

ORDINANCE NO. 9, 2021 SERIES

AN ORDINANCE OF THE CITY OF FRANKFORT, KENTUCKY (THE “CITY”) MAKING CERTAIN FINDINGS CONCERNING AND ESTABLISHING A DEVELOPMENT AREA FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN THE CITY TO BE KNOWN AS THE DOWNTOWN FRANKFORT DEVELOPMENT AREA; APPROVING A LOCAL PARTICIPATION AGREEMENT BETWEEN CITY, THE COUNTY OF FRANKLIN, KENTUCKY (THE “COUNTY”), AND THE DEPARTMENT OF FINANCE OF THE CITY OF FRANKFORT, KENTUCKY AS THE AGENCY; ESTABLISHING AN INCREMENTAL TAX SPECIAL FUND FOR PAYMENT OF PROJECT COSTS AND REDEVELOPMENT ASSISTANCE; DESIGNATING THE DEPARTMENT OF FINANCE OF THE CITY OF FRANKFORT, KENTUCKY, AS THE AGENCY RESPONSIBLE FOR OVERSIGHT, ADMINISTRATION AND IMPLEMENTATION OF THE DEVELOPMENT AREA; 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 City of Frankfort, Kentucky (“the City”), 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 (the “Act”), is authorized to, among other things, (1) establish a development area to encourage reinvestment in and development and reuse of areas of the City, (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 City desires to establish a “development area” as defined in the Act 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 provide redevelopment assistance and provide for the payment Project Costs, Redevelopment Assistance and/or Approved Public Infrastructure Costs (as defined herein) within such development area; and

WHEREAS, the City has identified a contiguous tract of previously developed land consisting of not more than three (3) square miles within the City, specifically described in Exhibit A to this Ordinance, that is in need of redevelopment and which is not reasonably expected to be developed without public assistance; and

WHEREAS, more than half of the structures within the Development Area are deteriorated or deteriorating, there is a need for new public infrastructure to support new development within the Development Area, and the conditions within the Development Area have negatively impacted the growth and development of the City and Franklin County; and

WHEREAS, the City has determined to establish the Development Area as pursuant to the Act to encourage reinvestment and development within the Development Area; and

WHEREAS, the City has agreed to support and encourage development within the Development Area by pledging certain Incremental Revenues [hereinafter define] to the payment of Bonds, or to otherwise provide Redevelopment Assistance to pay for Public Infrastructure Costs [hereinafter defined], under a Local Participation Agreement (defined below); and

WHEREAS, the City has prepared and presented a “Development Plan”, as defined in the Act, for the consideration and adoption of the City proposing the redevelopment of the Development Area; and

WHEREAS, the City, as required by the Act, held a public hearing on September 14, 2020, after giving proper notice concerning the City’s intention to consider the adoption of the Development Plan and establish the Development Area; 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 City is for the benefit and welfare of the City’s citizens; and

WHEREAS, the City 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 CITY OF FRANKFORT, KENTUCKY AS FOLLOWS:

SECTION 1. Definitions.

1.1 The capitalized terms set forth below when used in this Ordinance shall have the following meanings.

“Act” means Kentucky Revised Statutes, Sections 65.7041 to 65.7083, KRS 154.30-010 to KRS 154.30-090 and KRS 139.515.

“Agency” means the Department of Finance of the City of Frankfort, Kentucky.

“Approved Public Infrastructure Costs” shall have the meaning as provided in the Act and in the Local Participation Agreement.

“Bonds” means bonds or notes issued pursuant to the Act to pay for Redevelopment Assistance for Public Infrastructure Costs, the payment of which Bonds shall be supported in-part by Incremental Revenues pledged by the City, County, and/or the State.

“Development Area” means a contiguous geographic area of previously developed land, located within the geographical boundaries of the City, which is created for economic development purposes by this Ordinance in which a Project is proposed to be located and consisting of less than three square miles in area, with the actual size being approximately 68 acres, as more specifically described in Exhibit A attached to this Ordinance, to be known as the “The Downtown Frankfort Development Area”.

“Development Plan” means the Development Plan for The Downtown Frankfort Development Area attached to this Ordinance as Exhibit C.

“Establishment Date” means the date that the Development Area is established pursuant to the Act and this Ordinance.

“Financing Costs” shall mean principal, interest, costs of issuance, debt service reserve requirements, underwriting discount, costs of credit enhancement or liquidity instruments, and other costs directly related to the issuance of the Bonds.

“Incremental Revenues” means the amount of revenues received by the City and County with respect to the Development Area and the State with respect to a Footprint (as defined in the Act for projects within the Development Area that may be approved by the State) by subtracting Old Revenues (as defined in the Act and the Local Participation Agreement) from New Revenues (as defined in the Act and the Local Participation Agreement) in a calendar year.

“KEDFA” means the Kentucky Economic Development Finance Authority.

“Local Participation Agreement” shall mean the Local Participation Agreement between the City, the County, and the Agency, attached to this Ordinance as Exhibit B.

“Pledged Revenues” means that portion of the Incremental Revenues which are pledged by the City and the County, pursuant to the Local Participation Agreement or State pursuant to a Tax Incentive Agreement, to the pay for Redevelopment Assistance and Public Infrastructure Costs for the Development Area

“Project” means the proposed comprehensive redevelopment project within the Development Area more specifically described in the Development Plan, being undertaken by various developers or public agencies.

“Project Costs” means any capital investment (as defined in the Act) expended to construct the Project.

“Public Infrastructure Costs” shall mean those costs set forth in the Local Participation Agreement eligible to be paid from Pledged Revenues, and shall include Approved Public Infrastructure Costs.

“Redevelopment Assistance” shall mean Public Infrastructure Costs.

“State” shall have the meaning given such term in the recitals.

“Tax Incentive Agreement” shall mean the agreement entered into pursuant to KRS 154.30-010 to KRS 154.30-090 and KRS 139.515 of the Act between the Kentucky Economic Development Finance Authority and the Agency relating projects eligible for a pledge of State Incremental Revenues under the Act within the Development Area.

1.2 All capitalized terms used in this Ordinance 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 City 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 not more than three (3) square miles. The actual size of the Development Area is approximately 22.2 acres.

(b) The Development Area constitutes previously developed land as required by KRS 65.7043.

(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 City (as those terms are defined in the Act) to exceed twenty percent (20%) of the total assessed taxable value of real property within the City. The assessed value of taxable real property within the Development Area for calendar year 2019 was \$4.245 million. The City has not previously established any other local development areas or development areas pursuant to the Act. The total assessed value of taxable real property within the City for the calendar year 2019 is approximately \$1.7 billion. Therefore, the assessed value of taxable real property within all development areas is less than twenty percent (20%) of the assessed value of taxable real property within the City.

(d) There has been a substantial loss of commercial, industrial or residential activity within the Development Area. Commercial activity within the Development Area has been in a state of economic decline for years. Presently, only some of the parcels within the Development Area are being used for commercial purposes, while the majority contain underutilized or deteriorating structures. The existing YMCA can no longer support program offerings desired by the community. In fact, the YMCA has significantly scaled back its program offerings to fit the inadequate and deteriorating space and is at risk of scaling back even more programs. The Development Area also includes the former site of the demolished Frankfort Convention Center. Losing a convention space that generated significant business activity was detrimental to the Capital Plaza Hotel which was already experiencing a significant decline in business. As a result of the loss of YMCA programs, the Frankfort Convention Center, and Capital Plaza Hotel business, the number of employees working within the Development Area has declined. This, combined with the structurally failing parking garages, has negatively impacted business activity within the Development Area. The buildings in the Project B site area are currently mostly vacant, and previously were used for business use, as retail, residential and warehousing uses.

(e) More than fifty percent (50%) of the residential, commercial, or industrial structures within the Development Area are deteriorating or deteriorated. Based on the City’s Nuisance Code, which sets forth minimum standards for maintenance of existing properties, over 50% of the structures within the Development Area require minor to major assistance. A handful of structures are considered beyond a state of good repair and require demolition. In addition, the Development Area consists mostly of structures that are nearly 50 years of age. Therefore, even those structures within the Development Area that are reasonably well-maintained exhibit significant signs of age and deterioration. Furthermore, the buildings that comply with the Nuisance Code require upgrades to meet what is expected for the future use of the property, including upgraded meeting space, parking, plumbing facilities, fixture requirements, mechanical and electrical wiring, etc. Attached as Exhibit C to the Development Plan are pictures of some of the remaining structures and the condition of the infrastructure within the Project A site, as defined in the Development Plan.

The structures within the Project B site, as defined in the Development Plan, are in various stages of decline and deterioration, with the warehouse building being more severely dilapidated. The owner of those structures has invested approximately \$500,000 just to stabilize the buildings. Attached as Exhibit D to the Development Plan are pictures of the Project B site.

(f) The area is lacking in terms of the infrastructure needed to support and attract the investment that the planned redevelopment within the Development Area requires. The Development Area will require significant new investment in public infrastructure, including, but not necessarily limited to:

(i) **Parking** – As downtown develops, the Development Area will face an increasing deficiency in the number of parking spots available to support future projects. Most of the parking in Frankfort is surface parking that takes up significant valuable acreage, which is an inefficient solution due to the reduced density it creates in the downtown area, and which utilizes parcels with the most economic potential in a least impactful way. Structured parking will be required to accommodate both the new and existing businesses, particularly during peak traffic times related to events and conferences as the Project and Development Area is redeveloped. This investment will allow the area to attract vertical redevelopment, maximizing the land use located next to a newly developed state office building, and allowing a level of density that a successful redevelopment will require.

(ii) **Connectivity Improvements and Public Space** – The possible re-connecting of existing roadways, various streetscape improvements, and the creation of new pathways and walkways to accommodate increased pedestrian traffic from Washington Street and through the Development Area to the edge of the riverfront will improve connectivity in the downtown area. These improvements will attract visitors and residents, alike, to Frankfort by creating an inviting pedestrian environment with outdoor space. Possible improvements to the Broadway Street corridor include:

- (a) Street lights – Between Wilkinson Boulevard and Washington Street. Replace existing lights on the north side with poles and fixtures similar to existing street lights along Broadway.
- (b) Curb along railroad tracks – Paint the curb between Washington Street and High Street.
- (c) Public art – Establish a few locations for free-standing public art pieces.
- (d) Trees – Between Wilkinson Boulevard and High Street, where appropriate.
- (e) Sidewalk/curb ramps – Between Wilkinson Boulevard and High Street. Reconstruct any non-standard curb ramps and repair any sidewalk sections.

(iii) **Site Prep and Utility Improvements** – The Project will require significant expenditures to support the Development Area for vertical development, as well as provision of upgraded utility connections and capabilities.

(iv) **Demolition** – The Development Area will require demolition of blighted structures that are failing. As a non-exclusive example, the existing YMCA is deteriorating and unable to support a desire for more childcare options, health and fitness programs, and sports and recreation activities. Absent of a new facility, program offerings are at risk of being outsourced to other locations or canceled due to inadequate space. Furthermore, the adjoining parking structures behind the existing YMCA are structurally failing and require a plan for reconstruction to complement future economic development.

(g) There are a combination of factors that substantially impairs growth and economic development of the Development Area. The challenges of encouraging the redevelopment of an older city's downtown, including the increased costs associated with redeveloping sites, building within the constraints of an established area, and the high cost of infrastructure needed to support new development in this downtown setting, represent unique circumstances that impede the redevelopment of the Development Area and arrests the development of the City and County. A mixed-use redevelopment could be highly impactful within the Development Area and to the region, but these various factors have prevented such growth from occurring and will remain a barrier to achieving meaningful private investment in Frankfort's downtown core without financial assistance from public sources.

(h) The City finds that the Development Area is not reasonably expected to be developed without public assistance. The public infrastructure costs within the Development Area are too high for the Project to occur without public assistance, particularly as it relates to the lack of structured parking and pedestrian connectivity throughout the Development Area. It is estimated that the development costs of the public infrastructure improvements planned within the Development Area exceeds \$11 million, even before considering financing and other soft costs. Without public funding, including State assistance under the Commonwealth Participation Programs, or the Tourism Development Act, the proposed Project within the Development Area would not be possible.

(i) The City finds that the public benefits of redeveloping the Development Area justify the public costs proposed. As detailed in the Commonwealth Economics Report, attached hereto as Exhibit "E" to the Development Plan (the "Report"), the new capital investment related to Project A, as described in the Development Plan, is expected to reach \$90 million, \$78.4 million of which relates to private costs, and \$13.6 million of which is expected to be spent on public infrastructure costs. The new capital investment related to Project B is anticipated to exceed \$8,000,000. Over a 20-year period, the proposed Project is estimated to support over 469 jobs annually and account for over \$800 million in total economic impact. While the City and County may pledge certain new ad valorem property taxes and occupational taxes to pay for the proposed public infrastructure, the Project, net of any assistance from the City and County, will generate increased tax revenues, including insurance premium taxes, transient room taxes, and tangible property taxes, the incremental taxes not pledged, and other special district and school taxes. The Project will also jump start and encourage additional downtown development and leverage State tax dollars with private investment.

The Project is expected to generate much more tax revenue than is currently being generated within the Development Area. According to the Report, over a 20-year period, Project A, as described in the Development Plan, alone, is estimated to generate \$60.8 million of on-site eligible state and local tax revenues. This includes \$13.5 million in local taxes and \$46.8 million in state taxes. After subtracting the estimated baseline tax revenues, total incremental tax revenues generated within the Development Area are estimated at approximately \$44.5 million over a 20-year period. After 20 percent is retained by the State in accordance with the Act, assuming State incentives are granted under the Mixed-Use Program, such amount translates to an estimated \$32.3 million available for State participation and an estimated \$11.8 million for local participation. In addition to these amounts, the school district and transient room taxes will amount to over \$20 million in additional local tax revenue that is not pledged as a TIF incentive. These numbers do not include the additional impact of Project B, as described in the Development Plan.

Based on research and analysis documented in the Report, Project A as described in the Development Plan, is estimated to have a significant economic and fiscal impact to the regional economy. Its construction, alone, is estimated to generate a one-time impact that includes approximately \$41.9 million of total wages and support for 862 total jobs.

SECTION 3. Establishment, Name, Boundaries. All that area described in Exhibit A to this Ordinance is located within the City and is hereby established and designated as the “The Downtown Frankfort Development Area”. At the time of the enactment of this Ordinance the Development Area is less than three (3) 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, in accordance with the term of the pledge in Incremental Revenues in the Local Participation Agreement, shall be exactly twenty (20) years from the Activation Date of 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 City hereby adopts the Development Plan attached to this Ordinance as Exhibit C. The hereby finds and determines that a public hearing was duly held on September 14, 2020, 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 City Clerk, and with the Fiscal Court Clerk of the County prior to the notice of the public hearing being advertised.

SECTION 6. Local Participation Agreement. The Mayor of the City is hereby authorized and directed to execute, acknowledge and deliver on behalf of the City the Local Participation Agreement which authorizes the pledge seventy-five percent (75%) of the Incremental Revenues of the City from the Development Area to the payment of Redevelopment Assistance, Public Infrastructure Costs and Financing Costs, the form of Local Participation Agreement to be signed by the Mayor on behalf of City, the County, and by the Agency, shall be in substantially the form attached to this Ordinance, subject to further negotiations and changes therein that are not inconsistent with this Ordinance and not substantially adverse to the City. The approval of such changes by said officers, and that such changes are not substantially adverse to the City, shall be conclusively evidenced by the execution of, as applicable, such Local Participation Agreement by such officials.

SECTION 7. Special Fund. There is hereby established a Special Fund of the City to be known as The Downtown Frankfort Development Area Tax Increment Fund, which will be maintained by the Agency, into which the City covenants to deposit, and into which City officials are hereby authorized and directed to deposit all Pledged Revenues. The Agency shall maintain the Special Fund unencumbered except for the purposes set forth in Section 8 of this Ordinance. Funds deposited in the Special Fund shall be disbursed in accordance with the Act, this Ordinance, the Local Participation Agreement, and any applicable Tax Incentive Agreement, the Development Plan and related documents to pay for Redevelopment Assistance, Public Infrastructure Costs and Financing Costs within the Development Area.

SECTION 8. Use of Pledged Revenues. Pledged Revenues shall be deposited by the City into the Special Fund created under Section 7 of this Ordinance and shall be used solely to: (a) pay directly for Redevelopment Assistance and Public Infrastructure Costs in accordance with the Local Participation Agreement and any Tax Incentive Agreement; (b) pay debt service and costs of issuance on the Bonds, including Financing Costs, which may be issued by the City to finance Redevelopment Assistance, and Public Infrastructure Costs; and (c) for such other purposes as may be determined by the City and Agency and that are appropriate and in compliance with the purposes set forth in this Ordinance, the Local Participation Agreement, any applicable Tax Incentive Agreement, the Development Plan and the Act, as the same may be amended from time to time.

SECTION 9. Periodic Accounting / Analysis. Any entity, other than the City that receives financial assistance pursuant to the provisions of this Ordinance, whether in the form of a grant or loan or loan guarantee shall make a periodic accounting to the governing body of the City in accordance with the Act and the documents controlling such grant, loan or loan guarantee. The governing body of the City shall be required to 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 City and the Agency shall report to the governing body of the City 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 Act for any projects that have been provided assistance by KEDFA.

SECTION 10. Designation of Oversight Agency. Pursuant to the Act, the City hereby designates the Agency as the “agency” of the City for purposes of oversight, administration and review responsibility of this Ordinance, the Local Participation Agreement and the Development Area established by this Ordinance. The Agency shall act on behalf of the City in administering the Development Area, entering into development agreements, and other related agreements, with respect to the development of the Development Area and the financing of Redevelopment Assistance, and Public Infrastructure Costs within the Development Area, including making application(s) to KEDFA or other related State agencies for projects within the Development Area that may qualify for a pledge of State incremental revenues under the Act or other State assistance

SECTION 11. Authorization of City Officials. The Mayor and other appropriate City 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 the Agency approving a pledge of State Incremental Revenues for the Project pursuant to the Act.

SECTION 12. 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 13. 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 14. 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 BOARD OF COMMISSIONERS OF THE CITY held on the 14 day of June, 2021.

GIVEN SECOND READING AND ADOPTED AT A DULY CONVENED MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY, held on the 17 day of June, 2021, and on the same occasion signed by the Mayor as evidence of his approval, attested by City Clerk, 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/ Layne Wilkerson
T/ Mayor

ATTEST:

S/Chermie Maxwell
T/City Clerk

Summary: This ordinance a) establishes the Downtown Frankfort Development Area for economic development purposes within the City; b) approves a Local Participation Agreement between the City, the County and the City Finance Department as the administering agency; c) establishes an incremental tax special fund for payment of project costs and redevelopment assistance; d) designates the City Finance Department as the agency responsible for oversight, administration and implementation of the Development Area; and e) authorizes the Mayor and other officials to take appropriate action connected with the Development Area.

S/Laura Milam Ross
T/City Solicitor

Note: Exhibits on file in the City Clerk's office.

Published by title and summary on June 22, 2021.

Exhibit A

to Ordinance No. 9, 2021 Series

(Development Area Map)

Downtown Frankfort Development Area Description

An area to be known as the Downtown Frankfort Development Area containing 22.2 acres located in downtown Frankfort more particularly described as follows:

Beginning at a point at the north eastern edge of the right-of-way of the intersection of St. Clair Street and Mero Street bordering the parcel containing the Kentucky Transportation Cabinet; thence following the northern edge of right-of-way of Mero street in front of the Mayo Underwood Building in a north westerly direction to a point at the north western edge of right-of-way of Wilkinson Blvd adjacent to the corner of the City park property; thence following the western edge of right-of-way of Wilkinson Blvd in a south westerly direction until meeting with the southwestern edge of right-of-way on Broadway Street at its intersection with Wilkinson Blvd; thence following along with the southern edge of right-of-way of Broadway Street in a south easterly direction until the meeting with the southeastern corner of the intersection of Broadway Street and High Street; thence continuing to follow the southern edge of right-of-way along Broadway Street until a point even with the edge of the property containing a gravel lot on the northern side of the right-of-way of Broadway Street; thence crossing Broadway Street to run north along the eastern edge of the aforementioned property until reaching the north eastern corner of that property; hence turning west and running along the edge of the same property until meeting with the northern edge of the properties located at 100 and 106 Broadway Street respectively and continuing along the northern edge of those properties until reaching the north western edge of 100 Broadway Street at the edge of right-of-way of High Street; thence crossing High Street in a north westerly direction and following the northern edge of right-of-way of Broadway Street until reaching a point along the right-of-way of the Broadway Street even with the property line between the YMCA property and Federal property; thence following said property line in a north easterly direction until a point at the southern edge of right-of-way of Clinton Street; thence following the southern edge of right-of-way of Clinton Street in a south easterly direction until reaching a point on the southern edge of the right-of-way of Clinton Street at the southeastern edge of the intersection of Clinton Street and St. Clair Street; thence following the eastern edge of right-of-way of St. Clair street in a north easterly direction to the point of beginning containing approximately 22.2 acres as shown on an attached exhibit.

Downtown Frankfort Development Area

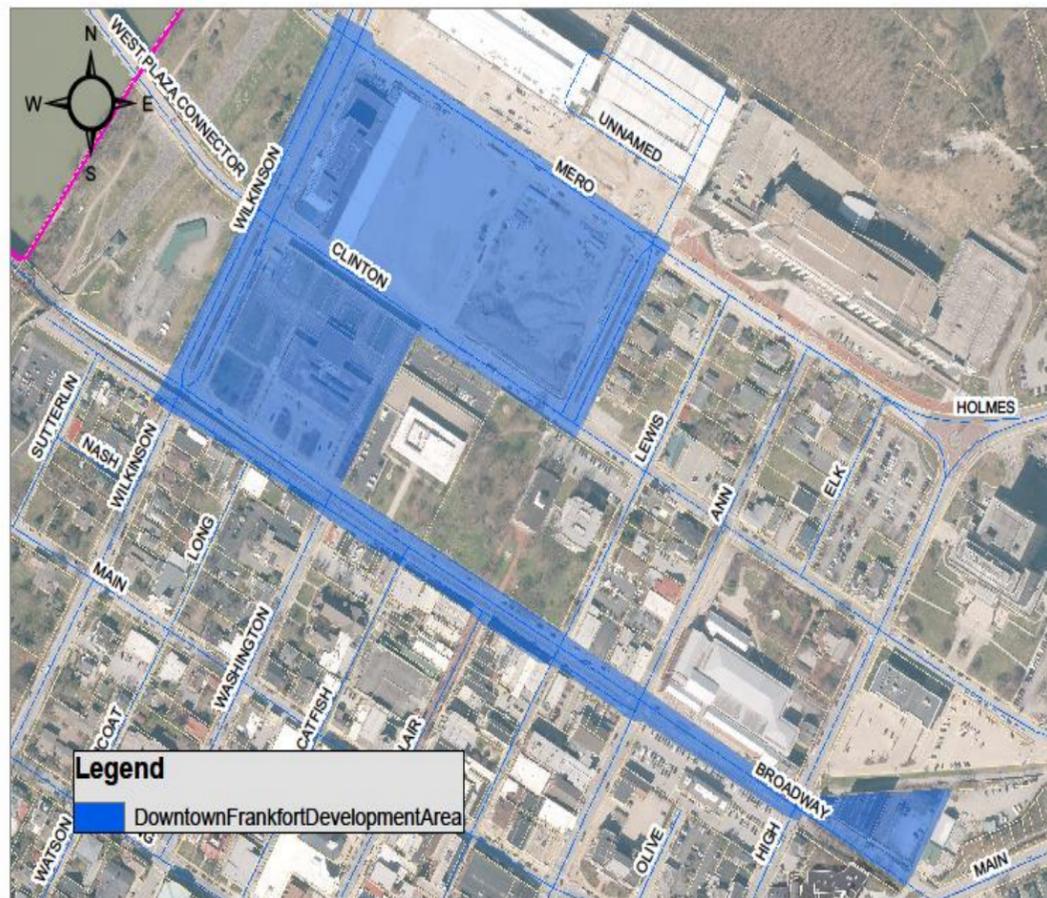


Exhibit B

to Ordinance No. 9, 2021 Series

(Local Participation Agreement)

Exhibit C

to Ordinance No. 9, 2021 Series

(Development Plan)