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## MEMORANDUM

TO: Mayor and City Council, City of Berkeley, Missouri  
Nathan Mai-Lombardo, City Manager  
Elliot Liebson, Director of Planning and Development  
Donnell Smith, Esq., City Attorney

FROM: Shannon W. Creighton, Gilmore & Bell, P.C.  
Stephanie Bogue, Gilmore & Bell, P.C.

DATE: January 9, 2025

RE: City of Berkeley, Missouri – 9600 Natural Bridge Project (St. Louis Airport Hotel)

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This Memorandum provides a brief overview of the exhibits attached to the two ordinances that the City Council is being asked to consider in connection with the above-referenced project and a brief summary of the related incentives.

## OVERVIEW OF THE ORDINANCES

### **Chapter 100 Ordinance**

The first ordinance the City Council is being asked to consider (the “Chapter 100 Ordinance”) authorizes the issuance of Taxable Industrial Revenue Bonds (9600 Natural Bridge SL Project), Series 2025, in the maximum principal amount of \$17,000,000 (the “Bonds”) under Chapter 100 of the Revised Statutes of Missouri (“Chapter 100”) for the purpose of providing partial tax abatement on the property located at 9600 Natural Bridge Road in the City. The Chapter 100 Ordinance authorizes various documents between the City and Natural Bridge SL Realty LLC and a bond trustee.

**(1) Plan for an Industrial Development Project and Cost/Benefit Analysis (*Exhibit A* to the Chapter 100 Ordinance).**

Before issuing bonds under Chapter 100, the City must prepare and approve a plan that sets forth various information related to the Project including, but not limited to, a description of the Project and its estimated costs, a statement identifying each affected taxing district and a cost/benefit analysis, which provides an analysis of the costs and benefits of the Project on each affected taxing district. The Plan for the Project will be distributed to the affected taxing districts on or about January 10, 2025. The taxing districts will be invited to provide comment to the Plan at the City’s February 3, 2025 meeting.

**(2) Trust Indenture (*Exhibit B* to the Chapter 100 Ordinance).**

The Trust Indenture sets forth the terms of the Bonds, including the maximum principal amount, interest rate, maturity date and redemption provisions. The Bonds will be limited obligations of the City, payable solely from certain payments, revenues and receipts to be derived by the City from the leasing of the Project to the Company. The Bonds will be purchased by the Company. The Bonds are not a payment obligation of the City.

**(3) Special Warranty Deed and Bill of Sale.**

Under Missouri law, property owned by the City is tax exempt. To facilitate the tax abatement, the City must own the Project. The Company will transfer ownership of the real and personal property included within the Project to the City via special warranty deed and bill of sale, respectively. The Lease includes the forms of these documents. The Company will deliver the special warranty deed simultaneously with the issuance of the Bonds. The Company will deliver a bill of sale as it acquires and installs new personal property.

**(4) Lease Agreement (*Exhibit C* to the Chapter 100 Ordinance).**

Simultaneously with the delivery of the Special Warranty Deed, the City will lease the Project back to the Company pursuant to the terms of the Lease. The rental payments due under the Lease will equal the debt service payments on the Bonds. Because the Company is also the bondholder, no money will actually be exchanged.

**(5) Performance Agreement (*Exhibit D* to the Chapter 100 Ordinance).**

The Performance Agreement sets forth the terms of the 20-year abatement period (described further below).

**CID Ordinance**

The City Council is also being asked to consider approval of the second ordinance (the “CID Ordinance”), which establishes the Natural Bridge SL Community Improvement District (the “Natural Bridge SL CID”). The Natural Bridge SL CID will impose a sales tax to finance the costs of certain improvements and services at the Project Site (the “District Project”). If created, the Natural Bridge SL CID will be a separate political subdivision of the State of Missouri.

**(1) Petition for Creation of a Community Improvement District (*Exhibit A* to the CID Ordinance).**

The CID Ordinance approves the Petition creating the Natural Bridge SL CID and establishes the initial Board of Directors. The City will have one representative on the Board, who will be designated at a later date.

**(2) Blight Study (*Exhibit B* to the CID Ordinance).**

If the City Council finds that the Natural Bridge SL CID is located within a blighted area, the Natural Bridge SL CID will have the power to contract with Natural Bridge SL Realty LLC or any other private property owner to demolish and remove, renovate, reconstruct or rehabilitate any building or structure owned by such private property owner. The Blight Study describes the conditions that qualify the Natural Bridge SL CID as a blighted area under the CID Act.

**(3) District Project Agreement (*Exhibit C* to the CID Ordinance).**

The District Project Agreement outlines how the Natural Bridge SL CID will operate and how the District Project will be paid.

**SUMMARY OF THE INCENTIVES**

• **Property Tax Abatement (Chapter 100, RSMo)<sup>1</sup>**

- The Company has requested 20 years of partial tax abatement.
- Abatement on the real property will begin after fee title to the real property passes from the Company to the City (the “Transfer Date”).
- Abatement on the newly acquired personal property will begin after legal title to the personal property passes from the Company to the City. No personal property may be transferred to the City until the Transfer Date of the real property occurs.
- It is expected that the Transfer Date will occur simultaneously with the issuance of the Bonds, so the abatement period is expected to be 2025 through 2044.
- If the Transfer Date is delayed beyond 2025 for any reason, the Company will pay 100% of the real and personal property taxes that would otherwise be due on the Project until such time as the transfer occurs.
- *Real Property Tax Abatement:* During the abatement period, the Company has agreed to make the following fixed payments in lieu of taxes (“PILOT Payments”) with respect to the Project Site and Project Improvements (i.e., the real property). *These amounts will be distributed to all affected taxing districts in proportion to their respective then-current ad valorem tax levies.*

<u>Year</u>	<u>PILOT Payment</u>
1	\$30,000
2	30,000
3	30,000
4	80,000
5	80,000
6	80,000
7	80,000
8	80,000
9	133,000
10	133,000
11	133,000
12	133,000
13	133,000
14	133,000
15	133,000
16	133,000
17	133,000
18	133,000
19	133,000

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<sup>1</sup> Pursuant to Section 100.050 of the Act, certain emergency service districts may elect to be reimbursed up to 100% of the taxes they would have otherwise received, but for the tax abatement. In addition to the PILOT Payments set forth above, during the tax abatement period, the Company will make any PILOT Payments required to satisfy the obligations to any emergency service providers as required by the Act (although there currently are none).

<u>Year</u>	<u>PILOT Payment</u>
20	133,000

- Personal Property Tax Abatement: During the abatement period, the Company will make PILOT Payments equal to \$0.00 in connection with the Project Equipment.

- **Sales Tax Exemption on Construction Materials (Chapter 100, RSMo)**

- Missouri law allows cities to furnish companies with a sales tax exemption certificate so that materials used in constructing real property improvements undertaken pursuant to Chapter 100 are exempt from sales taxes. In addition to the partial tax abatement being requested under the Chapter 100 Ordinance, the City will authorize use of the City’s project exemption certificate, which provides the Company a sales tax exemption on the purchase of qualified building materials used for the construction of the Project.

- **Community Improvement District (Chapter 67, RSMo)**

- The Natural Bridge SL CID will impose a sales tax of up to 1% on retail sales at the Project Site.
- The Company will advance all costs of the District Project and will be reimbursed from revenues generated from the sales tax.
- The City will review and approve all District Project costs prior to the Company’s reimbursement.

- **City Protections**

**The documents approving these incentives include provisions that protect the City’s interests, regardless of which incentives are used, including the following:**

- The Chapter 100 Bonds and any obligations issued by the Natural Bridge SL CID will not be payment obligations of the City. The City’s general fund will never be at risk.
- The Company will protect the City against liability associated with the implementation of any of the above incentives. The City will be fully indemnified by the Company.
- The documents will contractually obligate the Company to fulfill its promises to complete the Project or risk a “clawback” of the incentives provided.

Please feel free to contact us if you have any questions. Thank you.

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