

ORDINANCE NO. 171031

Adopting a policy for the utilization of sales tax exemption on certain affordable housing projects.

WHEREAS, the City Council has, since the inception of AdvanceKC, consistently strived to adopt and implement cohesive economic development policies for the benefit of the entire community, and has evidenced its commitment to the same through the adoption of multiple ordinances; and

WHEREAS, the City Council recognizes that a vibrant economy is dependent, in large part, on the ability of its workforce to secure safe housing, and do so at prices that are affordable so that they are not driven to leave the City, but are able to remain and continue to contribute to the City's economic growth; and

WHEREAS, the City Council desires to encourage developers to utilize the services of the Land Clearance for Redevelopment Authority of Kansas City, Missouri ("LCRA"), Planned Industrial Expansion Authority of Kansas City, Missouri ("PIEA") and Tax Increment Financing Commission of Kansas City, Missouri ("TIF"), as may be applicable to any particular project, to help the City realize these specific objectives; and

WHEREAS, pursuant to the general principles set forth in *Land Clearance for Redevelopment Authority of Kansas City, Missouri v. Waris*, 790 S.W.2d 454 (Mo. banc 1990), the LCRA, and by implication, the PIEA and TIF (being individually and collectively referred to herein as a "Component Agency") are, for purposes of enjoying the benefit of tax exemption, deemed to be part of the City's municipal structure; and

WHEREAS, it is proper that the City Council should establish parameters for a Component Agency's extension of sales tax exemption pursuant to the City's authority;
NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the City Council supports the extension of sales tax exemption on the purchase of construction materials for the purpose of providing affordable housing, provided:

- (1) Not less than ten percent (10%) of each unit type shall be made available for rent at a monthly gross rental rate which shall not exceed the Fair Market Rents (FMR's) in effect for the Kansas City, MO-KS HUD Metro FMR Area ("Kansas City, MO-KS HMFA"), as annually updated, and which monthly gross rental rate shall be inclusive of all tenant-paid

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utilities, except telephones, cable or satellite television service, and internet service; and

- (2) The units described in subsection (1) shall not be leased to any person whose total household income, as adjusted per household size, would exceed the applicable low-income limit for the Kansas-City, MO-KS HMFA, as annually updated by HUD in accordance with Section 3(b)(2) of the U.S. Housing Act of 1937, As Amended.

Notwithstanding the foregoing, it shall not be a requirement that the recipient of any sales tax exemption participate in any HUD housing assistance program provided they otherwise elect to covenant that affordable housing be made available in compliance with the provisions of this section.

Section 2. That pursuant to the provisions of subdivision (10) of Section 39 of Article III of the Constitution of Missouri and Section 144.062.1(1), RSMo, as the same may be amended from time-to-time, any notwithstanding anything herein to the contrary, no Component Agency shall extend sales tax exemption on the purchase of construction materials unless the project in which such materials are to be incorporated is owned by the Component Agency pursuant to the provisions of a sale-leaseback structure and the construction materials are purchased utilizing public funds, including without limitation, bond proceeds.

Section 3. That the Component Agency shall not be required to request or obtain the consent of the City, or any elected or appointed official thereof, in extending sales tax exemption on the purchase of construction materials in accordance with the provisions of this ordinance and applicable laws.

Section 4. That any Component Agency electing to extend sales tax exemption on construction materials shall, as a material term of any development agreement, however denominated, require the payment of an amount at least equal to the exempted sales taxes in the event the project fails to abide by the qualifications provided for in Section 1 of this ordinance, and shall provide for the disbursement of such recouped amounts to the Shared Success Fund as established by Second Committee Substitute for Ordinance No. 160383, As Amended.

Section 5. That any Component Agency electing to extend sales tax exemption on construction materials shall, as a material term of any development agreement, however denominated, require the payment of such exempted sales taxes and any associated costs and penalties in the event the same are ultimately determined to be due by any competent authority charged with enforcement of the state's sales tax laws and regulations, and that the developer shall indemnify the Component Agency, the City of Kansas City, Missouri, and each of their respective employees, officers and officials from any and all liability in connection therewith.

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Section 6. That nothing herein shall be construed as limiting or otherwise waiving any requirements imposed under any applicable provision of federal or state law, as the same may be amended from time to time.

Approved as to form and legality:

Brian T. Rabineau
Assistant City Attorney