. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and adoption by the City Council and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor *William A. Baird*

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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Mayor *William A. Baird*

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian W. Head*

EXHIBIT A

AMENDED PLAN