

ORDINANCE NO. ____-2017

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

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

WHEREAS, the Urban County Government desires to establish a local economic development and infill incentive program to attract or expand the growth of these types of businesses and enhance residential and retail infill development in the Urban Core area in Lexington-Fayette County; and

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

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

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

Section 2 - That there be and hereby is established a local economic development and infill incentive program to be known as the "Public Infrastructure Program" (or the "Program").

Section 3 - That the purpose of the Program is to provide certain qualified projects with local funding for public infrastructure improvements through grants or loans to promote employment growth within Lexington-Fayette County or increase residential and retail development within its Urban Core. The Program is focused on

attracting innovative businesses, promoting the expansion of existing businesses, and attracting innovative residential or retail infill projects within the Urban Core area.

Section 4 - (a) That the Public Infrastructure Program Board (the "Board") be and hereby is created and established to oversee the Program.

(b) That the Board shall have the power to establish policies and procedures for the Program's operation and management; oversee and manage the Program's financial and administrative actions; monitor and evaluate the Program's performance; review, rank, prioritize, and approve funding proposals from eligible applicants; and establish each year the Program's official median income for Lexington-Fayette County, Kentucky, for an individual using federal data.

(c) The Board shall submit an annual report on the Program's activities to the Mayor and the Urban County Council.

(d) That the Board shall consist of eight (8) members. The government's Commissioner of Planning, Preservation and Development shall serve as the chairperson of the Board, and will only vote in the event of a tie. The following six (6) members shall automatically serve as members of the Board: the Councilmembers who serve as the respective chairpersons of the Urban County Council's Budget, Finance and Economic Development Committee, or his or her designee from that committee, and the Environmental Quality and Public Works Committee, or his or her designee from that committee; Chief Development Officer; Commissioner of Finance; Commissioner of Environmental Quality and Public Works; and Director of Engineering. A representative from Commerce Lexington shall be appointed by the Mayor, subject to confirmation by a majority of the Urban County Councilmembers, to serve on the Board.

(e) A quorum of five (5) voting members must be present in order to call a meeting where the Board's business is discussed.

Section 5 - That the Program is designed to provide funds to assist with the cost of construction of necessary public infrastructure related to a project that meets the appropriate Program criteria, including sanitary sewer, storm water sewer, public parking, public transit improvements/enhancements, public sidewalks, public multi-use paths and public roads (curb, gutter, and utility relocation as needed) and those

expenses typically related to the capital costs of these types of improvements, such as design and construction engineering.

Section 6 - That in order to be eligible for funding a project must either result in direct job creation, direct capital investment, or both. A priority will be placed on those projects that provide one or more of the following:

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

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

(c) Those projects that directly create jobs with an average salary greater than the current official median income for Lexington-Fayette County, Kentucky for an individual.

Section 7 - That all funds awarded pursuant to the Program shall be solely at the discretion of the Urban County Government and shall be in the form of a loan agreement, grant agreement, or similar agreement. The maximum amount of any funding agreement will not exceed \$300,000 for a grant agreement and \$500,000 for a loan or other agreement, unless, based upon the recommendation of the Commissioner of Planning, Preservation and Development, the Chief Development Officer, and the Public Infrastructure Program Board, the Urban County Council approves a greater amount.

Section 8 - That in order to protect Program funds the following additional requirements must be met prior to the consideration of an application for Program Funds by the Board:

(a) The applicant must be in good standing as to the payment of all urban county government taxes, fees, penalties, or fines;

(b) The applicant must be able to sufficiently explain how the funding is essential to the project;

(c) The applicant must provide sufficient detailed evidence that the project has adequate external financing (including any necessary “gap” financing for the public infrastructure funded by the Program); and

(d) The applicant must be able to show that the project complies with the government’s comprehensive plan, any relevant small area plans, and all government land use or development regulations, ordinances, and policies.

Section 9 - That any and all funding that is awarded based upon the project’s direct job creation must include an agreement by the recipient that a minimum number of jobs and total payroll will be created and that those jobs will continue to exist for the period of time provided in the funding agreement. All loans are to be repayable to the Urban County Government within ten (10) years. All grants or other agreements shall include provision(s) requiring the repayment of some or all of the funds in the event that the terms of the agreement are not fulfilled.

Section 10 - That any person or entity interested in obtaining Program funding must submit an application to the Office of the Commissioner of Planning, Preservation and Development for initial review.

(a) The application shall contain the minimum requirements established by this ordinance and any additional Program guidelines and/or policies adopted by the Urban County Government.

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

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

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

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

(f) Once an application is initially approved by the Board, the applicant will have sixty (60) days to reach a preliminary recommended funding agreement with the government which shall be presented to the Urban County Council for final approval, or the funding may be withdrawn. The Board may extend this deadline by an additional thirty (30) days upon the recommendation of the Commissioner of Planning, Preservation and Development.

(g) If an applicant is provided Program funding and fails to meet the timeline for beginning construction of the project or for encumbering or fully spending the funds, the funding can be revoked or the funding agreement terminated. Construction or the project must normally begin within six (6) months of funds being approved, and once encumbered, funds must be completely spent within two (2) years.

Section 11 - That the Public Infrastructure Program shall primarily be administered by the Commissioner of Planning, Preservation and Development with appropriate assistance from other departments or division of the Urban Government as necessary.

Section 12 - That the Board, in conjunction with the Commissioner of Planning, Preservation and Development and Chief Development Officer, will draft and present to the Urban County Council for consideration and adoption recommended Program guidelines and/or policies.

Section 13 - That in order to provide funding to the Public Infrastructure Program, the Department of Finance and Division of Accounting will keep track of all designated funds which will be used to fund the Program. All loan payments or collections of funds made to the Urban County Government pursuant to any Program Fund agreement shall be placed into the above Program fund so that there will be a continual funding source for the Program.

Section 14 - If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 15 - That this ordinance shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
PUBLISHED:

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