

ORDINANCE NO. _____

AN ORDINANCE PROPOSING THE ESTABLISHMENT OF THE O'FALLON/DRURY DEVELOPMENT BUSINESS DISTRICT AND ADOPTION OF AN O'FALLON/DRURY DEVELOPMENT BUSINESS DISTRICT PLAN, AND SETTING DATES AND PROVIDING NOTICES FOR THE RELATED PUBLIC HEARINGS

WHEREAS, the City of O'Fallon, St. Clair County, Illinois (the "**Municipality**"), is authorized under and pursuant to Division 74.3 (Business District Development and Redevelopment) of Article 11 (Public Health, Safety and Welfare) of the Illinois Municipal Code, Section 5/11-74.3-1 *et seq.* of Chapter 65 of the Illinois Compiled Statutes (as supplemented and amended, the "**Business District Act**") to establish a business district to be named the "**O'Fallon/Drury Development Business District**" (the "**Business District**") and adopt and approve the related "**O'Fallon/Drury Development Business District Plan**" (the "**Business District Plan**"); and

WHEREAS, upon the request of Drury Development Corporation, as the developer / owner, the Municipality has preliminarily agreed to assist in financing of certain public and private improvements, infrastructure and facilities (i.e., **(i)** site preparation and improvements, including mine subsidence remediation work, **(ii)** public infrastructure and facilities and improvements, including streets, sidewalks, lighting and water, sewer, electrical and gas facilities; **(iii)** site utilities; **(iv)** site parking facilities, **(v)** construction period interest, **(vi)** engineering, legal and finance services, and **(vii)** related facilities, improvements and costs, constituting, collectively, the "**Business District Project Costs**") within the Business District; and

WHEREAS, the Business District is compact and contiguous and is totally within the corporate limits of the Municipality, and it is in the public interest to establish the Business District as a business district under the Act for the purposes herein set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS, as follows:

Section 1. O'Fallon/Drury Development Business District Proposed. The matters set forth above in the preambles to this ordinance are true and correct and are incorporated in this Section 1 by this reference thereto. Under and pursuant to the Business District Act, the Municipality's City Council proposes the establishment of the Business District under the Business District Act in order to finance the acquisition, construction and installation of the facilities, improvements and costs constituting Business District Project Costs, including by the issuance of obligations to pay all or a part of the financing the facilities, improvements and costs constituting the Business District Project Costs, such Business District being legally and generally described in Exhibit A hereto.

Section 2. Notices. Public hearings shall be held and the related notices given, with the notices, at the dates, times and places and with the effect as required by this ordinance.

(a) Hearings. At the public hearings, to be held as required by the Business District Act, any interested person, including all persons having interests in real property located within the proposed Business District, may file with the City Clerk written comments and may be heard in respect to any issues embodied in the notices related to the hearings. The Municipality shall hear all comments, presentations and statements at the hearings, and each hearing may be adjourned to another date without further notice other than a motion to be entered upon the minutes fixing the date, time and place of adjournment. Two public hearings shall be held at 7:00 p.m. (or as soon thereafter as the hearings may be

held) at the regular meetings of the City Council: **(i)** on Monday, September 19, 2005, and **(ii)** on Monday, October 3, 2005, each at 255 S. Lincoln Avenue, in O'Fallon, Illinois.

(b) Notices. Notices of the public hearings shall be given by publications and mailing. Notices by publication shall be given by publication at least twice not less than fifteen (15) days prior to the first hearing in the *News-Democrat*, a newspaper published in Belleville, Illinois and of general circulation within the Municipality. Notices by mailing shall be given by depositing the notices in the United States mails addressed to the person or persons in whose name the general taxes for the last preceding year were paid ("**taxpayers**") on each lot, block, tract or parcel of land lying within the proposed Business District. Mailed hearing notices may be waived in writing by the taxpayers or property owners. The notices shall be mailed not less than ten (10) days prior to the date and time set for the first public hearing. In the event taxes for the last preceding year were not paid, the notices shall be sent to the person last listed on the tax rolls prior to that year as the owner of the property. The notices shall include certain information as follows:

(a) The dates, times and place of the hearings, which shall be September 19, 2005 and October 3, 2005, each at 7:00 p.m. (or as soon thereafter as the applicable hearing may be held) at the City Council's regular meeting place, 255 S. Lincoln Avenue, in O'Fallon, Illinois. The City Council hereby fixes such dates, times and place for the hearings.

(b) The boundaries of the special service area by legal description shall be as set forth in Exhibit A to this ordinance, and by street location are generally described as: an approximate 3-acre site generally located southwest of the intersection of Illinois Route 159 and Greenmount Road, in O'Fallon, Illinois.

(c) The private feature of the overall development is the acquisition, construction, and installation of a hotel facility by the Drury Development Corporation (i.e., a Drury Hotel), or a related entity, and related facilities, improvements and costs.

(d) The proposed Business District Plan provides for the acquisition, construction and installation of: **(i)** site preparation and improvements, including mine subsidence remediation work, **(ii)** public infrastructure and facilities and improvements, including streets, sidewalks, lighting and water, sewer, electrical and gas facilities, **(iii)** site utilities, **(iv)** site parking facilities, **(v)** construction period interest, **(vi)** engineering, legal and finance services, and **(vii)** related facilities, improvements and costs, constituting, collectively, the "**Business District Project Costs**".

(e) All interested persons, including all persons having interests in real property located within the Business District, will be given an opportunity to be heard or to provide written comments at the hearing regarding the Business District, the Business District Plan (which is available at the City Clerk's office for public inspection), the Business District Project Costs and the anticipated private and public development and project activities, and the imposition of a 1% hotel tax to finance certain facilities and improvements to assist the development of the Business District.

(f) The City reserves the right to issue obligations payable from and/or secured by certain revenues (i.e., the hotel tax) derived from the Business District.

(c) Obligations. Obligations payable from and/or secured by revenues derived from the Business District may be issued for financing Business District Project Costs.

(d) Reimbursement. The Municipality, or the developer / owner(s) (as agent(s) for the Municipality and subject to an agreement to indemnify, defend and hold harmless the Municipality related to such agency) within the Business District as the Municipality's agent(s) with respect to the

Business District Project Costs, may advance their own funds for such Business District Project Costs, subject to reimbursement from the obligations in (c) above, under Section 1.150-2 of the Federal Income Tax Regulations. Any such work shall comply with all applicable laws and be subject to the Illinois Prevailing Wage Law. Pursuant to this ordinance, adopted by at least a 2/3rd's vote, competitive bidding for such work is hereby waived.

Section 3. Additional Actions Authorized. The Mayor, the City Clerk, the City Treasurer, the City Attorney and other officials, employees and attorneys of the Municipality are hereby authorized and directed on behalf of the Municipality to do such things as may be necessary or desirable to carry out the transactions contemplated by and to give full effect to this ordinance without further act or deed on the part of the Municipality's City Council.

Section 4. Severability. If any portion of this ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the remaining portions of this resolution.

Section 5. Effective Date. Pursuant to Section 1-2-4 of the Illinois Municipal Code, this ordinance shall be in full force and effect immediately upon its passage and approval.

Upon motion by Alderman _____, seconded by Alderman _____, adopted this ____ day of _____, 2005 by roll call vote, as follows.

AYES (Names): _____

NAYS (Names): _____

ABSENT (Names): _____

Approved this ____ day of _____, 2005.

(SEAL)

Attest:

Mayor, City of O'Fallon, St. Clair County,
Illinois

City Clerk, City of O'Fallon
St. Clair County, Illinois

Recorded in the Municipality's Records on _____, 2005.

EXHIBIT A

DESCRIPTION OF

**O'Fallon/Drury Development Business District
of the City of O'Fallon, St. Clair County, Illinois**

General Description: The Business District is that real estate located entirely within the City's corporate boundaries, generally described by street or general location as: an approximate 3-acre site generally located southwest of the intersection of Illinois Route 159 and Greenmount Road, in O'Fallon, Illinois.

Legal Description:

ALL OF LOT 27C OF "CENTRAL PARK PLAZA 4TH ADDITION, 1ST AMENDMENT", RECORDED IN PLAT BOOK 104 PAGE 9 OF THE ST.CLAIR COUNTY LAND RECORDS, SAID SUBDIVISION LOCATED IN SECTION 36, TOWNSHIP 2 NORTH, RANGE 8 WEST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF O'FALLON, ST.CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF SAID LOT 27C; THENCE ALONG THE SOUTH LINE OF INTERSTATE I-64 THE FOLLOWING COURSES, SOUTH 61 DEGREES 12 MINUTES 36 SECONDS EAST FOR A DISTANCE OF 82.49 FEET; THENCE SOUTH 88 DEGREES 54 MINUTES 23 SECONDS EAST FOR A DISTANCE OF 106.84 FEET; THENCE SOUTH 77 DEGREES 33 MINUTES 47 SECONDS EAST FOR A DISTANCE OF 170.18 FEET; THENCE SOUTH 43 DEGREES 46 MINUTES 04 SECONDS EAST FOR A DISTANCE OF 48.28 FEET TO THE WEST LINE OF NORTH GREENMOUNT ROAD; THENCE SOUTH 02 DEGREES 46 MINUTES 45 SECONDS EAST ALONG SAID WEST LINE FOR A DISTANCE OF 220.95 FEET; THENCE LEAVING SAID WEST LINE, SOUTH 90 DEGREES 00 MINUTES WEST FOR A DISTANCE OF 256.14 FEET; THENCE SOUTH 00 DEGREES 23 MINUTES 07 SECONDS WEST FOR A DISTANCE OF 297.69 FEET TO THE NORTH LINE OF CENTRAL PARK DRIVE; THENCE ALONG SAID NORTH LINE BEING A CURVE TO THE RIGHT HAVING A RADIUS OF 370.00 FEET, AN ARC LENGTH OF 42.91 FEET AND A CHORD BEARING OF NORTH 68 DEGREES 48 MINUTES 47 SECONDS WEST FOR A DISTANCE OF 42.79 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 00 DEGREES 23 MINUTES 07 SECONDS EAST FOR A DISTANCE OF 217.95 FEET; THENCE NORTH 33 DEGREES 46 MINUTES 53 SECONDS WEST FOR A DISTANCE OF 357.93 FEET; THENCE NORTH 46 DEGREES 29 MINUTES 08 SECONDS EAST FOR A DISTANCE OF 146.35 FEET TO THE POINT OF BEGINNING AND CONTAINING 3.07 ACRES MORE OR LESS.

STATE OF ILLINOIS)
COUNTY OF ST. CLAIR) SS.
CITY OF O'FALLON)

CERTIFICATION OF ORDINANCE

I, Philip A. Goodwin, do hereby certify that I am the duly selected, qualified and acting Clerk of the City of O'Fallon, St. Clair County, Illinois (the "**Municipality**"), and as such official I am the keeper of the records and files of the Municipality and of the Municipality's City Council (the "**Corporate Authorities**").

I do further certify that the attached ordinance constitutes a full, true and correct excerpt from the minutes of the meeting of the Municipality's Corporate Authorities held on _____, 2005, insofar as same relates to the adoption of Ordinance No. _____ entitled:

AN ORDINANCE PROPOSING THE ESTABLISHMENT OF THE O'FALLON/DRURY DEVELOPMENT BUSINESS DISTRICT AND ADOPTION OF AN O'FALLON/DRURY DEVELOPMENT BUSINESS DISTRICT PLAN, AND SETTING DATES AND PROVIDING NOTICE FOR THE RELATED PUBLIC HEARINGS,

a true, correct and complete copy of which ordinance as adopted at such meeting appears in the minutes of such meeting and is hereto attached. Such ordinance was adopted and approved on the date thereon set forth by not less than an affirmative vote of a majority of the members of the City Council and approved by the Mayor, all on the date indicated thereon.

I do further certify that the deliberations of the Corporate Authorities on the adoption of the above ordinance were taken openly, that the vote on the adoption of such ordinance was taken openly, that such meeting was held at a specified time and place convenient to the public, that notice of such meeting was duly given to all of the news media requesting such notice, that such meeting was called and held in strict compliance with the provisions of the open meetings laws of the State of Illinois, as amended, and the Illinois Municipal Code, as amended, and that the Corporate Authorities have complied with all of the applicable provisions of such laws and such Code and their procedural rules in the adoption of such ordinance.

IN WITNESS WHEREOF, I hereunto affix my official signature and seal of the City of O'Fallon, Illinois, this ____ day of _____, 2005.

(SEAL)

City Clerk