

## ORDINANCE 2023-03

**AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, AMENDING THE BUTTERMILK PIKE/ROYAL DRIVE DEVELOPMENT AREA (THE "DEVELOPMENT AREA") TO REPLACE AND SUBSTITUTE THE FORT MITCHELL ECONOMIC DEVELOPMENT AUTHORITY, INC., AS THE AGENCY FOR THE DEVELOPMENT AREA WITH THE ADMINISTRATION DEPARTMENT OF THE CITY OF FORT MITCHELL, KENTUCKY, AND APPROVING A SECOND AMENDMENT TO THE LOCAL PARTICIPATION AGREEMENT RELATED TO THE DEVELOPMENT AREA TO AMEND THE DATE OF THE LOCAL PARTICIPATION AGREEMENT AND THE ACTIVATION DATE FOR THE DEVELOPMENT AREA**

**WHEREAS**, the City of Fort Mitchell, Kentucky (the "City") established the Buttermilk Pike/Royal Drive Development Area (the "Development Area"), pursuant to the provisions of KRS 65.7041 to KRS 65.7083 (the "Act"), by Ordinance 2014-16 (the "Development Area Ordinance"), adopted November 10, 2014; and

**WHEREAS**, the Development Area Ordinance designated the Fort Mitchell Economic Development Authority, Inc., a Kentucky non-profit corporation (the "Corporation"), as the Agency responsible for the oversight, administration, and implementation of the Development Area Ordinance; and

**WHEREAS**, the City has decided to replace the Corporation as the Agency with the Administration Department of the City of Fort Mitchell, Kentucky, to make the implementation of the Development Area more efficient; and

**WHEREAS**, the Development Area Ordinance authorized the execution of a Local Participation Agreement, dated November 1, 2014, related to the Development Area, which Local Participation Agreement was amended by an Amendment to Local Participation Agreement, dated March 1, 2017, (collectively, the "Local Participation Agreement"); and

**WHEREAS**, there is a need to amend the Effective Date and Activation Date of the Local Participation Agreement and to amend the Local Participation.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FORT MITCHELL, KENTUCKY AS FOLLOWS:**

### SECTION I

#### Agency

That the Corporation is hereby deleted as the Agency for the Development Area, and the Administration Department of the City of Fort Mitchell, Kentucky, is hereby designated as the Agency for the Development Area, with such duties as set forth in the TIF Act and the Local Participation Agreement, as it may be hereafter amended.

## SECTION II

### Local Participation Agreement

A. That the Effective Date of the Local Participation Agreement is hereby amended to be January 1, 2022.

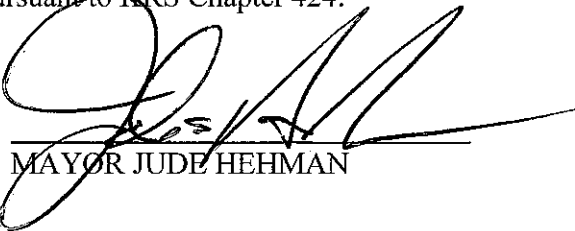
B. That the Activation Date of the Development Area, as set forth in the Local Participation Agreement, is hereby amended to be January 1, 2024.

C. That the Mayor is hereby authorized and directed to execute a Second Amendment to Local Participation Agreement, a copy of which is attached hereto as Exhibit A.

D. Except as amended by the Amendment to Local Participation Agreement and the Second Amendment to Local Participation Agreement, the Local Participation Agreement shall remain in full force and effect.

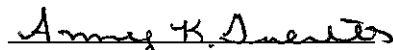
## SECTION III

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.



MAYOR JUDE HEHMAN

ATTEST:

  
CITY CLERK

Date of First Reading February 16, 2023

Date of Second Reading and Enactment: March 20, 2023

Date Published: March 27, 2023

**EXHIBIT A**

**SECOND AMENDMENT TO LOCAL PARTICIPATION AGREEMENT**

**SECOND AMENDMENT TO LOCAL PARTICIPATION AGREEMENT**

**FOR**

**BUTTERMILK PIKE/ROYAL DRIVE DEVELOPMENT AREA**

**By and Among**

**CITY OF FORT MITCHELL, KENTUCKY**

**and**

**COUNTY OF KENTON, KENTUCKY**

**and**

**PLANNING AND DEVELOPMENT SERVICE OF KENTON COUNTY**

**and**

**ADMINISTRATION DEPARTMENT OF THE CITY OF**

**FORT MITCHELL, KENTUCKY**

**DATED**

**MARCH 1, 2023**

## SECOND AMENDMENT TO LOCAL PARTICIPATION AGREEMENT

This Second Amendment to Local Participation Agreement (the "Second Amendment") by and among the City of Fort Mitchell, Kentucky (the "City"), the County of Kenton, Kentucky (the "County"), Planning and Development Services of Kenton County ("PDS") and the Administration Department of the City of Fort Mitchell, Kentucky (the "Agency" and collectively the "Parties");

### WITNESSETH

WHEREAS, the City, County, PDS and the Fort Mitchell Economic Development Authority, Inc. executed a Local Participation Agreement, dated November 1, 2014, relating to the Buttermilk Pike/Royal Drive Development Area (the "Development Area"), established by the City pursuant to the provisions of KRS 65.7041 to KRS 65.7083 (the "Act"); and

WHEREAS, the Local Participation Agreement was amended by an Amendment to Local Participation Agreement dated March 31, 2017; and

WHEREAS, the City has replaced the Fort Mitchell Economic Development Authority, Inc. as the Agency for the Development Area with the Administration Department of the City of Fort Mitchell, Kentucky (the "Agency"); and

WHEREAS, there is a need to further amend the Local Participation Agreement with the Second Amendment to allow for the redevelopment of the Development Area.

### IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:

1. That the Effective Date of the Local Participation Agreement is hereby amended to be January 1, 2022.
2. That the following definitions in Section II of the Local Participation Agreement are hereby amended as follows:
  2. "Activation". Shall be the first day of the calendar year for the computation of Incremental Revenues, which is provided in Section XII of this Agreement is January 1, 2024.
  3. "Agency". Shall mean the Administration Department of the City of Fort Mitchell, Kentucky.
3. Sections VIII (1),(3), (4) and (5) of the Local Participation Agreement are amended to read as follows:
  1. The City hereby pledges eighty percent (80%) of the City's Incremental Revenues, from City real property *ad valorem* taxes and occupational taxes generated within the Development Area, to pay for Project Costs and/or Redevelopment Assistance within the Development Area for a thirty (30) year period starting from the 1<sup>st</sup> day of the calendar year of Activation, which is

January 1, 2024. The Incremental Revenues shall be determined by calculating the New Revenues collected from the Development Area, and subtracting the Old Revenues collected from within the Development Area for the base year, which is calendar year 2013.

3. The County hereby pledges sixty percent (60%) of the County's Incremental Revenues, from County real property *ad valorem* taxes and occupational taxes generated within the Development Area, to pay for Project Costs and/or Redevelopment Assistance within the Development Area for a thirty (30) year period starting from the 1<sup>st</sup> day of the calendar year of Activation, which is January 1, 2024. The Incremental Revenues shall be determined by calculating the New Revenues collected from the Development Area, and subtracting the Old Revenues collected from within the Development Area for the base year, which is the calendar year 2013.
4. PDS hereby pledges fifty percent (50%) of PDS' Incremental Revenues, from PDS real property *ad valorem* taxes generated within the Development Area, to pay for Project Costs and/or Redevelopment Assistance within the Development Area for a thirty (30) year period starting from the 1<sup>st</sup> day of the calendar year of Activation, which is January 1, 2024. The Incremental Revenues shall be determined by calculating the New Revenues collected from the Development Area, and subtracting the Old Revenues collected from within the Development Area for the base year, which is the calendar year 2013.
5. Incremental Revenues pledged by the City and County and PDS in this Section VIII shall be deposited annually, no later than each June 30 after the first calendar year of Activation (which as provided in Section XII of this Agreement shall be January 1, 2024), to the Special Fund and used solely for the payment of Project Costs and Redevelopment Assistance within the Development Area. Such Special Fund shall be continued and maintained until the Termination Date as provided in Section XII of this Agreement. Amounts in the Special Fund, together with interest accruing thereon, are hereby irrevocably pledged for the payment of Project Costs and Redevelopment Assistance, including principal, interest and premium, if any, on Bonds issued to pay for Project Costs and Redevelopment Assistance in the event that Bonds are issued to pay for Project Costs and Redevelopment Assistance.

4. Section XII of the Local Participation Agreement is hereby amended to read as follows:

This Agreement shall commence and be effective on January 1, 2022. The Activation for the pledge of Incremental Revenues as set forth in Section VII hereof shall be January 1, 2024. This Agreement shall terminate thirty (30) years after the Activation as set forth above. The Agreement shall not terminate upon the execution of any deeds or other agreements required or contemplated by this

Agreement, or referred to herein, and the provisions of this Agreement shall not be deemed to be merged into the deeds, or any other such deeds or other agreements, it being the intent of the parties hereto that this Agreement shall survive the execution and delivery of any such agreements.

5. Except for the above amendments the Local Participation Agreement shall remain in full force and effect.

*SIGNATURE PAGE TO FOLLOW*

IN WITNESS WHEREOF, the Parties have hereunto set their hand on the Effective Date as indicated above.

CITY OF FORT MITCHELL, KENTUCKY

By: \_\_\_\_\_

Jude Hehman  
Mayor

COUNTY OF KENTON, KENTUCKY

By: \_\_\_\_\_

Kris Knochelmann  
Judge/Executive

PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY

By: \_\_\_\_\_

CHAIRPERSON

ADMINISTRATION DEPARTMENT OF THE CITY OF FORT MITCHELL,  
KENTUCKY

By: \_\_\_\_\_

Jude Hehman  
Mayor