

# CITY OF COVINGTON

## AGENDA ITEM REQUEST FORM

<b>Caucus Meeting Date</b>	3-19-19
<b>Legislative Meeting Date</b>	3-26-19
<b>Order</b> <input type="checkbox"/>	<b>Ordinance</b> <input checked="" type="checkbox"/>
<b>Resolution</b> <input type="checkbox"/>	<b>Presentation</b> <input type="checkbox"/>

<b>Division/Department Head Signature</b>

<b>Responsible Staff Person</b>
Tom West

<b>Specific Nature of Request</b>
Amendment to the Tax Increment Finance (TIF) District Ordinance (ORD NO. XXXX) O-58-12

<b>Description of Request Including Background Information if Relevant</b>
See attached memo. The Covington Economic Development Authority (CEDA), a board appointed by the Mayor with approval of the Commission, which reviews proposals and recommends projects for TIF funding, has reviewed the draft document. CEDA voted unanimously on 3/7/19 to recommend adoption of the amended and restated ordinance and suggested a few changes to the Participation Agreement. Those changes have been incorporated in the draft agreement attached here. CEDA wanted the Commission to be aware that their main concern is that any changes to the Ordinance or Agreement still allow for the City to have some flexibility to use TIF funding to provide incentives for development projects when necessary. Amending the ordinance will require a public hearing (Staff and CEDA suggest this be scheduled on the same date as the First Reading of the Ordinance Amendment) and approval of the new participation agreement by CEDA, the City, Kenton County and Planning and Development Services (PDS).

<b>Company/Entity (if multiple, list all)</b>
N/A

<b>Value/Cost</b>
N/A

<b>Funding Source Including Account No.</b>
N/A

<b>Copy of Contract Attached?</b>
Draft Participation Agreement

<b>Payment Terms</b>
N/A

<b>NOTES</b>
Please attach all relevant documents, i.e., draft contracts, resumes, draft development agreements, etc.

### SIGNING ORDER

1. LEGAL DEPARTMENT REPRESENTATIVE	DATE
2. FINANCE DEPARTMENT REPRESENTATIVE	DATE
3. CITY MANAGER	DATE

*[Signature]* 3/13/2019



**Department of Economic Development**  
**Memorandum**

**To:** Covington Board of Commissioners, CEDA, PDS, Kenton County Fiscal Court  
**From:** Tom West, AICP  
**Date:** March 7, 2019  
**Re:** Amended and Restated TIF Ordinance

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The purpose of this memo is to describe the attached documents related to a requested update of the TIF Ordinance in the City of Covington.

**OVERVIEW**

The Tax Increment Finance (TIF) District Ordinance is the legislation, which enables the City to direct incremental increases in real estate, payroll and net profit taxes as well as those from other taxing authorities (Kenton County and Planning and Development Services) within the geographically defined district to assist with additional private development projects and improvements to the public realm.

**HISTORY**

The downtown Covington TIF District was established in 2012. Since its inception, funding of approximately \$738,898 from the district has been used to assist with a number of developments including, the Bradford on Scott, ROAD iD Headquarters, and Duveneck Square apartments. In 2018, the Covington Board of Commissioners, which has final approval of all expenditures, requested an amendment to the ordinance to clarify how TIF funds could be used to support private development and public initiatives. This request was one of a set of Commission priorities communicated by staff via an Order which was reaffirmed by the Commission in January of 2019. The purpose of this request to provide the private sector, City staff and development partner organizations with clear expectations of how the incremental funds would be dedicated to support growth and development.

**SUMMARY OF CHANGES**

The amendments to the Ordinance fall into two categories:

1. General Cleanup – these include acknowledging the new name (Planning and Development Services of Kenton County/PDS) for the Kenton County Planning Commission; correction of any typos, missing words, etc.
2. Content/Clarification of Intent – These changes deal primarily with uses of the funds and clarifies the Commission's stance that TIF funding be used to support development primarily through the improvement and enhancement of public infrastructure related directly or indirectly to economic development projects. It also allows for the use of TIF funds to support efforts that benefit the district through planning activities and clarifies how TIF will be treated in cases of state economic incentives. The establishment of the TIF Fund itself by the City's Finance Department is also clarified.

**THERE ARE NO RECOMMENDED CHANGES TO THE EFFECTIVE DATE OF THE DISTRICT OR TO THE PERCENTAGES OF PARTICIPATION BY ANY OF THE PARTIES.**

In addition to the Draft Amended and Restated Ordinance, the referenced Development Plan

has also been updated to remove projects which are no longer contemplated, provide additional clarity to those which have been further explored and to add new projects which are now part of the anticipated pipeline of development. A draft of this updated plan is attached. Please note that Exhibit E will be updated to reflect the projects described in plan and attached to the adoption draft. The guidelines document, which serves as the primary public-facing explanation of the TIF District, has been updated to reflect the changes sought by the Commission. As with all of the drafts attached to this memo, suggested changes have been marked up with deletions and insertions. Finally, it will necessary for all parties (CEDA, City of Covington, PDS and Kenton County) to sign a new and updated Participation Agreement. A draft of this agreement is also attached.

**PROCESS:**

Although the nature of the requested changes have been discussed with the Covington Economic Development Authority (CEDA) at previous meetings, the suggested changes will be reviewed in document form by CEDA in early March for comment and questions. The drafts will then be presented to the City Commission during a Caucus meeting in mid-March with a request to hold a public hearing and place the Amended and Restated Ordinance on the legislative agenda for a first reading in late March. If the Commission chooses to hold the public hearing and a first reading on the changes, PDS and the Kenton County Fiscal Court will be notified of the draft changes and their processes for approval will be followed. After PDS and the County have approved the changes, the City Commission will then be asked to schedule the Second Reading of the Ordinance and a vote to finalize the Ordinance and associated documents.

**RECOMMENDATION:**

The attached drafts have been reviewed by staff, the City Solicitor's Office and the City Manager for content, form and process. It is the opinion of staff that the attached draft represents the desired changes requested by the City Commission and the plan better reflects the development projects underway and in the pipeline. Approval is recommended.

## TIF Ordinance Amendment Draft Timeline

<b>Date</b>	<b>Activity</b>
3/7/19	CEDA Board Input
3/8/19	AIR Due for City Commission Meeting
3/19/19	City Commission Caucus Meeting
3/20/19	Draft Documents/Agreement sent to PDS and Kenton County
3/26/19	City Commission First Reading
	Public Hearing
4/9/19	Fiscal Court First Reading
4/18/19	PDS Management Board Meeting (3/21/19) <i>need a week in advance</i>
4/23/19	Fiscal Court Second Reading
5/14/19	City Commission Second Reading

**COMMISSIONERS' ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF COVINGTON, KENTUCKY (THE "CITY") AMENDING COMMISSIONERS' ORDINANCE NO. O-58-12, WHICH ESTABLISHED A DEVELOPMENT AREA FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN THE CITY, IN ORDER TO REVISE THE DEFINITIONS FOR REDEVELOPMENT ASSISTANCE AND PROJECT COSTS AND MAKE OTHER CLEANUP LANGUAGE UPDATES; TO APPROVE AN AMENDED AND RESTATED LOCAL PARTICIPATION AGREEMENT BETWEEN CITY, THE COUNTY OF KENTON, KENTUCKY, SPECIAL TAXING DISTRICTS, AND THE COVINGTON ECONOMIC DEVELOPMENT AUTHORITY, INC., INCLUDING AN AMENDED DEVELOPMENT PLAN, AND TO AUTHORIZE 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 Covington, 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, pursuant to Commissioner's Ordinance No. O-58-12, the City established 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 of Project Costs, Redevelopment Assistance and/or Approved Public Infrastructure Costs (as defined herein) within such development area; and

WHEREAS, the City therein 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 being redeveloped and which is not reasonably expected to be developed without public assistance; and

WHEREAS, there has been a substantial loss of residential, industrial or commercial activity within the Development Area, there is a high percentage of low income residents within the Development Area, 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, there is the presence of environmentally contaminated land within the Development Area and the conditions within the Development Area have negatively impacted the growth and development of the Development Area ; and

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

WHEREAS, the City agreed to support and encourage development within the Development Area by pledging certain Incremental Revenues (defined below) to the payment of Bonds, or to otherwise provide Redevelopment Assistance or pay for Project Costs if bonds are not issued, under a Local Participation Agreement (defined below); and

WHEREAS, the City 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 November 20, 2012, after giving proper notice concerning the City's intention to consider the adoption of the Development Plan; and

WHEREAS, the City determined that the adoption of the Development Plan and the establishment of the Development Area, and the amendments thereto, were 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, since the establishment of the Development Area in 2012, changes in the way Incremental Revenues are utilized have been recommended, and amendments are necessary to the Development Area ordinance and the associated Local Participation Agreement and Development Plan; and

WHEREAS, the amendments apply to the entire City Center Covington Development Area established by O-58-12; and

WHEREAS, a narrative description of the proposed changes in accordance with KRS 65.7077 is provided as follows: the changes include redirecting Incremental Revenues to preferentially be utilized for public infrastructure costs for the Project, which is effectuated by changing the definition of "Redevelopment Assistance" and "Project Costs" in the Development Area establishing ordinance, and the accompanying Local Participation Agreement. Additional changes include changes to the Development Plan, which has been updated to remove projects which are no longer contemplated, provide additional clarity to those which have been further explored, and to add new projects which are now part of the anticipated pipeline of development; and

WHEREAS, the proposed changes will impact the original development plan by proposing new economic development projects, and by clarifying the preferred use of Incremental Revenues; and

WHEREAS, a description of the redevelopment assistance proposed to be employed, including the manner and location of such assistance, are contained in the

Development Plan, which is provided as an attachment to the Amended and Restated Local Participation Agreement; and

WHEREAS, the amendment does not change the boundaries of the Development Area, or require any zoning ordinance, comprehensive plan, master plan, map, buildings code or other ordinance amendments; and

WHEREAS, no new or different state or local tax revenues are pledged by any taxing district to support the provision of redevelopment assistance or projects identified in the amendment; and

WHEREAS, the City finds that the amendment does not increase the aggregate value of taxable real property included in all the redevelopment areas and the local development areas within the jurisdiction of the city or county to more than twenty percent (20%) of the total value of taxable real property within its jurisdiction; and

WHEREAS, the City held a public hearing on the proposed changes on \_\_\_\_\_, 2019, after giving proper notice concerning the City's intention to consider the adoption of the Development Plan at a regular legislative meeting.

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 BOARD OF COMMISSIONERS OF THE CITY  
OF COVINGTON, KENTON COUNTY, KENTUCKY:**

**SECTION 1. Definitions.**

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

**"Act"** [~~means~~] **shall mean** Kentucky Revised Statutes, Sections 65.7041 to 65.7083, KRS 154.30-010 to KRS 154.30-090 and KRS 139.515.

**"Agency"** [~~means~~] **shall mean** the Covington Economic Development Authority, Inc, a Kentucky non-profit corporation.

**"Approved Public Infrastructure Costs"** shall have the meaning as provided in the Act.

**"Bonds"** [~~means~~] **shall mean** bonds or notes issued pursuant to the Act to pay for Project Costs, Redevelopment Assistance and/or Approved Public Infrastructure Costs, the payment of which Bonds shall be supported solely by Incremental Revenues pledged by the City, County, Special Districts and/or the State.

**"Development Area"** [~~means~~] **shall mean** 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 475.75 acres, as more specifically described in Exhibit A attached to this Ordinance, to be known as the "City Center Covington Development Area".

"Development Plan" [means] ***shall mean*** the Tax Increment Financing Development Plan for the Center City Covington Development Area attached to this Ordinance as Exhibit [D] ***C. as amended in accordance with the Act from time to time.***

"Establishment Date" [means] ***shall mean*** the date that the Development Area is established pursuant to the Act, ***O-58-12***, 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 bonds or debt for Approved Public Infrastructure Costs. Project Costs or Redevelopment Assistance within the Development Area.

"Incremental Revenues" [means] ***shall mean*** the amount of revenues received by the City, County, Special Districts, 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) from New Revenues (as defined in the Act) in a calendar year.

"KEDFA" [means] ***shall mean*** the Kentucky Economic Development Finance Authority.

"Local Participation Agreement" shall mean the Local Participation Agreement between City, County, Special Districts and the Agency, attached to this Ordinance as ***Exhibit B, as amended in accordance with the Act from time to time.***

"Pledged Revenues" [means] ***shall mean*** that portion of the Incremental Revenues which are pledged by the City, County, Special Districts or State, pursuant to the Local Participation Agreement or a Tax Incentive Agreement, to the pay for Redevelopment Assistance, Project Costs and/or Approved Public Infrastructure Costs (as defined in the Act) for the Development Area

"Project" [means] ***shall mean*** 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.~~] ***shall mean, to the extent permitted as capital investments as defined in the Act, the following costs expended to construct the Project:***



- (a) Actual costs of acquisitions, construction, and reconstruction of public works and public improvements (e.g., streets, lighting, pedestrian amenities, public utilities, public transportation facilities, public parking, parks, playgrounds, recreational facilities, water and sewer facilities, flood and drainage facilities, and educational facilities), and new public buildings, structures, and fixtures;
- (b) Actual costs of acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures if said facilities are to be dedicated to the City as a public building, structure, or fixture;
- (a) Actual costs of acquisition of land and equipment, if to be dedicated to the City as public land or equipment;
- (b) Actual costs of clearing and grading of land;
- (c) Actual governmental predevelopment fees, (e.g. Sanitation District 1 connection fees, City and Planning and Development Services permitting fees, etc.), which shall not include any professional and technical fees; and
- (d) A developer or agency's direct professional service costs for public improvements, including architectural, planning, engineering, legal advice and services, and environmental impact or other studies.

"Redevelopment Assistance" [shall have the meaning as provided in the Act.] shall mean:

- (a) Loans to encourage the construction or rehabilitation of mixed-used, commercial and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions, to the extent such and loans help accomplish a stated City development goal in the City's current Tax Increment Financing Guidelines and Criteria, as may be amended from time to time;
- (b) Public plans or feasibility studies that will benefit and promote development within the Development Area, including but not limited to: economic development strategic plans, development site masterplans, parking feasibility studies, design standards, etc.;

**(c) Direct development, as defined in the Act, by a city, county, or agency of real property acquired by the city, county, or agency; and**

**(d) To the extent permitted as redevelopment assistance as defined in the Act, assistance provided to a developer or agency for approved Project Costs within the Development Area.**

“Special Districts” shall mean any special taxing district in the County (if any), except for the Covington Independent School District, that has agreed to pledge their Incremental Tax revenues from the Development Area from real property taxes and be a party to the Local Participation Agreement.

“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 to 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 475.75 acres.

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

(c) The establishment of the Development Area **and the amendments thereto** will not cause the assessed value of taxable real property within the Development Area and within all “development areas” and “local development areas” (as those terms are defined in the Act) established by the City to exceed twenty percent (20%) of the assessed value of all taxable real property within the City. The assessed value of taxable real property within the Development Area for calendar year 2012 is \$233,337,300. The total assessed value of taxable real property within the City for the calendar year 2011 is approximately \$1,764,109,200. 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 the City.

(d) There has been a substantial loss of residential, commercial or industrial activity within the Development Area. At one point in the past the Covington was the 2<sup>nd</sup> largest city in Kentucky, and its downtown area was the center for banking, retail and office development. Since 1930 the City's population has declined from 65,252 to 40,640, with much of this population loss being from the Development Area. The retail uses that previously occupied blocks within the City's downtown are virtually gone having moved to regional shopping centers in suburban locations. In the past Covington was the center for banking for the Northern Kentucky region with number local banks and saving and loan associations being headquartered within Covington's downtown area. Today as a result of bank consolidations the number of financial institutions has been significantly reduced and the downtown banks have transitioned from headquarter locations to branch offices. As a result of the loss of retail, banking and professional office, the number of employees working within the Development Area, and specifically within the downtown, has declined significantly. This combined with the additional employment losses caused by the recent depression have negatively impacted business activity within the Development Area. In addition, business tax collection from business license taxes and payroll taxes within the Development Area has declined recently. Estimates from the City's Finance Department show that as a result of the recent recession gross payroll within the City has declined over \$40M, which roughly equates to an overall loss of employment of 1,100 jobs, with much of this loss being from the Development Area.

(e) Forty percent (40%) [~~in~~] **or** more of the households are low-income households as defined by the Act. The Development Area covers several census tracts. Based on information from the 2005-09 American Community Surveys the percentage of low to moderate income levels within the four census tracts are tract 603 – 78.69%, tract 607 – 78.55%, tract 670 – 58.85% and tract 671 – 77.07%.

(f) More than fifty percent (50%) of the residential, commercial, or industrial structures are deteriorating or deteriorated. Based on the City's Property Maintenance Code, which sets forth minimum standards for the maintenance of existing properties, over 38% of the structures within the Development Area, are in need of minor to major assistance. In addition, the Development Area consists mostly of structures that are 75 years of age or older. Therefore, even those structures within the Development Area that are reasonably well maintain exhibit signs of age and deterioration. Furthermore, many of the buildings that meet code are in need of upgrades to meet what is expected for today's use, including upgraded electric and wiring needed for high speed computer use. Attached, as Exhibit "B" to the Development Plan, are pictures of properties within the Development Area showing some of the deteriorated conditions.

(g) There is a substantial presence of environmentally contaminated land within the Development Area. Brownfields have a number of serious environmental and health impacts to residents of Covington. The Kentucky Brownfield Programs estimates 8,000 brownfield sites in the Bluegrass State, and an inventory conducted by [~~the Northern Kentucky Area Planning Commission~~] **Planning and Development Services of Kenton County** identified approximately 250 of those brownfields in Covington and many are within the Development Area. Sites range from very small, 0.1

acres, to very large, in excess of over 25 acres, with the vast majority located in Covington's downtown area and along the riverfront, two major areas for redevelopment within the Development Area. These brownfield sites are remnants of the massive loss of population and manufacturing the City experienced between 1960 and 1990, and are usually passed over by developers due to their contamination and the perception that, as such, there is little in the way of economic viability. Previous uses for these empty industrial and commercial sites include auto and service stations, gas stations, dry cleaners, manufacturing facilities and warehouses. Covington's aging housing stock (the City ranks second in the state, behind only Louisville, with 21 historic districts) also presents a major concern, since these residences are at a significant risk for lead and asbestos contamination. Previous environmental assessments conducted using brownfield grant funds awarded to the City in 2008 have identified PAHs, PCBs, lead, and asbestos as common contaminants.

(h) There are inadequate improvements or substantial deterioration of public infrastructure to support the proposed new development within the Development Area. The City's 5-Year Capital Improvement Program estimates needed improvements to the City's public infrastructure of approximately \$25 million with available resources of \$5.3 million leaving an unfunded need balance of approximately \$20 million. This amount does not take into account the infrastructure required within the Development Area to support and encourage the development of the Project. Besides the normal infrastructure improvements that will be needed – street improvements, storm water provisions, utilities, etc. – the development of the Project as proposed will require significant new infrastructure. Additional structured parking will be needed to provide for the significant new investment anticipated from the projects identified in item 3.0 - The Development Program section of this Development Plan. In addition, the Action Plan recognizes the critical importance of new streetscape and other amenities to encourage the redevelopment of the Development Area.

(i) There is a combination of factors that substantially impairs the growth and economic development of the City and impedes the development of commercial or industrial property due to the Development Area's present condition and use. 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, the infrastructure needed to support new development in a downtown setting, as well as the uncertainties from a construction and environmental standpoint, represent unique circumstances that impedes the development or redevelopment of the Development Area and arrests the development of the City.

(j) That the Development Area is not reasonably expected to be developed without public assistance. The extreme cost of the infrastructure that will be required to support the Project, the challenges to building within a downtown area, as well as other costs that will be required to encourage new development, especially in light of the challenges of obtaining financing for commercial projects today, make the need for incentives and public subsidy critical to the development of the Development Area. As a

practical matter no major development in the City's downtown in the recent past has taken place without some type of public assistance.

(k) That the public benefits of redeveloping the Development Area justify the public costs proposed. It is estimated that providing incentives through the establishment of the Development Area combined with other incentives available has the potential of increasing new investment within the Development Area by over \$500M and involve 450,000 square feet of new office, 500 new hotel rooms, 150,000 square feet of new retail and 1,000 new residential units. The work program of current or proposed projects within the Development Area set forth in Section 3 of this Development Plan includes projects with a combined capital investment of \$554M. The resulting increases in new City, County, Special District and other taxes from these developments will more than offset the incentives recommended through the establishment of the Development Area. While the Development Plan recommends the City commit 80% of the incremental increase in real property taxes and occupational taxes to pay for redevelopment assistance and projects costs within the Development Area, there will be still be a net benefit in new revenues to the City. First of all, the establishment of the Development Area will not impact the amount of any existing City tax revenues generated within the Development Area. Secondly, the City will retain 20% of the incremental increase in revenues from real property taxes and occupational taxes. Finally, the Project will generate other taxes to the City and other taxing districts, including personal property taxes, insurance premium taxes, etc, which will not be impacted by any pledge of incremental revenues through the establishment by the City of the Development Area.

(l) That the area immediately surrounding the Development Area has not been subject to growth and development through investment by private enterprise. The area immediately surrounding the Development Area has been subject to some investment by private enterprise, but only within a significant investment from the public through local, state and federal incentives.

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 "City Center Covington Development Area". At the time of the enactment of [this Ordinance] O-58-12, the Development Area is less than three (3) miles.

SECTION 4. Establishment Date, Commencement Date, Termination Date. The Establishment Date is the original effective date of [this] Ordinance O-58-12. The Commencement Date of the Development Area is the date of execution of the original Local Participation Agreement, attached to O-58-12, and the Termination Date shall be exactly twenty (20) years subsequent to such date; provided, that if the Tax Incentive Agreement for a project within the Development Area, or the Local Participation Agreement has a Termination Date that is later than the Termination Date established in this Ordinance, the Termination Date for the Development Area shall be extended to the Termination Date of the Tax Incentive Agreement, or the Local Participation Agreement which ever is later. 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 **amended** Development Plan attached to this Agreement as Exhibit C. The City's Board of Commissioners hereby finds and determines that public hearings **were [was]** duly held on November 20, 2012 **and** \_\_\_\_\_, to solicit public comment on the Development Plan **and the amended Development Plan respectively,** 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 notices of the public hearings 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 **Amended and Restated** Local Participation Agreement which authorizes the pledge of a portion of the Incremental Revenues of the City from the Development Area to the payment of Redevelopment Assistance, Project Costs and/or Approved Public Infrastructure Costs and Financing Costs, the form of **Amended and Restated** Local Participation Agreement to be signed by the Mayor on behalf of City, the County, Special Districts 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 **Amended and Restated** 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 City Center Covington Development Area Tax Increment Fund, which will be maintained by the [Agency] **City**, into which the City covenants to deposit, and into which City officials are hereby authorized and directed to deposit all Pledged Revenues. The [Agency] **City** 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, Project Costs and/or Approved 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, Project Costs and Approved Public Infrastructure Costs (as defined in the Act) as determined from time to time by the City and Agency in accordance with the Local Participation Agreement and the Development Plan; (b) pay debt service and costs of issuance on the Bonds, including Financing Costs, which may be issued by the City or Agency (at the direction of the City issued to finance Redevelopment Assistance, Project Costs and/or Approved 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 City Manager 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, **as such documents may be amended in accordance with the Act from time to time**. The Agency shall act on behalf of the City 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 Redevelopment Assistance, Project Costs and/or Approved 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. 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 12. 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 13. 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.

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MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

Passed: \_\_\_\_\_ (Second Reading)

\_\_\_\_\_ (First Reading)



Exhibit A  
to Ordinance No. \_\_\_\_\_ - \_\_\_\_\_

(Development Area Map)

EXHIBIT A



 TIF Boundary



# \*\* PROVIDED FOR REFERENCE- NO ACTION REQUESTED



## TIF GUIDELINES AND CRITERIA CITY OF COVINGTON, KENTUCKY

### POLICY STATEMENT

The City of Covington, Kentucky ("City") is dedicated to building a strong economy by attracting jobs and new private investment, supporting existing businesses, creating an inviting public realm by providing greater access to open space, enhancing the pedestrian experience and connectivity within the City Center, and building strong neighborhoods by encouraging diverse housing options and enhanced residential amenities. A Tax Increment Financing ("TIF") project should act as an economic stimulus to the surrounding areas and help the City achieve these goals. By leveraging private investment for certain types of development within a targeted area, TIF can be a tool used to assist in financing needed public improvements and enhancing infrastructure.

This policy also recognizes that the City is facing serious fiscal challenges to both the City's revenue and expense projections over the next five years. In FY 19, the looming loss in payroll tax revenue from the IRS – estimated at between \$1.2 and \$1.8 million per year – represents one of the biggest budget pressures facing the City and the TIF district. In addition, the City faces increased costs, including a \$755,000 pension contribution annually for the next three years. Furthermore, while Covington is enjoying growth of about 3 percent in its top tax revenue streams (payroll, property, insurance premium and net profits taxes), the city's net revenue growth is relatively flat after accounting for ongoing incentive packages awarded previously by the City.

### Section I. Introduction and Program Overview.

**Authority.** The City created its TIF Development Area in 2012 pursuant to O-58-12 and KRS 65.7041 et. seq. The City adopted these TIF Guidelines by Commissioners' Order No. \_\_\_\_\_. The guidelines serve as a policy direction to City staff and interested parties regarding whether a new project is appropriate for inclusion in the City's Development Plan.

**Goals and Objectives.** The City intends to utilize TIF to reinvigorate the Development Area, and to create public-private partnerships, which maximize the use of public funds for public infrastructure. Each new project should clearly address, improve or satisfy at least two of the following conditions listed in the original 2012 Development Plan:

- Substantial loss of residential, commercial, or industrial activity or use;
- Forty percent (40%) or more of the households are low-income households;
- More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;
- Substantial abandonment of residential, commercial, or industrial structures;
- Substantial presence of environmentally contaminated land;
- Inadequate public improvements or substantial deterioration in public infrastructure; or
- Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the development area's present condition and use.



**Eligible Development.** The following project types may be eligible for TIF funds if the public infrastructure costs defined in Section V leverage these project types within the Development Area

- Office development: New construction or rehabilitation
- Business parks for targeted industries: New construction or rehabilitation
- Retail/commercial development: New construction or rehabilitation
- Mixed-use or multi-family development: New construction or rehabilitation
- Residential development: New construction or rehabilitation of single-family and/or multi-family housing in the inner city

**Demonstration of Economic Development Impact.** It is the intent of the City to use TIF funds for the purpose of supporting economic development in the Development Area. As part of a TIF application, an Applicant must describe how the planned investment will contribute to economic development activity in the City, including: the experience of the team; borrower capability; what site improvements will occur; the catalytic nature of the project; the quality and quantity of jobs created and retained; the need for funding; the timeline for the project; project sustainability; collateral quality; the soundness of the transaction; and the amount to be invested overall in the project.

**Demonstration of Need for Public Assistance.** TIF Development Areas, according to state law, are for areas that are not reasonably expected to be developed without public assistance. The application should demonstrate that there is reasonable assurance the proposed project shall not occur solely through private investment in the reasonably foreseeable future.

**Project Approval.** The City will require that each Applicant agree to submit a financial assistance application for underwriting and enter into a Development Agreement with the City to specify the project requirements based on these guidelines and staff recommendations. Recommendation by the Covington Economic Development Authority (“CEDA”) and approval by the City Board of Commissioners are required for the Final Project, which shall include Financing and Development Plans.

## Section II. Application Process and Fees.

**Application Process.** Applications must be submitted to the City Economic Development Department. Depending on the exact nature and complexity of the project, the estimated timeframe from application to amendment of the TIF Development Plan for inclusion as an approved project is at least two (2) months.

All applications for TIF Development Area Project Designation should be delivered to:

City of Covington  
ATTN: Economic Development Department  
20 W. Pike Street  
Covington, KY 41011

**Application.** Applicants desiring to receive TIF Development Area Project Designation must submit a complete digital copy of an application. The application shall consist of complete, current information meeting criteria set forth in this policy, including all information outlined in Section II and Sections VIII, unless the application is submitted in response to the City’s Request for Proposals or Invitation for Bid for a specific project.

**Review for Eligibility.** City Staff will review the application for compliance with the criteria laid out in this policy.

### Section III. Evaluation Criteria.

Each application submitted for TIF Development Area Project Designation will be evaluated by City staff and reviewed by CEDA on a case-by-case basis to analyze the viability of the proposed project. The following basic evaluation criteria will be used to assure a thorough review of applications seeking funding.

- **Development Team:** Corporate Resolution, Articles of Incorporation, Operating/Partnership Agreement; Resumes of owners and key managers; Outline of the full development team; Past projects that have requested/received city incentives.
- **Owner Financial Strength:** Personal Financial Statements from all 20% or more owners of applicant entity.
- **Financial Information:** 10-year cash flow projection and listing of all project assumptions (excel - rent rates, revenue & expense growth) and a budget that details total project investment (excel).
- **Sources of Funds:** Conditional Bank commitment and/or term sheet; List of any grant requests pending or committed; Tax credits allocated or applied for; Financing Projections (including any IRBs).
- **Cost Verifications:** Purchase agreements, contractor estimates, architect contract.
- **Environmental:** Summary of any Phase 1 and/or Phase 2.
- **Market Information:** Summary of appraisal, market study, comps with sources, and any letters of intent from prospective commercial tenants; Copy of third-party analysis for all financial projections (include lease rates, absorption/capture rates, vacancy, expense escalators, etc.); Estimated post construction value (and eventually as-built appraisal).
- **Goodstanding Review:** Ensures the development team and all affiliates are in good standing with the City pursuant to Commissioner's Ordinance No. O-11-06, including no adverse claims or delinquent obligations.

### Section IV. Project Eligibility.

**Project Location.** The proposed project must be located within the City's TIF Development Area. A Map of the Development Area boundaries is attached as Exhibit A.

**Design Standards.** The project must be constructed consistent with the City's Downtown Streetscape and Public Realm Design Standards. Applicants will be sent a copy of these design standards upon request, but they can also be found on the City's website at [www.covingtonky.gov](http://www.covingtonky.gov).

**Project Status.** City staff underwrites and reviews incentive requests after all other private financing has been maximized and committed, as demonstrated with term sheets. Projects must have site control and be "ready-to-go."

### Section V. Redevelopment Assistance.

The use of TIF funds for a project approved in accordance with these guidelines is limited to:

### **Eligible Project Costs.**

- Actual costs of acquisitions, construction, and reconstruction of public works and public improvements (e.g., streets, lighting, pedestrian amenities, public utilities, public transportation facilities, public parking, parks, playgrounds, recreational facilities, water and sewer facilities, flood and drainage facilities, and educational facilities), and new public buildings, structures, and fixtures;
- Actual costs of acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures if said facilities are to be dedicated to the City as a public building, structure, or fixture;
- Actual costs of acquisition of land and equipment, if to be dedicated to the City as public land or equipment;
- Actual costs of clearing and grading of land;
- Actual governmental predevelopment fees, (e.g. Sanitation District 1 connection fees, City and Planning and Development Services permitting fees, etc.), which shall not include any professional and technical fees;
- A developer or agency's direct professional service costs for public improvements, including architectural, planning, engineering, legal advice and services, and environmental impact or other studies.

**Loan Program.** Loans to encourage the construction or rehabilitation of mixed-used, commercial and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions to the extent such grants and loans help accomplish a stated City development goal.

**Development Plans and Studies.** Public plans or feasibility studies that will benefit and promote development within the District, including but not limited to: economic development strategic plans, development site masterplans, parking feasibility studies, design standards, etc.

**Direct Development.** As defined by KRS 65.7045(30)(h), direct development by a city, county, or agency of real property acquired by the city, county, or agency. Direct development may include one (1) or more of the following:

1. Assembly and replatting of lots or parcels;
2. Rehabilitation of existing structures and improvements;
3. Demolition of structures and improvements and construction of new structures and improvements;
4. Programs of temporary or permanent relocation assistance for businesses and residents;
5. The sale, lease, donation, or other permanent or temporary transfer of real property to public agencies, persons, and entities both for profit and nonprofit; and
6. The acquisition and construction of projects;

### Section VI. Additional Provisions.

**Public Hearing Notice.** The City may not adopt an ordinance amending the TIF Development Plan until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice for the public hearing shall be clearly posted and published pursuant to KRS 424.130.

**No Guarantee of Funding.** Submission of an application is not a guarantee of funding.

EXHIBIT A -



# Covington TIF Boundary

