

## MASTER DEVELOPMENT AGREEMENT

THIS MASTER DEVELOPMENT AGREEMENT (this “AGREEMENT”) dated the 1st day of February, 2016 (the “Effective Date”) by and among the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an urban county government of the Commonwealth of Kentucky (“LFUCG”), and the DEPARTMENT OF FINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (the “Agency”), and THISTLE HOLDINGS, LLC, a Kentucky limited liability company (“Developer”);

### RECITALS

Whereas, pursuant to the Act, as hereinafter defined, LFUCG by Ordinance No. \_\_\_\_\_ (the “Development Area Ordinance”), adopted on \_\_\_\_\_, established the Thistle Station Development Area (the “Development Area”) and pledged certain LFUCG Incremental Revenues, through the execution of a local participation agreement as provided in the Act, dated February 1, 2016 (the “Local Participation Agreement”) to pay for project costs and redevelopment assistance within the Development Area as more specifically identified within the Local Participation Agreement, a copy of which is attached as Exhibit “A”; and

Whereas, in the Development Area Ordinance, LFUCG established the Agency as its agency and instrumentality and constituted authority for the purpose of performing functions related to the oversight, administration, and implementation of the Development Area Ordinance and Local Participation Agreement on behalf of LFUCG; and

Whereas, the private development planned within the Development Area is the Thistle Station Redevelopment Project (the “Project”), which will be a mixed-use project consisting of

retail, restaurant, residential and similar appropriate uses, together with related public infrastructure, and more specifically described in Exhibit “C” attached hereto; and

Whereas, LFUCG recognizes that the redevelopment of the Development Area and the construction of the Project, as contemplated by the terms of this Agreement, will not occur without a public-private partnership and financial assistance provided to the Project by LFUCG and the Commonwealth of Kentucky (the “State”); and

Whereas, the Parties desire to set forth their mutual agreements, understandings and obligations, in order to facilitate the design, financing, development and construction of the Development Area and the Project.

STATEMENT OF AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, and in consideration of the premises and the mutual covenants and undertakings contained in this Agreement, the Parties hereby agree and covenant as follows:

SECTION I

Preambles

The Parties hereto agree that the above “preambles” or “preamble clauses” (the above “Recitals”) are incorporated herein by reference as if fully restated herein and form a part of the agreement between the parties hereto.

SECTION II

Definitions

For the purposes of this Agreement, the following words and phrases shall have the meanings assigned in this Section II, unless the context clearly indicates that a contrary or different meaning is intended.

- A. “Act”. Shall mean KRS 65.7041 to KRS 65.7083 and KRS 154.30, relating to tax increment financing of projects to promote economic development.
- B. “Affiliate”. A corporation or other entity controlled by, controlling or under common control of the Developer.
- C. “Agency”. Shall mean the Department of Finance of the Lexington-Fayette Urban County Government.
- D. “Agreement”. This Master Development Agreement, including all Exhibits attached hereto.
- E. “Capital Investment”. Shall have the meaning as provided in the Act.
- F. “Commonwealth Program”. Shall mean the Commonwealth Participation Program for State Real Property Ad Valorem Tax Revenues as provided in the Act.
- G. “Developer”. Has the meaning given in the introductory paragraph of this Agreement.
- H. “Development Area”. Shall have the meaning given in the Recitals to this Agreement and as depicted on Exhibit B.
- I. “Effective Date”. Has the meaning given in the introductory paragraph of this Agreement.
- J. “Incremental Revenues”. Shall mean the tax revenues pledged to the Development Area by LFUCG as set forth in the Local Participation Agreement, and by the State, acting through KEDFA through the execution of the Tax Incentive Agreement with the Agency.
- K. “LFUCG”. Shall mean the Lexington-Fayette Urban County Government, an urban county government of the Commonwealth of Kentucky created pursuant to KRS 67A.

L. “Local Participation Agreement”. Shall mean the agreement pledging certain LFUCG Incremental Revenues to pay for certain Project Costs within the Development Area as set forth in Local Participation Agreement, dated February 1, 2016, or as it may be amended, a copy which is attached as Exhibit “A”.

M. “KEDFA”. Shall mean the Kentucky Economic Development Finance Authority, which is assigned for administrative purposes to the Kentucky Economic Development Cabinet.

N. “Private Project Elements”. Shall mean the elements of the Project that shall be privately developed and owned and operated, including, retail, office, residential, restaurants and other commercial aspects of the Project.

O. “Project”. Shall mean The Thistle Station Redevelopment Project within the Development Area, more specifically described in Section IV and Exhibit “C” attached hereto.

P. “Project Costs”. Shall mean any capital investment as defined in the Act incurred or expended to undertake the Project.

Q. “Project Financing”. Shall mean the financing needed to provide for the development and construction of the Project or any financing received by the Developer that is not from LFUCG or State.

R. “Public Infrastructure Improvements”. Shall mean the public improvements and infrastructure constructed within the Development Area, which may include, but is not limited to, the anticipated expenditures as outlined in Exhibit “C” to the Local Participation Agreement and in Exhibit “C” to this Master Development Agreement.

S. “State”. Shall mean the Commonwealth of Kentucky, including any of its agencies and departments.

T. “Tax Incentive Agreement”. Shall mean the agreement pledging certain State Incremental Revenues to pay for designated costs within the Development Area which will be set forth in a Tax Incentive Agreement, as it may be amended, by and between the Agency and KEDFA.

U. “Unavoidable Delays”. Shall mean delays due to labor disputes, lockouts, acts of God, enemy action, terrorist action, civil commotion, riot, governmental regulations not in effect at the date of execution of this Agreement, conditions that could not have been reasonably foreseen by the claiming party, or unavoidable casualty, provided such matters are beyond the reasonable control of the party claiming such delay.

### SECTION III

#### Representations

A. LFUCG and the Agency. LFUCG and the Agency possess the requisite authority to enter into this Agreement, and neither LFUCG nor the Agency, in this Agreement or any schedule, exhibit, document or certificate delivered in accordance with the terms of this Agreement, has made any untrue statement of a material fact or failed to state a material fact.

B. Developer Representations. The Developer represents and warrants that: (i) the Developer (a) is a Kentucky limited liability company possessing the requisite authority to enter into this Agreement; (b) is not a “foreign person” as that term is defined in Section 1445 of the Internal Revenue Code; (c) has not, in this Agreement or any schedule, exhibit, document or certificate delivered in accordance with the terms of this Agreement, made any untrue statement of a material fact or failed to state a material fact; and (d) would not enter into this Agreement to undertake and construct the Project but for the commitment of LFUCG and the Agency to provide financial and other incentives to the Project as provided in this Agreement; (ii) the

execution of this Agreement and the construction of the Project by the Developer will not knowingly violate any applicable statute, law, ordinance, code, rule or regulation or any restriction or agreement binding upon or otherwise applicable to the Developer; and (iii) there are no undisclosed actions, suits or proceedings pending or threatened against the Developer which would, if adversely determined, have a material effect on the Developer's ability to enter into this Agreement or construct the Project in accordance with this Agreement.

#### SECTION IV

##### Project

A. The Project will be the development of two structures located at Third Street and Newtown Pike. The first structure will be a sixteen (16) story building consisting of (i) 202 apartments of approximately 1,000 square feet each, (ii) a full gym and swimming pool on the seventh floor, and (iii) street-level restaurants and retail space using approximately 10,700 leasable square feet. The second structure will be two stories and developed for restaurant and retail use and will include an estimated 8,000 square feet at 4,000 square feet per floor. Third-parties will be allowed to lease and operate the retail and restaurant spaces in each structure.

The Developer shall have the right to assign any rights created by this Agreement to one or more of its Affiliates. The Developer and its Affiliates shall remain in good standing with the Office of the Secretary of State for the full term of this Agreement. In addition, the Developer and its Affiliates shall provide a listing of their officers and managers to the LFUCG Commissioner of Finance on or before June 30 of each year following the execution of this Agreement, with the current officer and managers of the Developer and its Affiliates being listed on Exhibit "D" attached hereto.

B. The Project shall be financed with Project Financing and equity provided by the Developer, and its Affiliates, subject to the pledge of State and LFUCG Incremental Revenues to reimburse the Developer for certain Capital Investments as set forth in Section V of this Agreement. The Developer shall keep LFUCG informed as to the status of the Project Financing for the Project.

C. The Project shall be constructed in accordance with local land use and other local and state requirements that govern the development of property within Lexington. The Developer shall not commence any site improvements without first obtaining the necessary permits and/or approvals from the relevant government agencies, including but not limited to, the LFUCG Divisions of Building Inspection, Engineering and Water Quality, with any relevant approvals by the State.

D. The Developer agrees to proceed expeditiously to complete construction plans and specifications to a level adequate to obtain all permits and approvals necessary to complete construction of the Project.

E. Project Costs. The Developer shall document all Project Costs and Capital Investment, including which costs represent Public Infrastructure Improvements associated with construction of the Project, and submit such costs to LFUCG and the Agency in the format to be determined by the Agency and KEDFA, to enable the Agency and LFUCG to comply with its reporting requirements as set forth in the Local Participation Agreement and the Tax Incentive Agreement.

F. The anticipated Public Infrastructure Improvements are itemized in Exhibit "C" to this Agreement and are eligible to be fully reimbursed by the Agency according to the terms of the Local Participation Agreement, and it is assumed that a portion of the costs associated with

such improvements will be eligible costs for reimbursement from State Incremental Revenues under the Tax Incentive Agreement and KRS 154.30-110.

G. The Developer shall assist the Agency in complying with any reporting requirements mandated by the Local Participation Agreement and Tax Incentive Agreement, in computing the baseline LFUCG and State “old revenues” applicable to the Development Area, and in calculating the Incremental Revenues that may be due to the Agency from LFUCG and the State. The Developer shall include provisions in any Affiliate agreements, construction agreements or leases relating to the construction or operation of the Project, to require the contractors constructing the Project and businesses operating within the Project to provide information, including federal and state tax identification numbers, etc., to the Agency or other information as may be required by the Agency, relating to LFUCG and State taxes that may be generated from the Project.

H. The Developer agrees to notify LFUCG, in writing, when it intends to request activation of the Development Area and/or if it intends to request an extension or delay of activation of the Development Area. The Developer agrees to provide LFUCG with a statement of Project Costs and expenditures incurred for every six (6) month period upon preliminary approval of the Tax Incentive Agreement application in compliance with the reporting requirements required by the Tax Incentive Agreement.

I. The Developer, with the assistance of LFUCG and the Agency shall prepare and submit the application under the Commonwealth Program to KEDFA and shall be responsible for paying all application fees, consultant fees, attorney fees or administration fees required by KEDFA.



## SECTION V

### Priority on the Use of Incremental Revenues

Pursuant to the provisions of the Act and the Local Participation Agreement, LFUCG and the Agency anticipate activating the Development Area upon Project completion, which will potentially allow for Incremental Revenues to be available to the Agency beginning in calendar year 2017. In consideration of the Developer constructing the Project and complying with the requirements and conditions of Section IV of this Agreement, LFUCG and the Agency agree that priority for the use of the Incremental Revenues received by the Agency from LFUCG and the State shall be as follows:

A. Each year following the Activation of the Development Area until its termination, an administrative charge based on 0.02% of the total project amount of \$33,000,000, or \$6,600, will be collected from the Incremental Revenues received by the Agency pursuant to the Local Participation Agreement and/or Tax Incentive Agreement and shall be retained by the Agency to cover administrative and other expenses incurred by the LFUCG or the Agency for the administration and implementation of the Development Area Ordinance, including complying with any reporting requirements set forth in the Local Participation Agreement and/or Tax Incentive Agreement. It is understood that if in any year the amount of Incremental Revenues received by the Agency are not sufficient to satisfy the annual charge of \$6,600, the amount not satisfied may be recovered by the Agency from the Incremental Revenues received by the Agency in future years.

B. After the Developer has met its obligations set forth in Section IV of this Agreement, and after the payment of any administrative charges that may be due LFUCG as provided in Section V(A) of this Agreement, the balance of the Incremental Revenues received

by the Agency pursuant to the Local Participation Agreement and/or Tax Incentive Agreement shall be annually paid to the Developer to reimburse the Developer for the Capital Investment of Public Infrastructure Improvements, up to the actual Capital Investment for Public Infrastructure Improvements as certified by the Developer, but not to exceed \$2,700,000 in Capital Investment. No Incremental Revenues shall be paid to the Developer pursuant to this paragraph until the Minimum Capital Investment of \$10,000,000 within the Development Area has been certified. It is acknowledged by the Parties that after the total reimbursement of Capital Investment for Public Infrastructure Improvements to the Developer, as provided in this Section V(B) of the Agreement has been achieved, any Incremental Revenues that may be received by the Agency under the Local Participation Agreement and/or Tax Incentive Agreement, may be expended for redevelopment assistance, as defined by the Act, within the Development Area as may be determined by LFUCG, or at its option, LFUCG may terminate the Development Area and any agreements incident thereto.

C. After the State gives final approval to the Project for a pledge of State Incremental Revenues, the Agency agrees to execute a Tax Incentive Agreement with the State that provides for the pledging of certain State Incremental Revenues to help pay for Public Infrastructure Improvements within the Development Area.

D. After the obligations set forth in Section V(A) and V(B) of this Agreement have been fully satisfied, Incremental Revenues received by the Agency pursuant to the Local Participation Agreement and/or Tax Incentive Agreement may be used by the Agency to pay for other eligible capital costs within the Development Area as set forth in the Local Participation Agreement and/or Tax Incentive Agreement.

E. It is understood by the Parties that after the activation of the Development Area any State Incremental Revenues that may be generated and available to be paid by the State to the Agency pursuant to the provisions of the Tax Incentive Agreement, shall be held by the State in escrow without interest accruing thereon, until the Minimum Capital Investment of \$10,000,000 in documented Project Costs, required for the release of State Incremental Revenues, are certified as may be provided in the Tax Incentive Agreement. It is further understood that the payment of State Incremental Revenues to the Agency are limited to reimbursement for Approved Public Infrastructure Costs that will be identified in the Tax Incentive Agreement, that are certified by the Agency to the State and approved by the State.

F. Notwithstanding anything to the contrary, nothing in this Agreement shall be interpreted to commit LFUCG and/or the Agency to pay for or reimburse any Project Costs, except from the Incremental Revenues that may be generated within the Development Area and due to the Agency as provided in the Local Participation Agreement and the Tax Incentive Agreement.

G. The obligations of the Agency to reimburse costs to the Developer as provided in Section V of this Agreement are contingent upon KEDFA approving the Project under the Commonwealth Program to allow a portion of the Capital Investment costs for Public Infrastructure Improvements to be reimbursed with State Incremental Revenues as Approved Public Infrastructure Costs. In addition, any obligations of LFUCG or the Agency to reimburse Project Costs from Incremental Revenues shall terminate in the event the Tax Incentive Agreement is terminated or not renewed as provided in the Act and the Tax Incentive Agreement. However, this Agreement shall continue in full force and effect to reimburse the

Developer for Public Infrastructure Improvement costs even if the State reimbursement has reached its maximum cap, as provided in the Tax Incentive Agreement.

## SECTION VI

### Default

If any Party or any Parties (in either case, the “Defaulting Party”) materially breaches or defaults on any of its obligations under this Agreement, the other Parties may give notice that remedial action must be taken by the Defaulting Party within sixty (60) days of the notice. The Defaulting Party shall correct such breach or default within sixty (60) days after such notice; provided, however, if (i) the default is one which cannot with due diligence be remedied by the Defaulting Party within sixty (60) days, and (ii) the Defaulting Party proceeds as promptly as reasonably possible after such notice and with all due diligence to remedy such default, the period after such notice within which to remedy such default shall be extended for such period as may be necessary to remedy the same with all due diligence. If such action is not taken, the non-defaulting parties may, in addition to all other remedies available at law or in equity (including but not limited to specific performance and/or recovery of damages, including reasonable attorneys’ fees and other costs and expenses), terminate this Agreement, or the portion of it affected by the default, by giving ten (10) days written notice to the defaulting Party or Parties.

In the event this Agreement is terminated, LFUCG and the Agency shall be (i) relieved of any executory obligations under this Agreement, (ii) released from undertaking any additional obligations as provided in this Agreement.

## SECTION VII

### Miscellaneous Provisions

A. Term; Survival; Termination. The term of this Agreement shall be from the date of this Agreement until the earliest of (i) the final payment of the Incremental Revenues and the use of such Incremental Revenues pursuant to this Agreement, the Local Participation Agreement and the Tax Incentive Agreement, (ii) the termination of this Agreement in accordance with its terms or (iii) the termination of the Local Participation Agreement and the Tax Incentive Agreement. This Agreement shall not terminate upon the execution of any agreements required or contemplated by this Agreement, or referred to in this Agreement, and the provisions of this Agreement shall not be deemed to be merged into any such agreements, it being the intent of the Parties that this Agreement shall survive the execution and delivery of any such agreements and shall continue throughout the entire development of the Development Area.

B. Governing Law. The laws of the State shall govern as to the interpretation, validity and effect of this Agreement.

C. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held in any proceeding to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it was held to be invalid or unenforceable, shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law, but only if and to the extent such enforcement would not materially and adversely frustrate the parties' essential objectives as expressed herein.

D. Force Majeure. LFUCG, the Agency or the Developer shall not be deemed to be in default in the performance of any obligation on such parties' part to be performed under this

Agreement, other than an obligation requiring the payment of a sum of money, if and so long as the non-performance of such obligation shall be directly caused by Unavoidable Delays; provided, that within fifteen (15) days after the commencement of such Unavoidable Delay, the non-performing party shall notify the other party in writing of the existence and nature of any such Unavoidable Delay and the steps, if any, which the non-performing party shall have taken or planned to take to eliminate such Unavoidable Delay (provided, however, that a failure to give such notice timely shall not be a default hereunder or impair the non-performing party's immunities hereunder or account of Unavoidable Delay, unless the failure to give such notice timely actually prejudices the other party). Thereafter, the non-performing party shall, from time to time, on written request of the other party, keep the other party fully informed, in writing, of further developments concerning such Unavoidable Delay and the effort being made by the non-performing party to perform such obligation as to which it is in default.

E. Notices. Any notice to be given under this Agreement shall be in writing, shall be addressed to the party to be notified at the address set forth below or at such other address as each party may designate for itself from time to time by notice hereunder, and shall be deemed to have been given upon the earliest of (i) three (3) days following deposit in the U.S. Mail with proper postage prepaid, Certified or Registered, Return Receipt Requested, (ii) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (iii) receipt of notice given by telecopy or personal delivery:

If to LFUCG:

Mayor Jim Gray  
Government Center  
200 East Main Street  
Lexington, Kentucky 40507

With Copies to: Kevin Atkins, Chief Development Officer  
Government Center  
200 East Main Street  
Lexington, Kentucky 40507

Janet M. Graham  
Commissioner of Law  
Government Center  
200 East Main Street  
Lexington, Kentucky 40507

If to the Agency: William O'Mara  
Commissioner of Finance and Administration  
Government Center  
200 East Main Street  
Lexington, Kentucky 40507

With a Copy to: Janet M. Graham  
Commissioner of Law  
Government Center  
200 East Main Street  
Lexington, Kentucky 40507

If to Developer: John Cirigliano  
Thistle Holdings, LLC  
135 E. Maxwell Street  
Suite 302  
Lexington, KY 40508

With a Copy  
(which shall not  
constitute notice) to: Mr. Bruce Simpson  
300 West Vine Street  
Suite 2100  
Lexington, KY 40507

F. Approvals. Whenever a party to this Agreement is required to consent to, or approve, an action by the other party, or to approve any such action to be taken by another party, unless the context clearly specifies a contrary intention, or a specific time limitation, such approval or consent shall be given within ten (10) business days and shall not be unreasonably withheld, conditioned or delayed by the party from whom such approval or consent is required.

G. Entirety of Agreement. As used herein, the term "Agreement" shall mean this Master Development Agreement and the Exhibits attached hereto. This Agreement embodies the entire agreement and understanding of the parties hereto with respect to the subject matter herein contained, and supersedes all prior agreements, correspondence, arrangements, and understandings relating to the subject matter hereof. No representation, promise, inducement, or statement of intention has been made by any party which has not been embodied in this Agreement or the previous agreements that are referenced herein, and no party shall be bound by or be liable for any alleged representation, promise, inducement, or statement of intention not so set forth. This Agreement may be amended, modified, superseded, or cancelled only by a written instrument signed by all of the Parties hereto, and any of the terms, provisions, and conditions hereof may be waived only by a written instrument signed by the waiving party. Failure of any party at any time or times to require performance of any provision hereof shall not be considered to be a waiver of any succeeding breach of any such provision by any party.

H. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

I. Headings. The headings in this Agreement are included for purposes of convenience only and shall not be considered a part of this Agreement in construing or interpreting any provision hereof.



J. Exhibits. All exhibits to this Agreement shall be deemed to be incorporated herein by reference and made a part hereof, above the signatures of the parties hereto, as if set out in full herein.

K. No Waiver. No waiver of any condition or covenant of this Agreement to be satisfied or performed by LFUCG, the Agency or the Developer shall be deemed to imply or constitute a further waiver of the same, or any like condition or covenant, and nothing contained in this Agreement nor any act of either party, except a written waiver signed by such party, shall be construed to be a waiver of any condition or covenant to be performed by the other party.

L. Construction. No provisions of this Agreement shall be construed against a Party by reason of such Party having drafted such provisions.

M. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original document.

N. Relationship of the Parties. Except as expressly stated and provided for herein, neither anything contained in this Agreement nor any acts of the Parties hereto shall be deemed or construed by the Parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of association between any of the Parties of this Agreement.

O. No Third Party Beneficiary. Except as otherwise specified herein, the provisions of this Agreement are for the exclusive benefit of LFUCG, the Agency and the Developer, any lender providing financing to the Developer, and their successors and permitted assigns, and not for the benefit of any other person or entity, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any other person or entity.

P. Diligent Performance. With respect to any duty or obligation imposed on a party to this Agreement, unless a time limit is specified for the performance of such duty or obligation, it shall be the duty or obligation of such party to commence and perform the same in a diligent and workmanlike manner and to complete the performance of such duty or obligation as soon as reasonably practicable after commencement of the performance thereof. Notwithstanding the above, time is of the essence with respect to any time limit specified herein.

Q. Assignment of Rights and Delegation of Duties. Neither LFUCG nor the Agency shall assign this Agreement without the prior written consent of the Developer, which shall not be unreasonably withheld. The Developer shall have the right to assign this Agreement, or any part hereof, to an Affiliate, provided the assignee shall assume all assigned liabilities and obligations of the Developer hereunder and LFUCG provides its consent in advance in writing, which consent shall not be unreasonably withheld.

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**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands on the date and year first above set forth herein, to be effective as of the Effective Date.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
An urban county government of the Commonwealth of Kentucky

By: \_\_\_\_\_  
Jim Gray, Mayor

Date: \_\_\_\_\_

DEPARTMENT OF FINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.

By: \_\_\_\_\_  
William O'Mara, Commissioner of Finance

Date: \_\_\_\_\_

THISTLE HOLDINGS, LLC

By: TH Manager, LLC, Manager

By: \_\_\_\_\_  
John Cirigliano, Manager

Date: \_\_\_\_\_

Exhibit A

Local Participation Agreement

**LOCAL PARTICIPATION AGREEMENT**  
**FOR**  
**THE THISTLE STATION DEVELOPMENT AREA**  
**BY AND BETWEEN**  
**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**  
**A Kentucky Urban County Government**  
**AND**  
**DEPARTMENT OF FINANCE FOR**  
**THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**  
**FEBRUARY 1, 2016**

**Exhibit A – The Development Area, including legal description**

**Exhibit B – The Project, including an estimate of costs of construction, acquisition and development**

**Exhibit C – The Elements of the Project to be supported with Incremental Revenues**

**Exhibit D – Listing of Old Revenues Collected from Development Area and Anticipated Incremental Revenues for LFUCG**

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LOCAL PARTICIPATION AGREEMENT  
DATED  
February 1, 2016  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
AND  
DEPARTMENT OF FINANCE FOR THE LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT

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**LOCAL PARTICIPATION AGREEMENT**  
**Thistle Station Development Area**

THIS LOCAL PARTICIPATION AGREEMENT (this “Agreement”) is made as of February 1, 2016 (the “Effective Date”) by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, a Kentucky urban county government (“LFUCG”), and the DEPARTMENT OF FINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (the “Agency”),(collectively, the “Parties”);

RECITALS

WHEREAS, pursuant to the Act, as hereinafter defined, LFUCG has on the \_\_\_\_ day of \_\_\_\_\_, 2016, adopted Ordinance Number \_\_\_\_\_, (the “Development Area Ordinance”), whereby it established the Thistle Station Development Area (the “Development Area”) for the purpose of promoting a mixed-use development of previously developed land; and

WHEREAS, the Council of LFUCG recognizes and determines individually that the real property that constitutes the Development Area has been and is currently characterized by vacant parcels, deteriorated structures and underutilized land, that continuation of the physical deterioration and inadequate infrastructure within the Development Area will discourage and interfere with LFUCG’s growth policies to encourage the sensible development of land within the existing Urban Service Area, and that the acquisition, financing, construction and development of those improvements and buildings, as identified in Exhibit B herein (collectively, the “Project”), will contribute to the public welfare of the citizens of the Urban-County, and the Commonwealth of Kentucky (the “State”) and will thereby materially enhance the area and be in furtherance of the general health and welfare of the citizens of the Urban-County and the State; and

WHEREAS, the Council of LFUCG recognizes and determines individually that the project is a mixed-use development which includes significant public infrastructure improvements; and

WHEREAS, the Parties recognize that the redevelopment of the Development Area, will not likely occur without a public-private partnership and financial assistance provided to the Project by LFUCG and the State; and

WHEREAS, the Parties desire to set forth the duties and responsibilities of the Parties with respect to the administration, financing and pledging of Incremental Revenues in support of the development of the Project within the Development Area; and

WHEREAS, pursuant to the Development Area Ordinance, the Council of LFUCG has authorized the Mayor to execute and enter into this Agreement with the Agency, and LFUCG desires to enter into this Agreement; and

WHEREAS, pursuant to the Development Area Ordinance, the Council of LFUCG has authorized the Commissioner of Finance to execute and enter into this Agreement with LFUCG and the Agency desires to enter into this Agreement; and

WHEREAS, pursuant to the Act (as hereinafter defined), LFUCG and the Agency desire to set forth their mutual agreements, understandings and obligations in this Local Participation Agreement, in order to facilitate development of the Project within the Development Area.

#### STATEMENT OF AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto, and in consideration of the premises and the mutual covenants and undertakings contained herein, it is agreed and covenanted by and among the Parties hereto as follows:



SECTION I  
Recitals

The Parties hereto agree that the above “recitals” or “recital clauses” are incorporated herein by reference as if fully restated herein and form a part of the agreement among the Parties hereto.

SECTION II  
Definitions

For the purposes of this Agreement, the following words and phrases shall have the meanings assigned in this Section II, unless the context clearly indicates that a contrary or different meaning is intended.

1. “Act” or “the Act”. Shall mean KRS 65.7041 to KRS 65.7083, KRS 154.30-010-154.30-090 and KRS 139.515.
2. “Activation”. Shall mean the first day of the calendar year for the computation of Incremental Revenues, which date shall be determined in accordance with Section X of this Agreement.
3. “Administrative Costs”. Shall mean those costs set forth in the Master Development Agreement at Section V(A) to be retained by the Agency before reimbursing the Developer for any Public Infrastructure Costs.
4. “Agreement”. Shall mean this Local Participation Agreement, including all Exhibits attached hereto.
5. “Approved Public Infrastructure Costs”. Shall be the Capital Investment, as defined in the Act, within the Development Area that is approved for reimbursement under the Act by KEDFA, and as further identified in the Tax Incentive Agreement.
6. “Commonwealth Program”. Shall mean the Commonwealth Participation Program for State Real Property Ad Valorem Tax Revenues as provided in the Act.

7. “Developer” or “Master Developer”. Shall mean Thistle Holdings, LLC, a Kentucky limited liability company, its successors, affiliates, subsidiaries or related entities.

8. “Development Area”. Shall have the meaning given in the Recitals to this Agreement.

9. “Development Area Ordinance.” Shall mean Ordinance No. \_\_\_\_\_, adopted by LFUCG on \_\_\_\_\_, 2016.

10. “Effective Date”. Shall have the meaning given in the introductory paragraph of this Agreement.

11. “Incremental Revenues”. Shall mean the net amount of tax revenues received by LFUCG by subtracting Old Revenues from New Revenues in each calendar year after Activation.

12. “KEDFA”. Shall mean the Kentucky Economic Development Finance Authority.

13. “LFUCG”. Shall mean the Lexington-Fayette Urban County Government, a Kentucky urban county government organized under the provisions of Chapter 67A of the Kentucky Revised Statutes.

14. “LFUCG Authorizations”. Shall mean those necessary governmental authorizations, resolutions, orders, hearings, notices, ordinances, and other acts, required by laws, rules, or regulations to provide LFUCG and its officers with the proper authority to perform all obligations of LFUCG resulting from this Agreement, and perform all other obligations of LFUCG made necessary by, or resulting from the establishment of the Development Area.

15. “Master Development Agreement”. Shall mean the Master Development Agreement dated February 1, 2016, among LFUCG, the Agency, and the Developer relating to the Project.

16. “New Revenues”. Shall mean the ad valorem real property tax revenues received by LFUCG from its general tax rate and urban services tax rate from the Development Area, but not including any amount required to be paid to the Lexington Public Library District, during each calendar year after Activation.

17. “Old Revenues”. Shall mean the ad valorem real property tax revenues received by LFUCG from its general tax rate and urban services tax rate from the Development Area in calendar year 2015, but not including any amount required to be paid to the Lexington Public Library District.

18. “Project Financing”. Shall mean the financing needed to provide for the development and construction of the Project elements or any financing received by the Developer, not including the pledge of Incremental Revenues from LFUCG or the State.

19. “Project”. Shall mean the improvements within the Development Area.

20. “Project Costs”. Shall mean any capital investment within the Development Area as defined in the Act.

21. “Public Infrastructure Costs.” Shall mean the Project costs eligible for reimbursement by Incremental Revenues from LFUCG and the State, including “Approved Public Infrastructure Costs.”

22. “Redevelopment Assistance”. Shall have the same meaning as provided in the Act.

23. “Special Fund”. Shall mean the Thistle Station Development Area Tax Increment Fund established in the Development Area Ordinance and maintained by the Agency, for the purpose of holding LFUCG’s and the State Incremental Revenues pledged herein or by the Tax Incentive Agreement in connection with the development of the Project.

24. “State”. Shall mean the Commonwealth of Kentucky, including any of its agencies and departments.

25. “Tax Incentive Agreement”. Shall mean the anticipated agreement between KEDFA and the Agency related to the pledge of State Incremental Revenues to pay for Approved Public Infrastructure Costs in connection with the construction of the Project.

26. “Unavoidable Delays”. Shall mean delays due to labor disputes, lockouts, acts of God, enemy action, civil commotion, riot, governmental regulations not in effect at the date of execution of this Agreement, conditions that could not have been reasonably foreseen by the claiming party, inability to obtain construction materials or energy, fire, or unavoidable casualty, provided such matters are beyond the reasonable control of the party claiming such delay.

### SECTION III Parties

The parties to this Agreement shall be LFUCG, the Agency, and the Developer.

### SECTION IV Duties and Responsibilities of LFUCG

LFUCG shall have the following duties and responsibilities in connection with the development of the Development Area:

1. Provide for the establishment of LFUCG Special Fund for the collection of Incremental Revenues pledged herein from LFUCG real property ad valorem taxes (including the general tax rate less the Library portion and also the urban services tax rate), within the Development Area from the Project.

2. Pledge one hundred percent (100%) of LFUCG's Incremental Revenues to pay for Administrative Costs, support the cost of Public Infrastructure Costs, and after those costs are paid, to provide Redevelopment Assistance within the Development Area as determined by LFUCG, for up to a twenty (20) year period, which pledge is made in Section VI herein.

3. Make, in participation with the Agency and the Developer, application to the KEDFA requesting State participation under the "Commonwealth Program" in accordance with applicable provisions of the Act.

4. Designate the Agency as the entity responsible for the oversight, administration, and implementation of the Development Area Ordinance.

5. Meet as may be required with the Developer and the Agency for the purpose of reviewing the progress of the development of the Development Area and prepare an analysis of such progress for distribution to the Agency and the State in accordance with the Act.

6. Require its Department of Finance, as the "Agency" for purposes of the Act, to prepare by no later than June 1, or such other date to meet the reporting schedule of KEDFA, or the State to receive State Incremental Revenues under the Tax Incentive Agreement, of each year during the term of this Agreement an annual report and provide same to LFUCG and KEDFA including, but not limited to: (a) the total real property taxes collected within the Development Area during the previous calendar year; (b) a determination of Incremental Revenues collected within the Development Area during the previous calendar year; and (c) the amount, if any, of Incremental Revenues spent from the Special Fund on Public Infrastructure Costs and/or Redevelopment Assistance in connection with the Project.

SECTION V  
Duties and Responsibilities of the Agency

The Agency shall have the following duties and responsibilities in connection with the development of the Development Area:

1. Act as the entity responsible for the oversight, administration, and implementation of the Development Area Ordinance.

2. Participate with LFUCG and the Developer in the application to KEDFA, requesting State participation under the “Commonwealth Program” in accordance with the applicable provisions of the Act.

3. Meet as may be required with the Developer and LFUCG for the purpose of reviewing the progress of the development of the Development Area and prepare an analysis of such progress for distribution to the Agency and the State in accordance with the Act.

4. Prepare by no later than June 1, or such other date to meet the reporting schedule of KEDFA, or the State to receive State Incremental Revenues under the Tax Incentive Agreement, of each year during the term of this Agreement an annual report and provide same to LFUCG, the Developer and KEDFA including, but not limited to: (a) the total real property taxes collected within the Development Area during the previous calendar year; (b) a determination of Incremental Revenues collected within the Development Area during the previous calendar year; and (c) the amount, if any, of Incremental Revenues spent from the Special Fund on Public Infrastructure Costs and/or Redevelopment Assistance.

5. Beginning in the calendar year of the Activation Date, upon the receipt of the deposits of Incremental Revenues into the Special Fund from LFUCG or the State, the Agency, providing that the Developer has complied with its obligations and conditions set forth in the Master Development Agreement, shall annually pay such funds to the Developer (as applicable)

within thirty (30) days but not later than June 30, sufficient to cover the payment or reimbursement Administrative Costs, Public Infrastructure Costs, and Redevelopment Assistance costs pursuant to the terms set forth in this Agreement and the Master Development Agreement, but any payments to the Developer shall not exceed two million seven hundred thousand dollars (\$2,700,000) in total.

6. Comply with any requirements and carry out any duties and responsibilities as the Agency under the terms of the Tax Incentive Agreement, the Master Development Agreement, and this Agreement.

#### SECTION VI Identification and Pledge of Incremental Revenues

1. To the extent Incremental Revenues are generated, for up to a twenty (20) year period after the Activation Date of the Development Area, LFUCG hereby pledges one-hundred percent (100%) of its Incremental Revenues to support the payment of Administrative Costs, Public Infrastructure Costs, in accordance with the Master Development Agreement, and after those costs are paid, Redevelopment Assistance as determined by LFUCG; provided, however, that the pledge of LFUCG Incremental Revenues shall be conditioned upon the approval of State participation as a "Commonwealth Project" as provided in the Act. An estimate of the Old Revenues collected by LFUCG from within the Development Area is attached as Exhibit D. Nothing contained herein shall be interpreted to prohibit LFUCG from terminating the Development Area and any agreement incident thereto, after the Developer has been reimbursed the amount of Public Infrastructure Costs as set forth in the Master Development Agreement.

2. Incremental Revenues pledged by LFUCG in this Section VI and received by the Agency shall be deposited at least annually, no later than each June 1st after the first calendar year of activation, to the Special Fund and shall be held by the Agency and used solely for

payment of Administrative Costs, Public Infrastructure Costs, and/or Redevelopment Assistance in support of the Project and for no other purpose. Such Special Fund shall be continued and maintained until the Termination Date (as defined in the Development Area Ordinance) of the Development Area. Amounts in the Special Fund, together with interest accruing thereon, are hereby irrevocably pledged for the payment of costs as provided in this Section VI of this Agreement, and for no other purpose. The Special Fund shall be continued and maintained until the Termination Date of the Development Area.

3. At the Termination Date (as defined in the Development Area Ordinance) all amounts remaining in the Special Fund shall be transferred to the General Fund of LFUCG.

SECTION VII  
Anticipated Benefits to LFUCG

LFUCG anticipates receiving substantial benefits as a result of the pledge of their Incremental Revenues to support development of the Development Area as set forth herein. Estimates of Old Revenues and projected New Revenues for LFUCG on an annual basis during the term of this Agreement are attached as Exhibit D hereto. The maximum amount of Incremental Revenues to be paid by LFUCG shall be one hundred percent (100%) of the Incremental Revenues generated from the Development Area, and the maximum number of years the payment of Incremental Revenues to support the development of the Development Area will be made is twenty (20) years.

SECTION VIII  
Description of Development Area

A detailed description of the Development Area is set forth in Exhibit A hereto.



SECTION IX  
Description of Project; Costs

A detailed description of the Project is set forth in Exhibit B hereto. Also included in Exhibit B is an estimate of the costs of construction, acquisition and development of such proposed Project. The elements of the Project planned to be supported or paid for with Incremental Revenues are listed on the attached Exhibit C, subject to further amendment with approval by LFUCG. Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that the Project may be changed and modified, so long as the overall project concept remains the same.

SECTION X  
Commencement Date; Activation Date; Termination Date

This Agreement shall commence and be effective as of the date of execution hereof by LFUCG. The activation date for the pledge of Incremental Revenues as set forth in Section VI hereof shall be determined by LFUCG and Developer in accordance with the Act. This Agreement shall terminate twenty (20) years after the activation date as set forth above. This Agreement shall not terminate upon the execution of any deeds or other agreements required or contemplated by this Agreement, or referred to herein, and the provisions of this Agreement shall not be deemed to be merged into the deeds, or any other such deeds or other agreements, it being the intent of the parties hereto that this Agreement shall survive the execution and delivery of any such agreements.

SECTION XI  
Default

If LFUCG or the Agency (a "Defaulting Party") shall default in its obligation to make payments of Incremental Revenues set forth herein, the Agency (unless it is the Defaulting Party), the Developer and/or the indenture trustee or trustees for outstanding financing

obligations secured by such Incremental Revenues shall have the power to enforce the provisions of this Agreement against the Defaulting Party. If LFUCG or the Agency materially breaches or defaults on any of its nonpayment related obligations under this Agreement, the Developer, and/or the indenture trustee or trustees for the outstanding financing obligations may give notice that remedial action must be taken within thirty (30) days. The Defaulting Party shall correct such breach or default within thirty (30) days after such notice, provided however that if (i) the default is one which cannot with due diligence be remedied by the Defaulting Party within thirty (30) days and (ii) the Defaulting Party proceeds as promptly as reasonably possible after such notice and with all due diligence to remedy such default, the period after such notice within which to remedy the default shall be extended for such period of time as may be necessary to remedy the same with all due diligence.

SECTION XII  
Governing Law

The laws of the State shall govern as to the interpretation, validity and effect of this Agreement.

SECTION XIII  
Severability

If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held in any proceeding to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it was held to be invalid or unenforceable, shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law, but only if and to the extent such enforcement would not materially and adversely frustrate the parties essential objectives as expressed herein.

SECTION XIV  
Force Majeure

A party shall not be deemed to be in default in the performance of any obligation on such parties' part to be performed under this Agreement, other than an obligation requiring the payment of a sum of money, if and so long as the non performance of such obligation shall be directly caused by Unavoidable Delays; provided, that within fifteen (15) days after the commencement of such Unavoidable Delay, the non-performing party shall notify the other party in writing of the existence and nature of any such Unavoidable Delay and the steps, if any, which the non-performing party shall have taken or planned to take to eliminate such Unavoidable Delay. Thereafter, the non-performing party shall, from time to time, on written request of the other party, keep the other party fully informed, in writing, of further developments concerning such Unavoidable Delay and the effort being made by the non-performing party to perform such obligation as to which it is in default. All provisions of any construction schedule shall be adjusted in accordance with such Unavoidable Delay.

SECTION XV  
Notices

Any notice to be given under this Agreement shall be in writing, shall be addressed to the party to be notified at the address set forth below or at such other address as each party may designate for itself from time to time by notice hereunder, and shall be deemed to have been given upon the earliest of (i) three (3) days following deposit in the U.S. Mail with proper postage prepaid, Certified or Registered, (ii) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (iii) receipt of notice given by telecopy or personal delivery:

If to LFUCG: Mayor Jim Gray  
200 East Main Street  
Lexington, Kentucky 40507

With Copies to: Kevin Atkins, Chief Development Officer  
Government Center  
200 East Main Street  
Lexington, Kentucky 40507

Janet M. Graham  
Commissioner of Law  
Government Center  
200 East Main Street  
Lexington, Kentucky 40507

If to the Agency: William O'Mara  
Commissioner of Finance  
200 East Main Street  
Lexington, Kentucky 40507

With a Copy to: Janet M. Graham  
Commissioner of Law  
Government Center  
200 East Main Street  
Lexington, Kentucky 40507

SECTION XVI  
Approvals

Whenever a party to this Agreement is required to consent to, or approve, an action by the other party, or to approve any such action to be taken by another party, unless the context clearly specifies a contrary intention, or a specific time limitation, such approval or consent shall be given within thirty (30) business days and shall not be unreasonably withheld or delayed by the party from whom such approval or consent is required.

SECTION XVII  
Entirety of Agreement

As used herein, the term "Agreement" shall mean this Local Participation Agreement and the Exhibits attached hereto. This Agreement embodies the entire agreement and understanding

of the parties hereto with respect to the subject matter herein contained, and supersedes all prior agreements, correspondence, arrangements, and understandings relating to the subject matter hereof. No representation, promise, inducement, or statement of intention has been made by any party which has not been embodied in this Agreement, and no party shall be bound by or be liable for any alleged representation, promise, inducement, or statement of intention not so set forth. This Agreement may be amended, modified, superseded, or cancelled only by a written instrument signed by all of the parties hereto, and any of the terms, provisions, and conditions hereof may be waived only by a written instrument signed by the waiving party. Failure of any party at any time or times to require performance of any provision hereof shall not be considered to be a waiver of any succeeding breach of any such provision by any part.

SECTION XVIII  
Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

SECTION XIX  
Headings and Index

The headings in this Agreement and the Index are included for purposes of convenience only and shall not be considered a part of this Agreement in construing or interpreting any provision hereof.

SECTION XX  
Exhibits

All exhibits to this Agreement shall be deemed to be incorporated herein by reference and made a part hereof, above the signatures of the parties hereto, as if set out in full herein.

SECTION XXI  
No Waiver; Construction

No waiver of any condition or covenant of this Agreement to be satisfied or performed by LFUCG shall be deemed to imply or constitute a further waiver of the same, or any like condition or covenant, and nothing contained in this Agreement nor any act of either party, except a written waiver signed by such party, shall be construed to be a waiver of any condition or covenant to be performed by the other party.

No provisions of this Agreement shall be construed against a party by reason of such party having drafted such provisions.

SECTION XXII  
Multiple Counterparts

This Agreement may be executed in multiple counterparts, each of which shall constitute an original document.

SECTION XXIII  
Relationship of the Parties

Except as expressly stated and provided for herein, neither anything contained in this Agreement nor any acts of the parties hereto shall be deemed or construed by the Parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of association among any of the Parties of this Agreement.

SECTION XXIV  
No Third Party Beneficiary

Except as otherwise specified herein, the provisions of this Agreement are for the exclusive benefit of LFUCG, the Agency, and the Developer, their successors and permitted assigns, and not for the benefit of any other person or entity, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any other person or entity.

SECTION XXV  
Diligent Performance

With respect to any duty or obligation imposed on a party to this Agreement, unless a time limit is specified for the performance of such duty or obligation, it shall be the duty or obligation of such party to commence and perform the same in a diligent and workmanlike manner and to complete the performance of such duty or obligation as soon as reasonably practicable after commencement of the performance thereof. Notwithstanding the above, time is of the essence with respect to any time limit specified herein.

SECTION XXVI  
Assignment of Rights and Delegation of Duties

No Party to this Agreement may assign this Agreement, or any part hereof, except as provided herein, without the prior written consent of the other Parties, except that the Developer may assign its rights to receive reimbursement for Public Infrastructure Costs to a financial institution that provides Project Financing. Nothing in this Section shall be construed to require prior written consent for the Developer to assign any of its rights or obligations under this Agreement to a subsidiary, affiliate or related entity.

**IN WITNESS WHEREOF**, the Parties hereto have hereunto set their hands on the date and year first above set forth herein, to be effective as of the Effective Date.

LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT  
a Kentucky urban county government

By: \_\_\_\_\_  
Jim Gray, Mayor

Approval as to Form:

\_\_\_\_\_  
Janet M. Graham  
Commissioner of Law for the

Lexington-Fayette Urban County  
Government

DEPARTMENT OF FINANCE FOR  
THE LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT

By: \_\_\_\_\_  
William O'Mara, Commissioner of Finance

**EXHIBITS:**

**Exhibit A: Development Area Map and Description**

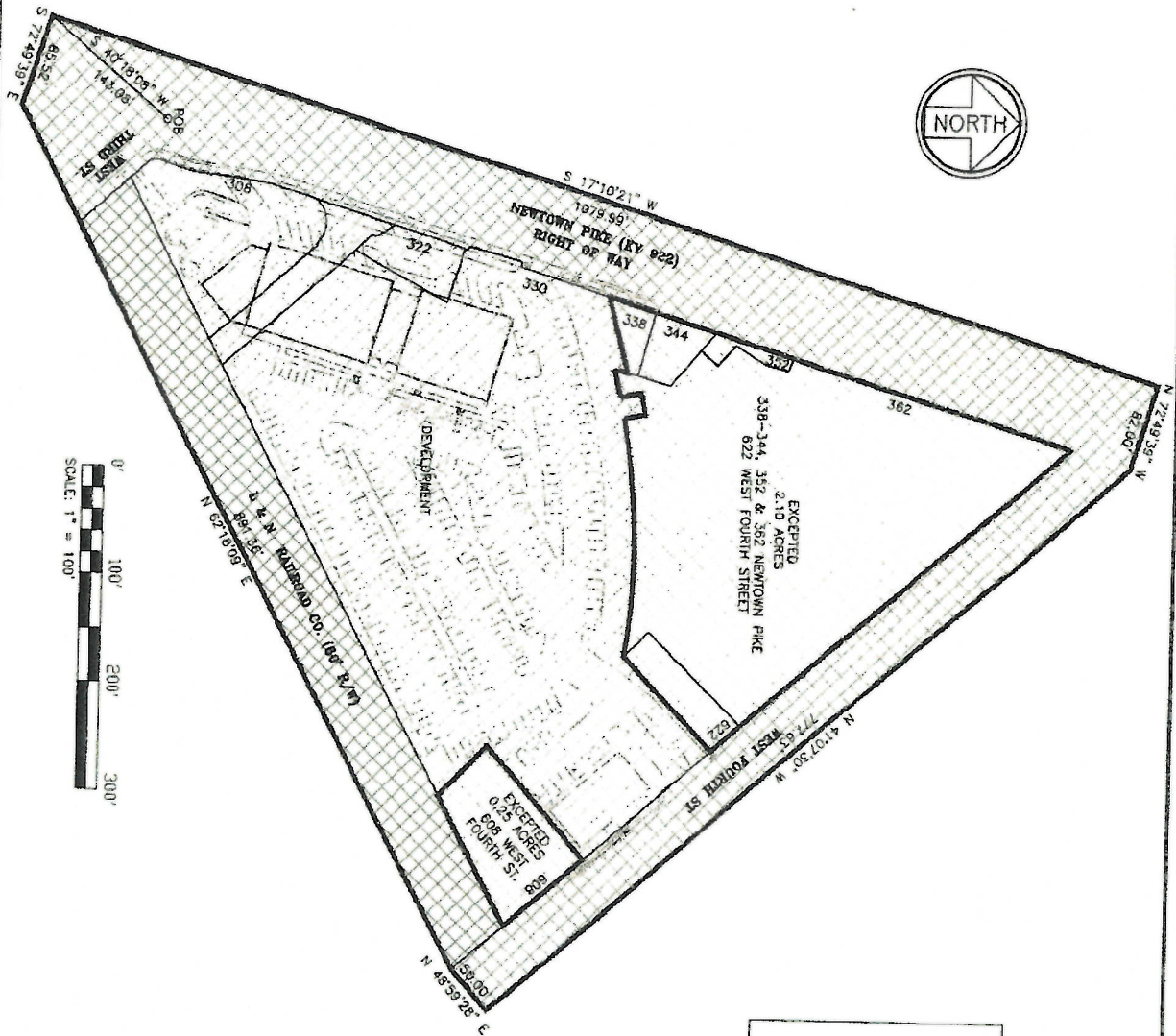
**Exhibit B: The Project**

**Exhibit C: Elements of Project to be Financed with Incremental Revenues**

**Exhibit D: Estimated Old Revenues from Development Area and Anticipated  
Incremental Revenues for LFUCG**



## **Exhibit A: Development Area Map and Description**



**LEGEND**

	BOUNDARY OF PROPOSED TAX INCREMENT FINANCING DEVELOPMENT AREA.
	PROPERTIES INCLUDED IN THE TAX INCREMENT FINANCING DEVELOPMENT AREA, 308-310, 322 & 330 NEWTOWN PIKE (3.90 ACRES)
	NEWTOWN PIKE (KY 922), THIRD STREET, & WEST FOURTH STREET RIGHT-OF-WAY INCLUDED IN THE TAX INCREMENT FINANCING DEVELOPMENT AREA (3.07 ACRES)
	LAN RAILROAD RIGHT OF WAY INCLUDED IN THE TAX INCREMENT FINANCING DEVELOPMENT AREA (1.06 ACRES)
	338-344, 352 & 362 NEWTOWN PIKE, 608 & 622 WEST FOURTH STREET ARE EXCLUDED FROM THE TAX INCREMENT FINANCING DEVELOPMENT AREA (2.35 ACRES)

**DEVELOPMENT BOUNDARY**  
**PROPOSED TAX INCREMENT FINANCING DEVELOPMENT AREA**  
**NEWTOWN PIKE, LEXINGTON, FAYETTE COUNTY KENTUCKY**

## **LEGAL DESCRIPTION**

**Proposed Tax Increment Finance Development Area  
Newtown Pike, Lexington, Fayette County, Kentucky**

The following area description is intended for Tax Increment Financing Development Area purposes only and shall not be used for transfer or conveyance purposes. This description represents a compilation of documents and information of public record and in no way represents a survey by implication or actuality.

Being a triangular boundary of land located along Newtown Pike (State Route 922) within the City of Lexington, County of Fayette, Commonwealth of Kentucky and more particularly described as follows:

Beginning at a point on the western Right-Of-Way line of Newtown Pike (State Route 922), said point being South 40° 18' 08" West 143.08 feet from the calculated centerline intersection of said Newtown Pike and Third Street; thence crossing Newtown Pike for one (1) call:

1. South 72° 49' 39" East 85.52 feet to a point on the southern Right-Of-Way line of the L & N Railroad; thence with said L & N Railroad Right-Of-Way line for one (1) call:
2. North 62° 18' 09" East 891.36 feet to a point on the southern Right-Of-Way line of West Fourth Street, said point; thence crossing said West Fourth Street and continuing with L & N Railroad Right-Of-Way for one (1) call:
3. North 48° 59' 28" East 50.00 feet to a point on the northern Right-Of-Way line of said West Fourth Street, said point being South 83° 31' 21" East 33.24 feet from the calculated centerline intersection of West Fourth Street and the L & N Railroad; thence with said northern Right-Of-Way line for one (1) call:
4. North 41° 07' 30" West 777.63 feet to a point on the eastern Right-Of-Way line of said Newtown Pike; thence crossing Newtown Pike for one (1) call:
5. North 72° 49' 39" West 82.00 feet to a point on the western Right-Of-Way of said Newtown Pike, said point being North 60° 50' 49" West 56.99 feet from the calculated centerline intersection of said Newtown Pike and West Fourth Street; thence with the western Right-Of-Way Line of said New Town Pike for one call (1);
6. South 17° 10' 21" West 1079.99 feet to the Point of Beginning.

There is excepted from the above described Proposed Tax Increment Financing Development Area boundary that parcel conveyed to D & D Realty, LLC in Deed Book 2178, Page 453 of the Fayette County Clerk's records containing 1.89 Acres, that parcel conveyed to Bluegrass Cremation Services, LLC in Deed Book 2878, Page 453 containing 0.25 Acre, those parcels conveyed to Clarence Elliott Means Jr. Trust No. 2 in Deed Book 3261, Page 127 containing 0.11 Acre, that parcel conveyed to John Hutchinson and Ann Hutchinson containing 0.02 Acre and that parcel conveyed to Emerge Property, LLC in Deed Book 3199, Page 31 containing 0.083 Acre (acreages listed as determined by Fayette County PVA).

It is the intent of this proposed Tax Increment Financing Development Area boundary to include all the area encompassed on the northeast by the northern Right-Of-Way line of West Fourth Street, on the northwest by the western Right-Of-Way line of Newtown Pike (State Route 922) and on the southeast by

**the southern Right-Of-Way line of the L & N railroad Right-Of-Way excluding exceptions listed above containing 10.38 Gross Acres, and 8.03 Net Acres.**

## **Exhibit B: The Project**

## Project Description

The Thistle Station project is expected to include approximately:

- Apartments - A 16-story building will hold 202 apartment units at an average of about 1,000 leasable square feet
  - The 7<sup>th</sup> floor will include a full gym and swimming pool
- Restaurants/Retail - Apartment building will include street-level restaurants and retail covering an estimated 10,700 leasable square feet
- Outparcel Restaurants/Retail - A separate parcel will be developed for restaurant/retail use, and is estimated to include another 8,000 leasable square feet at 4,000 square feet per floor.

Its estimated construction costs include:

- Total construction cost of \$34 million
  - \$31.3 million in private costs
  - \$2.7 million in public costs

**Exhibit C: Elements of Project to be Financed with Incremental Revenues**

<b>Thistle Station™ Public Infrastructure Expenditures</b>	
Demolition, Site Clean-up	\$184,000
Environmental Remediation	\$140,000
Public Utilities Relocation	\$620,000
Utility and Right of Way Easements	\$42,000
Curbs and Sidewalks	\$115,000
Roads & Street Lighting	\$75,000
Parking	\$280,000
Transportation Facilities	\$28,000
Landscaping & Irrigation	\$220,000
Public Spaces & Parks	\$180,000
Security, Safety, Fencing, Site Lighting	\$380,000
Railroad Safety and Sound Mitigation	\$460,000
<b>Total</b>	<b>\$2,724,000</b>



**Exhibit D: Listing of Old Revenues Collected by LFUCG from Development Area  
and Anticipated Incremental Revenues for LFUCG**

**Thistle Station™**  
**Incremental Ad Valorem Tax Revenue Estimates - All Local Real Estate Taxes**

Local Property Tax Revenues - After New Development	Total									
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 20	20-Year Total		
County/General Services	\$242,799	\$10,500	\$10,658	\$10,817	\$10,980	\$11,144	\$12,006	\$13,983	\$242,799	
Public Library	\$404,664	\$17,500	\$17,763	\$18,029	\$18,299	\$18,574	\$20,009	\$23,222	\$404,664	
School	\$5,819,071	\$251,650	\$255,425	\$259,256	\$263,145	\$267,092	\$287,294	\$333,927	\$5,819,071	
Extension Services	\$27,517	\$1,190	\$1,208	\$1,226	\$1,244	\$1,263	\$1,361	\$1,579	\$27,517	
Soil & Water Conservation	\$4,047	\$175	\$178	\$180	\$183	\$186	\$200	\$232	\$4,047	
Health Department	\$226,612	\$9,800	\$9,947	\$10,096	\$10,248	\$10,401	\$11,205	\$13,004	\$226,612	
Leotran	\$485,597	\$21,000	\$21,315	\$21,635	\$21,959	\$22,289	\$24,011	\$27,866	\$485,597	
Urban Services - Full	\$1,406,613	\$60,830	\$61,742	\$62,669	\$63,609	\$64,563	\$69,552	\$80,718	\$1,406,613	
Total Local Property Tax Revenues	\$8,616,919	\$372,645	\$379,235	\$383,908	\$389,667	\$395,512	\$426,079	\$494,482	\$8,616,919	
*As-Is* Local Property Tax Revenues - Without Development										
County/General Services	\$3,575	\$155	\$157	\$159	\$162	\$164	\$177	\$205	\$3,575	
School	\$5,959	\$238	\$262	\$285	\$309	\$333	\$395	\$342	\$5,959	
Extension Services	\$85,690	\$3,706	\$3,761	\$3,818	\$3,875	\$3,933	\$4,297	\$4,917	\$85,690	
Soil & Water Conservation	\$405	\$18	\$18	\$18	\$18	\$19	\$20	\$23	\$405	
Health Department	\$60	\$3	\$3	\$3	\$3	\$3	\$3	\$3	\$60	
Leotran	\$3,337	\$7,151	\$144	\$146	\$151	\$153	\$165	\$191	\$3,337	
Urban Services - Full	\$7,151	\$309	\$314	\$319	\$323	\$328	\$354	\$410	\$7,151	
Total Local *As-Is* Property Tax Revenues	\$20,713	\$896	\$909	\$923	\$937	\$951	\$1,024	\$1,189	\$20,713	
Local Property Taxes Retained	\$126,890	\$5,487	\$5,570	\$5,653	\$5,738	\$5,824	\$6,274	\$7,282	\$126,890	
County/General Services	\$3,575	\$155	\$157	\$159	\$162	\$164	\$177	\$205	\$3,575	
Public Library	\$404,664	\$17,500	\$17,763	\$18,029	\$18,299	\$18,574	\$20,009	\$23,222	\$404,664	
School	\$5,819,071	\$251,650	\$255,425	\$259,256	\$263,145	\$267,092	\$287,294	\$333,927	\$5,819,071	
Extension Services	\$27,517	\$1,190	\$1,208	\$1,226	\$1,244	\$1,263	\$1,361	\$1,579	\$27,517	
Soil & Water Conservation	\$4,047	\$175	\$178	\$180	\$183	\$186	\$200	\$232	\$4,047	
Health Department	\$226,612	\$9,800	\$9,947	\$10,096	\$10,248	\$10,401	\$11,205	\$13,004	\$226,612	
Leotran	\$485,597	\$21,000	\$21,315	\$21,635	\$21,959	\$22,289	\$24,011	\$27,866	\$485,597	
Urban Services	\$20,713	\$896	\$909	\$923	\$937	\$951	\$1,024	\$1,189	\$20,713	
Total Local Taxes Retained	\$6,991,797	\$302,365	\$306,301	\$311,504	\$316,177	\$320,920	\$345,722	\$401,224	\$6,991,797	
Local Incremental Property Taxes Available for TIF Participation										
County/General Services	\$229,223	\$10,345	\$10,501	\$10,658	\$10,818	\$10,980	\$11,829	\$13,728	\$229,223	
Urban Services - Full	\$1,385,899	\$59,884	\$60,833	\$61,746	\$62,672	\$63,612	\$68,528	\$79,530	\$1,385,899	
Total Local Taxes Contributed to TIF Reimbursement	\$1,625,122	\$70,229	\$71,334	\$72,404	\$73,490	\$74,592	\$80,357	\$93,258	\$1,625,122	

Exhibit B

Thistle Station Development Area

## **LEGAL DESCRIPTION**

**Proposed Tax Increment Finance Development Area**  
Newtown Pike, Lexington, Fayette County, Kentucky

The following area description is intended for Tax Increment Financing Development Area purposes only and shall not be used for transfer or conveyance purposes. This description represents a compilation of documents and information of public record and in no way represents a survey by implication or actuality.

Being a triangular boundary of land located along Newtown Pike (State Route 922) within the City of Lexington, County of Fayette, Commonwealth of Kentucky and more particularly described as follows:

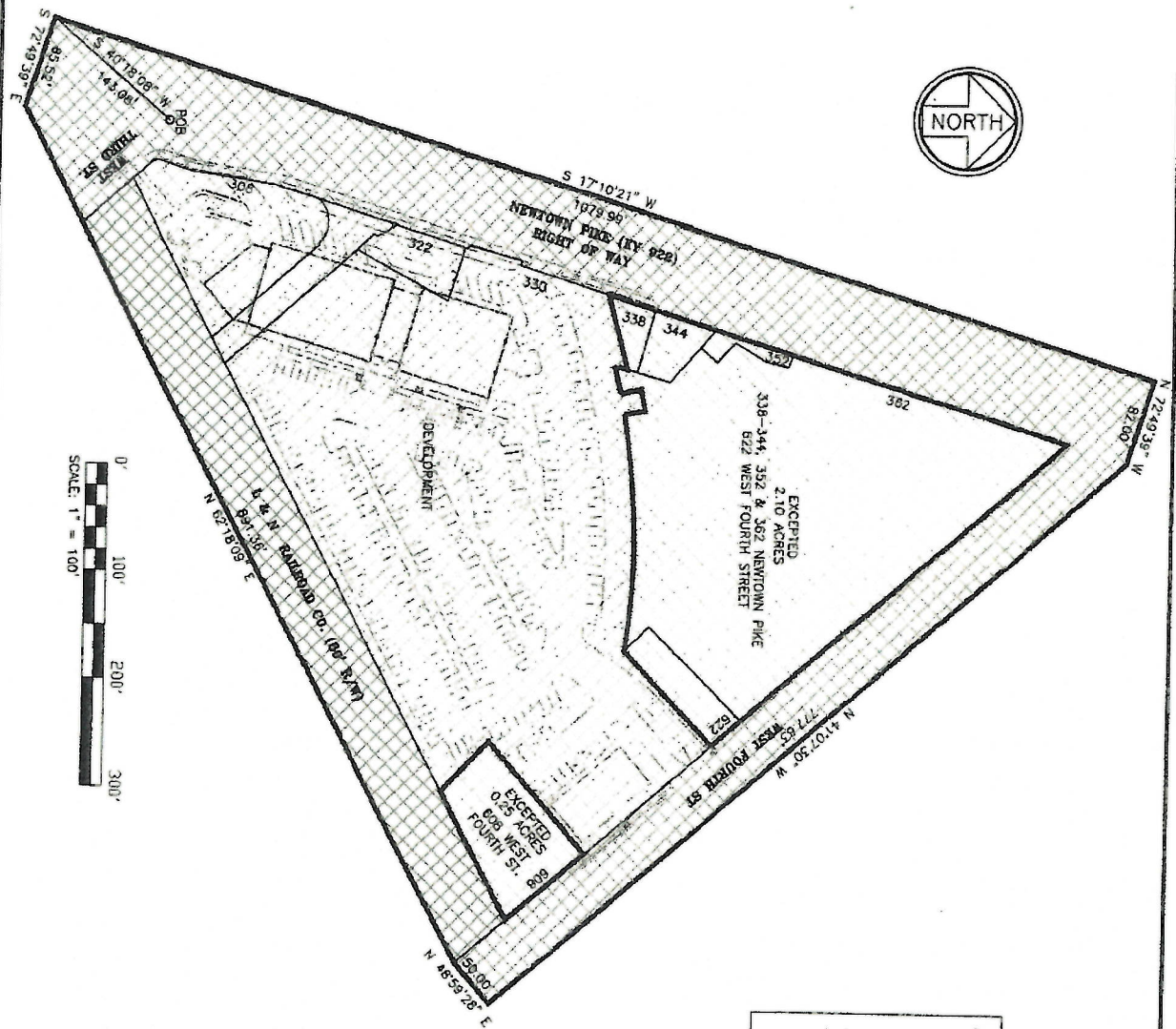
Beginning at a point on the western Right-Of-Way line of Newtown Pike (State Route 922), said point being South 40° 18' 08" West 143.08 feet from the calculated centerline intersection of said Newtown Pike and Third Street; thence crossing Newtown Pike for one (1) call:

1. South 72° 49' 39" East 85.52 feet to a point on the southern Right-Of-Way line of the L & N Railroad; thence with said L & N Railroad Right-Of-Way line for one (1) call:
2. North 62° 18' 09" East 891.36 feet to a point on the southern Right-Of-Way line of West Fourth Street, said point; thence crossing said West Fourth Street and continuing with L & N Railroad Right-Of-Way for one (1) call:
3. North 48° 59' 28" East 50.00 feet to a point on the northern Right-Of-Way line of said West Fourth Street, said point being South 83° 31' 21" East 33.24 feet from the calculated centerline intersection of West Fourth Street and the L & N Railroad; thence with said northern Right-Of-Way line for one (1) call:
4. North 41° 07' 30" West 777.63 feet to a point on the eastern Right-Of-Way line of said Newtown Pike; thence crossing Newtown Pike for one (1) call:
5. North 72° 49' 39" West 82.00 feet to a point on the western Right-Of-Way of said Newtown Pike, said point being North 60° 50' 49" West 56.99 feet from the calculated centerline intersection of said Newtown Pike and West Fourth Street; thence with the western Right-Of-Way Line of said New Town Pike for one call (1);
6. South 17° 10' 21" West 1079.99 feet to the Point of Beginning.

There is excepted from the above described Proposed Tax Increment Financing Development Area boundary that parcel conveyed to D & D Realty, LLC in Deed Book 2178, Page 453 of the Fayette County Clerk's records containing 1.89 Acres, that parcel conveyed to Bluegrass Cremation Services, LLC in Deed Book 2878, Page 453 containing 0.25 Acre, those parcels conveyed to Clarence Elliott Means Jr. Trust No. 2 in Deed Book 3261, Page 127 containing 0.11 Acre, that parcel conveyed to John Hutchinson and Ann Hutchinson containing 0.02 Acre and that parcel conveyed to Emerge Property, LLC in Deed Book 3199, Page 31 containing 0.083 Acre (acreages listed as determined by Fayette County PVA).

It is the intent of this proposed Tax Increment Financing Development Area boundary to include all the area encompassed on the northeast by the northern Right-Of-Way line of West Fourth Street, on the northwest by the western Right-Of-Way line of Newtown Pike (State Route 922) and on the southeast by

the southern Right-Of-Way line of the L & N railroad Right-Of-Way excluding exceptions listed above containing 10.38 Gross Acres, and 8.03 Net Acres.



**LEGEND**

	BOUNDARY OF PROPOSED TAX INCREMENT FINANCING DEVELOPMENT AREA.
	PROPERTIES INCLUDED IN THE TAX INCREMENT FINANCING DEVELOPMENT AREA, 308-310, 322 & 330 NEWTOWN PIKE (3.90 ACRES)
	NEWTOWN PIKE (KY 922), THIRD STREET & WEST FOURTH STREET RIGHT-OF-WAY INCLUDED IN THE TAX INCREMENT FINANCING DEVELOPMENT AREA (3.07 ACRES)
	LEXINGTON RAILROAD RIGHT OF WAY INCLUDED IN THE TAX INCREMENT FINANCING DEVELOPMENT AREA (1.06 ACRES)
	338-344, 352 & 362 NEWTOWN PIKE, 608 & 622 WEST FOURTH STREET ARE EXCLUDED FROM THE TAX INCREMENT FINANCING DEVELOPMENT AREA. (2.35 ACRES)

**DEVELOPMENT BOUNDARY**  
**PROPOSED TAX INCREMENT FINANCING DEVELOPMENT AREA**  
**NEWTOWN PIKE, LEXINGTON, FAYETTE COUNTY KENTUCKY**

## Exhibit C

### Public Infrastructure Improvements

<b>Thistle Station™ Public Infrastructure Expenditures</b>	
Demolition, Site Clean-up	\$184,000
Environmental Remediation	\$140,000
Public Utilities Relocation	\$620,000
Utility and Right of Way Easements	\$42,000
Curbs and Sidewalks	\$115,000
Roads & Street Lighting	\$75,000
Parking	\$280,000
Transportation Facilities	\$28,000
Landscaping & Irrigation	\$220,000
Public Spaces & Parks	\$180,000
Security, Safety, Fencing, Site Lighting	\$380,000
Railroad Safety and Sound Mitigation	\$460,000
<b>Total</b>	<b>\$2,724,000</b>



Exhibit D

Officers and Managers of the Developer

## **OFFICERS AND MANAGERS OF THE DEVELOPER**

The Manager of Thistle Holdings, LLC is TH Manager, LLC.

John Cirigliano is the Manager of TH Manager, LLC.