

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 140825

Establishing a policy for identifying the amount of ad valorem real property taxes that should be utilized in furtherance of certain economic development projects, and establishing an effective date.

WHEREAS, pursuant to the Land Clearance for Redevelopment Authority Law, Sections 99.300 to 99.660 of the Revised Statutes of Missouri, as amended, the City Council of Kansas City, Missouri by Ordinance No. 16120 passed on November 21, 1952, created the Land Clearance for Redevelopment Authority of Kansas City, Missouri (the "LCRA"); and

WHEREAS, pursuant to the Planned Industrial Expansion Law, Sections 100.300 to 100.620 of the Revised Statutes of Missouri, as amended, the City Council of Kansas City, Missouri by Ordinance No. 34677 passed on February 9, 1968, created the Planned Industrial Expansion Authority of Kansas City, Missouri (the "PIEA"); and

WHEREAS, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended, the City Council of Kansas City, Missouri by Ordinance No. 54556 passed on November 24, 1982, and thereafter amended in certain respects by Committee Substitute for Ordinance No. 911076, As Amended, passed on August 29, 1991, Ordinance No. 100089, As Amended, passed on January 28, 2010, and Ordinance No. 130986, passed on December 19, 2013, created the Tax Increment Financing Commission of Kansas City, Missouri (the "TIF Commission"); and

WHEREAS, pursuant to the provisions of Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, and the provisions of Committee Substitute for Resolution No. 041033 adopted on September 16, 2004, the City Council of Kansas City, Missouri is authorized to approve the issuance of revenue bonds for the purpose of promoting industrial development through, among other things, the abatement of real property taxes; and

WHEREAS, pursuant to Committee Substitute for Resolution No. 121013 adopted on December 20, 2012 and Committee Substitute for Resolution No. 130297 adopted on April 25, 2013, the City Council of Kansas City, Missouri expressed its support for and authorized the use of sale-leasebacks by certain economic development entities as a mechanism for abating, among other things, real property taxes; and

WHEREAS, pursuant to the Urban Redevelopment Corporations Law, Sections 353.010 to 353.190 of the Revised Statutes of Missouri, as amended, the City Council of Kansas City, Missouri is authorized to promote urban renewal through the abatement of real property taxes and has, by Committee Substitute for Ordinance No. 140306 passed on May 1, 2014, created the Kansas City Chapter 353 Advisory Board and vested it with certain powers in furtherance of such urban renewal efforts; and

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WHEREAS, the City is empowered, directly or through one or more of the aforementioned agencies, to offer public incentives for economic development projects in the form of, among other things, a capture and redirection, or abatement or exemption, in whole or in part, of real property taxes; and

WHEREAS, Ordinance No. 140825, as originally introduced, was intended to be a starting point for discussions on these issues, and those discussions have resulted in a recognition that the objectives can be obtained, and the City's economic development policies furthered, through an approach that is more appropriately tailored to specific economic need; and

WHEREAS, the Planning, Zoning and Economic Development Committee heard testimony on Ordinance No. 140825 over the course of several weeks, and that testimony indicated that the ordinance, as originally introduced, would have a detrimental impact on development and redevelopment within the City, and would damage the City's efforts to repopulate the urban core, compete for jobs, and otherwise promote economic development; and

WHEREAS, each economic development plan and project is unique, as are the financial needs and competition, and it would be counterproductive to adopt an economic policy with respect to the abatement or exemption of real property taxes that fails to fully appreciate that uniqueness by adopting a one-size-fits-all approach; and

WHEREAS, the need for flexibility is magnified by the increasing level of competition that the City faces in attracting and retaining jobs, particularly with respect to competition from neighboring communities in Kansas; and

WHEREAS, the City fully appreciates that, in being competitive, it must also be mindful of the impact that decisions related to the abatement or exemption of real property taxes have on other taxing jurisdictions; and

WHEREAS, the City recognizes the concerns of the other taxing jurisdictions with respect to preserving their tax bases, and calls upon the aforementioned agencies to ensure that those taxing jurisdictions are notified and given a meaningful opportunity to be heard with respect to decisions that might impact them, and that their concerns be given due consideration by those agencies; and

WHEREAS, it is proper that the City's policies for granting any approval, directly or through one of the aforementioned agencies, which results in the capture and redirection, or abatement or exemption of real property taxes, take into account the impact of the loss of such revenues on all the affected taxing jurisdictions; and

WHEREAS, it is in the best interest of all the taxing jurisdictions, including the City, that a thoughtful financial analysis be undertaken on plans and projects, and that the level of financial need be appropriately identified so as not to over-incentivize an otherwise viable economic development plan or project; and

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WHEREAS, the City recognizes that there are situations in which that financial analysis might be appropriately undertaken in-house by the relevant agency, while at other times, the magnitude of the plan or project might be such that an independent financial analysis is more appropriate; and

WHEREAS, the City calls upon the Economic Development Corporation of Kansas City, Missouri to continue in its efforts to provide a mechanism for independent financial analyses where appropriate, and to work with each of the aforementioned agencies to ensure that they are provide such assistance as they may require with respect to identifying and quantifying financial need; and

WHEREAS, this ordinance, as herein amended, is consistent with and in furtherance of the City's economic development and incentives policy as adopted by Committee Substitute for Ordinance No. 140031, As Amended, and the scoring system adopted thereunder by Ordinance No. 140375, as it is intended to ensure that the abatement or exemption of real property taxes is used in a manner that will strengthen the City's economy, preserve and enhance our local tax base, and provide opportunities created by the expansion and retention of businesses; and

WHEREAS, the policies established by this ordinance, as herein amended, are structured in a manner intended to ensure that the City's economic development efforts are responsive to need, and nothing herein, or in the economic development and incentives policy or the scoring system, is to be construed in a manner that would preclude the City from offering such level of financial incentives as it deems advisable under the totality of circumstances; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. **LCRA.** That the City Council shall not grant its approval to any redevelopment plan, urban renewal plan, or substantial modification thereto, recommended by the Land Clearance for Redevelopment Authority of Kansas City, Missouri, (the "LCRA") unless such plan shall identify and provide for an ad valorem real property tax abatement no greater than that which the LCRA or such financial consultants as it might elect to rely upon has determined is required to fill any gap in financing or otherwise render the plan financially feasible. The inclusion of such a term shall be regarded as a substantial element of any plan so approved and shall be incorporated as a material term of any applicable contract.

Section 2. **PIEA.** That the City Council shall not grant its approval to any plan, or substantial modification thereto, recommended by the Planned Industrial Expansion Authority of Kansas City, Missouri, (the "PIEA") unless such plan shall identify and provide for an ad valorem real property tax abatement no greater than that which the PIEA or such financial consultants as it might elect to rely upon has determined is required to fill any gap in financing or otherwise render the plan financially feasible.

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The inclusion of such a term shall be regarded as a substantial element of any plan so approved and shall be incorporated as a material term of any applicable contract.

Section 3. **TIF Commission.** That the City Council shall not approve any redevelopment plan or redevelopment project recommended by the Tax Increment Financing Commission of Kansas City, Missouri, (the “TIF Commission”) unless such plan or project shall identify and provide for, with respect to payments in lieu of taxes pursuant to Section 99.845.1(2)(a), RSMo, the redirection of such sums in an amount no greater than that which the TIF Commission or such financial consultants as it might elect to rely upon has determined is required to fill any gap in financing or otherwise render the plan or project financially feasible. Sums in excess of this amount shall be regarded, for all purposes, as unavailable for the reimbursement of redevelopment project costs, shall be excluded from any pledge of funds in and to be deposited in the special allocation fund, and, to the extent permitted by law, shall be annually surplused for distribution by the applicable county collector in accordance with Section 99.850.1, RSMo.

Section 4. **Chapter 100; Sale-leasebacks.** That the City Council reaffirms its policies as established by Committee Substitute for Resolution No. 041033 and Committee Substitute for Resolution No. 130297 and shall require payments-in-lieu-of-taxes at a level not less than fifty percent (50%) of the amount of ad valorem real property taxes that would have been payable but for the public ownership of the real property, such payments to be distributed pro rata to the affected taxing jurisdictions. Such requirement shall be incorporated as a material term of any applicable contract.

Section 5. **Chapter 353.** That the City Council shall not grant its approval to any development plan or amendment thereto recommended by the Kansas City Chapter 353 Advisory Board, (the “353 Board”) unless such plan shall identify and provide for an ad valorem real property tax abatement no greater than that which the 353 Board or such financial consultants as it might elect to rely upon has determined is required to fill any gap in financing or otherwise render the plan financially feasible. The inclusion of such a term shall be regarded as a substantial element of any plan so approved and shall be incorporated as a material term of any applicable contract.

Section 6. That the City Council shall retain the discretion to authorize the capture and redirection, or abatement or exemption, in whole or in part, of ad valorem real property taxes to the full extent authorized by any provision of law, notwithstanding any provision of this ordinance to the contrary. In determining whether to grant an increased incentive to any project, the City Council may utilize the AdvanceKC Scorecard, derived from the City Council’s Economic Development and Incentive Policy, as an evaluation tool. In addition, the City Council may choose to grant increased incentives where it is determined that the City is in a competitive disadvantage due to the fact that other governmental or taxing jurisdictions have not adopted similar incentive policies.

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Section 7. That in the event any provision of Sections 1, 2 or 5 of this ordinance is deemed unenforceable by reason that it conflicts with a provision of state law providing for a larger ad valorem real property tax abatement, then the LCRA, PIEA or City, as applicable, shall, to the maximum extent permitted by law, contractually require payments-in-lieu-of-taxes structured to achieve the objectives of this ordinance, such payments to be distributed pro rata to the affected taxing jurisdictions. Such requirement shall be included within the body of the redevelopment plan, urban renewal plan, plan, or development plan, as applicable, and shall be regarded as a substantial element of any plan so approved.

Section 8. That the provisions of this ordinance shall become effective January 1, 2015. This ordinance shall apply prospectively only and shall not be construed in a manner as to impair any tax abatement, tax exemption, tax capture and redirection, or any transaction related thereto authorized by the City, any agency referenced herein, or any other public entity prior to the aforementioned effective date.

Approved as to form and legality:

Brian T. Rabineau
Assistant City Attorney