

ORDINANCE NO. 100758

Authorizing the execution of Promissory Notes between the City and J.E. Dunn Construction Group Inc. in the aggregate principal amount of \$10,670,754, such Promissory Notes to be of such number, in such principal amounts and bearing such interest rates as designated by the Director of Finance; estimating and appropriating sale proceeds in the amount of \$1,200,000.00 from the sale of property to Swope Community Builders or an affiliate; estimating debt service and other payments in the amount of \$971,339.00; and recognizing an emergency.

WHEREAS, Second Committee Substitute for Ordinance No. 060943 authorized the execution of the Funding and Acquisition Agreement (the "Agreement") between the City, the Tax Increment Financing Commission of Kansas City, Missouri ("TIF Commission"), and J.E. Dunn Construction Group, Inc. ("J.E. Dunn"); and

WHEREAS, Ordinance No. 071287 authorized the execution of the first amendment to the Agreement; and

WHEREAS, in connection with the Agreement, on December 4, 2009, the City entered into an annual appropriation promissory note in the principal amount of \$10,670,754.00 with J.E. Dunn (the "Original Note") with twenty-one (21) semi-annual payments beginning June 1, 2010, relating to the East Village TIF Project; and

WHEREAS, the City has paid \$213,416.00 to J.E. Dunn to satisfy the June 1, 2010 interest payment obligation; and

WHEREAS, Ordinance No. 100480 authorized the termination of the Original Note, and the entering of two promissory notes aggregating \$10,670,754.00 in replacement therefore, upon such terms and conditions as described in said Ordinance; and

WHEREAS, the City has been advised by Swope Community Builders ("Swope") that it, its affiliate East Village LLC and/or other affiliate of Swope, expects to complete the purchase of a parcel of land in the Redevelopment Area covered by the East Village TIF Plan within the next several months, which expected purchase necessitates the entering of one or more additional promissory notes and/or the modification of the terms and conditions of the replacement promissory notes authorized by Ordinance No. 100480; provided that the aggregate principal amount of replacement promissory notes is unchanged; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the Director of Finance is authorized to enter into more than one or more annual appropriation promissory notes with J.E. Dunn aggregating the principal amount of \$10,670,754.00 in replacement for the Original Note, including both tax-exempt and taxable notes, which tax-exempt notes shall have an interest rate not to

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exceed 4.50% and which taxable notes shall have an interest rate not to exceed 10.00%. The City hereby delegates authority to the Director of Finance to approve the final number of promissory notes and the final terms, principal amounts and interest rates of the promissory notes. The current expectations of the City are that there shall be three promissory notes with the following terms: (a) a 501(c)(3) tax-exempt interest note in the amount of \$5,438,000 between the City and J.E. Dunn for a ten year term at an interest rate of 4.00%, (b) a taxable interest note in the amount of \$1,200,000 between the City and J.E. Dunn for a ten year term at an interest rate of 4.00%, and (c) a taxable interest note in the amount of \$4,032,754 for a ten year term at an interest rate of 5.50% between the City and J.E. Dunn, however, the number of promissory notes and the terms and conditions thereof are subject in all respects to the final approval of the Director of Finance, subject to the limitations set forth in this Section. In the event that the final promissory notes have different terms than the expected terms described in this Section, the Director of Finance shall file a Certificate of Final Terms with the City Clerk to be attached to this Ordinance.

Section 2. That the revenue in the following account in the East Village TIF Fund is hereby estimated in the following amount:

11-5301-485060	Sale of Land Proceeds	\$1,200,000.00
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Section 3. That the sum of \$946,339.00 is hereby appropriated from the Unappropriated Fund Balance of the East Village TIF Fund to the following account:

11-5301-129600-G	Debt Service	\$ 946,339.00
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Section 4. That the sum of \$25,000.00 is hereby appropriated from the Unappropriated Fund Balance of the East Village TIF Fund to the following account:

11-5301-129620	Note Expense	\$ 25,000.00
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Section 5. That the Director of Finance is hereby designated as the requisitioning authority for Account Nos. 11-5301-129600 and 11-5301-129620.

Section 6. That the Director of Finance is hereby authorized to close project accounts upon project completion and return the unspent portion of the appropriation to the Fund Balance from which it came.

Section 7. That this ordinance is recognized as an emergency measure within the provisions of Section 503(a)(3)(c) of the City Charter in that it appropriates money and shall take effect in accordance with that section.

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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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Heather A. Brown  
Assistant City Attorney