Louisville Metro Government

Legislation Details (With Text)

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Title:	AN ORDINANCE ESTABLISHING A DEVELOPMENT AREA PURSUANT TO PROVISIONS OF KRS 65.7041- 65.7083 TO BE KNOWN AS THE MAGAZINE 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:					
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Attachments:	1. O-642-21 V.1 120221 Establishing the Magazine Street Development Area as an Agency.pdf, 2. O-642-21 ATTACH Exhibit A Magazine Street Development Plan.pdf, 3. O-642-21 ATTACH Exhibit B Magazine Street Development Area Map.pdf, 4. O-642-21 ATTACH Exhibit C Magazine Street Local Participation Agreement.pdf, 5. Mt. Lebanon Senior Apartments - LAEDC.pdf, 6. ORD 196 2021.pdf				

Date	Ver.	Action By	Action	Result
12/16/2021	1	Metro Council	passed	Pass
12/7/2021	1	Labor and Economic Development Committee	recommended for approval	
12/7/2021	1	Labor and Economic Development Committee	tabled	
12/7/2021	1	Labor and Economic Development Committee	recommended for approval	Pass
12/2/2021	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 MAGAZINE 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

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WHEREAS, the Kentucky General Assembly enacted KRS 65.7041- 65.7083 (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, Allied Argenta LLC, a Delaware limited liability company, or an affiliate of same (the “Developer”) plans to undertake a major renovation project within the Magazine Street Development Area (the “Development Area”) to complete the Magazine Street Lebanon Project (the “Project”), as more particularly described in the Development Plan attached hereto as Exhibit A;

WHEREAS, KRS 65.501(7)(b) excludes from the calculation of local tax revenues for the tax increment financing project to be created pursuant to KRS 65.604(1), revenues that have been pledged to support a tax increment financing project established under the Act;

WHEREAS, the Project will be established under the Act in the calendar year prior to the tax increment financing project being created pursuant to KRS 65.604(1);

WHEREAS, the Project, which qualifies as a development area under the Act, will involve new capital investment of approximately $10 million when fully developed;

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 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 1.6917 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 $1.541 billion. The taxable real property assessment of the Development Area for calendar year 2020 is approximately $1,730,670, and that amount combined with the previous development areas established by Louisville Metro totals $1.543 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 two (2) of the seven (7) factors of blight as set forth in KRS 65.7049 and are as follows:

1. **Forty percent (40%) or more of the households are low income households.** The Development Area includes an older senior citizen, independent living complex that serves low income residents with the following income restrictions, 100% of the units are occupied by residents with Moderately Low Income, as defined by U.S Department of Housing and Urban Development ("HUD"), and the remainder of the units is occupied by residents with Very Low Income, as defined by HUD.

2. **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 large scale costs associated with the redevelopment of the proposed Project, particularly if the buildings are to be renovated while the units remain available for affordable housing. No other adequate funding mechanism affords the proposed improvements absent the incentives provided under the Act. These improvements cannot be facilitated with private investment alone. The aesthetic improvement resulting from the redevelopment of the proposed Project will have a positive impact on Louisville Metro and the surrounding area, especially the impact on Magazine Street.

F. The Development Area will not reasonably be redeveloped without public assistance, including incentives as provided by the Act. The high cost of site redevelopment expenses 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. The Development Area has a 2020 taxable assessment of approximately $1,730,670 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 $10,000,000, 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 $791,345, to provide redevelopment assistance to the project, including public infrastructure improvements, it will retain 20% of the new incremental increase of the local ad valorem real property taxes and 100% of the local occupational taxes 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.

H. The area immediately surrounding the Development Area has not been subject to growth and development through investment by private enterprise independent of public support. The proposed improvements within the Development Area will have a positive effect on the surrounding area, which faces stagnation in development without them.

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 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 Magazine 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.

SECTION V: That the Mayor is authorized to negotiate and enter into a Local Participation Agreement, substantially in the form attached hereto as Exhibit C, 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").

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;

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 Louisville Metro Ad Valorem Real Property 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 $791,345 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, 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 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 or otherwise becoming law.

_____ 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-642-21 Establishing Magazine Street Development Area and TIF(lf)

Exhibits

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

EXHIBIT A

DEVELOPMENT PLAN

EXHIBIT B

MAP OF DEVELOPMENT AREA

LEGAL DESCRIPTION

BEGINNING on the North side of Magazine Street, 456-1/12 feet West of 22nd Street; running thence Westwardly along the North side of Magazine Street 43-1/2 feet to the East line of an alley; thence Northwardly with the East line of said alley, 200 feet to another alley; thence Eastwardly along the South side of the last mentioned alley, 43-1/2 feet to a point 457 feet West of 22nd Street; thence Southwardly and parallel with the East line of said first mentioned alley, 200 feet to the Beginning.

BEING the same property acquired by Mt. Lebanon Cedars of Lebanon Homes, Inc. a Kentucky Corporation, by deed dated the 18th day of July 1978, of record in Deed Book 5026, Page 212, in the office of the Clerk of the County Court of Jefferson County, Kentucky.

EXHIBIT C

LOCAL PARTICIPATION AGREEMENT

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