

AN ORDINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT MAKING CERTAIN FINDINGS CONCERNING AND ESTABLISHING A DEVELOPMENT AREA FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN FAYETTE COUNTY TO BE KNOWN AS THE LEXINGTON CENTER DEVELOPMENT AREA; APPROVING A LOCAL PARTICIPATION AGREEMENT BETWEEN LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, THE DEPARTMENT OF FINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, AND THE LEXINGTON CENTER CORPORATION, AS DEVELOPER, ESTABLISHING AN INCREMENTAL TAX SPECIAL FUND FOR PAYMENT OF ADMINISTRATIVE COSTS, APPROVED PUBLIC INFRASTRUCTURE COSTS, AND REDEVELOPMENT ASSISTANCE; DESIGNATING THE DEPARTMENT OF FINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AS THE AGENCY RESPONSIBLE FOR OVERSIGHT, ADMINISTRATION, AND IMPLEMENTATION OF THE DEVELOPMENT AREA; APPROVING A MASTER DEVELOPMENT AGREEMENT BETWEEN THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, THE DEPARTMENT OF FINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AND THE LEXINGTON CENTER CORPORATION; AND AUTHORIZING THE MAYOR AND OTHER OFFICIALS TO TAKE SUCH OTHER APPROPRIATE ACTIONS AS ARE NECESSARY OR REQUIRED IN CONNECTION WITH THE ESTABLISHMENT OF THE DEVELOPMENT AREA.

WHEREAS, the Lexington-Fayette Urban County Government, an Urban County Government organized pursuant to Chapter 67A of the Kentucky Revised Statutes (the "LFUCG") by virtue of the laws of the Commonwealth of Kentucky (the "State"), Kentucky Revised Statutes, specifically Sections 65.7041 to 65.7083, as may be amended, is authorized to, among other things, (1) establish a development area to encourage investment in the development and use of areas of the LFUCG, (2) enter into agreements in connection with the establishment and development of a Development Area, (3) establish a special fund for deposit of incremental revenues resulting from the development of a Development Area, and (4) designate an agency to oversee, administer and implement projects within a Development Area; and

WHEREAS, the LFUCG desires to establish a "Development Area" as defined in the Act (as hereinafter defined) to encourage reinvestment and development within such Development Area and to pledge a portion of the "Incremental Revenues" as defined in the Act generated from the development of such Development Area to the payment of Redevelopment Assistance, approved public infrastructure costs, land preparation, and/or financing costs within such Development Area; and

WHEREAS, the LFUCG has identified a contiguous tract of previously developed land in consisting of not more than three square miles within the LFUCG, specifically described in Exhibit A hereto, that is in need of being redeveloped and which is not reasonably expected to be developed without public assistance; and

WHEREAS, the Lexington Center Corporation, a nonprofit corporation organized and existing under the laws of the Commonwealth of Kentucky (the "Developer") has proposed the development of a project within the Development Area that qualifies for both LFUCG and State participation of incremental tax revenues per KRS 65.7041 to 65.7083 and KRS 154.30-010 to KRS 154.30-090; and

WHEREAS, the LFUCG has determined to establish the Development Area as a Development Area pursuant to the Act to encourage investment and development within the Development Area; and

WHEREAS, the LFUCG has previously committed \$30,000,000 in funds to assist with the expansion of Lexington Center within the Development Area (the "Lexington Center Contribution"); and

WHEREAS, the LFUCG has agreed to support and encourage development within the Development Area by pledging certain Incremental Revenues (hereinafter defined) to pay for Redevelopment Assistance (hereinafter defined), under a Local Participation Agreement (hereinafter defined); and

WHEREAS, the LFUCG has prepared and presented a "Development Plan", as defined in the Act, for the consideration and adoption of the LFUCG proposing the development and establishment of the Development Area; and

WHEREAS, the LFUCG pursuant to the Act held a public hearing on August 30, 2018 after giving proper notice concerning the LFUCG's intention to consider the adoption of the Development Plan; and

WHEREAS, the adoption of the Development Plan and the establishment of the Development Area are for a public purpose and that the establishment and creation of the Development Area within the LFUCG is for the benefit and welfare of the LFUCG's citizens; and

WHEREAS, the LFUCG deems it necessary to enact this Ordinance in accordance with the Act and for the purposes set forth and described herein and in the Act.

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

SECTION 1. Definitions.

1.1 The capitalized terms set forth below when used herein shall have the following meanings.

"Act" means Kentucky Revised Statutes, Sections 65.7041 to 65.7083 and KRS 154.30-010 to KRS 154.30-090.

"Administrative Costs" means those costs set forth in the Master Development Agreement at Section V(A) to be retained by Agency before reimbursing any costs to the Developer for Approved Public Infrastructure Costs, or the payment or reimbursement of Redevelopment Assistance.

"Agency" means the Department of Finance of the LFUCG.

"Approved Public Infrastructure Costs" shall be the Capital Investment as defined in the Act, related to the High Street Parking Structure, within the Development Area that are approved for reimbursement pursuant to the Tax Incentive Agreement by KEDFA, and as further identified in the Tax Incentive Agreement.

"Commonwealth Participation Program" means the State tax increment financing participation program(s) as set forth in KRS 154.30-010 to KRS 154.30-090 of the Act with allow participation of State Incremental Tax Revenues for a respective project(s) within a development area.

"Developer" means the Lexington Center Corporation, a nonprofit corporation organized and existing under the laws of the Commonwealth of Kentucky.

"Development Area" means a contiguous geographic area of previously developed land, located within the geographical boundaries of the LFUCG, which is created for economic development purposes by this Ordinance in which one (1) or more Projects are proposed to be located and consisting of less than 3 square miles, as more specifically described in Exhibit A attached hereto, to be known as the "Lexington Center Development Area".

"Development Plan" means the Tax Increment Financing Development Plan for the Lexington Center Development Area attached hereto as Exhibit C.

"Establishment Date" means the date that the Development Area is established by this Ordinance.

“Footprint” means the area established by KEDFA for the pledge and computation of State Incremental Revenues as set forth in the Tax Incentive Agreement.

“High Street Parking Structure means the public parking structure to be constructed on the High Street surface parking lot within the Development Area as part of the Project.

"Incremental Revenues" means the amount of revenues received by the LFUCG with respect to the Footprint (as defined in the Local Participation Agreement, which may be the Development Area, and the State with respect to the Footprint, as designated in the Tax Incentive Agreement by subtracting Old Revenues from New Revenues (Old Revenues and New Revenues are defined in the Local Participation Agreement and/or Tax Incentive Agreement) in a calendar year.

"KEDFA" means the Kentucky Economic Development Finance Authority.

“Lexington Center Contribution” means the \$30,000,000 contribution that has been committed by LFUCG to the Lexington Center expansion.

"Local Participation Agreement" shall mean the Local Participation Agreement between the LFUCG, the Agency, and the Developer attached as Exhibit "B" hereto.

“Master Development Agreement” shall mean the Master Development Agreement among LFUCG, the Agency, and the Developer relating to the Project.

“Project” or "Lexington Center Project" means a mixed-use development to be constructed by the Developer, as more specifically described in the Development Plan, and expected to fulfill the criteria for the Commonwealth Participation Program as a "Signature Project" and for a pledge of State Incremental Revenues under the Signature Project Program.

"Pledged Revenues" means that portion of the Incremental Revenues which are pledged by the LFUCG and/or State, pursuant to the Local Participation Agreement and/or the Tax Incentive Agreement, to pay for Administrative Costs and Redevelopment Assistance for the Development Area as set forth in the Local Participation Agreement and Tax Incentive Agreement.

"Redevelopment Assistance" shall have the meaning as provided in the Act, and shall be limited to reimbursement of costs related to the High Street Parking Garage, and the Lexington Center Contribution as more fully set forth in the Local Participation Agreement.

"Signature Project Program" means the Commonwealth Participation Program for Signature Projects as set forth at KRS 154.30-050 of the Act.

"Signature Project" means a project meeting the qualifications of the Signature Projects Program as provided and defined in the Act.

"State" means the Commonwealth of Kentucky.

"Tax Incentive Agreement" shall mean the agreement entered into pursuant to KRS 154.30-010 to KRS 154.30-090 of the Act between the Kentucky Economic Development Finance Authority and the Agency, relating to the Development Area.

“TIF Documents” shall mean the LFUCG Ordinance establishing the Lexington Center Development Area, the Local Participation Agreement, the Master Development Agreement, and the Tax Incentive Agreement.

1.2 All capitalized terms used herein and not defined above or in the recitals to this Ordinance shall have the meaning as set forth in the Act, as of the effective date of this Ordinance.

SECTION 2. Findings and Determinations. In accordance with the Act, the LFUCG hereby makes the following findings and determinations with respect to the Development Area:

- (a) The Development Area consists of a contiguous tract of land that is no more than three (3) square miles. The actual size of the Development Area is approximately 54 acres;
- (b) The Development Area is characterized by the following conditions that make it eligible for tax increment financing under KRS 65.7049(3):
1. A substantial loss of commercial activity has occurred. Commercial activity within the Development Area has been in a state of economic decline for years. Without significant expansion or improvements to the Lexington Center facilities since being constructed over 40 years ago, Lexington Center has faced increased competition from newer and more capable convention centers throughout the region resulting in a loss of activity in the area and an inability to meet its goals and mission. The Lexington Center shops have had significant difficulty generating enough business to stay open for a variety of reasons, including its dated and less than desirable layout and design, and insufficient support from activity at the adjacent convention center. The Lexington Center has been forced to offer highly subsidized venue and store rents in order to keep events in Lexington and storefronts open, and despite these efforts, there have been very few businesses in operation for several years.
 2. Public improvements and public infrastructure are inadequate. Currently, there is limited and inadequate public infrastructure within and connecting to the Development Area, including the outdated Convention Center, itself. The necessity of constructing the requisite supportive public infrastructure creates a heavy financial burden for any potential developer of the Development Area.

The following are non-exclusive examples of public infrastructure needed to enable construction of the Project and to achieve the growth and density to support redevelopment within the Development Area:

- Parking – There currently exists a significant deficiency in the number of parking spots in and around the Development Area. The Project, including the new and much larger convention center and the development of Town Branch Park, will displace a significant amount of parking available within the Development Area. The Project will require the use of structured parking in order to achieve the necessary amount of parking, which comes at a high and prohibitive cost. A combination of open grade and structured parking is required to accommodate the increase in visitors to the area.
- Utilities – Relocation of power lines and updates to sanitary sewer lines, storm sewer lines, water service lines, and utility conduits, including, without limitation, electric, gas, telephone and cable, to accommodate the increase in utility usage that the Project will require.
- Roadways, Pathways and Walkways – The re-routing of existing roads, along with the creation of new pathways and walkways, including the planned Town Branch Park, to accommodate the increased, vehicular, pedestrian and bicycle traffic that the Project will generate.
- Public Buildings – The new and improved Lexington Convention Center, itself, as a publicly owned building, is considered public infrastructure. As noted in several studies, the current convention center is inadequate and, without improvement, convention business in Lexington will continue to decline, creating a negative ripple effect on the Lexington economy if these visitors that support downtown businesses and hotels are lost to other cities. This Project, when completed, will satisfy the

prolonged need for space and elevate Lexington as a nationally recognized convention destination.

3. There is a combination of factors that substantially impairs growth and economic development of the Development Area. The need to expand and update the Convention Center, as well as the adjacent lots surrounding the venue, have been in discussion for many years. The current Convention Center has served the City of Lexington well for the past 42 years, but the need for more exhibit, ballroom, and meeting event space has been in discussion since 1994 and recommended by 3 different studies dating back to 1986. This Project, when completed, will satisfy the prolonged need for space and elevate Lexington as a nationally recognized convention destination. Additionally, in Lexington, available and developable downtown real estate is difficult to find. The current use of such large amounts of acreage for surface parking is detrimental to the development goals of the LFUCG, causing sprawl and lack of density that is inefficient not only from a land use perspective in an urban core, but is undesirable to visitors and residents, alike. The connectivity and walkability that the proposed Project will provide through more dense uses and the addition of Town Branch Park will elevate Lexington in its ability to attract convention business and make the City, on the whole, a more desirable place to visit, live, and work.
- (c) The establishment of the Development Area will not cause the assessed taxable value of real property within the Development Area and within all “development areas” and “local development areas” established by the LFUCG (as those terms are defined in the Act) to exceed twenty percent (20%) of the total assessed taxable value of real property within Lexington. The assessed value of taxable real property within the Development Area for calendar year 2018 was \$3,478,800. The LFUCG has previously established six other development areas pursuant to the Act, the Phoenix Park/Courthouse Development Area, the Red Mile Development Area, the Turfland Town Center Development Area, the 21C Lexington Development Area, the Summit Lexington Development Area, and the Coldstream Research Campus Development Area. The combined real property assessed valuation for those development areas is approximately \$99,605,600 and when combined with the real property assessed value for the proposed Development Area, the total real property assessed value for all development areas established by the LFUCG will be approximately \$103,084,400. The total assessed value of taxable real property within Lexington for the calendar year 2018 is approximately \$23 billion. Therefore, the assessed value of taxable real property within all development areas is significantly less than twenty percent (20%) of the assessed value of taxable real property within Lexington;
 - (d) There are inadequate public improvements and infrastructure to support the development of the Development Area. In its current state, the Development Area is not suited for commercial use. The Development Area faces several infrastructure issues that will prevent it from attracting new development and experiencing long term economic growth without the assistance of the LFUCG and State. The Development Area lacks the necessary public parking, utilities, walkways, and sanitary and storm sewer infrastructure to support reasonable development within the Development Area. These public infrastructure needs are significant and are of critical importance to the successful development of the Development Area and to support the sustained economic activity proposed by the Project;
 - (e) That the Development Area is not reasonably expected to be developed without public assistance. The public infrastructure costs associated with any successful development of the Development Area are too high to occur without the help of the public. Without public funding, including the critical pledge of State incremental revenues under the Commonwealth Participation Program, as provided in the Act, the proposed Project within the Development Area would not be possible;

- (f) That the public benefits of developing the Development Area justify the public costs proposed. As detailed in the Commonwealth Economics Report, attached to the Development Plan (the "Report"), over a 30-year period, the project is estimated to support an additional 738 jobs annually and \$3.0 billion in total economic impact. The estimates of the economic benefit provided by this Project could even be considered relatively conservative, as they do not attempt to account for the potential loss of economic activity if these improvements to the Convention Center and its supportive amenities are not made. Instead, these projections only estimate the increased benefits realized relative to business activity within the Development Area today.

While the LFUCG may pledge up to eighty percent (80%) of new ad valorem property taxes and occupational taxes to pay for the public projects proposed, it will generate significant new revenues from the twenty (20%) of those new incremental revenues not pledged and one hundred (100%) of the other local taxes generated from the Project. The Project is expected to generate much more tax revenue than current use in the Development Area. According to the Report, over a 30-year period, the Project is estimated to generate \$127.4 million of TIF-eligible state and local tax revenues within the Development Area alone.

SECTION 3. Establishment, Name, Boundaries. All that area described herein by Exhibit A attached hereto and made a part hereof, is located within the LFUCG and is hereby established and designated as the "Lexington Center Development Area". At the time of the enactment of this Ordinance the Development Area is less than three (3) square miles.

SECTION 4. Establishment Date, Commencement Date, Termination date. The Establishment Date is the effective date of this Ordinance. The Commencement Date of the Development Area is the date of execution of the Local Participation Agreement and the Termination Date shall be exactly thirty (30) years subsequent to activation of the Development Area; provided, that if the Tax Incentive Agreement for the Project or a Local Participation Agreement relating to the Development Area has a Termination Date that is earlier or later than the Termination Date established in this Ordinance, the Termination Date for the Development Area shall be reduced or extended to the Termination Date of the Tax Incentive Agreement, or the Local Participation Agreement. However, the Termination Date for the Development Area shall in no event be more than forty (40) years from the Establishment Date.

SECTION 5. Adoption of Development Plan. The LFUCG hereby adopts the Development Plan, attached hereto as Exhibit C. The LFUCG Council hereby finds and determines that a public hearing was duly held on August 30, 2018 to solicit public comment on the Development Plan, following publication of notice thereof in accordance with Chapter 424 of the Kentucky Revised Statutes, as amended. It is hereby confirmed that a copy of the Development Plan was filed with the LFUCG Clerk of Council, the Office of the Mayor, and with the Office of the Fayette County Judge/Executive on August 23, 2018.

SECTION 6. Local Participation Agreement. The Mayor of the LFUCG is hereby authorized and directed to execute, acknowledge and deliver on behalf of the LFUCG a Local Participation Agreement, a form of which is attached as Exhibit B and made a part hereof, between the LFUCG, the Agency, and the Developer authorizing the pledge of a portion of the Incremental Revenues of the LFUCG from the Development Area, unless KEDFA in the approval of the Tax Incentive Agreement approves a Footprint that is less than the Development Area, in which case the pledge and computation of LFUCG Incremental Revenues shall be based on the Footprint, to the payment of Administrative Costs and Redevelopment Assistance. The form of Local Participation Agreement to be signed by the Mayor on behalf of the LFUCG and by the Commissioner of the Department of Finance, on behalf of the Agency, shall be in substantially the form attached hereto, subject to further negotiations and changes therein that are not inconsistent with this Ordinance and not substantially adverse to the LFUCG. The approval of such changes by said officers, and that such changes are not substantially adverse to the LFUCG, shall be conclusively evidenced by the execution of such Local Participation Agreement by such officials.

SECTION 7. Special Fund. There is hereby established a Special Fund of the LFUCG to be known as The Lexington Center Development Area Tax Increment Fund, into which the LFUCG

covenants to deposit, and into which LFUCG officials are hereby authorized and directed to deposit all Pledged Revenues. The LFUCG's Agency shall maintain the Special Fund unencumbered except for the purposes set forth in Section 8 hereof. Funds deposited in the Special Fund shall be disbursed in accordance with the Act, the TIF Documents, the Development Plan and related documents to pay for Administrative Costs, Approved Public Infrastructure Costs, and Redevelopment Assistance within the Development Area, in accordance with the provisions of the Local Participation Agreement and/or Tax Incentive Agreement.

SECTION 8. Use of Pledged Revenues. Subject to the requirements and conditions set forth in the Local Participation Agreement, Pledged Revenues shall be deposited by the LFUCG into the Special Fund created under Section 7 hereof and shall be used solely to: (a) to pay for Administrative Costs, Approved Public Infrastructure Costs, and Redevelopment Assistance, as those terms are defined herein or in the Local Participation Agreement, the Tax Incentive Agreement, and the Master Development Agreement; and (b) for such other purposes as may be determined by the LFUCG and that are appropriate and in compliance with the purposes set forth in the TIF Documents and the Act, as the same may be amended from time to time.

SECTION 9. Review by the LFUCG Council. The governing body of the LFUCG shall review and analyze the progress of the development activity in the Development Area on an annual basis. Such reports shall, at a minimum, include a review of the progress in meeting the stated goals of the Development Area. The Mayor and other officials of the LFUCG shall report to the governing body of the LFUCG during such reviews and shall, when necessary, invite developers to participate in the review process to report on the progress of their developments within the Development Area. The review and documentation supporting the review shall be forwarded to KEDFA in accordance with the Tax Incentive Agreement and the Act.

SECTION 10. Designation of Oversight Agency. Pursuant to the Act, the LFUCG hereby designates the Department of Finance of the LFUCG as the agency (the "Agency") of the LFUCG for purposes of oversight, administration and review responsibility of the TIF Documents and the Development Area established hereby. The Agency shall act on behalf of the LFUCG in administering the Development Area, entering into Development Area agreements, and other related agreements, with respect to the development of the Development Area and the financing of Public Infrastructure Costs therein. The Commissioner of the Department of Finance is hereby authorized and directed to execute the Local Participation Agreement and Master Development Agreement on behalf of the Agency and to take other appropriate action to carry-out the terms of this ordinance, the Local Participation Agreement, and the Tax Incentive Agreement.

SECTION 11. Master Development Agreement. That the Mayor and the Commissioner of Finance are hereby authorized to and directed to execute the Master Development Agreement, the form of which is attached as Exhibit D and made a part hereof, between the LFUCG, the Agency, and the Developer relating to the development of the Project. The form of Master Development Agreement to be signed by the Mayor on behalf of the LFUCG and by the Commissioner of the Department of Finance, on behalf of the Agency, shall be in substantially the form attached hereto, subject to further negotiations and changes therein that are not inconsistent with this Ordinance and not substantially adverse to the LFUCG. The approval of such changes by said officers, and that such changes are not substantially adverse to the LFUCG, shall be conclusively evidenced by the execution of such Master Development Agreement by such officials.

SECTION 12. Authorization of LFUCG Officials. The Mayor and other appropriate LFUCG officials, officers, employees and agents are hereby authorized to take all necessary actions to submit the necessary application and other documents to KEDFA and any other necessary entities to obtain the necessary approvals and to take all necessary actions as required by the KEDFA and other entities to meet all of the requirements of and qualify to participate in the Commonwealth Participation Program, and to carry out the intent of this Ordinance, including being authorized to execute any Memorandum of Agreement and/or Tax Incentive Agreement between KEDFA and the LFUCG and/or the Agency approving a pledge of State Incremental Revenues for the Project pursuant to the Act.

SECTION 13. Severability. 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 14. Repeal of Conflicting Orders and Ordinances. All prior resolutions, municipal orders or ordinances or parts of any resolution, municipal order or ordinance in conflict herewith are hereby repealed.

SECTION 15. Effective Date. This Ordinance shall be in full force and effect from and after its passage, attestation, recordation and publication of a summary hereof pursuant to KRS Chapter 424.

INTRODUCED, SECONDED AND GIVEN FIRST-READING APPROVAL AT A DULY CONVENED MEETING OF THE LFUCG COUNCIL, held on the ___1st___ day of ___November_____, 2018.

GIVEN SECOND READING AND ADOPTED AT A DULY CONVENED MEETING OF THE LFUCG COUNCIL, held on the ___16___ day of ___November_____, 2018 and on the same occasion signed by the Mayor as evidence of his approval, attested by the LFUCG Clerk of Council, published and filed as required by law, and declared to be in full force and effect from and after its adoption and approval according to law.

Approved:

By: /s/ Jim Gray____
Mayor

ATTEST:

By: /s/ Abigail Allan_____
Clerk of Council

1140-18_DJB_X:\CASES\MOED\18-LE0001\LEG\00632413.DOCX

EXHIBIT A
DEVELOPMENT AREA DESCRIPTION
AND MAP

EXHIBIT B
LOCAL PARTICIPATION AGREEMENT

EXHIBIT C
DEVELOPMENT PLAN

EXHIBIT D

MASTER DEVELOPMENT AGREEMENT

8672688.3