

ORDINANCE 05-2014

AN ORDINANCE OF THE COUNCIL OF THE CITY OF HOPKINSVILLE, KENTUCKY, CREATING AND ESTABLISHING A TAX INCREMENT FINANCING LOCAL DEVELOPMENT AREA WITHIN THE JURISDICTIONAL BOUNDARIES OF THE CITY OF HOPKINSVILLE, KENTUCKY, TO BE KNOWN AS THE "CONFERENCE CENTER TAX INCREMENT FINANCE LOCAL DEVELOPMENT AREA"; MAKING CERTAIN FINDINGS TO SUPPORT THE CREATION OF THE LOCAL DEVELOPMENT AREA; APPROVING A LOCAL DEVELOPMENT AREA AGREEMENT BETWEEN THE CITY OF HOPKINSVILLE, KENTUCKY, CHRISTIAN COUNTY, AND HOPKINSVILLE TAX INCREMENT FINANCE AUTHORITY AS THE AGENCY AS DEFINED IN KRS 65.7041 TO 65.7083 TO ACT FOR AND ON BEHALF OF THE CITY IN ADMINISTERING THE CONFERENCE CENTER TAX INCREMENT FINANCE LOCAL DEVELOPMENT AREA; ESTABLISHING AN INCREMENTAL TAX SPECIAL FUND IN TO WHICH ALL INCREMENTAL REVENUES AS DEFINED IN KRS 65.7041 TO 65.7083 SHALL BE DEPOSITED; AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE A LOCAL DEVELOPMENT AREA AGREEMENT BETWEEN THE CITY, CHRISTIAN COUNTY, HOPKINSVILLE TAX INCREMENT FINANCE AUTHORITY AND HOPKINSVILLE-CHRISTIAN COUNTY CONFERENCE CENTER CORPORATION; AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE A MASTER DEVELOPER AGREEMENT WITH THE CITY, CHRISTIAN COUNTY, HOPKINSVILLE TAX INCREMENT FINANCE AUTHORITY AND HOPKINSVILLE-CHRISTIAN COUNTY CONFERENCE CENTER CORPORATION (THE "DEVELOPER"); AND TO TAKE ALL OTHER NECESSARY AND APPROPRIATE ACTIONS TO ACHIEVE THE PUBLIC PURPOSES FOUND HEREIN TO CREATE AND IMPLEMENT THE CONFERENCE CENTER TAX INCREMENT FINANCE LOCAL DEVELOPMENT AREA.

WHEREAS, the City of Hopkinsville, Kentucky (the "City"), by virtue of the laws of Commonwealth of Kentucky (the "State"), Kentucky Revised Statutes, Sections 65.7041 to 65.7083, as may be amended (the "Act"), is authorized to, among other things: (1) establish a "local development area" for the development of previously undeveloped land within the City's jurisdictional boundaries; (2) enter into agreements with agencies for administering, providing, financing, and/or pledging incremental revenues within a local development area; (3) establish a special fund for the deposit of incremental revenues resulting from development within a local development area; and (4) designate an agency to oversee, administer and implement projects within the local development area; and

WHEREAS, the City desires to establish a local development area as defined in the Act, specifically KRS 65.7047, for the development of previously undeveloped land within the jurisdictional boundaries of the City which will encourage investment and increase employment and economic activity within the City; and

WHEREAS, the establishment of the local development area will not cause the assessed value of the taxable real property within all local development areas and

development areas of the City to exceed twenty percent (20%) of the assessed value of all taxable property within the City itself; and

WHEREAS, the City has identified a contiguous tract of land of previously undeveloped land consisting of not more than 1,000 acres within the City, specifically described in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, the City covenants that no more than one thousand (1,000) acres will be approved for a local development area in any twelve (12) month period in the City; and

WHEREAS, the City has determined and hereby finds, that it is necessary and appropriate to establish a local development area pursuant to the Act, and specifically, KRS 65.7047, to encourage development, investment, and increase employment and economic activity within the jurisdictional boundaries of the City; and

WHEREAS, the City will agree to support and encourage development within the Local Development Area by pledging certain Incremental Revenues to the payment of Increment Bonds, if issued, or to otherwise pay for development assistance, land preparation, and approved public infrastructure costs, if Increment Bonds are not issued, and pursuant to a Local Development Area Agreement; and

WHEREAS, on February 20, 2014, the City held a public hearing to solicit input from the public regarding the proposed local development area, pursuant to proper notice of the hearing published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed Local Development Area and such notice included, a summary of the projects proposed for the Local Development Area; and

WHEREAS, the establishment of the Local Development Area is for a public purpose and for the benefit and welfare of the City's citizens; and

WHEREAS, the City deems it necessary to enact this Ordinance pursuant to the Act and for the purposes set forth and described herein and in the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HOPKINSVILLE, KENTUCKY, AS FOLLOWS:

Section 1. Definitions.

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

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

"Activation Date" means the date upon which the Local Development Agreement is executed by all the parties and is the date on which the time period for the pledge of Incremental Revenues shall commence, as provided in Section 4 of this Ordinance.

"Agency" means Hopkinsville Tax Increment Finance Authority of the City.

"City" means the City of Hopkinsville, Kentucky.

"County" means Christian County, Kentucky.

"Developer" shall mean Hopkinsville-Christian County Conference Center Corporation.

"Eligible Project Costs" shall mean eligible project costs as defined in Section VII of the City of Hopkinsville TIF Guidelines and Criteria.

"Establishment Date" means the date that the Local Development Area is created pursuant to the Act in this Ordinance, as provided in Section 4 of this Ordinance.

"Government Body" shall mean the City Council of the City of Hopkinsville, Kentucky.

"Increment Bonds" shall mean bonds, notes or other obligations issued by the City to pay for Eligible Project Costs.

"Incremental Revenues" shall mean the amount of revenues received by the City with respect to the Development Area by subtracting Old Revenues (as defined in the Act) from New Revenues (as defined in the Act) in a calendar year, less amounts of real property taxes designated by the City for special districts.

"Local Development Area" means the continuous geographic area of previously undeveloped land located within the geographical boundaries of the City created pursuant to this Ordinance and to the Act, specifically KRS 65.7047, and more specifically described in "Exhibit A" attached hereto and made a part hereof, to be known as the "Conference Center Tax Increment Finance Local Development Area."

"Local Development Area Agreement" shall mean the local development area agreement between the City, the County, the Agency and Hopkinsville-Christian County Conference Center Corporation, which is attached to and made a part hereof as "Exhibit B."

"Local Tax Revenues" means revenues derived by the City from one (1) or more of the following sources within the Local Development Area:

- a. Real property ad valorem taxes; and
- b. Occupational license taxes, excluding occupational license taxes that have already been pledged to support an economic development project within the Local Development Area.

"Master Developer Agreement" means the agreement between the City, the County, the Agency and the Hopkinsville-Christian County Conference Center Corporation ("Developer"), which is attached hereto as Exhibit "C"

"New Revenues" means the amount of Local Tax Revenues received by the City with

respect to the Local Development Area in any calendar year beginning with the year in which the Activation Date occurs.

"Old Revenues" means the amount of Local Tax Revenues received by the City with respect to the Local Development Area during the last calendar year prior to the Commencement Date.

"Pledged Revenues" means that portion of the Incremental Revenues which are pledged by the City, pursuant to the Local Development Area Agreement to pay project costs.

"Project" shall have the same meaning as defined in KRS 65.7045(29).

"Termination Date" means the date defined in KRS 65.7047(1)(d), for the Local Development Area; and KRS 65.7047(4)(h) for the Local Development Area Agreement, as provided in Section 4 of this Ordinance.

"TIF Revenue Reserve" shall mean the amount as may be required to maintain a balance equal to the maximum annual debt service due on all outstanding Increment Bonds.

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 City 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 no more than 1,000 acres. The actual size of the Local Development Area is approximately 47 acres;
- (b) The Local Development Area consists previously undeveloped land as required by KRS 65.7047(1)(a);
- (c) The establishment of the Local Development Area shall not cause the assessed value of taxable real property within all Local Development Areas of the City to exceed twenty percent (20%) of the assessed value of all taxable real property within the City's jurisdiction. The assessed value of taxable real property within the Local Development Area has been valued as of the Establishment Date. The assessed value of taxable real property within the Local Development Area of the tax year of 2013, being the most recent assessment period, was \$7,600,000. The total assessed value of taxable real property within the City for the tax year of 2013 is approximately \$1,467,789,000. Therefore, the assessed value of taxable real property within the Local Development Area is less than twenty percent (20%) of the assessed value of taxable real property within the City;

Section 3. Establishment, Name, Boundaries.

All that area described herein by "Exhibit A", attached hereto and made a part hereof, is located within the geographical jurisdictional boundaries of the City and is hereby established and designated as the **"Conference Center Tax Increment Finance Local Development Area"**. At the time of the enactment of this Ordinance the Local Development Area is less than 1,000 acres and constitutes previously undeveloped land.

Section 4. Establishment Date, Activation Date, Termination Date.

The Establishment Date is the effective date of this Ordinance. The Activation Date is the date of execution of the Local Development Area Agreement and the Termination Date shall be exactly twenty (20) years from the Establishment Date.

Section 5. Local Development Area Agreement.

The Mayor of the City is hereby authorized and directed to execute, acknowledge and deliver, on behalf of the City, a Local Development Area Agreement, a form of which is attached as Exhibit "B" and made a part hereof, between the City, the County, the Agency and the Developer, providing for the administering and providing finance and/or pledging of Incremental Revenues, and authorizing the pledge of a portion of the Incremental Revenues, the Pledged Revenues, from the Local Development Area to the payment of Project costs. The Local Development Area Agreement to be signed by the Mayor on behalf of the City, by the County Judge Executive on behalf of the County, by the Chairman of the Hopkinsville Tax Increment Finance Development Authority on behalf of the Agency and the Chairman of the Hopkinsville Christian County Conference Center Corporation on behalf of the Developer, shall be substantially in the form attached hereto, subject to further negotiations and changes which are not inconsistent with this Ordinance and not substantially adverse to the City. The approval of such changes, by said officers, and provided that such changes are not substantially adverse to the City, shall be conclusively evidenced by the execution of the Local Development Area Agreement by such officers.

Section 6. Master Developer Agreement.

The Mayor of the City is hereby authorized and directed to execute on behalf of the City a Master Developer Agreement, a form of which is attached hereto as Exhibit "C" and made a part hereof, between the City, the County, the Agency and the Developer setting out the obligations and understandings of the parties as to the design, financing, development, timing and construction of the improvements within the Local Development Area, subject to further negotiations and changes which are not inconsistent with this Ordinance and not substantially adverse to the City. The approval of such changes, by said officers, and provided that such changes are not substantially adverse to the City, shall be conclusively evidenced by the execution of the Local Development Area Agreement by such officers.

Section 7. Special Fund.

There is hereby established a Special Fund of the City to be known as the "Conference Center Local Development Area Tax Increment Fund" into which the City will

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 7 and 8 hereof. There is hereby established within the Special Fund the TIF Revenue Reserve. Funds deposited in the Special Fund shall be disbursed in accordance with the Act, this Ordinance, the Local Development Area Agreement, the Master Development Agreement and related documents to pay for Project costs.

Section 8. Use of Pledged Revenues.

Pledged Revenues shall be deposited by the City into the Special Fund created under Section 7 hereof and shall be used solely to: (a) pay debt service and cost of issuance on Increment Bonds, if issued, include financing costs, which may be incurred by the City to finance Project costs; (b) pay directly for Project costs; and (c) for such other purposes as may be determined by the City and that are appropriate and in compliance with purposes set forth in this Ordinance, the Local Development Agreement, the Master Developer Agreement 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 an agreement, grant, loan, or loan guarantee shall make a periodic accounting to Governing Body of the City in accordance with the Act and the documents controlling such agreement, grant, loan, or loan guarantees.

The Governing Body of the City shall be required to review and analyze the progress of the development activity within the Local Development Area on a quarterly basis. Separate reports shall, at a minimum, include a review of the progress and meeting the stated goals of the Local Development Area. The Mayor and other officials of the City shall report to the Governing Body of the City during such review and shall when necessary invite developers to participate in the review process to report on the progress of development within the Local Development Area.

Section 10. Designation of Oversight Agency.

Pursuant to the Act, the City hereby designates Hopkinsville Tax Increment Finance Development Authority as the agency (the "Agency") of the City for purposes of oversight, administration, implementation, investigation and review responsibility of this Local Development Area Ordinance, Local Development Area Agreement, Master Developer Agreement and the Local Development Area established hereby. The Agency shall act on behalf of the City in administering the Local Development Area, entering into Local Development Area Agreement, the Master Developer Agreement and other related agreements with respect to the development of the Local Development Area and the financing of Project costs therein. The Chairman of the Hopkinsville Tax Increment Finance Development Authority is hereby authorized and directed to execute the Local Development Area Agreement and the Master Developer Agreement on behalf of the Agency and to take other appropriate action to carry out the terms of this Ordinance, the Local Development Area Agreement and the Master Developer Agreement.

Section 11. Authorization of City Officials.

The Mayor and other appropriate city officials, officers, employees and agents are hereby authorized to take all necessary action to meet all of the requirements of and to carry out the intents and purposes of this Ordinance, including the execution of any other agreements related to the Local Development Area, and any other action required to be taken in order to implement the purposes and intent of this Ordinance and the establishment of the Local Development Area.

Section 12. Severability.

In case any section or provision of this Ordinance is held to be illegal or invalid for any reason, such illegal or invalid section or provisions shall not affect the legality or validity of any other section or provision of this Ordinance, all of which shall be construed or enforced at the time as if such illegal section or provision were not contained herein.

Section 13. Recitals Incorporated.

Recitals to this Ordinance are incorporated herein as if fully set out in this Section 13.

Section 14. Conflicts Repeal.

All Ordinances, Resolutions or parts thereof in conflict with provisions of this Ordinance are hereby repealed and this Ordinance shall take effect and be in full force, from and after its adoption.

After the effective date this Ordinance shall be in full force in effect from and after the date of its passage, attestation, recordation and publication of a summary hereof pursuant to Chapter KRS 424.

**ORDINANCE 05-2014
CONFERENCE CENTER TIF DISTRICT**

PUBLICLY READ AND PASSED FIRST TIME: April 15, 2014

PUBLICLY READ AND PASSED SECOND TIME: May 6, 2014

APPROVED: _____
J. Daniel Kemp
Mayor

ATTEST: _____
Christine F. Upton, MMC
City Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting City Council Clerk of the City of Hopkinsville, Kentucky; that the foregoing is a true and complete copy of a certain Ordinance duly adopted by the City Council of the City of Hopkinsville, Kentucky, following a public hearing on February 20, 2014 at meetings duly held, pursuant to proper notice thereof, on April 1, 2014 and May 6, 2014; that said Ordinance appears as a matter of public record in the official records of the City Council; that said meeting was duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.805 to 61.850; that a quorum was present and acting throughout at said meeting; that said Ordinance has not been amended, modified, revoked or repealed; and that same is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature this _____, 2014.

Christine F. Upton, MMC
City Clerk