

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING A PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT; AUTHORIZING THE CITY OF INDEPENDENCE, MISSOURI TO ISSUE TWO SERIES OF TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS IN A COMBINED PRINCIPAL AMOUNT NOT TO EXCEED \$55,000,000; AND AUTHORIZING AND APPROVING CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Independence, 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(b) 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, Northpoint Development, LLC, a Missouri limited liability company (“Northpoint”) submitted an application for incentives to the City dated January 27, 2022 for the EastGate Commerce Center project (the “EastGate Project”), which (1) is generally situated along Little Blue Parkway beginning about 3/4 miles north of ERD Mize Road to Truman Road where it follows Route 78 to North Twyman Road, (2) is situated on approximately 1,262 acres of real property, and (3) involves the development of a “class A” light industrial and distribution center with approximately 21 buildings totaling roughly 10,800,000 square feet to be constructed over approximately 15 years; and,

WHEREAS, the Company’s application was considered by the Independence Economic Development and Incentives Commission (the “EDIC”) at a meeting of the EDIC held on March 23, 2022; and,

WHEREAS, the EDIC, by unanimous vote, recommended approval of the application to City Council; and,

WHEREAS, to define the incentives to be granted pursuant to the approved application for the EastGate Project and to set out certain terms and specifics relating to public improvements to be completed in connection with the EastGate Project, the City and Northpoint entered into a Development Agreement dated as of May 25, 2022 (the “Development Agreement”); and,

WHEREAS, the City has received a proposal from Northpoint for the first phase of the EastGate Project, consisting of the construction and improvement of two industrial / warehousing buildings totaling approximately 571,978 square feet to be located on certain real property situated near the southeast corner of Little Blue Parkway and Necessary Road within the City (the “Phase 1 Projects”); and,

WHEREAS, the City, in accordance with Section 100.050 of the Act, prepared a plan for an industrial development project (the “Plan”), gave notice of the Plan by mail to the taxing jurisdictions in

accordance with Section 100.059.1 of the Act, and held a public hearing regarding the Plan on October 3, 2022; and,

WHEREAS, the City now desires to approve the Plan; and,

WHEREAS, the City desires to provide real property tax abatement for the Phase 1 Projects through the proceeds of two series of industrial development revenue bonds to be issued under the Act (the “Bonds”); 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 proceed with the issuance of the Bonds for the purpose described above; and,

WHEREAS, the Bonds will be payable solely out of payments, revenues and receipts derived by the City from the lease of each of the Phase 1 Projects to NP Eastgate Commerce Center Phase 1, LLC, a Missouri limited liability company and/or its designee(s) (the “Companies”), and from no other source; and,

WHEREAS, Section 10.7 of the City Charter requires that all bonds sold by the City be sold at public sale upon sealed proposals after at least ten days’ notice in a newspaper of general circulation in the City; and,

WHEREAS, a notice of sale was published in *The Examiner* inviting potential bond purchasers to submit bids for the Bonds and the City has received a single bid for the Bonds, which was delivered by Northpoint; and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with approval of the Plan and the issuance of the Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. Promotion of Economic Development: The Council hereby finds and determines that the Phase 1 Projects will promote the economic welfare and the development of the City, and the issuance of the Bonds by the City to pay the costs of the Phase 1 Projects will be in furtherance of the public purposes set forth in the Act. The Phase 1 Projects and the incentives described in the Performance Agreements are within the parameters for the EastGate Project approved by the EDIC and set out in the Development Agreement.

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

SECTION 3. Authorization and Sale of the Bonds; Acceptance of Bid: The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (Eastgate Commerce Center - Phase 1 Project - Building A2) and its Taxable Industrial Development Revenue Bonds (Eastgate Commerce Center - Phase 1 Project - Building A3), in an aggregate principal amount not to exceed \$55,000,000, for the purpose of providing funds to pay the costs of the Phase 1 Projects. The Bonds shall be issued and secured pursuant to the herein authorized Trust Indentures and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rate, shall be in such form,

shall be subject to redemption, shall have such other terms and provisions, shall be issued, executed and delivered in such manner and shall be subject to such provisions, covenants and agreements as are specified in the Trust Indentures upon the execution thereof, and the signatures of the officers of the City executing the Trust Indentures shall constitute conclusive evidence of their approval and the City's approval thereof. The City hereby accepts the bid received from Northpoint for the sale of the Bonds. The sale of the Bonds to Northpoint or its designee(s), as the winning bidder at the public sale, at the interest rate set forth in the winning bid and upon the terms set forth in the Trust Indentures is hereby approved.

SECTION 4. Limited Obligations: The Bonds and the interest thereon shall be limited obligations of the City payable solely out of the payments, revenues and receipts derived by the City from the herein authorized Lease Agreements, and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Bonds as provided in the Trust Indentures. The Bonds and the interest thereon shall not be deemed to constitute a debt or liability of the City within the meaning of any constitutional provision, statutory limitation or City Charter provision and shall not constitute a pledge of the full faith and credit of the City. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City to levy any form of taxation therefore or to make any appropriation for their payment.

SECTION 5. Approval and Authorization of Documents: The following documents (the "City Documents") are hereby approved in substantially the forms presented to the Council at this meeting (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the City Documents 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:

(a) Trust Indenture relating to each series of Bonds dated as of the date set forth therein (the "Trust Indentures"), between the City and the bond trustee named therein (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge and assign the payments, revenues and receipts received pursuant to the Lease Agreements to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Trust Indentures;

(b) Lease Agreement relating to each series of Bonds dated as of the date set forth therein (the "Lease Agreements"), between the City and the Companies, under which the City will provide funds for the construction and improvement of the Phase 1 Projects and lease the Phase 1 Projects to the Companies pursuant to the terms and conditions in the Lease Agreements, in consideration of rental payments by the Companies which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds;

(c) Bond Purchase Agreement relating to each series of Bonds dated as of the date set forth therein, between the City and the Companies, pursuant to which the Companies agree to purchase the Bonds; and

(d) Performance Agreement relating to each series of Bonds dated as of the date set forth therein (the "Performance Agreements"), between the City and the Companies, pursuant to which the City has granted each Company certain rights with respect to the abatement of ad valorem real property taxes on the Phase 1 Projects in consideration for such Company's agreement to pay certain payments in lieu of taxes.

SECTION 6. Execution of Documents: The Mayor or City Manager of the City is hereby authorized and directed to execute the Bonds and to deliver the Bonds 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 Trust Indentures. The Mayor or City Manager of the City is hereby authorized and directed to execute the City Documents 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 City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 7. Further Authority: The Mayor, City Manager, 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 other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents, including but not limited to the execution of any financing documents in accordance with the Leases and a sales tax exemption agreement in connection with any request by the Companies to issue a sales tax exemption certificate for the purchase of construction materials prior to the issuance of the Bonds.

SECTION 8. Effective Date: This Ordinance shall take effect and be in full force as set forth in the City Charter.

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PASSED ON THIS _____ DAY OF OCTOBER 2022, BY THE CITY COUNCIL OF
THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT