



# Louisville Metro Government

## Legislation Text

File #: O-177-15, Version: 1

### ORDINANCE NO. \_\_\_\_\_, SERIES 2015

**AN ORDINANCE ESTABLISHING A DEVELOPMENT AREA PURSUANT TO PROVISIONS OF KRS 65.7041- 65.7083 TO BE KNOWN AS THE AXIS ON LEXINGTON 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: President David W. Tandy, Councilmember Marianne Butler**

**WHEREAS**, the Kentucky General Assembly enacted KRS 65.7041- 65.7083 (the "Act") relating to tax increment financing and urban redevelopment, which Act establishes local development areas to increase property values, increase employment opportunities, and increase economic activity; and

**WHEREAS**, Cityscape Residential, LLC, an Indiana limited liability company, (the "Developer") plans to undertake a major project within the Axis on Lexington Development Area (the "Development Area") to complete the Axis on Lexington Multifamily Residential 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 approximately of \$46.5 million, and the Project qualifies as a development area under 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 Metro and the region and will increase the tax base of Louisville Metro; and

**WHEREAS**, it is therefore in the interest of Louisville Metro 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 redevelopment of a previously developed land, within the meaning of Act and as presented by the Developer and the Authority, to enable Louisville to use tax increment financing to encourage major economic development projects, is a worthy public purpose; and

**WHEREAS**, Louisville Metro is authorized under the Act to execute a local participation agreement 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**, the Authority is organized and incorporated as a nonprofit, nonstock corporation under KRS Chapters 58 and 273 to act as an “Agency” under the Act;

**WHEREAS**, Louisville Metro has determined that based on 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.** The Development Plan, attached hereto as Exhibit A, is hereby adopted.

**Section 2.** 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 Development Area, as depicted in Exhibit B, is a contiguous parcel of property, approximately 8.87 acres in size, and is less than three (3) square miles in area as required by the Act.
- C. The Development Area constitutes previously developed land as required by KRS 65.7043(2).
- D. The establishment of the Development Area shall not cause the assessed value of taxable real estate in all development areas located in Louisville Metro 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 \$1.474 billion. The taxable real property assessment of the Development Area for calendar year 2014 is approximately \$300,000, and that amount combined with the previous development areas established by Louisville totals \$1.475 billion, while the total taxable real property assessment for Louisville exceeds \$51 billion, 20% of which is \$12 billion.
- E. The conditions within the Development Area meet more than two (2) 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 buildings that were previously used by rail car processing facilities and other quasi-industrial uses. The largest building is vacant, having been abandoned by its tenant and has been an eyesore in the neighborhood. Adjacent to this property exist other underutilized buildings and properties that have had limited investment in recent years with large areas completely closed off and essentially abandoned. There have been previous attempts to redevelop this property which have been unsuccessful for

a variety of reasons.

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. The structures remaining in the Development Area include vacant, dilapidated, and abandoned buildings. The structures constituting more than fifty percent (50%) of the structures within the Development Area are deteriorating or deteriorated.
  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, substantial site work and a parking structure are required to deal with extreme site conditions and 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. In addition to project specific infrastructure, the public infrastructure is completely inadequate and dilapidated with crumbling sidewalks and curbs, no accessible routes, and deteriorating pavement. Restoration of this streetscape frontage including sidewalks, landscaping, additional ROW grant, a new accessible TARC stop and paving will be accomplished by this project.
  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 substantial site work, the necessary parking and related utility infrastructure to facilitate the proposed development along with mitigation and management of brownfield conditions, and structural costs of properly developing in the floodplain. Potential revenue alone cannot underwrite the costs of the proposed infrastructure improvements. Without the site work and additional parking, the continued development of the area will become impeded, and the residential space proposed to be included in the Project will not be feasible. No other adequate funding mechanism affords the site work and utility infrastructure improvements absent the incentives provided under the Act. These improvements cannot be facilitated with private investment alone. The aesthetic improvement resulting from the development of the proposed Project will have a positive effect on the city and surrounding area and likely have a significant multiplier effect on overall property tax revenue generation in the city.
- F. The Development Area will not reasonably be developed without public assistance, including incentives as provided by the Act. The high cost of parking, public infrastructure, and site development expenses, estimated to be in excess of \$7,740,000 or approximately 17% of the total Project's cost, needed for the Project makes public incentives critical to the financing of the Project when compared with low potential revenue generated by these improvements.
- G. 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 area, facilitate secondary and tertiary re-development within the area by the enhancements to parking and utilities, and bring additional residents and visitors to Louisville. The Development Area has a 2014 taxable assessment of approximately \$300,000 and annually generates \$3,972 in real estate taxes to Louisville. The Project will increase capital investment by approximately \$46.5 million, which will provide significant new taxes to Louisville and the other taxing districts. Based on a financial report attached hereto as Exhibit A, the direct impact of the Project will increase employment within the Development Area by more than 428 total jobs, and generate new Louisville Metro and State taxes over the twenty-five (25) year life of the Development Area, by more than \$18,623,322. Therefore, even when considering the requested incentives for the Project from Louisville, the Project will be financially beneficial to Louisville. The Project will also be a catalyst for additional development in the

area surrounding the Development Area.

- H. 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. The proposed site work, additional parking and utility services will increase the feasibility of developments within the area, not only within this Development Area, but also the surrounding area. The area surrounding the Development Area is at a turning point. There remains a distinct lack of residential rental units, retail uses, parking, and utility infrastructure to support continued development. In the surrounding area, structures are being left vacant and abandoned, and they now offer potential for re-development. There is the potential for attractive and desirable new multi-family housing within the surrounding area. This Project, at this time, is a catalyst project that can excite and create the momentum needed to completely transform this area over the coming years.
- I. 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 3.** 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 Axis on Lexington 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, provided that in no case the termination date will be more than twenty (20) years from the activation date.

**Section 4.** That the Metro Development Authority, Inc., a Kentucky nonprofit, nonstock 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.

**Section 5.** 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 real estate taxes expected to be derived by Louisville Metro from the Project to be constructed in the Development Area ("Released Amount"), substantially in the form attached hereto as Exhibit C.

**Section 6.** That the Office of Management and Budget is designated as the department in Louisville Metro 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 Project Costs and other Project Costs incurred by the Developer.

**Section 7.** That the Council authorizes Louisville Metro 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 100% of the local, Louisville Metro Ad Valorem Real Property Tax Increment in excess of the taxes otherwise due on the first \$5,000,000 of the valuation of the Project, subject to the following condition: in no event shall the total of the Released Amount paid to the Authority over the term of the Local Participation Agreement exceed \$4,867,144 as set forth in the Local Participation Agreement.

**Section 8.** 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 9.** That the Mayor and other appropriate Louisville officials, and each of them, for and on behalf of Louisville Metro, 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 Metro 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 Metro officials, and each of them, are hereby further authorized, empowered and directed for and on behalf of Louisville Metro 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 Metro under the Local Participation Agreement and related documents and to perform all of the obligations of Louisville Metro under the Local Participation Agreement and related documents.

**Section 10.** 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 11.** This Ordinance shall take effect upon its passage and approval.

*Signatures follow on the next 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

\_\_\_\_\_  
David W. Tandy  
President of the Council

\_\_\_\_\_  
Greg Fischer  
Mayor

\_\_\_\_\_  
Approval 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.

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H. Stephen Ott, Metro Council Clerk

### **Exhibits**

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

