

ORDINANCE NO. 2021 - 13

AN ORDINANCE RELATING TO THE BOONE COUNTY FISCAL COURT, KENTUCKY, ESTABLISHING A LOCAL DEVELOPMENT AREA FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN THE COUNTY OF BOONE, KENTUCKY, TO BE KNOWN AS THE OLD LEXINGTON PIKE LOCAL DEVELOPMENT AREA (THE "LOCAL DEVELOPMENT AREA"); APPROVING A LOCAL DEVELOPMENT AREA AGREEMENT; ESTABLISHING AN INCREMENTAL TAX SPECIAL FUND FOR PAYMENT OF REDEVELOPMENT ASSISTANCE; DESIGNATING THE FINANCE DEPARTMENT OF THE COUNTY OF BOONE, KENTUCKY, 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 and development in the County, (2) enter into agreements in connection with the establishment 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 area, and (4) designate an agency to oversee, administer and implement projects within a local development area or development area; and

WHEREAS, the Kentucky General Assembly has determined in KRS 65.7041 that the establishment of local development areas or development areas contribute to increased employment opportunities and increased economic development in communities across the Commonwealth and serves a public purpose; and

WHEREAS, the County desires to establish a "local development area" as defined in the Act, to be known as the Old Lexington Pike Local Development Area (the "Local Development Area") to encourage investment and development within such Local Development Area; and

WHEREAS, the County has agreed to support and encourage development within the Local Development Area by pledging Incremental Revenues [hereinafter defined] to pay for Public Infrastructure Costs [hereinafter defined] to promote the development of the Local Development Area under an Agreement [hereinafter defined]; and

WHEREAS, the County in accordance with the Act held a public hearing on May 11, 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 COUNTY OF BOONE, COMMONWEALTH OF KENTUCKY:

1. **Definitions.**

A. 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.

“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.

“Local Development Area” means a contiguous geographic area of land being developed, located within the geographical boundaries of the County, which is created for economic development purposes by this Ordinance to support the Project proposed to be developed and consisting of less 1,000 acres, as more specifically described in Exhibit A attached hereto, to be known as the “Old Lexington Pike Local Development Area”.

“Pledged Revenues” means the Incremental Revenues which are pledged by the County, as provided in the Agreement, to the pay for Redevelopment Assistance and related to the Local Development Area, as set forth in the Agreement.

“Project” means the development of the Local Development Area for the development and construction of an industrial and business park being undertaken by Charter Commercial, LLC, a Kentucky limited liability company (the “Developer”).

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

B. 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.

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:

A. 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 approximately 70.22 acres;

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

C. The establishment of the Local Development Area will not cause the assessed taxable value of real property within the Local Development Area 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 the Local Development Area for calendar year 2020 was \$165,710 and the total assessed value of taxable real property within the County for the calendar year 2020 exceeds \$12.9 Billion. While the County has established other local development areas, in addition to the Local Development Area, the total taxable real property assessment within all such areas, including the Local Development Area is just a very small percentage of the County's total taxable real property assessment. Therefore, the assessed value of taxable real property within the local development area is significantly less than twenty percent (20%) of the assessed value of taxable real property within the County.

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 "Old Lexington Pike Local Development Area". At the time of the enactment of this Ordinance the Local Development Area is less than 1,000 acres, being 61 acres in size.

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.

5. **Agreement.** The County Judge/Executive of the County is hereby authorized and directed to execute, acknowledge and deliver on behalf of the County an Agreement, a form of which is attached as Exhibit B and made a part hereof, among the County, the Agency and Developer, authorizing the pledge of the Incremental Revenues of the County from the Local Development Area to the payment of Public Infrastructure Costs, but not to exceed the amounts as set forth in the Agreement. The form of the Agreement to be signed by the County Judge/Executive on behalf of the County shall be in substantially 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 Agreement by such officials.

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 Cost Costs in accordance with the Agreement, and the Act.

Special Fund. There is hereby established a Special Fund of the County to be known as the Old Lexington Pike Local Development Area 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, the Agreement, and related documents to pay for Public Infrastructure Costs within the Local Development Area.

7. **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 Infrastructure and Site Development Costs in accordance with the Agreement, as the same may be amended from time to time.

8. **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 an annual 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.

9. **Designation of Oversight Agency.** Pursuant to the Act, the County hereby designates 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, the 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 the Agreement, and other related agreements, with respect to the development of the Local Development Area.

10. **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.

11. **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.

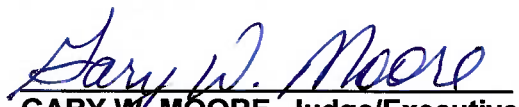
12. **Effective Date.** This Ordinance shall be in full force and effect from and after its passage, attestation, recordation and publication of a summary hereof pursuant to KRS Chapter 424.

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

First Reading - the 11th day of May, 2021

Second Reading - the 25th day of May, 2021

Adopted this 25th day of May, 2021. Yes 4 No 0


GARY W. MOORE, Judge/Executive
Boone County Fiscal Court

Attest:



Sharon Burcham,
Fiscal Court Clerk