

ORDINANCE NO. 06-2014

AN ORDINANCE OF THE CITY OF HIGHLAND HEIGHTS, KENTUCKY MAKING CERTAIN FINDINGS CONCERNING AND ESTABLISHING A DEVELOPMENT AREA FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN THE CITY TO BE KNOWN AS THE U.S. 27 DEVELOPMENT AREA; APPROVING A LOCAL PARTICIPATION AGREEMENT BETWEEN CITY, THE COUNTY OF CAMPBELL, KENTUCKY (THE "COUNTY"), AND THE ADMINISTRATION DEPARTMENT OF THE CITY OF HIGHLAND HEIGHTS, KENTUCKY, ESTABLISHING AN INCREMENTAL TAX SPECIAL FUND FOR PAYMENT OF PROJECT COSTS AND REDEVELOPMENT ASSISTANCE; DESIGNATING THE ADMINISTRATION DEPARTMENT OF THE CITY OF HIGHLAND HEIGHTS, 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 Highland Heights, 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, there has been a substantial loss of residential, industrial or commercial activity 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, and the

conditions within the Development Area have negatively impacted the growth and development of the City and Campbell 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 (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 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 June 17, 2014, after giving proper notice concerning the City's intention to consider the adoption of the Development Plan; 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 HIGHLAND HEIGHTS, 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 Administration Department of the City.

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

"Bonds" means 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 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 107.6 acres, as more specifically described in Exhibit A attached to this Ordinance, to be known as the "U.S. 27 Development Area".

"Development Plan" means the Tax Increment Financing Development Plan for the U.S. 27 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 bonds or debt for Approved Public Infrastructure Costs, Project Costs or Redevelopment Assistance within the Development Area.

"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 City, 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 County, pursuant to the Local Participation Agreement or State pursuant to 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 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.

"Redevelopment Assistance" shall have the meaning as provided in the Act.

"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 107.6 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 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 2013 is \$13,426,625. The total assessed value of taxable real property within the City for the calendar year 2013 is approximately \$276,165,049. 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. The Development Area has been impacted by three main events (i) the construction of I-471 (ii) the widening of U.S. 27 and (iii) the development and construction of NKU. The construction of I-471 created a more direct transportation route to the City, but it changed traffic patterns and isolated the areas of the City along Alexandria Pike between Fort Thomas and I-471. The businesses in this area (referred to as N. Alexandria Pike and S. Alexandria Pike in the Development Plan) that once thrived suffered, and many closed due to loss of traffic. Many of the residential properties in this area have been demolished. The Development Area south of I-471 has been impacted by the widening of U.S. 27 and the expansion of NKU. While these developments are positive for the City and the region, their construction has led to demolition of numerous businesses and houses within these sections of the Development Area.

(e) More than fifty percent (50%) of the residential, commercial, or industrial structures are deteriorating or deteriorated. There has been substantial deterioration of the structures within the Development Area. As can be seen by the pictures attached as Exhibit "B" to the Development Plan almost all of the properties within the Development Area are older, are in need of repair and show significant signs of deterioration. Much of the Development Area is in transition, with the business locations having frequent changes in use and the single family residences being converted from owner-occupied to rental properties.

(f) There has been substantial abandonment of the residential, commercial or industrial structures within the Development Area. Many of the business locations within the Development Area are underutilized and several business properties are vacant. There are numerous vacant houses within the Development Area and numerous houses within the Development Area have been demolished.

(g) There are inadequate improvements or substantial deterioration of public infrastructure to support the proposed new development within the Development Area. The pictures shown on Exhibit B to the Development Plan also illustrate the significant deterioration of public infrastructure within the Development Area. In addition to the visible signs of deterioration, redevelopment of the Development Area will require new investment in storm water and sanitary sewer facilities. More intensive development of the property within the Development Area owned by NKU will require investment in parking and other amenities to make these areas suitable for substantial mixed-use development.

(h) 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 impact of I-471 and expansion of NKU are special factors that have impacted the growth and development of the Development Area. The conditions within the Development Area detract from the City, and the ability of the City to attract new development.

(i) That the Development Area is not reasonably expected to be developed without public assistance. The City finds the Development Area is not reasonably expected to develop without public assistance including, but not limited to, assistance available under the Act. The extreme cost of the infrastructure that will be needed to redevelop the Development Area makes public assistance critical to the redevelopment of the Development Area. The City has recently been contacted by potential developers expressing interest in constructing projects within the Development Area and all have indicated the need for financial assistance from the City for their respective projects.

(j) That the public benefits of redeveloping the Development Area justify the public costs proposed. The City finds that the public benefits of redeveloping the Development Area justify the public costs involved. It is estimated that providing incentives through the establishment of the Development Area, combined with other

incentives available, has the potential of significantly increasing new investment and creating new jobs within the Development Area. The work program of current or proposed projects within the Development Area, as set forth in Section 3 of the Development Plan, includes projects with a potential combined capital investment of over \$100 million. These projects will encourage other projects and will raise property values within the entire Development Area. The resulting increases in new City, County 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 eighty percent (80%) of the incremental increase in real property ad valorem 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.

(k) That the area immediately surrounding the Development Area has not been subject to growth and development through investment by private enterprise. The U.S. 27 corridor has experienced new development, but other areas adjacent to the Development Area have not, with the exception of building projects as part of the NKU expansion, and most of that expansion has been publicly funded. In the N. Alexandria Pike and S. Alexandria Pike sub-districts there has been no private investment in the areas adjacent to those sub-districts.

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 "U.S. 27 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 thirty (30) 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 June 17, 2014, 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 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 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 U.S. 27 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, 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 determined from time to time by the City and Agency 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, 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 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, 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.

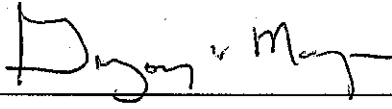
SECTION 12. Repeal of Conflicting Orders and Ordinances. All prior resolutions, municipal orders or ordinances or parts of any resolution, municipal order or ordinance in conflict herewith are hereby repealed.

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.

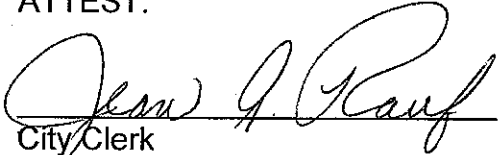
INTRODUCED, SECONDED AND GIVEN FIRST-READING APPROVAL AT A DULY CONVENED MEETING OF THE CITY COUNCIL OF THE CITY held on the 15th day of July, 2014.

GIVEN SECOND READING AND ADOPTED AT A DULY CONVENED MEETING OF THE CITY COUNCIL OF THE CITY, held on the 5th day of August, 2014, 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: 
Mayor

ATTEST:


City Clerk

PUBLISHED: 8-14-2014, _____