ORDINANCE NO. 250811

Amending Chapter 3, Code of Ordinance, "Contracting and Leases," by repealing and replaces Sections 3-425, 3-505, and 3-622, and amending Chapter 74, Code of Ordinance, "Kansas City Redevelopment Ordinance," by repealing and replacing Section 74-11, to modify the provision of certain city policies to economic development areas tax increment financing plans.

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 "Act"), the City Council of Kansas City, Missouri (the "City Council") 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, Committee Substitute for Ordinance No. 140823, as amended on, June 18, 2015 and Committee Substitute for Ordinance No. 230524, passed on June 22, 2023, created the Kansas City TIF Commission and the Clay County KC TIF Commission; and

WHEREAS, tax increment financing involves the redirection of revenues generated by a development to reimburse redevelopment project costs incurred in connection with a redevelopment plan or redevelopment project as those terms are defined in the Act; and

WHEREAS, the Act provides specific limitations on the reimbursement of redevelopment project costs incurred in relation to redevelopment plans for redevelopment areas that have been found by the city council to constitute an economic development area pursuant to the Act ("Economic Development Area TIF Plans"); and

WHEREAS, unlike in other redevelopment plans adopted pursuant to the Act, tax increment revenues of Economic Development Area TIF Plans may only be used for the reimbursement of highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements as provided in section 99.825.3 RSMo; and

WHEREAS, the City Council finds that it is appropriate to limit the application of certain city policies to the same costs eligible for reimbursement under the Act. NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 3, Code of Ordinance, “Contracting and Leases,” is amended by repealing Sections 3-425, 3-505, and 3-622 and enacting in lieu thereof new sections of like number and subject matter to read as follows:

Sec. 3-425. Application to leases, tax increment financing and tax abatement entities.

(a)Lease of city property for development. The provisions of this division shall apply to all projects on property leased by the city to any person for development of the property by that person or any other authorized person.

(b) Projects under tax increment financing. The tax increment financing commission shall adopt the city's affirmative action program and the city's minority and women's business enterprise program which shall apply to all redevelopment projects financed in whole or in part by tax increment financing as that term is used in RSMo § 99.800 et seq. All redevelopment agreements between the tax increment financing commission and a developer must contain MBE/WBE goals and workforce utilization goals which are approved by the board, as applicable, and which are applicable to 100 percent of all redevelopment project costs, identified within a redevelopment plan approved by the city council pursuant to RSMo. § 99.800 et seq. For purposes of this subsection, the "city's affirmative action program" and "minority and women's business enterprise program" shall have the same meaning as used in this division. For redevelopment projects located in a redevelopment plan for any redevelopment area that has been found by the city council to constitute an economic development area pursuant to RSMo. § 99.800 et seq., such redevelopment projects, for purposes of the applicability of this subsection, the "city's affirmative action program" and "minority and women's business enterprise program", shall include only the improvements that are both eligible for reimbursement pursuant to section 99.825.3 RSMo and have been identified as reimbursable in the redevelopment plan approved by the city council.

(c)Projects under tax abatement entities. All corporations organized under RSMo § 353.010 et seq. for the purpose of redevelopment within the city limits, land clearance for redevelopment authority with an area of operation within the city, enhanced enterprise zone boards with an area of operation within the city and planned industrial expansion authority for the city shall adopt the city's affirmative action program and the city's minority and women's business enterprise program which shall apply to all projects receiving city tax abatement in whole or in part.

Sec. 3-505. Application of division.

(a) The provisions of sections 3-501 – 3-527 shall apply to all city construction contracts as defined in sections 3-501.

(b) Entities with the authority to issue tax increment financing or grant tax abatement shall adopt a workforce policy that is consistent with sections 3-501 – 3-527.

(c) For redevelopment projects located in a redevelopment plan for any redevelopment area that has been found by the city council to constitute an economic development area pursuant to RSMo. § 99.800 et seq., such redevelopment projects, for purposes of the applicability of section 3-501 – 3-527, shall include only the improvements that are both eligible for reimbursement pursuant to section 99.825.3 RSMo and have been identified as reimbursable in the redevelopment plan approved by the city council.

Sec. 3-622. Prevailing wage application to incentive plans.

(a) The following definitions shall apply to this section:

(1) Board shall mean the fairness in construction board.

(2) City means the City of Kansas City, Missouri.

(3) Director means the director of the civil rights and equal opportunity department or such director's delegate.

(4) Prevailing wage rate shall mean the prevailing hourly rate of wages as set forth in RSMo §§ 290.210 to 290.340 and the annual wage order which is paid to a workman engaged in work of a similar character within the locality.

(5) Wage theft shall mean the withholding or denial of wages or employee benefits rightfully owed to a workman or employee.

(6) Workman means a person employed to perform labor for which a prevailing wage rate is applicable.

(b) Unless superseded by federal or state law, no less than the prevailing wage rate shall be paid to a workman performing work as part of the construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair on any of the following:

(1) All construction contracts entered into by the city for which the total project cost exceeds $75,000.00.

(2) Any new development plan, substantial modification to an existing plan, or development project, that is approved by the city council or any economic development agency created by the city and that seeks ad valorem real and/or personal property tax abatement, exemption, redirection, tax contribution, city or city-created economic development agency grant, or other city or city-created economic development agency subsidy for which the total project cost exceeds $75,000.00 conducted as part of the plan or project. For redevelopment projects located in a redevelopment plan for any redevelopment area that has been found by

the city council to constitute an economic development area pursuant to RSMo. § 99.800 et seq., the prevailing wage requirements of this section shall apply only to the costs of the improvements that are both eligible for reimbursement pursuant to section 99.825.3 RSMo and have been identified as reimbursable in the redevelopment plan approved by the city council.

(3) Any projects on property leased by the city for which the total project cost exceeds $75,000.00.

(c) The director shall promulgate rules and regulations as are necessary to carry out the provisions of this section. All such rules and regulations shall be provided to the economic development agencies created by the city and authorized to approve tax abatement, exemption or redirection within ten days of their promulgation.

(d) Notwithstanding the foregoing provisions of this section, the city council shall retain the discretion to waive the requirements of this section. The city council shall give particular consideration to the following characteristics ("extraordinary qualifications") in determining whether to authorize waiver of this section

(1) Projects located in a severely distressed census tract that has continuously maintained such status for not less than ten years immediately prior to the effective date of the request.

(2) Projects that support affordable housing and extremely affordable housing by meeting the requirements of section 74-11 of this Code, for such housing.

(3) Projects that connect residents living in continuously distressed census tracts to new employment opportunities by:

A. Providing at least 100 new entry-level jobs to Kansas City with an annual salary of at least $32,000.00, or $42,000.00 inclusive of wages and benefits; and

B. Incorporating options for mass public transportation or locating in an established high-frequency transit corridor.

(4) Projects that involve the renovation or rehabilitation of a building has been designated by a government entity as a local or national historic landmark or contribute to a historic district, or projects that have filed an application with the National Park Service to be placed on the National Register of Historic Places, in which case the exclusion would be subject to such designation being approved.

(e) Any economic development agency created by the city may waive the requirements of this section and enter into a development or financing agreement that does not require compliance with this section, if the project meets extraordinary qualification subsections (1)—(3) or if the project meets extraordinary qualification (4) and the total cost of the project does not exceed

$1,000,000.00. Total costs of the project shall be based on the total costs of the entire project to be developed pursuant to the accompanying agreement with the economic development agency, not just based on the cost of the public contribution. For project where the total cost exceeds $1,000,000.00 the agency may choose to make a recommendation to the council as to whether waiver should be granted.

(f) Any contractor, subcontractor, developer or any other entity who performs work on a city contract, or receives tax incentive, abatement, redirection, contribution, grant, or other subsidy, from the city or an economic development agency created by the city, or contracts for the construction of a project or development on land owned by the city shall be subject to the following penalties if determined by the director to have not paid prevailing wage or otherwise engaged in wage theft:(1)Termination of contract; and(2)Loss of tax incentive, abatement, or redirection; and(3)Debarment from future work pursuant to section 3-321.

(g) Upon a finding of non-compliance with this section, the director has the discretion to impose any of the above penalties. Any entity subject to penalty may appeal the determination of the director to the board in conformance with the appeal process outlined in section 3-453.

(h) In addition to penalties imposed pursuant to RSMo § 290.340, any person who is found to have violated this section shall be guilty of an ordinance violation, punishable by a fine of not more than $500.00, by imprisonment of not more than 180 days, or by such fine and imprisonment.

(i) This section shall apply only to projects that have not yet submitted an application for the abatement, redirection or exemption of taxes to the city or any economic development agency created by the city and shall not be construed in a manner as to apply to any tax abatement or transaction authorized by the city, any economic development agency created by the city, or any other public entity prior to May 14, 2021. Notwithstanding the foregoing, the requirements of this section shall be imposed on any project that has submitted to the city or any economic development agency created by the city an application for the abatement, redirection or exemption of taxes prior to its effective date but has not received final approval from the relevant authorizing body within three years of May 14, 2021.

Section 2. That Chapter 74, Code of Ordinance, "Kansas City Redevelopment Ordinance," is amended by repealing Section 74-11 and enacting in lieu thereof a new section of like number and subject matter to read as follows:

Sec. 74-11. Affordable housing set aside

(a) The following definitions shall apply to this section:

Affordability offset value means the estimated financial gap between revenues from market-rate units and affordable units. This amount shall be calculated annually by the city manager's office, by adjusting the current estimated $100,000.00, by an amount equal to any increase in the construction cost index for Kansas City published by the Engineering News Record.

Affordable housing means housing that a household having an income at or below 60 percent of the HUD MFI ("60% MFI") for all households within the Kansas City metropolitan area would be able to afford if they were to expend not more than 30 percent of such income for the mortgage or rent, including utilities

City incentives means economic incentives granted by the city or any economic development agency created by the city, including Port KC, in the nature of the capture and redirection, abatement, or exemption of taxes or the issuance of bonds or grants by the city or other city-backed financing.

Deeper levels of affordability means housing priced such that households at lower incomes than 60% MFI within the Kansas City metropolitan area would be able to afford it if they were to expend not more than 30 percent of such income for the mortgage or rent, including utilities.

Sources of income means the lawful manner by which an individual supports themselves and their dependents, including tenant-based rental assistance.

a) For all development projects primarily providing multi-family housing available for rent and including 12 or more residential units across all sites and phases of the development project that are seeking city incentives, at least 20 percent of the total residential units shall be affordable housing. The requirements of this section shall not apply to projects that benefit from no city incentive other than the issuance of bonds or reimbursement of costs of improvements eligible for reimbursement pursuant to section 99.825.3 RSMo from any type of tax redirection.

b) A project developer may make a payment to the city in lieu of the affordable housing unit provision in an amount equal to the affordability offset value multiplied by the number of units needed to meet the requirements of subsection (b). Such payment shall be deposited into the city's housing trust fund. For the purposes of calculating this payment, in any case where the number of units required by subsection (b) results in a number that is not a whole number, the number of units required shall be rounded down to the nearest whole number.

c) That for purposes of this ordinance, affordable housing shall comply with the following criteria:

    1) That all units qualifying as affordable housing shall be on the principal development project site and shall not be off site from the project.

    2) That affordable housing units shall be mixed with, and not clustered together or segregated in any way, from market-rate units.

    3) That all units qualifying as affordable housing shall either be at least one-bedroom units in size or be equal to or share the same size as at least 25 percent of units to be constructed on the project site.

4) That if the project development contains a phasing plan, the phasing plan shall provide for the development of affordable housing units concurrently with the market-rate units. No phasing plan shall provide that the affordable housing units built are the last units in a housing development.

5) That the quality and cost of in-unit finishes, systems, appliances, and square footage of all units deemed as affordable housing shall be comparable with that of the remaining units on the project site.

6) That the exterior appearance of affordable housing units shall be made similar to market-rate units by the provision of exterior building materials and finishes substantially the same in type and quality.

7) That the project developer must covenant with the city and successors in interest that the designated units remain affordable for a period of not less than the period of the incentive awarded.

8) That the project developer must covenant with the city and successors in interest that the appropriate number of units be rented to individuals or families whose household incomes are at or below 60% MFI, in accordance with subsection (b).\

9) That the project developer must covenant with the City and successors in interest that the developer will not engage in any discriminatory housing practices as defined in section 38-105(d) of the city's Code of Ordinances, including discrimination based on lawful sources of income.

10) That the project developer must covenant with the city and successors in interest that developer will use a procedure deemed acceptable by the city to determine income eligibility of residents qualifying for the affordable housing units and that the city or its designee shall have the right to audit any such income verification procedure records. Any required determinations of income eligibility shall occur at the time an initial lease with the resident is entered into.

d) The following shall be exempt from the requirements of this section:

1) Any project that has been awarded federal or state low income housing tax credits from the Missouri Housing Development Commission; and

2) Any project that involves the renovation or rehabilitation of a building that has been designated by a government entity as a local or national historic landmark.

e) Notwithstanding the foregoing provisions of this section, the city council shall retain the discretion to waive the requirements of this section.

Approved as to form:

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Emalea Kohler
Associate City Attorney