

1 **BOARD BILL #121**

**INTRODUCED BY ALDERMAN OGILVIE,  
2 ALDERWOMAN KREWSON**

3 An Ordinance Approving The Petition Of An Owner Of Certain Real Property To Establish A  
4 Community Improvement District, Establishing The Cheshire Annex Community Improvement  
5 District, Finding A Public Purpose For The Establishment Of The Cheshire Annex Community  
6 Improvement District, Authorizing the Execution of a Transportation Project Agreement  
7 Between The City And The Cheshire Transportation Development District, Prescribing The  
8 Form And Details Of Said Agreement, Making Certain Findings With Respect Thereto,  
9 Authorizing Other Related Actions In Connection With The TDD Project, Authorizing The  
10 Execution Of A Cooperation Agreement And Authorizing Reimbursement In Accordance  
11 Therewith, And Containing An Emergency Clause And A Severability Clause.

12 **WHEREAS**, the City is a body corporate and a political subdivision of the State of  
13 Missouri, duly created, organized and existing under and by virtue of its charter, the  
14 Constitution, and laws of the State of Missouri; and

15 **WHEREAS**, Section 67.1400 *et seq.*, RSMo, (the “CID Act”) authorizes the Board of  
16 Aldermen to approve the petitions of property owners to establish a Community Improvement  
17 District; and

18 **WHEREAS**, a petition has been filed with the City, requesting formation and  
19 establishment of the Cheshire Annex Community Improvement District (the “CID”), signed by  
20 the authorized representative of the owner of more than fifty percent by assessed value and per  
21 capita of the property located within the proposed boundaries of the CID (the “Petition”); and

22 **WHEREAS**, the Register of the City of St. Louis did review and determine that the  
23 Petition substantially complies with the requirements of the CID Act; and

1           **WHEREAS**, a public hearing, duly noticed and conducted as required by and in  
2 accordance with the CID Act was held 9:00 a.m. on June 30, 2011, by the Board of Aldermen;  
3 and

4           **WHEREAS**, the Cheshire Transportation Development District (the “TDD”) intends to  
5 undertake that certain “TDD Project” as described and defined in that certain Transportation  
6 Project Agreement (the “Transportation Project Agreement”), the form of which is attached  
7 hereto as **Appendix B**, which TDD Project will provide a benefit to the City by increasing the  
8 available supply of parking; and

9           **WHEREAS**, the City constitutes the “local transportation authority” for the purposes of  
10 the TDD Project, and as no portion of the proposed project has been or is intended to be merged  
11 into the State highways and transportation system under the jurisdiction of the Missouri Highway  
12 Transportation Commission, approval of the TDD Project is vested exclusively with the City;  
13 and

14           **WHEREAS**, the TDD Act provides that prior to construction or funding of a proposed  
15 project, such project shall be submitted to the local transportation authority for its prior approval,  
16 subject to any required revisions of such project, and the district and local transportation  
17 authority in question entering into a mutually satisfactory agreement regarding the development  
18 and future maintenance of the TDD Project; and

19           **WHEREAS**, the City hereby desires and intends to approve the TDD Project, subject to  
20 the TDD and the City entering into a mutually satisfactory agreement regarding the development  
21 and future maintenance of the TDD Project; and

1           **WHEREAS**, the City intends to enter into the Transportation Project Agreement and  
2 incorporated herein by reference, with the TDD, as a mutually satisfactory agreement regarding  
3 the development and future maintenance of the TDD Project; and

4           **WHEREAS**, the TDD Act provides that, within six months after development and initial  
5 maintenance costs of a project have been paid, the district shall transfer control and ownership of  
6 the project in question to the local transportation authority pursuant to contract; and

7           **WHEREAS**, the TDD Act intends to transfer and the City intends to accept such control  
8 and ownership pursuant to and on the terms set forth in the Transportation Project Agreement;  
9 and

10           **WHEREAS**, the Board of Aldermen hereby determines that the terms of the  
11 Transportation Agreement are acceptable, and that the execution, delivery and performance by  
12 the City and the TDD of their respective obligations are in the best interests of the City and the  
13 health, safety, morals and welfare of its residents; and

14           **WHEREAS**, pursuant to Ordinance No. 68875 the City designated a portion of the City a  
15 redevelopment area and approved a Blighting Study and Plan (the “Redevelopment Plan”) for  
16 the 7022-60 Clayton Ave. Redevelopment Area (the “Redevelopment Area”) and the  
17 redevelopment project described therein (the “Redevelopment Project”) to alleviate the  
18 conditions that qualify it as a “blighted area”, as defined in Section 99.320(3), RSMo; and

19           **WHEREAS**, a redevelopment agreement (the “Redevelopment Agreement”) will be  
20 executed by the City and CI, LLC (the “Company”); and

21           **WHEREAS**, the Company or an affiliate will expand funds in connection with the  
22 Redevelopment Project, which will benefit the Redevelopment Area and alleviate the conditions  
23 that qualify it as a “blighted area”; and

1           **WHEREAS**, the City is agreeable to assisting the Company by reimbursing the  
2 Company or an affiliate up to the Redevelopment Project costs pursuant to a Cooperation  
3 Agreement between the Company (or an affiliate) and the City (the “Cooperation Agreement”);  
4 and

5           **WHEREAS**, this Board of Alderman hereby finds that it is necessary and desirable and  
6 in the best interest of the City to enter into the Cooperation Agreement with the Company or an  
7 affiliate and to utilize funds from the Sales Tax Reimbursement Account described therein, in  
8 order to provide for the promotion of the general welfare through redevelopment of the  
9 Redevelopment Area in accordance with the Cooperation Agreement and the Redevelopment  
10 Agreement, which redevelopment includes, but is not limited to, assistance in the physical,  
11 economic, and social development of the City, providing for a stabilized population and plan for  
12 the optimal growth of the City, encouragement of a sense of community identity, safety and civic  
13 pride, the elimination of impediments to land disposition and development in the City, creation  
14 of sustainable jobs in a targeted industry, and provision of additional tax revenue to the City; and

15           **WHEREAS**, the Board of Alderman hereby determines that the terms of the Cooperation  
16 Agreement attached as **Appendix C** hereto and incorporated herein by this reference is  
17 acceptable and the execution, delivery and performance by the parties of their respective  
18 obligations under the Cooperation Agreement are in the best interests of the City and the health,  
19 safety, morals and welfare of its residents; and

20           **WHEREAS**, this Board of Aldermen hereby finds that the adoption of this ordinance is  
21 in the best interest of the City of St. Louis and that the owners of real property located within the  
22 CID, as well as the City as a whole, will benefit from the establishment of the CID and the other  
23 transactions described herein.

1           **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

2           **SECTION ONE.**

3                   (a) A community improvement district, to be known as the “Cheshire Annex  
4 Community Improvement District” (hereinafter referred to as the “CID”), is hereby established  
5 pursuant to the CID Act on certain real property described below to contract with a private  
6 property owner to demolish, remove, renovate, reconstruct, rehabilitate, repair and/or equip the  
7 existing building within the CID, impose a sales and use tax and carry out other functions as set  
8 forth in the Petition, which is attached hereto as **Appendix A** and incorporated herein by this  
9 reference.

10                   (b) The CID boundaries are set forth in the Petition and are generally described as  
11 follows: the real property located at 7022-7060 Clayton Avenue and the adjacent portion of  
12 Clayton Avenue, generally bounded on the north by the southern lot line of 7001 Clayton  
13 Avenue, on the east by the western lot line of 7002 Clayton Avenue, on the south by the northern  
14 line of that vacated portion of Oakland Avenue, and on the west by the western lot line of 7060  
15 Clayton Avenue.

16           **SECTION TWO.** The CID is authorized by the Petition, in accordance with the CID  
17 Act, to impose a tax upon retail sales within the CID to provide funds to accomplish any power,  
18 duty or purpose of the CID.

19           **SECTION THREE.** The CID is authorized by the CID Act, at any time, to issue  
20 obligations, or to enter into agreements with other entities with the authority to issue obligations,  
21 for the purpose of carrying out any of its powers, duties, or purposes. Such obligations shall be  
22 payable out of all, part or any combination of the revenues of the CID and may be further  
23 secured by all or any part of any property or any interest in any property by mortgage or any

1 other security interest granted. Such obligations shall be authorized by resolution of the CID,  
2 and if issued by the CID, shall bear such date or dates, and shall mature at such time or times, but  
3 not more than twenty (20) years from the date of issuance, as the resolution shall specify. Such  
4 obligations shall be in such denomination, bear interest at such rate or rates, be in such form, be  
5 payable in such place or places, be subject to redemption as such resolution may provide and be  
6 sold at either public or private sale at such prices as the CID shall determine subject to the  
7 provisions of Section 108.170, RSMo. The CID is also authorized to issue such obligations to  
8 refund, in whole or part, obligations previously issued by the CID.

9 **SECTION FOUR.**

10 (a) Pursuant to the Petition, the CID shall be in the form of a political subdivision  
11 of the State of Missouri, known as the “Cheshire Annex Community Improvement District.”

12 (b) Pursuant to Section 67.1471 of the CID Act, the fiscal year for the CID shall  
13 be the same as the fiscal year for the City of St. Louis.

14 (c) No earlier than one hundred and eighty (180) days and no later than ninety  
15 (90) days prior to the first day of each fiscal year, the CID shall submit to the Board of Aldermen  
16 a proposed annual budget for the CID, setting forth expected expenditures, revenues, and rates of  
17 assessments, if any, for such fiscal year. The Board of Aldermen may review and comment on  
18 this proposed budget, but if such comments are given, the Board of Aldermen shall provide such  
19 written comments no later than sixty (60) days prior to the first day of the relevant fiscal year;  
20 such comments shall not constitute requirements, but shall only be recommendations.

21 (d) The CID shall hold an annual meeting and adopt an annual budget no later  
22 than thirty (30) days prior to the first day of each fiscal year.

1           **SECTION FIVE.** The CID is authorized to use the funds of the CID for any of the  
2 improvements, services or other activities authorized under the CID Act.

3           **SECTION SIX.** Pursuant to the CID Act, the CID shall have all of the powers necessary  
4 to carry out and effectuate the purposes of the CID and the CID Act as set forth in the CID Act.

5           **SECTION SEVEN.** The City of St. Louis hereby finds that the uses of the CID proceeds  
6 as provided for in the Petition will serve a public purpose by remediating blight and encouraging  
7 the redevelopment of real property within the CID.

8           **SECTION EIGHT.** The property within the CID is a “blighted area” pursuant to Section  
9 67.1401.2(3) of the CID Act because such property was blighted under Sections 99.300 to  
10 99.715, RSMo, pursuant to Ordinance No. 68875.

11           **SECTION NINE.** Within one hundred twenty (120) days after the end of each fiscal  
12 year, the CID shall submit a report to the Register of the City and the Missouri Department of  
13 Economic Development stating the services provided, revenues collected and expenditures made  
14 by the CID during such fiscal year, and copies of written resolutions approved by the board of  
15 directors of the CID during the fiscal year. The Register shall retain this report as part of the  
16 official records of the City and shall also cause this report to be spread upon the records of the  
17 Board of Aldermen, pursuant to Section 67.1471 of the CID Act.

18           **SECTION TEN.** The term for the existence of the CID shall be as set forth in the  
19 Petition, as may be amended from time to time, or as such term may be otherwise modified in  
20 accordance with the CID Act.

21           **SECTION ELEVEN.** Pursuant to the CID Act, the Board of Aldermen shall not  
22 decrease the level of publicly funded services in the CID existing prior to the creation of the CID  
23 or transfer the burden of providing the services to the CID unless the services at the same time

1 are decreased throughout the City, nor shall the Board of Aldermen discriminate in the provision  
2 of the publicly funded services between areas included in the CID and areas not so included.

3 **SECTION TWELVE.** The Register shall report in writing the creation of the Cheshire  
4 Annex Community Improvement District to the Missouri Department of Economic  
5 Development.

6 **SECTION THIRTEEN.** The Petition provides that the CID shall be governed by a  
7 Board of Directors consisting of five individual directors (collectively the “Directors” and each a  
8 “Director”), such Directors to be appointed by the Mayor of the City with the consent of the  
9 Board of Aldermen, in accordance with the CID Act and the qualifications set forth in the  
10 Petition. By his approval of this ordinance, the Mayor does hereby appoint the following named  
11 individuals as Directors of the CID for the terms set forth below, and by adoption of this  
12 ordinance, the Board of Aldermen hereby consents to such appointments:

13	<u>Name</u>	<u>Term</u>
14	1. Cathy Raftery	2 years
15	2. Steve O’Loughlin	2 years
16	3. Joe Mooney	2 years
17	4. Craig Cobler	4 years
18	5. Robert O’Loughlin	4 years

19 **SECTION FOURTEEN.** The Board of Alderman hereby approves the TDD Project as  
20 submitted to the City.

21 **SECTION FIFTEEN.** The Board of Alderman further finds and determines that it is  
22 necessary and desirable to enter into the Transportation Project Agreement with the TDD in  
23 order to implement the TDD Project.

1           **SECTION SIXTEEN.** The Board of Aldermen finds and determines that the TDD  
2 Project is necessary and desirable in order to increase the supply of available parking in the City.

3           **SECTION SEVENTEEN.** The Board of Alderman hereby approves, and the Mayor and  
4 Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the  
5 Transportation Project Agreement by and between the City and the TDD in similar form to that  
6 attached hereto as **Appendix B** and incorporated herein by this reference, and the City Register  
7 is hereby authorized and directed to attest to the Transportation Project Agreement and to affix  
8 the seal of the City thereto. The Transportation Project Agreement shall be in substantially the  
9 form attached, with such changes therein as shall be approved by said Mayor and Comptroller  
10 executing the same and as may be consistent with the intent of this Ordinance and necessary and  
11 appropriate in order to carry out the matters herein authorized.

12           **SECTION EIGHTEEN.** The Board of Aldermen finds and determines that, in order to  
13 promote the general welfare, as described above, it is necessary and desirable to enter into the  
14 Cooperation Agreement, which, subject to annual appropriation, pledges certain tax revenues for  
15 reimbursement to the Company or an affiliate in order to benefit the Redevelopment Project.

16           **SECTION NINETEEN.** The Board of Alderman hereby approves, and the Mayor and  
17 Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the  
18 Cooperation Agreement attached hereto as **Appendix C**, and the City Register is hereby  
19 authorized and directed to attest to the Cooperation Agreement and to affix the seal of the City  
20 thereto. The Cooperation Agreement shall be in substantially the form attached, with changes  
21 therein as shall be approved by said Mayor and Comptroller as may be consistent with the intent  
22 of this Ordinance and necessary and appropriate in order to carry out the matters herein  
23 authorized.

1           **SECTION TWENTY.** The Mayor and Comptroller of the City or his or her designated  
2 representatives are hereby authorized and directed to take any and all actions to execute and  
3 deliver for and on behalf of the City any and all additional certificates, documents, agreements or  
4 other instruments as may be necessary and appropriate in order to carry out the matters herein  
5 authorized, with no such further action of the Board of Alderman necessary to authorize such  
6 action by the Mayor or Comptroller or his or her designated representatives.

7           **SECTION TWENTY ONE.** The Mayor and Comptroller and his or her designated  
8 representatives, with the advice and concurrence of the City Counselor and after approval by the  
9 Board of Estimate and Apportionment, are hereby further authorized and directed to make any  
10 changes to the documents, agreements and instruments approved and authorized by this  
11 Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate  
12 in order to carry out the matters herein authorized, with no such further action of the Board of  
13 Alderman necessary to authorize such changes by the Mayor or Comptroller or his or her  
14 designated representatives.

15           **SECTION TWENTY TWO.** If any section, subsection, sentence, clause, phrase or  
16 portion of this ordinance is held to be invalid or unconstitutional, or unlawful for any reason, by  
17 any court of competent jurisdiction, such portion shall be deemed and is hereby declared to be a  
18 separate, distinct and independent provision of this ordinance, and such holding or holdings shall  
19 not affect the validity of the remaining portions of this ordinance.

20           **SECTION TWENTY THREE.** The Board of Aldermen hereby finds and determines  
21 that this ordinance constitutes an “emergency measure” pursuant to Article IV, Section 20 of the  
22 City Charter, because this Ordinance establishes the CID, which is a taxing district, and as such,

- 1 this Ordinance shall take effect immediately upon its approval by the Mayor as provided in
- 2 Article IV, Section 20 of the City Charter.

**APPENDIX A**

Petition to Establish the Cheshire Annex Community Improvement District

**SEE ATTACHED**

**APPENDIX B**

Form of Transportation Project Agreement

**SEE ATTACHED**

**APPENDIX C**

Form of Cooperation Agreement

**SEE ATTACHED**