

ORDINANCE NUMBER ____, SERIES 2015

AN ORDINANCE AMENDING ORDINANCE NO. 179, SERIES 2007 IN ORDER TO AMEND THE BOUNDARIES OF THE CENTRAL DOWNTOWN REVITALIZATION DISTRICT DEVELOPMENT AREA, APPROVING ENTERING INTO A SECOND AMENDED AND RESTATED LOCAL PARTICIPATION AGREEMENT, REDUCING THE AMOUNT OF THE MINIMUM CAPITAL INVESTMENT DECLARING CERTAIN PROPERTIES SURPLUS AND AUTHORIZING THEIR SALE AND AUTHORIZING THE EXECUTION AND DELIVERY OF ANY OTHER DOCUMENTS AND THE TAKING OF ANY OTHER ACTIONS NECESSARY TO ACCOMPLISH THE PURPOSE AUTHORIZED BY THIS ORDINANCE AND AMENDING ORDINANCE NO. 102, SERIES 2014 RELATING TO THE FISCAL YEAR 2014-15 OPERATING BUDGET FOR THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, BY AUTHORIZING AN ADDITIONAL APPROPRIATION TO THE OFFICE OF MANAGEMENT AND BUDGET IN ACCORDANCE WITH A CERTAIN DEVELOPMENT AGREEMENT ENTERED INTO JULY 5, 2001, AS AMENDED, AND AUTHORIZING THE CHIEF FINANCIAL OFFICER TO ENTER INTO A LINE OF CREDIT NOT TO EXCEED \$2,250,000 TO MEET CERTAIN CONTRACTUAL OBLIGATIONS.

SPONSORED BY: Council President Jim King, Councilman David Tandy, Councilwoman Marianne Butler

WHEREAS, KRS 65.7041-65.7083 and KRS 154-30.010-154.30.090 (“Act”) authorizes the Signature Project Program to encourage private investment in the development of major projects which will have a significant impact within the Commonwealth; and

WHEREAS, this Council in Ordinance No. 179, Series 2007, enacted on September 13, 2007 (“Establishment Ordinance”), established the Central Downtown Revitalization District Development Area (“District”) and authorized the release of certain incremental local tax revenues (“Released Taxes”) to benefit the project to be constructed within the District pursuant to the terms of the Act and the Establishment Ordinance; and

WHEREAS, Louisville Metro and Metro Development Authority, Inc. (“MDA”) entered into an amended and restated local participation agreement dated December 6, 2007 (“Local Participation Agreement”) establishing the terms and conditions for the release of the Released Taxes; and

WHEREAS, Louisville Metro, MDA, Inc., the Parking Authority of River City, Inc. (“PARC”) and Center City Master Developer, Inc. (“Cordish”) entered into a

development agreement dated August 11, 2008 (“Old Development Agreement”) concerning the Project to be constructed within the District (“Original Project”); and

WHEREAS, Omni Louisville, LLC (“Omni”), after being assigned Cordish’s development rights under the Old Development Agreement, has proposed a new project to be constructed within the District consisting of a 600 room hotel, 225 rental apartment units, a grocery, retail and public infrastructure and amenities (“New Project”) as set forth in the Development Agreement attached hereto as Exhibit A (“Development Agreement);

WHEREAS, the New Project has elements, terms and conditions different from the Original Project and requires amendment to the boundaries of the District, an amendment to the Local Participation Agreement and an amendment to the Development Agreement; and

WHEREAS, the properties, as described more particularly herein, shall be conveyed in fee simple to Omni in accordance with the terms of the Amended Development Agreement; and

WHEREAS, Louisville Metro is authorized under the Act to execute a local participation agreement or contract with an agency in acknowledgement of benefits to be derived by Louisville Metro within a development area in order to promote the public purpose of Louisville Metro; and

WHEREAS, Louisville Metro, Louisville Galleria, LLC, a subsidiary of Cordish, and the Parking Authority of River City, Inc. entered into a development agreement for Fourth Street Live! dated July 5, 2001, as amended (“FSL Development Agreement”); and

WHEREAS, the FSL Development Agreement provides for the sale of a certain promissory note as described therein to Louisville Metro and the return of such sale proceeds to Louisville Galleria, LLC for improvements to Fourth Street Live!

WHEREAS, the Metro Council has determined that the New Project will create jobs, increase the tax base of Louisville Metro and further the revitalization of the Central Business District and that the amendment of the boundaries of the District, the payment of the Released Amount, the conveyance of the Properties, the sale of the Promissory Note and the assistance to be provided to the Omni pursuant to the terms and conditions of the Development Agreement is in furtherance of the public purposes of Louisville Metro;

NOW THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

Section 1. All statements of fact set forth in the recitals to this Ordinance are found true and correct and are incorporated herein by reference.

Section 2. That Ordinance No. 179, Series 2007 is amended as follows:

- A. That Exhibit B is deleted and Exhibit B-1 is adopted to establish the boundaries of the District;
- B. That Exhibit D is deleted and the Mayor is authorized to negotiate and enter into the Second Amended and Restated Local Participation Agreement substantially in the form attached hereto as Exhibit D-1.

Section 3. That Section 7 of the Establishment Ordinance is deleted and the following adopted in lieu thereof:

That the Council authorizes Louisville Metro to pay annually to MDA, the Released Amount which shall be calculated as provided in the Second Amended and Restated Local Participation Agreement, not to exceed a sum equal to 90% of the New Revenue (as calculated pursuant to the Second Amended and Restated Local Participation Agreement).

- A. Louisville Metro shall have no obligation to pay the Released Amount to MDA until the Commonwealth and MDA have entered in an Amended Grant Agreement pursuant to the Act;
- B. Louisville Metro shall withhold payment of the Released Amount until the Commonwealth certifies to Louisville Metro, pursuant to the terms of the Local Participation Agreement, that the minimum capital Investment equal to \$150 million has been made in the New Project (the “Minimum Capital Investment”). Until such time that the Minimum Capital Investment has been made, the Office of Management and Budget shall deposit the Released Amount into an escrow account. Upon the certification of the Minimum Capital Investment, the Office of Management and Budget shall pay to MDA the accumulated balance of the Released Amount in the escrow fund (“Escrowed Amount”). In the event that the Minimum Capital Investment is not certified by a date ten (10) years from the effective date of this Ordinance, the Escrowed Amount shall be paid into the Louisville Metro General Fund.
- C. In no event shall the total of the Released Amount paid to MDA over the term of the Second Amended and Restated Local Participation Agreement exceed the Project Costs and Financing Costs, as defined in the Second Amended and Restated Local Participation Agreement.

Section 4. That the findings and statements of fact set forth in the Establishment Ordinance are reaffirmed and that all provisions of the Establishment Ordinance not amended hereby shall remain in full force and effect.

Section 5. That the Council determines that the Properties, as more particularly described in Exhibit E attached hereto are surplus and no longer needed to carry out the governmental functions of Louisville Metro and that the Mayor is authorized to convey the Properties to Omni, by deeds of special warranty, in accordance with the terms and conditions of the Amended Development Agreement, without further action of the Council.

Section 6. Part I., G., 1. Office of Management & Budget of Ordinance No. 102, Series 2014 is hereby amended as follows:

A. General Operations

(1)	General Fund		\$41,578,600
(2)	Agency and Other Receipts	\$13,913,300	\$15,913,300
	Subtotal – General Operations	\$55,491,900	\$57,491,900

Section 7. In order to meet the obligations of the Louisville Metro under the Development Agreement and the FSL Agreement, the acting Chief Financial Officer is hereby authorized to seek proposals for and to negotiate and enter into a line of credit with one or more financial institutions in an amount not to exceed \$2,250,000, with a maturity not to exceed one year and bearing interest in an amount not to exceed 4% per annum (the "Line of Credit"). The Metro Council hereby approves the execution and delivery of the Line of Credit and any required documents related thereto (the "Line of Credit Documents") and the Mayor, the Chief Financial Officer or any other appropriate officer of Louisville Metro are hereby authorized to execute and deliver such Line of Credit Documents. All actions of the Mayor, the Chief Financial Officer and all other officers of Louisville Metro in the structuring, planning and preparation of all documentation for the issuance of the Line of Credit are hereby authorized, ratified and approved.

Section 8. The Metro Council has determined that the funds requested in Section 5 6 and Section 7 of this Ordinance will be expended for a public purpose.

Section 9. That this Ordinance shall take effect upon its passage and approval.

(Signatures Appear on the Following Page)

This Ordinance was given first reading at a duly convened meeting of the Metro Council held on _____, _____, 2015, and given second reading and adopted at a duly convened meeting of the Metro Council held on _____, _____, 2015.

H. Stephen Ott
Metro Council Clerk

Jim King
President of the Council

Greg Fischer
Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell, Jefferson County Attorney

By: _____

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk of the Louisville/Jefferson County Metro Council (the "Metro Council"), and as such Clerk I further certify that the foregoing is a true, correct and complete copy of an Ordinance duly adopted by the Metro Council upon second reading at a duly convened meeting held on _____, 2015, signed by the Mayor, approved by me as Clerk and in full force and effect as therein stated, all as shown by the official records of the Metro Council in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand as Metro Council Clerk of the Louisville/Jefferson County Metro Government and the seal of the Metro Government this _____ day of _____, 2015.

H. Stephen Ott, Metro Council Clerk