Louisville Metro Government

Legislation Details (With Text)

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File created:	10/22/2021			**In control:**	Labor and Economic Development Committee
On agenda:	12/2/2021			**Final action:**	12/2/2021

Title: AN ORDINANCE ESTABLISHING A DEVELOPMENT AREA PURSUANT TO PROVISIONS OF KRS 65.7041- 65.7083 TO BE KNOWN AS THE SHELBY STREET 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/JEFFERSON COUNTY METRO GOVERNMENT 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.

Sponsors: Jecorey Arthur (D-4)

Indexes:

Code sections:

Attachments: 1. O-536-21 V.1 111121 Establishing a Development Area and TIF as the Shelby Street Devlopment Area.pdf, 2. O-536-21 ATTACH Exhibit A - Development Plan.pdf, 3. O-536-21 ATTACH Exhibit B - Map of Development Area.pdf, 4. O-536-21 ATTACH Exhibit C - Local Participation Agreement.pdf, 5. O-536-21 ATTACH Exhibit D - Memorandum of Understanding.pdf, 6. ORD 178 2021.pdf

Date	Ver.	Action By	Action	Result
12/2/2021	1	Metro Council	passed	
11/16/2021	1	Labor and Economic Development Committee	recommended for approval	Pass
11/11/2021	1	Metro Council	assigned	

ORDINANCE NO. , SERIES 2021

AN ORDINANCE ESTABLISHING A DEVELOPMENT AREA PURSUANT TO PROVISIONS OF KRS 65.7041- 65.7083 TO BE KNOWN AS THE SHELBY STREET 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/JEFFERSON COUNTY METRO GOVERNMENT 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: COUNCIL MEMBER JECOREY ARTHUR

WHEREAS, the Kentucky General Assembly enacted KRS 65.7041- 65.7083 and KRS 154.30

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-010-154-30.090 (the "Act") relating to tax increment financing and urban redevelopment, which Act establishes development areas to increase property values, increase employment opportunities, and increase economic activity;

WHEREAS, the 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;

WHEREAS, City Development Group, LLC, a Kentucky limited liability company, Weyland Ventures Development, LLC, a Kentucky limited liability company, or an affiliate of same (collectively, the “Developer”) plans to undertake a major project within the Shelby Street Development Area (the “Development Area”) to complete the Shelby Street Redevelopment Project (the “Project”), as more particularly described in the Development Plan attached hereto as Exhibit A;

WHEREAS, the Project, which qualifies as a development area under the Act, will involve new capital investment of approximately $115 million when fully developed, of which approximately $11 million is related to public infrastructure costs, including site and utility work, community parks, streetscape/sidewalks, and a parking garage, and for a pledge of state incremental revenues under one of the State Participation Programs as provided in the Act;

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;

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the “Council”) finds that the Project to be undertaken in the Development Area by the Developer will further the public purposes identified in the Act by increasing the value of property located in the Development Area, increasing employment within the Development Area, Louisville and the region and increasing the tax base of Louisville;

WHEREAS, it is therefore in the interest of Louisville/Jefferson County Metro Government ("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;

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

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;

WHEREAS, the Authority is organized and incorporated as a nonprofit, nonstock corporation pursuant to KRS Chapters 58 and 273 to act as an "Agency" under the Act; and

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.

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

SECTION I: The Development Plan, attached hereto as Exhibit A, is hereby adopted.

SECTION II: 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 5.5588 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 Metro has established several other development areas with a combined taxable real property assessment at the time they were established of approximately $1.539 billion. The taxable real property assessment of the Development Area for calendar year 2020 is approximately $2,166,030, and that amount combined with the previous development areas established by Louisville Metro totals $1.541 billion, while the total taxable real property assessment for Louisville exceeds $65.6 billion, 20% of which is $13.1 billion.

E. The conditions within the Development Area meet three (3) of the seven (7) factors of blight as set forth in KRS 65.7049 and are as follows:

1. **A substantial loss of residential, commercial, and industrial activity or use has occurred within the Development Area.** The Development Area is a vacant site previously occupied by the Clarksdale public housing development, which was demolished in 2005, and has sat vacant since that time.

2. **Substantial abandonment of residential, commercial or industrial structures**. The Development Area has sat vacant since the public housing structures were demolished in 2005.

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, significant public infrastructure improvements are required to support the increased usage. Additional power, sewer and water infrastructure is required to facilitate the Project, and these improvements will facilitate further development within the area, as well as the construction of a parking garage and streetscape and sidewalk improvements, which will benefit both the Project and the surrounding neighborhood. These infrastructure improvements cannot reasonably be funded with private investment alone.

F. The Development Area will not reasonably be developed without public assistance, including incentives as provided by the Act. The high cost of site development expenses, particularly expenses related to public infrastructure 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 and facilitate secondary and tertiary re-development within the area. The Development Area has a 2020 taxable assessment of approximately $2,166,030, but currently generates $0 in ad valorem real property taxes to Louisville Metro because its owner qualified for the property tax exemption pursuant to Section 170 of the Kentucky

Constitution. The Project will increase capital investment by approximately $115,000,000, which will provide significant new taxes to Louisville Metro and the other taxing districts. While Louisville Metro will pledge 80% of the incremental increase of the local ad valorem real property taxes from the Development Area, up to a cap of $7,712,754 it will retain 20% of the new incremental increase of the local ad valorem real property taxes and 100% of the occupational withholding fees from the Development Area. Therefore, even when considering the requested incentives for the Project from Louisville Metro, the Project will be financially beneficial to Louisville Metro. The Project will also serve as a catalyst for additional development in the area surrounding the Development Area. The Developer has also committed to a community benefits agreement, which will be memorialized in a Memorandum of Understanding ("MOU") substantially similar to the draft MOU attached as Exhibit D.

H. While the area immediately surrounding the Development Area has been subject to growth and development through private investment, there are special circumstances within the Development Area that would prevent its development without public assistance; specifically, the high cost of public infrastructure improvements needed to redevelop the Development Area, which are expected to cost approximately $11 million out of the total capital investment of $115 million, and include site and utility work, community parks, streetscape/sidewalks, and a parking garage.

I. The pledge and use of a portion of Louisville Metro's incremental revenues, as defined in the Local Participation Agreement, derived from the Development Area to provide redevelopment assistance to the Project and the Development Area will increase capital investment and employment in Louisville Metro, and therefore constitutes a public purpose.

SECTION III: 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 Shelby Street Development Area. The Development Area 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 IV: 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. No less than annually, the Authority shall (a) submit a report to the Kentucky Economic Development Finance Authority (i) certifying the use of the Released Amount of 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 V: 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 ad valorem real property 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 VI: 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; and

D. An accounting of the Approved Project Costs and other Project Costs incurred by the Developer.

SECTION VII: 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 80% of the Real Estate Tax Increment, as that term is defined in the Local Participation Agreement 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 $7,712,754 with respect to the Real Estate Tax Increment as set forth in the Local Participation Agreement.

SECTION VIII: 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 IX: That the Mayor and other appropriate Louisville Metro 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, letters, 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 X: 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 XI: This Ordinance shall take effect upon its passage and approval.

_____ _____

Sonya Harward
Metro Council Clerk

David James
President of the Council

_____ _____

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____

O-536-21 Ordinance Establishing the Shelby Street TIF (lf)

Exhibits

A. Development Plan
B. Map of Development Area
C. Local Participation Agreement
D. Memorandum of Understanding

EXHIBIT A

DEVELOPMENT PLAN

EXHIBIT B

MAP OF DEVELOPMENT AREA

LEGAL DESCRIPTION

704-728 Marshall Street

Being Lots 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204 and 205, as shown on the recorded Plat of Clarksdale Hope VI Revitalization Phase 3, Blocks, “A,” “B” and “H” of record in Plat and Subdivision Book 52, Pages 57 and 58, in the Office of the Clerk of Jefferson County, Kentucky.

710 E. Liberty Street
Being Revised Lot 223 as shown on the Minor Subdivision Plat recorded in Deed Book 11554, Page 65 in the Office of the Clerk of Jefferson County, Kentucky.

726 E. Liberty Street and 730 Ballard Street
Being Lots 236 and 263 as shown on the recorded Plat of Clarksdale Hope VI Revitalization Phase 4, Blocks “I,” “J” and “K” of record in Plat and Subdivision Book 52, Pages 59 and 60, in the Office of the Clerk of Jefferson County, Kentucky.

320 S. Shelby Street
Being Lot 237 as shown on Instrument of Record Minor Plat of record in Deed Book 11544, Page 79 in the Office of the Clerk of Jefferson County, Kentucky.

710, 730 and 750 E. Jefferson Street
Being Lots 264A, 264B and 264C as shown on Instrument of Record Minor Plat of record in Deed Book 11633, Page 80 in the Office of the Clerk of Jefferson County, Kentucky.

EXHIBIT C

LOCAL PARTICIPATION AGREEMENT

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EXHIBIT D

MEMORANDUM OF UNDERSTANDING