

ORDINANCE NO. 2021 - 18

AN ORDINANCE OF THE COUNTY OF BOONE, KENTUCKY (THE "COUNTY") ESTABLISHING A LOCAL DEVELOPMENT AREA FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN THE COUNTY OF BOONE, KENTUCKY, TO BE KNOWN AS THE DIXIE HIGHWAY LOCAL DEVELOPMENT AREA #2, (THE "LOCAL DEVELOPMENT AREA") APPROVING THE LOCAL DEVELOPMENT AREA; ESTABLISHING AN INCREMENTAL TAX SPECIAL FUND FOR PAYMENT OF REDEVELOPMENT ASSISTANCE; DESIGNATING THE FINANCE DEPARTMENT OF THE COUNTY OF BOONE AS THE AGENCY RESPONSIBLE FOR OVERSIGHT, ADMINISTRATION, AND IMPLEMENTATION OF THE LOCAL DEVELOPMENT AREA; AND AUTHORIZING THE COUNTY JUDGE/EXECUTIVE AND OTHER OFFICIALS TO TAKE SUCH OTHER APPROPRIATE ACTIONS AS ARE NECESSARY OR REQUIRED IN CONNECTION WITH THE ESTABLISHMENT OF THE LOCAL DEVELOPMENT AREA.

WHEREAS, the County of Boone, Kentucky (the "County") by pursuant to KRS 65.7041 to 65.7083, as may be amended (the "Act"), is authorized to, among other things, (1) establish a local development area or development areas to encourage investment in and development of areas of the County, (2) enter into agreements in connection with the establishment and development of a development area or local development area, (3) establish a special fund for deposit of incremental revenues resulting from the development of a local development area or development areas, and (4) designate an agency to oversee, administer and implement projects within a local development area or development areas; and

WHEREAS, the County has identified a contiguous tract of undeveloped land consisting of not more than 1,000 acres within the County, specifically described in Exhibit A hereto; and

WHEREAS, the County desires to establish a local development area as defined in the Act, to be known as the Dixie Highway Local Development Area #2 ("Local Development Area") to encourage investment and development within the Local Development Area; and

WHEREAS, the County has agreed to support and encourage development within the Local Development Area by pledging certain Incremental Revenues (hereinafter defined) to promote the development of the Local Development Area under an Agreement (hereinafter defined); and

WHEREAS, the County pursuant to the Act held a public hearing on May 25, 2021, after giving proper notice concerning the County's intention to establish the Local Development Area; and

WHEREAS, the establishment of the Local Development Area is for a public purpose and that the establishment and creation of the Local Development Area within the County is for the benefit and welfare of the County's citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF BOONE, COMMONWEALTH OF KENTUCKY:

SECTION 1 - Definitions

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

"Act" means Kentucky Revised Statutes, Sections 65.7041 to 65.7083.

"Agency" means the Finance Department of the County of Boone, Kentucky.

"Agreement" shall mean the Local Development Area Agreement among the County, the Agency and the developer attached as Exhibit "B" hereto.

"Establishment Date" means the date that the Local 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 bonds or debt for Redevelopment Assistance and Project Costs.

"Incremental Revenues" means the amount of revenues received by the County with respect to the Local Development Area by subtracting Old Revenues from New Revenues in a calendar year and more specifically defined in the Agreement.

"Public Infrastructure Costs" means those costs as defined in the Agreement that are eligible to be paid for or reimbursed by Incremental Revenues.

"Pledged Revenues" means that portion of the Incremental Revenues which are pledged by the County pursuant to the Local Development Area Agreement, to pay for redevelopment assistance and related to the Local Development Area, as set forth in the Agreement.

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

SECTION 2 - Findings and Determinations.

In accordance with the Act, the County hereby makes the following findings and determinations with respect to the Local Development Area:

2.1 The Local Development Area consists of a contiguous tract of land that is less than 1,000 acres. The actual size of the Local Development Area is 374.004 acres;

2.2 The Local Development Area constitutes undeveloped land that is being developed;

2.3 The establishment of the Local Development Area will not cause the assessed taxable value of real property within the Local Development Areas and within all "development areas" and "local development areas" established by the County (as those terms are defined in the Act) to exceed twenty percent (20%) of the total assessed taxable value of real property within the County. The assessed value of taxable real property within all local development areas in the County is significantly less than twenty percent (20%) of the assessed value of taxable real property within the County.

SECTION 3 - Establishment, Name, Boundaries

All that area described herein by Exhibit A attached hereto and made a part hereof, is located within the County and is hereby established and designated as the "Dixie Highway Local Development Area #2". At the time of the enactment of this Ordinance the Local Development Area is less than 1,000 acres, being 374.004 acres in size.

SECTION 4 - Establishment Date, Commencement Date, Termination Date

The Establishment Date is the effective date of this Ordinance. The Commencement Date of the Local Development Area is the date of execution of the Local Development Area Agreement and the Termination Date shall be exactly thirty (30) years subsequent to the Activation Date of the Agreement relating to the Local Development Area. However, the Termination Date for the Local Development Area shall in no event be more than forty (40) years from the Establishment Date.

SECTION 5 - Agreement

The County Judge/Executive of the County is hereby authorized and directed to execute, acknowledge and deliver on behalf of the County a Local Development Area Agreement, a form of which is attached as Exhibit B and made a part hereof, among the County, the Agency, and the Developer authorizing the pledge of a portion of the Incremental Revenues of the County from the Local Development Area to the

payment of Public Infrastructure Costs, but not to exceed the amount as set forth in the Agreement. The form of Local Development Area Agreement to be signed by the County Judge/Executive on behalf of the County shall be substantially in the form attached hereto, subject to further negotiations and changes therein that are not inconsistent with this Ordinance and not substantially adverse to the County. The approval of such changes by said officers, and that such changes are not substantially adverse to the County, shall be conclusively evidenced by the execution of such Local Development Area Agreement by such officials.

SECTION 6 - Job Assessment Fee

Pursuant to the provisions of KRS 65.7056, the County hereby establishes as a condition of employment within the Local Development Area, a job assessment fee of two percent (2%) of the gross wages of newly created employees as a result of the Project within the Local Development Area. The job assessment fee shall be withheld by employers within the Local Development Area and paid to the County in accordance with the requirements and procedures established by the county. The job assessment fee shall be used to pay Public Infrastructure Costs as provided by a Local Development Area Agreement and the Act.

SECTION 7 - Special Fund

There is hereby established a Special Fund of the County to be known as the Dixie Highway Local Development Area #2 Tax Increment Fund, into which the County covenants to deposit, and into which the County officials are hereby authorized and directed to deposit all Pledged Revenues. The County shall maintain the Special Fund unencumbered except for the purposes set forth in Section 7 hereof. Funds deposited in the Special Fund shall be disbursed in accordance with the Act, this Ordinance and the Local Development Area Agreement and related documents to pay for Public Infrastructure Costs related to the Project, within the Local Development Area.

SECTION 8 - Use of Pledged Revenues

Pledged Revenues shall be deposited by the County into the Special Fund created under Section 7 hereof and shall be used solely to pay for Public Infrastructure Costs in accordance with the Local Development Area Agreement as same may be amended from time to time.

SECTION 9 - Periodic Accounting / Analysis

Any entity, other than the County, 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 County in accordance with the Act and the documents controlling such grant, loan or loan

guarantee. The governing body of the County shall be required to review and analyze the progress of the development activity in the Local Development Area on a quarterly basis. Such review and analysis shall at a minimum include a review of the progress in meeting the stated goals of the Local Development Area. The County Judge/Executive and other officials of the County shall report to the governing body of the County 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 Local Development Area.

SECTION 10 – Designation of Oversight Agency

Pursuant to the Act, the County hereby designates the Finance Department of the County of Boone, Kentucky, as the Agency for purposes of oversight, administration and review responsibility of this Local Development Area Ordinance and the Local Development Area Agreement and the Local Development Area established hereby. The Agency shall act on behalf of the County in administering the Local Development Area, entering into Local Development Area Agreements, and other related agreements, with respect to the development of the Local Development Area.

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, orders or ordinances or parts of any resolution, order or ordinance in conflict herewith are hereby repealed.

SECTION 13 - Effective Date

This Ordinance shall be in effect and in full force from and after its passage, publication and recording, according to law.

GIVEN FIRST-READING APPROVAL AT A DULY CONVENED MEETING OF THE FISCAL COURT OF THE COUNTY OF BOONE, KENTUCKY, held on the 25th day of May, 2021.

GIVEN SECOND READING AND ADOPTED AT A DULY CONVENED MEETING OF THE FISCAL COURT OF THE COUNTY OF BOONE, KENTUCKY, held on the 8th day of June, 2021, and on the same occasion signed by the County Judge/Executive as evidence of his approval, attested by the 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.



GARY W. MOORE
Boone County Judge/Executive

Attest:



SHARON BURCHAM
Fiscal Court Clerk