

COMMITTEE SUBSTITUTE FOR ORDINANCE NO.970520

Authorizing acceptance of the payment of \$375,000.00 in full settlement of the second note and deed of trust held by the City of Kansas City, Missouri, and secured by the property known as the Wholesale Produce Center; and authorizing execution of certain documents.

WHEREAS, the City of Kansas City ("City") submitted an application to the United States Department of Housing and Urban Development ("HUD"), designated by HUD as Number B-87-AA-29-0247, the ("Application") which requested that HUD provide to the City an Urban Development Action Grant ("UDAG") to be used for the financing of the land acquisition and site improvements for the Wholesale Produce Center (the "Project") at I-435 and Front Street in Kansas City, Missouri, to be developed by KCCID Charitable Fund, Inc. ("KCCID") and Century Avenue Associates Limited Partnership, a Missouri limited partnership ("Developer"); and

WHEREAS, the Application received preliminary approval from HUD on April 9, 1987, by Ordinance No. 61299, and was subsequently amended, which established the terms and conditions pursuant to which the UDAG funds would be provided by HUD and utilized by the City; and

WHEREAS, the City subsequently loaned the UDAG funds to KCCID for acquisition of the Project site and certain site improvements; and

WHEREAS, the Industrial Development Authority of Kansas City, Missouri ("Authority") issued industrial revenue bonds in the amount of \$7,200,000.00 (the "Bonds") to assist in financing the Project; and

WHEREAS, the Developer has utilized the proceeds of the Bonds for construction of wholesale/industrial/retail facilities on the Project; and

WHEREAS, the Project is encumbered by a deed of trust to secure the indebtedness of the Bonds, which is a prior lien against the Project held by Boatmen's Trust Company (the "Bank"); and

WHEREAS, on September 16, 1988, the City issued a second deed of trust to KCCID and Developer secured by the Project site; and

WHEREAS, Developer and KCCID granted a sublease of the Project to Tom's Quality Food Service, Inc. ("Tom's"), on which sublease Tom's subsequently defaulted; and

WHEREAS, the first deed of trust, the balance of which is \$4,900,000.00, is now in default and it is probable that the Bank will foreclose on the first deed of trust, thereby extinguishing the rights of the City as to the second deed of trust; and

WHEREAS, the second deed of trust, the balance of which is \$1,509,833.00, is now in default; and

WHEREAS, the Project has been appraised and its value is deemed sufficient only to cover the value of the first mortgage; and

WHEREAS, it is both expedient and in the public interest to reach an accord and satisfaction of the second note and deed of trust and all past due rent owed on the Project which is now in default; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the Director of Finance is directed to accept payment of \$375,000.00 from Developer in full settlement of the second deed of trust on the Project and the Director of Finance is hereby authorized and directed to execute any necessary documents to accomplish said settlement and to release the second deed of trust.

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Approved as to form and legality:

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Assistant City Attorney2