

ORDINANCE NO. ____-2017

AN ORDINANCE ESTABLISHING A LOCAL ECONOMIC DEVELOPMENT AND INFILL INCENTIVE PROGRAM TO BE KNOWN AS THE PUBLIC INFRASTRUCTURE PROGRAM AND PROVIDING FOR ITS PURPOSE, THE PUBLIC INFRASTRUCTURE PROGRAM BOARD, PROGRAM FUND PROTECTIONS, PRIORITIES, LIMITATIONS, CRITERIA, AN APPLICATION PROCESS, ADMINISTRATION BY THE COMMISSIONER OF PLANNING, PRESERVATION AND DEVELOPMENT, AND A PROGRAM FUND; ALL EFFECTIVE UPON DATE OF PASSAGE.

WHEREAS, in order to increase its competitiveness in attracting businesses with good-paying jobs, grow existing businesses, and increase residential and retail infill development in the core urban area of Lexington, Kentucky, the Lexington-Fayette Urban County Government must broaden and strengthen its current public infrastructure incentives capabilities and invest additional local resources to supplement existing incentives; and

WHEREAS, the urban county government desires to establish a local economic development and infill incentive program in order to attract or expand the growth of these types of businesses and enhance residential and retail infill development in the Urban Core area in Lexington-Fayette County, which is to be known as the “Public Infrastructure Program”; and

WHEREAS, the anticipated economic impact attributable to the Public Infrastructure Program is significant, and will benefit the citizens and taxpayers of Lexington-Fayette County and the expenditure of the program funds fulfills a public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the above recitals are incorporated herein by reference as if fully stated herein.

Section 2 – That there is hereby established a local economic development and infill incentive program to be known as the “Public Infrastructure Program” (and which may hereinafter be referred to as the “Program”)

Section 3 – That the purpose of the Program is to provide certain qualified projects with local funding for public infrastructure improvements through grants or loans in order to promote employment growth within Lexington-Fayette County or

increase residential and retail development within its urban core. The Program is focused on attracting innovative businesses, promoting the expansion of existing businesses and attracting innovative residential or retail infill projects within the urban core area.

Section 4 – The “Public Infrastructure Program Board” (which may hereinafter be referred to as the “Board”), as created and established in Ordinance No. ____-2017, shall perform the duties provided herein related to the Program. The Board shall

- (a) Establish policies and procedures for the operation and management of the Public Infrastructure Program
- (b) Oversee and manage financial and administrative actions of the Public Infrastructure Program
- (c) Monitor and evaluate the performance of the Public Infrastructure Program
- (d) Annually review, rank, prioritize and approve funding proposals from eligible applicants.
- (e) Annually establish the current official median income for Lexington-Fayette County, Kentucky for an individual using federal data
- (f) Submit annual reports on the activities of the Public Infrastructure Program to the Mayor, the Urban County Council, and the community.

Section 5 – That a Board to oversee this program, to be known as the Public Infrastructure Program Board, will be created pursuant to a separate ordinance (“The Board”)

Section 6 – That in order to protect Program funds applicants must:

- (a) Be in good standing as to the payment of all urban county government taxes, fees, penalties, or fines;
- (b) Explain how the funding is essential to the project; and
- (c) Provide sufficient detailed evidence that the project has adequate external financing (including any necessary “gap” financing for the public infrastructure funded by the Program) and complies with the government’s comprehensive plan and any relevant small area plans, land use regulations, ordinances, or policies applicable land use or development policies. .

Section 7 – That the Program is designed to provide funds to assist with the cost of construction of necessary public infrastructure, which may include sanitary sewer, storm water sewer, public parking, public transit improvements/enhancements, public sidewalks, public multi-use paths and public roads (curb, gutter, and utility relocation as needed) and those expenses typically related to these types of improvements, such as design and construction engineering.

Section 8 – That in order to be eligible for funding a project must either result in direct job creation or direct capital investment. A priority will be placed on those projects that provide one or more of the following :

(a) Those projects located within the Full Urban Services Tax District that increase affordable housing units (new or preserved), development of underutilized or vacant properties , or economic development opportunities; or

(b) Those projects located within the Urban Core Area (which is defined as those properties located along or inside New Circle Road) that increase residential units or, retail development, or

(c) Those projects that directly create jobs with an average salary greater than the current official median income for Lexington-Fayette County, Kentucky for an individual, as established by the Public Infrastructure Program Board on an annual basis using federal data

Section 9 – That all funds awarded pursuant to the Program shall be solely at the discretion of the Urban County Government and shall be in the form of a loan agreement, grant agreement, or similar agreement. The maximum amount of any funding agreement will not exceed \$300,000 for a grant agreement and \$500,000 for a loan or other agreement, unless, based upon the recommendation of the Commissioner of Planning, Preservation and Development, the Chief Development Officer and the Public Infrastructure Program Board, the Urban County Council approves a greater amount

Section 10– That all funding awarded based on direct job creation will be made subject to an agreement by the recipient that a minimum number of jobs and total payroll will be created and that those jobs will continue to exist for the period of time provided in the funding agreement. All loans are to be repayable to the Urban County

Government within ten (10) years. All grants or other agreements shall include provision(s) requiring the repayment of some or all of the funds in the event that the terms of the agreement are not fulfilled.

Section 11 – That the Public Infrastructure Board, in conjunction with the Commissioner of Planning, Preservation and Development and Chief Development Officer, will draft and present to the Urban County Council for consideration and adoption recommended Program guidelines and/or policies.

Section 12 – That any applicant interested in obtaining Program funding must submit an application to the Office of the Commissioner of Planning, Preservation and Development for initial review.

(a) The application shall contain the minimum requirements established by the Urban County Government through the adoption of Program guidelines and/or policies.

(b) If the Program funding application meets the minimum criteria, the Commissioner will make a recommendation to the Board regarding the application.

(c) The applicant will be provided the opportunity to present additional information to the Board regarding its application. The Board will consider and review the application and any other relevant information provided regarding the application.

(d) The Board will make a recommendation to approve the application, amend the application, or deny the application.

(e) If the Board determines that the Program funding application should be partially or entirely funded the appropriate administrative steps will be taken to present the recommendation and the appropriate Program funding agreement to the Urban County Council for consideration.

(f) If the Board determines that the Program funding application should be partially or entirely funded the applicant will have 60 days to reach an agreement with the Board on the incentive contract or funding can be withdrawn. Upon approval of the Board the applicant may be granted an additional 30 days to reach an agreement on the incentive funding.

(g) If an applicant is provided a loan or grant and does not meet the timeline for encumbering the funds, the funding can be revoked. As a general rule construction

must begin within 6 months of funds being approved and once encumbered funds must be completely spent within 2 years

Section 13 – That the Public Infrastructure Program shall primarily be administered by the Commissioner of Planning, Preservation and Development with appropriate assistance from other departments or division of the Urban Government as necessary.

Section 14 – That in order to provide funding to the Public Infrastructure Program, the Department of Finance and accounting will keep track of all designated funds which will be used to fund the Program. All loan payments or collections of funds made to the Urban County Government pursuant to any Program Fund agreement shall be placed into the above Program fund so that there will be a continual funding source for the Program.

Section 15 - If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 16 - That this ordinance shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

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