

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 160383, AS
AMENDED

Repealing Committee Substitute for Resolution No. 150571; enacting guidelines on the use of abated and exempted real property taxes in funding economic development projects; and establishing the Shared Success Fund to further economic development in severely distressed census tracts within the City.

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, Ordinance No. 130986, passed on December 19, 2013, and Committee Substitute for Ordinance No. 140823, As Amended, passed on June 18, 2015, 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 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, AdvanceKC, the City's adopted economic development and incentives policy, encourages the use of incentives only as necessary to fill financial gaps, and limits them to reasonable and appropriate project expenses which have a public benefit and which are essential to the successful completion of projects, and which provide a positive fiscal impact on taxing jurisdictions; and

WHEREAS, the City Council adopted a revised AdvanceKC Scorecard which recognizes the need to evaluate incentives for Jobs-Based and Site-Based projects individually, and which prioritize substantial investments in our most economically distressed areas, that create net new employment in quality jobs, with emphasis on target sectors, and encourage sustainable and socially responsible development practices including historic preservation, efficient use of natural resources, increased mobility, and expansion of housing choices for residents; and

WHEREAS, the City contracts with the Economic Development Corporation of Kansas City, Missouri (the "EDC") for purposes of managing the City's economic development projects and providing varying levels of support to each of the aforementioned agencies, among others; and

WHEREAS, the City has been working collaboratively with other taxing jurisdictions and the EDC towards the establishment of economic development policies and practices that are in the best interest of the public good, and which strive to reasonably limit the extent to which incentives are utilized, while still working to aggressively eliminate blight and encourage redevelopment and business and job growth in our community; and

WHEREAS, it is proper that the City Council should declare its expectations with regards to how the EDC administers the tasks assigned to it and evaluates financial need prior to the City Council's being asked to make determinations with respect to the capture and redirection, or abatement or exemption of taxes; and

WHEREAS, it is further proper that the City's policies for granting any approval, directly or through one of the aforementioned agencies, take into account the impact of the loss of revenues on the affected taxing jurisdictions and the extent to which the use of such revenues might be minimized consistent with maintaining a viable economic development project; and

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WHEREAS, it is also proper that the City's policies take into account how certain revenues flowing back to the City as a result of incentivized economic development projects could be utilized to facilitate new economic development in distressed areas of our community; and

WHEREAS, investing incentives in economic development projects in distressed areas of the City promotes a cycle of investment and re-investment that benefits the City as a whole; and

WHEREAS, representatives of other local taxing jurisdictions were included in the negotiation of the terms of this ordinance and have expressed their support for the concepts embodied herein; and

WHEREAS, it is the City Council's intention that the provisions of this ordinance not be imposed upon any existing agreement; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF KANSAS CITY, MISSOURI:

Section 1. That Committee Substitute for Resolution No. 150571 is hereby repealed.

Section 2. That the EDC shall make recommendations on economic development projects to the City Council for the capture and redirection, or abatement or exemption of real property taxes on the basis of the following:

- A. The EDC shall have evaluated the project using the AdvanceKC Scorecard for the purposes of determining the extent to which the project aligns with the City Council's priorities as set forth therein.
- B. The EDC shall have prepared, or caused a third party to prepare, a financial return analysis for the purposes of comparing the leveraged and unleveraged internal rate of return to determine whether and to what extent the project warrants public assistance consistent with incentivizing the project to an appropriate market benchmark. That analysis shall specifically include a review of the project's economic viability were the real property tax incentives limited to that which is provided herein.

Section 3. **TIF Commission.** That, in the absence of Extraordinary Qualifications, as hereinafter defined, the City Council shall not approve any redevelopment plan providing for, with respect to payments in lieu of taxes ("PILOTS") pursuant to Section 99.845.1(2)(a), RSMo, the redirection of such sums in an amount that would exceed seventy-five percent (75%) of the PILOTS captured by the special allocation fund for the duration of the relevant redevelopment project. The City Council shall accomplish the same by excluding from any pledge of funds in and to be deposited in the special allocation fund an amount equal to twenty-five percent (25%) of the PILOTS and shall, to the extent permitted by law, annually surplus such sums for

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distribution by the applicable county collector in accordance with Section 99.850.1, RSMo.

Section 4. **PIEA.** That, in the absence of Extraordinary Qualifications, as hereinafter defined, the City Council shall not grant its approval to any plan, or substantial modification thereto, recommended by the PIEA unless such plan shall provide for not greater than a seventy-five percent (75%) abatement of real property taxes for the first ten years and thirty-seven and one-half percent (37.5%) for the following fifteen years, and which taxes shall, for the entire term, be measured by the assessed valuation thereof, inclusive of any improvements, as assessed by the applicable county assessor. 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 5. **LCRA.** That, in the absence of Extraordinary Qualifications, as hereinafter defined, the City Council shall not grant its approval to any redevelopment plan, urban renewal plan, or substantial modification thereto, recommended by the LCRA unless such plan shall provide for not greater than a seventy-five percent (75%) abatement of real property taxes for the duration of the public incentives, and which taxes shall, for the entire term, be measured by the assessed valuation thereof, inclusive of any improvements, as assessed by the applicable county assessor. 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. **Chapter 353.** That, in the absence of Extraordinary Qualifications, as hereinafter defined, the City Council shall not grant its approval to any development plan or substantial modification thereto recommended by the Kansas City Chapter 353 Advisory Board, unless such plan shall provide for not greater than a seventy-five percent (75%) abatement of real property taxes for the first ten years and thirty-seven and one-half percent (37.5%) for the following fifteen years, and which taxes shall, for the entire term, be measured by the assessed valuation thereof, inclusive of any improvements, as assessed by the applicable county assessor. 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 7. **Chapter 100.** That the City Council reaffirms its policies as established by Committee Substitute for Resolution No. 041033. In the absence of Extraordinary Qualifications, as hereinafter defined, any leaseback structure pursuant to the provisions of Sections 100.010 through 100.200, RSMo, shall ensure that the lessee thereunder be contractually obligated to tender payments in lieu of taxes in an amount not less than fifty percent (50%) of the amount of real property taxes that would have been due and payable but for the public ownership of the real property for the duration of the public incentives, and which taxes shall, for the entire term, be measured by the assessed valuation thereof, inclusive of any improvements, as assessed by the applicable county assessor. Such requirement shall be incorporated as a material term of any applicable contract.

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Section 8. That in the event any provision of Sections 4, 5, 6 or 7 of this ordinance is deemed unenforceable by reason that it conflicts with a provision of state law providing for a differing level of abatement for all or any portion of the term of the public incentives, or providing that the assessed valuation be determined by some other measure than is set forth therein, 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 9. That notwithstanding the foregoing provisions of this ordinance, the City Council shall retain its 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. The City Council shall give particular consideration to the following exceptions to the above policies (collectively, “Extraordinary Qualifications”) in determining whether to authorize any abatement/exemption structure, or approve any development plan providing for incentives to be conveyed on a project-specific basis at any level other than what has been provided for herein:

- A. Projects qualifying for Jobs-Based or Site-Based “High Impact” designation as determined by the AdvanceKC Scorecard, derived from the City Council’s Economic Development and Incentive Policy.
- B. Projects located in a severely distressed census tract that has continuously maintained such status for not less than ten (10) years immediately prior to the effective date of the request.

Section 10. That the Shared Success Fund is hereby established and shall exist to provide funding to qualified redevelopment projects (“Shared Success Projects”) in economically distressed areas of the City in need of those benefits derived from economic development (the “Shared Success Fund Eligible Areas”).

Section 11. That the Shared Success Fund shall initially be funded from certain payments in lieu of taxes distributed to and retained by the City, and which are derived from projects benefiting from tax abatements or tax redirections through an economic development agency or program (“Shared Success PILOTS”).

Section 12. The City shall endeavor to identify additional one-time and recurring funding sources as may be appropriate for the purpose of ensuring the viability of the Shared Success Fund. The direction of any one-time revenues to the Shared Success Fund shall be deemed an appropriate use pursuant to Section 2-1970(g), Code of Ordinance.

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Section 13. That the Shared Success PILOTS shall be deposited to the Shared Success Fund and shall be appropriated at the direction of the City Council only to Shared Success Projects located within Shared Success Fund Eligible Areas. The City Council's Planning, Zoning and Economic Development Committee shall make such recommendations to the City Council as it determines appropriate in consultation with such representatives as the City Manager and the Economic Development Corporation of Kansas City, Missouri may identify for such purposes.

Section 14. That the Shared Success Projects located within Shared Success Fund Eligible Areas shall be limited to those projects and areas meeting the definition of severely distressed as outline in Section 9.B above.

Section 15. That notwithstanding anything within this ordinance to the contrary, the following limitations shall apply with respect to the Shared Success Fund:

- A. In the event that the emergency reserve portion of the committed general fund balance shall fall below one month of general fund operating expenditures, then the Director of Finance shall be authorized, without further City Council action, to suspend the direction of Shared Success PILOTS to the Shared Success Fund until such time as such minimum fund balance shall have been restored.
- B. In the event that the emergency reserve portion of the committed general fund balance shall fall below one month of general fund operating expenditures, then no one-time revenues shall be directed to the Shared Success Fund until such time as such minimum fund balance shall have been restored.
- C. In the event that the City Council shall have adopted a budget that estimates and appropriates revenues which might otherwise be categorized as Shared Success PILOTS somewhere other than the Shared Success Fund, then only such portion of the actual revenues which exceeds the estimated revenues shall be directed to the Shared Success Fund.

Section 16. That this ordinance shall be reviewed by the City Council not later than two years from the effective date of this Ordinance with the consideration of the appropriate level of the capture and redirection, or abatement or exemption of taxes.

Section 17. That 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 effective date thereof. Furthermore, it is the City Council's intention that the provisions of this ordinance not be imposed upon any previously approved plans with defined diversion or abatement levels, or amendments or extensions of any existing agreements or any economic incentives currently in effect; provided, however, that if any amendment or extension substantially expands the area within which any existing agreements are applicable or any economic

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incentives currently in effect are available, the provisions of this ordinance shall be applicable to the area of such expansion.

Approved as to form and legality:

Brian T. Rabineau
Associate City Attorney