

ORDINANCE NO. _____

AN ORDINANCE PROPOSING THE ESTABLISHMENT OF SPECIAL SERVICE AREA NUMBER FIVE (SUBARU OF O'FALLON), THE ISSUANCE OF SPECIAL SERVICE AREA BONDS IN AN AMOUNT SUFFICIENT TO PAY COSTS OF CERTAIN SPECIAL SERVICES, AND SETTING A DATE AND PROVIDING NOTICE FOR A RELATED PUBLIC HEARING

WHEREAS, the City of O'Fallon, St. Clair County, Illinois (the "**Municipality**"), is authorized under and pursuant to Section 7(6) of the Constitution of Illinois and Section 200/27-5 *et seq.* of Chapter 35 of the Illinois Compiled Statutes (as supplemented and amended, the "**SSA Law**") to implement special service area ("**SSA**") financing; and

WHEREAS, upon the request of the developer / owner, the Municipality has preliminarily agreed to SSA financing of certain improvements, infrastructure and facilities constituting newly constructed special services (i.e., **(i)** asphalt and concrete parking lot site preparation and development, **(ii)** water service and electrical utilities, **(iii)** street lighting, **(iv)** storm and sanitary sewer improvements and facilities, **(v)** debt service reserves, **(vi)** construction period interest, **(vii)** engineering, legal, environmental and finance services, and **(viii)** related facilities, improvements and costs, constituting, collectively, the "**Special Services**") within a part of the development to be known as "**Subaru of O'Fallon**" (the "**Area**", as more particularly described in Exhibit A hereto and to be known as "**Subaru of O'Fallon**" and as "**Special Service Area Number Five**") and the issuance of unlimited ad valorem tax bonds with respect to the Area in an amount not to exceed \$700,000 (howsoever actually styled, including in one or more series, the "**SSA Bonds**") to finance the costs of such Special Services; and

WHEREAS, the Area is compact and contiguous and is totally within the corporate limits of the Municipality, and it is in the public interest to establish the Area as a special service area under the Act for the purposes herein set forth; and

WHEREAS, the SSA Bonds shall be retired over a period not to exceed 21 years from the issuance thereof and shall bear interest at the rate or rates of interest not exceeding the greater of nine percent (9%) per annum or 125% (and substituting 13% for 9% and 200% for 125% if not tax-exempt) of the 20 GO Bonds Index under the Bond Authorization Act (the "**20 GO Bonds Index**"), and, subject to allocation, determination, levy and extension on an ad valorem basis or on another basis (including, for example, acreage) that provides a rational relationship between the amount of the tax levied against each lot, block, tract and parcel of land in the Area and the Special Services benefit rendered shall be retired by the levy of direct annual taxes sufficient, as extended and levied against all taxable property therefor in the Area which the Municipality may secure by the full faith and credit of the Area under the SSA Law, to pay the interest on the SSA Bonds as the same comes due and to discharge the principal thereof at maturity, such direct annual taxes to be unlimited as to rate or amount and in addition to all other taxes permitted by law.

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

Section 1. Special Service Area 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 SSA Law, the Municipality's City Council proposes the establishment of the Area as a special service area under the Act in order to finance the acquisition, construction and installation of the Special Services, including by the issuance of SSA Bonds to pay all or a part of the financing of such Special Services, such Area being legally and generally described in Exhibit A hereto.

Section 2. Notices. A public hearing shall be held and the related notices given, all as required by the SSA Law.

(a) Hearing. At the public hearing, to be held as required by the SSA Law, any interested person, including all persons owning taxable real property located within the proposed special service area, may file with the City Clerk written objections to and may be heard orally in respect to any issues embodied in the notice related to the hearing. The Municipality shall hear and determine all protests and objections at the hearing and the hearing may be adjourned to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of its adjournment. At the public hearing or at the first regular meeting of the City Council thereafter, the Municipality may delete properties from the special service area; provided, however, that such special service area must still be a contiguous area as provided in the SSA Law. The public hearing shall be held at 7:00 p.m. (or as soon thereafter as the hearing may be held) at the regular meeting of the City Council on _____, 2006 at 255 S. Lincoln Avenue, in O'Fallon, Illinois.

(b) Notices. Notices of the public hearing shall be given by publication and mailing all as provided in the SSA Law. Notice by publication shall be given by publication at least once not less than fifteen (15) days prior to the hearing in the *News-Democrat*, a newspaper published in Belleville, Illinois and of general circulation within the Municipality. Notice by mailing shall be given by depositing the notice in the United States mails addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract or parcel of land lying within the proposed special service area. The notice shall be mailed not less than ten (10) days prior to the date and time set for the public hearing. In the event taxes for the last preceding year were not paid, the notice shall be sent to the person last listed on the tax rolls prior to that year as the owner of the property. The notices concerning the proposed establishment of the special service area and the related issuance of the SSA Bonds shall include certain information as follows:

(a) The time and place of hearing, which shall be _____, 2006, at 7:00 p.m. (or as soon thereafter as the 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 time and place for the hearing.

(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: approximately 2.5 acres, at and near 1290 Central Park Drive, in O'Fallon, Illinois.

(c) The permanent tax index number of each parcel located within the special service area: _____.

(d) The Special Services are to be the new construction of: (i) asphalt and concrete parking lot site preparation and development, (ii) water service and electrical utilities, (iii) street lighting, (iv) storm and sanitary sewer improvements and facilities, (v) debt service reserves, (vi) construction period interest, (vii) engineering, legal, environmental and finance services, and (viii) related facilities, improvements and costs, constituting, collectively, the “Special Services”.

(e) All special services (except the parking lot development and improvements and facilities located other than on public right-of-ways or property) when completed and accepted shall be subject to maintenance by the Municipality. The parking lot development and improvements and facilities located other than on public right-of-ways or property at all times will be privately maintained.

(f) A notification that all interested persons, including all persons owning taxable real property located within the special service area, will be given an opportunity to be heard at the hearing regarding the issuance of the SSA Bonds and the related tax levy and an opportunity to file objections to such tax levy and the issuance of such SSA Bonds.

(g) The maximum rate of taxes, which shall be without limit as to rate or amount in order to pay debt service with respect to the SSA Bonds, to be extended in any year and the maximum number of years (to be 21 years) such taxes will be levied and maximum amount of SSA Bonds (to be \$700,000) proposed to be issued, the maximum period of time over which SSA Bonds shall be retired (to be not more than 21 years), and the maximum interest rate the SSA Bonds shall bear, i.e., the greater of 9% per annum or 125% (and substituting 13% for 9% and 200% for 125% if not tax-exempt) of the 20 GO Bonds Index. The taxes to be levied shall be subject to allocation, determination, levy and extension on an ad valorem basis or on another basis (including, for example, acreage) that provides a rational relationship between the amount of the tax levied against each lot, block, tract and parcel of land in the Area and the Special Services benefit rendered, and the SSA Bonds shall be paid and retired as to principal and interest by the levy of direct annual taxes.

(c) SSA Bonds. The Bonds secured by the full faith and credit of the Area may be issued for providing the Special Services. The Bonds, when so issued, shall be retired by a levy of taxes in addition to any other taxes, as provided in the SSA Law, against all of the taxable real property included in the Area as provided in an ordinance authorizing the issuance of the SSA Bonds or by the imposition of another tax within the special service area. Unless otherwise required by applicable law, the County Clerk of St. Clair County shall annually extend taxes against all of the taxable property situated in The County of St. Clair and contained in such Area in amounts sufficient to pay maturing principal of and interest on such SSA Bonds without limitation as to rate or amount and in addition to and in excess of any taxes that may now or hereafter be authorized to be levied by the Municipality.

(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 Area as the Municipality's agent(s) with respect to the Special Services, may advance their own funds for such Special Services, subject to reimbursement from SSA Bond proceeds, 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 _____, 2006 by roll call vote, as follows.

AYES (Names): _____

NAYS (Names): _____

ABSENT (Names): _____

Approved this ____ day of _____, 2006.

(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 _____, 2006.

EXHIBIT A

DESCRIPTION OF

**Special Service Area Number Five (Subaru of O'Fallon)
of the City of O'Fallon, St. Clair County, Illinois**

General Description: The Area is that real estate (approximately 2.5 acres) located at and near 1290 Central Park Drive, in O'Fallon, Illinois.

Legal Description:

Lot 18A in the Amended Plat of Central Park Plaza 1st Addition, 2nd Amendment, according to the plat therefor recorded in Plat Book 106 Page 58 in the Recorder's office of St. Clair County, Illinois.

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 _____, 2006, insofar as same relates to the adoption of Ordinance No. _____ entitled:

AN ORDINANCE PROPOSING THE ESTABLISHMENT OF SPECIAL SERVICE AREA NUMBER FIVE (SUBARU OF O'FALLON), THE ISSUANCE OF SPECIAL SERVICE AREA BONDS SUFFICIENT TO PAY COSTS OF CERTAIN SPECIAL SERVICES, AND SETTING A DATE AND PROVIDING NOTICE FOR A RELATED PUBLIC HEARING,

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 the agenda for such meeting was duly posted at City Hall at least 48 hours before the meeting, 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 _____, 2006.

(SEAL)

City Clerk