

BILL # 237-22

AN ORDINANCE APPROVING A PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR SCHUTZ CONTAINER SYSTEMS, INC., A DELAWARE CORPORATION, CONSISTING OF THE PURCHASE AND INSTALLATION OF CERTAIN PERSONAL PROPERTY AND EQUIPMENT AT THE COMPANY'S MANUFACTURING FACILITIES LOCATED AT EASTOWNE BUSINESS PARK; AUTHORIZING THE CITY OF ST. JOSEPH, MISSOURI, TO ISSUE ITS TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS (SCHUTZ CONTAINER SYSTEMS PROJECT), SERIES 2022, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$15,000,000 TO FINANCE THE COSTS OF SUCH PROJECT; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of St. Joseph, Missouri (the "**City**"), is authorized under the provisions of Article VI, Section 27 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, Schutz Container Systems, Inc., a Delaware corporation (the "**Company**"), has proposed an industrial development project (the "**Project**") consisting of the purchase of machinery, equipment and other personal property (the "**Project Equipment**") to be installed at the Company's existing manufacturing facilities located at 5500 Providence Hill Drive, Eastowne Business Park, in St. Joseph, Missouri (the "**Project Site**") and the City desires to finance the costs of the Project out of the proceeds of industrial development revenue bonds to be issued under the Act (the "**Bonds**"), contingent upon preparation and approval of a plan for industrial development with respect to the Project (the "**Plan**") as required by Section 100.050 of the Act; and

WHEREAS, the City has prepared a Plan for the Project, notice of the Project was given to the taxing jurisdictions in accordance with Section 100.059.1 of the Act, and the City now desires to approve the Plan; and

WHEREAS, the City has determined 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, because the Bonds will be payable solely out of payments, revenues and receipts derived by the City from the lease of the Project Equipment to the Company, and from no other source, the City has determined that it is appropriate that the Bonds be sold to the Company pursuant to Section 108.170 of the Revised Statutes of Missouri, as amended, which provides that notwithstanding any other provisions of any law or any charter provision to the contrary, industrial development revenue bonds may be sold at private sale; 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 COUNCIL OF THE CITY OF ST. JOSEPH, MISSOURI, AS FOLLOWS:

SECTION 1. Promotion of Economic Development. The Council hereby finds and determines that the Project 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 Project will be in furtherance of the public purposes set forth in the Act.

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

SECTION 3. Authorization and Sale of the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (Schutz Container Systems Project), Series 2022, in an aggregate principal amount not to exceed \$15,000,000, for the purpose of providing funds to pay the costs of the Project.

The Bonds shall be issued and secured pursuant to the herein authorized Trust Indenture (defined below) 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 Indenture upon the execution thereof, and the signatures of the officers of the City executing the Trust Indenture shall constitute conclusive evidence of their approval and the City's approval thereof.

The sale of the Bonds to the Company at private sale pursuant to the provisions of Section 108.170 of Revised Statutes of Missouri, as amended, at the interest rate and upon the terms set forth in the Trust Indenture 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 Agreement (defined herein), and such payments, revenues and receipts shall be pledged and assigned to the Trustee (defined herein) as security for the payment of the Bonds as provided in the Trust Indenture. 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 dated as of the date set forth therein (the "**Trust Indenture**"), 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 Agreement 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 Indenture;

(b) Lease Agreement dated as of the date set forth therein (the “**Lease Agreement**”), between the City and the Company, under which the City will provide funds for the acquisition and installation of the Project Equipment and will lease the Project Equipment to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds;

(c) Bond Purchase Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the Company agrees to purchase the Bonds; and

(d) Performance Agreement dated as of the date set forth therein, between the City and the Company, and acknowledged by the County Assessor of Buchanan County, Missouri, pursuant to which the City will grant the Company certain rights with respect to the abatement of *ad valorem* personal property taxes on the Project Equipment in consideration for the Company’s agreement to create and maintain a certain level of employment at the Project Site.

SECTION 6. Execution of Documents. The Mayor or the 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 Indenture. The Mayor or the 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 City shall, and the officials, agents and employees of the City 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.

SECTION 8. Effective Date. This Ordinance shall take effect and be in full force and effect from and after its passage by the Council of the City.

Approved as to form:

City Attorney

Passed: _____, 20____

City Clerk

Mayor