



# Louisville Metro Government

## Legislation Text

File #: O-407-14, Version: 1

### ORDINANCE NO. \_\_\_\_\_, SERIES 2014

**AN ORDINANCE ESTABLISHING A DEVELOPMENT AREA PURSUANT TO PROVISIONS OF KRS 65.7041- 65.7083 TO BE KNOWN AS THE HOTEL NULU DEVELOPMENT AREA, DESIGNATING THE METRO DEVELOPMENT AUTHORITY, INC. AS AN "AGENCY", ADOPTING A DEVELOPMENT PLAN, APPROVING ENTERING INTO A LOCAL PARTICIPATION AGREEMENT, AUTHORIZING THE PAYMENT OF THE "RELEASED AMOUNT" PURSUANT TO THE TERMS AND CONDITIONS OF THE LOCAL PARTICIPATION AGREEMENT, REQUIRING THE SUBMISSION OF REGULAR REPORTS TO LOUISVILLE AND AUTHORIZING THE EXECUTION AND DELIVERY OF ANY OTHER DOCUMENTS AND THE TAKING OF ANY OTHER ACTIONS NECESSARY TO ACCOMPLISH THE PURPOSES AUTHORIZED BY THIS ORDINANCE.**

**SPONSORED BY:** Councilman Tandy

**WHEREAS**, the Kentucky General Assembly enacted KRS 65.7041- 65.7083 and KRS 154-30.010-154-30.090 (the "Act") relating to tax increment financing and urban redevelopment, which Act also authorizes certain State Participation Programs to encourage private investment in the development of major projects that will have a significant impact in the Commonwealth; and

**WHEREAS**, 725 Partnership, LLC, a Kentucky limited liability company, (the "Developer") plans to undertake a major project within the Hotel NULU Development Area (the "Development Area") to complete the Hotel NULU Project, along with the related public infrastructure and public amenities, (the "Project"), as more particularly described in the Development Plan attached hereto as Exhibit A; and

**WHEREAS**, the Project when fully developed will involve new capital investment of in excess of \$34 million, and the Project meets the definition of a mixed-use project under the Act, and qualifies as a development area, and for a pledge of state incremental revenues under one of the State Participation Programs as provided in the Act; and

**WHEREAS**, in accordance with the provisions of the Act a Development Plan for the Development Area has been prepared and a public hearing has been conducted to seek public comment on the Development Plan; and

**WHEREAS**, the Council finds that the Project to be undertaken in the Development Area by the Developer will result in the increase in the value of property located in the Development Area, will result in increased employment within the Development Area, Louisville and the region and increase the tax base of Louisville; and

**WHEREAS**, it is therefore in the interest of Louisville and Metro Development Authority, Inc.

(the "Authority") that there be a plan for the optimal revitalization and development of the Development Area in a most efficient manner; and

**WHEREAS**, the development of a "Mixed-Use Project", within the meaning of Act and as presented by the Developer and the Authority, to enable Louisville and the Commonwealth to use tax increment financing to encourage major economic development projects, is a worthy public purpose; and

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

**WHEREAS**, the Authority is organized and incorporated by Louisville as a non-profit corporation to act as an "Agency" under the Act;

**WHEREAS**, Louisville has determined that because of the benefits to be derived from the Project that it is in furtherance of its public purposes to assist Developer, through the Authority, with the costs of the Project and agrees to enter into the Local Participation Agreement in order to pay to the Authority the Released Amount (as hereinafter defined) for use solely for purposes of the Project.

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

**Section 1.** That the Council finds as follows:

- A. All statements of fact set forth in the recitals to this Ordinance are found true and correct and are incorporated herein by reference.
- B. The establishment of the Development Area shall not cause the assessed value of taxable real estate in all development areas located in Louisville to exceed 20% of the assessed value of all taxable real property in Louisville. To date Louisville has established several other development areas with a combined taxable real property assessment at the time they were established of approximately \$1.47 billion. The taxable real property assessment of the Development Area for calendar year 2013 is approximately \$2,324,070, and that amount combined with the previous development areas established by Louisville totals \$1.472 billion, while the total taxable real property assessment for Louisville exceeds \$51 billion, 20% of which is \$12 billion.
- C. That the Development Area is a contiguous parcel of property, approximately 1.4 acres in size, and is less than three (3) square miles in area as required by the Act.
- D. That the conditions within the Development Area meet at least four (4) of the seven (7) factors of blight as set forth in KRS 65.7049 as follows:
  1. **A substantial loss of residential, commercial, and industrial activity or use has occurred within the Development Area.** The Development Area includes the abandoned site of a former industrial service yard for a storage tank manufacturer. As conditions on this site evolved, the industrial activity diminished and the service yard was abandoned. Prior to becoming the service yard for the tank manufacturer, the site was a series of abandoned and deteriorating commercial and residential structures that were demolished by the tank manufacturer. These trends have continued within this census tract for a generation.
  2. **More than fifty percent (50%) of the residential, commercial, or industrial structures are deteriorating or deteriorated.** The census data for the site including and surrounding this

Development Area demonstrate a trend of deteriorating and abandoned properties, diminishing home ownership and a reduction in commercial development over the last several decades. Within the Development Area the former structures were demolished as a result of deteriorating conditions. The remaining two structures, constituting more than 50% of the structures within the Development Area, have deteriorated and will require substantial rehabilitation.

3. **There are inadequate improvements or substantial deterioration of public infrastructure to support the proposed new development within the Development Area.** In order to develop the proposed Project, a parking structure is required to support the anticipated increased demand. Additional power, sewer and water infrastructure is required to facilitate the Project, and these improvements will facilitate further development within this area. These infrastructure improvements cannot be reasonably funded with private investment alone.
  4. **A combination of factors substantially impairs or arrests the growth and economic development of the city or county and impedes the development of commercial or industrial property due to the Development Area's present condition and use.** Development of the Project site without assistance as provided by the Act is not feasible due to the extreme cost of providing adequate parking and related utility infrastructure to facilitate the proposed development. Potential revenue alone cannot underwrite the costs of the proposed infrastructure improvements. Without additional parking the continued development of NULU will become impeded; the Hotel/Conference Center is not feasible, nor is the balance of proposed retail and commercial space provided by this project and anticipated future growth of NULU. There is no adequate funding mechanism to afford the utility infrastructure improvements absent the incentives provided under the Act. These improvements cannot be facilitated with private investment alone. Development of the abandoned lot into the proposed Hotel, Conference Center and Parking Structure will have a secondary positive effect on the city and surrounding context.
- E. That the Development Area will not reasonably be developed without public assistance, including incentives as provided by the Act. The high cost of public infrastructure and site development expenses, estimated to be \$10,920,000 or 32% of the total Project's cost, needed for the Project, when compared with low potential revenue generated by these improvements make public incentives critical to the financing of the Project.
- F. That the public benefits of redeveloping the Development Area justify the public costs proposed. The investment in the Development Area will result in significant returns through increased property valuations for the surrounding context, facilitating secondary and tertiary re-development within the context by the enhancements to parking and utilities, and bringing additional visitors/tourism economic benefits to Louisville. The Development Area has a current taxable assessment of \$2,324,070 and generates \$11,436.75 in real estate taxes and \$6,565 in employee withholding taxes to Louisville. The Project will increase capital investment by approximately \$34 million, which will provide significant new taxes to Louisville and the other taxing districts. Based on a financial report dated March 30, 2014 prepared by Meench & Shanker, LLC, attached hereto as Exhibit "B" to the Development Plan, the direct impact of the Project will increase employment within the Development Area by 211 new jobs, and generate new Louisville and State taxes over the twenty (20) year life of the Development Area, by \$11,977, 516. When considering direct and indirect impacts of the Project, the total financial impact of the Project to Louisville and the State is estimated to be \$38,542,400. Therefore, even when considering the requested incentives for the Project from Louisville and the State, the Project will be very positive to Louisville and the State financially. The Project will also be a catalyst for additional development in the area surrounding the Development Area.

In addition to the direct tax impact of the Project, the Project will provide unique and unavailable attractions and support to the east Downtown Neighborhood more commonly known as NULU. The Hotel will support the burgeoning "Urban Bourbon" Trail rapidly becoming established in the east downtown area of Louisville, and which is an economic development priority for Louisville. It will be the hospitality destination of choice for the out-of-state tourism focused on the Bourbon centered experience. It will stimulate the development of other distillery and culinary related tourism to this area. This Hotel will

create a center to the NULU Neighborhood and anchor the Traditional Marketplace Corridor of NULU.

- G. The area immediately surrounding the Development Area has not been subject to growth and development through investment by private enterprise. The proposed improvements within the Development Area will have a positive effect on the surrounding area which faces stagnation in development without them. Additional parking and utility services will result, not only in the feasible development within the Development Area, but in additional feasible development of the surrounding area. The area surrounding the Development Area is at a turning point. For the first time in a generation, there is the introduction of neighborhood businesses, however there remains a distinct lack of parking and utility infrastructure to support continued development. In the surrounding area, antiquated manufacturing facilities, circa 1940's, are being abandoned and they now offer potential for re-development. The vast public housing development, formerly known as Clarksdale, has been replaced with less dense and scattered site contextually responsive housing. There is the potential for new single family owner occupied housing within the surrounding area for the first time in a generation. The surrounding area was once densely populated with non-profit homeless shelters, however in recent years, many have been re-located to other areas of the downtown thereby diminishing the presence of panhandling, petty crime and other problems. This Project, at this time, is a catalyst project that can create the momentum needed to completely transform this area over the coming years, however it cannot happen without the proposed public infrastructure improvements.
- H. That the pledge and use of a portion of Louisville's incremental revenues derived from the Development Area to provide redevelopment assistance to the Project and the Development Area will increase capital investment and employment in Louisville, and therefore constitutes a public purpose.

**Section 2.** That the Development Area as illustrated and described in Exhibit B is designated as a development area pursuant to the Act and shall be named the Hotel NULU Development Area and shall be established as of the effective date of this Ordinance and shall terminate on the earlier of (a) the termination of the Local Participation Agreement, attached hereto as Exhibit C, or (b) 25 years from the date hereof.

**Section 3.** That the Metro Development Authority, Inc., a Kentucky non-profit corporation (the "Authority"), (a) is designated as the Agency, pursuant to the terms of the Act, (b) shall be the recipient of the Released Amount under the Local Participation Agreement and (c) shall be required to oversee and administer the implementation of the Project within the Development Area. No less than annually, the Authority shall (a) submit a report to the Kentucky Economic Finance Authority (i) certifying the use of the Released Amount for the payment of approved project costs within the Development Area, and (ii) providing an accounting of the receipt and use of the Released Amount, and (b) submit the report to the Office of Management and Budget required pursuant to the Local Participation Agreement. All such reports shall be prepared at the sole expense of the Developer.

**Section 4.** That the Mayor is authorized to negotiate and enter into a Local Participation Agreement with the Authority for the release to the Authority of a portion of the new occupational withholding license fees and new real estate taxes expected to be derived by Louisville from the Project to be constructed in the Development Area ("Released Amount"), substantially in the form attached hereto as Exhibit C.

**Section 5.** That the Office of Management and Budget is designated as the department in Louisville to oversee the payment of the Released Amount and to review all documentation concerning the Project, its progress, costs and development. The Office of Management and Budget shall annually submit to the Council a report concerning the Development Area ("Report"). The Developer shall provide to the Office of Management and Budget, on a timely basis, all information required by the Office of Management and Budget to prepare the Report. The Report shall include but not be limited to:

- A. An accounting of all payments made to the Authority pursuant to the Local Participation Agreement;
- B. An analysis and review of development activity within the Development Area;
- C. The progress made toward meeting the stated goals of the Development Area;
- D. An accounting of the Approved Public Infrastructure Costs, Approved Project Costs, other Project Costs

incurred by the Developer.

**Section 6.** That the Council authorizes Louisville to pay annually to the Authority, the Released Amount which shall be calculated as provided in the Local Participation Agreement, not to exceed a sum equal to 80% of the Real Estate Tax Increment and the Withholding Tax Increment subject to the following conditions:

- A. Louisville shall have no obligation to pay the Released Amount to the Authority until the Commonwealth and the Authority have entered into a Tax Incentive Agreement pursuant to the Act;
- B. In no event shall the total of the Released Amount paid to the Authority over the term of the Local Participation Agreement exceed the Eligible Project Costs as defined in the Local Participation Agreement.

**Section 7.** That the Authority shall establish a Special Fund pursuant to the Act for the Development Area as set forth in the Local Participation Agreement.

**Section 8.** That the Mayor and other appropriate Louisville officials, and each of them, for and on behalf of Louisville, are hereby authorized, empowered and directed to do and perform any and all things necessary to effect the execution of the Local Participation Agreement, the performance of all obligations of Louisville under and pursuant to the Local Participation Agreement and related documents, and the performance of all other actions of whatever nature necessary to effect and carry out the authority conferred by this Ordinance and the Local Participation Agreement. The Mayor and other appropriate Louisville officials, and each of them, is hereby further authorized, empowered and directed for and on behalf of Louisville to execute all papers, letter, documents, undertakings, certificates, assignments, forms, instruments and closing papers that may be required for the carrying out and effectuation of the authority conferred by and for the purposes of this Ordinance and the Local Participation Agreement, or to evidence said authority and purposes, and to exercise and otherwise take all action necessary to the full realization of the rights and purposes of Louisville under the Local Participation Agreement and related documents and to perform all of the obligations of Louisville under the Local Participation Agreement and related documents.

**Section 9.** The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

**Section 10.** This Ordinance shall take effect upon its passage and approval .

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H. Stephen Ott  
Metro Council Clerk

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Jim King  
President of the Council

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Greg Fischer  
Mayor

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

By: \_\_\_\_\_

**Exhibits**

- A. Development Plan
- B. Map of Development Area
- C. Local Participation Agreement