

ORDINANCE NO. 060750

Acknowledging the prior termination of Phases I.1 and II development rights and Phases I.1 and II property tax abatement granted pursuant to the contract between Bishop Spencer Place Redevelopment Corporation and the City dated March 2, 1994, so as to clarify the 25-year property tax abatements granted to the newly created Phases II and III pursuant to the City's approvals of the First and Second Amendments to the Redevelopment Plan for Bishop Spencer Place. (439-S-2)

WHEREAS, Bishop Spencer Place Redevelopment Corporation (the "Corporation"), an urban redevelopment corporation organized under and pursuant to the Urban Redevelopment Corporations Law and amendments thereto, filed with the City Clerk an application for approval of a Development Plan on September 24, 1993 ("Original Plan"), which was approved by the City Council by Committee Substitute for Ordinance No. 931406 and passed December 20, 1993; and

WHEREAS, the Corporation entered into a Contract with the City dated March 2, 1994 (the "Original Contract") for the implementation of the Original Plan, which Original Contract provided for RSMo Chapter 353 tax abatement for a period of 25 years on the areas described therein as Phases I, I.1 and II provided the areas were redeveloped in accordance with the Contract; and

WHEREAS, tax abatement for Phases I, I.1 and II was triggered in 1995, the calendar year in which the Corporation took title to the real property; and

WHEREAS, pursuant to Section 6 of the Original Contract, failure of the Corporation to complete construction of the projects within the time limits set forth on Exhibit C to the Original Contract, if such failure continued for three years, would result "without further action by the City" in the termination of the Corporation's rights and obligations under the Contract, including thus termination of its development rights and rights to tax abatement; and

WHEREAS, because the Corporation failed to complete construction of Phase I.1 by November 1997 or Phase II by November 1998, pursuant to the Section 6 automatic termination provision of the Original Contract, this failure, without any further action by the City, resulted in the termination of the Corporation's development rights and tax abatement as to Phase I.1 on December 1, 2000, and as to Phase II on December 1, 2001; and

WHEREAS, the above-described Phases I.1 and II automatic termination had no impact on the Corporation's development rights and tax abatement for Phase I as created under the Original Plan and Original Contract, which remain in full force and effect; and

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WHEREAS, the Corporation filed with the City the First Amendment to the Development Plan on January 18, 2002, which was revised on June 14, 2002 (“First Amended Plan”), and which was approved by the City Council by Committee Substitute for Ordinance No. 020808, passed August 29, 2002; and

WHEREAS, the First Amended Plan recognized, and the City Council approved, that the development rights for Phases I.1 and II had been terminated pursuant to the Original Contract, though the First Amended Plan inadvertently described the effective date of termination for both Phases as of December 1, 2001, instead of as above-described, and further recognized that a new 25 year abatement was granted for a newly created Phase II, property which remained blighted; and

WHEREAS, the original Contract was supplemented by the First Supplementary Contract between the Corporation and the City dated September 30, 2002 (“First Supplementary Contract”), reflecting the implementation of the First Amended Plan, reflecting in its WHEREAS clauses that the purpose of First Amended Plan was to reinstate the previously terminated Phases I.1 and II into a new combined Phase II with a new 25 year abatement; and

WHEREAS, the Bishop Spencer Place Redevelopment Corporation filed with the City Clerk an application for a Second Amendment to the Development Plan on December 19, 2003, and revised on February 17, 2004 (the “Second Amended Plan”) and which was approved by the City Council by Ordinance No. 040284, passed April 1, 2004; and

WHEREAS, the Second Amended Plan modified the project to be constructed within the previously approved Phase II, expanded the redevelopment area to include and declare blighted a new Phase III, and recognized, and the City Council approved, tax abatement for a period of 25 years was granted as to the newly created Phases II and III, provided that development rights and tax abatement for Phase I created under the Original Plan and Original Contract were not terminated, and remain in full force and effect; and

WHEREAS, the Original Contract and First Supplementary Contract were supplemented by the Second Supplementary between the Corporation and the City dated April 28, 2004 (the “Second Supplementary Contract”), a copy of which was recorded in the Jackson Recorder’s Office in June 2004; and

WHEREAS, the 25-year tax abatement granted to the Corporation for Phase II under the First Amended Plan, and amended by the Second Amended Plan, was triggered and commenced in 2005, the calendar year in which the Corporation took title to the Phase II real property; and

WHEREAS, in order to remove any confusion as to the tax abatements in effect under the Plan, the City Council desires to acknowledge the automatic termination under the terms of Original Contract of the Phase I.1 development rights and property tax abatement as of December 1, 2000, the automatic termination under the terms of the

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Original Contract of the Phase II development rights and property tax abatement as of December 1, 2001, and the 25-year tax abatement granted to the newly created Phases II and III under the First Amended Plan and First Supplementary Contract, as amended respectively by the Second Amended Plan and Second Supplementary Contract; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. The City Council hereby acknowledges that pursuant to the terms of the Original Contract, all of the Corporation's rights and obligations as to Phase I.1 as defined therein, including but not limited to the Corporation's development rights and the attendant right to tax abatement, were terminated without any further City action as of December 1, 2000, and the Phase I.1 real property should not have enjoyed any tax abatement from this date until later triggered as described below in Section 6.

Section 2. The City Council hereby acknowledges that pursuant to the terms of the Original Contract, all of the Corporation's rights and obligations as to Phase II as defined therein, including but not limited to the Corporation's development rights and the attendant right to tax abatement, were terminated without any further City action as of December 1, 2001, and the Phase II real property should not have enjoyed any tax abatement from this date until later triggered as described below in Section 6.

Section 3. The City Council's passage of Committee Substitute for Ordinance No. 020808 on August 29, 2002, approving the First Amended Plan, acknowledged the termination of Phases I.1 and II under the Original Contract.

Section 4. The Director of Finance is hereby authorized to execute, on behalf of the City, all necessary documents to indicate the earlier termination of the Phases I.1 and II development rights and attendant property tax abatement under the Original Contract.

Section 5. The Phase I development rights and attendant tax abatement granted under the Original Plan and Original Contract remain in full force and effect, triggered and commencing in 1995, the year in which the Corporation took title to the Phase I real property.

Section 6. The Phase II (formerly Phases I.1 and II under the Original Plan) development rights and new 25-year tax abatement created and granted under the First Amended Plan and First Supplementary Contract, as amended respectively by the Second Amended Plan and Second Supplementary Contract, remain in full force and effect, triggered and commencing in 2005, the year in which the Corporation took title to the Phase II real property.

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Section 7. The Phase III development rights and new 25-year tax abatement created and granted under the Second Amended Plan and Second Supplementary Contract, remain in full force and effect, though the tax abatement has not yet been triggered as the Corporation has not taken title to the Phase III real property.

Section 8. That the Council hereby finds and determines that the public convenience and necessity will be served by the above acknowledgement.

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Approved as to form and legality:

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Heather A. Brown  
Assistant City Attorney