

ORDINANCE NO. 200727

Approving an Industrial Development Plan for Bennett Packaging of Kansas City, Inc. (or an affiliate or designee thereof), for the purpose of acquiring, equipping and constructing a project for industrial development consisting of the acquisition and adaptive reuse of an existing blighted retail shopping center into the Bennett Packaging & Displays Corporate Campus, to be located at 4800 Noland Road, Kansas City, Missouri; authorizing and approving various agreements for the purpose of setting forth covenants, agreements and obligations of the City and Bennett Packaging of Kansas City, Inc. (or an affiliate or designee thereof); authorizing the issuance of taxable industrial revenue bonds in a maximum aggregate principal amount not to exceed \$48,000,000.00; authorizing and approving certain other documents; and authorizing certain other actions in connection with the issuance of said bonds.

WHEREAS, the City of Kansas City, Missouri, a constitutional charter city and municipal corporation of the State of Missouri (the "City") is authorized pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and the City of Kansas City Charter (collectively, the "Act"), to issue its revenue bonds for carrying out a project or projects under the Act, such revenue bonds to be paid solely from revenue received from such project, and to enter into a lease of certain property associated with the project to be financed with the proceeds of such revenue bonds with any person, firm or corporation; and

WHEREAS, the City has heretofore prepared and approved plans for the industrial development of the City and desires to approve an Industrial Development Plan (the "Plan") for the purpose of carrying out a development project for Bennett Packaging of Kansas City, Inc., a Kansas corporation, or an affiliate or other designee thereof (the "Company"), which shall include (1) the renovation of approximately 192,000 square feet space for manufacturing and office use, and (2) the construction of approximately 332,300 square feet for manufacturing, office, warehouse and storage use and related improvements and provide additional space for industrial use, together with related site improvements such as surface parking lots, new lighting, signage and landscaping and public infrastructure improvements, which may consist of signage, signaling, sidewalks, utility relocation, landscaping, and curbs (collectively, the "Project"); and

WHEREAS, the City intends to issue its Taxable Industrial Revenue Bonds (Bennett Packaging of Kansas City, Inc. Project), in one or more series (the "Bonds"), for the development of the Project, which is to be located at 4800 Noland Road, Kansas City, Missouri (the "Project Site"); and

WHEREAS, notice of the Project was given to the taxing jurisdictions in accordance with Section 100.059.1 of the Revised Statutes of Missouri; and

WHEREAS, the City Council has heretofore and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City Council approve a Chapter 100 Industrial Development Plan as proposed by the Company; and that the City issue the Bonds, as more fully

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described in the Indenture and in the Lease, as hereinafter defined and authorized, proceeds of which shall be used for the purchase, construction and equipping of certain real and personal property associated with the Project, which shall be located at the Project Site and leased by the City to the Company, with an option to purchase; and

WHEREAS, the principal amount of the Bonds will be issued in multiple series of taxable Chapter 100 bonds, with: (1) the first ten (10) years of real property tax abatement at 75%; (2) the next fifteen (15) years of real property tax abatement at 37.5%; and (3) seven (7) years of personal property tax abatement at 75% from the date of each periodic purchase of personal property, which Bonds will be repaid solely by the Company under the terms of the Lease; and

WHEREAS, for a Chapter 100 bond issuance, the City Council has previously established a policy (Resolution No. 041033) for the review and approval of these projects, one component of which suggests a maximum bond term of ten (10) years and another of which suggests payments-in-lieu-of-taxes (PILOTS) at a level of no less than 50% of the amount that would have been paid to the affected taxing jurisdictions on the property if it had been fully taxed during the term of the bonds; and

WHEREAS, the City Council has previously established a policy (Ordinance No. 160383) capping the amount of real property tax abatement for Chapter 100 projects at 50% for ten (10) years; and

WHEREAS, the City Council wishes in this instance to waive: (i) its Chapter 100 policy suggesting the maximum abatement period and maximum bond term; (ii) its Chapter 100 policy suggesting the minimum PILOT payment on behalf of the Project; and (iii) its Chapter 100 policy based upon the independent professional analysis of the anticipated financial return on the amount of private investment necessary to develop and construct the Project and the eventual net benefits to taxing jurisdictions from the implementation of the Project; and

WHEREAS, the proceeds of the Bonds will be used to construct and develop the Project (with a corresponding tax abatement as described herein) and to provide a sales tax exemption on construction materials for the Project, which does not require any waiver of the policy described above (found in Ordinance No. 160383); and

WHEREAS, the Company has agreed to maintain certain levels of retained and/or created jobs in conjunction with the Project as required by City Council policy (which agreement will be memorialized in the Lease); and

WHEREAS, the principal amount of each series of Bonds will be advanced following the commencement of each phase of the Project to be financed by such series, and such property will be leased by the City to the Company for a period not to exceed twenty-five (25) years for the real property, commencing in the year of the first advance for such property to be financed by such series of Bonds (subject to earlier termination as provided in the Lease); and (2) seven (7) years for the personal property, which lease term for each increment of personal property will commence in the year following the advance and end on December 31 of the year in which the seventh (7th) anniversary

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following commencement of each annual component of the personal property comprising the Project occurs (subject to earlier termination as provided in the Lease); and

WHEREAS, the City finds and determines that it is necessary and desirable in connection with the Project to establish: (1) a 75% abatement of *ad valorem* real property taxes of each phase of the Project for the first ten (10) years following the commencement of each phase of the Project, with annual payments-in-lieu-of-taxes (PILOTS) equal to 25% of the real property taxes to the affected taxing jurisdictions that would have been payable had the real property been fully taxed; (2) a 37.5% abatement of *ad valorem* real property taxes of each phase of the Project for the next fifteen (15) years for such phase of the Project, with annual payments-in-lieu-of-taxes (PILOTS) equal to 62.5% of the real property taxes to the affected taxing jurisdictions that would have been payable had the real property been fully taxed; (3) a 75% abatement of *ad valorem* personal property taxes for each component of personal property for the Project for a period of seven (7) years, with annual PILOTS equal to 25% of the personal property taxes to the affected jurisdictions that would have been payable had the personal property been fully taxed, all as described in the Plan; and (4) a sales tax exemption for construction materials purchased with proceeds of the Bonds; and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with the Project 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 KANSAS CITY:

Section 1. Approval of Plan. The City Council hereby finds and determines that the Project will promote the economic well-being and industrial development of the City and the Project will be in furtherance of the public purposes set forth in the Act. The City Council hereby approves the Plan for the Project, which includes the following provisions:

(a) Construction, acquisition, equipping and installation of the Project located at the Project Site in the City;

(b) A total estimated Project cost of approximately \$69,560,150.00 to fund the construction, acquisition, equipping and installation of the Project; and

(c) A portion of the costs of constructing, acquiring, equipping and installing the Project that will be funded from proceeds of the sale of up to \$48,000,000.00 maximum principal amount of Taxable Industrial Revenue Bonds to be issued by the City and purchased by the Company or other purchaser named in the herein-defined Purchase Agreement.

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Section 2. Authorization of Documents. The City is hereby authorized to enter into the following documents (the "City Documents"), in such form 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 (the "Indenture"), between the City and the trustee named therein (the "Trustee"), with such amendments and supplements as are necessary or appropriate to carry out the intent of this Ordinance and pursuant to which the Bonds shall be issued in one or more series, and the City shall pledge the Project and assign certain of the payments, revenues and receipts received pursuant to the Lease to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Indenture;

(b) Lease Agreement (the "Lease"), between the City and the Company, with such amendments and supplements as are necessary or appropriate to carry out the intent of this Ordinance and under which the City will acquire the Project and lease the Project to the Company pursuant to the terms and conditions in said Lease, 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; and

(c) Purchase Agreement, as defined below, under which the purchaser named therein agrees to purchase the Bonds.

Section 3. Authorization of the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Revenue Bonds (Bennett Packaging of Kansas City, Inc. Project), in one or more series, in a maximum aggregate principal amount not to exceed \$48,000,000.00 for the purpose of providing funds for certain real and personal property associated with the Project. The Bonds shall be issued and secured pursuant to the herein authorized Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rates, shall be in such form, shall be subject to redemption and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the Indenture.

Section 4. Sale and Terms of Bonds; Authorization and Execution of Bond Purchase Agreement. The Bonds will be sold to the Company or other purchaser under the terms of a Bond Purchase Agreement between the City and the Company or other purchaser (the "Purchase Agreement"). The maximum aggregate principal amount of the Bonds shall not exceed \$48,000,000.00, the interest rate on the Bonds shall not exceed 5.00%, principal shall be payable at maturity, the final maturity date shall be no later than December 31, 2054, but (i) as to each series of Bonds that financed the acquisition and redevelopment of the real property, the maturity date for each series of bonds shall be in the year twenty-five (25) years subsequent to the transfer of real property to the City for such series; and (ii) as to each series of Bonds that financed the acquisition of the personal property associated with the Project, the maturity date shall be in the year that is seven (7) years following commencement of each annual component of such personal property for the Project; the Bonds shall be purchased at 100% of the principal amount thereof, and the Bonds may be redeemed at any time at a redemption price equal to the

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principal amount thereof plus accrued interest. The Director of Finance or the City Treasurer is each authorized to execute the Purchase Agreement for and on behalf of and as the act and deed of the City.

Section 5. Limitation on Liability. The Bonds and the interest thereon shall be limited obligations of the City payable solely out of certain payments, revenues and receipts derived by the City from the Lease described herein, and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Bonds as provided in the Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City or the State of Missouri. The Bonds shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation.

Section 6. Creation of Bond Fund. The City is hereby authorized to establish with the Trustee pursuant to the Indenture, a special trust fund in the name of the City to be designated the "City of Kansas City, Missouri, Bond Fund – Bennett Packaging of Kansas City, Inc. Project" and the City shall cause all sums required by the Indenture to be deposited therein and shall create all accounts therein required by the Indenture.

Section 7. Execution of Documents. The Mayor 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 Indenture. The Director of Finance 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 or a deputy 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 8. Further Authority. The Mayor, Director of Finance and other officials, agents and employees of the City as required, 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, the City Documents, and tax redirection.

Approved as to form and legality:

Katherine Chandler
Assistant City Attorney