

ORDINANCE NO. 140518

Amending Chapter 74, the Kansas City Redevelopment Ordinance, by adding a new Article VII, Public Mass Transportation Benefit Plan, for the purpose of requiring that certain public mass transportation benefits be provided to employees as a requirement of any economic development project utilizing tax increment financing, receiving tax abatements or financed with tax-exempt instruments.

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 provisions of Chapter 68 of the Revised Statutes of Missouri, as amended, the City Council of Kansas City, Missouri by Resolution No. 47523 adopted on February 11, 1977, created the Kansas City, Missouri Port Authority (the "Port Authority"); and

WHEREAS, pursuant to the provisions of Sections 349.010 to 349.100 of the Revised Statutes of Missouri, as amended, the City Council of Kansas City, Missouri by Resolution No. 48492 passed on December 9, 1977, authorized the formation of the Industrial Development Authority of the City of Kansas City, Missouri (the "IDA"); 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 Missouri Downtown and Rural Economic Stimulus Act, Sections 99.915 to 99.1060 of the Revised Statutes of Missouri, as amended, the City Council of Kansas City, Missouri by Committee Substitute for Ordinance No. 030925 passed on August 28, 2003, created the Downtown Economic Stimulus Authority of Kansas City, Missouri (the "DESA"); and

WHEREAS, pursuant to the provisions of Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, the City Council of Kansas City, Missouri is authorized to approve the issuance of revenue bonds for the purpose of promoting industrial development through the abatement of personal and real property taxes; and

ORDINANCE NO. 140518

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

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 personal and real property taxes; and

WHEREAS, the City is empowered, directly or through one or more of the aforementioned economic development agencies, to offer public incentives in the form of tax abatements, tax redirections, and tax exempt financing for the purpose of promoting various types of economic development and remediating certain deleterious conditions; and

WHEREAS, the utilization of such public incentives promotes development and the creation of jobs, thereby also creating the need for multiple transportation options; and

WHEREAS, it is proper that the City's policies for granting public incentives require that those who benefit thereby, whether directly or indirectly, support the City's commitment to encouraging the use of public mass transportation; and

WHEREAS, the Kansas City Area Transportation Authority ("KCATA") owns, operates and manages a modern bus system; and

WHEREAS, the City will own, operate and manage a modern streetcar system with the assistance of the Kansas City Streetcar Authority, Inc. ("KCSA"); and

WHEREAS, the City is committed to promoting public mass transportation and believes that sound, efficient and viable public transportation systems are essential to the socioeconomic well-being of the City and the region; and

WHEREAS, the City financially supports the KCATA and the KCSA and has a financial interest in ensuring their utilization to the greatest extent possible; and

WHEREAS, maximizing the utilization of public mass transportation also advances the City's interest in promoting environmentally responsible alternatives by reducing the total number of vehicle miles traveled and the consumption of fossil fuels; and

ORDINANCE NO. 140518

WHEREAS, there is no right to receive public incentives and it is proper for the City to extend such privileges in a manner that furthers the City's various objectives; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 74, Code of Ordinances, is hereby amended by adding a new Article VII, to read as follows:

**Sec. 74-301. Title of Article.**

This Article shall be known as the Public Mass Transportation Benefit Plan ordinance.

**Sec. 74-302. Definitions.**

(a) The terms used in this Article shall have the meanings ascribed to them herein:

- (1) *Economic development entity* shall mean a public entity, governmental authority, political subdivision or public body corporate and politic established or otherwise activated by the City pursuant to any provision of state law and authorized to provide any public incentive.
- (2) *Eligible employee* shall mean any individual employed by an employer or providing services to an employer on a leased basis and working thirty or more hours per week within the geographical confines of the area encompassed by the relevant plan or project area.
- (3) *Employer* shall mean any individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver, fiduciary and other legal organization having more than one hundred (100) eligible employees.
- (4) *Group transit plan* shall mean a benefit plan providing public mass transportation passes to each eligible employee.
- (5) *KCATA* shall mean the Kansas City Area Transportation Authority.
- (6) *KCSA* shall mean the Kansas City Streetcar Authority, Inc.
- (7) *Public incentive* shall mean the abatement, exemption, or redirection, in whole or in part, of ad valorem real or personal property taxes or sums in lieu thereof, the capture and redirection, in whole or in part, of any local sales taxes, the utilization of any tax-exempt financing instrument, or any combination of the foregoing, whether realized through the City or an economic development entity.

ORDINANCE NO. 140518

- (8) *Public mass transportation passes* shall mean, with regard to the KCATA, a pass entitling the bearer to receive unlimited rides on any KCATA bus providing regular and express services, and with regard to the KCSA, a pass entitling the bearer to receive unlimited rides on the downtown streetcar system as it may be extended from time-to-time.

**Sec. 74-303. Public mass transportation requirements; Chapters 100 and 353, RSMo, projects.**

(a) *Chapter 100.* Any lease of real property executed by the City pursuant to Sections 100.010 to 100.200, RSMo, as amended, shall require that any employer having more than one hundred (100) eligible employees implement a group transit plan providing public mass transportation passes to such eligible employees for the duration of the public incentive. The lease shall impose upon the lessee the obligation to further incorporate such requirement as a term of any authorized sub-lease of real property within such area.

(b) *Chapter 353.* Any development agreement executed by the City pursuant to the Urban Redevelopment Corporations Law, Sections 353.010 to 353.190 RSMo, as amended, and Committee Substitute for Ordinance No. 140306 shall require that any employer having more than one hundred (100) eligible employees implement a group transit plan providing public mass transportation passes to such eligible employees for the duration of the public incentive. The development agreement shall impose upon the urban redevelopment corporation the obligation to further incorporate such requirement as a term of any assignment and assumption of development rights and upon any employer leasing real property within such area.

(c) *Incorporation by operation of law.* The failure of any lease or development agreement to incorporate the requirements of this section or of any lessee, sub-lessee or urban redevelopment corporation to impose such requirements on any employer subject thereto shall not relieve such employer from the obligation to abide by the provisions of this section. The requirements of this section shall be deemed incorporated by operation of law and shall supplant any agreement, written or oral, to the contrary.

(d) *Remedies for non-compliance.* Notwithstanding subsection (c), the failure of any employer in privity of contract with the City to comply with the requirements of subsection (a) or (b), as applicable, shall be regarded as a material breach of the applicable lease or development agreement and shall be remedied as provided therein or as otherwise provided by law. The failure of any other employer obligated herein to comply with the provisions of this section shall be deemed an ordinance violation punishable as provided by law, but shall not impair any public incentive.

**Sec. 74-304. Public mass transportation requirements; Economic development entities.**

(a) *Applicable agreements.* Any agreement, however denominated, executed by an economic development entity and providing for the disposition or utilization of public

ORDINANCE NO. 140518

incentives shall require, in writing, that any employer having more than one hundred (100) eligible employees implement a group transit plan providing public mass transportation passes to such eligible employees for the duration of the public incentive. Such agreement shall impose upon any person or entity a party thereto the obligation to further incorporate such requirement as a term of any future sale or lease of real property within the applicable plan or project area.

(b) *Incorporation by operation of law.* The failure of any agreement, however denominated, to incorporate the requirements of this section or of any person or entity to impose such requirements on any employer subject thereto shall not relieve such employer from the obligation to abide by the provisions of this section. The requirements of this section shall be deemed incorporated by operation of law and shall supplant any agreement, written or oral, to the contrary.

(c) *Remedies for non-compliance.* Notwithstanding subsection (b), the failure of any employer in privity of contract with an economic development entity to comply with the requirements of subsection (a) shall be regarded as a material breach of the applicable agreement, however denominated, and shall be remedied as provided therein or as otherwise provided by law. The failure of any other employer obligated herein to comply with the provisions of this section shall be deemed an ordinance violation punishable as provided by law, but shall not impair any public incentive.

**Sec. 74-305. Amendment.**

(a) *Applicable amendments.* Any amendment to any plan or project that provides for an increase in the amount, types or duration of one or more public incentives provided by or through the City or one or more economic development entities, such that the total sum of the incentives is reasonably anticipated to exceed that which was initially authorized, shall be subject to the provisions of this Article and any associated agreement, however denominated, shall be amended to incorporate such requirements.

(b) *Prospective application.* This section shall apply on a prospective basis only such that it shall not be construed to obligate any employer, other than an employer entitled to receive or direct the public incentives, having completed any purchase or lease of the real property upon which its eligible employees are situated prior to the final approval of the amendment by the City, if required, or the economic development entity.

**Sec. 74-306. Generally applicable requirements.**

(a) The following provisions shall be applicable to the implementation of this Article:

- (1) *Opt-out precluded; cost-free.* A group transit plan shall preclude any option to opt out and shall provide that the public mass transportation passes be provided by an employer free of charge or cost to each eligible employee entitled to receive the same under the provisions of this Article.

ORDINANCE NO. 140518

- (2) Prohibited funding source. The costs of implementing and administering a group transit plan or providing public mass transportation passes shall not be funded or reimbursed from revenues derived from any public incentive.
- (3) Phased implementation. If public incentives are being provided on a phased basis such that multiple projects might become entitled to receive those public incentives on varying dates, then the obligations imposed by this Article shall be similarly phased. In such cases, the obligation to provide public mass transportation passes shall only apply to those geographical areas within which the applicable public incentives are being applied.
- (4) Expiration of obligations. The obligations imposed by this Article shall terminate with the expiration of the applicable public incentives. If the public incentives were provided in phases, the termination of the obligations imposed by the Article shall be determined on a phase-specific basis.
- (5) Effectiveness triggers. The obligations imposed by this Article shall not become effective until such time as the KCATA or KCSA, as applicable, shall offer for sale to employers, at ordinary and customary charges, public mass transportation passes applicable to groups of one hundred (100) persons or larger. In the event that such offering occurs on a phased basis, no employer shall be obligated to provide such public mass transportation passes for the KCATA or KCSA, whichever may be applicable, until such time as the KCATA or KCSA, as applicable, shall have made such public mass transportation passes available for purchase by the employer at issue. Notwithstanding anything to the contrary in this section, in the event that the KCATA or the KCSA elects not to offer public mass transportation passes for sale to an employer, or having elected to offer them thereafter ceases to do so, the obligations shall be inapplicable with regard to the entity having so elected.

---

Approved as to form and legality:

---

Brian T. Rabineau  
Assistant City Attorney