

ORDINANCE NO. 120690

Acknowledging redemption of Section 108 loan for the Beacon Hill Development in the amount of \$5,656,700.00 and correcting certain accounts.

WHEREAS, on April 8, 1999, the City Council, through Ordinance No. 990532, authorized acceptance of financing from the U.S. Department of Housing and Urban Development (“HUD”) Loan Guarantee Assistance under Section 108 of the Housing and Community Development Act of 1974 in the amount of \$10,000,000.00 for the purpose of providing financing for the land assemblage and associated costs necessary for redeveloping the Beacon Hill Development Project; and

WHEREAS, Ordinance No. 990532 also authorized execution of an agreement with the Housing and Economic Development Financial Corporation (“HEDFC”) for \$10,000,000.00 to implement redevelopment activities such as property acquisition, relocation costs, demolition and other eligible costs; and

WHEREAS, the City entered into a “Contract for Loan Guarantee Assistance Under Section 108 of the Housing and Community Development Act of 1974, As Amended, 43 U.S.C. Sec. 5308” and “Section 108 Loan Guarantee Program Variable/Fixed Rate Note” with HUD, both bearing the date August 8, 2002, for the repayment of the \$10,000,000.00 loan amount over the next twenty years; and

WHEREAS, the City, as required, has made annual debt payments from entitlement Community Development Block Grant (“CDBG”) funds received from HUD; and

WHEREAS, the U.S. District Court for the Western District of Missouri, in the case of *City of Kansas City, Missouri v. Housing and Economic Development Financial Corporation*, Case No. 05-00368-CV-W-GAF, pursuant to its “Order and Directions for Termination of Receivership” entered into on January 6, 2011, directed the Receiver to separate certain HEDFC funds derived from CDBG funds that HEDFC had received as a subrecipient of the City and to then later use those funds to pay-off the remaining balance of the City’s Section 108 debt for the Beacon Hill Development Project when the opportunity to do so next arose; and

WHEREAS, that next opportunity to do so arose on August 1, 2012, and the redemption of this Note using HEDFC funds resulted in saving the City \$1,780,700.00 in interest payments and \$5,500,000.00 in principal payments that would have otherwise been deducted from the City’s annual CDBG awards this grant year and for the next ten grants years, thereby allowing for \$6,468,700.00 in future CDBG funds to be allocated to other projects and programs; and

WHEREAS, on July 12, 2012, as requested by a motion filed by the City, the U.S. District Court issued its Order authorizing the Receiver to make payment of \$5,656,700.00 directly to the Bank of New York Mellon, the Trustee under the Section 108 Note, on or before July 24, 2012; and

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WHEREAS, the Receiver timely made such payment by wire transfer thereby redeeming the Note in full; and

WHEREAS, in accordance with generally accepted accounting procedures applicable to governmental entities, the City reflects this Section 108 Note as a debt owed by, and a liability of, the City on its financial and accounting records; and

WHEREAS, the redemption of this Section 108 Note by the Receiver using the above-described CDBG-derived funds necessitates the correction of certain City accounts; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the Mayor and City Council acknowledge the direct payment of \$5,656,700.00 by the Receiver of HEDFC as ordered by the U.S. District Court for the Western District of Missouri redeeming the City's "Section 108 Loan Guarantee Program Variable/Fixed Rate Note" for the Beacon Hill Development Project.

Section 2. That the revenue in the following account of Fund 2600, the Community Development Block Grant Fund is reduced in the following amount:

13-2600-550001-477150	HUD CDBG (Entitlement)	\$5,350,000.00
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Section 3. That the revenue in the following account of Fund 2600, the Community Development Block Grant Fund is estimated in the following amount:

13-2600-550001-458120	HUD CDBG (Program Income)	\$5,656,700.00
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Section 4. That the sum of \$306,700.00 is hereby appropriated from the Unappropriated Fund Balance of Fund No. 2600, the Community Development Block Grant Fund to the following account:

13-2600-555309-749970	Section 108 Debt	\$ 306,700.00
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I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

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Randall J. Landes  
Director of Finance

Approved as to form and legality:

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Nicole Rowlette  
Assistant City Attorney